

ORDINANCE NO. 14 - 1616

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 54 "PROHIBITED NOISES"; SPECIFICALLY AMENDING SECTIONS 54-78 "PROHIBITED NOISES", 54-79 "RESTRICTED NOISES—CLASSIFIED; ENUMERATED"; AND DELETING SECTIONS 54-80 "SAME—WHEN CONSIDERED ENCLOSED", 54-81 "SAME—DIVISION OF YEAR INTO PERIODS FOR PURPOSE OF CONTROL", 54-82 "SAME—WHEN PROHIBITED", AND 54-83 "SAME—PROHIBITED NEAR HOTELS AND APARTMENTS DURING PERIOD NO. 1", BY REVISING THE HOURS FOR CONTROLLING PROHIBITED AND RESTRICTED NOISES; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Town Commission recognized it is in the best interest of the quality of life of the citizens of the Town to prohibit and restrict certain classification of noises during Sundays and all Federal Holidays and to permit certain classifications of noises to 8:00 a.m. to 6:00 p.m. Monday through Saturday; and

WHEREAS, the Town Commission held its first public reading on February 11, 2014 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on March 11, 2014 and further finds the proposed change to the Code necessary and in the best interest of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

**Section 1. Recitals.** The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

**Section 2. Code Amendment.** The code of the Town of Surfside, Florida is hereby amended as follows:

**Sec. 54-78. Prohibited noises.**

The following noises and other noises of the same characteristics, intensity or annoyance shall be prohibited at all times and at all places within the town:

- (1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, bus or other vehicle on any street

or public place of the town except as a danger or safety warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

- (2) *Radios, phonographs, etc.* The use or operation of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person of normal hearing who is in the room, vehicle or chamber in which such machine or device is operated and who is a voluntary listener thereto or allowing such use or operation. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- (3) *Loudspeakers, amplifiers for advertising, etc.* The use or operation of any radio, receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building, product, service, merchandise or political candidate, or allowing such use or operation.
- (4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- (5) *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
- ~~(6) *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper town authorities.~~
- ~~(6) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom its factory installed muffler.~~
- (8) *Lawn mowers, hedge clippers, washing machines, etc.* The operation of either hand or motor-operated lawn mowers, hedge clippers, washing

machines and other mechanical devices, within or without a building, in such a manner as to be plainly audible at a distance of 50 feet from the premises where operated, shall be allowed only from ~~9:00~~ 8:00 a.m. to ~~5:30~~ 6:00 p.m. Monday through Saturday and shall be prohibited on Sundays and all Federal Holidays. ~~on each and every weekday from December 1 of one year to April 1 of the following year; from April 1 to December 1 of each year and other mechanical equipment shall not be allowed at any time on Sundays, and all Federal Holidays.~~ ¶The operation of such lawn mowers, hedge clippers, washing machines and other mechanical devices, within or without a building, in a manner to be plainly audible at a distance of 50 feet, shall be allowed only from ~~8:00~~ 8:00 a.m. until ~~8:00~~ 6:00 p.m. ~~on each and every weekday~~ Monday through Saturday and shall be prohibited on Sundays and all Federal Holidays. and The operation of the aforesaid lawn, household and other mechanical equipment shall not be allowed at any time on Sundays, and all Federal Holidays ~~Christmas, New Year's, or Thanksgiving;~~ provided, however, under emergency conditions the town manager may, in his discretion, grant exceptions thereto.

- (98) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noises.
- (109) *Loading, unloading and opening boxes, etc.* The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle, or the opening and destruction of bales, boxes, crates and containers on Sundays, and all Federal Holidays ~~Christmas, New Year's or Thanksgiving,~~ or before 9:00 a.m. or after 5:30 p.m. ~~between December 1 of one year and before 8:00 a.m. and after 6:00 p.m. Monday through Saturday; and April 1 of the following year, or before 8:00 a.m. and after 8:00 p.m. between April 1 and December 1 of any one year;~~ provided, however, that under emergency conditions the town manager may, in his discretion, grant exceptions thereto.
- (110) *Schools, courts, churches, hospitals, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, or which disturbs or unduly annoys patients in the hospital; provided, conspicuous signs are displayed in such streets indicating that the same is a school, hospital, church or court street.
- (121) *Hawkers, peddlers, etc.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- (1312) *Drums, etc.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

- (1413) *Firearms and fireworks.* The explosion of firecrackers, sky rockets, Roman candles, pin wheels or any other form of fireworks or the unnecessary shooting of any firearms.
- ~~(15) *Transportation of metal rails, pillars and columns.* The transportation of rails, pillars or columns of iron, steel or other material, over and along the streets and other public places upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.~~
- (1614) ~~*Operation of public transportation buses*~~ *Transport of construction worker personnel.* The causing, permitting or continuing sShall not cause any excessive, unnecessary and avoidable noise and shall be permitted during the hours of 8:00 a.m. to 6:00 p.m. Monday through Saturday and prohibited on Sundays and all Federal Holidays.
- ~~(17) *Piledrivers, hammers, etc.* The operation of any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise, except on written permission of the town manager prescribing the locality where and the hours during which such operation is permissible.~~
- (1815) *Blowers.* The operation of any noise-creating blower or power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- ~~(1916) *Air conditioning units.* Self-contained, one-room air conditioning units, up to one-ton capacity attached to the outside walls or windows of buildings within the town, and operated for the comfort of the occupants of such buildings, shall not be deemed in violation of this article where proof is established that such units are maintained in good mechanical condition. It shall be unlawful for any person to operate or permit to be operated on any premises in all residential districts as defined in chapter 90 of this Code, or on any premises which adjoin any of such use districts, any air conditioning equipment or part thereof, or any other type of mechanical equipment or apparatus, between the hours of 10:00 p.m. and 8:00 a.m., if the sound pressure level emanating from such air conditioning unit, or other type of mechanical equipment or apparatus, Shall not exceeds 60 decibels. as measured on the A scale of a General Radio Company No. 1551-A sound level meter or American Standards Association equivalent, when such meter is located at a point on the property line nearest such air conditioning unit, mechanical equipment or apparatus, or a distance of 15 feet from such air conditioning unit, mechanical equipment, or apparatus, whichever is greater.~~
- (2017) *Vehicles over one-ton cargo capacity.* The operation of any commercial motor vehicle with more than one-ton carrying capacity, as rated by the manufacturer, shall be prohibited on any public street in or abutting the

~~RS-1 or RS-2 residential zoning districts within the town except between the hours of 8:00 a.m. and 9:00 p.m. except such vehicles shall be permitted during the hours of 8:00 a.m. to 6:00 p.m. Monday through Saturday and prohibited on Sundays and all Federal Holidays.~~

**Sec. 54-79. Restricted noises—Classified; enumerated.**

Noises, other than those enumerated in section 54-78, because of their nature and characteristics, shall be grouped and classified as follows for the purpose of control and restrictions: Such noises as described herein shall not be permitted on Sundays and all Federal Holidays and shall be prohibited between the hours of 6:00 p.m. to 8:00 a.m. Monday through Saturday.

- (1) *Group A.* Steam-, gasoline- or oil-operated cranes, piledrivers, excavators, dredges, ditchers and all other similar machinery; one-cylinder steam or internal combustion engines (horizontal or vertical); air compressors and pneumatic riveting machines, jack hammers, drills and other similar air equipment; power band and circular saws working in the open; hand hammers on steel or iron (structural, rivets or otherwise); and all other noises of similar intensity or annoyance.
- (2) *Group B.* Stationary or portable concrete mixers (engines multicylindered and properly muffled); power band and circular saws, sanders, planers, grinding machines, drills, bar benders and cutters and similar machinery when enclosed; hand operations in connection with plumbing, electrical, roofing and framing work in the open.
- (3) *Group C.* Transit concrete mixers (engines multicylindered and properly muffled) operated to cause the least possible noise; hand operations in connection with plumbing, electrical, roofing and framing work when enclosed; hand loading and unloading and the hauling of building materials and other similar heavy trucking; masonry work and the hand mixing of mortar; plastering and the hand mixing of plaster; painting; glazing; landscaping and all other noises of similar intensity or annoyances.

**~~Sec. 54-80. Same—When considered enclosed.~~**

~~Group A, B, and C noises classified in section 54-79 shall be considered enclosed when they originate within the exterior walls of a building.~~

**~~Sec. 54-81. Same—Division of year into periods for purpose of control.~~**

~~For the purpose of controlling restricted noises as specified in sections 54-79 and 54-80 the year shall be divided into periods as follows:~~

- ~~(1) *Period no. 1.* Period no. 1 shall begin with and include December 1 and shall include and end with March 31, such period being the months of greatest population, and shall be most restricted.~~

(2) ~~Period no. 2. Period no. 2 shall begin with and include April 1 and shall include and end with November 30, such period being the months of least population, and shall be least restricted.~~

**Sec. 54-82. Same — When prohibited.**

The restricted noises set forth in section 54-79 are hereby prohibited at any location and at any hour on Sundays, Christmas, New Year's, Thanksgiving, Labor Day and the Fourth of July; provided, however, under emergency conditions the town manager may, in his discretion, grant exceptions thereto. The hours on weekdays during which such restricted noises of the various classifications, regardless of location, are prohibited are as follows:

		Group A	Group B	Group C
(1)	During period no. 1	from 5:30 p.m.	5:30 p.m.	5:30 p.m.
		— to 9:00 a.m.	9:00 a.m.	9:00 a.m.
(2)	During period no. 2	from 8:00 p.m.	8:00 p.m.	8:00 p.m.
		— to 8:00 a.m.	8:00 a.m.	8:00 a.m.

**Sec. 54-83. Same — Prohibited near hotels and apartments during period no. 1.**

The restricted noises included in Group A and B, as set forth in section 54-79, are hereby prohibited within 50 feet of the nearest point of any building occupied as a hotel or apartment at all hours during the period of time referred to and described in section 54-81 as period no. 1.



**Section 3. Severability.** If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

**Section 4. Conflict.** All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

**Section 5. Inclusion in the Code of Ordinances.** It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

**Section 6. Effective Date.** This ordinance shall become effective in ten (10) days after second reading.

PASSED and ADOPTED on First Reading the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

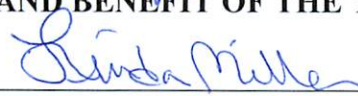
PASSED and ADOPTED on Second Reading this 11 day of March, 2014.

  
Daniel Dietch, Mayor

ATTEST:

  
Sandra Novoa, Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

  
Linda Miller  
Town Attorney

On Final Reading Moved by: Commissioner Graubart  
On Final Reading Seconded by: Commissioner Olchyk

VOTE ON ADOPTION:

Commissioner Michelle Kligman	yes	<input checked="" type="checkbox"/>	no	_____
Commissioner Marta Olchyk	yes	<input checked="" type="checkbox"/>	no	_____
Commissioner Joseph Graubart	yes	<input checked="" type="checkbox"/>	no	_____
Vice Mayor Michael Karukin	yes	_____	no	<input checked="" type="checkbox"/>
Mayor Daniel Dietch	yes	<input checked="" type="checkbox"/>	no	_____