ARTICLE III. NUISANCES

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 of 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

Receiving Land Use Designation	*Time*	*Sound Level Limit*
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 motorboat, or motor vehicle without a muffler or other device at least as effective as that installed as original equipment by the manufacturer, which will effectively prevent loud or explosive noises therefrom.

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.

(21) 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 ten 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 means and 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. (Ord. No. 99-241, § 2, 5-4-99; Ord. No. 04-292, § 1, 11-16-04; Ord. No. 06-305, § 1, 4-18-06; Ord. No. 2012-357, § 5, 2-7-12; Ord. No. 2013-364, § 6, 12-17-13; Ord. No. 2014-369, § 2, 7-15-14; Ord. No. 2020-388, § 11, 9-1-20)

Sec. 26-102. Penalty.

In addition to any other provisions contained in this article, any person violating any of the provisions of this article may be subject to the process and penalties under section 1-7 of