

ORDINANCE NO. 1556

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE ENFORCEMENT PROVISIONS OF THE CITY'S NOISE ORDINANCE TO INCREASE PENALTIES FOR VIOLATIONS; AUTHORIZING CODIFICATION; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance Section 16-91 of the Code of Ordinances of the City of Panama City Beach, related to Enforcement of Noise Violations is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Sec. 16-91. - Enforcement.

- A. This section governs the initiation of enforcement actions, the issuance of citations or summons for violations of this article, and the imposition of penalties for violations of this article.
- B. If a person violates any provision of this article, or an order issued pursuant thereto, the enforcement agency may issue a citation or summons, institute an action in a court of competent jurisdiction for injunctive relief, or any or all of them, to prohibit and prevent such violation or violations, in which event the matter shall proceed as a summary matter in a court of competent jurisdiction.
- C. Any person violating any provision of this article may be punished as follows:
1. *First Offense: ~~By a fine of one hundred dollars (\$100.00).~~*
 2. ~~*Second Offense: By a fine of five hundred dollars (\$500.00).*~~
 3. **Second** ~~*Third offense or two or more violations occurring within any six months period:*~~ Misdemeanor of the second degree punishable by a fine of no more than \$1,000.00 or a sentence of not more than sixty (60) days in jail, or both.
 4. Any Motor Vehicle found to be in violation of **Section 16-89(F)** of this article may be subject to towing and impoundment. If the vehicle is redeemed from the auto pound within 24 hours, the redemption fee shall be seventy-five dollars (\$75.00), which is not inclusive of the fine.

5. Each day that a nuisance Noise exists shall constitute a separate violation of this article.

D. The enforcement agency shall classify a violation as a "major" or "minor" violation for the purposes of issuing an enforcement document and compliance grace period. If compliance is achieved during the grace period, then no fine shall be levied. A violation shall be classified as a major violation if it is not deemed a minor violation. A violation, regardless of how intense, is deemed to be minor if:

1. The violation is not the result of willful, reckless or grossly negligent conduct of the violator; and

2. The activity or condition constituting the violation has not been the subject of an enforcement action against the violator in the immediately preceding 12 months; and

3. The violation is not the result of the operation of a Sound Production Device of any kind, with the exception of safety warning devices.

E. If the violation is deemed to be minor, the enforcement agency shall notify the violator that the activity or condition must be corrected and compliance achieved within 30 days or less, at the discretion of the enforcement agency, or any other reasonable period of time, not to exceed 180 days, to be determined based upon the nature, extent and impact of the violation and a reasonable estimate of the time needed to correct the violation. The violator may request, from the enforcement agency, an extension of the compliance deadline and the enforcement agency may approve any reasonable request for an extension if the violator can demonstrate that a good faith effort has been made to achieve compliance. The Noise Control Administrator shall offer special consideration, during the six-month period immediately following final enactment of this ordinance, for pre-existing sound sources which will require physical plant modifications to come into compliance.

F. If the violation is deemed to be minor, the enforcement agency shall notify the violator that if s/he achieves compliance within the period of time specified in the enforcement document, the enforcement agency shall not seek to collect a civil penalty from the violator for that violation.

G. If, during the grace period, the sound emissions for which the violation has been assessed increase in duration or intensity, the Noise Control Administrator may revoke the grace period. In determining whether to revoke the grace period, the Noise Control Administrator may consider the following factors including but not limited to: the relative increase in intensity; whether the change of sound emissions is directly related to ongoing sound abatement measures, and; the anticipated duration of the increased sound levels.

H. If the violator does not correct a minor violation within the period of time specified in the enforcement document, the violation is reclassified as major, and the enforcement agency may seek injunctive relief and/or a penalty for a violation of this article. If the enforcement agency has reason to believe that the violator is not acting in good faith during the grace period, they may conduct further investigations during that period, and if the violator has not achieved compliance within the period of time specified in the

enforcement document, the enforcement agency may prosecute any violations documented during the grace period.

I. If the violation is not deemed to be minor, it shall be classified as a major violation and the enforcement agency shall notify the violator that s/he will not be allowed a period of time to correct the violation before a penalty is sought, and that s/he may be liable to a civil penalties and imprisonment for that violation, and that the enforcement agency may seek summary injunctive relief.

J. Any claims for a civil penalty may be compromised and settled based upon the following factors:

1. Mitigating or other extenuating circumstances;
2. The timely implementation by the violator of measures which lead to compliance;
3. The conduct of the violator; and
4. The compliance history of the violator.

K. The owner of the property, or any person lawfully entitled to possess the property or manage a 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 article even if not present upon or in the property 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 in or on the property shall be responsible for operating or maintaining the property in compliance with this article, and arrest and penalties shall be applied to such person or persons as well as to the person or persons actually causing the sound.

L. Any owner, lessee, agent, supervisor, or other person in charge of operating, ordering, directing or allowing the operation or maintenance of any device or machine creating a nuisance Noise as prohibited in this article, shall be deemed guilty of violating this article.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the

codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 10th day of June, 2021.



MARK SHELDON, MAYOR

ATTEST:



CITY CLERK

EXAMINED AND APPROVED by me this 10th day of June, 2021.



MARK SHELDON, MAYOR

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