

ORDINANCE NO. 08-12

FILED FOR RECORD
R. B. SHORE

AN ORDINANCE OF MANATEE COUNTY, FLORIDA
REGULATING AND PROHIBITING THE EMISSION OF
HARMFUL NOISE; AMENDING ARTICLE II OF
CHAPTER 2-21 OF THE MANATEE COUNTY CODE;
DECLARING SAID NOISES TO BE DETRIMENTAL TO
THE PUBLIC HEALTH, COMFORT, CONVENIENCE,
SAFETY, WELFARE AND PROSPERITY OF THE
RESIDENTS OF SAID COUNTY; ESTABLISHING AND
DEFINING CERTAIN TERMS; ESTABLISHING AND
PROVIDING FOR CERTAIN EXCEPTIONS;
PROHIBITING THE MAKING, CAUSING OR ALLOWING
OF SAID NOISES WHICH CAUSE A NOISE
DISTURBANCE OR EXCEED CERTAIN SOUND LEVELS;
PROVIDING FOR TECHNIQUES TO BE USED IN
MEASURING LEVELS OF SAID NOISE AND THE
ESTABLISHMENT OF SAID LIMITS; PROVIDING FOR
PENALTIES; PROVIDING FOR ADDITIONAL CIVIL
REMEDIES AND CITATIONS; PROVIDING FOR THE
REPEAL OF ORDINANCE 99-20; PROVIDING FOR
SPECIAL PERMITS; PROVIDING FOR APPEALS OF
SPECIAL PERMITS; PROVIDING FOR SEVERABILITY;
AND PROVIDING FOR AN EFFECTIVE DATE.

2008 APR -4 AM 8:52

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

WHEREAS, the making and creation of excessive and unusually loud noises within Manatee County, Florida, is a condition which has existed for some time; and

WHEREAS, the said noises and the amount, intensity, duration and vibration of said noises are increasing within the area of said County as population, industry and tourism grows; and

WHEREAS, the residents of said County have a right to an environment free from excessive noise;

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

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CLERK OF THE CIRCUIT COURT
TALLAHASSEE, FLORIDA

WHEREAS, as a matter of legislative determination and public policy, the Board of County Commissioners finds it in the public interest for the provisions and prohibitions hereinafter contained and enacted; 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; and

WHEREAS, it is the intent of this Ordinance to prohibit the use or operation of any radio receiving set, "boom box," musical instrument, television, phonograph, tape or compact disc player, loudspeaker or any other devise for the production or reproduction of sound in such manner as to cause a noise disturbance; and

WHEREAS, it is the intent of this Ordinance that it shall work harmoniously with existing ordinances and state statutes regulating noise emissions and shall be an additional regulation to those pre-existing ordinances and statutes; and

WHEREAS, it is the intent of this ordinance to repeal prior Ordinance No. 99-20, but to incorporate many of the provisions contained in that ordinance along with several new provisions included as a result of the experience of enforcing the current ordinance for the last eight (8) years; and

WHEREAS, it is not the intent of this Ordinance to interfere with the individual rights to freedom of speech or religion.

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

Section 1. Amendment to Code of Laws. The Manatee County Code of Laws is hereby amended to substitute the following as Article II of Chapter 2-21:

ARTICLE II. NOISE

Sec. 2-21-31. Terminology; Definitions. All terminology used in this article not defined below shall be defined according to applicable publications of the American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) or their successor bodies.

A-weighted sound level (dBA): The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated "dBA."

Ambient Noise: The surrounding or steady background noise in a particular location as distinct from the specific noise being measured.

Commercial area: Land used primarily for the sale of merchandise or goods, or for the performances of a service, or for office or clerical work.

Construction activity: Any site preparation, assembly, erection, substantial repair, alteration, or improvement of realty, whether publicly or privately owned, and whether above ground or below ground.

Decibel (dB): The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (twenty (20) micropascals); abbreviated "dB."

Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma to human beings or living creatures or property damage which necessitates immediate action.

Emergency work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, including work necessary to restore property to a safe condition following an emergency.

Industrial area: Land use which is primarily for manufacturing, processing or an airport.

Multifamily dwellings: A building designed or used exclusively for residential occupancy by two (2) or more families.

Noise: Any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological effect on humans. "Noise" includes low frequency vibrations, such as caused by amplification of bass instrumental sounds.

Noise disturbance: Sound which (a) is or may be harmful or injurious to the health or welfare of a person with normal sensitivities, or (b) significantly interferes with the enjoyment or normal conduct of life, property or outdoor recreation, or (c) causes noise pollution

Noise pollution shall mean the presence of noise in an excessive or disturbing amount or of such duration, wave frequency or intensity as to be injurious to human or animal life or property.

Park land: Land that is used primarily for public recreational activities.

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 and severally.

Public right-of-way: Any street, avenue, boulevard, highway, sidewalk or alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

Public space: Any real property or structure thereon normally accessible to the public which is owned or controlled by a governmental entity.

Pure tone: Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds arithmetic value the sound pressure levels of the two (2) contiguous one-third octave bands by five (5) dB.

Real property line:

- (a) The imaginary line including its vertical extension that separates one parcel of real property from another; or
- (b) The vertical and horizontal boundaries of a dwelling unit that is one unit in a multi-dwelling-unit building.

Receiving land: Land area neighboring or in the vicinity of a sound source and on or at which the sound emanating from the sound source is audible to the normal human ear.

Residential: Land use that is primarily for living and sleeping or park land or hospitals or schools or nursing homes or the individual plots within a mobile home park assigned by the owner of the park or any land use that is not commercial or industrial.

Short durations: Any sound with a duration of less than one minute.

Sound: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound analyzer: A device for measuring the octave band level of a sound as a function of frequency.

Sound level: The weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B or C as specified in the American National Standards Institute specifications for sound level meters ANSI S1.4-1971, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

Sound level meter: An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated, and the instrument is of type 2 or better, as specified in the American National Standards Institute publication S1.4-1972 or its successor publication.

Sound pressure: 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 energy.

Sound pressure level: Twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micronewtons per square meter ($20 \times 10^6 \text{N/m}^2$). The sound pressure level is expressed in decibels.

Sec. 2-21-32. Area of applicability. This article shall be applicable to and embrace the unincorporated areas of the county.

Sec. 2-21-33. Exceptions. The following activities or sources are exempt from the requirements of this article:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency, or in the performance of emergency work.
- (2) Between the hours of 7:00 a.m. and 11:00 p.m., ceremonial or traditional activities or events, including the sounding of church bells and the normal sounds of organized sporting and cultural events, but specifically not including music or other amplified sounds performed or played at volumes or vibrations that violate standards of this article.
- (3) Operation of equipment or conduct of activities normal to residential or agricultural communities as set forth herein:

	<i>Description</i>	<i>Hours of Operations</i>
(a)	lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb chipping and other normal community operations	7:00 a.m. to 10:00 p.m.
(b)	operation of equipment for solid waste and recycling collection in or adjacent to residential uses	6:00 a.m. to 6:00 p.m.
(c)	operation of equipment for solid waste collection in nonresidential locations	4:00 a.m. to 10:00 p.m.
(4)	Operation of manufacturing in areas zoned for such activities and which do not create a noise disturbance on any properties not designated for such activities.	
(5)	Usual noises of construction and operation of construction equipment between the hours of 7:00 a.m. to 8:00 p.m.	
(6)	Usual engine noises of traffic and motor vehicles on the public right-of-way.	
(7)	Single family residential air-conditioning units when in reasonable mechanical condition operating with the standard noise and vibration control systems typically provided by the manufacturer. A unit is presumed to be in reasonable mechanical condition if it meets the noise specifications contained in the Air Conditioning and Refrigeration Institute's ("ARI") Applied Directory of Certified Product Performance Variable Air Volume terminals. See http://www.aridirectory.org/ari/vav.php .	

Sec. 2-21-34. Prohibited acts. The occurrence of the conditions, acts or omissions as described in subsections (1) or (2) of this section shall constitute a violation of this article. Requirements in any one of said subsections stand alone. Measurements described in subsection (2) shall constitute *prima facie* evidence of a violation of this article. However, such measurements are

not necessary for enforcement of this article, *i.e.*, neither sound measurements as provided in subsection (2) nor any other type of sound measurement are necessary to prove a violation of subsection (1) of this section.

(1) *Noise disturbance.* Notwithstanding any other provision of this article, and in addition thereto, it shall be unlawful for any person to make or continue, or cause or permit to be made or continued, any noise disturbance, as defined in section 2-21-31.

(a) *Standards.* The standards to be considered in determining whether a violation of subsection (1) of this section 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 noncommercial activity.

(b) *Enforcement.* Enforcement does not depend on any minimum number of standards being met.

(c) *Persons affected.* Persons affected may include residents, passersby, law enforcement or code enforcement officials.

(2) *Maximum permissible sound levels.*

(a) *Sound.* No person shall operate or cause to be operated, from any source, sound which, when measured at the property line of the property where the sound is being generated, exceeds:

1. Sixty (60) dBA during the hours between 7:00 a.m. and 10:00 p.m. at the property line of the noise source.
2. Fifty-five (55) dBA during the hours between 10:00 p.m. and 7:00 a.m. at the property line of the noise source.
3. Sixty-five (65) dBA if the receiving land is a commercial area.

4. Eighty (80) dBA if the receiving land is industrial.

(b) *Correction for character of sound.* For any source of sound which emits a pure tone, the maximum sound level limits set forth in subsection (2)(a) shall be reduced by five (5) dBA. For any source of sound which is of short duration and is nonrepetitive, the maximum sound level limits set forth in subsection (2)(a) shall be increased by ten (10) dBA from 7:00 a.m. to 10:00 p.m.

(c) *Correction for ambient noise.* Corrections for ambient noise should be made in accordance with applicable ASTM standards.

(d) *Methods of measurements.*

1. The measurement of sound shall be made with a decibel or a sound level meter operating on the A-weighted scale of any standard design and quality meeting the standards prescribed by the American National Standards Association. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source. The microphone used during measurement shall be positioned so as to not to create any unnatural enhancement or diminution of the measured sound. A wind-screen for the microphone shall be used when required. Traffic, aircraft, and other background ambient sounds shall not be considered in taking measurements except where such ambient sound interferes with the primary noise being measured.
2. The measurement shall be made at or beyond the real property line of the property on which such sound is generated or on the receiving land, as appropriate, approximately five (5) feet above ground.

Sec. 2-21-35. Enforcement and penalties. Any person or entity violating any of the provisions of this article shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the State of Florida in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and, upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail not to

exceed sixty (60) days or by both such fine and imprisonment. Each incident or separate occurrence of an act that violates this article shall be deemed a separate offense.

Sec. 2-21-36. Civil remedies and Citations. In addition to the criminal penalties provided in section 2-21-35, the Board of County Commissioners is authorized to institute any appropriate action or proceeding, including suit for injunctive relief, as may be necessary, in order to prevent or abate violations of this article. Citations may also be issued to enforce this article as provided in section 2-2-25 of this code.

Sec. 2-21-37. Special Permits. Special permits for prospective activities that will exceed the maximum permissible noise levels permitted by this section may be obtained by completed application to the Manatee County Administrator or his designee. Such special permit shall not be unreasonably withheld so long as the prospective activity will not adversely affect the health, safety, and welfare of nearby residents. The administrative determination shall be made within ten (10) business days of application, or the subject activity shall be deemed permitted.

Sec. 2-21-38. Appeals. Any person denied a Special Permit may file an administrative appeal to a Manatee County Hearing Officer in accordance with Sec. 2-2-107 *et seq.* of this code.

Section 2. Severability. If any section, sentence, clause, phrase or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 3. Repeal. Ordinance 99-20 is hereby repealed.

Section 4. Codification. The publisher of the County's Code of Laws, the Municipal Code Corporation, is directed to incorporate this division into the Code of Ordinances where indicated.

Section 5. Effective Date. This Ordinance shall take effect immediately upon filing with the Department of State.

PASSED AND DULY ADOPTED, in open session, with a quorum present and voting, the 25TH day of MARCH, 2008.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: [Signature]

Chairman

Attest:

R.B. SHORE
CLERK OF THE CIRCUIT COURT

By: [Signature]



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 26TH day of

MARCH, 2008

R.B. SHORE
Clerk of Circuit Court

By: [Signature] D.C.



FLORIDA DEPARTMENT OF STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

March 28, 2008

Honorable R. B. "Chips" Shore
Clerk of Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attention: Diane E. Vollmer, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated March 28, 2008 and certified copy of Manatee County Ordinance No.08-12, which was filed in this office on March 28, 2008.

As requested, one date stamped copy of each is being returned for your records.

Sincerely,

Liz Cloud
Program Administrator

LC/srd
Enclosure

FILED FOR RECORD
R. B. SHORE
2008 APR -4 AM 8:52
CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dlis.dos.state.fl.us>

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850.245.6270 • FAX: 850.245.6282

From: no-reply@municode.com [mailto:no-reply@municode.com]
Sent: Tuesday, July 08, 2008 1:16 PM
To: Susan Romine
Subject: Acknowledgment of material received

Municipal Code Corporation
P.O. Box 2235
1700 Capital Circle SW. (32310)
Tallahassee, FL 32316-2235
850-576-3171
Fax: 850-575-8852
info@municode.com

Manatee County, FL Code of Ordinances - 1981(10428)

Supplement 72

Recorded: **4/10/2008 4:11:02 PM**

We have received the following material through **Hard Copy/Electronic**.

Document	Adoption
Ordinance No. 08-12	3/25/2008
Ordinance No. 08-22	4/3/2008
Ordinance No. 08-44	4/22/2008
Resolution No. R-08-090	4/22/2008
Ordinance No. 08-34	5/1/2008
Ordinance No. 08-26	5/20/2008
Ordinance No. 08-02	5/20/2008
Ordinance No. 08-56	5/20/2008
Ordinance No. 07-62	8/7/2007
Resolution No. R-07-130	8/7/2007
Resolution No. R-07-131	8/7/2007

[Click here](#) to see the full list of recorded ordinances for the next supplement.

Or point your browsers at: <http://www.municode.com/disposition/dislist.asp?jobid=88152>

If you are sending the ordinances in electronic form and printed form, we assume the electronic version of the ordinances reflects the ordinances as adopted. We do not proofread against the printed version of the ordinance if the printed copy is submitted. Please contact us if you have questions.

- Update the internet version of your Code more often. We can update the Internet quarterly, monthly, even weekly. For additional information email info@municode.com.
- We can post newly enacted ordinances in the online Code after each meeting. E-mail us for more information at info@municode.com.
- Automating your agenda. We can help make the dream a reality. Visit MCCi for more information. <http://www.mccinnovations.com/products/agenda.asp>
- We can provide a solution for Document and Records Management, imaging or scanning services. Contact us for more information at info@mccinnovations.com or visit [MCCi](#).
- Billing got you down? We can provide invoice and statement printing and processing. For more information email us at info@mccadvantage.com.
- Need a better way to manage your Contracts? Visit MCCi's website to learn more about automating your contract management processes. [MCCi](#)
- Ever need to search in several online Codes for a sample ordinance? Try our Multiple Code Searching. For more information email us at info@municode.com.
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