



TOWN OF PALM BEACH

Town Manager's Office
ORDINANCES, RULES AND STANDARDS COMMITTEE

**TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD**

AGENDA

MAY 23, 2023

9:30 AM

Welcome!

For information regarding this agenda and the procedures for public participation at Ordinances, Rules and Standards Committee, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Julie Araskog, Chair
Ted Cooney, Member

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

V. REGULAR AGENDA

A. Old Business

1. Further Review of Chapter 42 of the Town Code, Article V - Noise
Paul Alber, Lieutenant, Police Dept.

B. New Business

1. Discussion Regarding the use of Motorized Vehicles/Devices (eBikes, electric scooters, etc.) on Sidewalks and in the Business District of Palm Beach

VI. ANY OTHER MATTERS

VII. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 3:30 p.m. on the Thursday immediately prior to a monthly Ordinances, Rules and Standards Committee will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 3:30 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Ordinances, Rules and Standards Committee are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Note 5:** Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.
- Note 6:** All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Ordinances, Rules and Standards Committee. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

PROCEDURES FOR PUBLIC PARTICIPATION

Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you.

PUBLIC HEARINGS: Any citizen is entitled to be heard on an official agenda item under the section entitled "Public Hearings," subject to the three minute limitation.

**COMMUNICATIONS
FROM CITIZENS:**

Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to the three minute limitation. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

**OTHER AGENDA
ITEMS:**

Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to the three minute limitation.

Ordinances, Rules and Standards Committee are public business meetings and, as such, the Town Council retains the right to limit discussion on any issue.

TOWN OF PALM BEACH

Ordinances, Rules and Standards Committee on: May 23, 2023

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Further Review of Chapter 42 of the Town Code, Article V - Noise

Presenter

Paul Alber, Lieutenant, Police Dept.

ATTACHMENTS:

- ▣ **Memorandum Dated May 16, 2023, from Paul Alber, Lieutenant**
- ▣ **Letter Dated April 4, 2022, from John C. Randolph, Town Attorney**
- ▣ **Code of Ordinances - Bal Harbour, FL**
- ▣ **Code of Ordinances - Boca Raton, FL**
- ▣ **Code of Ordinances - Coral Gables, FL**
- ▣ **Code of Ordinances - Jupiter, FL**
- ▣ **Code of Ordinances - Marco Island, FL**
- ▣ **Code of Ordinances - Naples, FL**
- ▣ **Code of Ordinances - Palm Beach, FL**
- ▣ **Code of Ordinances - Seminole County, FL**

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: May 23, 2023

To: Ordinances, Rules & Standards Committee

From: Nicholas Caristo, Chief of Police

Re: Review of Chapter 42 of the Town Code, Article V - Noise

Date: May 15, 2023

STAFF RECOMMENDATION

Staff recommends the Ordinances, Rules & Standards Committee (ORS) review the information provided below, pertaining to noise sections of the Town Code, and provide direction to staff.

GENERAL INFORMATION

The Town Council continues to seek options to promote the general welfare of the Town through the reduction of noise and unreasonable disturbances that adversely impact residents during the normal use of their homes. Noise complaints received by the police department are documented below.

Noise Complaints			
Year	Total	Daytime	Nighttime
2021	220	60	160
2022	171	49	122
2023	83	25	58

Table 1

Palm Beach regulates the maximum allowable decibel (dB) level based on time of day and geographical location. During the May 5, 2022 Town Council meeting, proposed ordinance 008-2022 was adopted after its second reading. The ordinance amended the Town Code of Ordinances Chapter 42, Section 42-228, to make the dB measurement in Geographic Area 4 consistent with Geographic Areas 1 and 3.

Maximum Level, dBA		
Geographic Area	Daytime	Nighttime
1	61	55
2	64	58
3	61	55
4	61	55

Table 2

Staff has completed research into the maximum decibel levels in other jurisdictions. Many communities regulate noise with dB levels that vary depending on the time and location. Palm Beach's current allowable decibel levels depend on the time of day (day and night) and the geographical location. Other communities differentiate their maximum dB levels by zoning districts, which may be a better strategy. Table 3 provides a comparison of the Town's maximum dB levels to neighboring municipalities and similar communities.

Noise Level Regulations			
Location	Times	Residential	Commercial
Bal Harbour	7AM-10PM	57 dB	64 dB
	10PM-7AM	54 dB	61 dB
Boca Raton	7AM-7PM	55 dB	60 dB
	7PM-7AM	50 dB	60 dB
Coral Gables	7:30AM-11PM	60 dB*	65 dB*
	11PM-7:30AM	55 dB**	65 dB**
Marco Island	7AM-9PM	68 Db	72 dB
	9PM-7AM	60 dB	65 dB
Naples	7AM-10PM	60 dB	65 dB
	10PM-7AM	55 dB	60 dB
Palm Beach	9AM-7PM	61 dB	64 dB (Zone 2)
	7PM-9AM	55 dB	58 dB (Zone 2)
Jupiter	7AM-10PM	55 dB	65 dB
	10PM-7AM	45dB	55 dB
* 10 dBA above ambient sound level or maximum 60/65 dB			
**5 dBA above ambient sound level or maximum 55/65 dB			

Table 3

The noise ordinance for Seminole County is attached, as it may serve as a model for potential amendments to the Town's code. Seminole County's comprehensive noise ordinance was implemented through consultation with subject matter experts, and it relies on acoustical standards developed by the American National Standards Institute (ANSI).

The following sections of Chapter 42, Article V. Entertainment Establishments have also been attached, as they may be relevant to the ongoing ORS discussion regarding noise.

- 42-196. Prohibited noise
- 42-226. Use of meter authorized
- 42-227. Geographic sections
- 42-228. Non-vehicular noise
- 42-229. Vehicular noise

Staff will be prepared to review each section and discuss the practical application of the various sections of Chapter 42, Article V. Please see Town Attorney, Skip Randolph's memo dated April 4, 2022, to Chief Caristo, and related documents of the code.

Attachments

cc: Kirk Blouin, Town Manager
Carolyn Stone, Deputy Town Manager
Department Directors
Ben Alma, Support Services Manager
John Randolph, Town Attorney

J O N E S
F O S T E R

April 4, 2022

VIA EMAIL, ncaristo@palmbeachpolice.com

Nicholas P. Caristo,
Chief of Police
Town of Palm Beach
360 South County Road
P.O. Box 2029
Palm Beach, Florida 33480

Re: Constitutionality of Town of Palm Beach Noise Ordinance

Dear Chief Caristo:

Attached is a memo provided to the Town at the request of the Police Department relating to the constitutionality of the Town's noise ordinance, specifically Section 42-196 titled Prohibited Noise.

This memo relied primarily upon the Florida Supreme Court case of *State v. Catalano* which held that a Florida state statute regarding noise was unconstitutionally overbroad. The language of the state statute used the term "plainly audible" and it was that language which the Court held to be overly broad. The case did not address the language incorporated within the Town Code in Section 42-196 which prohibits "any loud or raucous noise" or, under Subsection 3, "any noise that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any considerable number of persons."

Although some of the reasoning in the Court's opinion may equally apply to an attack on the Town's ordinance, the Court did not directly hold the language "loud and raucous" unconstitutional. Indeed, the "loud and raucous" standard has been upheld by the U.S. Supreme Court in the case of *Kovacs v. Cooper*, 336 U.S. 77 (1949).

In addition to the above, the December 29, 2021 memorandum attached relied, in part, on the case of *Coalition of Immokalee Workers, Inc. v. Town of Palm Beach*, which held the Town's decibel ordinance unconstitutional when applied to a protest as the application of that ordinance was determined to be a violation against freedom of speech. The Town, therefore, needs to be very careful when using the ordinance relating to decibel levels when applied to an organization or individuals exercising their constitutional right of free speech.

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Nicholas P. Caristo
April 4, 2022
Page 2

The application of noise ordinances is indeed a complicated area of the law. The intent of the Courts is to prevent the application of vague and overly broad ordinances and to protect fundamental rights such as freedom of speech. Therefore, although I cannot give you or the Town absolute comfort in applying Section 42-196 in its current form, its language has been previously upheld by the Courts and, I believe, it would be upheld today if properly applied in instances not involving freedom of expression, but in instances where a noise is considered obviously loud and raucous and where the noise "annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any considerable number of persons."

Be sure when applying Subsection 3 of 42-196 that you have statements from three or more persons attesting to this effect.

I hope this information is helpful. Please do not hesitate to contact me if you have any questions or comments.

Thank you.

Sincerely,

JONES FOSTER P.A.



John C. Randolph
Shareholder

JCR:jsw
Attachment

cc: Kirk Blouin, KBlouin@TownofPalmBeach.com
Jay Boodheshwar, JBoodheshwar@TownofPalmBeach.com
Captain Will Rothrock, WRothrock@palmbeachpolice.com
Wayne Bergman, WBergman@TownOfPalmBeach.com

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Memo

To: Skip Randolph
From: Brett Lashley
Date: December 29, 2021
Subject: Noise Statute and Ordinances

Issue

Can the Town prevent the playing of amplified sounds played through automobiles radios and loudspeakers under T.O. § 42-196, T.O. § 42-197, or Florida Statute § 316.3045?

Brief Answer

Fla. Stat. § 316.3045- This statute was held unconstitutional by the FL Supreme Court in 2012.

T.O. § 42-196- This section has been held to be unconstitutionally vague.

T.O. § 42-197- This section may be enforceable to prevent amplified sounds made on public property that can be heard from over 50 feet away.

Florida Statute § 316.3045

Florida Statute § 316.3045 was held unconstitutional by the Florida Supreme Court in *State v. Catalano*, 104 So. 3d 1069, 1072 (Fla. 2012). In *Catalano*, the Court held that Fla. Stat. § 316.3045 is unconstitutional because it is an unreasonable restriction on the freedom of expression. Specifically, the Court determined that the statute is not unconstitutionally vague, but is unconstitutionally overbroad. *Id.* at 1072. The overbreadth doctrine applies when legislation criminalizes constitutionally protected activities along with unprotected activities, by sweeping too broadly and infringing upon fundamental rights. *Id.* at 1077. In the context of the First Amendment, “[t]he overbreadth doctrine prohibits the Government from banning unprotected speech if a substantial amount of protected speech is prohibited or chilled in the process.” *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 255, 122 S. Ct. 1389, 152 L.Ed.2d 403 (2002). Accordingly, the first step in an overbreadth analysis is to determine whether the statute restricts First Amendment rights, and whether the restrictions are substantial. *Catalano*, 104 So. 3d at 1078.

“[T]he right to play music, including amplified music, in public fora is protected under the First Amendment.” *Id.*¹; see *Ward v. Rock Against Racism*, 491 U.S. 781, 788–90, 109 S.Ct. 2746,

¹ The United States Supreme Court recognized in *Saia v. New York*, 334 U.S. 558, 68 S.Ct. 1148, 92 L.Ed. 1574 (1948), that the use of sound amplification equipment within reasonable limits is an aspect of free speech protected by the First Amendment. Furthermore, the mere existence of an alternative means of expression, such as unamplified speech, will not by itself justify a restraint on the particular means that

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105 L.Ed.2d 661 (1989) (noting that regulation of amplified music in public park was protected by the First Amendment); *Saia v. New York*, 334 U.S. 558, 562, 68 S.Ct. 1148, 92 L.Ed. 1574 (1948) ("The police need not be given the power to deny a man the use of his radio in order to protect a neighbor against sleepless nights."). This right, nevertheless, is subject to reasonable limitations on the time, place, and manner of the protected speech. Limitations are reasonable if they are "justified without reference to the content of the regulated speech, ... narrowly tailored to serve a significant governmental interest, and ... leave open ample alternative channels for communication of the information." *Ward*, 491 U.S. at 791, 109 S.Ct. 2746. If the time, place, and manner of the limitations are content based, a strict standard of scrutiny is applied.

Subsection (3) of § 316.3045 carves out an exception for "motor vehicles used for business or political purposes, which in the normal course of conducting such business use [sound-making] devices." This provision makes this statute a ban on the content of the speech, not just a blanket ban on any noise emanating from a vehicle. This subsection treats commercial and political speech more favorably than noncommercial speech and thus, the statute would have to pass strict scrutiny. *Catalano*, 104 So. 3d at 1078.

The statute cannot pass strict scrutiny because traffic safety, which the State argues is the overarching purpose of the statute, is generally not a compelling state interest. *Id.* at 1079. Even assuming it was a compelling state interest, the State failed to show how the statute advances that interest by allowing commercial and political speech to play noise beyond 25 feet, but not allowing noncommercial speech to be heard at the same distance. *Id.* at 1080. As such, the Court found the statute to be unconstitutional.

The Court next determined that subsection (3) could not be severed in order to uphold the rest of the statute. The portion of a statute that is declared unconstitutional will be severed if: " '(1) the unconstitutional provisions can be separated from the remaining valid provisions, (2) the legislative purpose expressed in the valid provisions can be accomplished independently of those which are void, (3) the good and the bad features are not so inseparable in substance that it can be said that the Legislature would have passed the one without the other, and (4) an act complete in itself remains after the invalid provisions are stricken.'" *Lawnwood Med. Ctr., Inc. v. Seeger*, 990 So.2d 503, 518 (Fla.2008) (quoting *Cramp v. Bd. of Pub. Instruction*, 137 So.2d 828, 830 (Fla.1962)). Thus, as currently written, the entire statute is unconstitutional.

For the foregoing reasons, the Town could not prevent the playing of amplified sounds that can be heard over 25 feet away under Fla. Stat. § 316.3045. Further, if this statute was constitutional, many violators – the original question mentioned many Trump supporters – may claim that they are displaying political speech, which under the statute would not be subject to the 25 foot limitation.

T.O. § 42-196

Town Ordinance § 42-196 provides:

the speaker finds more effective. *Id.*

It shall be unlawful for any person to make, continue, or cause to be made or continued:

- (1) Any loud or raucous noise;
- (2) Any noise that tends to annoy the community or injure the health of the citizens in general; or
- (3) Any noise that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any considerable number of persons. A considerable number of persons, for this section, shall mean three or more unrelated persons in separate households.

The First Amendment's protections of freedom of speech apply to municipal ordinances. *Coal. of Immokalee Workers, Inc. v. Town of Palm Beach, Florida*, 16-CV-80284, 2016 WL 8739993, at *3 (S.D. Fla. Mar. 11, 2016); see *Lovell v. Griffin*, 303 U.S. 444 (1983) ("[M]unicipal ordinances adopted under state authority constitute state action and are within the prohibition of the [First] [A]mendment."). In *Coal. Of Immokalee Worker*, an activist group seeking to protest in Palm Beach challenged T.O. §42-196 as a violation against freedom of speech because there was no set standard to judge whether the noise level was unlawful. *Id.* at 8. The Town responded that §42-196 needed to be read in conjunction with §42-227-§42-228 (defined as the "Decibel Ordinances"). The Decibel Ordinances made it unlawful for noises to exceed 64 decibels, which was determined to be about as loud as the "average male conversation." *Id.* at 9. Despite the court finding that protecting the townspeople by limiting excessive noise was a significant governmental interest and that the ordinance was content neutral, the court found that the ordinance was not narrowly tailored because the 64 decibels allowed would not allow the demonstrators to speak above an average conversation's volume level. *Id.* at 9-10.

As such, T.O. § 42-196 has been held as unconstitutionally vague. However, T.O. § 42-229 governs vehicular noise and holds that the maximum permissible emissions of noise levels shall be proscribed by Florida Statute § 316.293. Fla. Sta. § 316.293 proscribes the different acceptable decibel level based on the vehicles size, time of day, and the vehicle's speed. Accordingly, the Town would probably not be able to rely on § 42-196 because it still does not have any set standard for measuring noise, but the Town may be able to use the section in conjunction with Fla. Stat. § 316.293 based on the type of vehicle, time of day, and speed of the vehicle. (That being said, the Town's best argument would be based on the Ordinance discussed in the next section).

T.O. § 42-197

The Town may be able to prevent the noise under T.O. § 42-197 during certain hours and for amplified sounds on public property that can be heard from more than 50 feet away. Subsection (2) *Playing of radio, television, phonograph, similar device* states the following:

The playing of any radio, television, phonograph, compact disc player, tape player, musical instrument, or other sound-making device audible within any receiving dwelling, hotel or other type of residence between the hours of 12:00 midnight and 7:00 a.m. or at any such time so that the sound created by such device violates the standards set forth in section 42-196.

Accordingly, the Town likely can prevent amplified noise if its within range of dwellings, hotels, or residences between the above-mentioned hours because the Town's residence would likely have a strong argument that loud noises during these hours are impermissible.

The Town may also be able to prevent the noise under subsection (10) *Operation of sound making devices in public areas* which states:

The operation of radios or tapeplayers or other mechanical sound making devices or instruments in or upon a public street, highway, building, sidewalk, park, thoroughfare or other public area or located in or upon a public access area, such as a parking lot, etc., if such sound can be heard from more than 50 feet, measured in a straight line from its source.

Although similar to Fla. Stat. § 316.3045, this is different because it prevents all noise being made on public property if it can be heard from a distance of over 50 feet. This is a content neutral ban that will hinge on whether the 50 foot standard is narrowly tailored to achieve the Town's interest in providing peace for its residents. *See Davis v. State*, 710 So. 2d 635 (Fla. 5th DCA 1998) (upholding a noise ordinance that prohibits sounds plainly audible from over 100 feet away); *compare Deegan v. City of Ithaca*, 444 F.3d 135, 139 (2d Cir. 2006) (finding that a 25 foot rule was more restrictive than necessary to achieve the government's interest). Thus, there will be a legitimate argument on both sides as to why a 50 foot standard is narrowly tailored to the Town's interest or is too intrusive to withstand a freedom of speech challenge based on the content neutral ordinance.

The only other relevant subsection of § 42-197 that could be applicable is subsection (9) *Operation of car radios* which states "The operation of radios or other mechanical sound making devices or instruments in vehicles as hereby regulated and controlled by F.S. § 316.3045." However, the reference to Fla. Stat. § 316.3045 effectively makes this provision invalid.

Thus, the Town will probably be able to prevent such noise from occurring if within range of dwelling, hotel, or residence between the hours of 12:00 am and 7:00 am and the Town may be able to prevent all amplified noise from public locations under subsection (10) if the noise is made on public property and can be heard from over 50 feet away.

Proposed Revisions to the Town of Palm Beach's Noise Ordinances

Sec. 42-196. – Prohibited noise.

It shall be unlawful for any person or business to make, continue, or cause to be made or continued:

- (1) Any loud or raucous noise;
- (2) Any noise that tends to annoy the community or injure the health of the citizens in general; or
- (3) Any noise that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any considerable number of persons. A considerable number of persons, for this section, shall mean three or more unrelated persons in separate households.
- (4) This section shall be read in conjunction with Section 42-226 in order to properly determine the method for calculating such prohibited noise as well as section 42-228 in order to determine the appropriate decibel limits for the prohibited noise.

Sec.42-226. – Use of meter authorized.

Measurement of noise may be made with a sound level meter using the A scale (dBA) and/or an octave band (frequency) analyzer meeting the standards prescribed by the American Standards Association. Measurement and recordation of any noise ~~that has the possibility of annoying, disturbing, being injurious or endangering the comfort, repose, health, peace or safety of others~~ shall be measured and recorded at the property line of the private property originating the noise or shall be measured and recorded at the property line of the adjacent private property if the noise is originating from any public road, street or property.

Sec. 42-227. Geographic sections.

The criteria listed in sections 42-196 and 42-226 shall be applicable to the following geographical areas of town:

- (1) Area 1. From the northerly corporate limits southerly to Wells Road.
 - (2) Area 2. From Wells Road southerly to Worth Avenue.
 - (3) Area 3. From Worth Avenue southerly to Sloan's Curve.
 - (4) Area 4. From Sloan's Curve southerly to the southerly corporate limits.
- (Code 1982, § 12-47(b))

Sec. 42-228. Nonvehicular Noise.

In the use of a sound level meter, the following criteria shall be used for determining a violation of the town's ordinances relating to the maximum permissible emissions of

noise levels emanating from other than motor vehicles, with the exception of lawn maintenance equipment.

<i>Area (Geographic)</i>	<i>Maximum Level, dBA</i>	
	<i>Day</i>	<i>Night</i>
1	61	55
2	64	58
3	61	55
4	66	60

“Night” as used in hereinabove is defined as the hours between 7:00 p.m. and 9:00 a.m. (Code 1982, § 12-47(c))

ARTICLE II. NOISE¹

Sec. 11-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient noise level means the sound pressure level of the all-encompassing noise emanating from a given environment, usually being a composite of sounds from many sources including the source of interest.

ANSI means the American National Standards Institute.

ASTM means the American Society for Testing and Materials.

A-Weighted Equivalent Sound Pressure Level (LAeq) means a sound level descriptor based on the average sound pressure level in a specified time period. LAeq is intended as a single number indicator to describe the sound pressure level of a sound that varies over a specified period of time. LAeq is measured in decibels and must be A-weighted (dBA). The minimum measurement time for this regulation is defined as five minutes.

Background noise level means the sound pressure level of the noise in a given environment without the source of interest.

Commercial-Apartment Neighborhood is legally defined to include: Tracts A and B and Lots 1 through 16, Ocean Front Section of Bay Harbor, Plat Book 44, page 27; Tracts C, D and E, Bal Harbour Ocean Front Addition, Plat Book 57, page 68; Areas 1 through 5, Business Section of Bal Harbour, Plat Book 60, page 39; a portion of Tract D described in Deed Book 2886, page 198 and Deed Book 3505, page 170, Residential Section of Bal Harbour, Plat Book 44, page 98; Lots 1 through 4, Block 1, Plat Book 44, page 98; Lots 1 through 10, Block 7, Plat Book 44, page 98; Lots 1 through 5, Block 8, Plat Book 44, page 98; Lot 1, Block 8A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15; Lots 1 through 3, Block 12A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15, Public Records of Dade County, Florida. This legal definition includes the area of the Village that is zoned "B" Business pursuant to Chapter 21.

Construction Noise means Noise resulting from construction, demolition, maintenance, additions, alterations or repairs to Structures or Buildings.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Noise means any sound which annoys or disturbs humans or which causes or which tends to cause adverse psychological or physiological effect on humans.

Noise Disturbance means any sound in quantities which are or may be potentially harmful or injurious to human health or welfare, or which unnecessarily interferes with the enjoyment of life or Property, including outdoor recreation, of a reasonable Person with normal sensitivities.

Residential Neighborhood is legally defined to include: Lots 5 through 24, Block 1; Lots 1 through 20, Block 2; Lots 1 through 33, Block 3; Lots 1 through 18, Block 4; Lots 1 through 20, Block 5; Lots 1 through 33, Block 6; Lots 1

¹Cross reference(s)—Code enforcement, § 2-181 et seq.

through 21, Block 9; Lots 1 through 13, Block 10; Lots 1 through 22, Block 11; Lots 1 through 20, Block 12 and Tract E, Residential Section of Bal Harbour, Public Records of Dade County Plat Book 44, page 98.

Sound Level means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, or C, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-current edition). If the weighting employed is not indicated, the A-weighting shall apply.

Sound Level Meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting network or digital signal acquisition and analysis modules to perform these and other functions, used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The sound level meter shall be of Type 1 as specified in the American National Standards Institute publication entitled "Specifications for Sound Level Meters," designated as ANSI S1.4 2014 and should be capable of measuring the A-Weighted Equivalent Sound Pressure Level. The period of time over which sound levels are measured reflects the nature of the situation and the minimum measurement time shall be no less than five minutes

Sound Pressure means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.

Sound Pressure Level means 20 times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micro-newtons per meter squared. The sound pressure level is denoted Lp (or SPL) and is expressed in decibels.

Village Manager means Village Manager or designee.

(Code 1974, § 12-20(b); Ord. No. 436, § 1, 9-15-98; Ord. No. 597, § 2, 6-20-17)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 11-27. Noise Disturbance—Generally.

It shall be unlawful for any Person to make, continue or cause to be made or continued any loud, excessive or unusual Noise Disturbance.

(Code 1974, § 12-20(a))

Sec. 11-28. Reserved.

Editor's note(s)—Ord. No. 378, § 1, adopted Oct. 20, 1992, repealed former § 11-28 in its entirety, which pertained to notices to abate noise disturbances.

Sec. 11-29. Violations of article.

- (a) *Prohibited acts generally.* The following acts, and the causing or permitting thereof, are presumed to be in violation of this article:
- (1) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument or other machine or device for the producing or reproducing or amplifying of sound which creates a Noise Disturbance across a real property line in a Residential or Commercial-Apartment Neighborhood.
 - (2) Owning, possessing or harboring any animal or bird which frequently or for a continued duration howls, barks or makes other sounds which create a Noise Disturbance across a real property line in a Residential or Commercial-Apartment Neighborhood.

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- (3) Using or firing explosives or similar devices, except in an Emergency, or using or firing firecrackers, skyrockets or the like if prior permission is not obtained from the Village Manager.
- (b) *Noises exceeding permitted decibel level.* Any noise which emits a sound measured at an A-weighted equivalent sound level (Leq) in excess of 57 decibels in a Residential Neighborhood and 64 decibels in a Commercial Apartment Neighborhood between the hours of 7:00 a.m. and 10:00 p.m. (Daytime Decibel Levels) or 54 decibels in a Residential Neighborhood and 61 decibels in a Commercial Apartment Neighborhood between the hours of 10:00 p.m. and 7:00 a.m. (Nighttime Decibel Levels), shall be presumed a nuisance and prima facie evidence of a violation of this article. The measurements shall be taken with a calibrated sound level meter at the location of the dwelling unit or premises of the complaining party. If there is no complaining party, the measurement shall be taken at approximately 100 feet from the property from which the noise is emanating.
- (c) *Mitigation practices.* Any person operating or causing or allowing the operation of tools or equipment used in construction, drilling or repair work, shall mitigate noise by assuring compliance with the following noise mitigation practices or other methods that the Building Official determines, in his or her sole discretion, are at least as effective as those listed below:
- (1) Pile driving:
- Substitution of hydraulic impact hammers for diesel impact hammers;
 - Use of augering equipment to construct bored piles;
 - Use of vibratory hammers for driving steel piles; and
 - Use of static load equipment to push rather than drive piles.
- (2) Concrete breaking:
- Substitution of hydraulic, electric or gasoline-powered tools for pneumatic equipment;
 - Substitution of a whip-action impact hammer for a standard, excavator-mounted hammer;
 - Use of a thermal lance to burn holes in concrete;
 - Use of diamond drills and saws;
 - Use of hydraulic bursters or jacks;
 - Use of excavator-mounted hydraulic crushers;
 - Use of nonexplosive chemical demolition agents; and
 - Use of high-pressure discharge of carbon dioxide gas.
- (3) Construction site noise control: Use of sound barriers, absorptive sound blankets, and acoustic enclosures.
- (4) Operational Restrictions:
- Scheduling of noisy activity to coincide with periods of least noise sensitivity;
 - Restricting equipment idling on-site;
 - Prohibiting unnecessary rattling and banging;
 - Use of portable radios to communicate with workers.
- (d) *Responsible parties.* The parties responsible for a violation shall include the owner of a property, the lessee of a property where such violation occurs within lessee's leased space and the individual or entity engaged in

the Noise-generating activity. Each responsible party shall be provided notice wherever notice to the violator or property owner is required by this Code.

- (e) *Deviations.* An applicant may seek the prior written consent of the Village Manager to make Construction Noise for a limited time during the prohibited hours or in excess of the Permitted Decibel Levels. Such consent may be granted by the Village Manager if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager, that the activity producing the Construction Noise, by its very nature, cannot meet the Permitted Decibel Level or be mitigated to meet the Permitted Decibel Level. The Village Manager may impose appropriate conditions to mitigate the impact of the deviation on the Village.

(Code 1974, § 12-20(c), (d); Ord. No. 336, § 1, 9-19-89; Ord. No. 436, §§ 2—4, 9-15-98; Ord. No. 557, § 5, 9-20-2011; Ord. No. 580, § 2, 3-24-15; Ord. No. 597, § 2, 6-20-17)

Cross reference(s)—Code enforcement, § 2-181 et seq.; animals, ch. 5.

Sec. 11-30. Variance for special events.

Upon written Application to the Village (the Application), submitted a minimum of ten days prior to an event at which noise levels are expected to exceed Nighttime Decibel Levels, the applicability of Daytime Decibel Levels may be extended to 11:00 p.m. on weeknights or to 1:00 a.m. on weekends and holidays by the Village Manager subject to such conditions as he may impose. Applications shall include a full description of the event, the location of the event, and the name of the Person responsible for the event. The decision of the Village Manager shall be final and not subject to appeal.

(Ord. No. 336, § 1, 9-19-89)

Sec. 11-31. Certain Noises restricted to specified hours.

- (a) *Regulated Noises.* Noises, other than those enumerated in section 11-29 because of their nature and characteristics, shall be grouped as follows for the purpose of control and restriction:
- (1) In all zoning districts other than the "B" Business District:
- a. Steam, gasoline or oil-operated cranes, pile drivers, excavators, dredges, ditchers and all other similar machinery;
 - b. One-cylinder steam or internal-combustion engines, horizontal or vertical;
 - c. Air compressors and pneumatic riveting machines, jackhammers, drills and other similar air equipment;
 - d. Power band and circular saws working in the open;
 - e. Hand hammers on steel or iron, structural, rivet or otherwise;
 - f. Stationary or portable concrete mixers, with engines multi-cylindere and properly muffled;
 - g. Power band and circular saws, sanders, planers, grinding machines, drills, bar benders and cutters, and similar machinery, when enclosed;
 - h. Hand operations in connection with plumbing, electrical, roofing and framing work in the open;
 - i. Transit concrete mixers, with engines multi-cylindere and properly muffled, operated to cause the least possible noise;

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- j. Hand operations in connection with plumbing, electrical, roofing and framing work, when enclosed;
 - k. Hand loading and unloading and the handling of building materials and other similar heavy trucking;
 - l. Masonry work and the hand mixing of mortar;
 - m. Plastering and the hand mixing of plaster;
 - n. Painting; and
 - p. Glazing.

To be considered enclosed, Noises shall originate within the exterior walls of a Building.

- (2) In all zoning districts:
 - a. Landscaping; and
 - b. All other Noises of similar intensity and/or annoyance to landscaping or the uses listed in subsection 11-31(a)(2).
- (b) Prohibited Times. The Noises set forth in subsection (a) of this section are hereby prohibited at any location and at any hour on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day, Good Friday, Yom Kippur, and Rosh Hashanah, and on Mondays through Saturdays from 5:30 p.m. to 8:30 a.m., except as provided in subsections (d) and (e) of this section.
- (c) Consent for Exterior Construction and Lawn Maintenance Activities in Residential Districts During Prohibited Times. An applicant may seek the prior written consent of the Village Manager to construct or demolish, or to add to, alter or repair the exterior portion of, any dwelling, or to mow or perform any other lawn maintenance activities which require the use of machinery, in residential districts during the hours prohibited by subsection (b). Such consent may be granted by the Village Manager if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager, that the activities described in this paragraph (c) cannot be done at any other time, and will not take more than one day to complete.
- (d) Hours for Interior Construction Activities in Residential Districts. Except in an Emergency which will result in damage or injury, or with the prior written consent of the Village Manager, it shall be unlawful to permit independent contractors, vendors, or any other hired persons or employees to make any additions, alterations, or repairs inside any dwelling in residential districts between the hours of 9:00 p.m. and 8:30 a.m. on any day. Such consent may be granted by the Village Manager if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager, that any alterations, additions, or repairs described in this subsection cannot be made at any other time, and will not take more than one day to complete.
- (e) An application for the consent of the Village Manager to produce the Noises set forth in subsection (a) of this section during the hours prohibited in subsection (b) of this section shall be made in a form approved by the Village and shall be accompanied by an application fee established by the Village Council (the "Application Fee"). Village residents filing such applications for the production of Noises at their personal residence shall be exempt from the Application Fee. In the event that the Village Manager grants their consent to perform Noise-producing activity during the hours prohibited in subsection (b) of this section, the Village Manager may require the applicant to post an off-duty police officer, code compliance officer, or other employee or agent of the Village at the site of the Noise-producing activity at the applicant's sole cost and expense.

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- (f) The requirements of this section shall not be construed to prevent the operation of automobiles or light delivery vehicles at any time; provided, however, that such motor vehicles shall at all times be properly muffled and shall be so operated as to create the least possible noise or nuisance.

(Code 1974, § 12-21; Ord. No. 345, § 2, 2-20-90; Ord. No. 347, § 1, 5-15-90; Ord. No. 580, § 3, 3-24-15; Ord. No. 597, § 2, 6-20-17; Ord. No. 617, § 2, 1-15-19)

Cross reference(s)—Code enforcement, § 2-181 et seq.

Sec. 11-32. Construction Noise in the "B" Business District.

- (a) *Definitions.* For the purposes of this section, the following terms will have the following prescribed meaning unless the context indicates otherwise:
- (1) *Permit Applicant* means the person who hired or will serve as the contractor or company to perform the construction activities.
 - (2) *Noise Receptor Site* means a Lot which is the recipient of Construction Noise emanating from outside of the Lot's property line or, in the event that the Lot is part of an approved site plan, outside of the boundary of the site plan, regardless of whether that Lot is located in the Village.
 - (3) *Permitted Decibel Level* means the maximum decibel level permitted for Construction Noise.
 - (4) *Violator* means the general contractor, subcontractor, company, or person performing the construction activities in violation of the provisions of this Section.
- (b) *Regulations.* Construction Noise in the "B" Business District shall conform to the following regulations:
- (1) *Prohibited Hours of Construction:* Construction Noise is prohibited from 4:00 p.m. Saturday through 8:30 a.m. Monday, and all day on New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day, Good Friday, Yom Kippur, Rosh Hashanah, and Christmas Day. Construction activities that occur completely within the exterior walls of a Building may occur within the prohibited hours of construction so long as Construction Noise does not exceed 55 decibels when measured from a Noise Receptor Site.
 - (2) *Permitted Decibel Levels:* The Permitted Decibel Level of Construction Noise shall not exceed the following limits during the specified times, when measured from a Noise Receptor Site:
 - a. *Night:* 55 decibels from 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday, and
 - b. *Day:* 80 decibels from 8:30 a.m. to 6:00 p.m., Monday through Friday, and from 10:00 a.m. to 4:00 p.m. Saturday.
 - (3) *Measurement of Permitted Decibel Level:* The Permitted Decibel Level of Construction Noise shall be measured outdoors using a calibrated Sound Level Meter at the property line of the Noise Receptor Site of a complaining party outside of the Lot or site plan from which the noise is emanating. If there is no complaining party, the measurement shall be taken at a location that is no less than 65 feet from the property line of the Lot from which the noise is emanating. If such Lot is part of an approved site plan, the measurement shall be taken no less than 65 feet from the boundary of the site plan. The measurement period shall be no less than five minutes in duration and shall be in accordance with current ANSI standards.
 - (4) *Mitigation Practices:* The Noise mitigation practices required by section 11-29(c) shall also be followed to mitigate Construction Noise in the "B" Business District.

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- (c) *Mitigation Conditions to Address Complaints.* If complaints are received from residents who live adjacent to or near a construction site, the Village Manager or his designee may attempt to resolve such complaints by coordinating and attending meetings between the owner, owner's representative, Permit Applicant and/or Violator, and the affected citizens or their representatives. As part of the resolution of such complaints and regardless of whether any citation has been issued or violation has occurred, the Village Manager may impose reasonable conditions on construction activities that will mitigate the Construction Noise.
- (d) *Deviations.* A Permit Applicant may seek the prior written consent of the Village Manager to make Construction Noise for a limited time during the prohibited hours or in excess of the Permitted Decibel Levels. Such consent, which may not be unreasonably withheld, may be granted by the Village Manager if a Permit Applicant submits documentation establishing that the activity producing the Construction Noise, by its very nature, cannot meet the Permitted Decibel Level or be mitigated to meet the Permitted Decibel Level, or the activity cannot practically be performed during the permitted hours, or for other just cause as deemed reasonable by the Village Manager. The Village Manager may impose appropriate conditions to mitigate the impact of the deviation on the Village.
- (e) *Enforcement.* This section shall be enforced by the Village Manager in accordance with the following procedures and standards. The Village finds that Construction Noise violations are irreparable or irreversible in nature as a matter of law, and the penalties for such violations are established as follows in accordance with F.S. § 162.09(2).
- (1) *Verbal warning.* If the Village Manager finds a violation of this section, he or she shall issue a verbal warning to the Violator requiring immediate correction of the violation.
- (2) *Civil penalties.*
- a. *First citation.* If the violation is not corrected immediately after issuance of the verbal warning, the Village Manager shall issue a citation requiring immediate correction of the violation, shall impose fines in the amount of \$500.00 against both the Violator and Permit Applicant, and shall notify the Property Owner of the violation.
- b. *Second citation.* If the violation is not corrected immediately after issuance of the first citation, or the violation recurs within a 60-day period, the Village Manager shall issue a second citation requiring immediate correction of the violation, shall impose fines in the amount of \$1,000.00 against both the Violator and Permit Applicant, and shall notify the Property Owner of the violation.
- c. *Third citation.* If the violation is not corrected immediately after issuance of the second citation, or the violation recurs within a 60-day period, the Village Manager shall issue a third citation requiring immediate correction of the violation, shall impose fines in the amount of \$2,500.00 against both the Violator and Permit Applicant, and shall notify the Property Owner of the violation.
- d. *Continuing or recurring violations.* In the event that the violation continues after or recurs within 60 days of issuance of the third citation, the Village Manager shall revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for seven consecutive days, and may impose an additional penalty of \$5,000.00 against both the Violator and Permit Applicant. The Village Manager may revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for periods of time in excess of seven consecutive days, in the event that the Violator or Permit Applicant has more than three violations in a six-month period of time and the Violator or Permit Applicant has failed to address and resolve the violations. In such event, the Village

Manager may also impose a penalty of \$5,000.00 against the Property Owner if the Property Owner is not the Permit Applicant.

- e. *Future violations.* If no other violation occurs for six consecutive months after a violation is complied, the enforcement procedures of this subsection shall reset as to all parties and any future violations will again result first in a verbal warning, followed by the escalating progression of citations and penalties as set forth in subsections a—e.
- (3) *Criminal penalties.* In addition to or in lieu of the civil penalties set forth above, with respect to any of the provisions of this section, the Violator may be arrested and punished by imprisonment in the county jail for a period not to exceed 60 days.
- (f) *Appeals.*
 - (1) *Appeals of Mitigation Conditions:* The property owner (or other party responsible for the violation pursuant to subsection 11-29(d)) may appeal to the Village Council the Village Manager's mitigation conditions imposed pursuant to subsection (c). An appeal shall be submitted on forms provided by the Village within ten calendar days after the decision of the Village Manager, and shall set forth the basis on which the mitigation conditions are alleged to be unreasonable. The Village Council shall hold a hearing on an appeal within 30 calendar days of the filing of such appeal, unless an extension of time is consented to by the appellant. Mitigation conditions imposed by the Village Manager shall remain effective during the time that the Village Council is considering the appeal, and the Village Council shall uphold the mitigation conditions if they are reasonable. The decision of the Village Council as to the appeal of a decision of the Village Manager shall be final.
 - (2) *Appeals of Citations or Violations.* The property owner (or other party responsible for the violation pursuant to subsection 11-29(d)) may appeal such determination to the Village Special Master in accordance with the procedures set forth in chapter 2, article V "Code Enforcement" of this Code. The Special Master shall only review whether the citation or violation was properly issued with notice, and is not authorized to adjust the penalties set forth in this section or override any revocations issued by the Village Manager.

(Ord. No. 597, § 2, 6-20-17; Ord. No. 614, § 2, 12-18-18)

Secs. 11-33—11-50. Reserved.

ARTICLE III. NOISE¹

Sec. 10-51. Definitions.

For the purpose of the article, whenever any of the following words, terms or definitions are used herein they shall have the meanings respectively ascribed to them in this section, except where the context requires otherwise:

"Acoustical terminology" shall mean that contained in ASA S1.1—1960, American Standard Acoustical Terminology of the American National Standards Institute.

"Authorized emergency vehicle" shall mean the following:

- (a) All vehicles of the department of transportation of the state, designated as emergency vehicles by that department.
- (b) All police and fire vehicles of any municipality, or of any county or of the state.
- (c) Emergency vehicles of any of the several departments of the city.
- (d) Emergency vehicles of any public service corporation.
- (e) All ambulances and rescue vehicles.

"Decibel" shall mean a unit for measuring the intensity of a sound, the mathematical formula for which is expressed as the volume of sound which is equal to 10 times the logarithm of the ratio of the intensity of the sound to the intensity of a specified standard sound; abbreviated "dB."

"Discrete tone" shall mean a pure tone or a single frequency sound. This is expressed technically as a sound wave whose instantaneous sound pressure varies essentially as a single sinusoidal function of time.

"Fluctuating noise" shall mean a noise in which the loudness varies with time. This is expressed technically as a noise whose sound pressure level varies significantly and exceeds the ambient noise level.

"Impulsive noise" shall mean a very short, loud noise. It is a noise characterized by brief exertions of sound pressure which significantly exceed the ambient sound pressure.

"Intermittent noise" shall mean an interrupted noise which reoccurs at either regular or irregular intervals, excluding an impulsive noise. The sound pressure level of an intermittent noise will equal the ambient environmental level 2 or more times during the period of observation.

"Motor vehicle" shall mean any vehicle which is self-propelled except one which is operated on rails.

"Motorcycle" shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground.

"Motor-driven cycle" shall mean any motorcycle, and any motor scooter with a motor which produces not to exceed 5 brake horsepower, including every bicycle with a motor attached.

¹Cross reference(s)—Compatible land uses and noise zones at the Boca Raton Airport, § 3-46 et seq.; certain loud and disturbing noises by peddlers prohibited, § 8-158; noise regulations in public park and recreation areas, § 11-65.

"Nonsteady noise" shall mean the same as a fluctuating noise.

"Period of observation" shall mean the time interval during which acoustical data and facts are obtained.

"Railroad" shall mean a carrier of persons or property upon cars operated upon stationary rails.

"Railroad train" shall mean an engine propelled by steam, electric, diesel or gasoline power, with or without cars coupled thereto, operated on rails, and including motor vehicles so adapted while operating on rails.

"Sound pressure level" shall mean, in decibels, 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to the reference sound pressure. The reference is 0.0002 microbar. The sound pressure level may be evaluated using FLAT, A, B, or C scales as defined by the American National Standards Institute, and shall be labeled dB, dBA, dBB or dBC respectively.

"Steady noise" shall mean a nonfluctuating noise or a noise whose level remains essentially constant during the period of observation.

"Student housing facility" shall mean as that term is defined in section 28-2 of the city's zoning code.

"Zoning district" shall mean any of the several designated categories stating land use and building size, bulk and density requirements, which are contained and enumerated in the zoning code of the city, chapter 28.

(Code 1966, § 10A-14; Ord. No. 5193, § 1, 1-24-12)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 10-52. Environmental control policy.

In furtherance of the mandate of the people, as expressed in article II, section 7 of the state constitution, it shall be the policy of the city to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by ordinance for the abatement of air and water pollution and of excessive and unnecessary noise.

(Code 1966, § 10A-1)

Sec. 10-53. Standards adopted.

The following standards are hereby adopted by reference as part of this article, and such standards supplement but do not supersede the specific requirements set forth herein:

- (a) The following standards of the Air Conditioning and Refrigeration Institute, 1815 North Fort Meyer Drive, Arlington, Virginia 22209:
 - 1. ARI Standard 270. Standard for Sound Rating of Outdoor Unitary Equipment (1967).
 - 2. ARI Standard 275. Standard for Application of Sound Rated Outdoor Unitary Equipment (1969).
 - 3. ARI Standard 443. Standard for Sound Rating of Room Fan-Coil Air Conditioners (1970).
 - 4. ARI Standard 446. Standards for Sound Rating of Room Air Induction Units (1968).
- (b) The following standards of the American National Standards Institute, 1430 Broadway, New York, New York, 10018:
 - 1. ASA S1.1—1960. American Standard Acoustical Terminology.
 - 2. ASA S1.2—1962. American Standard Method for the Physical Measurement of Sound.
 - 3. ANSI S1.4—1971. American National Standard Specifications for Sound Level Meters.

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4. ANSI S1.13—1971. American National Standard Methods for the Measurement of Sound Pressure Levels.
 5. ANSI S5.1—1971. American National Standards Test Code for the Measurement of Sound From Pneumatic Equipment.
- (c) The following standards of the Society of Automotive Engineers, 2 Pennsylvania Plaza, New York, New York, 10001:
1. SAE Recommended Practice J 184. Qualifying a Sound Data Acquisition System.
 2. SAE Recommended Practice 366. Exterior Sound Level For Heavy Trucks and Buses.
 3. SAE Standard J 952b. Sound Levels For Engine-Powered Equipment.
- (d) The following standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, United Engineering Center, 345 East 47th Street, New York, New York, 10017:
1. ASHRAE Standard 36-62. Measurement of Sound Power Radiated from Heating, Refrigerating and Air Conditioning Equipment.
 2. ASHRAE Standard 36A-63. Method of Determining Sound Power Levels of Room Air Conditioners and Other Ductless, Through-The-Wall Equipment.
 3. ASHRAE Standard 36B-63. Method of Testing for Rating the Acoustic Performance of Air Control and Terminal Devices and Similar Equipment.
- (e) The following standards of the International Organization for Standardization, c/o the American Standards Institute, 1430 Broadway, New York, New York, 10018:
1. ISO Recommendation R266. Preferred Frequencies for Acoustical Measurements (1962).
 2. ISO Recommendation R362. Measurement of Noise Emitted by Vehicles (1964).
 3. ISO Recommendation R532. Method for Calculating Loudness Level (1966).
 4. ISO Recommendation R495. General Requirements for the Preparation of Test Codes for Measuring the Noise Emitted by Machines (1966).

(Code 1966, § 10A-13)

Cross reference(s)—Traffic and vehicles, ch. 16; trucks, § 16-56 et seq.

Sec. 10-54. Creation of excessive noise unlawful.

It shall be unlawful for any person knowingly or willfully or through his culpable negligence to make or create excessive or unusually loud noise within the city as heard by persons and measured in the manner hereinafter set forth.

(Code 1966, § 10A-15)

Sec. 10-55. Noise from buildings or premises.

No person owning or in possession or control of any building or premises shall use the same or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall by its boisterous nature be excessive or unusually loud and thereby disturb or destroy the peace of the neighborhood in which such building or premises is situated, or be dangerous or detrimental to health.

(Code 1966, § 10A-16)

Cross reference(s)—Buildings and building regulations, ch. 19.

Sec. 10-56. Horns, signal devices.

No person shall sound any horn or audible signal device of any motor vehicle, boat, train, engine, machine or stationary boiler of any kind while not in motion, nor shall such horn or signal device be sounded under any circumstances except as required by law, or as a danger warning, nor shall it be sounded for any unnecessary or unreasonable period of time. This section shall not be construed as forbidding the use of a signal device on an emergency vehicle as a warning signal during the use thereof.

(Code 1966, § 10A-17)

Cross reference(s)—Traffic and vehicles, ch. 16.

Sec. 10-57. Radios, electronic audio equipment, musical instruments.

No person shall use, operate or play any radio, phonograph, stereo set, tape player, television set, sound amplifier or other electronic audio device or any musical instrument which produces or reproduces sound at an excessive or unusually loud volume level so as to disturb the peace, quiet and comfort of the neighborhood in the vicinity thereof.

(Code 1966, § 10A-18)

Sec. 10-58. Loudspeakers, devices for advertising.

No person shall use, operate or play any loudspeaker, sound amplifier or musical instrument which produces or reproduces sound which is cast or emitted upon the public streets and sidewalks for the purpose of commercial advertising or for attracting the attention of the public to any building, structure or place or to the activity which is being carried on therein.

(Code 1966, § 10A-19)

Cross reference(s)—Licenses and business regulations, ch. 8.

Sec. 10-59. Noisy, boisterous conduct.

It shall be unlawful to knowingly and willfully cause or create excessive and unnecessary noise by engaging in boisterous, noisy and loud conduct while upon a public street, sidewalk or parkway so as to annoy or disturb the quiet, comfort or repose of persons in any office, store, dwelling, hotel, motel or residence within the range of hearing.

(Code 1966, § 10A-20)

Cross reference(s)—Miscellaneous offenses, ch. 9.

Sec. 10-60. Animal noises.

- (1) It shall be unlawful to keep or maintain any dog, cat, bird or other animal, within residential zones of the city which causes a noise disturbance by habitually howling, barking, meowing, squawking, or other noise making. It shall also be unlawful to cause any animal, bird or fowl to make or create any excessive or

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(Supp. No. 68, Update 8)

unnecessary noise by taunting, beating or coercing the animal, bird or fowl, or by depriving same of necessary food, water or shelter.

- (2) The city manager or designee shall investigate an alleged violation of this section upon the receipt of either:
- (a) Sworn affidavits of complaint signed by 2 unrelated residents living in separate dwellings in the close vicinity of the alleged violation; or
 - (b) Sworn affidavit of complaint signed by a resident living in the close vicinity of the alleged violation together with a video tape of the activity complained of recorded by, or recorded in the physical presence of, such resident.
- (3) The affidavit(s) shall specify the address or location of the alleged violation, the nature, time and date(s) of the act, the name and address of the owner or custodian, if known, and a description of the animal, if known. The video tape shall include the date and time of the event being recorded and shall provide evidence of the nature and extent of the violation.
- (4) Upon receipt of the materials set forth in either (2)(a) or (2)(b), enforcement procedures pursuant to section 2-100 of this Code may be instituted against the owner or custodian of any animal alleged to be in violation of this section

(Code 1966, § 10A-21; Ord. No. 4112, § 1, 8-24-93; Ord. No. 4653, § 1, 6-11-02)

Cross reference(s)—Animals, ch. 5.

Sec. 10-61. Engine exhaust.

It shall be unlawful to discharge into the open air the exhaust of any steam engine, turbine or internal combustion engine of any kind, whether on a motor vehicle, boat or any machine of any kind, except through a muffler or other device which will effectively prevent excessive and unnecessary loud or explosive noise therefrom.

(Code 1966, § 10A-22)

Sec. 10-62. Vehicle defect or condition of load.

It shall be unlawful for any person to operate a motor vehicle or motor-propelled boat so out of repair, or defective or under any condition of load, acceleration or deceleration, as to create excessive and unnecessary loud or explosive noises therefrom.

(Code 1966, § 10A-23)

Sec. 10-63. Loading, unloading, unpacking.

It shall be unlawful for any person engaged in loading, unloading, packing or unpacking or opening crates, boxes or containers, including the loading or unloading of any motor vehicles or truck trailers onto any truck transport or railway car to create excessive and unnecessary loud noises therefrom.

(Code 1966, § 10A-24)

Sec. 10-64. Construction activity.

- (1) It shall be unlawful for any person to do, perform or engage in any construction work, building, excavating, hoisting, grading, pile driving, pneumatic hammering, demolition, dredging, building alteration or repair work of any nature to any building or structure or upon any site for same in the city prior to 7:00 a.m. or after 6:00 p.m. on Monday through Friday, prior to 8:00 a.m. or after 6:00 p.m. on Saturday, or any time on Sunday, if any such activity shall cause noises whose levels result in the limits in this Code to be exceeded.
- (2) Any person desiring to engage in the aforesaid activity beyond the stated hours or days of limitation, based upon cases of urgent necessity or upon the interests of public health, safety and ultimate convenience, may apply to the city manager for a special permit allowing same. Such permits if granted shall be limited to a period of up to 3 days' duration, but may be renewed for additional periods of up to 3 days each if the emergency or need therefore continues. In the issuance of such permits the city manager should weigh all facts and circumstances and should determine whether the reasons given for the urgent necessity are valid and reasonable, whether the public health, safety and ultimate convenience will be protected or better served by granting the permit requested, and whether the manner and amount of loss or inconvenience to the party in interest imposes a significant hardship. Upon an affirmative finding of the foregoing considerations, the city manager is authorized to issue the permit requested and any extensions thereof, as may be required. During such periods of emergency activities and during the normal construction hours of 7:00 a.m. to 6:00 p.m. on Monday through Friday, and 8:00 a.m. to 6:00 p.m. on Saturday, the noise levels generated by construction activities shall not exceed 75 dBA for more than 10 percent of the time when measured at a distance of 50 feet from the construction site.

(Code 1966, § 10A-25; Ord. No. 3880, § 1, 3-26-91; Ord. No. 4652, § 1, 5-29-02)

Sec. 10-65. Schools and protected areas.

It shall be unlawful to create any excessive and unnecessary loud noise on any street or any adjacent area within 500 feet of any hospital or within 500 feet of any school, institution of learning, public park, church or courtroom in the city during the period of use thereof, where such noise causes interference with the workings of such facility or disturbs or annoys the persons using such facility. There shall be no conviction for violation of this provision, however, unless signs bearing an appropriate warning legend are posted and displayed in a conspicuous manner on the streets approaching such facilities.

(Code 1966, § 10A-26)

Sec. 10-66. Fans and air conditioners.

- (1) It shall be unlawful to create any excessive and unnecessary loud noise by the use or operation of any noise-creating air conditioner, compressor unit, power fan or blower or the electric motor or any engine used to drive such device, the operation of which causes such excessive and unnecessary noise, unless such noise is muffled and deadened by adequate noise suppression and muffling devices to eliminate annoyance and disturbance to persons within the range of hearing.
- (2) Upon the effective date of this article, the location and placement of all new or replacement air conditioning equipment on the outside of the building or structure it serves shall be specified by the city manager or designee, and shall be so shown and designated on the plans and specifications for such construction as the city manager or designee directs. In addition, the city manager or designee shall require compliance with all reasonable sound abatement measures and sound screening which may be necessary or desirable to prevent such air conditioning equipment from creating excessive or unnecessary noise. All such air conditioning equipment hereafter installed in the city shall carry the manufacturer's certification of the sound rating

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thereof, as determined by the applicable standards of the Air-Conditioning and Refrigeration Institute or the American Society of Heating, Refrigeration and Air Conditioning Engineers, which sound rating shall not exceed a value which will cause the limits of section 10-72 to be exceeded. All pertinent information and data as to the sound ratings of such equipment shall be furnished to the building division at the time application for the building permit is made.

- (3) The following provisions shall apply to emergency generators in all residential districts.

Emergency generators installed in all residential districts shall be exempt from the sound rating values set forth in section 10-72, Code of Ordinances when operated during power outages; provided however, in no event shall the sound rating value of emergency generators in any residential district exceed 72 dBA. Emergency generators in all residential districts may be operated for testing purposes 1 time for a period not to exceed 30 minutes in any 7-day period. Testing of emergency generators in all residential districts is permitted between the hours of 11 a.m. through 5 p.m., Monday through Saturday. No testing of emergency generators in any residential districts is permitted on Sundays or federal holidays.

(Code 1966, § 10A-27; Ord. No. 4636, § 1, 3-19-02)

Sec. 10-67. Lawn maintenance devices.

It shall be unlawful to operate lawn mowers, edgers, trimmers and power-driven hedge shears in the city between the hours of 9:00 p.m. and 7:00 a.m.

(Code 1966, § 10A-28; Ord. No. 3883, § 1, 10-23-90)

Sec. 10-68. Noise measurement.

For the purpose of determining and classifying any noise as excessive and unnecessary noise or as an unusually loud noise, which is hereby declared to be unlawful and prohibited by this article, the test measurements, requirements and provisions in sections 10-69 through 10-78 may be applied provided, however, a violation of this article may occur without the occasion of the measurements being made as hereinafter provided.

(Code 1966, § 10A-29)

Sec. 10-69. Periods of observation.

All periods of observation made hereunder shall be determined with regard to the character of the noise being measured, and the particular instrument used to make the measurement, and shall be made in accordance with the standards contained in ANSI S1.13—1971 of the American National Standards Institute.

(Code 1966, § 10A-30)

Sec. 10-70. Enforcement program.

The purpose and intent of this article goes beyond the mere issuance of citations and filing of prosecutions for violations hereof. The city environmental officer is directed to help and assist those persons creating excessive and unusual loud noise to conform to the standards as herein provided whenever possible by voluntary compliance.

(Code 1966, § 10A-31)

Sec. 10-71. Prerequisites for violations.

No acts proscribed by sections 10-73 through 10-78 shall be deemed to be a violation thereof, unless and until the following conditions have been met:

- (a) The environmental officer has issued a warning citation to the offender.
- (b) The environmental officer has attempted to resolve the attendant problem which is the fundamental cause for the creation of the excessive and unnecessary loud noise complained of, with meaningful advice or suggestions for sound-control measures.
- (c) Within 15 days, the person or party causing such excessive and unnecessary noise has substantially and effectively disregarded the advice and assistance tendered by the environmental officer, and has persisted in the creating of such noise.
- (d) The operator of such process, equipment, machinery, plant or operation cannot prevent or avoid the resultant excessive and unusually loud noise thereby created because it is inherent in the nature of the activity.

(Code 1966, § 10A-32)

Sec. 10-72. Noise control measurement standards.

The noise from any activity or from any permissible use of property within the meaning of the applicable zoning district classifications of the city shall be deemed to be excessive and unusually loud if it exceeds the noise levels which are proscribed below, the measurement of which is based upon decibels, i.e., 0.0002 microbar, and day conditions referring to the time between 7:00 a.m. and 7:00 p.m. and night conditions referring to the time between 7:00 p.m. and 7:00 a.m. In making all such measurement as well as the method employed shall be consistent with the regulations of the American National Standards Institute or its successor bodies.

- (a) At no point on the boundary of or within a residential area zoned for 1- or 2-family dwellings and as a result of any fixed mechanical or electrical noise source outside of the property in question may the following sound pressure levels be exceeded:

Day: 55 dBA.

Night: 50 dBA.
- (b) At no point on the boundary of or within a residential area zoned for apartment living, and as a result of any fixed mechanical or electrical noise source outside of the property in question may the following sound pressure levels be exceeded:

Day: 55 dBA.

Night: 50 dBA.
- (c) At no point on the boundary of or within an area zoned for retail or commercial use and as a result of any fixed mechanical or electrical noise source outside of the property in question may the following sound pressure levels be exceeded:

Day: 60 dBA.

Night: 60 dBA.
- (d) At no point at distances of 50 feet or more from the boundary of a property zoned for light or restricted industry which contains a noise source or within the boundary of another adjacent light

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industrially zoned property may the following sound pressure levels due to the noise source be exceeded:

Day: 60 dBA.

Night: 60 dBA.

- (e) At no point at distances of 50 feet or more from the boundary of a property zoned for industrial use which contains a noise source or within the boundary of another industrially zoned property may the following sound pressure levels due to the noise source be exceeded:

Day: 65 dBA.

Night: 65 dBA.

All yards and terminals associated with railroads, and any student housing facility and accessory uses, shall be considered as industrial areas for the purposes of noise control.

The levels specified in this subsection shall be subject to a correctional factor of minus 5 dBA for noises of an impulsive, periodic or beating nature.

(Code 1966, § 10A-33; Ord. No. 5193, § 1, 1-24-12)

Sec. 10-73. Motor vehicles generally.

No person shall sell or offer for sale a new motor vehicle that produces a maximum noise level exceeding the following limit at a distance of 50 feet from the centerline of travel under test standards and recommendations as defined by the American National Standards Institute or its successor bodies, or the Society of Automotive Engineers or its successor bodies.

Type of vehicle:	Noise Limit
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- (a) Motorcycle:

Manufactured after January 1, 197386 dBA

Manufactured after January 1, 197580 dBA

Manufactured after January 1, 198075 dBA

- (b) Passenger cars, motor-driven cycles or any other vehicle under 8,000 pounds:

Manufactured after January 1, 197384 dBA

Manufactured after January 1, 197580 dBA

Manufactured after January 1, 198075 dBA

- (c) Any motor vehicle with a gross vehicle weight of 8,000 pounds or over:

After January 1, 197386 dBA

After January 1, 197580 dBA

After January 1, 198075 dBA

The manufacturer, distributor, importer or designated agent shall upon request certify in writing to the city that his vehicles sold within the city comply with the provisions of this section.

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(Code 1966, § 10A-34)

Sec. 10-74. Operation of motor vehicles.

No person shall operate within the city a motor vehicle or combination of vehicles of a type subject to registration at any time or under any conditions of grade, load, acceleration, deceleration in speed in such a manner so as to exceed the following noise level limits for the category of vehicle, based on a distance of not less than 50 feet from the centerline of the travel under test standards and recommendations as defined by the American National Standards Institute, or its successor bodies, or the Society of Automotive Engineers, or its successor bodies.

	Type of Vehicle	Period of Operation	Noise Limit	
			35 mph or less	35 mph or more
(a)	Motorcycle	Before 1 January 1975	78 dBA	82 dBA
		After 1 January 1975	74 dBA	78 dBA
(b)	Passenger cars, motordriven cycles, or any other motor vehicle under 8,000 pounds or combination of such vehicles	Before 1 January 1975	75 dBA	79 dBA
		After 1 January 1975	70 dBA	74 dBA
(c)	Any motor vehicle with a gross weight of 8,000 pounds or more	After 1 January 1973	86 dBA	90 dBA

This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provision of this Code relating to motor vehicle mufflers for noise abatement.

(Code 1966, § 10A-35)

Sec. 10-75. Idling motors.

It shall be unlawful for any person to operate any motor or a motor vehicle of a weight in excess of 8,000 pounds for a consecutive period of time longer than 2 minutes while such vehicle is standing on private property and located within 150 feet of property zoned and used for residential purposes, except where such vehicles are standing within a completely enclosed structure. Emergency vehicles and public transportation vehicles shall be exempt from this provision. Delivery vehicles shall be exempt when such a motor is an integral component of the delivery process in question.

(Code 1966, § 10A-36)

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Sec. 10-76. Mufflers.

No person shall modify or change the exhaust muffler, intake muffler or any other noise-abatement device of a motor vehicle in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured. Such procedures may be used to establish compliance of new motor vehicles with the requirements of this article.

(Code 1966, § 10A-37)

Sec. 10-77. Boats.

No person shall operate any engine-powered pleasure vessel, engine-powered craft or motor boat on any body of water, lake, canal or waterway within the city in such a manner as to exceed the following noise limit as measured at a distance of not less than 50 feet from the path of travel:

Before 1 January 1975 83 dBA

After 1 January 1975 74 dBA

(Code 1966, § 10A-38)

Sec. 10-78. Power tools.

No person shall sell or lease or offer for sale or lease any powered equipment or powered hand tool that produces a maximum noise level exceeding the following noise limits at a distance of 50 feet:

Equipment Type

- (a) Construction and industrial machinery such as crawler-tractors, dozers, rotary drills, and augers, loaders, saws, powered industrial hand tools, powered shovels, cranes, derricks, motor graders, paving machines, off-highway trucks or vehicles, ditchers, trenchers, compactors, scrapers, wagons, pavement breakers, pumps, generators, compressors, and pneumatic equipment, but not including pile drivers:

Noise

Limit

Manufactured after 1 January 1973 88 dBA

Manufactured after 1 January 1975 86 dBA

Manufactured after 1 January 1980 80 dBA

- (b) Powered equipment intended for repetitive use in residential areas including but not restricted to lawn mowers, riding tractors and small lawn and garden tools:

Manufactured after 1 January 1973 74 dBA

Manufactured after 1 January 1975 70 dBA

Manufactured after 1 January 1978 65 dBA

The manufacturers, distributors, importers or designated agent shall upon request certify in writing to the city that his products sold or leased within the city comply with the provisions of this section.

(Code 1966, § 10A-39)

Sec. 10-79. Special permits excepted.

The operational performance standards established by this article shall not apply to any public performance being conducted in accordance with the provisions of a special permit granted by the city for the conduct of a public performance.

(Code 1966, § 10A-40)

Sec. 10-80. Relief permit.

Applications for a permit for relief from the noise levels designated herein may be made on the basis of hardship to the city manager. A permit granted hereunder shall contain all conditions upon which the permit has been granted and shall specify a reasonable time period during which the permit shall be in effect. Relief may be granted if:

- (a) Additional time is required for the applicant to modify his activity to comply with this article;
- (b) The activity or noise source is of a highly temporary nature and the activity cannot be performed in a manner that will comply with this article;
- (c) No reasonable alternative is available to the applicant.

The city manager may prescribe any condition he deems necessary to minimize any adverse effect upon the community.

(Code 1966, § 10A-41)

Sec. 10-81. Penalty.

Any person who violates any provision of this article shall upon conviction thereof be subject to the penalty prescribed in section 1-16.

(Code 1966, § 10A-42)

Sec. 10-82. Motorcycles, trailbikes, minibikes, scooters.

It shall be unlawful and declared a public nuisance to use or operate any motorcycle, trailbike, minibike, scooter or vehicle as defined in F.S. § 316.003 which emits frequent or long continued noise that exceeds 75 decibels from a distance of 50 feet or which disturbs the comfort and repose of any person in the vicinity. This section shall not apply to those vehicles regulated by Florida Statute.

(Code 1966, § 10A-43)

Sec. 10-83. Certain acts prohibited.

- (1) Because it is inherent in the nature of the following specified acts that excessive and unusually loud noises will be generated, and because such noises are extremely objectionable to the residents of the city between the hours of 10:00 p.m. and 7:00 a.m., each of the following acts is declared to be a public nuisance when committed after 10:00 p.m. and before 7:00 a.m.:

The coupling or uncoupling of railroad cars.

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- (2) It shall be a violation of this section for any person to engage in any of the acts described in this section after 10:00 p.m. or before 7:00 a.m., or to permit an agent or employee to do so.
 - (3) The conditions set forth in section 10-71 as prerequisites for violations shall not be applicable to the acts prohibited by this section.
 - (4) To the extent that this section may be in conflict with any other provision of this article, this section shall prevail. However, this section shall not be construed to permit any activity otherwise prohibited by another provision of this article.

(Code 1966, § 10A-44)

Sec. 10-84. Railroad train whistles and horns.

It shall be unlawful and a public nuisance for any person operating a railroad train of a railroad company operating wholly within the state to blow or activate or permit to be blown or activated any horn or whistle from the railroad train after 10:00 p.m. and before 6:00 a.m. on any day, when the railroad train is within the city.

(Code 1966, § 10A-45)

Secs. 10-85—10-100. Reserved.

ARTICLE VI. NOISE

Sec. 34-166. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient sound level means the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds and those from the source under investigation. The ambient sound level is synonymous with background sound level. Ambient sounds are differentiated from extraneous sounds by the fact that the former are of a more steady state, although they may not be continuous. For purposes of this definition, the term "extraneous sound" means a sound of high intensity and relatively short duration which is neither part of the ambient sound, nor comes from the sound source under investigation.

Amplified sound means the use of any loudspeaker, public address system, amplifier, or any other device which electronically or mechanically augments the volume of sound including, by way of example, a radio, television set, bullhorn, or musical instrument.

Person means any individual, corporation, partnership, or other legal entity, or any agent or employee thereof.

Real property line means either:

- (1) The boundary line of a parcel;
- (2) The vertical and horizontal boundaries of a dwelling unit that is part of a multifamily dwelling; or
- (3) On a mixed-use property, the interface between the two portions of the property on which different categories of activity are being performed.

For purposes of this definition, the term "mixed-use property" means more than one type of use in a building or set of buildings with some combination of residential and nonresidential use, and the term "multifamily dwelling" means any building occupied or intended to be occupied by more than two families, living separately and with separate kitchens or facilities for cooking on the premises (which includes apartments, condominiums and coach homes, but does not include hotels, motels, bed and breakfasts, townhouses, or cluster dwellings).

Sound-affected site or unit means the location or dwelling unit of a person making a noise complaint.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency-weighting network, such as A, as specified in the latest revision of the ANSI Standard S1.4, "Specification for Sound Level Meters."

Sound level meter means an instrument that measures sound and conforms to ANSI S1.4-1983 or its successor publications.

Violator means any person that has committed or is alleged to have committed a Code violation or is legally responsible for a Code violation including, but not limited to, a property owner or his or her agent, tenant, or entity on the premises, or any combination thereof.

(Code 2006, § 34-121; Ord. No. 2016-18, § 2, 3-15-2016)

Sec. 34-167. General prohibition.

It shall be unlawful for any person to make, continue, cause to be made or continued, or permit to be made or continued (when the source of the amplified noise is within the reasonable control of that person) any unreasonably loud, excessive, unnecessary or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others, within the limits of the city.

(Code 2006, § 34-122; Ord. No. 2016-18, § 2, 3-15-2016)

Sec. 34-168. Declared a nuisance.

The making of any noise that is in violation of this article is hereby declared to be a nuisance.

(Code 2006, § 34-123; Ord. No. 2016-18, § 2, 3-15-2016)

Sec. 34-169. Enumerated prohibited acts.

The following acts, among others, are declared to be loud, excessive, unnecessary or unusual noises in violation of this article, but this enumeration shall not be deemed to be exclusive, namely:

- (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 in the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound or a siren, whistle or bell; and the sounding of any such device for any unnecessary and unreasonable period of time.
- (2) *Amplified sound.* The making of amplified sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, chamber, or outdoor private property in which such machine or device is operated and who are voluntary listeners thereto. The making of any such sounds:
 - a. Between the hours of 11:00 p.m. and 7:00 a.m. the following day on Sunday, Monday, Tuesday, Wednesday and Thursday; or
 - b. Between the hours of 12:00 midnight and 7:00 a.m. the following day on Friday and Saturday;in such manner as to be plainly audible at a distance of 100 feet from the source of the noise, or if the noise is emanating from a building, structure or vehicle, from any exterior edge of that building, structure or vehicle, shall be prima facie evidence of a violation of this section. Provided, however, that the making of amplified sound in connection with a special event or parade shall be governed by the applicable noise provisions in chapter 62 of this Code.
- (3) *Animals.* The owning, keeping, possessing or maintaining of any domesticated animal which vocalizes (howls, yelps, barks, squawks, or generates any other noise) where the vocalizing is plainly audible at or within the property line of the sound-affected site or unit, and where:
 - a. Such vocalizing continues for more than five minutes without interruption, which is defined as an average of ten or more vocalizations per minute; or
 - b. Such vocalizing is repeated an average of five times or more per minute for 20 or more consecutive minutes.

This subsection shall not apply if the domesticated animal is unreasonably provoked.

- (4) *Exhausts.* The discharge into the open air of the exhaust of a steam engine, stationary internal combustion engine, flushing of boat motors, or motor vehicle that creates unreasonably loud or explosive noises.
- (5) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or other motor vehicle so out of repair, so loaded or in such manner as to create unreasonably loud or unnecessary grating, grinding, rattling or other noise within a residential area.
- (6) *Mufflers.* Every motor vehicle, motorcycle and motor-driven cycle muffler that creates unreasonably, excessive or unusual noise.
- (7) *Schools, courts, hospitals.* The creation of any excessive or unreasonably loud noise on any street adjacent to any school, institution of learning, house of worship or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys the patients in the hospital, provided conspicuous signs are displayed in such streets indicating that it is a school, hospital or court street.
- (8) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.
- (9) *Loudspeakers, etc.* The use or operation on or upon the public streets, alleys and thoroughfares anywhere in the city for any purpose of any device known as a sound truck, loudspeaker or sound amplifier or any other instrument of any kind or character which emits loud and raucous noises.
- (10) *Power tools and landscaping equipment use by resident.* The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chainsaws, power tools and other noise-producing tools which are used to maintain the outdoors of a residence:
 - a. Between the hours of 8:00 p.m on Sunday, Monday, Tuesday, Wednesday and Thursday and 8:00 a.m. the following day;
 - b. Between the hours of 8:00 p.m on Friday and Saturday and 9:00 a.m. the following day.
 - c. On holidays, as established by section 1-2.
 - d. Permissible hours of use:

Power Tools and Landscaping Equipment Use by Resident		
Monday—Friday	Saturday—Sunday	Holidays
8:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.	Prohibited

- (11) *Outdoor maintenance equipment use by commercial entity.* The use of maintenance equipment, by a commercial entity or business, which creates a loud, excessive, unnecessary or unusual noise in connection with the operation of said equipment within 100 feet of any residential area:
 - a. Between the hours of 6:00 p.m. on Monday, Tuesday, Wednesday, and Thursday and 8:00 a.m. the following day;
 - b. Between the hours of 6:30 p.m. on Friday and 9:00 a.m. on Saturday;
 - c. Between the hours of 5:00 p.m. on Saturday and 8:00 a.m. [on] Monday;
 - d. On holidays, as established by section 1-2.
 - e. Permissible hours of use:

Outdoor Maintenance Equipment Use by Commercial Entity
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Sunday	Monday— Thursday	Friday	Saturday	Holidays
Prohibited	8:00 a.m. to 6:00 p.m.	8:00 a.m. to 6:30 p.m.	9:00 a.m. to 5:00 p.m.	Prohibited

- f. The use of outdoor maintenance equipment on all golf courses and parks located within the City is exempt from the hours of operation restrictions under section 34-169(11).
- g. The use of outdoor maintenance equipment by, or on behalf of, the city of Coral Gables is exempt from the hours of operation restrictions under section 34-169(11).

Commercial maintenance equipment includes, by way of example, noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chainsaws, power tools and other noise-producing tools, where that noise is generated by a third party commercial maintenance company, rather than by the lawful owner or tenant of the premises.

- (12) *Construction noise.* Any site preparation, assembly, erection, substantial repair, alteration, delivery of materials, demolition or similar action, which disturbs the peace and quiet of the neighborhood, on public or private property, rights-of-way, structures, utilities or similar property:
 - a. Between the hours of 6:00 p.m. and 7:30 a.m. the following day on Monday, Tuesday, Wednesday, and Thursday;
 - b. Between the hours of 6:00 p.m. on Friday and 9:00 a.m. on Saturday;
 - c. Between the hours of 5:00 p.m. on Saturday and 7:30 a.m. Monday;
 - d. On holidays, as established by section 1-2, unless waived by the city manager or designee.
- (13) *Steady, mechanical noise.* The use of an air conditioner, electric motor, pool pump, exhaust fan, filter, or similar noise-producing mechanical equipment which creates a noise that exceeds the following sound levels:

TABLE 1: Maximum Permitted Sound Levels in Decibels (dBA)		
Receiving Zoning District	Between the hours of 11:00 p.m. and 7:30 a.m. the following day on Sunday, Monday, Tuesday, Wednesday and Thursday; and between the hours of midnight and 9:00 a.m. the following day on Friday and Saturday.	All other times.
Single-family Residential District	5 dBA above ambient sound level or maximum of 55 dBA	10 dBA above ambient sound level or maximum of 60 dBA
Multifamily 1 Duplex District, Multifamily 2 District, and Multifamily Special Area District	5 dBA above ambient sound level or maximum of 60 dBA	10 dBA above ambient sound level or maximum of 65 dBA
All Other Districts	5 dBA above ambient sound level or maximum of 65 dBA	10 dBA above ambient sound level or maximum of 65 dBA

The sound levels in Table 1 above shall be measured from the real property line of the sound-affected site or unit, and the zoning district where the sound-affected site or unit is located shall apply. The sounds levels shall be measured with a sound level meter manufactured according to standards

prescribed by the American National Standards Institute. This subsection (13) shall not apply to noise generated pursuant to a valid construction permit.

(14) *Shouting.* Any unreasonably loud, boisterous or raucous shouting in any residential area.

(Code 2006, § 34-124; Ord. No. 2016-18, § 2, 3-15-2016; Ord. No. 2018-12, § 2, 4-24-2018)

Sec. 34-170. Exemptions.

The terms and prohibitions of this article shall not be applied to or enforced against:

- (1) Any motor vehicle, boat or other vehicle of the city, the county or the state or licensed public utility vehicle within the city while engaged in necessary emergency or public business.
- (2) Emergency work of public service utilities by or on behalf of the city, the county, or the state, or performance of such work during the night if the public welfare and convenience renders it impossible to perform such work during the day.
- (3) Reasonable noise generated for purpose of alerting persons to the existence of an emergency or to other dangers; reasonable noise generated in the performance of reasonable actions taken in response to an emergency or danger, including, but not limited to, the routine testing, if performed during the allowable hours of 11:00 a.m. to 2:00 p.m., Monday through Friday, and operation of emergency backup energy generators; and reasonable noise generated in the testing of devices used for purposes of alerting persons to the existence of an emergency. Reasonable noise generated from the routine testing and operation of emergency backup energy generators shall not exceed a sound level of 80 dBA, when measured from the nearest property line. Except that, for the routine testing and operation of emergency backup energy generators located in single-family residential properties or properties abutting a single-family residential lot, the sound level shall not exceed 70 dBA, when measured from the nearest property line. All emergency backup energy generators installed with appropriate permits in buildings that have received a certificate of occupancy, temporary certificate of occupancy, or in the case of a single-family home, have been permitted by the city and the permit has been closed, prior to November 9, 2021, are grandfathered in and exempt from the maximum dBA sound levels set forth herein, but must comply with the hours for routine testing. The reasonable noise generated from the routine testing and operation of any emergency backup energy generators installed after November 9, 2021, whether as a new installation, a replacement, or as an additional emergency backup energy generator, must comply with the applicable sound levels set forth herein. Notwithstanding anything to the contrary in this subsection, reasonable noise generated from the operation of emergency portable generators during a weather-related state of emergency in effect in the city shall be exempt from the maximum sound levels set forth herein.
- (4) Sanitation operations which include the unloading, emptying or collection of any waste or recyclable container, provided that that operation is conducted between the hours of 7:00 a.m. and 10:00 p.m.
- (5) Noise generated by any aircraft or generated in connection with the operation of any airport.
- (6) Noise generated from igniting fireworks which comply with section 42-30.
- (7) Outdoor live amplified music on private property at the ground-level located in the central business district, subject to the following conditions:
 - a. The establishment must have a permit for outdoor live amplified music approved by the city manager (or his or her designee) after having submitted a plan indicating the location where the outdoor live amplified music will be performed and any noise attenuation that will be implemented by the establishment. Outdoor live amplified music permit may be issued only to establishments with active outdoor dining permits. The city manager may, in his or her

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discretion, revoke or amend the permit for outdoor live amplified music of any establishment, following both verbal and written warnings due to violations of any of the conditions of the permit or of this subsection. Revocation or amendment of an outdoor live amplified music permit under this subsection may be appealed by the holder of the permit, in writing, to the city clerk within 14 days of the written revocation of the permit. The city manager or his or her designee shall have five days to respond in writing. A special magistrate appointed by the city will promptly review the filings and will render a written order.

- b. The "outdoor live amplified music" shall consist only of vocal and instrumental music that is performed live only and may be amplified through the use of loudspeakers.
- c. The outdoor live amplified music event must be performed completely within the private property of a single establishment located in the central business district.
- d. At no time shall the total occupancy for the private establishment be exceeded.
- e. The outdoor live amplified music shall only be allowed on Fridays between the hours of 5:00 p.m. and 11:00 p.m.; on Saturdays between the hours of noon and 11:00 p.m.; and on Sundays between the hours of noon and 9:00 p.m. If a holiday, as defined in section 1-2 falls on or is observed by the city on a Monday, then the outdoor live amplified music shall be allowed on the preceding Sunday until 11:00 p.m.
- f. No platforms, stages, or other temporary structures or any equipment that would otherwise require a building permit, shall be erected or installed for purposes of performing the outdoor live amplified music.
- g. The performance of the outdoor live amplified music shall not constitute a "special event" as defined in section 62-254 of the City Code.
- h. The permit issued by the city manager (or his or her designee) after review of the establishment's plan and proposed noise attenuation, shall set the maximum sound level for the outdoor live amplified music and the distance at which the sound level shall be measured, but in no case shall the sound level of the outdoor live amplified music exceed 85 dBA when measured with a sound level meter manufactured according to standards prescribed by the American National Standards Institute, 100 feet from the real property line of the private establishment at which the outdoor live amplified music is being performed.
- i. To the extent that any other regulation of the city that applies to establishments along Miracle Mile or Giralda Plaza is in conflict with these provisions, such regulation shall govern as to those establishments along Miracle Mile or Giralda Plaza.

(Code 2006, § 34-125; Ord. No. 2016-18, § 2, 3-15-2016; Ord. No. 2021-22, § 2, 7-13-2021; Ord. No. 2021-39, § 2, 11-9-2021)

Sec. 34-171. Enforcement.

This article shall be enforced by the city's police department or any code enforcement official of the city authorized to enforce this article.

(Code 2006, § 34-126; Ord. No. 2016-18, § 2, 3-15-2016)

Sec. 34-172. Penalties.

- (a) A city police or code enforcement official who finds a violation of this article shall issue a verbal warning to the violator to immediately correct the violation.
- (b) After a verbal warning, any person continuing to be in violation of the provisions of this article shall be deemed guilty of an offense and shall be assessed a fine as provided in section 1-7 until the person corrects the violation.
- (c) Notwithstanding subsections (a) and (b) of this section, a fine as provided in section 1-7(c)(3) may be imposed if the code enforcement board or a special magistrate finds the violation to be irreparable or irreversible in nature. In determining the amount of the fine, if any, the enforcement board or special magistrate shall consider the following factors:
 - (1) The gravity of the violation;
 - (2) Any actions taken by the violator to correct the violation; and
 - (3) Any previous violations committed by the violator.

(Code 2006, § 34-127; Ord. No. 2016-18, § 2, 3-15-2016)

Secs. 34-173—34-197. Reserved.

ARTICLE IV. SOUND¹

DIVISION 1. GENERALLY

Sec. 13-102. Sound disturbances prohibited.

It shall be unlawful for persons to make, continue or cause to be made, any excessive, unnecessary or unusually loud sound, which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of normal sensibilities, within the town limits, as prohibited in this article.

(Code 1992, § 13-81; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 2, 7-21-2020)

Sec. 13-103. Loud and unnecessary sounds.

The acts enumerated in this article, among others, are declared to be loud, disturbing and unnecessary sounds which create a public nuisance, and which constitute a violation of this article. Such enumeration shall not be deemed to be exclusive.

(Code 1992, § 13-82; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 2, 7-21-2020)

Sec. 13-104. Horns, signaling devices, etc.

It is unlawful to sound any horn or signaling device on any automobile, motorcycle, truck, or other vehicle on any street or public place of the town, or on private property, if the sound exceeds the standards established herein as measured from any private property or public place which is adjacent thereto, except as a danger warning, which creates any unreasonably loud or harsh sound for an unnecessary and unreasonable period of time, including the use of any signaling device, except one operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up.

(Code 1992, § 13-83; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 2, 7-21-2020)

Sec. 13-105. Railroad train whistle and horn sound pollution.

- (a) It shall be unlawful and a public nuisance for any person operating a railroad train to blow or activate or permit to be blown or activated any horn or whistle from the railroad train in advance of signalized public grade crossings after 10:00 p.m. and before 6:00 a.m. on any day, when the railroad train is within the town.
- (b) The provisions of this section shall be applicable only to public at-grade railroad crossings which are equipped with operating train-activated automatic traffic control devices, which shall include flashing lights, bells and crossing gates on both sides of the railroad train track.
- (c) Each day or portion thereof of continuing violation shall be deemed a separate violation of this section.

¹State law reference(s)—Motor vehicle noise, F.S. §§ 316.293, 403.415.

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- (d) As a prerequisite to the enforcement of this section, signs shall be erected at the crossings involved announcing that the railroad train horns and whistles will not be sounded during the aforesaid hours.

(Code 1992, § 13-84; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20, § 2, 7-21-2020)

State law reference(s)—Authority for this section, F.S. § 351.03(4).

Sec. 13-106. Operation of indoor sound amplification devices.

It is unlawful to use, operate or permit to be played, used or operated any indoor or in-vehicle sound amplification device, for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, pedestrians, or operators of vehicles with sound emanating therefrom which is louder in volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated. The operation of any such sound amplification 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 a pedestrian, room, building, structure or vehicle in which said machine or device is being operated shall be prima facie evidence of a violation of this section.

(Code 1992, § 13-85; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20, § 2, 7-21-2020)

Sec. 13-107. Outdoor sound.

- (a) It is unlawful to create outdoor sound or to use, operate or permit to be played, used, or operate any outdoor sound amplification device for the production or reproduction of sound between the hours of 11:00 p.m. and 7:00 a.m. which exceed the levels established in table 1, or for an approved and certified outdoor venue, the levels established in table 2.
- (b) All outdoor sounds including those emanating from an outdoor amplification device in any sound zone or within the public right-of-way shall be limited in volume so as not to exceed the regulations established herein.
- (c) Outdoor sound amplification devices associated with properties which have been approved and certified as an outdoor venue shall not exceed the sound volumes or the hours of operation as established in table 2 or unless they have obtained special permits pursuant to chapter 27, article IV entitled "special permits."

(Code 1992, § 13-86; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 08-10, § 3, 11-16-2010; Ord. No. 1-16, § 3, 6-21-2016; Ord. No. 14-20, § 2, 7-21-2020)

Sec. 13-108. Outdoor venue.

Outdoor venue. An outdoor venue may be approved to have the standards in table 2 applied for the use of sound amplification devices used as part of an outdoor venue and may be operated an additional hour until 12:00 a.m., provided all of the following are met:

- (1) Exterior sound standards of section 13-144, table 2.
- (2) The town council has approved a site plan which identifies the location and details of all sound amplification devices within a property intended to be an outdoor venue. The plan shall illustrate the means and methods the property owner will implement to minimize the projection of sound beyond the outdoor venue's upland property lines to the upland property line of adjacent properties.
- (3) Details and specifications of any proposed sound amplification device which demonstrates that the sound is being transmitted through a professional sound system.

-
- (4) The use of a professional sound system to control sound amplification with an automatic sound limiter and tamper-resistant volume control limiter. The volume shall be set and locked at and below the maximum permitted decibel level for the property at its upland property line. The sound levels from the outdoor venue shall not exceed the decibel levels established for the zoning district in which the outdoor venue is located, and the decibel levels established at the property line for properties located in adjacent zoning districts. The town shall be provided with the sound data report from the automatic sound limiter and access to the sound system upon request. The failure to provide the town with the sound data, or the refusal to provide the town with access to the data from the automatic sound limiter shall be an irreparable violation of this section.
 - (5) The installation of such sound attenuation at an adequate height, length and density such as perimeter walls, berming or other barriers around the perimeter of the outdoor venue as necessary to ensure that the sound standards herein are met.
 - (6) Property owners who have an approved and certified outdoor venue shall submit an annual event program schedule to the town by October 1 of each year identifying the events for the following calendar year, and designate which events, if any are recurring events and those which require a separate special permit. The annual event program schedule shall be subject to the town council's review and approval regarding the frequency of the events proposed and to ensure the public's safety at the outdoor venue.

(Ord. No. 14-20 , §§ 3, 4, 7-21-2020)

Ord. No. 14-20 , §§ 3, 4, adopted July 21, 2020, added a new § 13-108, renumbering former §§ 13-108—13-119 as 13-109—13-120. The historical notation remains with the renumbered provisions.

Sec. 13-109. Yelling, shouting, etc.

It is unlawful to yell, shout, hoot, whistle, or sing 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.

(Code 1992, § 13-87; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-110. Animals and birds.

It is unlawful for any person to own, possess or harbor any animal or bird which creates frequent or sustained sounds, such as howling, barking, meowing, or squawking so as to disturb neighboring residents.

(Code 1992, § 13-88; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-111. Tire screeching.

The intentional and/or repeated creation of a sound disturbance through the acceleration, turning, or stopping of any motor vehicle is prohibited.

(Code 1992, § 13-89; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-112. 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 sounds therefrom, is prohibited.

(Code 1992, § 13-90; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-113. Defect in vehicle or load.

The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in any other such manner as to create loud and unnecessary grating, grinding, rattling or other sound or sound disturbance is prohibited.

(Code 1992, § 13-91; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-114. Loading, unloading, and unpacking.

No person shall load, unload, pack or unpack or open crates, boxes or containers on any vehicle as to create a sound disturbance across a residential sound zone between the hours of 10:00 p.m. and 7:00 a.m. This section shall not apply to holders of solid waste franchises or to any solid waste collection.

(Code 1992, § 13-92; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-115. Construction or repairing of buildings.

The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays (Monday through Friday), and on Saturdays between the hours of 8:00 a.m. and 4:00 p.m., except in case of urgent necessity in the interest of public health and safety, is prohibited without specific permission from the town manager or his designee. Permission may be granted for a period not to exceed three days while the emergency continues and may be renewed for periods of three days or less while the emergency continues. If the town manager determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 8:00 p.m. and 7:00 a.m., and if he determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 8:00 p.m. and 7:00 a.m. Application for such permission shall be made to the town manager at the time the permit for the work is awarded or during the progress of the work.

(Code 1992, § 13-93; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-116. Schools, courts, churches, and hospitals.

The creation of any excessive sound on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of

such institution, or which disturbs or unduly annoys patients in the hospital, is prohibited. Conspicuous signs shall be displayed in such streets indicating that it is a street in which there is a school, church, hospital or court.

(Code 1992, § 13-94; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-117. Hawkers; peddlers.

- (a) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood is prohibited.
- (b) The use of any drum or other instrument or device for the purpose of attracting attention, by creation of sound, to any performance, show or sale is prohibited.
- (c) However, the selling by shouting or outcry of merchandise, food, and beverages at licensed sporting events, stadiums, parades, fairs, circuses, approved special events, and other similar public entertainment events is permitted.

(Code 1992, § 13-95; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-118. Lawn maintenance equipment.

The operation of lawn mowers, edgers, trimmers, chainsaws, and power-driven hedge shears in a residential sound zone, or within 500 feet thereof, is prohibited between the hours of 10:00 p.m. and 7:00 a.m.

(Code 1992, § 13-96; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-119. Power tools.

No person shall operate within a residential sound zone, or within 500 feet thereof, any power equipment, excluding construction equipment used for construction activities, such as, but not limited to, chain saws, pavement breakers, log chippers, riding tractors, and power hand tools, between the hours of 10:00 p.m. and 7:00 a.m. This section shall not apply if the sound produced by such power equipment cannot be heard outside that person's residence.

(Code 1992, § 13-97; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Sec. 13-120. Blowers, fans, or internal combustion engines.

The operation of any sound-creating blower or power fan or any internal combustion engine, the operation of which causes sound due to the explosion of operating gases or fluids, is prohibited unless the sound from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to reduce such sound to meet the applicable sound zone standards as set forth in section 13-144.

(Code 1992, § 13-98; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 4, 7-21-2020)

Editor's note(s)—See the editor's note to § 13-108.

Secs. 13-121—13-136. Reserved.

DIVISION 2. DECIBEL LEVELS

Sec. 13-137. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted sound level means the total sound level of all sound measured with a sound level meter with reference to a pressure of 20 micropascals using the A-weighting network (scale) and slow time response. The unit of measurement is the A-weighted dBA.

Ambient noise means the all-encompassing sound associated with a given environment, being usually a composite of sounds from all sources, excluding the alleged offensive sound, at the location and approximate time at which a comparison with the alleged offensive sound is to be made.

Bel means a unit of sound power level when the base of the logarithm is ten. Use of the bel is restricted to levels of quantities proportional to power.

Certified outdoor venue means a property that has been approved by the town council for an exception to the sound regulations regarding hours of operation and frequency of events and has met all of the requirements of section 13-108, and, if applicable, the conditions of a development approval.

Decibel (dB) means one-tenth of a bel and is a unit of sound level when the base of the logarithm is the ten root of tenth, and the quantities concerned are proportional to pressure.

Emergency work means work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

Fixed sound source means a stationary device which creates sounds while fixed or motionless, including, but not limited to, residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

Mechanical equipment means implements and tools produced or operated by a machine, that are used to provide energy, light, heat, air or broadcast telecommunication services to a building, structure and/or property. This includes, but is not limited to, air-conditioning units, pool equipment, satellite dishes, gas tanks (aboveground only), solar panels, antennas and generators.

Microbar means a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

Mobile sound source means any sound source other than a fixed sound source.

Sound zone means that area designated as residential, commercial, mixed use or industrial on the official town zoning map. For the purpose of sound zones, public institutional and quasi-public institutional properties are designated as residential sound zones.

Period of a periodic quantity means the smallest increment of time for which the function repeats itself.

Periodic quantity means an oscillating quantity, the values of which recur for equal increments of time.

Sound amplification device means a machine, equipment or device used to expand, or make sound greater or louder.

Sound level meter means an instrument including a microphone, an amplifier, an output display and frequency weighting and time averaging networks for the measurement of sound and sound levels in a specified manner.

Sound pressure level, in decibels of sound, means 20 times the logarithm to the base ten of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.

(Code 1992, § 13-116; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20, § 5, 7-21-2020)

Sec. 13-138. Manner of enforcement.

Violations of this division shall be prosecuted in the same manner as other violations of the town's codes and ordinances. In the event the alleged violator cannot be located in order to serve the notice of violation, the notice required in this division shall be deemed to be given upon posting pursuant to F.S. ch. 162, or in such other manner as may be permitted by law.

(Code 1992, § 13-117; Ord. No. 12-02, § 2, 5-21-2002)

Sec. 13-139. Exemptions.

The following uses and activities are exempt from the exterior sound standards of section 13-144:

- (1) Sound from safety signals, warning devices, and emergency pressure relief valves.
- (2) Sound from any authorized emergency vehicle when responding to an emergency call or acting in a time of emergency.
- (3) Sound from emergency work as defined in section 13-137.
- (4) Any sound of a temporary duration from activities permitted by law and for which a license or permit has been granted by a town, county, state or federal agency with jurisdiction in accordance with section 13-141.
- (5) Sound from public facilities including, but not limited to, school bells, loudspeakers, clock towers, alarms, and mechanical equipment.
- (6) Sound from civic or community events sponsored by the town or another governmental agency.
- (7) Sound associated with an activity which has received a special event permit, unless limited by conditions of the special event permit approval.
- (8) Sound from religious services or the practice of religion conducted on property whose zoning permits such use, except that the sound may not exceed 70 dBA for a period of 30 or more seconds across a residential sound zone on other properties. Sound in excess of lawful standards resulting from non-religious services conducted on the property shall be subject to a special event permit.
- (9) Sound from a portable generator or a permanent standby generator during a power utility outage, or for the time it takes to perform a maintenance cycle, one time a week, for a period not exceeding 30 minutes, and only between the hours of 10:00 a.m. to 5:00 p.m.

(Code 1992, § 13-119; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 1-16, § 4, 6-21-2016; Ord. No. 39-17, § 4, 1-16-2018)

Sec. 13-140. Reserved.

Ord. No. 14-20 , § 6, adopted July 21, 2020, repealed § 13-140, which pertained to standards for enforcement of § 13-102, and derived from the Code of 1992; and Ord. No. 12-02, adopted May 21, 2002.

Sec. 13-141. Reserved.

Ord. No. 14-20 , § 7, adopted July 21, 2020, repealed § 13-141, which pertained to application for noise permit, and derived from the Code of 1992; and Ord. No. 12-02, adopted May 21, 2002.

Sec. 13-142. Designated sound zones.

The properties described herein below are assigned the following sound zones:

- (1) Residential sound zone. All properties in a residential, conservation, public institutional and quasi-public institutional zoning district and the neighborhood subdistricts of the mixed used development (MXD) zoning district.
- (2) Commercial sound zone. All properties in a commercial or medical center zoning district.
- (3) Mixed use sound zone. All properties in the Inlet Village, US One/Intracoastal Waterway and MXD zoning districts, excluding the neighborhood subdistricts of the MXD zoning district.
- (4) Industrial sound zone. All properties in an industrial zoning district.

(Code 1992, § 13-122; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 08-10, § 4, 11-16-2010)

Sec. 13-143. Enclosed places of public entertainment.

- (a) It shall be unlawful to sustain in any enclosed place of public entertainment including, but not limited to, a restaurant, bar, cafe, club, nightclub, discotheque, or dance hall, a sound decibel equal to or in excess of 95 dBA sustained for more than 30 seconds.
- (b) Such sound shall be measured by a sound level meter approved by the American National Standards Institute from any area to which the public is invited within any enclosed place of public entertainment.

(Code 1992, § 13-124; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 14-20 , § 8, 7-21-2020)

Sec. 13-144. Exterior sound standards.

- (a) The following sound standards, as measured at a three-minute equivalent continuous sound level (Leq), shall apply to all property with a designated sound zone:

Table 1. Allowable Exterior Sound Levels per Sound Zone
(Measured at a Three-Minute Leq)

<i>Zone</i>	<i>Daytime Leq (7:00 a.m. to 10:00 p.m.)</i>	<i>Nighttime Leq (10:00 p.m. to 7:00 a.m.)</i>
Residential sound zone	55 dBA	45 dBA
Mixed use sound zone	60 dBA	50 dBA

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(Supp. No. 14)

Commercial sound zone	65 dBA	55 dBA
Industrial sound zone	70 dBA	60 dBA

Table 2. Allowable Exterior Sound Levels per Sound Zone for Outdoor Venues Approved With Extended Hours
(Measured at a Three-Minute Leq)

<i>Zone</i>	<i>Daytime Leq (7:00 a.m. to 11:00 p.m.)</i>	<i>Transitional Nighttime Leq (11:00 p.m. to 12:00 a.m.)</i>	<i>Nighttime Leq (12:00 a.m. to 7:00 a.m.)</i>
Residential sound zone	55 dBA	45 dBA	45 dBA
Mixed use sound zone (properties with residential)	60 dBA	50 dBA	50 dBA
Mixed use sound zone (properties without residential)	65 dBA	55 dBA	50 dBA
Commercial sound zone	65 dBA	55 dBA	50 dBA
Industrial sound zone	70 dBA	60 dBA	55 dBA

- (b) It is unlawful for any person at any location within the incorporated area of the town to create any sound, or to allow the creation of any sound, on property owned, leased, occupied or otherwise controlled by such person or business, which causes the sound level when measured on any other property line to exceed either of the following:
- (1) The sound levels listed in Table 1 or Table 2, based on the property's designated sound zone, based on a three-minute, A-weighted Leq.
 - (2) A maximum A-weighted instantaneous sound level or peak measurement value which is greater than or equal to the relevant sound standard by ten dBA for any time period for sounds from mechanical equipment.
- (c) If the sound measurement location is on a boundary between two different abutting sound zones, the standard to be applied shall be the logarithmic dBA average of the standards from the respective sound zones (see Table 3). The sound levels shall not be averaged if the two sound zones are separated by another property, public or private right-of-way or a waterway. If an acoustically effective intervening wall or barrier exists between the sound source of concern and the sound-sensitive receiver, the effects of the wall shall be considered. Otherwise, the sound measurements may be conducted along the vertical plane of the property boundary or anywhere else on the receiving property.

Table 3. Logarithmic Averages [Leq dBA]

	Sound Standard Value (Receiving Property)
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Sound Standard Value (Generating Property)	45	50	55	60	65	70	75
45	45	48	52	57	62	67	72
50	48	50	53	57	62	67	72
55	52	53	55	58	62	67	72
60	57	57	58	60	63	67	72
65	62	62	62	63	65	68	72
70	67	67	67	67	68	70	73
75	72	72	72	72	72	73	75

- (d) The operation of an outdoor sound amplification device in such a manner as to be plainly audible by a town police officer or code compliance officer who has been given permission by the property owner or tenant to enter in any residential dwelling unit (measured with the windows and doors closed) which is located 150 feet or more from the property line where said sound amplification device is being operated shall be prima facie evidence of a violation of this section.

(Code 1992, § 13-125; Ord. No. 12-02, § 2, 5-21-2002; Ord. No. 08-10, § 5, 11-16-2010; Ord. No. 1-16, § 5, 6-21-2016; Ord. No. 39-17, § 5, 1-16-2018; Ord. No. 14-20, § 9, 7-21-2020)

Secs. 13-145—13-171. Reserved.

ARTICLE IV. NOISE CONTROL¹

Sec. 18-101. Short title.

This article shall be known and may be cited as the "City of Marco Island Noise Control Ordinance."

(Ord. No. 20-05 , § 2, 10-5-2020)

Sec. 18-102. Intent and purpose.

- (a) It is the public policy of the city that every person is entitled to ambient sound levels that are not detrimental to life, health, and enjoyment of his or her property.
- (b) The Marco Island City Council finds that unreasonably excessive noise degrades the environment of the city to a degree that such noise:
 - (1) Is harmful to the health, safety, and welfare of city residents and visitors; and
 - (2) Interferes with the comfortable enjoyment of life and property; and
 - (3) Interferes with the well-being, tranquility, and privacy of one's home; and
 - (4) Can cause and aggravate health problems.
- (c) The effective control of unreasonably excessive noise is essential to the health, safety, and welfare of city residents and visitors, and fosters the comfortable enjoyment of life, including, but not limited to, recreation, work, communication, and rest.
- (d) This section is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of residents and visitors of the City of Marco Island through the control, reduction, and prevention of unreasonably excessive noises that disturb, injure, or endanger the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivities.
- (e) Nothing contained in this section is intended to infringe upon the constitutionally protected rights guaranteed by the Florida Constitution and the First Amendment of the United States Constitution. This section enacts narrowly drawn; content-neutral regulations that are to be interpreted to not unduly restrict constitutionally protected rights.

(Ord. No. 20-05 , § 2, 10-5-2020)

Sec. 18-103. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

¹Editor's note(s)—Ord. No. 20-05 , § 2, adopted Oct. 5, 2020, amended Art. IV in its entirety to read as set out herein. Former Art. IV, §§ 18-101—18-110, pertained to similar subject matter and derived from Ord. No. 01-31, §§ 1—10, adopted Nov. 5, 2001; Ord. No. 15-06 , § 2, adopted April 6, 2015.

A-weighted sound level means the sound pressure level in decibels as measured with a sound level meter using the A-weighting network as described in ANSI S1.4-1983 issued by the American National Standards Institute. The unit of measurement is the dBA.

Ambient noise means the surrounding or steady background noise, as distinguished from the specific noise which is the subject of the attempted measurement.

C-weighted sound level means the sound pressure level in decibels as measured with a sound level meter using the C-weighting network as described in ANSI S1.4-1983 issued by the American National Standards Institute. The unit of measurement is the dBC.

Construction means any site preparation, assembly; erection, substantial repair, alteration (or similar action) of structures, utilities, public or private right-of-way or similar things. Construction does not include demolition.

Completely enclosed building means a building separated on all sides from adjacent open space or from other buildings by permanent roof and by exterior walls or party walls, pierced only by closed windows and normal entrance or exit doors. Such doors shall not be kept open except for normal ingress and egress.

Commercial zone means uses and activities on lands primarily intended for business or commercial use.

Decibel (dB) means a unit for measuring the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

Device means a mechanism which is intended to produce, or which actually produces noise when operated or handled.

Duplex means a structure containing two dwelling units.

Enforcement official means any Florida certified law enforcement officer, or community service officer/deputy, or code enforcement officer.

Emergency means any occurrence or set circumstances involving actual or imminent physical injury to persons or property which demands immediate action. It shall be the burden of the alleged violator to prove the "emergency".

Emergency vehicle means a motor vehicle or vessel used by fire-rescue/emergency medical personnel, law enforcement, community service officers, or code enforcement officers, or a motor vehicle or vessel used in response to a public calamity or to protect persons or property from imminent danger.

Emergency work means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from an imminent exposure to danger.

Equivalent sound pressure level means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying sound.

Frequency means the number of complete fluctuations per second of the sound wave.

Intensity (or loudness) means the magnitude of the fluctuation measured in atmospheric pressure units or microbars.

Governmental entity means any federal, state, county, municipal, district, board or separate unit of government created or established by law.

Holiday means those days designated as legal holidays by the City of Marco Island and federal government.

Institutional zone means uses and activities on lands primarily intended for non-residential or commercial activity such as public lands, schools, churches, or conservation areas.

Motor vehicle means any self-propelled vehicle, such as, but not limited to, passenger cars, trucks, truck trailers, semitrailers, campers, motorcycles, minibikes, go-carts, amphibious craft on land, and dune buggies or racing vehicles which are propelled by mechanical power.

Motorboat means any vehicle which is primarily operated on water or which does operate on water, such as boats, barges, amphibious craft, or hover craft, and which is propelled by mechanical power.

Muffler means any apparatus consisting of baffles, chambers, or acoustical absorbing material whose primary purpose is to transmit liquids or gases while causing a reduction in sound emission at one end.

Multifamily dwelling means a structure containing more than two dwelling units.

Noise means any sound, which because of its volume level, duration, and character, disturbs, injures, endangers the comfort, health, peace, or safety, or is a nuisance to reasonable persons of ordinary sensibilities. Noise disturbance means any sound which endangers or injures the health of humans or disturbs a reasonable person of ordinary sensitivities.

Period of observation means the time interval during which noise and facts are obtained by enforcement officials.

Person means any natural person, individual, association, partnership, corporation, municipality, governmental agency, business trust, estate, trust, two or more persons having a joint or common interest or any other legal entity and includes any officer, employee, department, agency or instrumentality of the United States, a state or any political subdivision of a state or any other entity whatsoever or any combination of such, jointly or severally.

Person(s) responsible means, but, is not limited to, any person who has any manner of control over a property, premises, dwelling, structure, location, business, vehicle, device, stereo, or source of sound and may include, but is not limited to, any property owner, tenant, subtenant, business owner, resident, operator or person having operational control, person(s) creating or controlling the volume of sound, property manager, or person(s) in charge or otherwise authorized to make decisions regarding the use of sound equipment, or any combination of such, jointly and severally.

Plainly audible means any sound that can be clearly heard and understood by a reasonable person using such person's ordinary auditory senses, so long as the person's hearing is not enhanced by any device, such as a hearing aid.

Powered model vehicles means any powered vehicles, either airborne, waterborne or landborne, which are designed not to carry persons or property, such as, but not limited to, model airplanes, boats, cars, rockets, and which are being propelled by mechanical means.

Private right-of-way means any street, avenue, boulevard, highway, sidewalk, bike path, or alley, or similar place, which is not owned or controlled by a governmental entity.

Property boundary means an imaginary line exterior to any enclosed structure, at the ground surface, which separates the real property owned by one person from that owned by another person, and its vertical extension.

Public right-of-way means any street, avenue, boulevard, highway, alley, or public space, which is dedicated to, owned, or controlled by a public governmental entity.

Public space means any property or structures thereon normally accessible to the public.

Receiving property means at or within the property line, which is receiving sound from another property, but does not include public rights-of-way.

Residential zone means uses and activities on lands primarily intended residential use.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

Sound source means any person, animal, device, operation, process, activity, or phenomenon that emits or causes sound.

Unreasonably excessive noise from a property means sound from any property, which is unreasonably loud and raucous meaning any sound that, because of its volume level or duration, jars, injures, or endangers the health, safety, welfare, or wellbeing of a reasonable individual of ordinary sensibilities. Unreasonably excessive noise violations are considered irreversible or irreparable.

Volume means the degree of intensity, audibility, quality, strength, or loudness of sound.

Weekday means any day, Monday through Friday, which is not a holiday.

(Ord. No. 20-05 , § 2, 10-5-2020)

Sec. 18-104. General noise prohibitions.

- (a) *Prohibition of unreasonably excessive noise from a property.* It shall be unlawful for any person(s), including the property owner(s), to permit, cause, allow, create, emit, or sustain unreasonably excessive noise from a property, including air space thereof, located in the City of Marco Island. Noise violations are considered irreversible and irreparable.
- (b) *Prima facie evidence.* For the purposes of this subsection, the following shall constitute prima facie evidence that a sound (whether recurrent, intermittent, or continuous) is unreasonably excessive and raucous if:
 - (1) Between the hours of 10:00 p.m. and 7:00 a.m., the sound is plainly audible a minimum of 50 feet from the property line of the source of the sound or within a fully enclosed structure or residence on any receiving property; or
 - (2) Sound pressure levels by receiving land use;

Receiving Land Use Category	Time	Sound Pressure Level Limit (dBA)
Residential zone, public space, or institutional zone	7:00 a.m.—9:00 p.m.	68
	9:00 p.m.—7:00 a.m.	60
Commercial zone	7:00 a.m.—9:00 p.m.	72
	9:00 p.m.—7:00 a.m.	65

- (3) Multifamily dwellings and duplexes. In the case of multifamily dwellings and duplex dwelling units, it shall be unlawful to create or permit to be created any sound that exceeds a sound pressure level of 50 dBA, during the hours between 7:00 a.m. to 9:00 p.m., or 45 dBA during the hours between 9:00 p.m. and 7:00 a.m., daily, measured from a neighbor's dwelling unit within such multifamily or duplex structure. The plainly audible standard does not apply in multifamily dwellings and duplexes.
- (d) It shall be unlawful for any person owning or in possession of any building or premises to use or rent the same for any business or residential use, or for any purpose of pleasure or recreation if such use makes, continues, or causes to be made or continued, any noise disturbance, as defined in this article within the limits of the city.

(Ord. No. 20-05 , § 2, 10-5-2020; Ord. No. 21-14 , § 2, 11-1-2021)

Sec. 18-105. Specific noise prohibitions.

The following specific standards and restrictions shall apply to specific uses and/or activities in the city except for such exemptions as are enumerated herein. The following acts are declared to be loud, disturbing, excessive noise and/or unreasonably excessive noise from a property, in violation of this article but said acts shall not be deemed to be exclusive. Unless otherwise specified herein, all other unlawful noise-generating activities are prohibited. Noise violations are considered irreversible and irreparable.

- (1) *Construction equipment and activity.* Operating or causing to be operated any equipment or performing any activity in furtherance of construction, repair, alteration or demolition work on buildings, structures, roads, or projects within the city:
 - a. Between the hours of 7:00 p.m. and 7:00 a.m.
 - b. For pile driving activities, between the hours of 7:00 p.m. and 8:00 a.m.
 - c. On Sundays, or any holidays declared by the City of Marco Island or the government of the United States.
- (2) *Activities in the vicinity of schools, churches, and health care facilities.* Creating any excessive noise on any street adjacent to any school, church, or health care facility, which unreasonably interferes with the workings of such institution, or which disturbs patients in a health care facility.
- (3) *Landscape maintenance.* Undertaking landscape maintenance activities, including the use of air-blowing or vacuum equipment, in such a manner as to create noise across a real property boundary between the hours of 9:00 p.m. and 7:00 a.m. Golf courses engaged in the regular maintenance of greens, fairways, practice areas, etc., are exempt from this provision.
- (4) *Fireworks.* The use of fireworks is prohibited at any time without a permit within the incorporated limits of the City of Marco Island pursuant to F.S. §§ 791.014(4)(a) and (b).
- (5) It shall be unlawful for any person owning or in possession of any building or premises to use or rent the same for any business or residential use, or for any purpose of pleasure or recreation if such use makes, continues, or causes to be made or continued, any noise disturbance, as defined in this article within the limits of the city.

(Ord. No. 20-05 , § 2, 10-5-2020)

Sec. 18-106. Exemptions.

The following noises shall be exempt from the restrictions set forth in the other sections of this article:

- (1) Sound made by a horn or other warning device required or permitted by F.S. § 316.271 or F.S. § 327.65 shall be regulated in accordance with state law.
- (2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency or any other public safety operation.
- (3) Noises resulting from emergency work, which is to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from any imminent exposure to danger.
- (4) Noises incidental to city approved refuse collection.
- (5) Community events such as parades, festivals, sporting events, or fairs being conducted in accordance with the conditions contained in a special event permit granted by the city manager or designee.

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- (6) Noises associated with city operations, construction, or maintenance.
 - (7) Noises associated with police or fire training.
 - (8) Community and organized sporting events and school activities.
 - (9) Noise associated with lightning warning systems.
 - (10) Non-amplified crowd sounds resulting from otherwise lawful public gatherings.
 - (11) Any aircraft operating in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instructions used pursuant to and within the duly adopted federal air regulations.
 - (12) Amplified sound on property controlled by a governmental agency during governmental sponsored activities.
 - (13) Sound produced by activities in the fields, grounds, or facilities of any sporting venue to which the public or community has access.
 - (14) Houses of worship (excluding between 7:00 p.m. and 7:00 a.m.)

(Ord. No. 20-05 , § 2, 10-5-2020)

Sec. 18-107. Temporary exemption.

- (a) A person may seek a temporary exemption from the provisions of this section by seeking an exemption from the city manager. A completed exemption application must be submitted, on a form provided by the city. An exemption may only be issued for a specified limited period of time and shall set forth such conditions or requirements as shall be deemed necessary to mitigate potential adverse effects upon neighboring properties and to otherwise ensure that the public health, safety, and general welfare is protected. The city manager may adopt administrative rules, as he or she deems necessary, to implement the provisions of this section.
- (b) In determining whether an exemption shall be issued, the city manager shall consider the following criteria:
 - (1) The granting of the exemption will not establish a precedent of or encourage more incompatible uses in the surrounding area; and
 - (2) The applicant has demonstrated that enforcement of the provisions of this chapter would create an undue hardship on the applicant because of unique circumstances peculiar to the applicant; and
- (c) The city manager shall grant or deny an application for an exemption within 15 days from the date of the filing of a complete application. An application may be denied if it is determined to be incomplete. If no ruling has been made, upon the expiration of the 15th day, or if the 15th day is a Saturday, Sunday, or holiday, upon the following working day, the application shall be deemed to be granted.
- (d) Any violation of any conditions imposed upon the granting of the exemption shall be deemed a violation of this section.

(Ord. No. 20-05 , § 2, 10-5-2020)

Sec. 18-108. Enforcement and penalties.

The authority to enforce the provisions of the City of Marco Island Noise Control Ordinance shall be vested in enforcement officials. Nothing in this section shall prohibit the sworn law enforcement officers identified as enforcement officials from charging persons responsible for acts, which affect the peace and quiet of other

persons, for breach of the peace or disorderly conduct under F.S. § 877.03, as may be amended from time to time. This section shall be enforced by an enforcement official as follows:

- (1) Any person(s) responsible for a violation of the City of Marco Island Noise Control Ordinance shall be given a warning that a notice of violation will be issued if the person(s) responsible fails to bring the sound level into compliance within five minutes for the next 48 hours. The notice and warning may be given in writing or verbally and inform the person(s) responsible for a purported excessive noise violation that there is a violation of the City of Marco Island's Noise Control Ordinance. No warnings will be issued after 11:00 p.m. The notice shall include, at a minimum, the following:

You are being notified that you are in violation of the City of Marco Island's Noise Control Ordinance. You are being given a five minute warning to bring the sound level into compliance with the City of Marco Island's Noise Control for the next 48 hours. The failure to timely bring the sound level into compliance is a violation of the City of Marco Island's Noise Ordinance.

- (2) The enforcement official may issue a notice of violation or citation to any person(s) responsible who does not timely bring the sound level into compliance.
- (3) Any person(s) responsible for a violation of the City of Marco Island Noise Control Ordinance, which violations are considered irreparable and irreversible in nature, may without warning, be immediately issued a, or notice of violation by an officer.
- (4) If the person(s) responsible for a violation of the City of Marco Island Noise Control Ordinance is not the property owner, the property owner will be issued a notice of violation for each individual violation of the City of Marco Island Noise Control Ordinance. The first violation of the City of Marco Island Noise Control Ordinance by a property owner, in a rolling twelve-month period, will result in the issuance of a notice of violation which shall constitute an official warning. All subsequent notices of violations issued to the property owner, in a rolling twelve-month period, shall require a hearing before the City of Marco Island Code Enforcement Special Magistrate, and the potential imposition of a fine for the violation(s).
- (5) Any person(s), including the property owner(s), who violates any of the provisions of this section shall be subject to a civil penalty not to exceed \$250.00 for a first violation (excludes the violation which resulted in the property owner's first warning), \$500.00 for the second violation, and \$1,000.00 for the third violation, \$2,000.00 for the fourth violation, \$4,000.00 for the fifth violation, and \$5,000.00 for the sixth and subsequent violations occurring within one year after a finding of violation of the previous offense or the payment of a citation for a violation of this ordinance. Each violation of this section shall constitute a separate and distinct offense for which a civil citation or notice of violation may be issued.
- (6) Joint and several responsibility. Any person(s) responsible for unreasonably excessive noise from a property or from a vehicle, as defined herein, may be liable for the violation under this section. More than one person may be found to be responsible for the violation.

(Ord. No. 20-05 , § 2, 10-5-2020)

Sec. 18-109. Civil remedies.

In addition to the penalties provided in section 18-108, the city manager is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to prevent or abate violations of this article.

(Ord. No. 20-05 , § 2, 10-5-2020)

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Sec. 18-110. Jurisdiction and enforcement.

- (a) This article is enforceable by enforcement officials.
- (b) Such officers and officials shall have the power and duty to issue such orders and to make such investigations and reports in connection with the provisions of this article, or cause any inspections to be made for noise violations in accordance with this article and the Florida Statutes.

(Ord. No. 20-05 , § 2, 10-5-2020)

Sec. 18-111. Public nuisance.

Unreasonably excessive noise is declared a public nuisance as defined and discussed under Chapter 18 Environment/Article II Nuisance, Litter, Weed, Plant and Right-Of-Way Control. The prosecution of an offense under this section does not limit the city's right to abate the public nuisance, or from seeking injunctive relief, by any means provided by law. The city attorney or designee(s) may bring suit on behalf of the city against the person(s) responsible for causing, maintaining, permitting, or allowing a public nuisance under this section. This section shall not prohibit or otherwise restrict any person(s) from bringing suit against a public nuisance for unreasonably excessive noise. Relief may be granted according to the terms and conditions of F.S. § 60.05, or any other means provided by law.

(Ord. No. 20-05 , § 2, 10-5-2020)

Secs. 18-112—18-140. Reserved.

Sec. 22-37. Noise.

(a) Definitions.

A-weighted level (dBA) means the total broad band sound level of the noise spectrum as measured using the "A-weighted network" of a sound level meter (SML). The unit of measurement is the dBA. All sound level meter settings will be for slow response, except for impulsive noise measurements which will be fast response.

Ambient sound means the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources near and far. For the purposes of this section, ambient sound level is the level obtained when the sound level is averaged over a period of at least 15 minutes without inclusion of sound from occasional or occasional and transient sources, at the location and time of day near that at which a comparison is to be made.

Amplified sound means sound augmented by any electronic means that increases the sound level or volume.

Decibel (dB) means a unit for describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

Impulsive sound means a noise which is characterized by brief excursions of sound pressure which significantly exceed the ambient sound level.

Leaf blower means any air blowing machine that uses a concentrated stream of air to push, propel, or blow dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse, or debris.

Nearest adjacent property line means the property line closest to the noise source.

Noise, or noise disturbance, means any sound that:

- (1) Exceeds the maximum permitted sound levels set out in Table 1 of this section;
- (2) Is loud and raucous so as to unreasonably disturb, injure, or endanger the comfort, repose, health, peace, tranquility, or safety of reasonable persons of ordinary sensibilities;
- (3) Constitutes a breach of the peace or a public nuisance;
- (4) Is plainly audible at a distance of 25 feet or more from the property line; or
- (5) With respect to vehicles and vessels, is plainly audible at a distance of 25 feet from the noise source.

Non-residentially zoned areas mean those zoning districts which are not zoned primarily for single-family or multifamily use. Non-residentially zoned areas include all commercial, industrial, public service, PD for commercial uses, and other districts which permit non-residential uses.

Octave band means all of the components in a sound spectrum whose frequencies are between two sine-wave components separated by an octave.

Property line means an imaginary line exterior to any enclosed structure, at the ground surface, which separates the real property owned by one person from that owned by another person, and its vertical extension.

Pure tone means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone will exist if the one-third octave band sound pressure level in the band with the tone exceeds arithmetic value of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of 500 Hz and above and by eight dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

Receiving property means the property which is receiving the noise.

Sound means an oscillation in pressure, stress, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound including duration, intensity, and frequency.

Sound amplifying equipment means any machine or device for the amplification of human voice, music, or any other sound.

Sound level meter means an instrument to measure the sound pressure level of relatively continuous and broadband noises. The sound level meter used to determine compliance with this section must meet or exceed the requirements for Type 2 sound level meter in accordance with ANSI Standard S1.4.

(b) *General prohibitions.*

- (1) It is unlawful and prohibited for any person to make, continue, or cause to be made or continued any noise, as defined in this section, or to create any noise disturbance within the limits of the city.
- (2) It is unlawful and prohibited for any person owning or in possession of any building or premises to use, allow the use, or rent the same for any business or residential use, or for any purpose of pleasure or recreation if such use makes, continues, or causes to be made or continued, any noise, as defined in this section, within the limits of the city.

(c) *Specific noise prohibitions.* The following acts, where meeting the definition of noise above, are declared to be examples and prima facie evidence of noises that constitute a noise disturbance, breach of the peace, and public nuisance:

- (1) *Radios, audio or visual equipment, sound equipment, sound amplification devices, exterior loudspeakers, musical instruments and similar devices.* Operating or permitting the use or operation of any radio, musical instrument, audio or visual equipment, sound amplification devices, exterior loudspeaker, or other device for the production or reproduction of sound in such a manner as to cause noise. The operation of any such device for the production or reproduction of sound:
 - a. Between the hours of 10:00 p.m. and 7:00 a.m. must be controlled so that it is not loud or disturbing or a nuisance to persons within the area of audibility, or
 - b. At any time with louder volume than is necessary for convenient hearing for persons who are in the same dwelling unit of any multiple dwelling in which such device is operated, will be deemed prima facie evidence of a violation of this section.

Radios, audio systems, and similar devices associated with motor vehicles or motorboats, shall not be operated in such a manner as to create noise that is plainly audible at 25 feet or more from such device, when operated on a public right-of-way, waterways, beaches, or public space.

- (2) *Engine mufflers.* Operating any internal combustion engine, including such an engine associated with a motorboat, or motor vehicle without a muffler, or other device at least as effective as that installed as original equipment by the manufacturer, which will effectively prevent loud or explosive noises therefrom.
- (3) *Motor vehicle, motorcycle, or motorboat repair in residential areas.* The noncommercial repairing, rebuilding, modifying, or testing of any motor vehicle, off-road vehicle, or motorboat within or abutting any residential land use designation in such a manner as to create noise across a real property line between the hours of 10:00 p.m. and 7:00 a.m.
- (4) *Activities near schools, churches, and health care facilities.* Creating noise on any street adjacent to any school, church, or health care facility, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in a health care facility.

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- (5) *Peddling, hawking, or vending.* Peddling, hawking, or vending, including shouting, crying out by peddlers, hawkers, or vendors along or on a roadway.
- (6) *Yelling, shouting.* 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 between the hours of 10:00 p.m. to 7:00 a.m., that annoys or disturbs the quiet, comfort, or repose of other persons or create a disturbance.
- (7) *Horns, signal devices.* Sounding of any horn or audible signal device of any motor vehicle, boat, engine, or machine of any kind while not in motion, nor will such horn or signal device be sounded under any circumstances except as required by law, or as a danger warning, nor will it be sounded for any unnecessary or unreasonable period of time.
- (8) *Air conditioning units and other mechanical equipment including, pool or spa heaters and pumps, and regularly-used generators, irrigation pumps, and exhaust fans.* Operating any noise creating fan or blower, air conditioner, compressor unit, pool heaters, pool pumps, heat pumps, or the electric motor or any engine used to drive such device, the operation of which causes excessive and unnecessary noise, unless such noise is muffled and deadened by adequate noise compression and muffling devices to minimize annoyance and disturbance to persons within range of hearing. Noise will be presumed excessive if it exceeds decibel limitations prescribed in Table 1 when measured at the property line of the receiving property. Mechanical equipment installed before December 2006 shall not exceed 60 decibels (dBA).
- (9) *Drums, cymbals, musical instruments, and loudspeakers.* Creating, making, or maintaining any noise by the use of any drum, cymbals, loudspeaker, or other similar instruments in the city for the purpose of attracting attention to any performance, show, sale, or display of merchandise, or place of business. This provision shall not apply to permitted special events.
- (10) *Bells or sirens on vehicles.* Using, in connection with an unauthorized vehicle, any bell or siren similar to that used on ambulances or vehicles of the sheriff, fire departments, and other public safety agencies.
- (11) *Skateboard ramps.* Using any skateboard ramp or similar configuration for skateboarding or rollerblading between 10:00 p.m. and 7:00 a.m. in a residential land use designation in such a manner that results in noise across a real property line.
- (12) *Powered model vehicles.* Operating or permitting the operation of powered model vehicles in such a manner as to create noise across a real property line between the hours of 9:00 p.m. and 7:00 a.m.
- (13) *Animal noises.* Allowing an animal to habitually bark, whine, howl, squawk, screech, or cause any other noise which is objectionable due to pitch, frequency, duration, or timing.
- (14) *Lawn, landscape, and tree maintenance.* Permitted days and hours of operation for lawn and landscape maintenance, tree trimming, and tree removal. Lawn and landscape maintenance activities, tree trimming activities, and tree removal activities may be conducted only during the following hours, Monday through Sunday except New Year's Day, Easter Sunday, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day:
- a. *Monday through Friday hours of operation:*
 - 1. In residential areas: 7:30 a.m. to 5:30 p.m.
 - 2. In nonresidential areas: 6:30 a.m. to 5:30 p.m.
 - b. *Saturday hours of operation:*
 - 1. Businesses that perform lawn and landscape maintenance, tree trimming, or tree removal services may perform services in residential and nonresidential areas from 8:00 a.m. to 4:00 p.m.

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2. Residents may perform lawn and landscape maintenance activities in residential areas at their own property from 8:00 a.m. to 7:00 p.m.
 - c. *Sunday hours of operation:*
 1. Businesses that perform lawn and landscape maintenance, tree trimming, or tree removal services are prohibited from working on any Sunday in residential or nonresidential areas.
 2. Residents may perform lawn and landscape maintenance activities in residential areas at their own property from 8:00 a.m. and 5:00 p.m.
 - (15) *Leaf blowers.* The use of gasoline-powered leaf blowers is prohibited within the city. This prohibition will become effective one year from the date approved by Council.
 - a. Battery- and electric-powered leaf blowers may be used within the city provided they do not exceed a decibel level of 65 dBA as shown on the manufacturers label affixed to the leaf blower.
 - b. Battery- and electric-powered leaf blowers that do not have a manufacturers label affixed to it that reflects its dBA rating may not be used within the city.
 - (16) *Outdoor live entertainment.* Providing outdoor live entertainment, as authorized in section 56-125 of the Code of Ordinances.
 - a. In such a manner as to create noise as defined in this section as measured at the receiving property or a substantially similar location.
 - (d) *Exemptions.* The following noises will be exempt from the restrictions set forth in the other sections of this article:
 - (1) Noises of authorized safety signals and warning devices.
 - (2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call, or acting in time of emergency, or any other public safety operation.
 - (3) Noises resulting from emergency work, which is to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from any imminent exposure to danger.
 - (4) Noises incidental to and necessary for city approved solid waste collection equipment, public works construction and maintenance and police or fire training.
 - a. The city manager, may grant a waiver, may prescribe any reasonable conditions or requirements it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.
 - b. A waiver may be given upon finding that it will not unreasonably disturb, injure, or endanger the comfort, repose, health, peace, or safety of any affected persons because it is temporary in nature, adjacent property owners do not object, or for necessity or unavoidability.
 - c. Waivers may be issued for no longer than 30 days, renewable by further application to the city manager.
 - (5) City maintenance activities and equipment operation within public service zoning districts, whether performed by city staff or a city contractor, may take place between the hours of 8:00 a.m. and 4:00 p.m. on Sunday.
 - (6) City maintenance activities and equipment operation at public beach access areas, whether performed by city staff or a city contractor, may take place between the hours of 7:30 a.m. and 4:00 p.m. on Saturday and Sunday.

- (7) Golf course maintenance activities and equipment operation within the city is not restricted during the hours listed in subsection 22-37(c)(14).
- (8) Lawn and landscape maintenance equipment may be used within the Fifth Avenue south special overlay district and the Third Street commercial area special overlay district between the hours of 8:00 a.m. and 4:00 p.m.
- (9) Special event permit holders may use lawn and landscape maintenance equipment after the afternoon hours listed in subsection 22-37(c)(14) to clean up special event areas provided the cleanup is performed expeditiously and immediately after the event ends.
- (e) *Octave band levels.* In addition to the noise limitations listed in this section, for any source or sound that can be detected on a receiving property, when measured at the nearest point of the property line of the receiving property, the maximum allowable sound level limit for the individual octave bands must comply with Table 1. In no case will the noise level on the premises of any other occupied property measured at a point on the nearest adjacent property line closest to the noise source, or if a condominium, apartment house, duplex, or attached business, within any adjoining unit, exceed the ambient noise level by more than five decibels.

Table 1

Octave Band Center Frequency (in Hertz.)	Residential Site or Unit*		Non-Residential Site or Unit*		Manufacturing, Industrial, or Agricultural Site or Unit*
	Day 7 a.m.— 10 p.m.	Night 10 p.m.— 7 a.m.	Day 7 a.m.— 10 p.m.	Night 10 p.m.— 7 a.m.	
31.5	69	64	74	69	79
63	69	64	74	69	79
125	66	61	71	66	76
250	62	57	67	62	72
500	58	53	63	58	68
1,000	53	48	58	53	63
2,000	49	44	54	49	59
4,000	46	41	51	46	56
8,000	42	37	47	42	52
DBA	60	55	65	60	70

* These uses pertain to the receiving site.

- (f) *Enforcement and penalties.* A violation of this section is a non-criminal infraction, and the civil penalty is \$100.00 for the first offense and \$500.00 for each subsequent offense occurring within one year after a finding of violation of the previous offense or a plea of no contest. It is also enforceable and punishable as provided in subsections 1-15(b), (c), (d) and (e) of this Code. In addition, if a permit for live entertainment, a special event, or extended hours has been issued and the permit holder or person acting under the permit, violates this section, the permit is subject to revocation or non-renewal.

(Comp. Dev. Code 1990, § 8-9-9; Code 1994, § 106-239; Ord. No. 97-7987, § 1, 6-4-1997; Ord. No. 98-8389, § 1, 10-21-1998; Ord. No. 99-8593, § 10, 8-4-1999; Ord. No. 01-9179, § 1, 5-2-2001; Ord. No. 06-11495, § 2, 12-20-2006; Ord. No. 09-12351, § 1, 2-18-2009; Ord. No. 13-13306, § 1, 6-12-2013 ; Ord. No. 17-13915 , § 1, 2-1-2017; Ord. No. 19-14298 , § 1, 2-20-2019; Ord. No. 19-14430 , § 1, 12-18-19; Ord. No. 20-14542 , § 1, 10-21-2020)

Cross reference(s)—Live entertainment permit, § 56-125.

ARTICLE V. NOISE¹

DIVISION 1. GENERALLY

Sec. 42-196. Prohibited noise.

It shall be unlawful for any person to make, continue, or cause to be made or continued:

- (1) Any loud or raucous noise;
- (2) Any noise that tends to annoy the community or injure the health of the citizens in general; or
- (3) Any noise that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any considerable number of persons. A considerable number of persons, for this section, shall mean three or more unrelated persons in separate households.

(Code 1982, § 12-48; Ord. No. 23-09, § 1, 1-12-10)

Sec. 42-197. Specific acts prohibited.

The following acts shall be unlawful whether or not such acts constitute a violation of section 42-196:

- (1) *Keeping of animals.* The keeping of any animal or bird that causes loud and raucous noise, or frequent noise audible within any receiving dwelling, hotel or other type of residence.
- (2) *Playing of radio, television, phonograph, similar device.* The playing of any radio, television, phonograph, compact disc player, tape player, musical instrument, or other sound-making device audible within any receiving dwelling, hotel or other type of residence between the hours of 12:00 midnight and 9:00 a.m. or at any such time so that the sound created by such device violates the standards set forth in section 42-196.
- (3) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting the playing, using or operating of any radio or television receiving sets, musical instrument, phonograph, compact disc player, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (4) *Noises near churches, schools.* The creation of any noise on any street or other public way adjacent to any church, school or institution while the same is in session that unreasonably interferes with the workings of such institution.
- (5) *Loading and unloading operations.* The creation at any time of loud and raucous noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, crates or containers.

¹Cross reference(s)—Sounding horn unnecessarily, § 118-7.

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- (6) *Noises to attract attention.* The use of any drum, pan, pail, bell, horn, trumpet, loudspeaker or other instrument or sound-making device for the purpose of attracting attention to any performance, show, sale, display or merchandise.
 - (7) *Yelling, shouting, similar noises.* Yelling, shouting, hooting, whistling or singing on the public streets between the hours of 12:00 midnight and 9:00 a.m., or at any time or place in a manner violating the standards set forth in section 42-196.
 - (8) *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.
 - (9) *Operation of car radios.* The operation of radios or other mechanical sound making devices or instruments in vehicles as hereby regulated and controlled by F.S. § 316.3045.
 - (10) *Operation of sound making devices in public areas.* The operation of radios or tapeplayers or other mechanical sound making devices or instruments in or upon a public street, highway, building, sidewalk, park, thoroughfare or other public area or located in or upon a public access area, such as a parking lot, etc., if such sound can be heard from more than 50 feet, measured in a straight line from its source.
 - (11) *Commercial loading and unloading operations, certain times prohibited for locations in or adjacent to residentially zoned areas.* The commercial loading and unloading of any vehicle, or the opening, destruction and/or disposal of bales, crates, containers, or any other item for businesses located in or adjacent to residentially zoned areas, shall be prohibited between the hours of 8:00 p.m. and 8:00 a.m.
 - (12) *Gasoline powered leaf blowers.*
 - (a) Definition. Leaf blowers shall mean any air blowing machine that uses a concentrated stream of air to push, propel or blow dirt, dust, leaves, grass clippings, trimmings, cuttings, refuse or debris.
 - (b) The use of gasoline powered leaf blowers is prohibited on any property within the town, which is less than one acre in size. Effective May 1, 2022, gasoline powered leaf blowers shall be prohibited on any size property within the town.

(Code 1982, § 12-49; Ord. No. 8-00, § 1, 6-13-00; Ord. No. 11-2017, § 1, 4-13-17; Ord. No. 29-2021, § 1, 1-11-22)

Sec. 42-198. Operation of certain machinery during winter, Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving.

- (a) *Prohibited.* During the period of the year commencing on the Monday prior to Thanksgiving of each year and ending April 30, no person shall operate or cause to be operated the following machinery or equipment within the town:
 - (1) Dredges, whether used in making hydraulic fills, dry fills, piledriving or any other purpose.
 - (2) Hammer-driven piledrivers, whether operated from water or land, or from motor truck or tractor, and whether stationary or moveable.
 - (3) Gasoline, diesel and/or steam engines, operated in such a manner as to emit odors or noises offensive or disagreeable to the inhabitants of the town.
 - (4) Dry sandblasting machines and jackhammers.
 - (5) Any other class of machinery or appliance that in its operation would render the enjoyment of property within the town less agreeable than if such appliances or machinery were not operated.

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(Supp. No. 26, Update 5)

(b) *Exceptions.*

- (1) It shall be within the discretion of the town council when, in its opinion, the operation of any of the prohibited machinery or appliances mentioned in subsection (a) of this section shall not be overly offensive to the residents or inhabitants of the town, in the vicinity of the equipment's operation, to grant an exception to this section.
- (2) The operation of equipment relating to essential services of the town and equipment operation during emergency conditions shall be exempt from subsection (a) of this section.

(Code 1982, § 12-50; Ord. No. 10-05, § 3, 7-12-05; Ord. No. 18-05, § 1, 1-10-06; Ord. No. 03-2018, § 1, 2-13-18)

Sec. 42-199. Hours for construction work.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Construction work means work of a physical nature requiring a permit in accordance with the provisions of this Code and/or violates the conditions of section 42-198 and/or violates the conditions of this section, and/or causes excessive noise as defined by section 42-228.

- (b) *Limited.* Beginning on the Monday preceding Thanksgiving, and during the months of December, January, February, March and April of each year, construction work not otherwise prohibited by section 42-198 or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday and legal holidays, when all construction work is prohibited. In no event shall heavy equipment or other outdoor construction-related and lawn maintenance noise be permitted before 9:00 a.m. Beginning on May 1 until the Monday preceding Thanksgiving, work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Saturdays, Sundays and legal holidays, including the Friday immediately after Thanksgiving, when all construction work is restricted or prohibited. In no event shall heavy equipment or other outdoor construction-related and lawn maintenance noise be permitted before 9:00 a.m. Construction work is permissible on Saturdays from May 1 through the Monday preceding Thanksgiving, but subject to the following restrictions: work shall not begin until the hour of 9:00 a.m. and shall cease at the hour of 5:00 p.m.; all work must be quiet in nature and limited to indoor activity, with the exception of quiet lawn maintenance work and tree trimming; material deliveries are prohibited in all cases unless the Building Official waives such restriction due to compelling circumstances; concrete pours and concrete sawing is prohibited unless the Building Official waives such restrictions due to compelling circumstances; and the razing of buildings is prohibited, with the exception of non-mechanized debris clean-up. The permitted hours for construction work in the C-WA zoning district shall be from 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending October 31, except Sundays and legal holidays, when all construction work is prohibited. Workers are prohibited from arriving at construction and lawn maintenance sites prior to 7:30 a.m. and are restricted from conducting any kind of site activity prior to 8:00 a.m. during the weekdays. Workers are prohibited from arriving at construction and lawn maintenance sites prior to 8:30 a.m. and are restricted from conducting any kind of site activity prior to 9:00 a.m. on Saturdays, when limited work is permitted from May 1 through the Monday preceding Thanksgiving.

(c) *Exceptions.*

- (1) It shall be within the discretion of the town council when in its opinion the operation of any of the prohibited machinery or appliances mentioned in subsection 42-198(a) shall not be overly offensive to the residents or inhabitants of the town in the vicinity of the equipment's operation to grant an exception to this section.

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- (2) The operation of equipment relating to essential services of the town and equipment operating during emergency conditions shall be exempted from subsection (a).
 - (3) At the discretion of the director of planning, zoning and building, or his representative, emergency work for nontown related essential services may be authorized at any time during the year.
 - (4) Interior work not resulting in noise tending to disturb people in the vicinity thereof, shall be allowed during the hours of 9:00 a.m. and 5:00 p.m. on Saturdays during the period commencing on the Monday preceding Thanksgiving and ending on April 30, for multi-family properties, south of Sloan's Curve which are not located on Ibis Isle, that have an association board that approves of Saturday work hours, and a copy of a letter indicating the

Saturday work hours have been approved by the association board is on record with the town.
 - (5) The town council, in its discretion, for the benefit of the health, safety and welfare of the residents of the town may, by resolution, temporarily amend the hours for construction work referenced herein.

(Code 1982, § 12-51; Ord. No. 12-99, § 1, 11-9-99; Ord. No. 3-00, § 1, 4-11-00; Ord. No. 23-00, § 1, 10-10-00; Ord. No. 22-01, § 1, 11-13-01; Ord. No. 26-02, § 1, 11-12-02; Ord. No. 17-03, § 1, 10-14-03; Ord. No. 23-04, § 1, 2-15-05; Ord. No. 10-05, § 4, 7-12-05; Ord. No. 18-05, § 2, 1-10-06; Ord. No. 18-10, § 1, 7-13-10; Ord. No. 1-2013, § 1, 4-9-13; Ord. No. 03-2018, § 1, 2-13-18; Ord. No. 26-2021, § 1, 12-14-21)

Cross reference(s)—Buildings and building regulations, ch. 18.

Editor's note(s)—Ord. No. 17-03, § 5, adopted Oct. 14, 2003 provided that the amendment to section 42-199 contained in § 1 of said ordinance shall sunset on May 1, 2004, whereupon section 42-199 as it existed prior to adoption of said ordinance shall remain in full force and effect.

Sec. 42-200. Tennis ball machines.

Operation of tennis ball machines shall be permitted during the hours outlined for construction work at section 42-199, with the exception that such machines shall be permitted on Saturdays, Sundays and all legal holidays, including the Friday immediately after Thanksgiving.

(Code 1982, § 12-47(g); Ord. No. 10-05, § 5, 7-12-05)

Sec. 42-201. Noisy advertising.

It shall be unlawful for any person within this town to blow any horn or whistle, or ring any bell, or use any other device whereby a noise is produced, or cause or procure the same to be done, for the purpose of advertising any business, occupation or article or for the purpose of attracting attention to any such advertising.

(Code 1982, § 13-2)

Sec. 42-202. Enclosure of noisy machinery.

All automatic, semiautomatic or manually controlled refrigeration machinery and compressors and other machinery that emits noise in the operation thereof shall be installed and operated either within the confines of the building served by such equipment or, if placed outside of the building, shall be housed within a structure, soundproofed to the extent that the operation of such machinery will not disturb persons residing in the vicinity thereof in the normal use of their property.

(Code 1982, § 12-52)

Secs. 42-203—42-225. Reserved.

DIVISION 2. MEASURED CRITERIA

Sec. 42-226. Use of meter authorized.

Measurement of noise may be made with a sound level meter using the A scale (dBA) and/or an octave band (frequency) analyzer meeting the standards prescribed by the American Standards Association. Measurement and recordation of any noise that has the possibility of annoying, disturbing, being injurious or endangering the comfort, repose, health, peace or safety of others shall be measured and recorded at the property line of the private property originating the noise or shall be measured and recorded at the property line of the adjacent private property if the noise is originating from any public road, street or property.

(Code 1982, § 12-47(a))

Sec. 42-227. Geographic sections.

The criteria listed in section 42-226 shall be applicable to the following geographical areas of the town:

- (1) *Area 1.* From the northerly corporate limits southerly to Wells Road.
- (2) *Area 2.* From Wells Road southerly to Worth Avenue.
- (3) *Area 3.* From Worth Avenue southerly to Sloan's Curve.
- (4) *Area 4.* From Sloan's Curve southerly to the southerly corporate limits.

(Code 1982, § 12-47(b))

Sec. 42-228. Nonvehicular noise.

In the use of a sound level meter, the following criteria shall be used for determining a violation of the town's ordinances relating to the maximum permissible emissions of noise levels emanating from other than motor vehicles, with the exception of lawn maintenance equipment.

Area (Geographic)	Maximum Level, dBA	
	Day	Night
1	61	55
2	64	58
3	61	55
4	61	55

"Night" as used hereinabove is defined as the hours between 7:00 p.m. and 9:00 a.m.

(Code 1982, § 12-47(c); Ord. No. 008-2022 , § 1, 6-14-22)

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(Supp. No. 26, Update 5)

Sec. 42-229. Vehicular noise.

In the use of a noise level meter to measure noises emitted by motor vehicles, the criteria to be used for determining a violation of the town's ordinances relating to the maximum permissible emissions of noise levels shall be as prescribed by F.S. § 316.293.

(Code 1982, § 12-47(d))

Cross reference(s)—Traffic and vehicles, ch. 118.

Sec. 42-230. Lawn maintenance.

- (a) Lawn maintenance in the town shall be limited to the hours outlined for construction work at section 42-199 and all gas or electric powered lawn maintenance equipment, including leaf blowers, shall be subject to the same restrictions as heavy equipment as described in said section.
- (b) Nothing in this section shall preclude the operation of lawn maintenance equipment by residents after 9:00 a.m. on Saturdays, Sundays or legal holidays, including the Friday immediately after Thanksgiving. Further, golf course maintenance equipment within the town is not restricted during the hours outlined herein: however, such golf course maintenance equipment shall not be used before 8:00 a.m. or after 5:30 p.m. on any day at locations within 300 feet of residential properties, except in the event of valid emergencies and once per month for purposes of chemical spraying or fertilizing, The sound level meter measurement shall be no greater than 75 dBA measured 50 feet from the point of operation of the equipment. The sound level meter measurement shall not be applicable to lawn maintenance equipment used on golf courses.
- (c) Lawn maintenance equipment includes but is not limited to lawn mowers, edgers, hedge trimmers, yard tractors, leaf blowers, lawn vacuum machines, and monofilament line grass trimmers.
- (d) Leaf blowers shall not exceed a decibel level of 65 dBA as measured at 50 feet from the point of operation. It shall be unlawful to blow, sweep or rake yard trash or clippings into the public street or storm drains.
- (e) There shall be no commencement of large scale landscape installation at any time on Saturdays.

(Code 1982, § 12-47(e), (f); Ord. No. 10-05, § 6, 7-12-05; Ord. No. 11-05, § 1, 7-12-05; Ord. No. 18-05, § 3, 1-10-06; Ord. No. 15-07, § 1, 9-11-07; Ord. No. 18-10, § 2, 7-13-10; Ord. No. 24-2011, § 1, 10-11-11; Ord. No. 03-2018, § 2, 2-13-18; Ord. No. 29-2021, § 1, 1-11-22)

Secs. 42-231—42-260. Reserved.

Chapter 165

NOISE CONTROL¹

PART 1. PRELIMINARY MATTERS

Sec. 165.1. Short Title.

This Chapter is designated and may be cited as the "Noise Control Ordinance of Seminole County, Florida".
(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.2. Declaration of Policy.

- (a) It is declared to be the policy of Seminole County that the peace, health, safety, and welfare of its citizens require protection from excessive, unnecessary, and unreasonable Noise from any and all sources in the community.
- (b) It is the intention of the Seminole County Board of County Commissioners to control the adverse effect of Noise on the citizens under any condition of use, especially those conditions of use that have the most severe impact on any Person.
- (c) It is also the intention of the Board to control Noise in a manner that promotes the use, value, and enjoyment of property, conduct of business, sleep and repose, and an environment free from unnecessary Noise.
- (d) It is the public policy of Seminole County that every Person is entitled to be free from Noise that is detrimental to quality of life, health, value, personal well-being and the enjoyment of such Person's property.
- (e) It is also hereby declared that the making, creation, or maintenance of excessive and unreasonable Noise within Seminole County affects and is a menace to public health, safety, welfare, and the prosperity of the people of Seminole County.

(Ord. No. 2020-15, § 2, 5-12-2020)

¹Editor's note(s)—Ord. No. 2020-15, § 2, adopted May 12, 2020, amended Ch. 165 in its entirety to read as herein set out. Former Ch. 165, §§ 165.1, 165.2, 165.11, 165.12, 165.21—165.31, 165.41—165.43, 165.51, 165.52, 165.61—165.63, pertained to noise, and derived from Ord. No. 74-2, §§ 3, 5, 6, 9, 10, adopted Aug. 27, 1974; SCC, §§ 10-1, 10-3, 10-5, 10-7, 10-8, adopted Sept. 27, 1977; Ord. No. 92-19, § 3, adopted Nov. 10, 1992; Ord. No. 2011-23, §§ 3, 4, adopted Sept. 13, 2011.

State law reference(s)—Florida Motor Vehicle Noise Prevention and Control Act of 1974, § 403.415 F.S., et seq.; § 316.293, F.S., et seq.

Cross reference(s)—See Section 30.1302, Land Development Code of Seminole County.

Sec. 165.3. Applicability.

This Chapter applies to the unincorporated area of Seminole County. Notwithstanding the foregoing, a Noise Disturbance originating from a Source Premises not located within the unincorporated area of Seminole County will constitute a violation of this Chapter if the Noise Disturbance originating from the Source Premises emanates into a Receptor Premises located within the unincorporated area of Seminole County.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.4. Terminology, Standards, and Definitions.

- (a) All technical acoustical terminology and standards used in this Chapter that are not defined in this Section are to be read or construed in conformance with the American National Standards Institute (ANSI) Standard S1.1, entitled "American National Standard Acoustical Terminology", or its successor publication.
- (b) The following definitions apply to this Chapter:

Airboat: Any Watercraft as defined by Florida courts regarding the enforcement of Section 369.309, Florida Statutes (2019), as this statute may be amended from time to time.

Ambient Sound: The all-encompassing sound associated with a given environment and location, typically being a composite of sound from many sources near and far.

Ambient Sound Level: The A-Weighted or C-Weighted Sound Level of the Ambient Sound at a given location.

ANSI: The American National Standards Institute.

Audible: Sound that is capable of being heard by an Individual using normal hearing faculties not enhanced by any mechanical or medical device, such as a hearing aid.

Authorized Emergency Vehicles: Vehicles of all police and fire departments, Emergency Vehicles of Seminole County and municipalities within the County, Emergency Vehicles of any public service corporation, and all ambulances and rescue Vehicles.

A-Weighted Sound Level: The Sound pressure level as measured using a Class 1 or Class 2 Sound-Level meter using the A-weighting network. The unit of measurement is dB(A). Sounds measured with the "A" weighting network approximate the response of human hearing.

Commercial Use Property: Any parcel, lot or tract used for commercial activities as defined in the Land Development Code of Seminole County, Florida.

Commercial Purpose: As applied to this Chapter, the installation, use, or operation of any Outdoor Sound Amplification Device for the purpose of advertising any business, goods or services, or for the purposes of attracting the attention of the public to, advertising for, or soliciting patronage or customers to or for any entertainment, event, exhibition, performance or show, or for the purpose of demonstrating such an Outdoor Sound Amplification Device.

Construction Activities: Any and all activity incidental to the erection, demolition, assembling, altering, installation, or equipping of buildings, structures, roads, or their appurtenances, including land clearing, grading, excavating, and filling.

C-Weighted Sound Level: The Sound pressure level as measured using a Class 1 or Class 2 Sound-Level meter using the C-weighting network. The unit of measurement is dB(C). The "C" weighting network gives more weight to low frequencies than the "A" weighting network.

decibel (dB): A logarithmic unit of measurement that expresses the magnitude of a physical quantity relative to a specified or implied reference level. Since it expresses a ratio of two quantities with the same unit, it is a dimensionless unit. In this Chapter, a decibel means a unit for measuring the amplitude of Sound, equal to twenty (20) times the base ten logarithm of the ratio of the measured sound pressure level to the reference pressure, which is twenty (20) microPascals. Generally, higher decibel levels represent louder sounds.

Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage that demands immediate action.

Equivalent A-Weighted or C-Weighted Sound Level ($L_{eq,A}$ or $L_{eq,C}$): The constant A-Weighted or C-Weighted Sound Level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-Weighted or C-Weighted Sound. For the purposes of this Chapter, a minimum measurement time period of one (1) minute must be used, unless otherwise specified.

Hertz (Hz): The unit of measure of the frequency of Sound. One Hertz equals one cycle per second. The audible frequency range for normal human hearing is between twenty (20) Hertz and twenty thousand (20,000) Hertz. The higher the frequency (measured in Hertz), the higher the pitch of the Sound.

Impulsive Sound: A sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

Individual: A natural Person.

Indoor Sound Amplification Device: Any equipment or machine used for the amplification of speech, music, or other Sound within any fully enclosed, roofed building or structure, regardless of any doors or windows such building may have or whether such doors or windows are open or closed.

Industrial, Manufacturing or Public Use Property: Any parcel, lot or tract used for industrial, manufacturing or public activities as defined in the Land Development Code of Seminole County, Florida.

Motor Vehicle: Any Vehicle that is self-propelled and every Vehicle that is propelled by electric power from overhead trolley wires, but not operated on rails. This term also includes motorcycles and motor-driven Vehicles.

Noise: Any Sound that unreasonably annoys or disturbs Individuals or causes or tends to cause an adverse psychological or physiological effect on Individuals.

Noise Disturbance: Sound that is characterized by any one or more of the following criteria:

- (1) Sound that is harmful or injurious to the health, safety or welfare of any Individual.
- (2) Sound that unreasonably interferes with the enjoyment of life, quiet, comfort or outdoor recreation of an Individual of ordinary sensitivity and habits.
- (3) Sound that endangers or injures real or personal property or the conduct of business.
- (4) Sound that violates Sections 165.23 through 165.30 below.
- (5) Sound that violates Section 30.1302 of the Land Development Code of Seminole County.
- (6) Sound that violates Section 165.22 below.

Noncommercial Purpose: As applied to this Chapter, the installation, use, or operation of any Outdoor Sound Amplification Device for other than a Commercial Purpose, including, but not limited to, a charitable, patriotic, philanthropic, political, or private purpose.

Outdoor Sound Amplification Device: Any equipment or machine used for the outdoor amplification of speech, music or other Sound, including within any partially enclosed building or structure.

Person: Any Individual, public or private corporation, firm association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, any other entity of any kind whatsoever, any Person's officers or agents, or any combination of such entities, jointly or severally.

Premises: The land, including buildings on the land, upon which the type of use of the property occurs.

Property Boundary: The Real Property Line of any real property.

Pure Tone: Any Sound consisting of a single frequency. For the purposes of measurement, a Pure Tone exists if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by: five dB for center frequencies of five hundred (500) Hz and higher; by eight (8) dB for center frequencies between one hundred sixty (160) and four hundred (400) Hz; and by fifteen dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.

Raucous Noise: Any Noise that is harsh, boisterous or strident.

Real Property Line: An imaginary line along the ground surface, and its vertical plane extension, which separates the real property owned, rented, or leased by one Person from that owned, rented, or leased by another Person, excluding intrabuilding real property divisions.

Receptor Premises: The Premises (residential, commercial or entertainment focus area, industrial, manufacturing, or public) receiving Sound from any Source Premises.

Residential Use Property: Any parcel, lot, or tract used for residential activities as defined in the Land Development Code of Seminole County, Florida. Also included under the category "Residential Use Property" are institutional facilities such as hospitals, nursing homes, homes for the aged, schools, churches, and courts.

RMS Sound Pressure: The square root of the time average square of the sound pressure, denoted P_{rms} .

Signal Device: Any equipment or mechanism that is intended to produce or that actually produces Sound as a means of alert when installed, used, or operated.

Sound: An oscillation in pressure, stress, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces. The description of Sound may include any characteristic of such Sound, including duration, intensity and frequency.

Sound Level: The weighted Sound Level measured using a Sound Level Meter using an "A" weighting filter or "C" weighting filter, and the meter time response set to "Slow".

Sound Level Meter: An instrument used for measuring the A-weighted Sound Level or C-Weighted Sound Level. Any Sound Level Meter used to determine compliance with this Chapter must meet or exceed the Class 1 or Class 2 performance specifications identified in ANSI Standard S1.4 Part 1, "Electroacoustics - Sound Level Meters - Part 1: Specifications". To be valid, readings from a Sound Level Meter must be properly calibrated in accordance with the manufacturer's specifications.

Sound Pressure: The instantaneous difference between the actual pressure and average or barometric pressure of a given point in space, as produced by sound energy.

Sound Pressure Level: Twenty (20) times the base ten (10) logarithm of the ratio of the RMS Sound Pressure to the reference pressure of twenty (20) microPascals. The sound pressure level is denoted L_p or SPL and is expressed in decibels.

Sound-Producing Device: Any equipment or machine used for the production or reproduction of speech, music, or other Sound, including, but not limited to, radios, televisions, phonographs, loudspeakers, tape players, musical instruments, compact disc or tape cassette players, walkie-talkies, CD radios, or synthesizers.

Sound Truck: Any Motor Vehicle or any other Vehicle regardless of motive power, whether in motion or stationary, having mounted upon or attached to it, any Outdoor Sound Amplification Device.

Source Premises: The Premises (residential, commercial or entertainment focus area, industrial, manufacturing, or public) that emits Sound that affects any Receptor Premises.

Steady Sound: Continuous Sound that varies over time by less than 3 dB(A) and 3 dB(C) and does not contain impulsive Sound. Examples include fans, pumps, transformers, and similar mechanical and electrical equipment.

Varying Sound: Continuous Sound that varies over time by at least 3 dB(A) or 3 dB(C). Examples of Sources of Varying Sound include traffic, aircraft, music, and amplified or unamplified voices.

Vehicle: Any machine in, upon, or by which any Individual or property is or may be transported or drawn upon or over any highway, thoroughfare, or ground, except those machines moved by human power or used exclusively upon stationary rails or tracks. This definition includes hovercraft.

Warning Device: Sound emitting Signal Devices used to alert and warn people.

Watercraft: Any machine in, upon, or by which any Person or property is or may be transported or drawn upon or over any watercourse or body of water, including swamp lands; the term includes hovercraft and Airboats.

(Ord. No. 2020-15, § 2, 5-12-2020; Ord. No. 2022-24, § 2, 8-9-2022)

Secs. 165.5—165.10. Reserved.

PART 2. ENFORCEMENT PROCEDURES

Sec. 165.11. Enforcement authority.

The Seminole County Sheriff's Office is empowered to investigate any situation where a Person is alleged to be violating this Chapter.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.12. Determination and Measurement of Noise.

- (a) To enforce the prohibition of a Noise Disturbance as defined in subsections (5)—(6) of the definition of Noise Disturbance in Section 165.4(b) above, the Seminole County Sheriff's Office shall determine whether a Sound constitutes a Noise Disturbance under these subsections by using a Sound Level Meter.
- (b) To enforce the prohibition of a Noise Disturbance as defined in subsections (1)—(4) of the definition of Noise Disturbance in Section 165.4(b) above, a Seminole County Sheriff's Office deputy may determine whether a Sound constitutes a Noise Disturbance under these subsections based on listening to the Sound at issue and making notes of the date, time, and location, origin, and nature of the Sound.

(Ord. No. 2020-15, § 2, 5-12-2020)

Secs. 165.13—165.20. Reserved.

PART 3. PROHIBITIONS

Sec. 165.21. General prohibition of Noise Disturbance.

- (a) No Person is permitted to make, maintain, or cause to be made or maintained a Noise Disturbance unless the Sound is exempted in some manner under this Chapter.
- (b) Sound emanating from a Source Premises after the owner or occupant with control of the Source Premises or such Sound has or should have knowledge of the condition will be deemed to be the result of the property owner or occupant's intentional act.
- (c) The acts and circumstances listed in Sections 165.22—165.30 below are declared to be Sound specifically in violation of this Chapter. The enumeration is not exclusive.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.22. A-Weighted and C-Weighted Sound Level Limits.

- (a) Except as otherwise provided in this Chapter, no Person is permitted to make, to continue to make, to cause to be made or continued, or to allow to be made or continued any Sound that exceeds any of the Sound Level limits set forth in Table 1 below:

Table 1. A-Weighted and C-Weighted Sound Level Limits			
Type of Receptor Premises	Time of Day or Night*	Sound Level Limit	
		dB(A)	dB(C)
Residential	7:00 a.m. to 11:00 p.m.	60	65
	11:00 p.m. to 7:00 a.m.	55	60
Commercial	7:00 a.m. to 11:00 p.m.	65	75
	11:00 p.m. to 7:00 a.m.	60	70
Industrial, Manufacturing, and Public Use	All times	75	85
*All times are the current local standard or daylight savings time in effect at the time of the measurement.			

- (b) To determine compliance with Table 1 above, Sound Levels are to be measured using a Sound-Level Meter in accordance with the following measurement procedures.
 - (1) The Sound Levels must be measured at or within the Property Boundary of the Receptor Premises from which the complaint originated. The Sound Level Meter should normally be placed at a distance greater than fifty (50) feet from the Sound source unless there is a valid reason for measuring at a closer distance. A "valid reason" exists where land use, location, zoning, physical barriers, or other acoustical impediments adversely affect the accuracy of Sound measurements. Measurements must be made in accordance with ANSI S1.13, "Measurement of Sound Pressure Levels in Air". The Sound Level Meter must be placed at a height of at least three (3) feet above the ground and at least five (5) feet

away from walls, barriers, obstructions, and any other sound-reflecting surfaces that might affect the measured Sound Level. Microphone wind screens must be used when appropriate. The measured Sound Levels used for comparison with the Table 1 Sound Level Limits will be the Equivalent A-Weighted Sound Level and Equivalent C-Weighted Sound Level measured over a minimum duration of sixty (60) seconds or as otherwise set forth in Section 165.22(b)(2), after adjustment for the applicable A-Weighted or C-Weighted Ambient Sound Level.

- (2) This subsection specifies additional requirements for Varying Sound prior to any applicable adjustments set forth in Table 2. If the Ambient Sound Level or the alleged violating Sound Level is a Varying Sound, then a measurement duration time longer than sixty (60) seconds must be used. This will often be necessary when measuring transportation Noise, such as traffic and aircraft, and amplified or unamplified music. The person conducting the measurements should observe the Sound Level Meter throughout the measurement. The measurement period should be set for a period of ten (10) minutes for each measurement. A period of ten (10) minutes is normally sufficient for the Equivalent A-Weighted or C-Weighted Sound Level reading shown on the Sound Level Meter to settle out to a value that changes by no more than 1 dB(A) or 1 dB(C) for a minimum of sixty (60) seconds. If the reading shown on the Sound Level Meter settles out to a value that changes by no more than 1 dB(A) or 1 dB(C) for a minimum of sixty (60) seconds in less than the set ten (10) minute period, then there is no further need for continued observation for the remainder of the set time. With Varying Sounds, a measurement period allowing the values to level out will provide a more accurate assessment of the acoustical environment and prevailing Sound Levels. If both the Ambient Sound Level and the alleged violating Sound are Steady Sounds, then the minimum required measurement duration period of sixty (60) seconds is acceptable.
- (3) Adjustment for Ambient Sound Level will be made as specified in Table 2 below when the Ambient Sound Level is less than the alleged violating Sound Level. If the measured difference between the measured Ambient Sound Level and the alleged violating Sound Level is five (5) dB(A) or five (5) dB(C) or less, then the alleged violating Sound Level measurement will be reduced by two (2) dB(A) or two (2) dB(C). If the measured difference is six (6) to eight (8) dB(A) or six (6) to eight (8) dB(C), then the alleged violating Sound Level measurement will be reduced by one (1) dB(A) or one (1) dB(C). If such measured difference is nine (9) or more dB(A) or nine (9) or more dB(C), then the alleged violating Sound Level measurement will not be adjusted based upon the difference. Fractional deciBels will be rounded to the nearest whole deciBel. For the purpose of this adjustment, the Ambient Sound Level will be measured at the same location using the same measurement procedures as defined previously for measurement of Sound Levels for comparison with the Table 1 Sound Level limits.
- (4) If the measured Ambient Sound Level is equal to or exceeds the Sound Level Limit in Table 1 and the measured alleged violating Sound Level, after adjustments set forth in Table 2, is no more than 5 dB(A) or 5 dB(C) above the measured Ambient Sound Level, then no violation of this Chapter has occurred. If the measured Ambient Sound Level is equal to or exceeds the Sound Level Limit in Table 1 and the measured alleged violating Sound Level, after adjustments set forth in Table 2, is greater than 5 dB(A) or 5 dB(C) above the measured Ambient Sound Level, then a violation of this Chapter has occurred.

Table 2. Adjustment for Ambient Sound Level When Ambient Sound Level is Less than Alleged Violating Sound Level	
Difference between Alleged Violating Sound Level* and Ambient Sound Level*	Adjustment (to be subtracted from the alleged violating Sound Level)
9 and higher	0
6 to 8	1

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5 or less	2
*Sound Levels are in units of dB(A) or dB(C).	

(5) The following adjustments are to be made for character of sound:

- (i) *Pure Tone*. For any sound that is a Pure Tone, the Sound Level limits for Residential Properties set forth in Table 1 will be reduced by five (5) dB(A) and five (5) dB(C).
- (ii) *Non-Repetitive Impulsive Sound*. For any non-repetitive Impulsive Sound (up to five (5) impulses per hour), the Sound Level limits set forth in Table 1 will be increased by ten (10) dB(A) and ten (10) dB(C) from 7:00 a.m. to 11:00 p.m.

(Ord. No. 2020-15, § 2, 5-12-2020; Ord. No. 2022-24, § 2, 8-9-2022)

Sec. 165.23. Hawkers and peddlers.

No Person may sell anything inside or within five hundred (500) feet of a Residential Use Property by outcry. However, the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events is permitted.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.24. Lawn maintenance equipment.

The operation of lawn mowers, edgers, trimmers, and power-driven hedge shears inside or within five hundred (500) feet of a Residential Use Property is prohibited between the hours of 11:00 p.m. and 7:00 a.m.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.25. Power tools.

No Person may operate inside or within five hundred (500) feet of a Residential Use Property, any power equipment, excluding construction equipment used for Construction Activities, such as but not limited to, chain saws, pavement breakers, log chippers, riding tractors, power hand tools, between the hours of 11:00 p.m. and 7:00 a.m. This Section does not apply if the Sound produced by such power equipment is not Audible outside that Person's own parcel of real estate.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.26. Transport of metal rails.

No Person may transport rails, pillars, or columns of iron, steel, or other material over and along streets and other public places upon any Vehicle, motorized or not, in any manner that is loaded to create a Noise Disturbance between the hours of 11:00 p.m. and 7:00 a.m.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.27. Loading, unloading and unpacking.

No Person may load, unload, pack, or unpack or open crates, boxes or containers on any Vehicle, motorized or not, in any manner that creates a Noise Disturbance within a Residential Use Property between the hours of 11:00 p.m. and 7:00 a.m.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.28. Tire screeching.

The intentional or repeated creation of a Noise Disturbance through the acceleration, turning, or stopping of any Motor Vehicle is prohibited.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.29. Vehicle defects; repair and testing of Vehicle motors.

- (a) No Person may operate a Motor Vehicle or Watercraft that is out of repair, defective, or under any condition of load, acceleration, or deceleration in any manner that creates a Noise Disturbance between the hours of 11:00 p.m. and 7:00 a.m.
- (b) The repairing, rebuilding, modifying, or test of any Motor Vehicle or Watercraft in any manner that creates a Noise Disturbance within a Residential Use Property is prohibited between the hours of 11:00 p.m. and 7:00 a.m.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.30. Operation of Motor Vehicle Audible Signal Devices.

It is unlawful for any Person to operate or cause to be operated a Motor Vehicle horn, siren, bell, or other Audible Signal Device under any circumstance except as required by law or for any unnecessary or unreasonable period of time.

(Ord. No. 2020-15, § 2, 5-12-2020)

Secs. 165.31—165.40. Reserved.**PART 4. SOUND PRODUCTION AND SOUND AMPLIFICATION DEVICES****Sec. 165.41. Operation of Sound-Producing Devices.**

It is unlawful for any Person to operate or cause to be operated a Sound-Producing Device that produces a Sound Level that creates a Noise Disturbance.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.42. Operation of Indoor Sound Amplification Devices.

It is unlawful for any Person to operate or cause to be operated an Indoor Sound Amplification Device that produces a Sound Level that creates a Noise Disturbance.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.43. Operation of Outdoor Sound Amplification Devices.

- (a) Regardless of the use to which put or the zone in which played, all Sounds emanating from an Outdoor Sound Amplification Device must be limited in volume, tone, and intensity to ensure the Sound does not create a Noise Disturbance.
- (b) It is unlawful for any Person to operate or use any Outdoor Sound Amplification Device for Commercial Purposes between the hours of 11:00 p.m. and 7:00 a.m. in any zone.

(Ord. No. 2020-15, § 2, 5-12-2020)

Secs. 165.44—165.50. Reserved.**PART 5. EXEMPTIONS; SPECIAL PERMITS****Sec. 165.51. Exemptions.**

The provisions of this Chapter do not apply to the Sound from any of the following sources or causes:

- (a) Railway locomotives or cars.
- (b) Aircraft and airport activity conducted in accordance with federal laws and regulations.
- (c) Maintenance of public service facilities.
- (d) Law enforcement and public safety activities, including training.
- (e) Motor Vehicles operating on a public right of way subject to Section 316.293, Florida Statutes, as this statute may be amended from time to time.
- (f) Operation of any regulated utility.
- (g) Events permitted under Section 30.1378, Seminole County Land Development Code, concerning special event permits or under Chapter 158, Seminole County Code concerning motion pictures, as these ordinances may be amended from time to time.
- (h) Construction Activities proceeding under a valid governmental permit.
- (i) Public works projects contracted for or by a governmental agency.
- (j) Activities sponsored or related to the operation of general education institutions on property owned or under the control of the institution.
- (k) Holders of solid waste franchises and any solid waste collection performed by Seminole County or any municipality within Seminole County.
- (l) Emergency power generators.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.52. Special permits for the production of Noise where otherwise prohibited.

- (a) Any Person or group of Persons desiring to use or operate an Indoor or Outdoor Sound Amplification Device beyond the limits stated in Sections 165.42 and 165.43 or desiring to engage in conduct or activities that would violate other sections of this Chapter, shall apply to the County Manager or his designees for a permit to conduct such activity. The County Manager or his or her designees may issue a permit for such activity to any Person or group of Persons who applies, subject to the provisions of this Section. Each permittee, whether the original applicant, or an associate of an applicant shall comply with all of the terms in this Section.
- (b) The County Manager or his or her designee is authorized to grant a temporary exemption or permit to allow a Person or Persons to engage in conduct or activities that would otherwise violate this Chapter after consideration of the factors listed below if no feasible or prudent alternative exists for the conduct or activity. The County Manager shall consider the following factors in determining whether or not to grant such a temporary permit:
 - (1) The balance of the hardship of the applicant, the community or any other Persons in not granting the permit, as opposed to the adverse impact on the health, safety, and welfare of any Individual adversely affected or any other adverse effects which would be incurred by the granting of the permit.
 - (2) The proximity of any Residential Use Property or any other uses that would be adversely affected by Sound that would otherwise be in violation of this Chapter.
 - (3) The level of the Sound to be generated by the event or activity for which the permit is sought.
 - (4) Whether the type of Sound to be produced by the event or activity is usual or unusual for the location or type of Use Property for which the permit is requested.
 - (5) The population density of the type of Use Property in which the event or activity is to take place.
 - (6) The date and time during which the event or activity is to take place.
 - (7) The nature of the Sound to be produced, including, but not limited to whether the Sound will be steady, intermittent, impulsive or repetitive.
- (c) A permit must be in writing and signed by the County Manager or his or her designee and must set forth the name of the Person or group of Persons to whom the exemption is granted, the location of the property for which the permit is granted, and the date and time for which the permit is effective.
- (d) In granting any permit under this Section, the County Manager or his or her designee may impose appropriate conditions and safeguards as necessary to mitigate the effects of activity permitted as it relates to production of Noise.

(Ord. No. 2020-15, § 2, 5-12-2020)

Secs. 165.53—165.60. Reserved.

PART 6. VIOLATIONS

Sec. 165.61. Penalties.

- (a) As authorized by Section 125.69, Florida Statutes (2019), as this statute may be amended from time to time, any Person who violates this Chapter 165 may be punished by imprisonment for a term not to exceed sixty (60) days or a fine not to exceed five hundred dollars (\$500.00) or both, for each such violation.
- (b) In addition and supplemental to any other procedure or penalty provided by this Code or other law, any Person who violates this Chapter 165 is subject to the Code Enforcement Board or Special Magistrate process and the fine and lien provisions of Chapter 53, Part 2, of this Code.
- (c) In addition and supplemental to any other procedure or penalty provided by this Code or other law, any Person who violates this Chapter 165 is subject to Chapter 53, Part 3, Code Enforcement Citations.
- (d) Each day such violation is committed or permitted to continue will constitute a separate offense and will be punishable as such.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.62. Civil remedies.

In addition to the criminal and other penalties provided in Section 165.61, Seminole County may institute any appropriate action or proceeding including suit for injunctive relief in order to prevent or abate violations of this Chapter.

(Ord. No. 2020-15, § 2, 5-12-2020)

Sec. 165.63. Citizen suits.

Nothing in this Chapter may be construed to prohibit any Person from commencing a civil action on their own against any Person who is alleged to be in violation of any provision of this Chapter, nor may this Chapter be construed to impair any other common law or statutory causes of action, or legal remedies of any Person for injury or damage arising from any violation of this Chapter or from other law. Furthermore, the Seminole County Board of Commissioners intends for this Chapter to serve as the basis for private actions by Individuals, living within this Chapter's geographic area of coverage, to seek relief against violations emanating from both inside and outside the area of coverage.

(Ord. No. 2020-15, § 2, 5-12-2020)