ORDINANCE NO. 2020-388

AN ORDINANCE OF THE CITY OF PARKER, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CERTAIN PROVISIONS OF CHAPTER 26 OF THE CODE OF ORDINANCES RELATED TO CODE ENFORCEMENT INCLUDING BUT NOT LIMITED TO PROCEDURES, PENALTIES, LIENS AND NON-AD VALOREM ASSESSMENTS; PROVIDING FOR SEVERABILITY; PROVIDING A MECHANISM FOR THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR THE LIBERAL CONSTRUCTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER AS FOLLOWS:

Section 1. Section 26-1 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-1.-Definitions.

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

Actual cost means the actual cost to the city for terminating and abating a violation of this chapter on a lot, tract, or parcel, plus administrative fees, filing fees, costs of pictures taken of the property, the cost of serving notice(s) of the violation, postage, the cost of obtaining title information on the property, and all other identifiable costs including but not limited to attorneys' fees and costs incurred by the city in the terminating and abating of a violation of this chapter. In addition to the foregoing, if the city has entered into a contract for the termination or abating of a violation of this chapter, the actual cost shall include the contract amount plus interest, if any, as invoiced by an independent, private contractor for terminating and abating a violation of this chapter on a lot, tract, or parcel.

City attorney means the designated attorney(s) for the city.

Code means each and every ordinance, this Code or any land use regulation enacted by the city.

Code enforcement means any action initiated by the code enforcement officer to assure compliance with the Code.

Code inspector means any agent or employee of the city whose duty it is to assure code compliance.

Continuing violation means any violation which remains uncorrected beyond the reasonable time period for correction contained in either the citation or the final order of the special magistrate, whichever is applicable. For each day of a continued violation after the time for correction has run, an additional penalty in the same amount as that prescribed for the original violation shall be added. The maximum total fine for any one continuing violation shall not exceed 20 times the original penalty amount. No continuing violation penalties shall accrue during the time period from the date of the citation until the date of the administrative hearing, if the named violator timely requests an administrative hearing of the citation. Continuing violation penalties cannot be imposed by the special magistrate for uncorrectable violations.

Excessive growth means grass, weeds, rubbish, brush, branches, or undergrowth that has reached a height of one (1) foot or more.

Fill means material such as dirt that is imported and deposited on property by artificial means.

Grass, weeds, or brush means grass or weeds or brush that, when allowed to grow in a wild and unkempt manner, will reach a height of one (1) foot or more. This definition does not include bushes, shrubs, trees, vines, flowering plants, and other living plant life typically used and actually being used for landscaping purposes.

Imminent public-health threat means the condition of a lot, tract, or parcel of land that threatens the public health, safety or welfare or that causes or may potentially cause ailment or disease to the public.

LDR means the comprehensive planning and land development regulation code of the city, adopted pursuant to Ordinance No. 2012-358, as amended.

Levy means the imposition of a non-ad valorem assessment against property found to be in violation of this article.

Non-ad valorem assessment means a special assessment that is not based upon millage and that can become a lien against a homestead as permitted in Section 4 of Article X of the Florida Constitution.

Non-ad valorem assessment roll means the roll prepared by the city and certified to the county property appraiser and tax collector, as appropriate under Florida law, for collection.

Nonliving plant material means nonliving vegetation such as leaves, grass cuttings, shrubbery cuttings, tree trimmings and other material incidental to attending the care of lawns, shrubs, vines and trees.

Repeat violation means a recurring violation of the code by a violator who has previously been guilty of the same violation within five years prior to the present violation, or who has admitted violating the same provision within five years prior to the present violation, even if the violations occurred at different locations. In the case of correctable violations, a repeat violation can occur only after correction of the previous violation has been made. For the first repeat violation, the amount of the civil penalty shall be double the amount of the penalty prescribed for the original violation by this article or any other code, ordinance or resolution referenced in this article. The amount of the civil penalty due for each subsequent repeat violation shall be double the amount of the penalty due for the first day of the immediately preceding violation, provided that the maximum penalty payable for the first day of any one repeat violation shall be $500.00. A repeat violation that remains uncorrected beyond the time prescribed for correction in the citation shall be treated as a continuing violation, and the additional penalty for each day of continued violation shall be equal to the doubled amount due for the first day of the repeat violation.

Special magistrate means any individual, designated by the city council, granted the authority to hold hearings and assess

fines against persons violating the City Code. A hearing officer shall be the same as a special magistrate.

Trash, junk, or debris means waste material, including, but not limited to, putrescible and nonputrescible waste, combustible and non-combustible waste, and generally all waste materials such as paper, cardboard, tin cans, lumber, concrete rubble, glass, bedding, crockery, household furnishings, household appliances, dismantled pieces of motor vehicles or other machinery, rubber tires, rusted metal articles of any kind and yard waste.

Uncorrectable violation means a violation that cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an ongoing condition or circumstance. Each reoccurrence of an uncorrectable violation shall constitute a separate violation and shall subject the violator to an additional penalty in the same amount as that prescribed for the original violation. If, however, a violator has been once found guilty of an uncorrectable violation, and causes the same uncorrectable violation to occur a second time, each reoccurrence of the uncorrectable violation by such violator shall constitute a repeat violation.

Unfit or unsafe dwelling or structure means any dwelling, structure or building, or portions thereof, including but not limited to any accessory building, which is structurally unsafe, unstable or unsanitary by reason of fire, age, decay, moisture intrusion, deterioration, structural defects, improper design, unstable foundation, termite infestation or by any other condition; is inadequately provided with exit facilities; constitutes a fire hazard; is unsuitable or improper for the use or occupancy for which it is used; constitutes a hazard or menace to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; is unfit for human habitation if so intended or used; is otherwise in violation of the housing, building, electrical, mechanical, plumbing, sanitation, health, safety and fire codes of the city, the county or the state; is so unsafe as to endanger life or property; or to render the use of public streets dangerous.

Violation means any noncompliant act, condition of whatever origin or cause, whether intentional or unintentional, of the code of the city.

Violator means any person who is legally responsible for a violation of any code of the city. For the purposes of this chapter, violators shall be deemed to be those persons or entities creating or permitting a violation of the codes listed in section 26-37, or those persons or entities owning or possessing land where a violation of codes listed in section 26-37 is created or maintained.

Section 2. Section 26-17 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-17. Code enforcement procedure.

(a) Code inspectors shall have the authority to initiate enforcement proceedings as provided below. No special magistrate shall have the power to initiate such proceedings.

(b) The city finds and determines that the owner of land has an obligation to know whether conditions created or maintained on that land violates any city code and therefore is deemed to have actual or constructive knowledge of any such violation. The owner of land has a legal duty to determine whether conditions created or maintained on their land violate any city code, and to correct such violations.

(c) A code inspector who finds a violation of the codes listed in section 26-37 shall determine a reasonable time period within which the violator must correct the violation, provided that such time period shall be no more than 30 days and shall provide notice of such to the violator except as set forth below. This determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of violation; nature, extent and probability of danger or damage to the public; and other relevant factors relating to the reasonableness of the time period prescribed. Notwithstanding the foregoing and except for cases involving repeat violations or violations presenting a threat to the public health, safety or welfare, a code inspector may, but is not required to, give a civil violation notice giving a time for correction prior to the issuance of a citation. In the event that the code inspector does give a civil violation notice, the time to correct the violation shall be no more than 30 days.

(d) Except in the case where the code inspector gives a civil violation notice, a code inspector who finds such a violation shall issue a citation to the violator, pursuant to section 26-18. The citation shall include the following and the civil violation notice (if given) may include relevant portions of the following:

(1) Date of issuance;

(2) Name of code inspector issuing the notice;

(3) Name and address of the violator;

(4) Section number of the code section that has been violated;

(5) Brief description of the nature of the violation, including location, date, and time of violation;

(6) Amount of the civil penalty for which the violator may be liable;

(7) Instructions and due date for paying the civil fine or filing for an administrative hearing before a special magistrate to appeal the civil fine;

(8) Time within which the violation must be corrected, if applicable;

(9) Notice that each day of continuing violation after the time period for correction has run shall be deemed a continuing violation subject to additional penalty in the same amount without the need for additional notices of violation;

(10) Notice that the filing of a written request for an administrative hearing will toll the accrual of continuing violation penalties;

(11) Notice that failure to request an administrative hearing in writing within 20 days after service of the citation, or within the specified time period listed for a violation of a specific section of the code, shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and that such waiver shall constitute an admission of violation;

(12) Notice that the violator may be liable for the reasonable costs of the administrative hearing should they be found guilty of the violation; and

(13) Notice that if the violator fails to pay the civil penalty in the time allowed, or fails to appear in court to contest the violation, the violator shall be deemed to have waived the right to contest the violation and that in such case, judgment may be entered against the violator by the special magistrate for the amount of the maximum civil penalty.

(e) After issuing a citation to an alleged violator, the code inspector shall promptly deposit the original and one copy of the citation with the city clerk.

Section 3. Section 26-18 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-18. Notices.

(a) All notices required by this part shall be provided to the alleged violator by:

(1) Certified mail, return receipt requested. If a notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices and at any other address provided to the city by such owner, and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraph (b)(2) and by first class mail directed to the addresses provided to the city by such owner with a properly executed proof of mailing or affidavit confirming the first class mailing;

(2) Hand delivery by the sheriff or other law enforcement officer, special process server, code inspector, or other person designated by the city council;

(3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or

(4) In the case of commercial premises, leaving the notice with the registered agent or with the manager or other person in

charge at the commercial premises.

(b) In addition to providing notice as set forth in subsection (a), if reasonably determined by the code inspector to provide adequate notice, notice may also be served by publication or posting as follows:

(1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in this county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50, as may be amended or superseded, for legal and official advertisements. Proof of publication shall be made as provided in F.S. §§ 50.0541 and 50.051, as may be amended or superseded.

(2) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a).

(c) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this part have been met, whether or not the alleged violator actually received such notice.

Section 4. Section 26-19 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-19. Abatement of unsafe or unfit dwellings or structures.

(1) Code inspectors shall have the authority to initiate enforcement proceedings including but not limited to abatement for all violations involving an unsafe or unfit dwelling or structure as provided below. Except as specifically provided in this section relating to the abatement of unsafe or unfit dwellings or structures, the remaining provisions of articles II and III of this chapter shall apply.

(2) A code inspector is hereby authorized to order the vacation, demolition and removal of any unsafe or unfit dwelling or structure, or to order the repair and/or replacement of any part or parts of any structure in the city upon the recommendation of the authorized building official of the city or any other designated person and following a determination by the city council that any such part or parts of any structure, are unsafe or unfit.

(3) Once the determination is made by the city council that a structure is unsafe or unfit, the code inspector shall issue a notice of such to the violator and all other interested parties in accordance with section 26-18 of this article. The notice may require the vacation, demolition or removal of the structure or may order the repair, restoration or replacement of any part of the structure; provided however, that no dwelling or structure shall be subject to repair, restoration or replacement where the cost of repairing, restoring or replacing any part or parts thereof would exceed fifty (50) percent of the value of such structure after repair, restoration or replacement.

(4) The unsafe or unfit notice shall be sent in accordance with section 26-18 and shall include the following:

a. Date and time of issuance.

b. Name of code inspector issuing the notice.

c. Name and address of the violator.

d. Section number of the code section that has been violated.

e. A description of the property and the structure(s) that have been found in violation.

f. A statement providing an accurate description of the violation for which the notice is issued.

g. A statement of the nature of and extent of such repairs or alterations necessary to comply with this section.

h. A date by which the owners must make such repairs or alterations necessary to bring the structure into compliance with this section.

i. A statement that a building or demolition permit must be secured prior to the commencement of any corrective work including repair and/or replacement rehabilitation, or demolition and removal.

j. If the structure is of such a character that repairs or alterations cannot bring the building into compliance, a statement to this effect and an order of demolition of the building fully indicating the reason therefore.

k. If demolition is necessary for compliance, a specification of time for performing such demolition shall be stated in the notice which shall not be less than 14 days nor more than 60 days.

l. A statement advising that upon the owner's failure to comply with the notice, the city may demolish or otherwise abate the unsafe or unfit dwelling or structure in accordance with the order stated in the notice, and the expense of such performance by the city shall be charged against the real property and the assessment when made shall constitute a lien upon such property by the city.

m. A statement advising the procedures for review of the action of the code inspector as set out in sections 26-32 and 26-33 of this article.

(5) The notice and order shall require the owner and other interested parties within 14 days after service to obtain a permit and begin specified repairs or improvements, or begin to demolish and remove the structure or portion thereof. This work shall be completed within 60 days from the date of the permit for

repair or demolition. Any demolition permit necessary as a result of any condemnation in this section shall not require a fee to be paid to the City.

(6) Except as otherwise provided in this section, the code inspector may order such work to be completed within such time as determined to be reasonable considering the nature of the structure, the danger to the public and the amount of work involved to abate the unsafe or unfit condition.

(7) In addition to sending the notice to the owner of record and to interested parties, the code inspector shall post a notice stating "This Structure is Unsafe and/or Unfit for Human Habitation" at the entrance to the structure or the most obvious access to the property. The placard shall remain posted until the required repairs and/or rehabilitations are made or until the structure is demolished.

(8) Once the structure is posted, it shall be unlawful for any person to enter such structure except for the purposes of making the required repairs or demolishing it. If the structure is occupied at the time of posting, it shall be vacated immediately. Thereafter, no person shall occupy or allow another to occupy such a placarded structure. The owner shall immediately begin action to bring it into compliance within the time prescribed. It shall be unlawful for any person to remove or deface the placard that has been posted on an unsafe or unfit dwelling or structure. The placard shall remain until such time as the code inspector orders the placard to be removed.

(9) If an interested party obtains a building or demolition permit within the 14 day period and, in good faith and in due time, begins work to comply with the order, but it appears that they will not be able to complete the work by the date ordered, they may file a written request stating the reasons they have been unable to complete compliance. If reasonable grounds are shown therefore, the city council or its designee may issue an amended order authorizing an extension of time, not to exceed 60 days, in which to complete compliance with the original

order. The city council, in exceptional cases, upon written request, may extend the completion date as merited by special hardship, unusual difficulty, or uniqueness of the situation; however, in no event shall the completion date extend beyond a maximum period of 90 days.

(10) If the unsafe or unfit condition is not corrected within the specified time indicated on the notice of unsafe or unfit dwelling or structure, the code inspector shall condemn the unsafe or unfit structure and send a condemnation order to the owner of record and other interested parties.

(11) In addition to sending a condemnation order to the owner of record and to interested parties, a copy of the order shall be posted in a conspicuous place upon the unsafe or unfit dwelling or structure and a notice of intent to demolish shall be recorded in the public records of Bay County, Florida.

(12) Ten days prior to authorizing the demolition of any unsafe or unfit dwelling or structure, a notice of intent to demolish shall be served on the owner and other interested parties and published in a newspaper of general circulation within the City. Such notice shall be substantially in the following form:

Notice of Intent to Demolish

The owner or other interested parties, having failed to either repair or demolish the structure at (address) as ordered by the City of Parker, are hereby notified that the City of Parker will proceed to have the structure demolished on (date), and shall place a lien and impose a non-ad valorem assessment against the property to recover all costs.

(13) When a rodent infestation exists in a structure that is to be demolished or removed, the code inspector may require that a licensed pest control operator exterminate the rodents to preclude the migration of rodents.

(14) A lot from which a structure is demolished and removed shall be sodded, seeded with grass, or otherwise covered with vegetative landscaping within five days of the completion of demolition.

(15) The city council, upon recommendation of the authorized building official of the city or other designated person, may order the vacation of adjacent structures and may require the protection of the public by appropriate fencing or such other means as may be necessary, and for this purpose may close a public or private way.

(16) Upon determination by the city council to proceed with demolition, exterior and interior photographs of the structure will be taken when feasible. Written notification of intent to demolish the structure will be sent by certified mail to the owner of record and interested parties. This written notification shall document the cause for demolition. However, failure to effect personal notice upon the owner of record or interested parties shall not prevent the city from demolishing the structure and placing a lien on the property for the costs incurred by the city in accordance with section 26-34 and assessing the costs of the abatement of the unfit or unsafe condition on the property in the form of a non-ad valorem assessment in accordance with section 26-21 of this article. The costs of the city shall also include but not be limited to any postal expenses, publication costs, interest, attorneys' fees and other costs.

(17) In the event the unsafe or unfit condition is not abated by the owner or other interested party, the city shall complete the demolition required under this section using city employees or an independent contractor submitting the best and lowest bid. Any and all fines imposed and costs incurred by the City including but not limited to postal expenses, publication costs, attorneys' fees and costs shall be assessed against the property in the form of a lien in accordance with section 26-34 of this article.

Section 5. Section 26-20 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-20. Imminent public-health threat.

(a) The following conditions on property within the city may be declared to be an imminent public-health threat by the city and may be remedied and abated by the city immediately and without notice to the owner:

(1) Accumulation of trash, junk, debris, living and nonliving plant material, or stagnant water;

(2) Excessive growth of grass, weeds, brush, or other overgrowth; or

(3) Keeping of fill on property that presents an imminent public-health threat.

(b) In the event the anticipated cost of remediation is less than or equal to $1,000.00, the city clerk shall make the determination and direct the correction of the imminent public-health threat. In the event that that the anticipated cost of remediation is more than $1,000.00, the city council shall make the determination and direct the correction of the imminent public-health threat.

(c) The city will attempt to contact the owner prior to remediation; however, prior notice of an imminent public-health threat shall not be required for remediation.

(d) After remediation, notice will be provided by the city to the owner within a reasonable time after the remediation. An after-the-fact notice shall be sent in accordance with sections 26-19 and 26-21(b), and the owner shall have twenty (20) days from the date the notice is received or, if the notice is not delivered to the owner, within twenty-five (25) days of the date the notice is properly mailed to reimburse the city for the actual costs of

the abatement of the imminent public health threat. At the end of the reimbursement period, any costs incurred by the city and not paid by the owner, together with attorneys' fees, costs, interest and other costs of the city (1) shall become a lien on the affected real property, being perfected in accordance with Section 26-31(e); and (2) shall also constitute a non-ad valorem assessment in accordance with section.

Section 6. Section 26-21(a) of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-21. - Non-ad Valorem Assessments.

(a) In addition to any other remedy set forth in this code, the city may assess the actual cost of terminating and abating a violation of this chapter on a lot, tract, or parcel including but not limited to all administrative expenses, attorneys' fees and costs and all other identifiable costs incurred by the city upon the property and the property owner. All assessments shall be paid in full within twenty (20) days after the property owner has received notice of the assessment or owner shall have twenty (20) days from the date the notice is received or, if the notice is not received by the owner, within twenty-five (25) days of the date the notice of the assessment is properly mailed. Thereafter, the unpaid amount of the assessment will accrue interest at the rate of ten (10) percent per annum or at the maximum rate allowed by law, whichever is less.

Section 7. Section 26-31 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-31. Civil penalties and other related provisions.

(a) Penalties for violations of the codes to be enforced by this chapter shall be in the amount prescribed in the schedule of civil penalties in section 26-37, as such may be altered, amended or superseded from time to time by the city council.

(b) A civil penalty imposed pursuant to this chapter shall not exceed $250.00 per day for a first violation and shall not exceed $500.00 per day for a repeat violation. In addition, any order/judgment imposing a civil penalty shall also include costs

of the city.

(c) If the violator fails to timely request an administrative hearing, continuing violation penalties shall accrue from the date of correction given in the citation until the correction is made and the fine is paid. If the named violator requests an administrative hearing on a correctable violation and loses his or her appeal, the special magistrate shall determine a reasonable time period within which correction of the violation must be made, based on the considerations set forth in subsection 26-17(c). If correction is not made within the period set by the special magistrate, continuing violation penalties shall begin after the time for correction has run. No continuing violation penalties shall accrue during the time period from the date of the citation until the date of the administrative hearing, if the named violator timely requests an administrative hearing. Continuing violation penalties cannot be imposed by the special magistrate for uncorrectable violations.

(d) Civil penalties assessed pursuant to this chapter are due and payable to the city, on the last day of the period allowed for the filing of an appeal to the circuit court from the special magistrate's decision, or, if proper appeal is made, when the appeal has been finally decided adversely to the named violator.

(e) The city shall, through its employees, agents, or contractors, be authorized to enter upon any improved or unimproved real property within its jurisdiction to reasonably remedy any code violations that threaten the health, safety, or welfare of city residents or other persons, including but not limited to those defined as nuisances, unsafe or unfit dwellings or structures, and imminent public-health threats. In any such event, the city may vacate, demolish, remove, or otherwise abate the nuisance using city employees or an independent contractor submitting the best and lowest bid, at city's sole election.

(f) In addition to the rights of the city pursuant to Subparagraph (e) above, if the violation is irreparable or irreversible in nature, or if after attempts under this section to bring a repeat violation into compliance with a provision of a code prove unsuccessful, the city may vacate, demolish, remove, or otherwise abate the nuisance using city employees or an independent contractor submitting the best and lowest bid, at city's sole election. The city shall charge the owner with the reasonable costs

of the repairs along with the fine imposed pursuant to this chapter. Making such repairs does not create a continuing obligation on the part of the city to make further repairs or to maintain the property and does not create any liability against the city for any damages to the property.

(g) In the event the anticipated cost of work or demolition is less than or equal to $1,000.00, the city clerk shall make the determination and direct the work. In the event that that the anticipated cost of work is more than $1,000.00, the city council shall make the determination of the need for and extent of the work to be performed. In the event that the city incurs any expense under this provision, the city may utilize the lien procedures as set forth in section 26-104 of this Code and/or the non-ad valorem assessment process as set forth in section 26-21 at the city's sole discretion. In no event, however, shall the actual recovery to the city result in duplication of the fees, costs, interest and other charges of the city.

Section 8. Section 26-32 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-32. Rights of violators; payment of fines; rights to appeal and correction of violations; failure to pay and correct or to appeal.

(a) A violator who has been served with a citation shall elect either to:

(1) Pay the civil penalty in the manner indicated on the notice, and correct the violation within the time specified on the notice (if applicable); or

(2) Request an administrative hearing before a special magistrate to appeal the decision of the code inspector that resulted in the issuance of the citation.

(b) Appeal by administrative hearing of the notice of violation before a special magistrate shall be accomplished by the named violator delivering a request in writing to the city clerk at the address indicated on the notice, within the time limit stipulated in the specified code section that is enforced pursuant to the provisions of this chapter, or no later than 20 calendar

days after the service of the notice, whichever is earlier. Failure of the named violator to appeal the decision of the code inspector within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before a special magistrate. A waiver of the right to administrative hearing shall be treated as an admission of the violation and penalties, including continuing violation penalties, shall be assessed by the special magistrate accordingly.

(c) If the named violator does not timely appeal and fails to pay the civil penalty and correct the violation within the time specified (if applicable), the code inspector shall notify the special magistrate and request the special magistrate to issue an order finding the violator guilty, imposing the civil penalty, and, if applicable, continuing violation penalties. If the named violator pays the civil penalty for a correctable violation but does not correct that violation within the time specified, each day that the violation continues beyond such specified time shall constitute a continuing violation.

(d) In any code enforcement proceeding, only the named violator may appear on behalf of the named violator or exercise any rights to a hearing or appeal. If the named violator is a corporation, then a corporate officer may appear in any proceeding, request a hearing or appeal. If the named violator is a partnership, only a general partner may appear in any proceeding, request a hearing or appeal. If the named violator is a limited liability company, only a manager or if there is no manager, a member may appear in any proceeding, request a hearing or appeal. In lieu of the foregoing, an active attorney licensed in Florida may appear or act on behalf of the named violator.

Section 9. Section 26-33 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-33. Scheduling and conduct of hearing.

(a) Upon receipt of a named violator's timely request for an administrative hearing, the special magistrate shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as possible or as mandated in the specified code section that is enforced pursuant to this chapter.

(b) The city clerk at the direction of the special magistrate shall provide a notice of hearing by certified mail to the named violator at his or her last known address. Alternatively, the notice may be delivered as provided in section 26-18. The notice of hearing shall include, but not be limited to, the following:

(1) Name of the code inspector who issued the notice;

(2) Factual description of alleged violation;

(3) Date of alleged violation;

(4) Section of the code allegedly violated;

(5) Place, date and time of the hearing;

(6) Right of violator to be represented by a lawyer;

(7) Right of violator to present witnesses and evidence;

(8) Notice that failure of violator to attend hearing may result in civil penalty being assessed against him; and

(9) Notice that requests for continuances will not be considered if not received in writing by the special magistrate at least ten calendar days prior to the date set for hearing.

(c) The special magistrates shall call hearings on a monthly basis or upon the request of the city clerk. No hearing shall be set sooner than 20 calendar days from the date of service of the notice of violation.

(d) A hearing date shall not be postponed or continued unless a request from the named violator for continuance showing good cause for such continuance is received in writing by the special magistrate at least ten calendar days prior to the date set for the hearing.

(e) All hearings by the special magistrate shall be open to the public. All testimony shall be under oath and shall be electronically recorded. Assuming proper notice, a hearing may proceed in the absence of the named violator.

(f) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting the transcript. Minutes shall be kept of all hearings by the city clerk.

(g) The city clerk shall provide clerical and administrative personnel services, forms, and facilities as may be reasonably required by each special magistrate for the proper performance of his or her duties, and shall collect and pay over to the city all civil penalties, costs, and other sums due and payable hereunder, retaining such portion thereof as from time to time may be established by the city to compensate the clerk of the court for such assistance.

(h) Each case before a special magistrate shall be presented by the city attorney or any other person designated by the city council or the mayor.

(i) The hearing need not be conducted in accordance with the formal rules relating to evidence and witnesses, but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the special magistrate finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.

(j) The special magistrate may take testimony from the code inspector and the alleged violator. Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called them to testify; and to rebut the evidence against that party.

(k) The special magistrate shall make findings of fact based on the evidence of record. In order to make a finding upholding the code inspector's decision, the special magistrate must find that a preponderance of the evidence indicates that the named violator was responsible for the violation of the relevant section of the code as charged.

(l) If the named violator is found guilty of the violation, they may be held liable for the reasonable costs of the administrative hearing as set forth by the city clerk. If the

city prevails in prosecuting a case before the special magistrate, the city shall be entitled to recover all costs incurred in prosecuting the case before the special magistrate and such costs will be included in the lien authorized under code section 26-34 and the non-ad valorem assessment under section 26-21.

(m) The fact-finding determination of the special magistrate shall be limited to whether the violation alleged did occur and, if so, whether the person named in the citation is responsible for that violation. Based upon this fact-finding determination, the special magistrate shall either reverse or affirm the decision of the code inspector concerning the responsibility of the named violator for the code violation and shall issue an order affording the proper relief. If the special magistrate reverses the decision of the code inspector and finds the named violator not responsible for the code violation alleged in the citation, the named violator shall not be liable for the payment of any civil penalty, absent reversal of the special magistrate's findings pursuant to section 26-35. If the special magistrate affirms the decision of the code inspector, the special magistrate shall issue an order, and shall determine a reasonable time period within which correction of the violation must be made along with the civil penalty to be levied. If the decision of the special magistrate is to affirm, then the following elements shall be included in the order:

(1) Amount of civil penalty;

(2) Administrative costs of hearing; and

(3) Date by which the violation must be corrected to prevent imposition of continuing violation penalties (if applicable).

(n) The special magistrate shall have the power to:

(1) Adopt procedures for the conduct of hearings;

(2) Subpoena alleged violators and witnesses for hearings; subpoenas may be served by the law enforcement officers;

(3) Subpoena evidence;

(4) Take testimony under oath; and

(5) Assess and order the payment of civil penalties as provided herein.

(o) If the owner of the property that is subject to an enforcement action or proceeding transfers ownership of such property between the time the initial notice of violation was issued and the time of the hearing, the owner shall:

(1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee;

(2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor;

(3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding; and

(4) File a notice with the special magistrate of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner within five days after the date of transfer.

A failure to make the disclosures described in subparagraphs (o)(1), (2), and (3) above before the transfer creates a rebuttable presumption of fraud. If the property is transferred between the time the initial notice of violation was issued and the time of the hearing, the proceeding shall not be dismissed but the new owner will be added as an additional party of record and thereafter shall be provided a reasonable period of time as determined by the code inspector to correct the violation before the hearing is held. Continuing violation penalties, if any, shall continue to accrue against the original party. No civil penalty or continuing violation penalties shall accrue against the new owner until and unless the new owner fails to correct the violation within the reasonable period provided to the new owner. All parties shall be jointly and severally liable for any penalties up to the amount common among them, and the amounts paid to the city shall be first applied to that common, joint, and several amount. All amounts determined to be owed by the special magistrate shall constitute a lien on

the property and result in the assessment of a non-ad valorem assessment, regardless of whether they accrued before or after any such transfer.

Section 10. Section 26-37 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-37. Schedule of civil penalties.

The following table shows the current sections of this Code, as they may be amended from time to time by subsequent action of the city council, that may be enforced pursuant to the provisions of this chapter, and the dollar amount of current civil penalty for the violation of these sections. The civil penalties may be amended from time to time by subsequent action of the city council.

The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed code sections, except to the extent that different types of violations of the same code section may carry different civil penalties. For each code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this chapter, regardless of whether all activities proscribed or required within that particular section are described in the "description of violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant code/ordinance/LDR section must be examined.

Description of Violation	*Code/Ordinance*	*Amount*
Unauthorized Land Usage	LDR, Sec. 4-5	$250.00
Home Occupation	LDR, Sec. 5-4.3	100.00
Accessory Structure	LDR, Sec. 5-5	100.00
Fences	LDR, Sec. 5-5.5	100.00
Visual Buffer	LDR, Sec. 5-6.3.1	100.00

Lighting and Glare	LDR, Sec. 5-6.3.3	100.00
Electromagnetic Interference	LDR, Sec. 5-6.3.4	100.00
Toxic Matter	LDR, Sec. 5-6.3.5	250.00
Tree Removal/Damage	LDR, Sec. 5-7.11	100.00
Water/Sewer Hookup	LDR, Sec. 5-8.1.2	100.00
Right-of-Way	Ch. 78 & LDR, Sec. 5-9.5.2	100.00
Setback/Height Restrictions	LDR, Sec. 4-5	200.00
Signs	LDR, ARTICLE VII	200.00
Swimming Pool Regulations	LDR, Sec. 5-5.4	250.00
Mobile Home Park Violations	LDR, Sec. 5-11	250.00
Mobile Home Violations	LDR, Sec. 5-11.3	250.00**
Trash, Litter, Refuse	Secs. 26-101(1), 66-32	100.00
Untended Growth	Sec. 26-101(2)	100.00
Unfit or Unsafe Structure	Sec. 26-101(3)	250.00
Weeds exceeding 12" (inches)	Sec. 26-101(4)	100.00
Odors	Sec. 26-101(5)	100.00
Animal Carcasses	Sec. 26-101(6)	100.00
Animals (as nuisance)	Sec. 10-4	100.00
Pollution of Any Body of Water	Sec. 26-101(7)	250.00
Illegal activity in or on Property	Sec. 26-101(8)	100.00
Stagnant Water	Sec. 26-101(9)	100.00

Smoke, Fumes, Cinders	Sec. 26-101(10)	100.00
Unsheltered or Outdoor Storage	Sec. 26-101(11)	100.00
Noise	Secs. 26-101(13 & 14)	100.00
Condition or Use of Real Property Detrimental to the Property or Property Value of Others	Sec 26-101(15)	100.00
Building Regulations	Secs. 14-31—14-40	250.00
Motor Vehicle Wrecking Establishment	Sec. 26-101(16)	250.00
Unsafe Storage, Maintenance of Personal Property	Sec. 26-101(18)	100.00
Motor Vehicle Graveyard	Sec. 26-101(12)	100.00
Utilities	Ch. 82	100.00
Graffiti	Sec. 26-101(17)	100.00
Other Acts Constituting a Nuisance	Sec. 26-101(19)	100.00
Property Numbering	Sec. 14-72	100.00
Health/Sanitation	Ch. 42	250.00
Construction Debris	Sec. 66-33	100.00
Dumping	Secs. 66-32, 86-33	100.00

Garbage Container	Secs. 66-34, 66-35, 66-36	100.00
Residential Garbage	Sec. 66-34	100.00
Commercial Garbage	Sec. 66-35	100.00
Trash	Secs. 66-37, 66-38, 66-39	100.00
Accumulation & Removal of Solid Waste	Sec. 66-39	100.00
Occupational Licensing	Sec. 18-38	100.00
Property-related Public Nuisance	Sec. 26-105	250.00
Parking/Right-of-way	Sec. 26-101(20)	250.00
Motor Vehicles	Sec. 26-101(21)	250.00
Vending Booths	Secs. 26-101(22), 26-101(23)	250.00
Carports	LDR, Secs. 5-5.2, 5-5.3	100.00
Vision Triangle	LDR 5-5.5.2	250.00

* NOTE: THE AMOUNT INDICATED IS PER OFFENSE. EACH VIOLATION THAT GOES UNCORRECTED BEYOND THE DATE ON THE CITATION IS CONSIDERED A CONTINUING VIOLATION, EACH DAY OF CONTINUED VIOLATION SHALL CONSTITUTE A SEPARATE OFFENSE.
** MOBILE HOME SKIRTING FINES ARE DETERMINED BY THE AGREEMENT ENTERED INTO AT THE TIME OF APPLICATION INITIATED BY THE APPLICANT. THIS SCHEDULE DOES NOT ALTER THAT AGREEMENT.

Section 11. Section 26-101 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-101. 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:

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) or _____dBA.

Appliance means any refrigerator, icebox, freezer, washing machine, clothes dryer, mechanical dishwasher, stove, deep freeze, locker, smoker or oven that was originally manufactured with a door, lid or other device in which to enclose any contents placed therein.

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.

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.

Construction debris means any refuse generated by a contractor, subcontractor or other person, or supplier during the course of repair of, addition to, or construction of any building or structure, whether such activity requires a building permit or not.

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

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

Demolition debris means any refuse generated through:

(1) Cutting or trimming of grass, bushes or shrubbery;

(2) The destruction, or demolition, in whole or in part, of any structure or building; or

(3) The clearing of land by any person, whether for hire, by the owner, or by an occupant.

Deteriorated means the condition or appearance of any property, or parts thereof, characterized by holes, breaks, rotting, crumbling, cracking, degenerating, peeling, rusting or other evidence of physical decay, decomposition, decline, neglect or lack of maintenance.

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

Dilapidated means the condition of disrepair or deterioration to the extent requiring rehabilitation, reconstruction or demolition of at least 45 percent, based on square footage.

Emergency means any occurrence or circumstance involving actual or imminent physical death or trauma or property damage, demanding immediate emergency work or service. It shall be the burden of the alleged violator to prove the "emergency."

Emergency vehicle means a motor vehicle, boat or aircraft used in response to an emergency. Such vehicles include, but are not limited to, police vehicles, fire and rescue vehicles, and ambulances.

Fluctuation noise means the sound pressure level of noise varying more than six dB(A) during the period of observation when measured with the slow meter characteristic of a sound level meter. It does not equal the previously existing ambient noise level more than once during the period of observation.

Garbage means all household waste resulting from the handling, preparation, cooking and consumption of food; every accumulation of animal and vegetable matter that attend the preparation, decay, dealing and handling of or storage of food such as meats, fish, fowl, game, fruits and vegetables.

Graffiti means the unlawful application of any drawing, inscription, figure or mark upon any structure, wall, rock, bridge,

fence, gate, roadway, building, tree or other real or personal property, whether privately or publicly owned. Graffiti shall include, by way of explanation, words, phrases, marks, pictures or drawings deemed to be lewd or obscene or containing any messages that evidence prejudice based upon race, color, creed, sexual orientation, ethnicity, ancestry, religion, natural origin or other protected class.

Improved real property means any lot, tract or parcel of land upon which a structure of any kind or type has been either placed or constructed.

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 discharge f firearms, the barking of dogs, and the beating of drums.

Infestation means the presence of insects, rodents, snakes, vermin or other pests.

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

Litter means trash, garbage, junk, lawn clippings, cans, bottles, containers and other discarded waste material or refuse, including items that can no longer be used for their original purpose, lying scattered about.

Motor vehicle means any vehicles defined as motor vehicle by F.S. § 320.01(1), including, but not limited to, passenger cars, trucks, truck trailers, semi-trailers, campers, motorcycles, minibikes, go-carts, amphibious craft on land, dune buggies, and 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.

Motor vehicle graveyard means any establishment or place of business that is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, junked or dismantled

motor vehicles or motor vehicle parts.

Motor vehicle wrecking establishment means any establishment, building or place where any activity is carried or for the wrecking of old, used, disabled, junked, dilapidated or secondhand motor vehicles, and adding or employing the accessories, or parts thereof, in equipping, repairing or rebuilding motor vehicles, or storing, selling or otherwise disposing of such vehicles, accessories or parts.

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.

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, including any sounds or sound levels specifically prohibited by this article.

Noise sensitive zone means a quiet zone which is open or in session, and which is demarcated by conspicuous signs identifying it as a quiet zone. Noise-sensitive zones may be established be established by the city council only for schools, public libraries, churches, hospitals and nursing homes.

Nuisance means the occurrence or the existence of any of the following within the city:

(1) Any accumulation of litter, trash, refuse, yard waste, rubbish, construction or demolition debris, disabled, junked, dilapidated, deteriorated and abandoned materials, vehicles, vessels, metals, plastics, glass, lumber, wood or other abandoned items.

(2) Any excessive accumulation of untended growth of weeds (in excess of one foot in height), underbrush, yard waste, or other dead or living plant material upon any improved or unimproved property such that the real property:

a. Is or may become infested or inhabited with rodents, vermin, snakes or other pests;

b. Is or may become a breeding place for mosquitoes;

c. Threatens or endangers the public health, safety and welfare;

d. May reasonably be deemed to cause disease; or

e. Adversely affects and impairs the economic welfare of any adjacent property.

(3) Any unfit or unsafe structure erected, constructed or maintained on real property.

(4) An encroachment into a public right-of-way or public easement constituting a potential hazard.

(5) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other cause that give rise to the emission or generation of such odors and stenches.

(6) The carcasses of animals or fowl not disposed of within 24 hours after death.

(7) The pollution of any public well, stream, lake, canal, ditch, culvert, catch basin or any other body of water by sewage, dead animals, industrial wastes, trash, refuse, yard waste or other substances or materials.

(8) Any building, structure, real property, premises or location where any activity that is in violation of local, state or federal law is conducted, performed or maintained.

(9) Any accumulation of stagnant water permitted or maintained or allowed to accumulate on any real property, premises or location, including but not limited to that water confined in a swimming pool, spa, or hot tub.

(10) Dense smoke, noxious fumes, gas, soot, cinders or ash in unreasonable quantities.

(11) Unsheltered or outdoor storage of unused, discarded,

stripped, disabled, junked, dilapidated or deteriorated motor vehicles, vessels, household furnishings, machinery, equipment or appliance and parts thereof that may be viewed from public property or another's private property. Items such as barbecue grills, lawn furniture, garden tools, outdoor play equipment or lawnmowers may be stored outside in an orderly fashion and shall not be deemed a nuisance under this article.

(12) Unsheltered storage of motor vehicles or motor vehicle parts in a motor vehicle graveyard.

(13) Unsheltered storage of one or more motor vehicles or vessels without a current year's registration or other applicable current decal affixed to them.

(14) The production, cause of production or allowing production or projection, by any means, of any sound or noise across a properly line in such manner as to create a sound level which exceeds the limits set forth for the receiving land use listed below when measured at or within the property line of the receiving property. For any activity or use of land or buildings not authorized under the land use categories of the city, the city council, upon notice to the owner or occupant of the property producing sound, may determine the category of use under this article for which the activity or use is to be considered.

Receiving Land Use Designation	Time	Sound Level Limit
Low-density residential; recreation district; conservation district; public/institutional district; any noise-sensitive zone	7:00 a.m. - 10:00 p.m.	60
	10:00 p.m. - 7:00 a.m.	55
Mixed use; general commercial	7:00 a.m. - 10:00 p.m.	75
	10:00 p.m. - 7:00 a.m.	70

Note: Any source of sound which emits a pure tone or is characterized as an impulsive sound will reduce by five dBA the sound level limits set forth in this subsection.

(15) In addition to any sound or noise prohibited pursuant to subsection (14) above, the following specific uses and activities within the city are declared to be loud, disturbing and excessive noise in violation of this article:

a. 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 10:00 p.m. and 7:00 a.m. in such a manner as to create a noise across a property line. Radios, cassette players, disk players and similar devices associated with motor vehicles or motorboats, shall not be operated or amplified in such a manner as to be felt or heard at 50 feet or more from such device, when operated or parked on a public right-of-way or public space.

b. 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 and Sunday. A variance may be obtained from the city clerk or some other designee of the city for such construction repair work outside of such hours.

c. 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.

d. Motor vehicle, motorcycle or motorboat repair. Repairing, rebuilding, modifying or testing any motor vehicle, off-road vehicle, or motorboat within or abutting any low-density residential or mixed use land use area in such a manner as to create noise across a property line between the hours of 9:00 p.m. and 7:00 a.m.

e. Activities in the vicinity of schools, courts, churches or 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.

f. 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.

g. 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.

h. 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 police, fire departments, and other public safety agencies.

i. 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 low-density residential or mixed use land use category in such a manner that would result in noise across a property line.

j. 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 10:00 p.m. and 7:00 a.m. that would result in noise across a property line.

k. 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 10:00 p.m. and 7:00 a.m. in such a manner as to create noise across a property line.

l. Landscape maintenance. Undertaking landscape maintenance activities in such a manner as to create noise across a property line 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.

m. Powered model vehicles. Operating or permitting the operation of powered model vehicles in such a manner as to create noise across a property line between the hours of 10:00 p.m. and 7:00 a.m.

n. 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.

o. Loading docks. It shall be unlawful for any commercial establishment to engage in any loading or unloading of equipment or merchandise from a vehicle between the hours of 10:00 p.m. and 7:00 a.m. which activity results in any sound or noise being generated across a property line in a low-density residential or mixed use land use category.

The following noise and sounds are exempt from this article III of this chapter:

a. Noise and sounds caused by or related to emergency vehicles, equipment and personnel during emergencies, which shall be deemed to include all work made necessary by an emergency to restore property to a safe condition, all work made necessary by an emergency to restore public utility

service and all work made necessary by an emergency to protect persons or property from imminent injury, death, or substantial harm.

b. Noise and sounds produced by city, county, state, and federal government vehicles, equipment and personnel during the pursuit of official duties of the respective governments, including but not limited to public works construction and maintenance, authorized safety signals, warning devices and emergency testing.

c. Noise and sounds produced by public utility vehicles, equipment and personnel during the pursuit of the public duty of such public utility.

d. Noise and sounds produced by activities or events approved by the city council where the person responsible for such activities or events obtains the city council's approval after such person clearly and expressly has advised the city council that the noise or sounds associated with the activities or events would be in violation of this article III of this chapter but for this exemption.

e. Noise and sounds produced between the hours of 7:00 a.m. and 9:00 p.m. by the mowing of grass; the operation of other yard maintenance equipment; the construction of properly permitted buildings, structures and other improvements; and the operation of farm equipment during farming activities.

f. Railway locomotives and railway cars.

g. Aircraft and airport activity conducted in accordance with federal laws and regulations.

h. Motor vehicles operation on a public right-of-way subject to F.S. § 316.293.

i. Organized athletic contests.

j. Community events, such as fairs, school activities,

community festivals and the like which do not extend their activities beyond 11:00 p.m. or commence before 7:00 a.m. Any community activity which extends beyond 11:00 p.m. or commences before 7:00 a.m. and would otherwise violate this article must apply for and receive prior approval from the city.

k. Noise and sounds produced by an electrical generator during a time period in which regular electrical utility service is temporarily unavailable to the property upon which the generator is located.

l. Noise and sound associated with uses or activities for which a variance has been obtained from the city clerk or some other designee of the city approving such noises and sounds contrary to the restrictions of this article.

m. To the extent any portion of this article III covers a matter covered by F.S. § 403.415, the Florida Motor Vehicle Noise Prevention and Control Act of 1974, the provisions of this article III of this chapter covered by such act shall be of no effect. For matters not covered by said Act, all of the sections of this article III of this chapter are in full force and effect. Additionally, any violation of such Act within the city shall be a violation of this article III, and such violation may be penalized and such act may be enforced through the enforcement provisions of this article III and this Code.

(16) Any condition or use of real property which is detrimental to the property of others, or which causes substantial diminution in the value of other property in the neighborhood where located, including, but not limited to, a dilapidated parking lot.

(17) Any motor vehicle wrecking establishment located, built, constructed, maintained or operated within the city.

(18) Any graffiti existing on real property located within

the city existing for a period of more than ten days from the date of its application.

(19) Maintaining, leaving, abandoning, storing, placing or putting any disabled or junked motor vehicle, machinery, implement, equipment (including trailers), vessel, other personal property or article, or any portion, part, or piece thereof, which is no longer safely useable for the purposes for which it was manufactured, within view from any public property or another person's private property.

(20) Any imminent public health threat existing on real property.

(20) Such other acts or conditions that are declared by other city ordinances, this Code, land use regulations or any local, state, or federal laws to be or that constitute a nuisance.

Office use means uses allowed under the commercial land use category of the city.

Officer means any law enforcement officer, police officer of the city, code enforcement officer of the city or any other employee of the city or other person duly designated by the city council to enforce this article.

Period of observation means the time interval during which acoustical data and facts are obtained.

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.

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 one person from the real property owned, rented or leased by another person.

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 the city, county, state or federal government.

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.

Receiving land use means the use of the land which is receiving the sound or noise.

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

Rubbish means any trash, rubble, wreckage, decayed material or deteriorated material.

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, RMS detector, integrator or time average output meter, and weighting network used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The instrument is of type 2 or better, as specified in the American National Standards Institute publication entitled "Specifications for Sound-Level Meters," designed as ANSI S1.4-1971, or successor publication.

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 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per meter squared. The sound pressure level is denoted Lp or SPL and is expressed in decibels.

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.

Street or *highway* means:

(1) The entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic;

(2) The entire width between the boundary lines of any private property used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons, or any limited access road owned or controlled by a special district, whenever, by written agreement entered into under F.S. § 316.606(2) (b) or (3) (b), a county or municipality exercise traffic control jurisdiction over such way or place; or

(3) Any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district which has been created under F.S. § 418.30 and the recreational facilities of which district are open to the general public.

Structure means anything constructed, installed or portable, the use of which requires a location on a lot or parcel of land, including a moveable structure while it is located on land in which it will be used for housing, business, commercial, agricultural or office purposes either temporarily or permanently.

Underbrush means any growth or brush conducive to the collection of insects, snakes, vermin, rodents or other pests.

Unimproved real property means any lot, tract, acreage or parcel of land upon which no structure of any type has been either placed or constructed.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, excepting devices used exclusively upon stationary rails or tracks.

Weeds means any plants which are useless to persons or injurious to crops, grasses, trees, plants or flowers.

Yard waste includes grass clippings, loose leaves, weeds, rotted or rotting trees, tree debris, bushes, shrubbery, plants, wood chips, leavings, vines, branches, limbs, sticks, trunks, or uprooted stumps, rocks, natural fertilizers, compost, and other garden trash.

Section 12. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 13. Scrivener's Error.

The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee, without public hearing.

Section 14. Ordinance to be Liberally Construed.

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section 15. Codification.

The provisions of this Ordinance shall become and be made part of the Code of the City. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 16. Repeal of Conflicting Codes, Ordinances, and Resolutions.

All codes, ordinances and resolutions or parts of codes, ordinances and resolutions or portions thereof of the City of Parker, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 17. Effective Date.

This Ordinance shall take effect immediately upon its

passage.

PASSED, ADOPTED AND ADOPTED at a Meeting of the City Council of the City of Parker, Florida as of the 1st day of September, 2020.

CITY OF PARKER

Richard P. Musgrave

Richard Musgrave, Mayor

ATTEST:

Karen Griffin

Karen Griffin, City Clerk

Examined and approved by me, this 1st day of September, 2020.

Richard P. Musgrave

Richard Musgrave, Mayor