

CITY COMMISSION OF THE CITY OF DADE CITY

ORDINANCE NO. 2021-18

AN ORDINANCE OF THE CITY OF DADE CITY AMENDING CHAPTER 42 (ENVIRONMENT), ARTICLE II (NOISE), SECTION 42-31 THROUGH SECTION 42-36 OF THE CODE OF ORDINANCES OF THE CITY OF DADE CITY TO AMEND THE CITY'S NOISE REGULATION ORDINANCE BY ADDING DEFINITIONS, CLARIFYING STANDARDS FOR ENFORCEMENT, FURTHER DEFINING CONDUCT THAT CONSTITUTES A VIOLATION OF THE ORDINANCE, AND PROVIDING FOR A SPECIAL EXEMPTION PERMIT FOR EVENTS THAT WILL GENERATE NOISE AUDIBLE BEYOND PROPERTY LINES; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Dade City is authorized by the Florida Constitution, Florida statutes, and the City Charter to promulgate and enforce its ordinances; and

WHEREAS, excessive and continuous noise is a serious hazard to the health, safety, and welfare of the public and disrupts the peace and quality of life; and

WHEREAS, the City Commission has heard testimony regarding the negative effects that excessive noise has had on its residents and businesses; and

WHEREAS, the public has a right to and should be ensured an environment free from excessive noise; and

WHEREAS, the City may regulate excessive noise, even in a public forum, to protect its significant and compelling interest in prohibiting excessive noise; and

WHEREAS, the City may enforce regulations of behavior that implicates First Amendment activity when the regulations affect the time, manner, place, and manner of expression, are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication; and

WHEREAS, the City Commission expressly finds that a violation of Chapter 42, Article II (Noise), prohibiting excessive noise is a serious threat to the public health, safety, and welfare of the residents and businesses of the City, and that the violation is irreparable or irreversible in nature; and

WHEREAS, the Florida Constitution states that adequate provisions shall be made by law for the abatement of excessive and unnecessary noise; and

WHEREAS, the Florida Supreme Court has held that the "plainly audible" standard is not on its face unconstitutionally vague and is a valid tool to regulate excessive noise; and

WHEREAS, the United States Supreme Court has held that it is a permissible exercise of legislative discretion to regulate noise amplified to a "loud and raucous" volume; and

WHEREAS, the United States Supreme Court has recognized that “perfect clarity and precise guidance have never been required” for regulations that regulate excessive noise; and

WHEREAS, the City Commission desires to amend Chapter 42, Article II, to clarify that the use of the “plainly audible” standard as a tool in conjunction with the other standards set forth therein; and

WHEREAS, the City Commission has heard testimony and considered evidence and statistics from the Dade City Police Department documenting the amount and types of calls for service relating to noise complaints; and

WHEREAS, noise complaints may not exceed a certain established objective noise level standard, but may still qualify as a nuisance based on the particular environment from which the complaint is based; and

WHEREAS, chronic, recurring, or repetitive noise complaints are a nuisance and a drain on the City’s resources, and persons responsible should be required to abate the nuisance emanating from the property which is the source of multiple excessive noise violations; and

WHEREAS, the City Commission has determined that following amendments help to promote and protect the general health, safety, and welfare of the residents of and visitors to the City of Dade City; and

WHEREAS, the duly noticed public hearing as required by law was held by the City Commission at which public hearing all residents and interested persons were given an opportunity to be heard; and

WHEREAS, Article VIII, Section 2, of the Florida Constitution and Section 166.021(1), *Florida Statutes*, provide that a municipality may exercise any power for municipal purposes, except when expressly prohibited by law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DADE CITY, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS. The recitals set forth in this Ordinance are included to reflect the findings of fact of the City Commission and are made a part of this Ordinance.

SECTION 2. AMENDMENT OF CHAPTER 42, ARTICLE II. Section 42-31 through Section 42-36 of the Code of Ordinances of the City of Dade City are amended to read as follows with the addition of the underlined provisions and the deletion of the stricken provisions set forth in this Section and with the addition of a new section as Section 42-36:

ARTICLE II. - NOISE

Sec. 42-31. - Declaration of policy and findings.

It is hereby declared to be the public policy of the city to reduce the ambient sound level in the city, as so to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the city, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the natural attractions of the city. It is the public policy of the city that every person is entitled to ambient sound levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive noise within the city affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the city. The provisions and prohibitions hereinafter contained and enacted are for the above-mentioned purpose.

Sec. 42-32. - Definitions.

(a) ~~As used in this article, the following terms shall have the following meanings:~~
Definitions. All technical words and phrases used in this article and which are not defined below shall be defined according to applicable publications of the American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) or their successor bodies when these bodies have promulgated such definition. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their common and ordinary meaning, or for those so included, the meaning found in this chapter. As used in this article, the following terms shall have the following meanings:

Ambient sound or noise means and includes sounds, such as traffic, aircraft, and other background sounds, including sound levels from sources listed within section 42-34, exemptions.

Amplification system means any machine or device used for the amplification of the human voice, music or any other sound, or by which the human voice, music or any other sound is amplified. Amplification system shall not include vehicle radios, CD's, and/or tape players when used and heard only by the occupants of the vehicles in which the radio, CD, and/or tape player is installed. Amplification system shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicles used for traffic safety purposes. Amplification system shall not include police equipment used for law enforcement purposes or equipment used for emergency work.

Construction activity: Any site preparation, assembly, erection, substantial repair, alteration, or improvement of realty, whether publicly or privately owned, and whether above ground or below ground.

dBA means an A-weighted unit of sound level. A-weighted sound level means the sound level as measured using the A-weighting network on a sound level meter as defined in this section. The unit of reporting is dBA. Sounds measured with the "A" weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity without an amplified low frequency component.

dBC means a C-weighted unit of sound level. C-weighted sound level means the sound level as measured using the C-weighting network on a sound level meter as defined in this section. The unit of reporting is dBC. The “C” weighting network is more sensitive to low frequencies than the “A” weighting network.

Decibel means a unit of measurement of sound pressure equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or injury, natural resource damage, or property damage which demands immediate action.

Emergency work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, including work necessary to restore property to a safe condition following an emergency.

Governmental agency means any federal, state, county, municipal, district, board or separate unit of government created or established by law and shall include but not be limited to the state, the county, the city, and the school board of Pasco County.

Intensity means the magnitude of the force or energy of sound per unit area or volume.

L_{eq} (equivalent sound pressure level) means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying sound.

Loudspeaker means a device that converts an electrical audio signal into a corresponding sound.

Motorcycle means every motor vehicle having a seat or saddle for the use of a rider and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and other farm equipment, and also includes motor scooters, mopeds or other motorized bicycles or three-wheel vehicles.

Motor vehicle shall be defined as set forth in F.S. § 316.003.

Noise disturbance: Any noise or vibration which:

- (1) disturbs, annoys or is harmful or injurious to the health or welfare of a reasonable person of ordinary sensibilities; or
- (2) exceeds the maximum allowable limits set forth in this article.

Octave-band filter means an instrument calibrated in preferred frequencies, for which criteria have been established by the American Standards Association, used in conjunction with a sound-level meter to take measurements in specific octave bands.

Officer means any City of Dade City Code Enforcement Officer or sworn law enforcement officer employed by the City of Dade City Police Department.

Person means the state or any agency or institution thereof, a municipality, political subdivision, public or private corporation, individual, partnership, association or other entity, and includes any officer, employee, agent or governing or managing body of any municipality, political subdivision or public or private corporation.

Person responsible means to include, but is not limited to, any person who has any manner of control over a property, premises, dwelling, structure, location, business, vehicle, device, stereo, or source of the sound and may include, but is not limited to, any: property owner, tenant, subtenant, business owner, resident, operator or person having operational control, person(s) creating or controlling the volume of the sound, manager of a commercial property, or person(s) in charge or otherwise authorized to make decisions regarding the use of sound equipment, or any combination of such, jointly and severally.

~~Plainly audible means any sound produced by a radio, tape player, compact disc player, loudspeaker, or other mechanical or electronic sound making device, or instrument, including sound produced by a portable sound making device or any amplification system, that can be clearly heard by an officer using his or her normal hearing faculties at a specified distance from the source.~~

Plainly audible means any sound that can be clearly heard by a person using his or her normal hearing faculties. The person need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound. Any person who hears a sound that is plainly audible shall measure the sound according to the following standards:

(1) The primary means of detection shall be by means of the person's ordinary auditory senses, so long as the person's hearing is not enhanced by any device, such as a microphone or hearing aid; and

(2) The person shall first identify the location producing the sound so that the person can readily identify the sound is from the offending location.

Property means any private property, public property, or public right-of-way and includes the air space above.

Private property means any real property or structures thereon that is owned, leased, or controlled by a non-governmental person(s) or entity.

Property line and real property line means either (i) an imaginary line along the ground surface, and its vertical plane extension, which separates the real property owned, rented or leased by a person(s) or entity from that owned, rented or leased by another person(s) or entity, excluding intra-building real property divisions, or (ii) the vertical and horizontal boundaries of a residential dwelling unit that is contained in a building containing two or more residential units or any combination of separately leased or owned spaces.

Public property means any real property or structures thereon that is owned, leased, operated, or controlled by a governmental entity.

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

Real property line means:

(1) ~~The legal boundary line including its vertical extension that separates one parcel of real property from another, or~~

(2) ~~The vertical and horizontal boundaries of a dwelling unit that is one unit in a multi-dwelling unit building.~~

Receiving property means at or within the property line which is receiving sound from another property, but does not include public rights-of-way.

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

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

Sound level meter means any instrument including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner and which complies with standards established by the American National Standards Institute (ANSI) specifications for sound level meters.

Sound pressure level means the level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.

Unreasonably excessive noise from a property means sound from any property which meets or exceeds the maximum sound levels set forth in section 42-33.

Unreasonably loud and raucous means any sound which because of its volume level or duration jars, injures or endangers the health, safety, welfare, or wellbeing of a reasonable individual of ordinary sensibilities.

Vehicle means any device or structure used for transporting any person(s) or thing(s) that is propelled by mechanized power, human power, or some combination of mechanized power and human power.

Vibration: A temporal and spatial oscillation of displacement, velocity, and acceleration in a solid material.

Violator: Any person, natural or otherwise, in violation of those portions of the Code of Ordinances of the City of Dade City. A "violation" may be the owner of the property where the violation exists, the person in charge of the property where the violation exists, such as a tenant or rental agent, or the person causing the violation regardless of whether the person is an owner or in charge.

Volume means the degree of intensity, audibility, quality, strength or loudness of sound.

Weekday means any day, Monday through Friday, which is not a legal holiday.

(b) *Miscellaneous definitions.* All terms herein which refer to zoning or land use categories (including, but not limited to, "nonresidential zoning districts," "residential zoning district," etc.) shall be defined as set out in the zoning ordinance and/or Land Development Code of the city, as amended, or other ordinances or resolutions duly adopted by the city commission.

Sec. 42-33. - Excessive noise prohibited.

- (a) *Prohibition of unreasonably excessive noise.* It shall be unlawful for a person to make, cause, allow, or permit to be made any unreasonably excessive noise within the geographical boundaries of the city or within those areas over which the city has jurisdiction. Excessive noise shall be that noise which exceeds the noise limitations set forth in subsection (b) below:
- (b) *Unreasonably ~~Excessive~~ noise in all areas of the City of Dade City.*
- (1) *Decibel limitations.* Unreasonably ~~Excessive~~ noise is noise that exceeds the maximum dbA and dbC sound levels, when measured between ten and 20 seconds, as set forth below.
- a. *Outside source.* Sounds emanating from a source which is outside, or otherwise not in a completely enclosed structure.
1. *Nighttime limitation.* Sixty-five dBA, 70 dBC or sound which has a five dB or greater difference between the dBA and dBC sound levels between the hours of 11:00 p.m. and 7:00 a.m. the following morning on Sunday through Thursday nights and between the hours of 12:00 a.m. and 7:00 a.m. the following morning on Friday and Saturday nights and on nights before federal holidays,
2. *Daytime limitation.* Seventy-five dBA, 80 dBC or sound which has a ten dB or greater difference between the dBA and dBC sound levels between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday, and between 7:00 a.m. and 11:59 p.m. on Friday and Saturday and the days before federal holidays.
- b. *Inside source.* Sounds emanating from a source within a completely enclosed structure.
1. *Nighttime limitation.* Sixty-five dBA, 70 dBC or sound which has a five (5) dB or greater difference between the dBA and dBC sound levels between the hours of 11:00 p.m. and 7:00 a.m. the following morning on Sunday through Thursday nights and between the hours of 12:00 a.m. and 7:00 a.m. the following morning on Friday and Saturday nights and on nights before federal holidays.
2. *Daytime limits.* Seventy-five dBA, 80 dBC or sound which has a ten dB or greater difference between the dBA and dBC sound levels between the hours of 7:00 a.m. and 10:59 p.m. Sunday through Thursday, and between 7:00 a.m. and 11:59 p.m. on Friday and Saturday and the days before federal holidays.
- (2) *Plainly audible noise.* Excessive noise is also noise that is unreasonably loud and raucous. Noise which is plainly audible (as defined by this article) at a distance of 200 feet or more in any direction between the hours of 11:00 p.m. and 7:00 a.m. the following morning on Sunday through Thursday nights and between the hours of 11:59 p.m. and 7:00 a.m. the following morning on Friday and Saturday nights and on nights before federal holidays, shall create a rebuttable presumption of a violation of this subsection. This includes, but is not limited to, amplified and non-amplified sound operated on private property, public property, or public right-of-way.

(3) *Specific acts or noises that are prohibited.*

- a. *Mechanical or electronic sound-making devices or instruments within or upon motor vehicles.* No person shall operate or amplify ~~Operating or amplifying~~ the sound produced by a radio, tape player, compact disc player, loudspeaker, or other mechanical or electronic sound-making device or instrument, including sound produced by a portable sound-making device, from within the interior or upon the exterior of a motor vehicle including motorcycles as defined in this article, so that the sound is plainly audible at a distance of 50 feet or more from the source of the sound.
- ~~b. *Street sales.* Offering for sale, selling anything or advertising by shouting or outcry.~~
- eb. *Animals.* No person shall own, possess, harbor, keep, raise, or maintain ~~Owning, possessing, harboring, keeping, raising or maintaining~~ any animal, as defined in chapter 18 of the Dade City Code, which frequently or for continued duration howls, barks, yelps, meows, squawks, or makes other sounds in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities.
- dc. *Construction and demolition.* No person or entity shall engage ~~Engaging~~ in construction, drilling, repair, alteration, demolition, land clearing or land-filling operations in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities between the hours of 11:00 p.m. and 7:00 a.m. the following morning on Sunday through Thursday nights and between the hours of 11:59 p.m. and 7:00 a.m. the following morning on Friday and Saturday nights and on nights before federal holidays, except for emergency work by a public service utility or by other permit approved by the city. This subsection shall not apply to the use of domestic power tools as specified in paragraph f. below.
- ed. *Emergency signaling devices.* No person shall conduct outdoor ~~The testing outdoors~~ that is audible beyond the property line of any fire, burglar or civil defense alarm, fire, whistle or similar stationary emergency signaling device shall not occur before 7:00 a.m. or after 7:00 p.m.; and any such testing shall use the minimum cycle test time appropriate for such devices, in no case to exceed 60 seconds. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall occur only on weekdays and not before 7:00 a.m. or after 10:00 p.m. and shall be exempt from the sixty-second time limitations set forth herein. The sounding or the permitting of the sounding of any exterior fire or burglar alarm or motor vehicle burglar alarm, unless such alarm is automatically terminated within 15 minutes of activation shall be prohibited.
- fe. *Domestic power tools.* No person shall operate or permit ~~Operating or permitting~~ the operation of any mechanically powered saw, fender, drill, grinder, lawn or garden tool, or similar tool between the hours of 11:00 p.m. and 7:00 a.m. the following morning on Sunday through Thursday nights and between the hours of 11:59 p.m. and 7:00 a.m. the following morning on Friday and Saturday nights and on nights

before federal holidays, unless such equipment is operating inside a completely enclosed structure.

- f. Internal combustion engine. No person shall engage in conduct that results in a rapid throttle advance (revving) of an internal combustion engine on the public right-of-way resulting in increased sound from the engine for the purpose of drawing attention to the source of the sound.

(c) *Standards and methods of measurement.*

(1) *Decibel limitations.*

- a. *Generally.* Measurements recorded shall be taken so as to provide a proper representation and accurate measurement of the sound source.
- b. *Scale.* For the purpose of measuring the volume, intensity and frequencies of sound, the measurement of sound shall be made with a decibel or a sound level meter operating on the "A" or "C" weighting scale of any standard design and quality meeting the standards prescribed by the American National Standards Association.
- c. *Instruments.* The instruments shall be maintained in calibration and good working order. A wind screen shall be used when necessary. The microphone used during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound.
- d. *Ambient sound.* Ambient sound shall not be considered in taking measurements.
- e. *Location.* Measurements shall be made approximately five feet above the ground from anywhere on the property of the complainant. If an officer makes a determination that ambient sound interferes with the sound being measured, an officer may take a measurement from the property line of the suspect property.

(2) *Plainly audible noise.* In determining whether a sound is plainly audible, law enforcement personnel shall be entitled to measure the sound according to the following standards:

- a. The primary means of detection shall be by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device, such as a microphone or hearing aid.
- b. The officer must have a direct line of sight and hearing to the sound source so that he/she can readily identify the offending property and/or person, the distance involved, and distinguish said subject sound from ambient sounds.
- c. The officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.

(3) *Specific acts or noises.* Standards which shall be considered in determining whether sound annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities shall include, but shall not be limited to, the following:

- a. The volume of the sound.
- b. The intensity of the sound.

- c. Whether the nature of the sound is usual or unusual.
- d. The volume and intensity of the background sound, if any.
- e. The proximity of the sound to residential sleeping facilities.
- f. The nature and zoning of the area within which the sound emanates.
- g. The time of the day or night the sound occurs.
- h. The duration of the sound.
- i. Whether the sound is produced by a commercial or noncommercial activity.

(4) Noise disturbance. Notwithstanding any other provision of this article, and in addition thereto, it shall be unlawful for any person to make or continue, or cause or permit to be made or continued, any noise disturbance. A noise disturbance may be found by an enforcement officer if he or she determines a violation has occurred by using the standards described in subsection (c). However, such measurements are not necessary for enforcement of this article, including noise measurements and maximum permissible sound levels nor any other type of noise measurement are necessary to prove a violation of this article so long as evidence exists sufficient to establish that the sound constitutes a noise disturbance pursuant to the applicable standard of proof.

(5) Prohibition of unreasonably excessive noise from a vehicle. It shall be unlawful for any person(s) in control of a vehicle to permit, cause, allow, create, emit, or sustain unreasonably excessive noise that is plainly audible from a vehicle in the city. Unreasonably excessive noise from a vehicle means sound from any vehicle which is plainly audible at a distance of fifty (50) feet or more from the vehicle at the time it is heard.

(6) It shall be unlawful for any person to place any stationary loudspeaker(s) on or in the air space above any public right-of-way within the city without a permit pursuant issued by the city in accordance with any applicable ordinance or policy.

Sec. 42-34. - Exemptions.

The provisions of this article shall not apply to:

- (1) Sound made by a horn or other warning device required or permitted by F.S. § 316.271, *Florida Statutes*;
- (2) Festivals or events occurring on public parks or streets which are permitted or approved by the city;
- (3) The reasonable playing of unamplified musical instruments.
- (4) The reasonable use of the unamplified human voice.

The uses and activities exempted from this article shall be required to comply with the provisions of all other applicable ordinances of the city and laws of the state.

Sec. 42-35. - Enforcement, warning, and additional remedies.

- (a) *Decibel limitations.* For violations of section 42-33(b)(1), an officer shall issue a written warning to the person(s) responsible for the occurrence of the violation. The warning shall state the dbA and/or dbC readings obtained by the officer during measurement. Said person(s) shall be permitted a reasonable time to comply with this Code. Thereafter, each measurement for noise generated from that property for the subsequent 12 months which exceeds the limitations established by section 42-33(b)(1) shall constitute separate violations for any persons which received a warning. If the violation continues or reoccurs after the warning, a civil citation may be issued.
- (b) *Plainly audible noise.* For violations of section 42-33(b)(2), an officer shall issue a verbal warning to the person(s) responsible for the occurrence of the violation. Said person(s) shall be permitted a reasonable time to comply with this Code. If the violation continues or reoccurs after the warning, a civil citation may be issued.
- (c) *Specific acts or noises.* For violations of section 42-33(b)(3), an officer shall issue a verbal warning to the property owner or person(s) responsible for the occurrence of the violation. Said property owner or person(s) shall be permitted a reasonable time to comply with this Code. If the violation continues or reoccurs after the warning, a civil citation may be issued.
- (d) Absent special circumstances, one minute shall be presumed reasonable time to comply and cease any violation.
- (e) All citations shall be prosecuted pursuant to the Uniform Fine and Citation Schedule as set forth in the Sixth Judicial Circuit.
- (f) *Additional remedies.* No provision of this article shall be construed to impair any common law, or equitable or statutory cause of action, or other legal remedy of any person for injury or damage arising from any violation of this article. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof which causes discomfort or annoyance, or endangers the comfort, repose, health or peace of a reasonable person of normal sensibilities, shall be deemed and is declared to be a public nuisance and may be subject to competent jurisdiction for injunction, both temporary and permanent. Unreasonably excessive noise is declared a public nuisance. The prosecution of an offense under this article does not limit the city's right to abate the public nuisance pursuant to any available remedy or from seeking injunctive relief. This section shall not prohibit or otherwise restrict any person from bringing suit against a public nuisance for unreasonably excessive noise. Relief may be granted according to the terms and conditions of Section 60.05, Florida Statutes, or any other means provided by law.

Sec. 42-36. – Exemptions by permit.

- (a) A person may seek a temporary exemption from the provisions of this article for a special event by obtaining a special event exemption permit from the city manager or the city manager's designee. A fully completed application must be submitted on a form provided by the city. A special exemption permit may only be issued for a specified limited period of time and shall set forth conditions and requirements as shall be deemed necessary to mitigate

potential adverse impacts upon neighboring properties and to otherwise ensure that the public health, safety, and welfare are protected. The city manager may adopt administrative rules as deemed necessary to implement the provisions of this section.

(b) In determining whether a special exemption permit shall be issued, the following criteria shall be considered:

- (1) The nature of the event and its importance to the general community.
- (2) The potential benefit to the city or the general public which may result from the proposed event.
- (3) The size of the event with respect to anticipated public participation in attendance.
- (4) The availability of alternate locations where the event may reasonably be located without creating the type and degree of potentially adverse effects it is anticipated would result at the site for which the special exemption permit is requested.
- (5) The granting of the special exemption permit will not be contrary to the public health, safety, and general welfare of the residents and businesses of the neighborhood and surrounding properties.
- (6) The granting of the special exemption permit is appropriate and compatible to the existing uses of the contiguous and surrounding properties.
- (7) The granting of the special exemption permit will not establish a precedent or encourage more incompatible uses in the surrounding areas.
- (8) The applicant has demonstrated that enforcement of the provisions of this article would create an undue hardship on the applicant because of unique circumstances peculiar to the applicant.
- (9) The applicant has demonstrated the effectiveness of sound attenuation methods and submitted methods that the applicant will employ to lessen the potentially adverse impact associated with the grant of the special exemption permit.
- (10) The applicant has not violated the terms or conditions of any previously granted special exemption permit.
- (11) An application may be denied if it is incomplete.

(c) A special exemption permit, if granted, shall state the name(s) and address(es) of the person or persons to whom the permit is issued, the expiration date, the location to which the permit applies, and any special conditions or requirements of the permit. The special exemption permit may not be transferred to any other person or location.

(d) If a special exemption permit application is denied or the applicant deems required conditions to be unreasonable, an appeal may be filed by the applicant within seven (7) days of the issuance of the decision or permit. An appeal shall be heard by the city's special magistrate or other person designated to hear the appeal. The hearing shall be held in accordance with

administrative rules of procedure generally applicable to special magistrate hearings. Action taken by the special magistrate or other appointee shall be a final order. An appeal of the decision may be made to the circuit court pursuant to applicable law.

Secs. 42-3637—42-60. - Reserved.

SECTION 3. CONFLICTS. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed to the extent of such conflict.

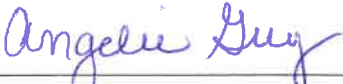
SECTION 4. CODIFICATION. This Ordinance shall be incorporated into the Dade City Code of Ordinances as Section 42-31 through Section 42-36. Any section, paragraph number, letter or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar scrivener's errors may be corrected without formal approval of the City Commission, and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance and the City Code may be made as needed.

SECTION 5. 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 separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective pursuant to the Dade City Charter and Florida law.

Adopted by the City Commission after introduction and first reading on October 12, 2021, and following second reading and adoption on October 26, 2021.

ATTEST:



Angelia Guy, City Clerk

CITY OF DADE CITY, FLORIDA



Camille S. Hernandez, Mayor

Approved as to form:



Thomas A. Thanas
City Attorney