

MEMORANDUM

TO: Tom Harmer, Town Manager

From: Allen Parsons, AICP
Director, Planning, Zoning & Building Department

Report Date: September 17, 2021

Meeting Date: September 27, 2021

Subject: Proposed Ordinance 2021-13, Sound Regulations; and Follow-up Regarding Noise, Signage, and Enforcement Issues

Recommended Action

Provide direction to Manager and forward Ordinance 2021-13 to the November 1, 2021 Regular Meeting for first reading.

Background

At the June 21, 2021 Town Commission Regular Workshop Meeting, staff follow-up was requested on several issues related to ongoing citizen complaints associated with boating and recreational activity in the vicinity of Greer Island to Jewfish Key. Status updates on these issues are provided below:

- **Adopt an Emergency Ordinance providing for Enforcement by Citation with Appeals to the Town's Special Magistrate.**

The Town Commission adopted Emergency Ordinance 2021-10 on July 2, 2021, which allows for enforcement of violations of the Town's Sound Regulations via citations, and providing that those citations can be contested to the Special Magistrate. The Town Commission also passed Resolution 2021-18 revising the Administrative Fine Schedule to add violations of the Sound Ordinance to be subject to a citation.

- **Actively enforce Fun Life Boat Code Violations.**

A total of 5 citations have been issued with associated fines of \$1,850. Those citations were contested, and each were upheld, by the Special Magistrate on September 13, 2021. The contesting party has 30 days to appeal the Special Magistrate's decisions. Additional violations of Town Code would result in additional citation(s) (Note: Each subsequent violation carries a fine of \$500.). Additional enforcement options for subsequent violations, could include injunctive relief, which would be brought to the Town Commission prior to proceeding with such legal action.

- **Coordinate with Manatee County Sheriff on enforcement in the area.**

The Manatee County Sheriff is currently assisting with general patrol and enforcement in the Jewfish Key and Greer Island area. They also respond when the Town's Marine Patrol Office may not be available. As part of their FY22 budget process Manatee County has included an additional marine patrol

vessel and officers to help patrol that area. For noise related complaints on the water they respond and request compliance. They have reported that when they request a boater to lower music volume, they receive compliance 100% of the time. This is similar to the outcome that the Police Department experiences. In addition to the informal assistance, the Police Department held a meeting with Manatee County Sheriff Wells on September 21, 2021. To better address the specific Town Code violations identified, the Sheriff has agreed to allow the Town's police officers and civilian Code Enforcement Officer to ride along with the Sheriff's Marine Patrols, enabling the writing of citations for witnessed Code violations.

- **Provide Longboat Key patrol coverage later in afternoon/early evening.**

The Police Department has changed their hours of marine patrol operations to later in the day on weekends, holidays and/or special events.

- **Signage opportunities.**

- Placement of Signage Informing of the Town's Sound Regulations:
 - With regard to the offer to allow placement of signs on private property/private docks, staff has a number of concerns with the placement of public signs on private property including maintenance, precedent, and an anticipated limited effectiveness. Note: Private property owners can place temporary signs, however, these would be both time-limited (maximum of 6 months) and size-limited (only 1 temporary sign can be on a property, no larger than 1 sq. ft. in size and no more than 2 ft. above the ground), likely limiting their effectiveness.
 - Staff also has a number of concerns regarding the option of the Town placing new Sound Ordinance Warning/Informational Signage. One of the concerns relates to the limited locations of existing aids-to-navigation markers and securing approval from appropriate jurisdictional entities. In addition, the effectiveness of additional signage referencing the Town's current Sound Ordinance prohibitions is also anticipated to be limited. Excessive noise incidents are not likely associated with a lack of signage noting the Town's Sound Ordinance provisions.
- Variety of signage on and around Greer Island. Public Works staff conducted an inventory of signage resulting in the following:
 - Staff has confirmed that there is a hodge-podge variety of informational and warning signage (from the Town, Manatee County, and Florida Department of Transportation) located around Greer Island. Staff's opinion is that the inconsistent messaging, in addition to being aesthetically displeasing, may be limiting its effectiveness providing emphasis on important information.

- The Town Manager and Town Attorney met with Manatee County's Administrator and Attorney. The County supported a plan to consolidate and update the signage on the island. Next steps will be for staff to present Manatee County a proposed sign layout that would address both Town and County interests.
 - Staff is finalizing a mock-up of a sign that provides a more uniform message and design. Preliminary concepts for content include condensing messaging to primary problematic activities (e.g. prohibitions on Dogs/Pets, Open Fires, Alcohol). Preliminary concepts for design include wood posts, and potential incorporation of graphic informational signage similar to those found at public beach accesses. A meeting with County staff has been requested to review and finalize a signage plan for Greer Island.
- **Work with Sarasota County Dispatch Center to ensure they understand Greer Island and Jewfish Key locations.**

The Police Department has completed sector mapping of Greer Island and Jewfish Key, and has provided that mapping to Sarasota County Dispatch, citizen groups, and other interested parties.

- **Use the Town Code to cite those that are not complying.**

The Police Department continues to actively enforce all Town ordinances. They have received a very limited number of complaints specifically related to noise coming from the water. Some of that may be associated with the Red Tide conditions this Summer as well as off season and or inclement weather. When they do receive a complaint and respond, the operators of vessels have complied with their request to lower the music. When they have received general, or after the fact complaints, they remind the residents to please contact the dispatch center through the non-emergency number so the complaint can be documented and tracked.

- **Investigate the current restrictions for motorized vessels within the Greer Island lagoon area.**

The Town Manager and Town Attorney met with Manatee County Administration and County Attorney, in part, discussing jurisdictional issues with regard to the County-owned Greer Island Park. Manatee County staff indicated support for preventing motorized vessels from beaching on the East side of Greer Island. Manatee County staff indicated a preference for maintaining boating access on the remainder of the County-owned area. A meeting has been requested with Manatee County staff to finalize the next steps associated with setting up a motorized exclusion zone on a portion of the East end of the island. In a discussion in advance of the meeting, County staff has indicated that they would be the appropriate agency to

consider and approve vessel exclusions due to their ownership of the land. They have also indicated that any exclusion zone action within the lagoon would not be something that they would participate in as it is not part of their Greer Island property. We will follow-up with the Town Attorney on potential steps that can be taken to limit recreational motorized access within the lagoon area.

Separate from the Greer Island/Jewfish Key discussion, staff is also investigating additional vessel exclusion options for at least the public beach access points. This is based on complaints about boats and personal water craft beaching their vessels and creating a safety hazard for residents and the public. Two examples of local restrictions are listed below: Sarasota County restricts the operation of motorboats and watercraft within a marked swimming/bathing area or within 500 ft. of a public beach; and Manatee County prohibits motorized vessels within 400 ft. of defined shoreline areas.

- **Start process of updating the Town's existing Noise Ordinance**
 - In addition to the items above, at the July 2, 2021 Regular Meeting where Emergency Ordinance 2021-10 was adopted, the Town Commission directed the Town Attorney and Town Manager to review Chapter 130, and develop a new Sound Ordinance to replace the existing Code language, in part, to address concerns that the Town's current Ordinance may be difficult to enforce because it lacks sufficient objective standards and criteria to clearly regulate the unwanted behavior. The Town Attorney had previously provided a memorandum dated June 12, 2021, noting that the current Ordinance could be challenged on one or more grounds and advised the incorporation of more objective standards (i.e., decibel and/or distance measurable standards) into the Town's regulatory process.
 - The Town Attorney's office produced a draft Ordinance (Ord. No. 2021-13), which would replace the existing Sound Regulations (Section 130.02, Town Code) with a newly updated Sound Ordinance. The Ordinance incorporates two alternative standards, either of which can be used in enforcement, to objectively measure whether sound would be considered unreasonably excessive: (1) a "plainly audible" standard (at a distance of one hundred feet); or (2) a limitation on certain sounds as measured by defined decibel levels. Staff is recommending moving forward with adoption of Ordinance 2021-13.
 - Upon adoption, enforcement of the Ordinance would continue to be by a Police or Code Enforcement Officer, with discretion to issue a citation for sound levels that violate either the plainly audible standard, or the decibel levels requirements. Typical decibel monitoring equipment that are more effective with fixed objects and that work effectively on land have costs that range between \$2,000-\$4,000, plus \$500 annually for

calibration. If the new Ordinance is adopted, staff would proceed with purchase of one or more of these decibel measuring devices to support enforcement through the second standard based on defined decibel levels.

- With regard to the majority of the recent noise-related complaints, associated with boating activities on local waterways, there may be a need for the utilization of more specialized equipment in order to obtain accurate and defensible decibel readings in such circumstances. This more specialized-type of sound measuring equipment is used to accurately identify specific sound sources (e.g. in crowded boating conditions on the water) and is substantially more expensive¹.
- Due to the general high compliance rates when an officer requests an offender to reduce the noise volume, staff is not currently recommending the purchase of this more specialized equipment. If activity levels are high enough to justify the purchase of specialized noise monitoring equipment, or should costs of such equipment reduce significantly, then staff may seek funding to purchase and train staff on the specialized sound equipment more oriented toward targeted water enforcement issues. Absent that equipment, the Police Department will still be able to enforce noise complaints either through the plainly audible standard or through the use of the standard decibel reading devices where the source is known.

Staff Recommendation

Provide direction to Manager and forward Ordinance 2021-13 to the November 1, 2021 Regular Meeting for first reading.

Attachments

- A. Ordinance 2021-13 (Available in Town Clerk's Office)
- B. Town Attorney Memo (Available in Town Clerk's Office)
- C. PowerPoint Presentation (Available in Town Clerk's Office)

¹ Estimates the Police Department have received for an “acoustic camera,” which is the type of device that would be needed to effectively pinpoint noise emitting from vessels is approximately \$45,000-\$55,000, with a computer and not including costs of set up, training, and ongoing equipment calibration.

End of Agenda Item