

ORDINANCE NO. 79-5

AN ORDINANCE CONCERNING AND REGULATING NOISE EMISSION BY MOTOR VEHICLES AND RECREATIONAL MOTORIZED VEHICLES OPERATING OFF THE PUBLIC RIGHT OF WAY; DECLARING SAID NOISES TO BE DETRIMENTAL TO THE PUBLIC HEALTH, COMFORT, CONVENIENCE, SAFETY, WELFARE AND PROSPERITY OF THE RESIDENTS OF THE COUNTY; PROHIBITING THE MAKING, CAUSING OR ALLOWING OF SAID NOISES WHICH EXCEED CERTAIN LIMITS; PROVIDING FOR DEFINITIONS; PROVIDING MAXIMUM ALLOWABLE LEVELS FOR SAID NOISES; PROVIDING FOR TECHNIQUES TO BE USED IN MEASURING LEVELS OF SAID NOISE; PROVIDING FOR DOCUMENTATION OF RESULTS; PROVIDING FOR WAIVERS; PROVIDING FOR PENALTIES; PROVIDING FOR ADDITIONAL CIVIL REMEDIES; PROVIDING FOR THE AREAS TO BE EMBRACED; PROVIDING FOR THE SEVERABILITY CLAUSE; PROVIDING FOR CONSTRUCTION; AND PROVIDING FOR AN EFFECTIVE DATE.

Adopted: April 24, 1979
Filed Office of Secretary of State: May 7, 1979
Effective Date: May 10, 1979

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

WHEREAS, the making and creation of excessive, unnecessary and unusually loud noises by motor vehicles and recreational motorized vehicles operating off the public right of way within the unincorporated areas of Manatee County, Florida, is a condition which has existed for some time; and

WHEREAS, the said noises and the amount and intensity of such noises are increasing within the unincorporated areas of said County; and

WHEREAS, the making and creation of said noises are prolonged, unusual and unnatural in their time, place and use effect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of said County; and

WHEREAS, the necessity in the public interest for the provisions and the prohibitions hereinafter contained and enacted is declared, as a matter of legislative determination and public policy; and

WHEREAS, it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, safety, welfare and prosperity of the inhabitants of said County.

FILED
MAY 7 3 10 PM '79
SECRETARY OF STATE

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida, as follows:

Section 1. PROHIBITIONS

No person shall operate or cause to be operated any motor vehicle, motorcycle or motor driven cycle off a public right of way in such a manner that the sound levels emitted therefrom violate the provisions of Section 3 of this Ordinance. This Section shall apply to all motor vehicles, motorcycles or motor driven cycles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, go-carts and dune buggies.

Section 2. DEFINITIONS

The words and phrases used in this Ordinance are defined below, and all terminology used in this Ordinance not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

A. "A-Weighted Level (dBA)" - The total broad band sound level of the noise spectrum as measured using the "A-Weighted Network" of a sound level meter. The unit of measurement is the dBA. Sound level meter settings shall be for fast response in the case of motor vehicle and like measurements.

B. "Ambient Noise" - The all-encompassing noise associated with a given environment, being usually a composite of sound from many sources near and far.

C. "Decibel (dB)" - A division of a logarithmic scale used to express the ratio of two like quantities proportional to power or energy. The ratio is expressed in decibels by multiplying its common logarithm by 10.

D. "Emergency" - A situation wherein immediate work is necessary to restore property to a safe condition following a public calamity or immediate work is required to protect persons or property from an imminent exposure to danger, harm or hazard.

E. "Gross Combination Weight Rating (GCWR)" - The value specified by the manufacturer as the loaded weight of a combination vehicle.

F. "Gross Vehicle Weight Rating (GVWR)" - The value specified by the manufacturer as the loaded weight of a single vehicle.

G. "Motor Vehicle" - Any device or vehicle including, but not limited to, automobiles, motorcycles, motor trucks, trailers, campers, go-carts, swamp buggies, dune buggies and other recreational vehicles, and all other vehicles capable of operation over the roadways and propelled by power other than muscular power, but does not include traction engines, road rollers, implements of husbandry and other agricultural equipment and such vehicles as run only upon a track.

H. "Motorcycle" - Any motor vehicle having a seat or saddle for the use of the rider and designated to travel on not more than 3 wheels in contact with the ground, but excluding a tractor.

I. "Motor Driven Cycle" - Every motorcycle and every motor scooter with a motor which produces not to exceed five brake horsepower, including every bicycle with a motor attached.

J. "Noise" - One or a group of loud, harsh, nonharmonious sounds or vibrations which are unpleasant and irritating to the ear.

K. "Noise Level" - As referenced in this Ordinance, the noise level is the sound pressure level as measured in dBA, unless otherwise specified. A measurement of noise must be at least 5 dB above the ambient noise level.

L. "Operator" - Any deputy of the Manatee County Sheriff's Department or any employee of Manatee County who is designated by the Board and charged with the responsibility of making noise measurements, as provided for herein, who is certified to conduct sound level measurements by the Florida Highway Patrol and the Department of Environmental Regulation.

M. "Person" - Any individual, natural person, public or private corporation, firm, association, joint venture, partnership or any other entity whatsoever or any combination of such, jointly or severally.

N. "Sound Level Meter" - An instrument to measure the sound pressure level of relatively continuous and broadband noises. The sound level meter used to determine compliance with this Ordinance shall meet or exceed the requirements for type 2 sound level meter in accordance with ANSI Standard S1.4.

O. "Sound Pressure Level" - The squared ratio expressed in decibels of the sound pressure under consideration to the standard reference pressure of 0.0002 dyne/cm². The ratio is squared because pressure squared, and not pressure, is proportional to energy.

P. "Vehicle" - Any device, in, upon or by which any person or property is or may be transported or drawn upon a highway, except bicycles, or "mopeds" or devices used exclusively upon stationary rails or tracks.

Section 3. SOUND EMISSION STANDARDS AND LIMITATIONS.

A. No person shall operate or permit to be operated a vehicle, whether a motor vehicle, motorcycle or motor driven cycle, without a muffling device as effective as that installed as original equipment by the manufacturer of that type vehicle.

B. No person shall operate or permit to be operated a motor vehicle, including motorcycles and motor driven cycles, at any time or under any condition off the public right of way, regardless of load, grade, acceleration or deceleration in such a manner as to generate a sound level in excess of 78 dBA at the point of measurement.

Section 4. MEASUREMENT TECHNIQUES

A. Noise measurements shall be made at the nearest adjacent property line from the property on which the noise source is located. Such noise measurements shall be made at a height of at least four (4) feet above the ground and at a point approximately ten (10) feet away from walls, barriers, obstructions (trees, bushes, etc.) on a sound level meter operated on the "A" weighting level.

B. The ambient base noise level shall be determined with the noise source not in operation prior to or after a measurement. The ambient base noise level shall be determined as follows:

(1) Calibrate the sound level meter immediately before use.

(2) Set the sound level meter on the "A" weighted network at a fast response.

- (3) Without the noise source in operation, set the omnidirectional microphone in a vertical position in a location which complies with paragraph A, above. The operator of the sound level meter shall face the noise source and record the meter's instantaneous response.

C. It shall be a violation of this Ordinance and unlawful for any person to refuse to cease making any sound when so ordered by duly authorized personnel, for the purpose of measuring the ambient base noise level.

Section 5. DOCUMENTATION OF NOISE MEASUREMENT RESULTS

The operator conducting noise measurement tests as provided for in Section 4 shall document all noise measurement results in a written record. Said record shall include the following:

A. Instrumentation

- (1) The instrumentation used, including name, make, type and serial number.
- (2) Date of the last laboratory calibration.
- (3) On site calibration verification before and after each series of measurements.

B. Environmental

- (1) Name and location of the measuring area.
- (2) A diagram of the measuring area.
- (3) Time and date of measurements.
- (4) Names of observers.

Section 6. EXCEPTIONS

The following are specifically excepted from the application of this Ordinance:

- A. Nothing contained herein shall be construed to prohibit or restrain activities or actions, related or incidental to, the operation of vehicles or equipment in the case of a bona fide emergency.

B. Nothing contained herein shall be construed to prohibit or restrain activities or actions, related or incidental to, the operation of motor vehicles engaged in professional or amateur sanctioned competitive sports events, for which admission or entry fee is charged, including practice or time trials for such events, or any motor vehicle engaged in a manufacturer's engineering, design or equipment test, where such activities are specifically allowed and in accordance with and in compliance with the applicable zoning regulations of this County.

C. Nothing contained herein shall be construed to prohibit or restrain activities or actions, related or incidental to, the legitimate operation of construction vehicles in connection with on site construction activities. A legitimate construction activity shall be one which qualifies for, and has been authorized to be conducted by the proper issuance of, a building permit or such permit as may be necessary for the carrying out of such activity.

Section 7. WAIVERS

Applications for a waiver from the maximum allowable noise level limits designated in this Ordinance shall be made in writing to the Board of County Commissioners of Manatee County, Florida. The Board of County Commissioners may grant such waiver as applied for, as follows:

A. The Board may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood, including, but not limited to, the use of mufflers, screens or other sound attenuating devices.

B. Waivers may be issued for no longer than one hundred eighty (180) days, renewable by further application to said Board.

Any person having filed for a waiver, who has been denied such waiver by the Board, may appeal for reconsideration by the Board, such appeal to be filed within thirty (30) days from the date of the denial of waiver.

Any party applying for a waiver shall have the right to appear before the Board, present evidence to the Board and present whatever factual information deemed necessary for the necessity for obtaining such waiver.

Section 8. PENALTIES

Any person or persons or any agent thereof who violates any of the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor punishable as provided by the General Laws of the State of Florida.

Section 9. CIVIL REMEDIES

In addition to the criminal penalties provided in Section 8, the Board of County Commissioners of Manatee County, Florida, is authorized to institute any appropriate action or proceeding, including suit for injunctive relief, in order to prevent or abate violations of this Ordinance.

Section 10. AREAS EMBRACED

This Ordinance shall be applicable to and embrace the unincorporated areas of Manatee County, Florida.

Section 11. SEVERABILITY

If any Section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining and other provisions of this Ordinance.

Section 12. CONSTRUCTION

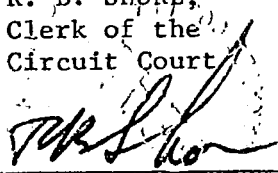
Pronouns of feminine or neuter, instead of masculine, gender, and of plural, instead of singular, number, are to be substituted herein whenever the context so requires.

Section 13. EFFECTIVE DATE

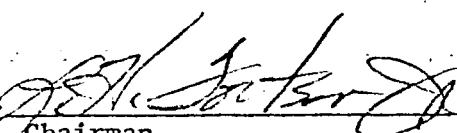
This Ordinance shall take effect immediately upon the receipt of the official acknowledgement from the Office of the Secretary of State of the State of Florida that this Ordinance has been filed with that office.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Manatee County, Florida, this 24th day of April, 1979.

ATTEST: R. B. SHORE,
Clerk of the
Circuit Court



BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: 
Chairman

STATE OF FLORIDA

COUNTY OF MANATEE

I, R.B. Shore, Clerk of Circuit Court, in and for the County of Manatee, State of Florida, do hereby certify that the foregoing is a true copy of Ordinance 79-5

AN ORDINANCE CONCERNING AND REGULATING NOISE EMISSION BY MOTOR VEHICLES AND RECREATIONAL MOTORIZED VEHICLES OPERATING OFF THE PUBLIC RIGHT OF WAY; DECLARING SAID NOISES TO BE DETRIMENTAL TO THE PUBLIC HEALTH, COMFORT, CONVENIENCE, SAFETY, WELFARE AND PROSPERITY OF THE RESIDENTS OF THE COUNTY; PROHIBITING THE MAKING, CAUSING OR ALLOWING OF SAID NOISES WHICH EXCEED CERTAIN LIMITS; PROVIDING FOR DEFINITIONS; PROVIDING MAXIMUM ALLOWABLE LEVELS FOR SAID NOISES; PROVIDING FOR TECHNIQUES TO BE USED IN MEASURING LEVELS OF SAID NOISE; PROVIDING FOR DOCUMENTATION OF RESULTS; PROVIDING FOR WAIVERS; PROVIDING FOR PENALTIES; PROVIDING FOR ADDITIONAL CIVIL REMEDIES; PROVIDING FOR THE AREAS TO BE EMBRACED; PROVIDING FOR THE SEVERABILITY CLAUSE; PROVIDING FOR CONSTRUCTION; AND PROVIDING FOR AN EFFECTIVE DATE.

approved by the Board of County Commissioners of said County in session on the 24th day of April, 1979.

WITNESS my hand and official seal this 25th day of April, 1979 in Bradenton, Florida.



R.B. Shore, Clerk of Circuit
Court, Manatee County, Florida



Secretary of State

STATE OF FLORIDA
THE CAPITOL
TALLAHASSEE 32304

GEORGE FIRESTONE
SECRETARY OF STATE

BETTY CASTOR
Director, Division of Elections
904/488-7690

May 7, 1979

E. N. Fay, Jr., Esquire
Manatee County Attorney
Post Office Box 959
Bradenton, Florida 33505

effec.

Dear Mr. Fay:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge:

- ✓ 1. Receipt of your letter/s of May 1, 1979
and certified copy/ies of Manatee
County Ordinance/s No./s 79-5

2. We have filed this/these Ordinance/s in this office
May 7, 1979
3. Receipt of an original/s and certified copy/ies of
_____ County Ordinance/s No./s

4. Receipt of _____ County Ordinance/s
relative to _____
5. We have numbered this/these Ordinance/s _____
_____ and _____ was/were filed
in this office _____ 1979.
- ✓ 6. The original/duplicate copy/ies showing filing date
is/are being returned for your records.

Cordially,

Nancy Kavanaugh
(Mrs.) Nancy Kavanaugh
Chief, Bureau of Laws

NK/ mb