

## **ORDINANCE NO. 2009-10**

**AN ORDINANCE OF THE CITY OF MOUNT DORA, FLORIDA, AMENDING SECTION 46.120 OF THE CITY OF MOUNT DORA CODE OF ORDINANCES TO REMOVE THE CITY'S DISTINCTION BETWEEN COMMERCIAL AND NONCOMMERCIAL USE OF LOUDSPEAKER AND PUBLIC ADDRESS SYSTEMS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 46.120 of the City of Mount Dora Code of Ordinances prohibits certain types of noise disturbances; and

**WHEREAS**, Section 46.120 prohibits the use of a loudspeaker, public address system, or similar device when such use creates a noise disturbance across a real property boundary; and

**WHEREAS**, Section 46.120 provides limited exceptions to the prohibition on loudspeakers, public address systems, and the like for special events within the City and for noncommercial purposes; and

**WHEREAS**, the City Council after due consideration, has determined that uniform regulation and enforcement of commercial and noncommercial use of loudspeakers and public address systems is fair and in the best interest of the City.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNT DORA, FLORIDA:**

**SECTION 1.** Section 46.120 of the City of Mount Dora Code of Ordinances is hereby amended to read as follows (additions are identified by underline; deletions are identified ~~striketrough~~:

Sec. 46.120. Specific sounds prohibited.

The following acts are prohibited under this part:

(1) *Radios, television sets, musical instruments, loudspeakers, public address systems, tape players, record players and similar devices.* Using, operating, or permitting the use or operation of any device which produces or reproduces sound in a manner which creates a noise disturbance across a real property boundary.

~~(2) Loudspeakers and public address systems.~~

~~a. Using or operating for any purpose any loudspeaker, public address system, or similar device such that the sound therefrom creates a noise disturbance across a real property boundary.~~

~~b. The use of any loudspeaker, public address system, or similar device in conjunction with a special event ~~an activity~~ authorized by the city; e.g., parades, art festivals, is excepted from this subsection, ~~unless the city, in authorizing the activity, provides otherwise.~~~~

~~c. Using or operating, for any noncommercial purpose, any loudspeaker, public address system, or similar device between the hours of 7:00 a.m. and 10:00 p.m. the same day is excepted from this subsection and from section 46.150.~~

~~(2) (3) Engine idling.~~ Idling or permitting the idling of a motor of any stationary motor vehicle of any kind whatsoever for a period of time in excess of 15 minutes in any hour, between the hours of 9:00 p.m. and 7:00 a.m. the following day such that the sound therefrom creates a noise disturbance across a real property boundary.

~~(3) (4) Honking.~~ Using, operating, or permitting the use or operation of any audible signaling device on any stationary motor vehicle of any kind whatsoever. This subsection shall not apply if the emitted signal is for the purpose of averting danger or warning of a dangerous or apparently dangerous condition.

~~(4) (5) Animals.~~ The emission of any continual or repeated sound, including natural sound, by any animal for a period exceeding five minutes in duration which is audible across real property boundaries, and which creates a noise disturbance across a real property boundary.-

~~(5) (6) Humans.~~ The emission of any continual or repeated sound, including natural sound, by any human for a period exceeding five minutes in duration which creates a noise disturbance across a real property boundary.

~~(6) (7) Construction, landscaping, and motor vehicle noise.~~

a. Operating or causing to be operated any equipment used in commercial and residential construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto or operating or causing to be operated any landscaping equipment or operating or causing to be operated any motor vehicle, with sound-control devices less effective than those provided on the original equipment or in violation of any requirement of the United States Environmental Protection Agency.

b. Operating or causing to be operated any equipment used in commercial and residential construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto or operating or causing to be operated any landscaping equipment between the hours of 9:00 p.m. and 7:00 a.m. the following day or between the hours of 9:00 p.m. and 9:00 a.m. the following day for any such equipment producing an impulsive sound, or between the hours of 9:00 p.m. and 9:00 a.m. the following day within a residential district if the following day is a Sunday such that the sound therefrom creates a noise disturbance across a real property boundary. Any person desiring to operate outside such hours of limitation, based upon necessity or in the interest of public health, safety, and welfare, may apply to the city manager for a special permit allowing the operation. Such permit, if granted, shall be limited to a period of up to 30 days' duration, but may be renewed for additional 30-day periods, if the emergency or need therefor continues. In the issuance of such permit, the city manager shall weigh all facts and circumstances and shall determine whether the reasons given for the necessity are valid and reasonable; whether the public health, safety, and welfare will be protected or better served by granting the permit requested; and whether the manner and amount of loss or inconvenience to the party in interest impose a significant hardship upon the party.

(7) ~~(8)~~ *Commercial equipment and vehicle noise.* Within any C-3 zoning district, operating or causing to be operated any commercial equipment or vehicles used in the maintenance or cleaning of parking lots, or buildings or any delivery vehicles or any appurtenant motors, including air refrigeration motors or engines, or any trash or garbage collection vehicles, or any other commercial vehicles, if such operation is:

a. Within 350 feet of any residential zoning district, and is conducted between the hours of 10:00 p.m. and 7:00 a.m. of the following day or 10:00 p.m. and 10:00 a.m. of the following day if the following day is a Sunday;

b. Being performed with sound-control devices less effective than those provided on the original equipment or in violation of any regulation of the United States Environmental Protection Agency; or

c. One which creates a sound sufficient to annoy and disturb the occupants of premises other than those premises from which the noise is emanating to the extent that it renders the ordinary use of the other premises physically uncomfortable.

(8) ~~(9)~~ *Power equipment.* Within any residential zoning district, operating or causing to be operated any power equipment used in the pursuit of any hobby or home occupational activity such that the sound therefrom can be heard across a real property boundary, if such operation is:

a. Conducted between the hours of 9:00 p.m. and 7:00 a.m. of the following day or 9:00 p.m. and 9:00 a.m. of the following day if the following day is a Sunday;

b. Being performed with sound-control devices less effective than those provided on the original equipment or in violation of any regulation of the United States Environmental Protection Agency;

c. Being performed continuously or intermittently over any continuous four-hour period in a given calendar day;

d. Being performed on more than three calendar days in any consecutive seven-day period; or

e. One which creates a sound sufficient to annoy and disturb the occupants of premises other than those premises from which the noise is emanating to the extent that it renders the ordinary use of the other premises physically uncomfortable.

**SECTION 2.** Ordinances and Resolutions in Conflict. All ordinances or resolutions or parts thereof, which may be determined to be in conflict herewith, are hereby repealed.

**SECTION 3.** Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provision or application.

**SECTION 4.** Effective Date. This ordinance shall take effect immediately upon its final adoption by the City Council.

PASSED AND ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
by the City Council of the City of Mount Dora, Florida.

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Melissa DeMarco, Mayor  
City of Mount Dora

Attest:

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Michael Quinn, City Clerk  
City of Mount Dora

Approved as to form:

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Clifford B. Shepard, City Attorney  
City of Mount Dora