

CHAPTER 99. - NOISE CONTROL^[8]

Footnotes:

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Editor's note—Ord. No. 27-12, § 2, adopted September 4, 2012, repealed the former Chapter 99, §§ 99.01—99.06, 99.15—99.18 and 99.30—99.34, and enacted a new Chapter 99 as set out herein. The former Chapter 99 pertained to similar subject matter. See the Code Comparative Table for the Chapter history.

Sec. 99.01. - SCOPE.

This Chapter shall apply to the control of all sound and vibration originating within the limits of the City.

(Ord. No. 27-12, § 2, passed 9/4/12)

Sec. 99.02. - 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:

Aircraft. Any self-propelled motor vehicle or contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, including but not limited to powered paragliders.

Amplification device. Any instrument, machine, or system, which by electronic means augments sound by increasing the sound level or volume.

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

One day. A 24-hour period from noon to noon.

Premises. Any real property or parcel of land, including the buildings, structures or other improvements thereon.

Residential area. For purposes of this chapter only, residential area shall include the following zoning districts:

- (1) R-1-AAA;
- (2) R-1-AAA-B;
- (3) R-1-AA;
- (4) R-1-AA-B;
- (5) R-1-A;
- (6) R-1-A-B;
- (7) RM;
- (8) RR;
- (9) A;
- (10) PRD;
- (11) MH;
- (12) RL;
- (13) Community Facilities (CF);
- (14) Open Space (OS);
- (15) Open Space and Recreation (OSR); and
- (16) Conservation District (CD).

Structure. A building of any kind, either temporary or permanent, which has a roof over it.

Violator. A person or entity determined or cited by a code inspector or a law enforcement officer as being in violation of the provisions of this article.

(Ord. No. 27-12, § 2, passed 9/4/12; Ord. No. 14-13, § 2, passed 8/20/13)

Sec. 99.03. - LOUD AND UNNECESSARY NOISES PROHIBITED.

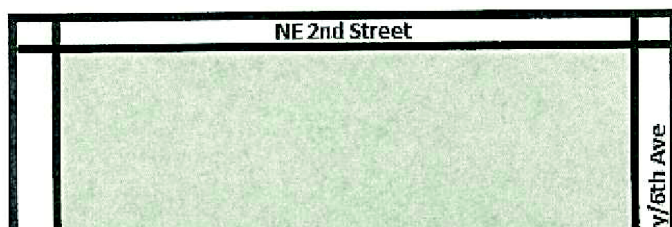
It shall be unlawful for any person to make, continue or cause to be made or continued any unreasonably loud, excessive, or unnecessary noise, which shall apply in all areas of the city, twenty-four (24) hours a day, seven (7) days a week, except as specified otherwise herein.

(A) *Certain Acts Declared Unlawful.* The following acts, and the causing thereof, among others, are declared to be unreasonably loud, excessive, or unnecessary noises and in violation of this Chapter. This enumeration does not constitute an exclusive list.

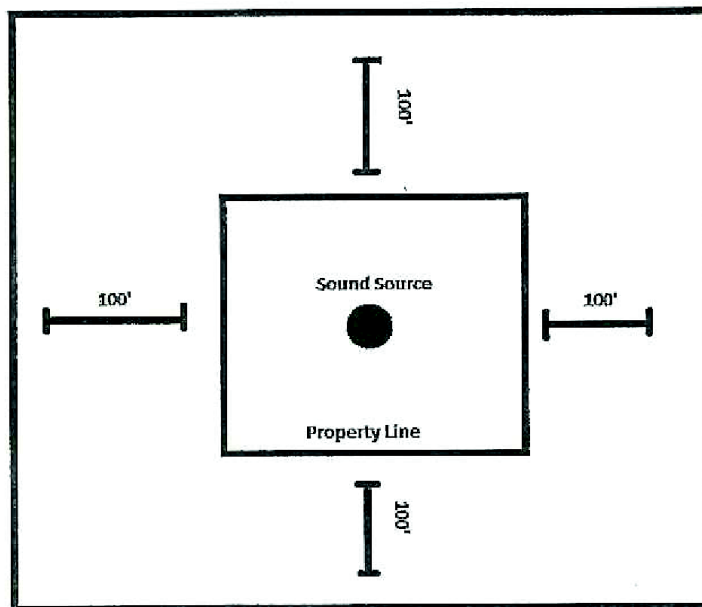
(1) *Radios, televisions, musical instruments, loudspeakers, etc.* Using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, loudspeaker, public address system, sound truck or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto.

(a) The operation of any such set, instrument, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of one hundred (100) feet from the boundaries of the property surrounding the device or the building, structure, or vehicle in which the device is located, except as set forth in Section 99.03(A)(1)(a)(i), shall be prima facie evidence of a violation of this section.

(i) For buildings or structures used for commercial purposes in the shaded area designated in the map below, operation of any such set, instrument, machine or device between the hours of 12:01 a.m. and 7:00 a.m. Monday through Friday and between the hours of 1:00 a.m. and 7:00 a.m. on Saturday and Sunday in such a manner as to be plainly audible at a distance of one hundred (100) feet from the boundaries of the property in which the device is located shall be prima facie evidence of a violation of this section.



(ii) The 100-foot distance shall be measured in a straight line from any point on the property line of the sound source as shown in the accompanying illustration.



- (b) Where the noise source is located in a building or other structure, the owner, occupant, resident manager or other person in charge of the premises shall, if present, be presumed to have permitted the noise in the absence of evidence to the contrary.
- (2) *Animals and Birds.* Owning, possessing or harboring any dog, animal or bird which causes frequent, habitual or long continued noise which is plainly audible at a distance of one hundred (100) feet from the building, structure or yard in which the dog, animal or bird is located. This provision shall not apply to public zoos.
- (3) *Loading and Unloading.* Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects in a manner as to cause an unreasonably loud or excessive sound.
- (4) *Construction.* Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work in such a manner as to create an unreasonably loud or excessive sound or vibration.
- (a) The provisions of subsection (A)(4) of this Section shall not prohibit construction, drilling or demolition work between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and between 8:00 a.m. and 4:00 p.m. on Saturdays, nor prohibit the use of any temporary pumps or machinery which are required to be operated twenty-four (24) hours a day in conjunction with construction work. Subsection (A)(4) shall also not apply to emergency work for public utilities or where there is an exemption pursuant to Section 99.04 or where a temporary permit has been issued pursuant to Section 99.05.
- (b) The provisions of subsection (A)(4) shall not apply to the use of domestic power tools subject to subsection (A)(12) of this Section.
- (5) *Vehicle or Motorboat Repairs and Testing.* Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in a manner as to cause an unreasonably loud or excessive sound.
- (6) *Refuse Collection Vehicles.* No person shall collect refuse with a refuse collection vehicle between the hours of 7:00 p.m. and 6:00 a.m.
- (7) *Stationary Mechanical Noise Source.* Operating or permitting the operation of stationary mechanical sources including but not limited to pumps (except for pumping done pursuant to subsection (A)(4)(a) of this Section), motors, fans, compressors, powered tools or similar devices, air conditioning or air-handling systems, and cooling towers in a manner as to exceed sixty (60) decibels (dB[A]) when measured at any point on neighboring property line.

- (8) *Vibration*. Operating or permitting the operation of any device on a property, including bass emanating from audio speakers, so as to produce vibration that is unreasonable.
- (9) *Stationary Nonemergency Signaling Devices*. Sound or permitting the sounding of any signal from any stationary bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes, from any place, for more than ten (10) seconds in any hourly period. Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision.
- (10) *Emergency Signaling Devices*.
- (a) The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling devices, except for emergency purposes or for testing, as provided in subsection (A)(10)(b) of this Section.
- (b) (1) Testing of a stationary emergency signaling device shall not occur before 7:00 a.m. or after 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall the test time exceed sixty (60) seconds and five (5) minutes for emergency generators.
- (2) Testing of the complete emergency signaling system, including the functioning of the emergency signaling device and the personnel response to the emergency signaling device shall not occur more than once in each calendar month. This testing shall not occur before 7:00 a.m. or after 7:00 p.m. The time limit for the test time specified in subsection (A)(10)(b)(1) shall not apply to the complete system testing.
- (c) The sounding or permitting the sounding of any exterior burglar or fire alarm shall comply with the provisions of Chapter 112.
- (11) *Motor Vehicles Operating on a Public Right-of-Way*. Motor vehicles on a Public Right-of-Way are regulated as set forth in F.S. Sections 316.272 and 316.293, as currently exists or as may hereafter be amended.
- (12) *Domestic Power Tools*. Operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, or similar device used in residential areas between the hours of 8:00 p.m. and 7:00 a.m.
- (13) *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 working of such institutions, 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.
- (14) *Tampering*. The removal or rendering inoperative by any person other than for purposes of maintenance, repair or replacement, of any noise control device or element of design of any product having those devices.
- (15) *Operation of aircraft; mufflers*. Operating an aircraft over the corporate limits of the City that is not equipped with an adequate muffler ordinary for any such aircraft. Said muffler must be used in constant operation so as to prevent any excessive or unnecessary noise.

(Ord. No. 27-12, § 2, passed 9/4/12; Ord. No. 14-13, § 3, passed 8/20/13; Ord. No. 30-13, § 2, passed 11/19/13)

Sec. 99.04. - EXEMPTIONS.

The provisions of this Chapter shall not apply to:

- (A) Radios, sirens, horns and bells and other sounds created by police, fire and other emergency response vehicles;
- (B) Parades, fireworks displays, and other activities for which a permit has been obtained from the City Manager or his/her designee pursuant to Section 99.05, within such hours and in accordance with such restrictions as may be imposed as conditions for the issuance of the permit; or
- (C)

The emission of sound in the performance of an activity for which, pursuant to this Chapter, the City Manager has expressly given a temporary permit pursuant to Section 99.05.

- (D) Noises resulting from emergency work, including but not limited to the use of generators or other equipment by communications and public utility companies in connection with a commercial power outage and/or restoration of service operations and the use of emergency generators due to loss of power other than non-payment of utility services. The testing of emergency generators shall not occur before 7:00 a.m. or after 7:00 p.m. and shall not occur more than once in each week.

(Ord. No. 27-12, § 2, passed 9/4/12; Ord. No. 14-13, § 4, passed 8/20/13)

Sec. 99.05. - TEMPORARY PERMITS.

- (A) *Requirements and procedures.* The City Manager or his or her designee is authorized to issue a temporary permit to allow noise when produced by a temporary use or activity as provided in this section. The City Manager may prescribe any reasonable conditions necessary to minimize any adverse effect upon the community. A permit granted under this section shall contain all conditions upon which the permit has been granted, including the decibel limit and the period of time for which the permit has been granted. Such relief may be granted in the following situations:
- (1) *Special events.* When an applicant is applying for a Special Use permit, a temporary permit to allow noise may be granted at the same time. A special event is a non-routine happening or social activity bringing people together in a defined area on City facilities, right of way, or private property which requires City services to ensure safety and coordination. Special events include, but are not limited to, activities such as festivals, concerts, sporting events, parades, walks and runs, etc.
 - (2) *Temporary events.* When an applicant plans to engage in temporary uses or activities on private property which do not significantly endanger the health, safety or welfare of the community, but which may be in technical violation of the requirements of this Chapter, a temporary permit may be issued to permit noise produced by the event. Temporary events include, but are not limited to, store openings, outdoor markets, carnivals, etc.
 - (3) *Code compliance in progress.* When an applicant is utilizing best efforts to comply with the noise restrictions in this Chapter, but additional time is required for the applicant to modify his activity to comply and no reasonable alternative is available to the applicant, such permits may be granted for a period of time not to exceed ten (10) consecutive days.
 - (4) *Construction.* When construction activities pursuant to a valid building permit cannot be carried out in a manner which would comply with Section 99.03, notwithstanding that all equipment is operated in accordance with manufacturer's specifications, is in good repair and utilizes all noise baffling methods as specified by the manufacturer.
 - (a) The City Manager may authorize any necessary construction activities to occur earlier and/or later than normally allowed based upon a finding that:
 1. There are no reasonable alternatives;
 2. There are no prior code violation adjudications or fines and no pending construction noise violation cases against the property owner, contractor, or the construction site; and
 3. There is a significant community need, public purpose or benefit.
 - (b) The work authorized by the City Manager may be conditioned upon reasonable notice to surrounding property owners and tenants. Permits issued pursuant to such authorization shall not exceed seven (7) consecutive days.
 - (c) Notwithstanding the provisions (4)(a) and (b), temporary permits shall be subject to authorization by the building official under emergency circumstances or when the building official determines that for reasons of technical necessity work earlier or later than the time frames normally allowed or on any

day (including Sundays or national holidays) is required. The work authorized by the building official pursuant to this subsection shall be conditioned upon reasonable notice to surrounding property owners and tenants.

- (B) *Violation of temporary permit.* Failure to comply with any condition of a temporary permit issued pursuant to this section shall constitute a violation and shall result in enforcement procedures and penalties as set forth in Section 99.08.
- (C) *Revocation of temporary permits.* Any temporary permit may be immediately revoked if the City Manager finds that an emergency condition exists involving serious danger to the public health, safety, or welfare; if the permit holder failed to disclose or misrepresented material information in the permit application or in the permit application process; or that there was a failure to comply with any condition of a particular temporary permit.
- (D) The issuance of a temporary permit is a privilege and does not constitute a right or expectation that said permit will remain in effect. Any permits issued pursuant to this section shall not constitute or be deemed precedent for the granting of any future permits.
- (E) *Appeals.* Appeals of the decision of the City Manager or his/her designee shall be made to the City Commission by submitting the appeal in writing to the City Clerk within ten (10) days of the denial. Decisions of the City Commission shall be final subject to appeal of such decision within thirty (30) days to the Circuit Court of Palm Beach County.

(Ord. No. 27-12, § 2, passed 9/4/12; Ord. No. 14-13, § 5, passed 8/20/13)

Sec. 99.06. - RESERVED.

Editor's note— Ord. No. 14-13, § 6, passed August 20, 2013, repealed § 99.06, which pertained to notice of violation and derived from Ord. No. 27-12, passed September 4, 2012.

Sec. 99.07. - RESERVED.

Editor's note— Ord. No. 14-13, § 7, passed August 20, 2013, repealed § 99.07, which pertained to abatement orders and derived from Ord. No. 27-12, passed September 4, 2012.

Sec. 99.08. - NOTICE OF VIOLATION/PENALTY.

- (A) A Code Enforcement Officer or a Law Enforcement Officer may issue a civil citation for a violation of this Chapter pursuant to the procedures and amounts listed in Section 37.45 of this City's Code of Ordinances. Each violation shall constitute a separate instance for which a separate fine may be imposed. A person may receive a separate notice of violation once every hour if a violation has occurred at any time within that period. A violation shall be deemed to have occurred on the date that the noise incident occurred. A violation occurring twelve (12) months after the last violation shall be treated as a first violation for purposes of incurring new fines and penalties.
- (B) A Code Enforcement Officer or Law Enforcement Officer may issue a notice of violation of this Chapter and initiate enforcement proceedings to be heard by the code enforcement board pursuant to the procedures listed in Section 37.36 of this City's Code of Ordinances and in accordance with the amounts listed below:
 - (1) If the offense is the first offense to come before the code enforcement board, a maximum fine of two hundred fifty dollars (\$250.00) may be imposed upon a finding of guilt by the code enforcement board.
 - (2) If the offense is the second offense to come before the code enforcement board within the preceding twelve (12) months, a maximum fine of five hundred dollars (\$500.00) may be imposed upon a finding of guilt by the code enforcement board.
 - (3) If the offense is the third offense to come before the code enforcement board within the preceding twelve (12) months, a maximum fine of five thousand dollars (\$5,000.00) may be imposed upon a finding of guilt by the code enforcement board. In addition, business tax receipt conditions may be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violations pursuant to Section 110.17 of this City's Code of Ordinances.

- (4) If the offense is the fourth offense to come before the code enforcement board within the preceding twelve (12) months, a maximum fine of ten thousand dollars (\$10,000.00) may be imposed upon a finding of guilt by the code enforcement board. In addition, business tax receipt conditions may be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violations pursuant to Section 110.17 of this City's Code of Ordinances.
- (5) If the offense is more than the fourth offense to come before the code enforcement board within the preceding twelve (12) months, a maximum fine of fifteen thousand dollars (\$15,000.00) may be imposed upon a finding of guilt by the code enforcement board. In addition, business tax receipt conditions may be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violations pursuant to Section 110.17 of this City's Code of Ordinances.
- (6) For the purposes of this section, "offense" shall mean a finding of violation by the Code Enforcement Board. An offense shall be deemed to have occurred on the date the violation occurred. An offense occurring twelve (12) months after the last offense shall be treated as a first offense for purposes of incurring new fines and penalties.
- (C) This Chapter shall be enforced using procedures set forth in this Chapter, Chapter 37 of the City's Code of Ordinances, or by any other means available to the City.
- (Ord. No. 27-12, § 2, passed 9/4/12; Ord. No. 14-13, § 2, passed 8/20/13)

Sec. 99.09. - NUISANCE.

Any violation of this article shall constitute a nuisance. The City attorney may bring suit on behalf of the City, or any affected citizen may bring suit in his name, against the person or persons causing or maintaining the violation, and against the owner/agent of the building or property on which the violation exists.

(Ord. No. 27-12, § 2, passed 9/4/12)