

COUNTY OF GULF
STATE OF FLORIDA
ORDINANCE NO. : 2022-02

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AN ORDINANCE OF GULF COUNTY, FLORIDA, TO REPEAL AND REPLACE GULF COUNTY ORDINANCE 99-03 TO REGULATE THE NOISE WITHIN THE COUNTY, SETTING FORTH STATEMENT OF PURPOSE AND OBJECTIVES, PROHIBITING THE MAKING OF LOUD, UNREASONABLE, UNNATURAL OR UNUSUAL NOISES AS SET FORTH HEREIN; PROVIDING PENALTIES FOR VIOLATIONS HEREOF; PROVIDING FOR THE ENFORCEMENT HEREOF; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCE OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARINGS; PROVIDING FOR SAID POLICIES AND PROCEDURE TO BE FURTHER AMENDED, BE CODIFIED AND BECOME PART OF GULF COUNTY MUNICODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the making, creation or maintenance of loud, unreasonable, unnatural or unusual noises which are prolonged and unusual in their time, place and use, and which are a detriment to the public health, comfort, safety, welfare and prosperity of the residents of the county, and

WHEREAS, there is overriding necessity of and for the public interest for the provisions and prohibitions contained in this ordinance regulating noise within the county as set forth and herein and the same is declared as a matter of legislative determination and public policy to further the protection of the public, and,

WHEREAS, pursuant to Article VIII, Section (1)(f) of the Florida Constitution and Section 125.01, Florida Statutes, Gulf County has broad home rule powers to carry out county government, including the power to adopt ordinances to provide for the common good; and

WHEREAS, on April 26, 1999 the Board of County Commissioners adopted Ordinance No. 1999-03 whereby defining noise control and regulation guidelines within Gulf County; and

WHEREAS, the Commissioners desire to repeal and replace the ordinance wherein sections, subsections, paragraphs, subparagraphs, divisions, subdivisions, clauses, sentences, phrases, words, and provisions of the current noise control regulations are deemed obsolete or superfluous, and/or which have not been enforced, and/or which are not enforceable, an/or do not meet the current standard of care, values and protection sought by the County, and/or which would be severable by a court of competent jurisdiction; and

WHEREAS, in order to carry out the purposes of the Florida Statutes in conjunction with the purposes of the County’s intent for noise regulation and to uphold the regulations whereby enforcing both, the Commissioners find and determine that the County should regulate through specific language and guidelines set out by this ordinance, and

WHEREAS, the Commissioners find and determine that in order to preserve, protect and promote the safety and general welfare of the residents of the County as well as enhance the quality of life in Gulf County, it is necessary to strictly regulate and enforce noise regulation and controls; and

WHEREAS, the Commissioners find and determine that the County has consistently adopted and enacted severability provisions in connection with its Ordinance provisions, and the Commissioners wish to ensure that severability provisions apply to its noise control and; and

WHEREAS, on November 30, 2021 and January 11, 2022 a Public Notice was advertised in The News Herald offering the public an opportunity to participate at two public hearings before the Board of County Commissioners (BOCC) on December 14, 2021 at 9:00 am and a second public hearing on January 25, 2022 at 9:00 a.m. for the adoption of this proposed ordinance; and

WHEREAS, the provisions and prohibitions contained in this ordinance and enacted herein are in the pursuance of and for the purposes of protecting and promoting the public health, comfort, convenience, safety, welfare and prosperity, and the peace and quiet of the county and its inhabitants.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

1. NOISE CONTROL REGULATIONS.

It shall be unlawful for a person within the county to make, continue or cause to be made or continued, any loud or unusual noise which unreasonably either annoys, disturbs or endangers the comfort, repose, health, peace or safety of others and the same is declared to be a public nuisance, and the following acts, among others, are hereby declared to be loud and disturbing noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

- a. Except by special permit, no audio device, such as loudspeakers, television, radio, musical instrument or other noise mechanisms except equipment used by Gulf County officials or law enforcement, rescue or beach safety officials and personnel, shall be used in Gulf County in a manner:
 - i. That exceeds a noise of 60 decibels (DBA) measured on the A-weighted scale at 50 feet from the sound source; or
 - ii. that otherwise violates either this Gulf County’s Noise Control or Nuisance Ordinance; or
 - iii. the playing, using or operating of, or permitting to be played, operated or used, any radio, receiving set, musical instrument, television set, phonograph or other machine or

device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighborhood and vicinity thereof; or

iv. The playing, using or operating of, or permitting to be played, operated or used, any radio, receiving set, musical instrument, television set, phonograph or other machine or device for the producing or reproducing of sound at any time of the day or night in such a manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure or vehicle in which it is located or at any time or place so as to annoy or disturb the quiet, comfort or repose of reasonable persons or in any dwelling or residence; or

v. The playing, using or operating of, or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound, upon the public streets or right of ways for the purpose of commercial advertising or attracting the attention of the public to any building or structure; or

vi. The keeping of any animal which, by frequent or long-continued noise, shall disturb the comfort or repose of reasonable persons in the vicinity thereof; or

vii. No person shall commit such acts causing noise and disturbance as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness and hear them, or engage in such conduct as to constitute a breach of the peace or disorderly conduct; or

vii. The construction, erection, including excavating, demolition, alteration or repair of any building between the hours of 9:00 p.m. and 7:00 a.m. which unreasonably either annoys, disturbs or endangers the comfort, repose, health, peace or safety of others in the vicinity thereof.

2. ENFORCEMENT AND PENALTIES.

A violation of this ordinance shall be deemed a civil infraction and the violator shall be issued a citation for such violation at the time of the violation. The citation shall include reference to this ordinance, indicate first, second or subsequent offense and indicating the amount of the fine imposed and providing a document to the violator indicating options for disposition of this matter. The sheriff of the county and his duly appointed deputies shall and are hereby directed to enforce the provisions of the ordinance and issue citation(s) to violators:

- a. Gulf County Commission is authorized to enforce this ordinance and may follow the established procedures and schedule of violations and penalties set forth below to be assessed by Gulf County law enforcement officials and county code enforcement officials through its County Court and in accordance with Florida Statute 125.69:
- b. Violation of any provision of this ordinance shall be subject to the following penalties:
 - (i) First violation: \$250.00 fine
 - (ii) Second violation: \$500.00
 - (iii) Third violation: Fine not to exceed \$500.00 and/or imprisonment in the County jail not to exceed sixty (60) days.

- c. Each violation of this Ordinance shall constitute a separate offense. In the initial stages and implementation of this Ordinance, law enforcement officials may provide violators with no more than one (1) written warning.
- d. The County shall have resource to such civil and criminal remedies in law and equity as may be necessary to ensure compliance with the provisions of the section of this ordinance, including but not limited to injunctive relief to rejoin and restrain any person from violating the provisions of this section of this Ordinance and to recover such damages as may be incurred by the implementation of specific corrective actions.

3. SPECIAL MASTER HEARING AND APPEAL

Following receipt of a citation by, the person charged with a violation of this ordinance the person may resolve the violation by payment of the fine indicated at the office of the Circuit Clerk, Gulf County Court House, Port St. Joe Florida within 30 days of the date of the violation or the person may contest the violation by presenting written objection to the citation and a request for a hearing before a special master appointed to review and hear the merits of the violation. Such request must be provided in writing by the person charged with a violation of this ordinance to the following address by certified mail within 30 days of the date of the citation for violation to:

Gulf County Special Hearing Master
c/o Chief Administrator's Office
1000 Cecil G. Costin, Sr., Blvd.
Port St. Joe, FL 32456

4. RETROACTIVITY.

All appeals of determinations of classification and/or disposition on or after adoption of this ordinance shall be subject to all sections and guidelines.

5. EFFECTIVE DATE

This Ordinance shall take effect upon final adoption, a certified copy thereof being filed with the Florida Department of State and publication in accordance with the law following the completed proper and compliant public hearings and notice.

6. SEVERABILITY

In the event that any clause, section, paragraph, or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason; it shall be deemed severable, and the Board of County Commissioners hereby declares its intent that the balance of the Ordinance shall not be affected by the said invalidity, and the remainder shall remain in full force and effect.

7. REPEALER

Any and all ordinances in conflict herewith are hereby repealed to the extent of any conflict.

8. MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the Ordinance adopted by the Board and filed by the Clerk to the Board.

The foregoing Ordinance was offered by Commissioner MCDANIEL, who moved its adoption. The motion was seconded by commissioner FERRELL and , being put to vote, the vote follows:

Commissioner Chairman Quinn	<u>YES</u>
Commissioner McDaniel	<u>YES</u>
Commissioner McCroan	<u>YES</u>
Commissioner Farrell	<u>YES</u>
Commissioner Rich	<u>YES</u>

PASSED and ADOPTED in regular session by the Board of County Commissioners of Gulf County, Florida, on this 25th day of January, 2022.

BOARD OF COUNTY COMMISSIONERS
OF GULF COUNTY, FLORIDA

ATTEST:

REBECCA E. NORRIS, CLERK

By: Rebecca L. Norris
Rebecca L. Norris, Gulf County Clerk

By: Sandy Quinn
Sandy Quinn, Chairman

APPROVED AS TO FORM AND CONTENT:

By: Jeremy T.M. Novak
Jeremy T.M. Novak, Gulf County Attorney