

## ORDINANCE 2024-04

**AN ORDINANCE OF THE TOWN OF LEE, FLORIDA PROHIBITING THE CREATION OF ANY UNREASONABLY LOUD, DISTURBING OR UNNECESSARY NOISE; AUTHORIZATION; NOISES PROHIBITED; DEFINITIONS; ENUMERATION; EXEMPT ACTIVITIES OR ACTIONS; WARNINGS; PENALTIES; REPEAL OF CONFLICTING ORDINANCES; NOISE VIOLATIONS BASED ON PLAINLY AUDIBLE STANDARD; SEVERABILITY; ENFORCEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF LEE, FLORIDA:**

SECTION I. AUTHORIZATION. The Town Council of the Town of Lee in Madison County, Florida is granted the authority to adopt this ordinance Florida Statutes and its home rule powers.

SECTION II. NOISES PROHIBITED. The creations of any unreasonably loud, disturbing and unnecessary noise or noise of such a duration as to be detrimental to the individual's right to peaceful and quiet enjoyment of their activities of daily living, life or health of any individual is hereby prohibited in the incorporated and unincorporated area of Lee, Florida, Madison County.

SECTION III. DEFINITIONS. The following words, terms, and phrases, when used in this ordinance shall have the meanings.

- (1) *Ambient noise sound.* The surrounding or steady background sound associated with a given environment, exclusive or a particular sound being tested, being usually a composite of sounds from many sources near and far, exclusive of intruding sounds from isolated identifiable sources.
- (2) *Amplified sound.* Any sound or noise, including the human voice, which is increased in volume or intensity by means of electrical power.
- (3) *Daytime hours.* 7:00 a.m. to 10:00 p.m.
- (4) *Emergency.* Any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
- (5) *Emergency work.* Means 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.

(6) *Enforcement Officer.* All officers authorized to enforce the provisions of this article including, but not limited to, Town of Lee's code enforcement officer and the County Sheriff and his duly authorized deputies.

(7) *Nighttime hours.* 10:01 p.m. to 6:59 a.m.

(8) *Noise.* A type of sound which disturbs a reasonable person of ordinary sensibilities or which causes or tends to cause an adverse psychological or physiological effect on a reasonable person of ordinary sensibilities or to otherwise disturb the peaceful enjoyment of an individual's or entity's private property. "Noise" includes, but is not limited to, low frequency sounds caused by amplified bass music that can induce vibration in building structures or human beings.

(9) *Noise disturbance.* Any sound or vibration or combination of sounds or vibrations which:

(a) May disturb, annoy, or be harmful or injurious to the health or welfare of a reasonable person of ordinary sensibilities; or

(b) Which, because of its volume or quality or time of day, tends to annoy, disturb, frighten, or otherwise cause an adverse psychological or physiological effect upon a reasonable person of normal sensitivity, or unreasonably prevents such a person from being able to enjoy her or his activities of daily living; or

(c) Exceeds the maximum allowable limits set forth in this ordinance.

(10) *Plainly audible.* Any noise, sound, or component of sound produced by any source, or reproduced by a radio, audio visual equipment, sound equipment, sound amplification device, exterior loudspeaker, musical instrument and similar devices, or other mechanical or electronic sound-making device, for which any of the content of that sound is unambiguous, verifiable, and discernible above ambient noise sound levels by a person using his or her unaided hearing faculties, including, but not limited to, comprehensible musical rhythms, understandable speech, or rhythmic bass, or that can be clearly heard by a person using his or her normal hearing faculties, at a distance from the property line or right-of-way line of the source of the noise as follows:

Time of Day	Distance
Daytime hours	200 feet or more
Nighttime hours	200 feet or more

Without in any way limiting the forgoing, the detection of a rhythmic bass reverberating type of noise is sufficient to be plainly audible.

(11) *Sound.* An oscillation, including temporal and spatial oscillation, in pressure, particle displacement, particle velocity or other physical parameter, in a medium with

internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

(12) *Sound equipment.* Any radio, record player, compact disc player, stereo, television, tape deck or player, Bluetooth speaker, loudspeaker, amplifier, soundtrack, or other device for producing, reproducing, or amplifying sounds.

(13) *Vibration.* A temporal and spatial oscillation of displacement, velocity, or acceleration in a solid material.

SECTION IV. ENUMERATION. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this chapter, but the enumeration shall not be deemed to be exclusive.

(1) *Horn or signal devices.* The sounding of any horn or signal devices on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or, if in motion, only as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound; the sounding of such device for an unnecessary and unreasonable period of time, or when directed to another person without a legitimate purpose and for the purposes of harassment.

(2) *Radios, phonographs and musical instruments.* The playing of any radio, television, electronic device, phonograph, tape player, compact disc player, musical instrument or any similar device in such manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other residence.

(3) *Animal or bird.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.

(4) *Steam whistle.* The blowing of any steam whistles attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.

(5) *Exhaust.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(6) *Building construction at certain hours.* The erection, demolition, alteration or repair of any building other than between the hours of 6:00 a.m. and 7:00 p.m. on weekdays, except in case of emergency work that is a necessity in the interest of public safety.

(7) *Noise or street adjacent to school, church, hospital, or court.* The creation of any excessive noise on any street adjacent to any school, church, institution of learning or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions; provided, conspicuous signs are

displayed in such streets, indicating that the same is a school, church, hospital or court street.

(8) *Peddlers, hawkers, and vendors.* The shouting and crying of peddlers, hawkers, and vendors which disturb the peace and quiet of the neighborhood.

(9) *Drum, loudspeaker, etc.* The use of any drum, cymbals, music, loudspeaker, or other instrument or device for the purpose of attracting attention, by creation of any noise, to any business, location, performance, show, event, sale, or display of merchandise, or place of business, except for activities permitted where a special event permit is issued by the Town of Lee. (Ord. No. 2012-02)

(10) *Mechanical loudspeaker on moving vehicle; exception.* The use of mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising or other purposes except where specific license is received from Madison County.

(11) *Railway locomotive whistle or bell.* Unnecessary blowing of the whistle or ringing the bell of railway locomotive engines which disturbs the peace, quiet, and repose of persons in the vicinity.

(12) *Yelling.* Yelling, shouting, hooting, whistling, singing, or the making of similar noises, and loud, boisterous conduct other than normal conversation at reasonable levels, inside of or on the grounds of any public or private property during nighttime hours, so as to create a noise disturbance.

#### SECTION V. EXEMPT ACTIVITIES OR ACTIONS

(1) *Emergencies.* The reasonable emission of sound for the purpose of alerting persons to the existence of an emergency such as, but not limited to, the sound or noise of safety signals, warning devices, fire alarms, burglar alarms, civil defense alarms, sirens, whistles, emergency pressure relief valves, cries for emergency assistance, and warning calls. Testing of stationary emergency signaling device may occur at the same time of day each time the test is performed, but not before 9:00 a.m. or after 5:00 p.m. Any such testing shall use only the minimum cycle test time; provided, however that test times shall not exceed 60 seconds.

(2) *Agricultural land.* Sounds reasonably emanating from bona fide farm operations on land classified agricultural land by Madison County Property Appraiser and which are exempt from local government regulations.

(3) *Special events.* Special events approved by the Town of Lee, within such hours as may be imposed as a condition for the issuance of the permit and subject to any limitations placed upon noise in the permit. (Ord. No. 2012-02)

(4) *Weapons and fireworks.* The emission of sound in the legal discharge of weapons or in fireworks displays permitted by the county or on such dates that fireworks are otherwise authorized by controlling state law and applicable county ordinance.

(5) *Schools.* Sound or noise emanating from any school facility between the hours of 7:00 a.m. and 5:00 p.m.

(6) *Church.* Church or clock carillons, bells, or chimes during daytime hours.

(7) *Law Enforcement.* Law enforcement activities, including training.

#### SECTION VI. WARNINGS.

(a) **Issuance of Warnings:** When an enforcement officer determines that there is a violation of this ordinance, the enforcement officer shall issue a warning to the person or persons responsible for the noise. A reasonable time to comply with the warning shall be given. A reasonable amount of time shall generally be deemed immediately or so long as it would take a reasonably diligent person to reduce the noise but shall not exceed five minutes. If the noise is not eliminated or reduced to allowable limits after the warning was given, or if the person or persons comply with the warning but violates this ordinance again after the first warning, the person or persons so warned and not complying shall be subject to the penalties and legal remedies set forth in this ordinance.

(b) **Accumulation of Warnings:** Accumulation of three or more warnings by the same persons or entity within a 30-day period shall constitute a violation of this ordinance, enforceable to the same extent as a first offense. Action may be pursued by the Town of Lee, through the Code Enforcement process (Ord. No. 2024-01)

(c) **Documentation of Warnings:** Warnings are given by the County Sheriff and his duly authorized deputies may be of a verbal nature or written nature and shall be documented as an incident report with encompassing information pertinent to the enforcement of this ordinance and a copy provided to the Town of Lee.

SECTION VII. PENALTIES. Violations of this ordinance shall be treated as civil infractions. Penalties shall be enforced in accordance with the Town of Lee's code enforcement process and shall consist of fines as follows:

- A fine of \$250.00 for the first offense.
- A fine not to exceed \$500.00 for each subsequent offense.

Each day that a violation continues shall constitute a separate offense. The enforcement and collection of fines shall be pursued through the Code Enforcement process of the Town of Lee as specified in (Ord. No. 2024-01).

Any person or entity receiving a citation or violation under this ordinance has the right to contest it through a formal hearing process. To initiate this process, the person or entity must notify the Town of Lee in writing within 10 days of the issuance date of the citation or violation. For further details on how to proceed, contact the Town Clerk's office.

SECTION VIII. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances in conflict herewith are hereby repealed by this ordinance.

SECTION IX. NOISE VIOLATION BASED ON PLAINLY AUDIBLE STANDARD. Noise determined to be a noise disturbance may be confirmed by an enforcement officer when the officer actually witnesses the sound or noise personally and the noise disturbance is plainly audible without using a sound level meter. The enforcement officer shall assess the noise according to the following standards, factors, and considerations:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or unnatural.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to residential sleeping facilities.
- (7) The nature and zoning of the area from which the noise emanates.
- (8) The density of the inhabitation of the area from which the noise emanates.
- (9) The time of the day or night the noise occurs.
- (10) The duration of the noise.
- (11) Statements of any complaining witnesses, including any pictures or audio/video documentation produced by complaining witnesses.
- (12) Whether the noise is recurrent, impulsive, intermittent, or constant.

SECTION X. SEVERABILITY. It is declared to be the intent of the Town Council of The Town of Lee in Madison County, Florida, that if any section, subsection, sentence, clause, or provision of this ordinance shall be declared invalid, the remainder of this ordinance shall be constructed as not having contained said section, subsection, sentence, clause or provision, and shall not be affected by such holding.


SECTION XI. ENFORCEMENT. Enforcement of this ordinance does not require the use of a sound level meter to determine compliance. Town of Lee's code enforcement officer, along with the county sheriff and his duly authorized deputies, shall proceed under the other sections of this ordinance in order to determine whether a noise disturbance is occurring.

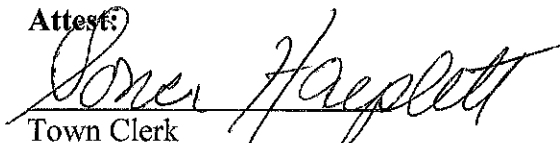
Enforcement officers shall use any and all lawful powers, authorities, process, and procedures in taking action to implement and enforce the provisions of this ordinance. When violations of this ordinance are identified by the County Sherriff or his duly appointed deputies, an incident report

shall be generated and furnished to the Town of Lee. The Town of Lee will then take enforcement action in accordance with its code enforcement process. Violators of this ordinance may result in the issuance of a notice of violation and the initiation of code enforcement proceedings pursuant to (Ord. No. 2024-01).


SECTION XII. EFFECTIVE DATE. A certified copy of this ordinance shall be filed in the Office of the Secretary of State by the Clerk of the Board within ten (10) days after enactment and this ordinance shall take effect upon receipt of official acknowledgement from that office that said ordinance has been filed.

**THE ABOVE AND FOREGOING ORDINANCE WAS DULY PASSED** upon first reading in a regular meeting of the Town Council of the Town of Lee, Florida on this 3rd day of September, 2024.

  
\_\_\_\_\_  
Mayor/Councilman

Attest:  
  
\_\_\_\_\_  
Town Clerk

**THE ABOVE AND FOREGOING Ordinance** was duly **PASSED AND ADOPTED** after proper publication and second reading in a regular meeting of the Town Council of the Town of Lee, Florida on this 1<sup>st</sup> day of October, 2024.

  
\_\_\_\_\_  
Mayor/Councilman

Attest:  
  
\_\_\_\_\_  
Town Clerk

