

ARTICLE II. - NOISE AND VIBRATION CONTROL

Sec. 26-19. - Title.

This article shall be known and may be cited as the "Noise and Vibration Control Ordinance of the City of Melbourne, Florida."

(Code 1984, § 20-21; Ord. No. 2002-52, § 2, 7-23-2002)

Sec. 26-20. - Authority.

This article is enacted pursuant to Fla. Const. art. II, § 7, which provides that adequate provision shall be made by law for the abatement of excessive and unnecessary noise, and under the home rule power of the city, specifically, F.S. § 166.011 et seq., and the City Charter.

(Code 1984, § 20-22; Ord. No. 2002-52, § 2, 7-23-2002)

Sec. 26-21. - Scope.

This article shall be effective throughout the incorporated area of the city.

(Code 1984, § 20-23; Ord. No. 2002-52, § 2, 7-23-2002)

Sec. 26-22. - Purpose.

The purpose of this article is to prevent, prohibit and provide for the abatement of excessive and unnecessary noise and vibration in order to protect the health, safety, and general welfare of people of the city.

(Code 1984, § 20-24; Ord. No. 2002-52, § 2, 7-23-2002)

Sec. 26-23. - Definitions.

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

A-weighted sound pressure level means the sound pressure level, in decibels, as measured on a sound level meter using the A-weighting network. The level so read shall be designated as dB (A-wt). The A-weighted scale most closely mimics the sounds perceived by the human ear, and were specifically developed for that purpose.

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.

ANSI means the American National Standards Institute.

Code enforcement officer means the person employed by the city to enforce this article, or his authorized designee, which may include a city code enforcement officer or a city police officer.

Construction means any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or on public or private thoroughfares, structures, utilities or similar property.

Decibel or *dB* means a unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micro-newtons per square meter.

Demolition means any dismantling, destructing or razing of structures, utilities, public or private thoroughfares, or similar property.

Downtown entertainment noise district.

- (1) The term "downtown entertainment noise district" means and refers to the land and rights-of-way depicted on the map attached as Exhibit A to Ordinance No. 2010-50, which map is incorporated herein by reference, and which land and rights-of-way are described below. In the event that the area depicted on the map conflicts with the description, the map shall prevail.
- (2) The Downtown Entertainment Noise District is located in Township 28 South, Range 37 East, Sections 2 and 3, situate and lying in the State of Florida, County of Brevard to wit:

Block 41, La Bertha Lawn, according to the plat thereof, as described in Plat Book 3, Page 48;

Lots 1 through 6, Myers Addition to Melbourne, according to the plat thereof, as described in Plat Book 2, Page 61;

Lots 12 through 14, Block 1 and Lots 12 through 14, Block 2, Hallwood Place, according to the plat thereof, as described in Plat Book 2, Page 33;

North 90 Feet of Lots 1 through 2 and all of Lots 3 through 5, Block 46, Powell & Henley's Resubdivision, according to the plat thereof, as described in Plat Book 2, Page 100;

Lot 1, west 40 feet of Lot 2, all of Lot 3 excluding the east 20 feet, and all of Lot 4 excluding the east 20 feet and the south 10 feet, Block 25, Phillips & Campbell's Resubdivision, according to the plat thereof, as described in Plat Book 1, Page 55;

The north 120 feet of the east ½ of Lot 11, the north 120 feet of Lot 12, all of Lots 13 through 15, and Lot 19, Krager's Resubdivision of Block 25 Plat of Melbourne, according to the plat thereof, as described in Plat Book 2, Page 115, and the lands described in Official Records Book 2266, Page 2713;

Lots 1 and 2 in Block 14, all of Blocks 15, 19, and 20, Lots 1 and 2, the north 50 feet of Lots 3 and 12, all of Lots 13 and 14 and the vacated alley, Block 45, and Lot 1 in Block 47, Powell's Resubdivision of Melbourne, according to the plat thereof, as described in Plat Book 1, Page 84, and the lands described in Deed Book G, Page 503;

All of Block 21, the east ½ of Lot 8 and that portion of Lot 8 as described in the deeds recorded in Deed Book 154, Page 75, and in Official Records Book 2868, Page 1086, in Block 25, the east ½ of Lot 9 in Block 25, Lots 10, 17 and 18 in Block 25, the south 40 feet of the east ½ of Lot 11 in Block 25, the south 40 feet of Lot 12 in Block 25, excluding the lands described in the deed recorded in Deed Book 154, Page 75, Lots 1 through 7 in Block 26, and the lands described in the deeds recorded in Official Records Book 2243, Page 2378, and Deed Book 396, Page 381, Lots 1 through 8 of Block 31, Blocks 32, 33, and 40, Camps Plat of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 54, and the filled lands described in the deed recorded in Official Records Book 2868, Page 1091;

Portions of Fee's Unrecorded Subdivision in Township 28 South, Range 37 East, Section 3, as follows:

A portion of Lot 1, a subdivision of the northwest ¼ of the southeast ¼, north 100 feet of Lot 1, north of Melbourne Avenue except the east 25 feet as described in the deed recorded in Official Records Book 5553, Page 6435;

Land described in the deed recorded in Official Records Book 2597, Page 1396;

Part of Lots 5, 6, and 7 as described in the deed recorded in Official Records Book 3079, Page 4894;

Subdivision of the northwest $\frac{1}{4}$ of the southeast $\frac{1}{4}$, part of Lot 8 as described in the deed recorded in Deed Book 301, Page 368, and Deed Book 100, Page 307, and Official Records Book 6089, Page 2035;

Subdivision of the northwest $\frac{1}{4}$ of the southeast $\frac{1}{4}$, north 150 feet of Lot 8, as described in the deed recorded in Official Records Book 5539, Page 2322, Official Records Book 5466, Page 8234, and Official Records Book 6089, Page 2033;

All as recorded in the Public Records of Brevard County, Florida, together with the following rights-of-way:

All of the New Haven Avenue right-of-way from a line running north from the intersection of the east right-of-way of Helen Street as shown on the plat of Myers Addition to Melbourne, as recorded in Plat Book 2, Page 61, to the north side of New Haven Avenue at the southwest corner of Lot 5, Block 1, Wells Map No. 3, according to the plat thereof, as recorded in Plat Book 1, Page 158; thence containing all of the New Haven Avenue right-of-way run eastward to a line located at the east right-of-way line of U.S. Highway No. 1 running from the southeast corner of Lot 2, Block 19, Powell's Resubdivision of the Map of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 84, to the northeast corner of Lot 1, Block 21, Camps Plat of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 54;

All of the McQuaid Street right-of-way as shown on the plat of La Bertha Lawn Lathrop's Resubdivision, as recorded in Plat Book 3, Page 48, from the south right-of-way line of Strawbridge Avenue at a point coincident with the northeast corner of Lot 1, Block 41, La Bertha Lawn Lathrop's Resubdivision, as recorded in Plat Book 3, Page 48, running east across McQuaid Street to a point at the intersection of the south side of the Strawbridge Avenue and the northwest corner of Lot 16, Block 40, Camps Plat of Melbourne, according to the plat thereof as recorded in Plat Book 1, Page 40; thence include all of the McQuaid Street right-of-way from said line south to a line on the north right-of-way of New Haven Avenue running from the southeast corner of Lot 2, Block 41, La Bertha Lawn Lathrop's Resubdivision, as recorded in Plat Book 3, Page 48, to the southwest corner of Lot 15, Block 40, Camps Plat of Melbourne, according to the plat thereof as recorded in Plat Book 1, Page 40;

All of the Livingston Street right-of-way as shown on the plat of Camps Plat of Melbourne, according to the plat thereof as recorded in Plat Book 1, Page 40, from a line along the south right-of-way line of Strawbridge Avenue from a point coincident with the northeast corner of Lot 1, Block 40, Camps Plat of Melbourne, according to the plat thereof as recorded in Plat Book 1, Page 40, running east across Livingston Street to a point at the intersection of the south side of the Strawbridge Avenue and the northwest corner of Lot 16, Block 33, Camps Plat of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 40; thence include all of the Livingston Street right-of-way from the aforesaid line south to a line on the north right-of-way of New Haven Avenue running from the southeast corner of Lot 2, Block 40, Camps Plat of Melbourne, as recorded in Plat Book 1, Page 54, to the southwest corner of Lot 15, Block 33, Camps Plat of Melbourne;

All of the Waverly Place, also known as McLaten Street, right-of-way as shown on the plat of Camps Plat of Melbourne, according to the plat thereof as recorded in Plat Book 1, Page 40, and as shown on the plat of Powell's Resubdivision of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 84, running from a line along the south right-of-way line of Strawbridge Avenue at a point coincident with the northeast corner of Lot 1, Block 33, Camps Plat of Melbourne, according to the plat thereof as recorded in Plat Book 1, Page 40, east across Waverly Place to a point at the intersection of the south side of the Strawbridge Avenue and the

northwest corner Lot 16, Block 32, Camps Plat of Melbourne, according to the plat thereof as recorded in Plat Book 1, Page 40; thence include all of the Waverly Place right-of-way running from the aforesaid line south to a line running from a point at the southwest corner of Lot 5, Block 46, Powell & Henley's Resubdivision of the Map of Melbourne, according to the plat thereof as recorded in Plat Book 2, Page 100, at its intersection with the Waverly Place right-of-way, to the southeast corner of Lot 13, Block 45, of the aforesaid Powell's Resubdivision of Melbourne;

All of the Municipal Way, also known as Gibbs Street right-of-way, from a line running from the northeast corner of Lot 1, Block 32, Camps Plat of Melbourne, as recorded in Plat Book 1, Page 54, following the south right-of-way of Strawbridge Avenue easterly to the northwest corner of Lot 9, Block 20, of the plat of Powell's Resubdivision of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 84; thence include all of the Municipal Way right-of-way from the aforesaid line running south to a line running from the southeast corner of Lot 8, Block 20, of the aforesaid Powell's Resubdivision of Melbourne, west to the southwest corner of Lot 2, Block 32, of the aforesaid Camps Plat of Melbourne;

All of the vacated Orange Street right-of-way between Block 14, Powell's Resubdivision of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 84, and Block 31, Camps Plat of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 54;

All of the Strawbridge Avenue right-of-way from a line running from the southwest corner of Lot 3, Block 31, Camps Plat of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 54, to northwest corner of Lot 4, Block 32, of the aforesaid Camps Plat of Melbourne; thence include all of the Strawbridge Avenue right-of-way from the aforesaid line and run easterly to a line coincident with the western right-of-way of U.S. Highway 1, said line running from the southeast corner of Lot 2, Block 15, Powell's Resubdivision of Map of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 84 to, the northeast corner of Lot 1, Block 19, of the aforesaid Powell's Resubdivision of Map of Melbourne;

All of the Goff Place right-of-way from a line which constitutes the south right-of-way line of New Haven Avenue, said line running from the northeast corner of the land described in the deed described in Official Records Book 5553, Page 6435, easterly to the northwest corner of the land described in the deed described in Official Records Book 2597, Page 1396, to the following line: a line running from the point at which the southeast corner of the property described in the deed recorded in Official Records Book 5553, Page 6435, is contiguous with the Goff Place right-of-way, running east across the Goff Place right-of-way to the east right-of-way line of Goff Place at a point coincident with the west property line of the property described in the deed recorded in Official Records Book 2597, Page 1396;

All of the Hallwood Place right-of-way from a line which constitutes the south right-of-way line of New Haven Avenue, said line running from the northeast corner of Lot 14, Block 1, Hallwood Place, according to the plat thereof as recorded in Plat Book 2, Page 33, east to the northwest corner of Lot 14, Block 2, of the aforesaid plat of Hallwood Place; thence containing all of the Hallwood Place right-of-way from the aforesaid line run south to a line running from the southeast corner of Lot 14, Block 1, Hallwood Place, according to the plat thereof as recorded in Plat Book 2, Page 33, to the southwest corner of 14, Block 2, Hallwood Place, according to the plat thereof, as recorded in Plat Book 2, Page 33;

All of the Grant Place right-of-way from a line which constitutes the south right-of-way line of New Haven Avenue, said line running from the northeast corner of Lot 8 in Fee's Unrecorded Subdivision which northeast corner is described as the northeast corner of Parcel No. 1 in the

deed recorded in Official Records Book 5539, Page 2322, to northwest corner of Lot 1, Block 45, Powell's Resubdivision of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 84; thence from the aforesaid line containing all of the Grant Place right-of-way run south to a line running from the southeast corner of the Parcel No. 1 as described in the deed recorded in Official Records Book 6089, Page 2035, to the southwest corner of the vacated alleyway immediately to the south of and contiguous with Lot 1, Block 45, Powell's Resubdivision of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 84;

All of the Vernon Place right-of-way; and

All of the Melbourne Court right-of-way from the New Haven Avenue right-of-way southwesterly and then southerly to a line running from the southeast corner of Lot 7, Block 26, Camps Plat of Melbourne, according to the plat thereof, as recorded in Plat Book 1, Page 54, to the western lot line of Lot 1, Block 25, Phillips & Campbell's Resubdivision, according to the plat thereof, as recorded in Plat 1, Page 55, Public Records of Brevard County, Florida; and

All of the Henley Court right-of-way; and

Alleyways located in Blocks 15, 19, and 20, Powell's Resubdivision of Melbourne, according to the plat thereof as described in Plat Book 1, Page 84.

Emergency means any occurrence or circumstances involving actual or imminent physical death or trauma, or property damage, demanding immediate emergency work or service.

Emergency work or emergency service means any labor performed for the purpose of preventing or alleviating, or attempting to prevent or alleviate, an emergency.

Equivalent sound pressure level (Leq) means a sound level descriptor based on the average acoustic intensity over time. Leq is intended as a single number indicator to describe the mean energy or intensity level over a specified period of time during which the sound level fluctuated, Leq is measured in dB and must be A-weighted. The minimum measurement time for this regulation is defined as five minutes. The five consecutive minutes standard is applicable even when noises stop and start and are not continuous. The sound level meter will integrate these factors, and this five consecutive minutes standard represents the minimum amount of time required for a reliable reading.

Impulsive sound means a sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop force impacts, the barking of dogs, and the beating of drums.

Leq. See *Equivalent sound pressure level*.

Level, day-night, (Ldn) means a 24-hour average of the A-weighted sound pressure level, with the levels for each hour, during the period 10:00 p.m. to 7:00 a.m., increased by ten dB (A-wt) before averaging.

Motor vehicle means any vehicle defined as a motor vehicle by F.S. § 320.01(1).

Motorboat means any boat or vessel propelled or powered by machinery, regardless of whether such machinery is the principal source of propulsion, including boats, barges, amphibious craft, water ski towing devices and hovercraft.

Multifamily residential dwelling means a building designed or used exclusively for residential occupancy by two or more families.

Multifamily residential dwelling unit means the portion of a multifamily residential dwelling designed or used exclusively for residential occupancy by only one family.

Noise means any sound produced in such quantity and for such duration that it annoys, disturbs or may injure a reasonable man or woman of normal sensitivities.

Noise-sensitive zone means a quiet zone where serenity and quiet are of extraordinary significance, which is open or in session, and which is demarcated by conspicuous signage identifying it as a noise-sensitive or quiet zone. Noise-sensitive zones may include schools, public libraries, churches, hospitals, nursing homes, and other areas defined as such pursuant to a resolution adopted by the city council.

Octave bands means ranges of frequencies commonly used to measure spectral qualities of sound. The octave band frequency ranges are reported by center frequency. The center frequencies and frequency ranges of relevance for purposes of this article are as follows:

Octave Frequency Range (Hertz)	Geometric Mean (or Center) Frequency of Band (Hertz)
22—44	31.5
<u>44</u> —88	63
88—177	125
177—355	250
355—710	500
710—1420	1000
1420—2840	2000
2840—5680	4000
5680—11360	8000

Octave band sound pressure level means the sound pressure level for the sound being measured contained within the specified octave band. The reference pressure is 20 micro-newtons per square meter.

Person means an individual, association, partnership, or corporation, including any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

Plainly audible sound means any sound for which the information content of that sound is communicated to the listener, including understandable spoken speech or comprehensible musical rhythms.

Powered model vehicle means any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle which is not designed to carry persons, including any model airplane, boat, car, or rocket.

Property line means an imaginary line along the surface of land or water, and its vertical plane extension, which separates the real property owned, rented or leased by a person from the real property owned, rented or leased by another person. Where the real property owned, rented or leased by a person abuts a waterbody, the term "property line" means the established ordinary or mean high water elevation of the waterbody.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a governmental entity or a property owners' association.

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 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 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.

Rendered means the filing of a signed, written order with the city clerk.

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

Single-family residential dwelling means a detached dwelling containing complete housekeeping facilities for only one family, designed for or occupied exclusively by one family for usual domestic purposes, and having no enclosed space or cooking facilities or sanitary facilities in common with any other dwelling.

Single-family residential dwelling lot means the parcel of land upon which a single-family residential dwelling is located.

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 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 S1.4-1971), or successor publications. 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 used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The sound level meter shall be of Type 2 or better, as specified in the American National Standards Institute publication entitled "Specifications for Sound-Level Meters," designated as ANSI S1.4-1971.

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 L_p (or SPL) and is expressed in decibels.

Special activity means an event for which an applicant has received a special activity permit or permit agreement in accordance with chapter 2, article X.

Use means any activity, event, operation or facility which creates noise.

Vibration means a periodic motion of the particles of an elastic body or medium in alternatively opposite directions from the position of equilibrium when that equilibrium has been disturbed; the action of vibrating; the state of being vibrated.

(Code 1984, § 20-25; Ord. No. 2002-52, § 2, 7-23-2002; Ord. No. 2010-50, § 1, 10-12-2010; Ord. No. 2011-46, § 5, 9-20-2011)

Sec. 26-24. - Findings of fact.

- (a) Excessive and unnecessary noise or vibration interferes with the quality of life and can interfere with the health, safety and general welfare of the public.
- (b) In particular, excessive and unnecessary noise or vibration can cause adverse psychological and physiological effects on humans.
- (c) A substantial body of science and technology exists by which noise may be measured and substantially abated.

(Code 1984, § 20-26; Ord. No. 2002-52, § 2, 7-23-2002)

Sec. 26-25. - Maximum permissible sound levels; land use categories; times; measurement descriptors; and adjustment for character of sound.

- (a) Subject to subsections (b), (c) and (d) of this section, the sound level limits set forth in tables 2, 3, 4 and 5 below are established for the land use categories described by the letter symbols A and B in Table 1 below for the correlating times set forth in Tables, 2, 3, 4 and 5. The sound level limits set forth in tables 2, 3, 4 and 5 for a land use category described by the letter symbol A or B in Table 1 shall not be exceeded by noise emanating from either the same land use category or a different land use category. (For example, the sound level limit for a noise sensitive zone at any time is 55 dB (A-wt); see table 2. This sound level limit of 55 dB shall not be exceeded by noise emanating from a residential area between 7:00 a.m. and 10:00 p.m., notwithstanding that the noise level limit for a residential area during those hours is 60 dB.)

TABLE 1. LAND USE CATEGORIES

Letter Symbol for Land Use Category	Description of Land Use Category
A	Noise-sensitive zone.
B	Residential areas, residences, hotels, motels, picnic areas, recreation areas, playgrounds, active sports areas, or parks.
C	Commercial or professional/office areas where commerce, e.g., retail sales, and/or professional services, are offered, or areas zoned as industrial or commercial where manufacturing, production, shipping, or other industrial uses occur.
D	Downtown entertainment noise district.

TABLE 2. TIME AVERAGED (LEQ)
A-WEIGHTED SOUND PRESSURE LEVEL LIMITS

Land Use Category*	Time	Sound Level Limit dB (A-wt)
A	Any time	<u>55</u>
B	7:00 a.m. to 10:00 p.m.	<u>60</u>
	10:00 p.m. to 7:00 a.m.	<u>55</u>
	9:00 a.m. to 12:00 midnight with special activity permit	65**
C	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	<u>60</u>
	9:00 a.m. to 12:00 midnight with special activity permit	65**
D	9:00 a.m. to 1:30 a.m.	70
	1:30 a.m. to 9:00 a.m.	<u>60</u>

*See Table 1 for correlation of letter symbol with description of land use category.

** The decibel level may not exceed 65 dB at the event boundary. Additionally, the decibel level may not exceed the maximum decibel level within any land use adjacent to the special event. For example, at 10:15 p.m., the maximum decibel level for an event being conducted in a commercial area (land use 'C') is 65 dB at the event boundary. If the adjacent land use is residential (land use 'B'), the level of noise from the special event may not exceed 55 dB at the property line of the residential property.

- (b) Special activity. During a special activity, noise sources including, but not limited to, sound amplification of music and entertainment must stop at 11:00 p.m., Sunday through Thursday, and 12:00 midnight, Friday and Saturday. These hours may be extended through the special activity permit or permit agreement based on certain factors, including location of event and surrounding land use.

TABLE 3. MAXIMUM ALLOWABLE OCTAVE BAND SOUND PRESSURE LEVELS
FROM 7:00 A.M. TO 10:00 P.M.

Octave Band	Maximum Allowable Octave Band Sound Pressure Levels (dB)
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Center Frequency	for Land Use Category*		
Hertz	A	B	C
31.5	85	89	90
63	72	75	78
125	61	65	69
250	<u>54</u>	<u>58</u>	64
500	<u>52</u>	<u>57</u>	62
1000	<u>55</u>	<u>60</u>	65
2000	<u>53</u>	<u>57</u>	62
4000	<u>47</u>	<u>52</u>	<u>57</u>
8000	62	67	72

*See Table 1.

TABLE 4. MAXIMUM ALLOWABLE OCTAVE BAND SOUND PRESSURE LEVELS
FROM 10:00 P.M. TO 7:00 A.M.

Octave Band Center Frequency	Maximum Allowable Octave Band Sound Pressure Levels (dB) for Land Use Category*		
Hertz	A	B	C
31.5	85	85	89
63	72	72	75
125	61	61	65
250	<u>54</u>	<u>54</u>	<u>58</u>
500	<u>52</u>	<u>52</u>	<u>57</u>
1000	<u>55</u>	<u>55</u>	<u>60</u>
2000	<u>53</u>	<u>53</u>	<u>57</u>
4000	<u>47</u>	<u>47</u>	<u>52</u>

8000	62	62	67
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*See Table 1.

TABLE 5. MAXIMUM IMPULSIVE SOUND LEVELS ANY TIME (DB [A-WT])

Land Use Category*	Maximum Sound Level Limit, dB (A-wt)
A	<u>60</u>
B	65

*See Table 1.

- (c) The frequencies used, 20 Hz to 20,000 Hz, are generally accepted as being within the range of human hearing, but actually the human ear is most sensitive in the range of 20 Hz to 10,000 Hz. Because there is an almost infinite number of frequencies in this range, the A-weighted meter uses a geometric mean or center frequency to represent an octave frequency range.
- (d) For any source of sound which emits a pure tone, the sound level limits set forth in Table 2 shall be reduced by five dB (A-wt).
- (e) Impulsive sound shall not exceed the maximum sound levels contained in Table 5 without a variance as described in section 26-29.

(Code 1984, § 20-27; Ord. No. 2002-52, § 2, 7-23-2002; Ord. No. 2010-50, § 2, 10-12-2010)

Sec. 26-26. - Measurement of sound.

To show compliance with the sound level limits in this article, the sound shall be measured based on the following:

- (1) Sound levels shall be measured on a sound level meter.
- (2) The sound level shall be measured at a distance no closer to the point from which the sound in question is emanating than the property line of the real property from which the sound is emanating.
- (3) A measurement period shall not be less than five minutes in duration.
- (4) The sound being measured shall be representative of the sound which instigated the complaint.
- (5) A measurement shall be recorded so as to secure and ensure an accurate representation of the sound.
- (6) A measurement should be taken at approximately five feet above the ground or water surface away from any obstruction or reflecting surface.
- (7) When necessary, a microphone windscreen shall be required to avoid wind noise biasing of a measurement.
- (8) All manufacturer's directions on the operation of the sound level meter shall be followed (e.g., proper microphone angle).
- (9) All sound level meters used for measurement shall be in conformance with ANSI section 1.4-1983.

- (10) All octave and third octave band filter sets of the sound level meter shall be in conformance with ANSI S1.11-1976.
- (11) Calibration of all instruments, components, and attachments shall conform to the latest ANSI standards.
- (12) Measurements of sound shall be made by individuals trained in a noise measurement program approved by the city.
- (13) When a code enforcement officer directs a person to briefly discontinue a noise that the code enforcement officer is measuring, it shall be a violation of this Code if that person fails to comply with the direction of the code enforcement officer.

(Code 1984, § 20-28; Ord. No. 2002-52, § 2, 7-23-2002; Ord. No. 2010-50, § 3, 10-12-2010)

Sec. 26-27. - Prohibited acts.

- (a) Subject to the provisions of sections 26-28 and 26-29, no person shall produce, cause to be produced, or allow to be produced, by any means, any sound within any private or public property, including a right-of-way, which sound, when measured pursuant to section 26-26, exceeds the applicable sound level limits set forth in section 26-25.
- (b) Subject to the provisions of sections 26-28 and 26-29, no person shall produce, cause to be produced, or allow to be produced, by any means, any vibration which is discernible at or beyond the property line of the parcel or lot from which the vibration is emanating.
- (c) Notwithstanding the provisions of sections 26-25 and 26-26, no person shall produce, cause to be produced, or allow to be produced, by any means, any sound which, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities between the hours of 10:00 p.m. and 7:00 a.m. of the following day, unless such person is exempted from application of this article under section 26-28, or unless such person has obtained a variance as provided in section 26-29.

(Code 1984, § 20-29; Ord. No. 2002-52, § 2, 7-23-2002)

Sec. 26-28. - Exemptions.

The provisions of section 26-27 shall not apply to the following sounds or vibrations:

- (1) Railway locomotive or car activity conducted in accordance with federal laws and regulations.
- (2) Household or farming tools, appliances and equipment meeting applicable manufacturer's specifications as to sound, from 7:00 a.m. until 10:00 p.m.
- (3) Aircraft and airport activity conducted in accordance with federal laws and regulations.
- (4) Law enforcement activities, including training.
- (5) Emergency signals during emergencies.
- (6) Emergency testing between 7:00 a.m. and 7:00 p.m.
- (7) Motor vehicles operating on a public right-of-way subject to F.S. §§ 316.293 and 403.415, and applicable federal criteria.
- (8) Refuse collection vehicles not exceeding 86 dB (A-wt).
- (9) Construction activities for which a governmental entity has issued a development permit, as defined in F.S. § 163.3164, provided such activity occurs between 7:00 a.m. and 10:00 p.m.
- (10) Scheduled organized athletic contests and practices, including marching band practices, at a publicly owned or operated facility.
- (11) The supervised public display of fireworks by fair associations, amusement parks, and other organizations or groups of individuals or other lawful use of fireworks.
- (12)

Any motor vehicle engaged in a professional or amateur sanctioned, competitive sports event for which admission or entry fee is charged, or practice or time trials for such event, at a facility being used for such purposes.

- (13) Lawn mowing or maintenance activities conducted by the city.
- (14) Emergency power generators operated at any time during periods of power outage caused by natural disaster, including storm, hurricane, flood, tidal wave, tornado or other disaster, resulting in a loss of electrical service.
- (15) Operation or amplification of sound produced by a radio, tape player, or other mechanical soundmaking device or instrument within a motor vehicle on a street or highway as prohibited by F.S. § 316.3045, and further defined in Rule 15B-13.001, Florida Administrative Code. Nothing in this article shall be construed as limiting or curtailing the authority of law enforcement officers to enforce section F.S. § 316.3045, under the "plainly audible" standard as identified and defined therein. However, this article shall apply to motor vehicles used for business or political purposes, which, in the normal course of conducting such business, use soundmaking devices.
- (16) Any matters specifically preempted by F.S. § 790.33.

(Code 1984, § 20-30; Ord. No. 2002-52, § 2, 7-23-2002; Ord. No. 2004-76, § 1, 10-12-2004; Ord. No. 2011-46, § 6, 9-20-2011)

Sec. 26-29. - Variances.

- (a) Any person aggrieved by application of this article may submit an application for a variance to the city's board of adjustment in accordance with the procedures in appendix B, article IX, section 7.
- (b) All variance applications must demonstrate that bringing the sound or vibration for which the variance is sought into compliance with this article would constitute a practical difficulty for the applicant, community, or for other persons. At a minimum, the applicant shall provide the following information:
 - (1) Identification of applicant.
 - (2) Applicant's mailing address.
 - (3) Legal description of property from which the sound or vibration will emanate.
 - (4) Description of source of sound or vibration.
 - (5) Description of sound or vibration.
 - (6) Facts and reasons justifying a variance.
- (c) At the hearing of the variance application, the applicant may submit any relevant evidence or testimony, including evidence or testimony demonstrating the applicant's efforts to reduce, contain or baffle the noise or vibration. In deciding whether to grant or deny the application, the board of adjustment shall balance the practical difficulty that will result to the applicant, the community, and other persons if the variance is not granted, versus the adverse impact on the health, safety, and general welfare of persons if the variance is granted. If the practical difficulty to the applicant, community and other persons outweighs the adverse impact on the health, safety or welfare of the public, the variance may be granted. No variance shall be granted unless it is the minimum variance that will make possible the applicant's reasonable use of the property from which the sound or vibration will emanate. In granting or denying a variance application, the board shall state in writing on the application the reasons for its decision. If its decision is to grant the application, the board shall set forth the terms and conditions of the variance, including the effective date of the variance, the period of the variance, the time of day the variance may be used, the location where the sound or vibration may be created or caused, and the sound or vibration level limits.
- (d) No variance may exceed 365 days.

(Code 1984, § 20-31; Ord. No. 2002-52, § 2, 7-23-2002; Ord. No. 2010-50, § 4, 10-12-2010)

Sec. 26-30. - Enforcement.

- (a) The police department or any other authorized code enforcement officer is empowered to investigate any situation where a person is alleged to be violating section 26-27.
- (b) If a police officer or any other authorized code enforcement officer encounters a circumstance which reasonably indicates that a person is violating section 26-27(a), the officer shall measure the sound pressure level with a sound level meter to determine if the sound pressure level exceeds the level permitted under section 26-25. If the results of the test indicate that a violation of section 26-27(a) is occurring or has occurred in the presence of such an officer, the officer is thereupon authorized to issue a warning directing the person producing the sound to come into compliance with the sound pressure levels permitted under section 26-25. Failing immediate compliance, the officer is authorized to issue a notice to appear to, or arrest, the person producing, causing to be produced, or allowing to be produced, the sound.
- (c) If a police officer or any other authorized code enforcement officer encounters a circumstance which reasonably indicates that a person is violating section 26-27(b), the officer shall determine if the vibration is discernible at or beyond the property line from which the vibration is emanating. If the officer determines that a violation of section 26-27(b) is occurring or has occurred in the presence of the officer, the officer is thereupon authorized to issue a warning directing the person producing the vibration to come into compliance with section 26-27(b). Failing immediate compliance, the officer is thereupon authorize to issue a notice to appear to, or arrest, the person producing, causing to be produced, or allowing to be produced, the vibration.
- (d) If a police officer or any other authorized code enforcement officer encounters a circumstance which reasonably indicates that a person is violating section 26-27(a), (b) or (c) and that officer is unable to measure the sound or vibration in accordance with section 26-26, then that officer shall determine whether the sound or vibration being produced is of sufficient volume level, duration and character so as to annoy, disturb, injure or endanger the comfort, health, peace or safety of reasonable persons of ordinary sensibilities. If the officer determines that a violation of section 26-27 is occurring or has occurred in the presence of the officer, the officer is thereupon authorized to issue a warning directing the person producing the sound or vibration to reduce the volume level, duration, and character of the sound and/or vibration to comply with section 26-27. Failing immediate compliance, the officer is thereupon authorized to issue a notice to appear, or arrest, or schedule a hearing before the code enforcement board, to the person producing, causing to be produced, or allowing to be produced, the sound or vibration.

(Code 1984, § 20-32; Ord. No. 2002-52, § 2, 7-23-2002)

Sec. 26-31. - Penalty.

A violation of section 26-27 shall be punished as provided in section 1-14, or F.S. ch. 162.

(Code 1984, § 20-33; Ord. No. 2002-52, § 2, 7-23-2002)

Sec. 26-32. - Other remedies.

The city council or any substantially affected person may bring suit in the circuit court of the county to restrain, enjoin or otherwise prevent the violation of this article.

(Code 1984, § 20-34; Ord. No. 2002-52, § 2, 7-23-2002)

Sec. 26-33. - Administration.

The city council may adopt such resolutions as are necessary to effectively administer this article.

(Code 1984, § 20-35; Ord. No. 2002-52, § 2, 7-23-2002)

Secs. 26-34—26-54. - Reserved.