

ORDINANCE NO. 539

AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, FLORIDA, A MUNICIPAL CORPORATION, REVISING ORDINANCES RELATING TO NOISE REGULATION WITHIN THE TOWN LIMITS AND PLACING ALL SUCH ORDINANCES IN ARTICLE IV OF CHAPTER 96, CODE OF ORDINANCES; ORDINANCES COVERED HEREIN ARE: SECTION 96.30, SPECIFIC NOISES PROHIBITED; SECTION 96.31, EXCESSIVE NOISE PROHIBITED and ENFORCEMENT; SECTION 96.32, CONSTRUCTION SITE NOISE; AND 96.33, SPECIFIC NOISE LEVELS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the existing noise ordinances are presently designated as 96.06 and 150.004 in the Code of Ordinances for the Town of Indian River Shores; and

WHEREAS, for the sake of clarity, the ordinances relating to noise shall be designated under Chapter 96 of the Code of Ordinances and re-numbered in Article IV of said Chapter 96 with numbering beginning at 96.30 and proceeding sequentially for all noise ordinances thereafter; and

WHEREAS, this Ordinance updates and sets forth standards not found in prior ordinances of the Town, particularly those relating to construction noise.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, AS FOLLOWS:

SECTION 1. Section 96.06 and Section 150.004 currently in force under the present Code of Ordinances are hereby repealed and the following Section 96.30 through 96.33 shall replace these current ordinances in their stead:

ARTICLE IV. NOISE

Sec. 96.30 - Specific noises prohibited.

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary, or unreasonably loud noise which disturbs the peace or quiet of any neighborhood or which causes discomfort to any reasonable person of normal sensitivity.

(a) Except for the exemptions listed in subsection (2), the following acts are declared to be loud, disturbing, and unnecessary noises in violation of this chapter, but said enumerations shall not be deemed to be the entirety of prohibited noises:

- (1) *Motor vehicle horn or signaling device.* It shall be unlawful to sound any horn or signal device within the town on any automobile, motorcycle, bus, or other vehicle, except as a danger signal.
- (2) *Radios, television sets, musical instruments, and other devices.* It shall be unlawful to use, operate, or permit to be played, used, or operated, any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing of sound between the hours of 10:00 p.m. and 7:00 a.m. in such manner as to disturb the peace, quiet, and comfort of neighboring residents.
- (3) *Loudspeakers and amplifiers.* It shall be unlawful to use or operate any loudspeaker or sound-amplifying device mounted upon any vehicle within the town or any purpose.

- (4) *Engine mufflers.* It shall be unlawful to operate any internal combustion engine, motor boat, or motor vehicle without a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (5) *Animal noises.* It shall be unlawful to keep or maintain any animal or bird within residential zones of the town without providing and maintaining adequate sound-control techniques to eliminate any excessive, offensive, and unnecessary noise.
 - (6) *Vehicle repair* in residential areas. It shall be unlawful to repair, rebuild, or test any motor vehicle between the hours of 7:00 p.m. and 7:00 a.m. within any residential area in such a manner as to disturb the peace, quiet, and comfort of the residents in the area.
 - (7) *Loading or unloading of vehicles, opening bales, and boxes.* It shall be unlawful to make, create, or maintain any loud or excessive noise within the town in connection with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates, or containers.
 - (8) *Drums, cymbals, and loudspeakers.* It shall be unlawful to create, make, or maintain any noise by the use of any drum, cymbals, hand-held loudspeaker, or other similar instruments in the town for the purpose of attracting attention to any performance, show, sale, or display of merchandise, or place of business.
 - (9) *Bells or sirens on vehicles.* It shall be unlawful for any person to use upon any unauthorized vehicle any bell or siren similar to that used on ambulances or vehicles of the police and fire departments.
 - (10) *Fixed mechanical equipment.* The use or operation of any air-conditioner, compressor unit, power fan or blower or engine which causes excessive and unnecessary noise, unless such noise is muffled and deadened by adequate noise suppression and muffling devices to eliminate annoyance and disturbance to persons outside the boundaries of property on which the offending equipment is located.
 - (11) *Portable mechanical equipment.* The use or operation of any power tools or portable mechanical equipment, including a power saw, sander, drill, grinder, lawn or garden equipment or tool used outdoors in residential areas between the hours of 9:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.
- (b) Exemptions. The following uses and activities shall be exempt from the noise regulations set forth in this chapter:
- (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 of 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 an imminent exposure to danger.
 - (4) Noises resulting from any emergency and natural disaster, such as hurricane or flooding, and including, but not limited to, the operation of generators and other machinery reasonably necessary for life and human comfort as a result of any emergency or disaster.

- (5) Any activity specifically authorized by the Town Manager.
- (c) The procedure and provisions of this section shall be enforced by:
 - (1) The public safety officer or designated person in the building department shall investigate and determine if the level is in excess of that stated by this section.
 - (2) If the noise level is found to be in violation of this section, the public safety officer or designated person in the building department shall give a warning to the person responsible for the unnecessary, excessive, or offensive noise.
 - (3) If the unnecessary, excessive, or offensive noise is not abated within a reasonable time after warning, a notice of violation shall be issued. In the event the noise continues, then the following enforcement procedure shall occur:
 - a. If the offensive noise is emanating from a town-permitted construction site, then that job site may be shut down until the site is brought into full compliance with this and all other applicable noise ordinances and permits.
 - b. In addition to enforcement by (1), the person in control of the noise producer may be arrested by a public safety officer and charged as provided in Section 10.99, General Penalties of the Code.
 - A “reasonable time” is any length of time as may fairly, properly, and reasonably be allowed or required, having regard to the nature of the offense.
 - (4) Except as provided for in paragraph e below, the penalty for violation of this section shall be as provided in Section 10.99, General Penalties of the Code.
 - (5) In the event the public safety officer or other designated officer of the town determines that the offense is caused by or under the control of a real property owner or person in possession of real property, then the violation shall be referred to the code enforcement board to be governed by the procedures and penalties found the code enforcement board ordinances.

(Ord. No. 459, Sub Section 1-4, 10-28-99)

Sec. 96.31 - Excessive noise prohibited; enforcement.

- (a) It shall be unlawful for any person to do, perform, or engage in any construction work, building, excavating, hoisting, grading, pile driving, pneumatic hammering, demolition, dredging, building alteration, or repair work of any nature to any building or structure, or upon any site for the same, in the town between the hours of 7:00 p.m. of one day and 7:00 a.m. of the next day if any such activity shall cause noises of such a level as to disturb the peace, quiet, and comfort of the neighborhood in the vicinity. If the work is deemed necessary, the town council may, by resolution, adopt a standardization of measurement and provide for measuring devices to be utilized by the department of public safety and the building official, such mechanical or other devices to be consistent with regulations of the American National Standards Institute or its successor.
- (b) The procedure and provisions of this section shall be enforced by the department of public safety with the assistance of the building official when necessary. The procedure for enforcing the provisions of this section shall be as follows:

- (1) The public safety officer or designated person in the building department shall investigate and determine if the level is in excess of that stated by this section.
- (2) If the noise level is found to be in violation of this section, the public safety officer or designated person in the building department shall give a warning to the person responsible for the unnecessary, excessive, or offensive noise.
- (3) If the unnecessary, excessive, or offensive noise is not abated within a reasonable time after warning, a notice of violation shall be issued. In the event the noise continues, then the following enforcement procedure shall occur:
 - a. If the offensive noise is emanating from a Town permitted construction site, then that job site may be shut down until the site is brought into full compliance with this and all other applicable noise ordinances and permits.
 - b. In addition to enforcement by (1) the person in control of the noise producer may be arrested by a public safety officer and charged as provided in Section 10.99 General Penalties of the Code. A “reasonable time” is any length of time as may fairly, properly, and reasonably be allowed or required, having regard to the nature of the offense.

Section 96.32 Construction Site Noise.

- (a) As a part of issuance of necessary permits and authorization to construct within the Town, applicant shall acknowledge awareness of noise control and limitations contained in the Town ordinances and shall agree to abide by the adopted noise regulations. Any applicant for construction shall acknowledge that work on site may be stopped at any time the designated Town enforcement official determines a violation has been or is being committed.
- (b) Construction site violations may be enforced by an officer of the Town’s Public Safety Department or by the Town’s Code Enforcement Officer.
- (c) If the enforcement officer certifies a violation to the Town Building Department, the job site may be shut down and construction with the noise producing equipment halted until correction is made to bring the job site into compliance with noise restrictions in the permit granted and with Town noise ordinance.
- (d) As a condition of issuance of a construction permit, the applicant may be required to construct noise abatement structures and take other noise abatement methods to reduce noise to permitted levels.
- (e) In the event the enforcement officer determines a violation of noise levels exists, then a notice of violation shall be issued to the construction permit holder or person designated to receive notices. The initial notice may give a set period to correct noise levels or if the noise violation is occurring in a residential area, the job may be shut down until remedial steps are taken to bring sound levels into compliance.
- (f) In granting a construction permit that contains sound levels determined by governmental permitting agencies other than the Town, the Town may enforce those requirements as well as sound levels established by the Town.

96.33 Specific Noise levels.

- (a) In addition to and supplementing other provisions regulating offensive noise, the standards of decibel (dB) level contained herein may be utilized to determine whether a violation of the Town ordinances

relating to noise exists:

- (1) Measurement period to determine violation shall be measured for fifteen (15) minutes measured at the boundary of the receiving property.
 - (2) The permitted noise level shall not exceed 65 decibels (dB) in daytime from 7:00 a.m. to 7:00 p.m. and shall not exceed 60 dB at night from 7:00 p.m. to 7:00 a.m.
- (b) Any measurement shall be made from the affected noise receiving property at the closest point to the property producing the noise.

SECTION 2. All ordinances or parts of ordinances in conflict herewith or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 3. If any provision of this ordinance or the application hereof is held invalid, such invalidity shall not affect the other provisions or applications, and to this end, the provisions.

SECTION 4. This Ordinance shall take effect upon its final reading and approval.

1st Reading: June 28, 2018

Published: _____

PASSED AND ADOPTED upon second and final reading at a regular meeting of the Town Council of the Town of Indian River Shores, Florida, on the _____ day of _____, 2018.

By:

Thomas F. Slater, Mayor

Attest: _____
Laura Aldrich, Town Clerk