

Proposed changes to BIMC CHAPTER 10, ARTICLE III. - NOISE AND LIGHT

ORDINANCE NO. 22-XX

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING CHAPTER 10, ARTICLE III SECTION OF THE BELLE ISLE CODE OF ORDINANCES REGULATING NOISE AND LIGHT POLLUTION; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND THE EFFECTIVE DATE OF THIS ORDINANCE.

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

WHEREAS, the City Council finds it in the public interest to protect the privacy of residents of the City and prevent the nuisances caused by unnecessary intensity and glare of outdoor lighting spilling onto neighboring properties.

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Belle Isle, Florida as follows:

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

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

Public right-of-way means property controlled by the city for the use of the public as a way for traffic to travel. Traffic can mean vehicles, vessels, or pedestrians. The right of way means the area on, below, or above the street, sidewalk, curb and gutter, alley, easement, waterway, and/or lawns and landscaping. Note that the right of way is not just the paved portion but also the entire width from private property line to private property line.

Vessel means every description of watercraft, barge and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Waterway means any waters, lakes, canals, streams, lagoons or connecting waters, whether natural or manmade, partially or wholly within the 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. It shall be unlawful for any person while driving or occupying a motor vehicle or vessel on a waterway 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 or vessel. This provision shall not apply to emergency or law enforcement vehicles.
 - b. In addition to the proceeding, radios, Bluetooth speakers, disk players and similar devices associated with motor vehicles or vessels shall not be operated or amplified in such a manner as to be felt or clearly heard at 25 feet or more from such device. Particular words or phrases or the name of any song or artist are not required to be identified. The detection of a rhythmic bass reverberating sound shall be sufficient to determine if 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 noise-creating devices.
- a. No person, while occupying any public right-of-way in the city, shall operate any noise-creating device for the purpose of drawing attention to the source of the noise.
 - b. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle, vessel, or any equipment attached to such a vehicle, on a public right-of-way or waterway at any time in such a manner that the noise or sound level emitted by the motor vehicle, vessel, or motorcycle, or any equipment attached to such a vehicle, violates or exceeds the levels set forth in Florida State Statute 316.293 (2) With respect to motorcycles, all motorcycles shall be equipped with a muffler or other noise-

suppressing system in good working order at all times. No motorcycle 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 Florida State Statute 316.293 (2), shall be operated on any public rights-of-way.

c. No person shall operate a motor vehicle upon the City of Belle Isle streets and roadways with an exhaust system or noise-abatement device so modified as set forth in Florida State Statute 316.293 (5).

d. No person shall operate a vessel upon any waterway with an exhaust system or noise-abatement device so modified as set forth in Florida State Statute 327.65.

e. Standing motor vehicles. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period longer than 15 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, anywhere within 150 feet of any residence in such a manner as to cause a noise disturbance across a residential property line (boundary). This includes, but is not limited to the rapid throttle advance (revving) of an internal combustion engine resulting in increased noise from the engine.

f. Unnecessary horn blowing. No person shall at any time sound the horn or other warning device of a vehicle or vessel except when absolutely necessary as a warning while actually driving such vehicle.

g. Sound vehicles. No person shall operate sound amplifying equipment mounted on or attached to any motor vehicle or vessel at any time in such a manner as to exceed the maximum permissible motor vehicle or vessel noise emissions as set forth in Section 10-63 hereof.

h. Motor/engine retarder devices. No person shall 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 of Belle Isle. The prohibition against use of a brake retarder or other motor/engine retarding device shall not apply to an "emergency vehicle" as defined in Florida Statute 316 when said emergency vehicle is actually responding to an emergency call.

i. No person shall cause or allow the tires of a motor vehicle, which the person is operating, to squeal except when necessary in order to avoid a collision with another person, vehicle or other property.

j. No person, while occupying any public right-of-way in the City, or on any waterway shall operate any noise-creating device in such a manner that the public's attention is drawn to the source of the noise. The prohibition of this section shall include rapid throttle advance and/or revving of an internal combustion engine resulting in increase of noise from the engine.

(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) Prima facie violation. The noise from any of the aforesaid prohibited acts that disturbs two or more residents who are in general agreement as to the times and durations of the noise and who reside in separate residences, including apartments and condominiums, located across a property line (boundary) from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance.

(c) In determining whether such devices may be clearly heard, the City's police officers and code enforcement officers must utilize their normal auditory senses without any enhancements or hearing aids.

~~(b)~~(d) If any code enforcement officer or police 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.

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