

ORDINANCE NO. 22-02

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING CHAPTER 10, ARTICLE III SECTION OF THE BELLE ISLE CODE OF ORDINANCES TO REGULATE NOISE GENERATED IN CONNECTION WITH THE OPERATION OF MOTOR VEHICLES AND VESSELS WITHIN THE CITY AND USE OF SOUND EMITTING DEVICES ON WATERWAYS AND PUBLIC RIGHTS-OF-WAYS; PROVIDING FOR ADDITIONAL DEFINITIONS AND GRAMMATICAL CORRECTIONS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, excessive and unnecessary noise interferes with the quality of life and can interfere with the health, safety and general welfare of the public; and

WHEREAS, excessive and unnecessary noise can cause adverse psychological and physiological effects on humans; and

WHEREAS, the City Council has identified issues with noise emanating from motor vehicles and vessels within the City of Belle Isle; and

WHEREAS, the City Council finds it in the public interest to enact additional measures to address ongoing issues with noise emanating from motor vehicles and vessels over the public rights of way of the city and the city's waterways to prevent the nuisances caused by such noise.

NOW THEREFORE, be it ordained by the City Council of the City of Belle Isle, Florida as follows:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. City Code Amendment. Article III of Chapter 10 of the Belle Isle Code of Ordinances is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; and any sections or parts that are not included below remain unchanged):

Sec. 10-62. - Terminology, standards, and definitions

- (a) *Terminology and standards.* All technical acoustical terminology and standards used in this article that are not defined in subsection (b) shall be read or construed in conformance with the American National Standards Institute, Inc., ("ANSI") publication entitled "Acoustical Terminology," designated as ANSI standard 1.1-1994.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

A-weighted sound pressure level means the sound pressure level, in decibels, as measured on a sound level meter using the A-weighting network. The level so read shall be designated as dB (A-wt).

Background noise level means the sound pressure level of the all-encompassing noise emanating from a given environment, usually being a composite of sounds from many sources.

ANSI means the American National Standards Institute.

Construction means any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or on public or private thoroughfares, structures, utilities or similar property.

Decibel or *dB* means a unit for describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

Demolition means any dismantling, destructing or razing of structures, utilities, public or private thoroughfares, or similar property.

Emergency means any occurrence or circumstance involving actual or imminent physical death or trauma, environmental harm, or property damage, demanding immediate emergency work or service.

Emergency work or *emergency service* means any labor performed for the purpose of preventing or alleviating, or attempting to prevent or alleviate, an emergency, or work by private or public utilities when restoring utility service.

Equivalent sound pressure level (Leq) means a sound level descriptor based on the average acoustic intensity over time. Leq is intended as a single-number indicator to describe the mean energy or intensity level over a specified period of time during which the sound level fluctuated. Leq is measured in dB and must be A-weighted.

Impulsive sound means a sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions or pile driver impacts.

Intermittent sound means a sound of greater than one-second duration and less than 15 minutes. Example of sources of intermittent sound are air compressors, heating and air conditioning units and PA speakers.

Light trespass means light falling where it is not desired, wanted or needed.

Motor vehicle means any vehicle defined as "motor vehicle" by F.S. § 320.01(1).

Noise means any sound produced in such quantity and for such duration that it annoys, disturbs or may injure a reasonable individual of normal sensitivities. Noise is classified as follows:

- (1) *Noise pollution.* This term will describe noise emanating from a non-residential property or residential property under construction that exceeds the allowable limits set forth in section 15-182 of this article.
- (2) *Noise disturbance.* This term will describe noise emanating from a residential property that disturbs a reasonable individual of normal sensitivities.

Noise-creating device means any electrical, mechanical, or chemical device or instrument, or combination thereof, which creates noise during its operation by a person.

Noise-sensitive zone means a quiet zone where serenity and quiet are of extraordinary significance, which is open or in session. Noise-sensitive zones include schools, public libraries, churches, hospitals, nursing homes, and other areas defined as such pursuant to a resolution adopted by the city commissioners.

Person means an individual, association, partnership, or corporation, including any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

Property line means an imaginary line along the surface of land or water, and its vertical plane extension, which separates the real property owned, rented or leased by a person from the real property owned, rented or leased by another person. Where the real property owned, rented or leased by a person abuts a waterbody, the term "property line" means the established normal high water elevation of the waterbody.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by the state, county, or municipality-property owned, controlled, or otherwise maintained by the city for the use of the public as a way for traffic to travel and includes the area on, below, or above the street, sidewalk, curb, gutter, alley, easement, waterway, and/or lawns and landscaping. For the purposes of this definition, traffic refers to the movement of vehicles, vessels,

pedestrians, or other conveyances across or through such public right-of-ways. The public right-of-way includes both the paved portion thereof and the entire width of the way as measured from one private property line to another private property line.

Residential area means an areas of the city that predominantly includes residential properties, i.e., single-family and multifamily dwellings, townhouses or timeshare condominiums.

Sound means an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

Sound level means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A as specified in American National Standards Institute specifications for sound level meters (ANSI standard 1.4-1983). If the weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting network used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The sound level meter shall be of Type 2 or better, as specified in the American National Standards Institute publication entitled "Specifications for Sound-Level Meters," designated as ANSI standard 1.4-1983.

Sound pressure means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.

Sound pressure level means a 20 times the logarithm to the base ten of the ratio of the root mean square sound pressure to the reference pressure of 20 micro-newtons per meter squared. The sound pressure level is denoted L_p (or SPL) and is expressed in decibels

Vessel means every any type of boat, watercraft, or barge, including airboats and personal watercraft but excluding seaplanes, which is used or capable of being used as a means of transportation on water.

Waterway means that portion of any waters, rivers, lakes, canals, streams, lagoons, or connecting waters, whether natural or manmade, which are located within the jurisdictional boundaries of the city.

Sec. 10-65. Specific noises and lights prohibited.

The following acts, among others, are declared to be unreasonably loud and disturbing noises or uses of light in violation of this article, but this enumeration shall not be deemed to be exclusive:

- (1) Subject to the provisions of sections 10-66 and 10-67, no person shall produce, cause to be produced, or allow to be produced, by any means, any sound within any private or public property, including a right-of-way.
- (2) Radios, home or portable stereo devices, audio and video players, televisions, any similar video and audio sound devices and musical instruments. In any residential district, the use, operation or playing of any radio, phonograph, tape or CD player or other device for the producing or reproducing of sound or any musical instrument in such manner as to unreasonably disturb the peace, quiet and comfort of others at any time with volume louder than is necessary for convenient hearing of the person or persons who are in the room or immediate area in which such device is operated and who are voluntary listeners thereto.
- ~~(3) Motor vehicle sound systems. It shall be unlawful for any person while driving or occupying a motor vehicle within the city to use or operate any radio, or other sound amplifying equipment in the vehicle such that the sound produced is plainly audible to a person of ordinary hearing at a distance of 50 feet from the motor vehicle. This provision shall not apply to emergency or law enforcement vehicles.~~
- (3) Motor vehicle and vessel sound systems.
 - (a) Use of Sound Amplifying Equipment on Vehicles and Vessels. It is unlawful for any person while operating or occupying a motor vehicle or vessel within the city to use or operate any radio, speaker, or other sound amplifying equipment in or on the vehicle or vessel such that the sound produced thereby is plainly audible to a reasonable person of ordinary hearing at a distance of 50 feet from the motor vehicle or vessel. This provision does not apply to emergency or law enforcement vehicles operated in connection with the conduct of law enforcement, emergency response, or other official governmental business.
 - (b) Low Frequency Noise Disturbances. In addition to the foregoing, radios, speakers, media players, and other similar sound producing devices associated with motor vehicles or vessels may not be operated or amplified in such a manner as to be physically felt or

clearly heard at 25 feet or more from such device. Particular words or phrases or the name of any song or artist need not be identified in order to result in a violation of this section. The detection of rhythmic bass, vibration, or other reverberating sound is sufficient to determine that a violation has occurred.

(4) Prohibition of certain noises upon public rights-of-way and/or waterways by the use of motor vehicles, vessels, and other sound generating devices.

(b) *Generally.* No person may operate or cause to be operated a motor vehicle, motorcycle, vessel, or any equipment attached to or carried by such vehicle or vessel on a public right-of-way or waterway at any time such that the noise or sound level emitted violates or exceeds the levels set forth in § 316.293(2), Florida Statutes (2021), as such may be amended or transferred.

(c) *Motorcycles.* With respect to motorcycles, all motorcycles must be equipped at all times with a muffler or other noise-suppressing system in good working order. No motorcycle may be operated upon a public right-of-way if equipped with an exhaust system that has been altered or modified in any way to enable the exhaust system to amplify or increase the sound level in excess of the established sound levels set forth in § 316.293(2), Florida Statutes (2021), as may be amended or transferred.

(d) *Exhaust Systems – Motor Vehicles.* No person may operate a motor vehicle upon a public right-of-way with an exhaust system or noise-abatement device modified as described in § 316.293(5), Florida Statutes (2021), as may be amended or transferred.

(e) *Exhaust Systems – Vessels.* No person may operate a vessel upon any waterway with an exhaust system or noise-abatement device modified as prohibited in § 327.65, Florida Statutes (2021), as may be amended or transferred.

(f) *Standing vehicles.* No person may operate or permit the operation of any motor vehicle or any equipment carried by, installed in, or mounted to such vehicle, for a period longer than 15 minutes in any hour while the vehicle is stationary anywhere within 150 feet of any residential property in such a manner as to cause a noise disturbance across a residential property line (boundary). In addition to the foregoing, no person may cause the rapid throttle advancement (*i.e.*, revving) of an internal combustion engine resulting in increased noise from the engine while parked, idling, or otherwise standing within 150 feet of any residential property.

This subsection shall not apply to customary idling noise generated by a motor vehicle when such vehicle is stopped or otherwise slowed in traffic congestion.

(g) *Gratuitous Horn Usage.* Horns and warning devices used in conjunction with vehicles and vessels must be maintained and operated consistent with the requirements of § 316.271, Florida Statutes (2021), as may be amended or transferred. No person may operate a horn or other plainly audible warning device of a vehicle or vessel except to provide an audible warning reasonably necessary to ensure safe operation of such vehicle or vessel. Any such horn or warning device must not emit an unreasonably loud or harsh sound or whistle.

(h) *Mounted Amplification Equipment.* No person may operate any sound amplifying equipment mounted on or attached to any motor vehicle or vessel at any time in a manner that exceeds the applicable maximum sound level set forth in § 10-63 of this Article.

(i) *Motor/engine retarder devices.* No person may use a brake retarder or other motor/engine retarding device while operating a truck, truck tractor, motor carrier vehicle, motor vehicle or any other vehicle within the city limits. This prohibition against the use of a brake retarder or other motor/engine retarding device does not apply to an "emergency vehicle" as defined in Chapter 316, Florida Statutes, when such vehicle is legitimately responding to an emergency call.

(j) *Excessive tire noise.* No person operating a motor vehicle may cause or allow the tires of such vehicle to squeal or chirp except as reasonably necessary to ensure safe operation of the vehicle by avoiding a collision with another person, animal, vehicle, object, or other item.

(4)(5) Between 9:00 p.m. and 7:00 a.m., it shall be unlawful to operate lawn and landscaping equipment, power saws or power equipment, including, by way of example and not by way of limitation, lawnmowers, edger, leaf blowers, chainsaws, handheld power saws, table saws and drills.

(5)(6) *Lights.* It shall be unlawful to have, keep, maintain or cause or permit to be kept or maintained any floodlight, spotlight, security light, or any other reflector-type light on any property in such a manner that its light is directed, reflected or thrown onto the residence of any other person in the vicinity so as to constitute an incident of light trespass, or an annoyance,

harassment or compromise of privacy to the person occupying such residence.

Sec. 10-68. - Enforcement/penalty.

(a) It shall be unlawful for any person to violate any provisions of this article, or any provisions of any resolution enacted pursuant to this article. Any person who violates this chapter, or any provisions of any resolution enacted pursuant to the authority of this article, may be prosecuted in accordance with chapter 14, article II of this Code.

(b) When two or more persons residing in separate residences located across a property line (boundary) from the property from which a noise emanates are in general agreement as to the times, durations, and disturbing nature of such noise, such testimony will constitute prima facie evidence of a noise disturbance as defined in this Article. For the purposes of this subsection, the term "residence" refers to a residential unit, regardless of whether such unit is a single-family home or a unit located within a multi-family complex or development.

(c) In determining whether a sound-emitting device is plainly audible, law enforcement personnel and code enforcement officers must employ their ordinary auditory senses absent any enhancements or hearing aids.

~~(b)~~(d) If any code enforcement officer or ~~police~~law enforcement officer determines that activities regulated under this article have occurred without the issuance of the appropriate variance, or not in accordance with these regulations, the officer shall promptly issue a written notice of violation. The notice of violation shall include a description of the site where the violation has occurred, cite the provisions of this article and other applicable laws that have been violated, and set forth the required remedial action or actions to be taken as deemed reasonable and necessary by the city. Such remedial action may include:

(1) Modification of the structure or business causing the violation in order to comply with applicable local, state or federal laws or regulations;

(2) Any other actions consistent with the intent of these regulations or other applicable laws in order to ameliorate the adverse impacts of the violation; and

(3) Administrative and civil penalties.

~~(e)~~(e) Any person violating this article shall be liable for all costs incurred by the city in connection with enforcing this article or any provisions of any

resolution enacted pursuant to this article, including, without limitation, attorneys' fees and investigative and court costs.

SECTION 3. Codification. Section 2 of this Ordinance will be incorporated into the Belle Isle City Code. Any section, paragraph number, letter, and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance or the City Code may be freely made.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion will be deemed a separate, distinct, and independent provision, and such holding will not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicts. If a conflict arises between this Ordinance and any other ordinance or provision of law, this Ordinance governs and controls to the extent of such conflict, as permitted under the law.

SECTION 6. Effective date. This Ordinance will become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2022

SECOND READING: _____, 2022

ADOPTED this ____ day of _____, 2022, by the City Council of the City of Belle Isle, Florida.

CITY COUNCIL

CITY OF BELLE ISLE

Nick Fouraker, Mayor

ATTEST:

Yolanda Quiceno, City Clerk

