

LEE COUNTY ORDINANCE NO. 23-05

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AMENDING THE LEE COUNTY NOISE CONTROL ORDINANCE NO. 14-18, AS AMENDED BY LEE COUNTY ORDINANCE NO. 22-10, REGULATING OUTDOOR AMPLIFIED MUSIC AND PROHIBITING CERTAIN NOISE DISTURBANCES ON CAPTIVA; PROVIDING FOR CONFLICTS OF LAW; SEVERABILITY; CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR MODIFICATION THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida ("Board") is the governing body in and for Lee County ("County"); and

WHEREAS, Goal 23 of the Lee Plan provides that the goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, wildlife, vegetation, water quality, and dark skies through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, and limit noise, light, water, and air pollution; and,

WHEREAS, the Board has determined a need to more effectively regulate and control outdoor amplified music and noise disturbances specific to Captiva; and,

WHEREAS, the Board has enacted the Lee County Noise Control Ordinance and made subsequent amendments to this ordinance; and,

WHEREAS, the purpose of this ordinance is to amend the current regulations to provide clear and enforceable standards for regulating outdoor amplified music and noise disturbances specific to Captiva.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lee County, Florida:

SECTION ONE: AMENDMENT TO LEE COUNTY ORDINANCE

The Lee County Noise Control Ordinance No. 14-18, as amended by Lee County Ordinance 22-10 is amended as follows with strikethrough identifying deleted text and underline identifying new text.

SECTION TWO: SECTION 6 OF THE LEE COUNTY NOISE CONTROL ORDINANCE NO. 14-18, AS AMENDED BY LEE COUNTY ORDINANCE 22-10, IS HEREBY AMENDED TO ADD SUBSECTION 3(C) AS FOLLOWS:

SECTION SIX: PROHIBITED ACTS.

(3) *Specific restrictions.* In addition to the general limits set out above in Table 1, the following specific acts are declared to be in violation of this chapter:

- c. Outdoor amplified music and noise disturbance on Captiva. It shall be unlawful on Captiva for any person or persons to operate outdoor amplified equipment or play amplified music which is cast upon the outdoors between 10:00 p.m. and 7:00 a.m., or to create a noise disturbance as defined by Section Four between 10:00 p.m. and 7:00 a.m. that is plainly heard from the receiving land at a distance of 50 feet from the noise source. This section does not apply to duly permitted events conducted at resort properties zoned for such activities, so long as the noise is contained within the boundaries of the resort-owned property.

Enforcement involving a noise disturbance under subsection c. of this section requires a determination as to whether or not a noise disturbance exists by the sheriff's office personnel on the scene.

Remainder of Section is unchanged.

SECTION THREE: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of other lawfully adopted ordinances or statutes, the most restrictive requirements will apply.

SECTION FOUR: SEVERABILITY

It is the Board of County Commissioners' intent that if any section, subsection, clause or provision of this Ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this Ordinance. The Board of County Commissioners further declares its intent that this Ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FIVE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intends that this Ordinance will be made part of the Lee County Code of Ordinances. Sections of this Ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section," "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION SIX: MODIFICATIONS THAT MAY ARISE FROM PUBLIC HEARING

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION SEVEN: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner Ruane made a motion to adopt the foregoing ordinance, seconded by Commissioner Sandelli. The vote was as follows:

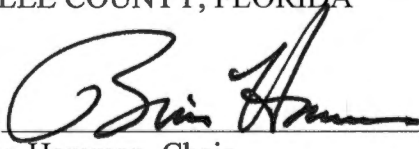
Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DULY PASSED AND ADOPTED this 4th day of April 2023.

ATTEST:
KEVIN KARNES, CLERK

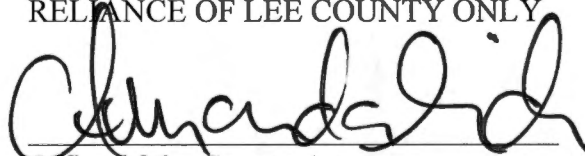
BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Brian Hamman, Chair



APPROVED AS TO FORM FOR THE
RELINANCE OF LEE COUNTY ONLY


Office of the County Attorney



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

April 10, 2023

Honorable Kevin Karnes
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attn: Chris Jagodzinski

Dear Kevin Karnes:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 23-05, which was filed in this office on April 7, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/wlh

RECEIVED

By Chris Jagodzinski at 10:30 am, Apr 10, 2023

**FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM**

COUNTY: Lee

COUNTY ORDINANCE #: 23-05
(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: Noise

SECONDARY KEYFIELD

DESCRIPTOR: Law Enforcement

OTHER KEYFIELD

DESCRIPTOR: _____

ORDINANCE DESCRIPTION: Amend Ch 34 Captiva Noise

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: 14-18

AMENDMENT #2: 22-10

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: _____ ; REPEAL #3: _____

REPEAL #2: _____ ; REPEAL #4: _____

(Others Repealed: List All That Apply): _____

(FOR OFFICE USE ONLY):

COUNTY CODE NUMBER: _____

KEYFIELD 1 CODE: _____

KEYFIELD 2 CODE: _____

KEYFIELD 3 CODE: _____

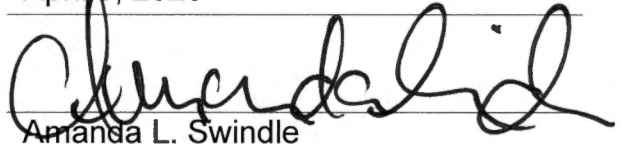
**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

VIA HAND DELIVERY

DATE: April 5, 2023

TO: Commissioner Brian Hamman
Chair, Board of County
Commissioners

FROM:


Amanda L. Swindle
Assistant County Attorney, Senior

RE: Ordinance Amending LDC Chapter 34, Amendment to Captiva Noise Ordinance
Ord. No. 23-05
Agenda Item Public Hearing #3, April 4, 2023

Attached, approved as to form, please find the original of the amendments to the Land Development Code adopted by the Board of County Commissioners on April 4, 2023. Kindly execute the ordinance at your earliest convenience and then forward to the Minutes Department for filing and transmittal to Tallahassee.

By copy of this memorandum to Eileen Gabrick, I request that a clerk attest to the Chair's signature on the attached ordinance and return the fully executed copy with all exhibits to my attention.

Insofar as State Statute mandates that the ordinance reach Tallahassee within ten (10) days of the adoption, please expedite the above request so that the ordinance arrives in Tallahassee no later than April 14, 2023.

Also attached please find the Data Retrieval form. Kindly include this ordinance in the Lee County Ordinance History.

Thank you for your prompt attention to this matter.

ALS/slk
Attachments

VIA EMAIL ONLY:

Laurel Chick, Manager, Internal Services
Joyce Conatser, Senior Fiscal Officer
Samantha Westen, Executive Assistant
Rose Bahena, Administrative Specialist, Senior
Eileen Gabrick, Office Manager, Minutes Department
Tina Boone, Legal Administrative Specialist, Senior (for LDC Municode & ordinance history)

2023 APR - 7 PM 3:38

RECEIVED
MINUTES OFFICE



ITEM 3.
PUBLIC HEARING - 9:30 AM

AGENDA ITEM REPORT

DATE: April 4, 2023
DEPARTMENT: County Attorney
REQUESTER: Amanda Swindle
TITLE: Conduct Public Hearing to Amend Lee County Noise Control Ordinance 14-10 Regarding Captiva

I. MOTION REQUESTED

Conduct public hearing to adopt an ordinance amending Lee County Noise Control Ordinance 14-10 regarding outdoor amplified music and noise disturbances on Captiva Island.

II. ITEM SUMMARY

Proposed amendments would prohibit outdoor amplified music or noise disturbance that is plainly heard from the receiving property at a distance of 50 feet between 10:00pm and 7:00 am.

III. BACKGROUND AND IMPLICATIONS OF ACTION

A) Board Action and Other History

On May 17, 2022, the Board of County Commissioners directed staff to work with representatives from the Captiva Community Panel on changes to parking, noise, and other ordinances as they pertain to Captiva Island.

Regarding noise disturbances on Captiva, the Panel identified the desire of the community to restrict noise disturbances during certain hours. Specifically, the proposed amendments would prohibit outdoor amplified music between 10:00pm and 7:00 am. and would prohibit creating a noise disturbance between the hours of 10:00pm and 7:00 am. that can be plainly heard at the receiving property at a distance of 50 feet. Enforcement of these noise restrictions will require a determination as to whether or not a noise disturbance exists by the sheriff's office personnel on the scene.

The Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on March 8, 2023, and unanimously recommended their adoption.

B) Policy Issues

C) BoCC Goals

D) Analysis

E) Options

IV. FINANCIAL INFORMATION

A)	Current year dollar amount of item:	No funding is required.
B)	Is this item approved in the current budget?	N/A
C)	Is this a revenue or expense item?	N/A
D)	Is this Discretionary or Mandatory?	N/A
E)	Will this item impact future budgets? If yes, please include reasons in III(D) above.	No
F)	Fund: Program: Project: Account Strings:	
G)	Fund Type?	N/A
H)	Comments:	

V. RECOMMENDATION

Approve

VI. TIMING/IMPLEMENTATION

VII. FOLLOW UP

ATTACHMENTS:

Description	Upload Date	Type
<u>Proposed Ordinance</u>	3/13/2023	Ordinance
<u>FAIS Form</u>	3/13/2023	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
County Attorney	Wesch, Richard Wm.	Approved	3/22/2023 - 4:02 PM
Budget Services	Henkel, Anne	Approved	3/23/2023 - 8:39 AM
Budget Services	Winton, Peter	Approved	3/23/2023 - 11:37 AM
County Attorney	Swindle, Amanda	Approved	3/23/2023 - 1:43 PM
County Manager	Winton, Peter	Approved	3/24/2023 - 9:38 AM