

ARTICLE II. - NOISE CONTROL

FOOTNOTE(S):

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Editor's note—Ord. No. 2000/013, § 1, adopted May 2, 2000, repealed Art. II, §§ 34-31—34-35, which pertained to noise. Sections 1—9 of said ordinance have been codified herein as a new Art. II, §§ 34-31—34-39 at the discretion of the editor. See the Code Comparative Table.

Sec. 34-31. - Short title and repealer.

This division shall be known and may be cited as the "City of Deerfield Beach Noise Control Ordinance". City Code sections 34-31 through 34-35 are hereby repealed.

(Ord. No. 2000/013, § 1, 5-2-00)

Sec. 34-32. - Intent and purpose.

It is the intent and purpose of this chapter to regulate uses and activities in the City of Deerfield Beach in such a manner as to prevent excessive noises which degrade the quality of life, disturb the public peace, and jeopardize the health, safety and welfare of the citizens of Deerfield Beach. It is further the intent of this chapter to recognize that factors such as the time of day, location (e.g. proximity to residences), necessity of public projects for the public good, and necessity of sounds incidental to allowed uses and activities must be considered in balancing the protection of public peace and individual freedoms.

(Ord. No. 2000/013, § 2, 5-2-00)

Sec. 34-33. - Definitions.

All terminology used in this division, not specifically defined herein, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dBA.

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.

Decibel (dB) means a unit for measuring the volume of sound; it is a logarithmic (dimensionless) unit of measure used in describing the amplitude of sound. Decibel is denoted as dB.

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.

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 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.

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, 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. To qualify, such an apparatus must cause a reduction in sound pressure level of at least (×) dB(A) upon insertion into the system for which it is intended.

Noise means any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

Ambient noise level means the sound pressure level of the all encompassing noise associated with a given environment, being usually a composite of sounds from many sources; the A-weighted sound pressure level exceeded 90 percent of the time based on the one-hour period.

Continuous noise means a steady, fluctuating, or impact noise which exists, essentially without interruption, for a period of one hour or more.

Cyclically-varying noise means a steady, fluctuating, or impulsive noise which may or may not contain a pure tone, which varies in sound pressure level such that the same level is obtained repetitively at reasonably uniform intervals of time.

Fluctuating noise means the sound pressure level of a fluctuating noise that varies more than six dB(A) during the period of observation, when measured with the slow meter characteristic of sound level meter, and does not equal the previously existing ambient noise level more than once during the period of observation.

Impulsive noise means a sound of short duration, usually less than one second, of sound pressure level 20 dB(A) or more over the ambient noise pressure level, using the fast meter characteristic, with an abrupt onset and rapid decay. Examples of sources of impulsive noise includes explosions and the discharge of firearms.

Steady noise means a sound pressure level which remains essentially constant during the period of observation, i.e., the fluctuations are too small to meet the criteria for fluctuating noise.

Officer means and City of Deerfield Beach code enforcement officer or a sworn law enforcement office employed by the Broward Sheriff's Office.

Period of observation means the time interval during which acoustical data and facts are obtained. 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. It shall be ANSI S.1.13-1971 of the American National Standards Institute.

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.

Plainly audible means any sound produced by a radio, tape player, compact disc player, digital audio file players, loudspeaker, or other mechanical or electronic soundmaking device, or instrument, including sound produced by a portable sound-making device, that can be clearly heard by an officer using her or his normal hearing faculties at a distance of 50 feet or more from the source.

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, bikepath, 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.

RMS (root means square) means the square root of the mean of a set of squared values.

RMS sound pressure means the square root of the time averaged square of the sound pressure.

Receiving land use means the land which is receiving the noise as designated by the City of Deerfield Beach Zoning Map (and for recently incorporated areas, the effective zoning category).

Recreation vehicle means a piece of mechanized equipment for conveyance for off-road use.

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

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting A, B or C as specified in American National Standards Institute specifications for sound level meters ANSI S1.401971, or the latest version thereof. If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument of Type Two or better, as specified in the American National Standards Institute Publication S1.4-1971, or the latest version thereof, which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighing networks used to measure sound pressure levels.

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 sound energy.

Sound pressure level means 20 times the logarithm to the base 10 at the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20×10^{-6} N/m (squared)). The sound pressure level as denoted L_p or SPL and is expressed in decibels.

Sound "pure tone" means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this division, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure 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.

(Ord. No. 2000/013, § 3, 5-2-00; Ord. No. 2013/028, § 1(a), 9-16-13)

Sec. 34-34. - Standards.

In determining whether a sound is plainly audible, an officer shall be entitled to measure the sound according to the following standards:

- (1) The primary means of detection shall be by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid.
- (2) The officer must have a direct line of sight and hearing to the motor vehicle producing the sound so that she or he can readily identify the offending motor vehicle and the distance involved.
- (3) The officer need not determine the particular words or phrases being produced or the name of any song or artists producing musical sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute plainly audible sound.

(Ord. No. 2000/013, § 4, 5-2-00; Ord. No. 2013/028, § 1(b), 9-16-13)

Sec. 34-35. - Specific noise prohibitions.

The following specific standards and restrictions shall apply to specific uses and/or activities in the City of Deerfield Beach except for such exemptions as are enumerated herein. The following acts are declared to be loud, disturbing, and/or excessive noise in violation of this chapter, but said acts shall not be deemed to be exclusive.

- (1) Radios, television sets, exterior loudspeakers, musical instruments, and similar devices. Operating or permitting the use or operation of any radio receiving set, exterior loudspeaker, musical instrument, phonograph, television set, or other machine or device for the production or reproduction of sound between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet or more from the source of the sound. Radios, cassette players, disk players and similar devices associated with motor vehicles or motorboats, shall not be operated in such a manner as to be plainly audible at a distance of 100 feet or more from such device, when operated on a public right-of-way or public space.
- (2) Construction equipment and activity. Operating or causing to be operated any equipment or performing any outside activity in furtherance of construction, repair, alteration or demolition work on buildings, structures, roads, or projects within the city except between the hours of 7:00 a.m. and 9:00 p.m. Monday through Friday and between the hours of 9:00 a.m. and 7:00 p.m. on Saturday. No such activity shall be permitted on Sunday or on any holiday when the U.S. Post Office is closed. A variance may be obtained as set forth herein from the City of Deerfield Beach on the basis of good cause shown for such construction or repair work between such hours.
- (3) Engine mufflers. Operating any internal combustion engine, including such an engine associated with a motor boat, 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.
- (4) Motor vehicle, motorcycle or motorboat repair in residential areas. Repairing, rebuilding, modifying or testing 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 boundary between the hours of 9:00 p.m. and 7:00 a.m.
- (5) Activities in the vicinity of schools, courts, churches, and hospitals. Creating any excessive noise on any street adjacent to any school, court, church, or hospital which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in a hospital.
- (6) Peddlers, hawkers, or vendors. It shall be unlawful for peddlers, hawkers, or vendors to shout or cry along or on a roadway to the disturbance of the peace or quiet of a neighborhood.

- (7) Drums, cymbals, 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 ice cream trucks or approved public events.
- (8) 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.
- (9) Skateboard ramps. Using any skateboard ramp or similar configuration for skateboarding or rollerblading between 9:00 p.m. and 7:00 a.m. in a residential land use designation in such a manner that would result in noise across a real property boundary.
- (10) Air blow or vacuum cleaners. Operating any air-blow or vacuum cleaning equipment or similar devices for the cleaning of parking lots, walkways, driveways, or similar areas between the hours of 9:00 p.m. and 7:00 a.m. that would result in noise across a real property boundary.
- (11) Places of public entertainment. It shall be unlawful for any public entertainment establishment or person associated with or working for said establishment to operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to create noise across a real property boundary.
- (12) Landscape maintenance. Undertaking landscape maintenance activities 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.
- (13) Powered model vehicles. Operating or permitting the operation of powered model vehicles 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.
- (14) Animal noises. It shall be unlawful for the owner or custodian of any animal to permit such animal to habitually bark, whine, howl, squawk, screech, crow or cause any other noise which is objectionable due to pitch, frequency, timing, or any combination thereof.

(Ord. No. 2000/013, § 5, 5-2-00; Ord. No. 2001/008, § 1, 2-19-02; Ord. No. 2013/028, § 1(c), 9-16-13)

Sec. 34-36. - Maximum noise level by receiving land use unit and measurement period.

Maximum permissible sound levels by receiving land use. It shall be unlawful to operate or cause to be operated any source of sound or to project a sound or noise across a real property boundary in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use designation in Table 1 when measured at or within the property line of the receiving land use designation.

TABLE 1

Zoning Designation	Time	Maximum Noise Levels
Institutional	7:00 a.m. 9:00 p.m.	55 dBA

includes the following designations: Community Facilities, Recreational, and Open Space	9:00 p.m. 7:00 a.m.	50 dBA
Residential	7:00 a.m. 9:00 p.m.	60 dBA
Includes all Residential Categories and PUD	9:00 p.m. 7:00 a.m.	55 dBA
Commercial	7:00 a.m. 9:00 p.m.	65 dBA
Includes the following designations: B-1A, B-1, B-2 and B-3	9:00 p.m. 7:00 a.m.	60 dBA
Industrial	7:00 a.m. 9:00 p.m.	70 dBA
	9:00 p.m. 7:00 a.m.	65 dBA
Agricultural	7:00 a.m. 9:00 p.m.	70 dBA
	9:00 p.m. 7:00 a.m.	65 dBA

- (1) Residential developments within an Agricultural Zoning District shall be subject to the decibel level thresholds for Residential Zoning Designations.
- (2) District boundaries. When a noise source can be identified and its noise measured in more than one land use designation, the pressure level limits of the most restrictive use district shall apply at that designation boundary.
- (3) Correction for intermittency. If the character of the sound is not steady, an exception to the above provisions may be made as follows:

TABLE 2

Character of Sound	Correction applied to
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	Sound Pressure Level Limit dBA
Source operates continuously one minute or less in any hour	+15
Source operates continuously five minutes or less in any hour	+10
Source operates continuously 15 minutes or less in any hour	+5
Source of repetitive impulse character	-5
Source has pure tone or is of cyclically varying amplitude	-5

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The measurement period shall not be less than ten minutes (continuous), as measured at the property boundary of the receiving parcel. In multifamily developments (including duplex developments), the measurement shall be taken from the receiving premises.

(Ord. No. 2000/013, § 6, 5-2-00; Ord. No. 2013/028, § 1(d), 9-16-13)

Sec. 34-37. - Exemptions.

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

- (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 city approved refuse collection.
- (5) Noises incidental to the activities of bona fide agricultural operations, excepting broadcast equipment.
- (6) Noises associated with uses or activities whereby an administrative approval to produce such noises contrary to the restrictions of this chapter has been obtained from the city commission.
- (7) Community events such as fairs, sporting events, school activities, community festivals, etc. which do not extend their activities beyond 11:00 p.m. Any community activity which is proposed to extend beyond 11:00 p.m. and may violate a provision of this division must receive approval under the provisions of section 34-63 of this division.
- (8) Noises associated with public works construction or maintenance projects.

- (9) Noises associated with the sheriff's shooting range.
- (10) Noises incidental to construction tools and equipment used and operated on a construction site between the hours of 7:00 a.m. and 9:00 p.m., provided that such tools and equipment are equipped with all sound reducing features and equipment originally part of the tool or equipment, or at least as effective as that installed as original equipment. For purposes of this subsection, the term construction site shall be limited to residential properties or construction activities that would require a building permit.

(Ord. No. 2000/013, § 7, 5-2-00)

Sec. 34-38. - Variances.

A variance from the provisions of this chapter may be granted via an administrative hearing before the city commission. The city commission shall hold a public hearing on the subject request. Such public hearing shall be scheduled for any regularly scheduled meeting of the commission after the following notification requirements are met:

- (1) Public notice in a newspaper of general circulation at least 15 days prior to the hearing.
- (2) Notification by the owner of the subject property by return receipt mail of the requested deviation from the provisions of this chapter at least ten days prior to the hearing of all property owners within 300 feet of the property boundaries as determined by the most recent tax roll maintained by the property appraiser.

The city commission may grant a variance upon a showing by the applicant that:

- a. Additional time is necessary for the applicant to alter or modify the activity in order to comply with the provisions of this division; immediate enforcement of the provisions of this division would impose an undue hardship; or
- b. The activity, operation or noise source will be a temporary duration and cannot be done in a manner that would comply with the provisions of this article; or
- c. No reasonable alternative is available to the applicant and without a variance the applicant cannot make a reasonable use of his property (this shall mean property as a whole, as opposed to a portion of the property).

The city commission shall have authority to impose conditions on the granting of a variance.

Any variance granted pursuant to this section shall contain thereon all conditions upon which said variance has been granted, including but not limited to the effective date, time of day, location, sound level limit or equipment limitations and duration of variance.

(Ord. No. 2000/013, § 8, 5-2-00)

Sec. 34-39. - Enforcement and penalties.

The Broward County Sheriff's Office shall be the enforcing agency for this division. Violation of this division is punishable by a fine of up to \$500.00 per incident.

(Ord. No. 2000/013, § 9, 5-2-00)

Sec. 34-40. - Vibrating compaction operations, limitations.

- (a) The use of driver operated vibratory compactors for construction within the city will be allowed only if use of such equipment does not produce a peak particle velocity in excess of 0.25 inch per second

when measured on the ground at the closest adjacent structure not owned by the contractor or his client or at the property line if the adjacent site is not accessible. Peak particle velocity shall be measured as the true vector sum (resultant peak particle velocity) in three mutually perpendicular planes in one instant in time.

- (b) For purposes of this section, "driver operated vibratory compactors" shall include any soil compactor operated by a driver seated on the equipment which uses any vibratory mechanism, regardless of size or weight; and peak particle velocity is a quantification of vibration measured by a portable seismograph typical to the local construction industry.
- (c) In the event requirements in paragraph a. cannot be achieved, a special exemption authorization letter may be issued by the city's building official or director of environmental services in cases where a request for a special exemption is filed in writing and where the following conditions are met: (1) a signed and sealed report is filed by a registered professional engineer licensed to practice in the State of Florida which renders his/her opinion that exceedence of the prescribed peak particle velocity shall not cause damage to the closest adjacent structure(s), including damage that results from foundation settlement, and provides the technical basis for such opinion, (2) the registered professional engineer certifies that he/she has performed a pre-construction "condition survey" of adjacent structures, including bulkheads and seawalls within a 100-foot zone surrounding the work site, which includes detailed photographic documentation and provides a signed and sealed report which includes photographic documentation as well as the results of visual examination and records of noted distress features in adjacent structures, (3) regardless of the issuance of a special exemption, a written record of peak particle velocity measurements, including vibration frequency, must be maintained and submitted to the city on a daily basis during performance of the vibratory compaction work, and (4) a post-construction survey of adjacent structures as detailed in (2) above is made by the registered professional engineer and a report of that survey submitted to the city.
- (d) Walk-behind rollers, plate vibratory compactors and other compacting equipment are permitted without limitation and in accordance with the time restrictions set forth in section 34-35.
- (e) Upon observation of a violation of this section, the city's building official, director of environmental services, or his or her authorized representative, is authorized to issue a stop work order to immediately cease such violation consistent with the provisions of the Florida Building Code and Broward County Administrative Provision, and the city may otherwise enforce this section as provided by law and the City's Code of Ordinances.

(Ord. No. 2010/020, § 2, 9-7-10)

Secs. 34-41—34-45. - Reserved.