

ORDINANCE NO.11-03

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE II, IN THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, "NOISE CONTROL," AMENDING SECTION 14-22, "EXCEPTIONS," SUBSECTION (4), TO LIMIT THE EXCEPTION FOR ORDINARY NOISE CREATED BY THE OPERATION OF REFUSE AND RECYCLABLES COLLECTION FROM NON-RESIDENTIAL LOCATIONS SO THAT SUCH COLLECTION MAY ONLY OCCUR BETWEEN THE HOURS OF 6:30 A.M. AND 6:30 P.M.; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. Section 14-22 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 14-22. - Exceptions.

The following shall be permitted:

- (1) An exception to the noise levels listed in table 1 in section 14-21(a), shall be permitted in instances where an industry or commercial business had in prior years established its place of business in an area away from a residential development, or rezoning, now finds itself adjoining a residential zone. In instances of this latter nature, the noise ordinance pertaining to industrial-commercial boundaries shall govern; and the business shall not be required to meet those noise levels pertaining to residential boundaries.
- (2) The operation of warning or emergency signal devices such as sirens, horns, and bells when utilized for their intended purpose.
- (3) Noises resulting from equipment or operations incidental to the installation, maintenance or repair of facilities or restoration of services such as public utilities or other emergency activities in the public interest.
- (4) Ordinary noise created by the operation of refuse or recyclables collection, provided, however, that such collection from non-residential locations may only occur between the hours of 6:30 a.m. and 6:30 p.m.
- (5) Any noise created by the operation of all county airports.
- (6) Noises consistent with cultural, sporting, historical or traditional observances, holidays and ceremonies, parades and concerts, provided that any event being operated for profit shall obtain a noise permit prior to such event, from the town

council or its designee, and any other applicable permit to operate such event as required by the town.

- (7) Operation of equipment or conduct of activities normal to residential or agricultural communities such as 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, between the hours of 7:00 a.m. to 10:00 p.m.
- (8) The lowing of cattle, clucking of fowl, the neighing of horses, the baying of hounds and other normal sounds of reasonably cared for domestic animals.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

Section 3. Effective Date. this Ordinance shall be effective immediately upon adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Vice Mayor Raymond and seconded by Council Member List and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor	aye	Alan Mandel	aye
Bob Raymond, Vice Mayor	aye	Jo List	aye
Joe Kosinski	aye		

DULY PASSED AND ENACTED by the Council of the Town of Fort Myers Beach, Florida, this 18th day of April , 2011.


ATTEST:

BY: 
Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

BY: 
Larry Kiker, Mayor

Approved as to legal sufficiency by:


Fowler White (Boggs, Town Attorney