

ORDINANCE NO 18-03

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA, AMENDING ARTICLE V “NOISE”, OF CHAPTER 26 “ENVIRONMENT”, BY REPEALING SECTIONS 26-126, 26-127, 26-128, 26-129, 26-130 AND 26-131 OF THE CODE OF ORDINANCES, AND BY ADOPTING NEW SECTIONS 26-126 “DEFINITIONS”, 26-127 “PURPOSE”, 26-128 “FINDINGS”, 26-129 “NOISES; UNNECESSARY AND EXCESSIVE PROHIBITED”, 26-130 “STANDARDS”, 26-131 “MAXIMUM PERMISSIBLE SOUND LEVELS”, 26-132 “RESPONSIBILITY FOR COMPLIANCE”, 26-133 “EXEMPTIONS”, 26-134 “PROHIBITED USE OF ALL-TERRAIN AND OTHER OFF-ROAD MOTORIZED VEHICLES; AND, 26-135 “HOURS FOR CONSTRUCTION WORK OR NOISY COMMERCIAL ACTIVITIES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the Town Council of the Town of Lake Clarke Shores periodically reviews sections of the Town Code; and

WHEREAS, based upon its periodic reviews, the Town Council finds it to be in the public interest to amend certain sections of Chapter 26 of the Town Code regarding Noise.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE CLARKE SHORES, FLORIDA, as follows:

SECTION 1. Article V “Noise”, of Chapter 26 “Environment”, of the Code of Ordinances of the Town of Lake Clarke Shores is hereby repealed in its entirety by repealing the following sections:

26-126, 26-127, 26-128, 26-129, 26-130 and 26-131

SECTION 2. Article V “Noise”, of Chapter 26 “Environment”, of the Code of Ordinances of the Town of Lake Clarke Shores is hereby amended by adopting new Sections 26-126 “Definitions”; 26-127 “Purpose”; 26-128 “Findings”; 26-129 “Noises; Unnecessary And Excessive Prohibited”; 26-130 “Standards”; 26-131 “Maximum Permissible Sound levels”; 26-132 “Responsibility For Compliance”; 26-133 “Exemptions”; 26-134 “Prohibited use of all-terrain and other off-road motorized vehicles”; and 26-135 Hours for construction work or noisy commercial activities”, as follows:

Sec. 26-126. – 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:

Amplified sound means a sound augmented by any electronic or other means that increases the sound level or volume.

dB(A) means, in decibels, a frequency-weighted sound pressure level, as measured on a sound level meter using the A-weighting network as specified in American National Standards Institute (ANSI) specifications for sound-level meters ANSI S1.4-1983 (R2006). The level read is identified as dB(A) or dBA.

dB(C) means, in decibels, a frequency-weighted sound pressure level, as measured on a sound level meter using the C-weighting network as specified in American National Standards Institute (ANSI) specifications for sound-level meters ANSI S1.4-1983 (R2006). The level read is identified as dB(C) or dBC.

Code enforcement officer means an authorized employee or agent of the Town whose duty is to ensure code compliance, including, but not limited to, inspectors of the Town's code enforcement department and police officers.

Decibel (dB) means the measure used in describing the amplitude of sound as set forth in American National Standards Institute (ANSI) specifications ANSI S1.1-2013.

Emergency work means any work performed for the purpose of remedying conditions that create imminent peril to life, health or property.

Establishment means a privately owned place of business to which the public is invited, including, but not limited to, a place of amusement or a place of entertainment.

Plainly audible means the sound can be clearly heard by a person of normal sensibilities using only unaided auditory senses.

Property line means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by a person from that owned by another person, but not including intrabuilding real property divisions.

Receiving property means any residence or place of business or other property into which sound, not originating therefrom, is traveling.

Residence means any occupied room or rooms connected together containing sleeping facilities, including single- and multiple-family homes, townhomes, apartments, condominium units, and hotel and motel rooms.

Sound device means any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound.

Sound source means the place from which sound emanates, including without limitation a speaker, loudspeaker, or other sound producing instrument, motor vehicle, person, animal or bird.

Sound level means the weighted sound pressure level as measured in dB(A) or dB(C) by a sound level meter as specified in American National Standards Institute (ANSI) specifications for sound-level meters (ANSI S1.4 1983 (R2006)).

Sound level meter means an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks, for the measurement of sound levels as specified in American National Standards Institute (ANSI) specifications for sound-level meters (ANSI S1.4-1983 (R2006)).

All technical definitions not defined above shall be in accordance with applicable publications and standards of the American National Standards Institute ANSI S1.4-1983 (R2006) and ANSI S1.1-2013.

Sec. 26-127. – Purpose.

This article is enacted to protect, preserve, and promote the health, safety, welfare, peace and quiet of the inhabitants and visitors of the Town of Lake Clarke Shores through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of the Town’s inhabitants and visitors.

Sec. 26-128. – Findings

(a) Loud and raucous noise degrades the environment of the Town to a degree that:

- (1) is harmful to the health, welfare, and safety of its inhabitants and visitors;
- (2) interferes with the comfortable enjoyment of life and property;
- (3) interferes with the wellbeing, tranquility, and privacy of the home; and,
- (4) causes and aggravates health problems.

(b) The effective control and the elimination of loud and raucous noise are essential to the health and welfare of the Town’s inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work and communication.

(c) The Town has a substantial interest in protecting citizens from unwelcome noise.

(d) The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of inhabitants of, and visitors to, the Town.

Sec. 26-129. – Noises; Unnecessary and Excessive Prohibited

It shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(1) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, bus, or other vehicle on any street or public place of the Town, except as a danger warning; the creation by means of any such signaling device of any unreasonably

loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time.

(2) Radios, televisions, phonographs, etc. The using, operating or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 100 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.

(3) Animals, birds, etc. The owning, harboring, possessing or keeping of any dog, animal or bird which causes frequent, habitual or long continued noise which is plainly audible inside of a receiving property across a property line or in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants.

(4) Whistles. The blowing of any locomotive whistle or whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of the proper municipal or county authorities.

(5) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent unreasonably loud or explosive noises therefrom.

(6) Defect in vehicle or load. The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or motor vehicle so out of repair, so loaded or in such manner as to create unreasonably loud or unnecessary grating, grinding, rattling or other noise within a residential area.

(7) Schools, houses of worship. The creation of any excessive or unreasonably loud noise on any street adjacent to any school, institution of learning or house of worship while the same are in use, which unreasonably interferes with the workings of such institutions, or which disturbs or unduly annoys the inhabitants of such facilities, provided conspicuous signs are displayed in such streets indicating that it is a school or house of worship.

(8) Hawkers, peddlers. The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

(9) Noises to attract attention. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.

(10) Loudspeakers, etc. The use or operation on or upon the public streets, alleys and thoroughfares anywhere in this Town for any purpose of any device known as a sound truck, loud speaker or sound amplifier or radio or any other instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operated or standing upon such streets or public places aforementioned.

(11) Power tools and landscaping equipment. The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chain saws, power tools and other noise-producing tools which are used to maintain or at a residence out-of-doors between 8:00 p.m. and 7:00 a.m.

(12) Shouting. Any unreasonably loud, boisterous or raucous shouting in any residential area.

Sec. 26-130 – Standards.

The standards to be considered in determining whether a violation of this article exists may include, but shall not be limited to, the following:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) The volume and intensity of the ambient noise, if any.
- (5) The proximity of the noise to residential sleeping facilities.
- (6) The nature and zoning of the area from which the noise emanates.
- (7) The nature and zoning of the receiving land.
- (8) The time of the day or night the noise occurs.
- (9) The duration of the noise.
- (10) Whether the noise is produced by a commercial or non-commercial activity.

Sec. 26-131 – Maximum permissible sound levels.

Except as otherwise exempted in this Article, no person shall generate or cause to be generated from any source, sound which, when measured at the receiving property or within the boundary of the receiving property from which the complaint originated or where the sound is being generated, exceeds:

(1) Seventy-five (75) dBA or Eighty (80) dBC during the hours between 7:00 a.m. and 10:00 p.m.

(2) Seventy (70) dBA or Seventy-five (75) dBC during the hours between 10:00 p.m. and 7:00 a.m.

(3) Eighty (80) dBA or Eighty-five (85) dBC if the receiving land is a commercial area during the hours between 7:00 a.m. and 10:00 p.m.

Sec. 26-132. – Responsibility For Compliance

For purposes of this article, any person owning or having responsibility for management of a premises, however temporarily, any performer or disc jockey producing sound upon any premises, any person playing music, any person having control or volume knobs or levels, and

the business as named on the occupational license, if applicable, shall be jointly and severally liable for compliance with this article and shall be responsible for any violations of this article.

Sec. 26-133. – Exemptions

The following uses and activities shall be exempt from the requirements of Sections 26-129 from the enforcement procedures in this article:

(1) Cries for emergency assistance and warning calls, including any animal or bird giving a sound of danger or warning under particular circumstances reasonably requiring the need for warning.

(2) Radios, sirens, horns and bells and other sounds created by police, fire and other emergency response vehicles.

(3) Parades, fireworks displays, special events and other activities for which a permit has been obtained from the Town, within such hours and in accordance with such restrictions as may be imposed as conditions for the issuance of the permit.

(4) Fire alarms and burglar alarms, bells and chimes of churches or other religious institutions; however false burglar alarms shall be subject to enforcement procedures and penalties as set forth in Chapter 22, Article II of this Code.

(5) Noise from generators being used during a power outage.

(6) Noises resulting from emergency work.

(7) Noise generated by motor vehicles as defined in F.S. § 320.01 when operated and equipped in accordance with requirements set forth in the Florida Statutes.

(8) Noise resulting from the operation of vessels when operated in compliance with the decibel limitations in F.S. § 327.65. However, noise exceeding the limitations set forth in F.S. § 327.65 shall be subject to enforcement and penalties as set forth in F.S. Ch. 327.

Sec. 26-134. – Prohibited use of all-terrain and other off-road motorized vehicles.

No person shall operate any all-terrain vehicle or other off-road motorized vehicle as defined in F.S. § 316.2074 within the town limits. This includes but is not limited to all town owned property, and public rights-of-way and private property designated as a residential zoning classification or commercial zoning classification,. This prohibition shall not apply to motorized wheelchairs, golf carts or similar vehicles used by persons with a physical or medical restriction; or used to service residential premises.

Sec. 26-135. – Hours for construction work or noisy commercial activities.

Construction work or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hours of 8:00 a.m. Monday through Friday, and 9:00 a.m. Saturday and Sunday, and shall cease at the hour of 6:00 p.m. This section shall apply to all construction used therein. This section shall not apply to the collection of garbage by an agent authorized by the town.

SECTION 3. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the Town of Lake Clarke Shores, Florida. The sections of this Ordinance may be renumbered or lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION 4. If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of the Ordinance.

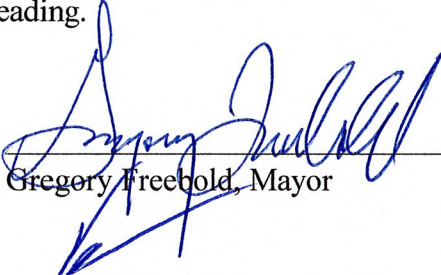
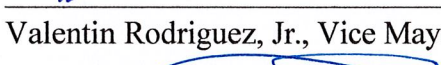

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. This ordinance will take effect immediately upon adoption.

PASSED AND ADOPTED the 14th day of August 2018, on first reading.

PUBLISHED the 23rd day of August 2018, in the Lake Worth Herald.

PASSED AND ADOPTED this 11th day of September, 2018, on second and final Reading.

	FOR	AGAINST
By:  Gregory Freebold, Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Valentin Rodriguez, Jr., Vice Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 Paul R. Shalhoub, President Pro Tem	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>absent</u> Robert M. W. Shalhoub, Council Member	<input type="checkbox"/>	<input type="checkbox"/>
 John Studdard, Council Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ATTESTED:


Mary Pinkerman, Town Clerk