

ORDINANCE

1996-15

AN ORDINANCE RELATING TO WALTON COUNTY, FLORIDA; RELATING TO THE CONTROL AND ABATEMENT OF EXCESSIVE NOISE; PROVIDING LEGISLATIVE FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR GENERAL PROHIBITION OF EXCESSIVE NOISE AS DEFINED HEREIN; PROVIDING FOR MEASUREMENT OF SOUND BY LAW ENFORCEMENT OR OTHER DESIGNATED OFFICIALS; PROVIDING FOR VIOLATION PROCEDURES; PROVIDING FOR PENALTIES; PROVIDING FOR JUDICIAL CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE. GRAYTON BEACH IS DEFINED AS AN AREA REPRESENTED BY THE FOLLOWING BOUNDARIES: COUNTY ROAD 30-A TO THE NORTH, THE GULF OF MEXICO TO THE SOUTH, GRAYTON DUNES STATE PARK TO THE WEST, AND GRAYTON BEACH STATE PARK AND WESTERN LAKE TO THE EAST.

Section 1. Legislative findings; declaration of necessity.

It is found and declared that:

- (a) Grayton Beach is an historic community consisting primarily of residential properties with a few select commercial properties of public entertainment. The commercial and residential properties are in close proximity to each other and at times share a common property line.
- (b) Excessive sound from places of public entertainment within the limits of Grayton Beach is a condition that has existed for some time, and the amount and intensity of such sound is increasing.
- (c) Such excessive sound is a detriment to the public health, safety, welfare, enjoyment of property, and quality of life of the residents and property owners of Grayton Beach.
- (d) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and 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, convenience, safety, welfare, quality of life, and the peace and quiet of the village of Grayton Beach and its inhabitants.

Section 2. Definitions.

For the purpose of this ordinance, certain words and phrases used herein are defined as follows:

Amplified sound means use of a public address system, loudspeaker, amplifier or any other device which electronically augments the volume of sound.

Grayton Beach is the area represented by the following boundaries: County Road 30-A to the North, the Gulf of Mexico to the South, Grayton Dunes State Park to the west, and Grayton Beach State Recreation Area and Western lake to the east.

Person means 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. Person shall include any owner, agent, or employee of a business establishment or other entity.

Placer of public entertainment means any place of entertainment to which the public is invited, including but not limited to a restaurant, bar, cafe, or dance hall.

Plainly Audible means any sound or noise produced or reproduced by a radio, tape player, television, electronic audio equipment, musical instrument, sound amplifier or other mechanical or electronic sound making device, that can be heard by a person using normal hearing faculties, at a distance of one hundred (100) feet or more from the real property line of the source of the sound or noise. In order to be plainly audible, the particular words or phrases being produced or the name of any song or artist producing the noise or sound do not need to be determined. The detection of a rhythmic bass reverberating type of noise or sound is sufficient to constitute a plainly audible noise or sound.

Soundproof means any physical arrangement or configuration that contains all sound within a structure with four (4) walls and a roof and that has closeable doors and windows to curtail noise from crossing the real property line of the sound source, so that the sound is not plainly audible.

Real property line means an imaginary line along the ground surface, and its vertical plane extension, which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person, excluding intrabuilding real property.

Section 3. General Prohibition.

It shall be unlawful and a violation of this ordinance for a place of public entertainment to make, cause, or allow the making of any sound that is plainly audible as defined in Section 2.

Section 4. Measurement of Sound. Any law enforcement officer or other official designated by the county who hears a noise or sound that is in violation of Section 3 of this ordinance shall measure the noise or sound according to the following standards:

- (1) The primary means of detection shall be by means of the official's normal hearing faculties.
- (2) The official must have a direct line of sight and hearing to the real property of the source of the sound or noise so that the official can readily identify the offending source of the sound or noise and the distance involved. If the official is unable to have a direct line of sight and hearing to the real property of the source of the sound or noise, then the official shall confirm the source of the sound or noise by approaching the suspected real property source of the sound or noise until the official is able to obtain a direct line of sight and hearing, and identify the identical or same sound or noise that was heard at the place of original measurement of the sound or noise.

Section 5. Violation procedures.

- (1) Complaint procedures; warnings.
 - a. When a complaint is received, the law enforcement officer or designated county official shall promptly investigate the charges. The person making the complaint will not be required to identify himself/herself and may remain anonymous.

- b. When a law enforcement officer or designated county official determines that the sound emanating from a piece of property is in violation of Section 3 of this ordinance, the official shall issue an official warning to (1) the person or persons responsible for compliance with this ordinance and (2) the person or persons making the actual sound. The warning shall state the violation, shall advise the offenders to cease and desist the violation, and shall advise of the possible penalty if the person or persons fail to eliminate the sound or reduce the sound so that it is within permitted limits and is not plainly audible.
- c. The person or persons receiving the warning shall have five (5) minutes to comply with the warning.
- d. A warning issued under section 5(1)(b) is valid for a period of thirty (30) days, and such warning shall remain in effect against the offending person or persons for the same or similar type violations for a period of thirty (30) days.

(2) Arrest; termination of offending sound.

- a. If the sound is not eliminated or reduced to allowable limits within five (5) minutes after the warning, or if the noise or sound is abated after warning and then reoccurs within thirty (30) days, the person so warned and not complying shall be arrested for a violation of this ordinance and upon conviction shall be subject to the penalties designated in Section 6.
- b. If an arrest is made, the law enforcement officer or designated county official shall have the power and authority to immediately terminate the cause of the offending sound, including prohibiting any further sound from musical instruments or mechanical or electronic soundmaking devices or equipment for a period of twenty-four (24) hours.

(3) Joint and several responsibilities. The owner of the business, tenant, or lessee of property, or a manager, overseer, or agent, or any other person lawfully entitled to possess the property or manage the business premises from which the offending sound is emitted at the time the offending sound is emitted shall be jointly and severally liable for compliance with this ordinance and each shall be punished for its violation as shall the person or persons actually causing such sound. It shall not be a lawful defense to assert that some other person caused the sound. The lawful possessor, manager, or operator of the premises shall be responsible for operating or maintaining the premises in compliance with this ordinance shall be applied to such person or persons as well as to the person or persons actually causing the sound.

Section 6. Penalties.

(a) Any person found in violation of this chapter shall be punished as follows:

First Offense: By a fine of one thousand dollars (\$1000.00).

Second Offense: By a fine of one thousand five hundred dollars (\$1500.00).

Third Offense or two or more violations occurring within any sixty (60) day period:
By a fine of two thousand dollars (\$2000.00).

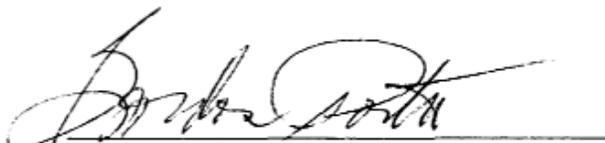
- (b) Should a place of public entertainment incur a third offense in a twelve-month period, amplified sound shall be prohibited on the premises until such time as the owner or operator of the business establishment constructs, to the satisfaction of the chief building official, a soundproof area on the premises to contain and entirely enclose the amplified sound.
- (c) The imposition of a penalty under this section shall not prevent the county or a private person from instituting a civil action at law for damages or injunctive relief in order to prevent or abate violations of this ordinance. A violation of this ordinance is declared to be a public nuisance. In legal actions successfully brought by the county or by private individuals for relief under this ordinance, the courts shall award the county or private individual against each of the unsuccessful party's reasonable attorney's fees and court costs.

Section 7. Judicial Construction.

NO provision of this noise ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from. If any provision of this noise ordinance is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the noise ordinance shall not be invalidated.

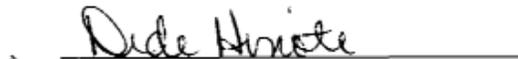
ADOPTED this 24 day of June, 1996.

BOARD OF COUNTY COMMISSIONERS
OF WALTON COUNTY, FLORIDA



Gordon Porter, Chairman

ATTEST:



for Catherine King, Clerk