

## ARTICLE IV. - NOISE CONTROL<sup>[3]</sup>

Footnotes:

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**Editor's note**— Ord. No. [15-06](#), § 2, adopted April 6, 2015, amended Art. IV in its entirety to read as set out herein. Former Art. IV, §§ 18-101—18-110, pertained to similar subject matter and derived from Ord. No. 01-31, §§ 1—10, adopted Nov. 5, 2001.

Sec. 18-101. - Short title.

This article shall be known and may be cited as the "City of Marco Island Noise Control Ordinance."

(Ord. No. [15-06](#), § 2, 4-6-2015)

Sec. 18-102. - Intent and purpose.

It is the intent and purpose of this article to regulate uses and activities in the city in such a manner as to prevent excessive noises, which degrade the quality of life, disturb the public peace, and jeopardize the health, safety and welfare of the citizens of the city. It is further the intent of this article to recognize that factors such as the time of day, location (e.g., proximity to residences), necessity of public projects for the public good, and necessity of sounds incidental to allowed uses and activities must be considered in balancing the protection of public peace and individual freedoms.

(Ord. No. [15-06](#), § 2, 4-6-2015)

Sec. 18-103. - Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Code compliance official* means the city manager or any designated employee or agent of the city whose duty it is to ensure compliance with codes and ordinances enacted by the city. Employees or agents hereby designated as code compliance officials include, but are not limited to, inspectors, zoning administrator, building officials, code compliance officers, code administrator, police officers, community service officers, fire safety inspectors, city environmentalists or other designated employees of the city designated by the city manager.

*Construction* means any site preparation, assembly; erection, substantial repair, alteration (or similar action) of structures, utilities, public or private right-of-way or similar things. Construction does not include demolition.

*Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

*Device* means a mechanism which is intended to produce or which actually produces noise when operated or handled.

*Emergency* means any occurrence or set circumstances involving actual or imminent physical injury to persons or property which demands immediate action. It shall be the burden of the alleged violator to prove the "emergency".

*Emergency vehicle* means a motor vehicle used in response to a public calamity or to protect persons or property from imminent danger.

*Emergency work* means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from an imminent exposure to danger.

*Motor vehicle* means any self-propelled vehicle, such as, but not limited to, passenger cars, trucks, truck trailers, semitrailers, campers, motorcycles, minibikes, go-carts, amphibious craft on land, and dune buggies or racing vehicles which are propelled by mechanical power.

*Motorboat* means any vehicle which is primarily operated on water or which does operate on water, such as boats, barges, amphibious craft, or hover craft, and which is propelled by mechanical power.

*Muffler* means any apparatus consisting of baffles, chambers, or acoustical absorbing material whose primary purpose is to transmit liquids or gases while causing a reduction in sound emission at one end.

*Noise* means any sound, which because of its volume level, duration, and character, annoys, disturbs, injures, endangers the comfort, health, peace, or safety, or is a nuisance to reasonable persons of ordinary sensibilities 24 hours a day, seven days a week, 365 days a year. Noise includes any sound which is audible to code compliance officials while standing or in a vehicle with engine off and windows rolled down in excess of 50 feet from the noise generating property's adjacent closest property line.

*Period of observation* means the time interval during which noise and facts are obtained by law enforcement, community service officer or a code compliance official.

*Person* means any natural person, individual, association, partnership, corporation, municipality, governmental agency, business trust, estate, trust, two or more persons having a joint or common interest or any other legal entity and includes any officer, employee, department, agency or instrumentality of the United States, a state or any political subdivision of a state or any other entity whatsoever or any combination of such, jointly or severally.

*Powered model vehicles* means any powered vehicles, either airborne, waterborne or landborne, which are designed not to carry persons or property, such as, but not limited to, model airplanes, boats, cars, rockets, and which are being propelled by mechanical means.

*Private right-of-way* means any street, avenue, boulevard, highway, sidewalk, bike path, or alley, or similar place, which is not owned or controlled by a governmental entity.

*Property boundary* means an imaginary line exterior to any enclosed structure, at the ground surface, which separates the real property owned by one person from that owned by another person, and its vertical extension.

*Public right-of-way* means any street, avenue, boulevard, highway, alley, or public space which is dedicated to, owned or controlled by a public governmental entity.

*Public space* means any property or structures thereon normally accessible to the public.

*Recreation vehicle* means a piece of mechanized equipment for conveyance for off-road use.

(Ord. No. [15-06](#), § 2, 4-6-2015)

#### Sec. 18-104. - General noise prohibitions.

- (a) It shall be unlawful for any person to make, continue, or cause to be made or continued any noise, as defined in this article within the limits of the city.
- (b) It shall be unlawful for any person owning or in possession of any building or premises to use or rent the same for any business or residential use, or for any purpose of pleasure or recreation if such use makes, continues, or causes to be made or continued, any noise disturbance, as defined in this article within the limits of the city.

(Ord. No. [15-06](#), § 2, 4-6-2015)

Sec. 18-105. - Specific noise prohibitions.

The following specific standards and restrictions shall apply to specific uses and/or activities in the city except for such exemptions as are enumerated herein. The following acts are declared to be loud, disturbing, and/or excessive noise in violation of this article, but said acts shall not be deemed to be exclusive. Unless otherwise specified herein, all other unlawful noise generating activities are prohibited.

- (1) *Radios, stereos, audio or visual equipment, sound equipment, sound amplification devices, television sets, exterior loudspeakers and similar devices.* Operating or permitting the use or operation of any radio receiving set, musical instrument, stereo, sound equipment, audio or visual equipment, sound amplification devices, television, phonograph, DVD player, tape player, CD player, turn table, microphone, drum, exterior loudspeaker, or other device for the production or reproduction of sound in such a manner as to cause noise.

Radios, cassette players, disk players and similar devices associated with motor vehicles or motorboats, shall not be operated in such a manner as to create noise at 50 feet or more from such device, when operated on a public right-of-way, waterways, beaches, or public space.

- (2) *Construction equipment and activity.* Operating or causing to be operated any equipment or performing any activity in furtherance of construction, repair, alteration or demolition work on buildings, structures, roads, or projects within the city:
  - a. Between the hours of 7:00 p.m. and 7:00 a.m.
  - b. For pile driving activities, between the hours of 7:00 p.m. and 8:00 a.m.
  - c. On Sundays, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
- (3) *Engine mufflers.* Operating any internal combustion engine, including such an engine associated with a motorboat, or motor vehicle without a muffler or other device at least as effective as that installed as original equipment by the manufacturer, which will effectively prevent loud or explosive noises therefrom.
- (4) *Motor vehicle, motorcycle or motorboat repair in residential areas.* The noncommercial repairing, rebuilding, modifying or testing any motor vehicle, off-road vehicle, or motorboat within or abutting any residential land use designation in such a manner as to create noise across a real property boundary.
- (5) *Activities in the vicinity of schools, churches, and health care facilities.* Creating any excessive noise on any street adjacent to any school, church, or health care facility, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in a health care facility.
- (6) *Peddlers, hawkers, or vendors.* It shall be unlawful for peddlers, hawkers, or vendors to shout or cry along or on a roadway to the disturbance of the peace or quiet of a neighborhood.
- (7) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling, singing, or the making of similar noises, and loud, boisterous conduct other than normal conversation at reasonable levels, inside of or on the grounds of any public or private property, so as to annoy or disturb the quiet, comfort, or repose of other persons or create a disturbance.
- (8) *Horns, signal devices.* No person shall sound any horn or audible signal device of any motor vehicle, boat, engine, or machine of any kind while not in motion, nor shall such horn or signal device be sounded under any circumstances except as required by law, or as a danger warning, nor shall it be sounded for any unnecessary or unreasonable period of time.
- (9) *Fans and air conditioners.* Operating any noise creating fan or blower, air conditioner, compressor unit, pool heaters, pool pumps, heat pumps, or the electric motor or any engine

used to drive such device, the operation of which causes excessive and unnecessary noise, unless such noise is muffled and deadened by adequate noise compression and muffling devices to minimize annoyance and disturbance to persons within range of hearing.

- (10) *Drums, cymbals, musical instruments and loudspeakers.* Creating, making, or maintaining any noise by the use of any drum, cymbals, loudspeaker, or other similar instruments in the city for the purpose of attracting attention to any performance, show, sale, or display of merchandise, or place of business. This provision shall not apply to permitted special events.
- (11) *Bells or sirens on vehicles.* Using, in connection with an unauthorized vehicle, any bell or siren similar to that used on ambulances or vehicles of the sheriff, fire departments, and other public safety agencies.
- (12) *Skateboard ramps.* Using any skateboard ramp or similar configuration for skateboarding or rollerblading in a residential land use designation in such a manner that would result in noise across a real property boundary.
- (13) *Air blow or vacuum cleaners.* Operating any air-blow or vacuum cleaning equipment or similar devices for the cleaning of parking lots, walkways, driveways, or similar areas that would result in noise across a real property boundary.
- (14) *Commercial activities.* Creating, making, or maintaining any noise at properties zoned for commercial activities and operations in such a manner as to create noise across a real property boundary between the hours of 10:00 p.m. and 7:00 a.m. This provision shall not apply to permitted special events.
- (15) *Landscape maintenance.* Undertaking landscape maintenance activities in such a manner as to create noise across a real property boundary between the hours of 9:00 p.m. and 7:00 a.m. Golf courses engaged in the regular maintenance of greens, fairways, practice areas, etc., are exempt from this provision.
- (16) *Powered model vehicles.* Operating or permitting the operation of powered model vehicles in such a manner as to create noise across a real property boundary.
- (17) *Animal noises.* It shall be unlawful for the owner or custodian of any animal to permit such animal to habitually bark, whine, howl, squawk, screech, crow or cause any other noise which is objectionable due to pitch, frequency, timing, or any combination thereof.
  - a. The code compliance officials shall investigate an alleged violation of this section upon the receipt of two sworn affidavits of complaint signed by two unrelated residents living in separate dwellings in the close vicinity of the alleged violation, or upon the receipt of one sworn affidavit, together with the conclusive video and audible recording of the alleged violation.
  - b. The affidavit shall specify the address or location of the alleged violation, the nature, time, and date(s) of the act, the name and address of the owner, if known, and a description of the animal, if known.
- (18) *Fireworks.* The use of fireworks is prohibited at any time without a permit within the incorporated limits of the City of Marco Island pursuant to F.S. §§ 791.014(4)(a) and (b).

(Ord. No. [15-06](#), § 2, 4-6-2015)

#### Sec. 18-106. - Exemptions.

The following noises shall be exempt from the restrictions set forth in the other sections of this article:

- (1) Noises of authorized safety signals and warning devices.

- (2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency or any other public safety operation.
- (3) Noises resulting from emergency work, which is to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from any imminent exposure to danger.
- (4) Noises incidental to city approved refuse collection.
- (5) Noises associated with uses or activities whereby an administrative approval to produce such noises contrary to the restrictions of this article has been obtained.
- (6) Community events such as parades, festivals, sporting events, or fairs being conducted in accordance with the conditions contained in a special event permit granted by the city manager or designee.
- (7) Noises associated with city operations, construction or maintenance.
- (8) Noises associated with police or fire training.
- (9) Community and organized sporting events and school activities.
- (10) Noise associated with lightning warning systems.

(Ord. No. 15-06, § 2, 4-6-2015)

Sec. 18-107. - Waiver.

- (a) Applications for a permit for relief from the noise levels designated herein may be made to the city manager on the basis of hardship. A permit granted hereunder shall contain all conditions upon which the permit has been granted and shall specify a reasonable time period during which the permit shall be in effect. Relief may be granted if:
  - (1) Additional time is required for the applicant to modify his activity to comply with this article;
  - (2) The activity or noise source is of a temporary nature.
- (b) The city manager may prescribe any condition he deems necessary to minimize any adverse effect upon the community.
- (c) Any party feeling aggrieved by the denial of its application for waiver by the city manager or designee may appeal such denial to the city council, such appeal to be filed no later than 30 days from the date of denial.

(Ord. No. [15-06](#), § 2, 4-6-2015)

Sec. 18-108. - Penalties.

Any person or persons, property owner, firm or corporation, or any agent thereof, who violates any of the provisions of this article may be prosecuted and shall be punishable as provided in section 1-14 of the City of Marco Island Code of Ordinances, including, but not limited to: (i) a fine of up to \$500.00 per violation per day for continuing repeating violations; (ii) by civil citation up to \$500.00 per offense; (iii) by the seeking of injunctive relief through the courts; or (iv) any combination thereof. Each incident of violation shall constitute a separate and distinct violation of this article.

(Ord. No. [15-06](#), § 2, 4-6-2015)

Sec. 18-109. - Civil remedies.

In addition to the penalties provided in section 18-108, the city manager is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to prevent or abate violations of this article.

(Ord. No. [15-06](#), § 2, 4-6-2015)

Sec. 18-110. - Jurisdiction and enforcement.

- (a) This article is enforceable by the Marco Island Police Department and Code Compliance Official and any other state or federally authorized law enforcement.
- (b) Such officers and officials shall have the power and duty to issue such orders and to make such investigations, reports and arrest in connection with the provisions of this article, or cause any inspections to be made for noise violations in accordance with this article and the Florida Statutes.

(Ord. No. [15-06](#), § 2, 4-6-2015)

Sec. 18-111. - Public nuisance.

In addition to the penalties provided in this article, any condition caused or permitted to exist in violation of any of the provisions of this article shall be deemed a public nuisance and may be abated by the city as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. No. [15-06](#), § 2, 4-6-2015)

Secs. 18-112—18-140. - Reserved.