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which degrade the quality of life, disturb the public peace, and jeopardize the health, safety and welfare of the citizens of Palmetto Bay. It is further the intent of this section to recognize that factors such as the time of day, location, necessity of public projects for the public good, and necessity of sounds incidental to allowed uses and activities must be considered in balancing the protection of public peace and individual freedoms.

(b) *Scope.* The rules and regulations given in this section shall apply to the control of all sound originating within the geographical limits of the Village. It shall be unlawful, except as expressly permitted in this section, to make, cause or allow the making of any noise or sound which exceeds the limits set forth.

(c) *Definitions.* The following words, terms and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. All terminology used in this chapter not defined below shall be in conformance with applicable publications and standards of the American National Standards Institute (ANSI) or its successor body, the state and other applicable industry standards.

"A" weighted sound level shall mean a sound level as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is Db(A). Sounds measured with the "A" weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.

Agricultural shall mean an area classified by the zoning code as in an AU Zoning District.

Ambient sound level shall mean the sound pressure level of the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, exclusive from the source under investigation. Ambient sound level is often referred to as neighborhood residual sound level or background sound level.

ANSI shall mean the American National Standards Institute.

"C" weighted sound level shall mean the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is

74 Db(C). The "C" weighting network is more sensitive to low frequencies
75 than is the "A" weighting network.

76 *Commercial* shall mean an area classified by the zoning code as in B-1,
77 B-2, FTCl or VMU Zoning Districts.

78 *Continuous sound* shall mean any sound with duration of more than one
79 second which remains at a measurable value without interruption.

80 *Decibel (dB)* shall mean a unit for measuring the volume of sound; it is a
81 logarithmic (dimensionless) unit of measure used in describing the
82 amplitude of sound. Decibel is denoted as dB.

83 *Emergency work* shall mean any work performed for the purpose of
84 preventing or alleviating physical trauma or property damage threatened
85 or caused by an existing or imminent peril which demands immediate
86 action.

87 *Extraneous sound* shall mean a sound that is transient in nature and is
88 neither part of the ambient sound, nor comes from the sound source
89 under investigation. Examples of extraneous sounds include automobile
90 horns and brakes, air transport vehicles, people shouting and dogs
91 barking.

92 *Impulsive sound* shall mean a sound of short duration, usually less than
93 one second with an abrupt onset and rapid decay or single burst.
94 Impulsive sounds are isolated events such as explosions and the
95 discharge of firearms.

96 *Institutional* shall mean uses including but not limited to schools, houses
97 of worship, hospitals and nursing homes.

98 *Measurement standards* shall mean the standards, instrumentation,
99 personnel, measurement procedures, and reporting procedures to be
100 used in the measurement of sound as provided for in this section
101 consistent with accepted and sound principles of noise measurement in
102 accord with the standards of the American National Standards Institute
103 or its successor body, the state or other applicable industry standards;
104 measurement standards shall be taken from the property line of a parcel
105 or property within the Village from where the noise is emanating and for
106 a minimum of five (5) minutes.

107 *MicroPascal* shall mean the international unit for pressure, analogous to
108 pounds per square inch; one microPascal is one-millionth of a Pascal;
109 the reference pressure used for airborne sound is 20 microPascals.

110 *Noise control officer (NCO)* shall mean the Village Manager, or person(s)
111 designated by the Village Manager such as a Code Compliance or police
112 officer.

113 *Noise disturbance* shall mean any sound which (a) endangers or injures
114 the safety or health of humans or animals, (b) disturbs a reasonable
115 person of normal sensitivities, or (c) endangers or injures personal or real
116 property.

117 *Nuisance* shall mean as follows: Any continued, unreasonably loud,
118 excessive, unnecessary, or unusual noise. The following acts in Section
119 (e) below, among others, are declared to be unreasonably loud,
120 excessive, unnecessary or unusual noises, but this enumeration shall not
121 be deemed to be exclusive.

122 *Noise sensitive zone* shall mean an area where certain types of facilities
123 whose operations may be detrimentally impacted by excessive sound
124 levels are located. Noise sensitive facilities include but are not limited to
125 schools, houses of worship, courts, hospitals, nursing homes, assisted
126 living facilities, outpatient medical facilities and day care facilities.

127 *Person* shall mean any individual, association, partnership or corporation
128 and includes any officer, employee, department, agency or
129 instrumentality of the United States, the state or any political subdivision
130 thereof.

131 *Plainly audible* shall mean any sound that can be heard by a person using
132 his or her unaided hearing faculties. As an example, if the sound source
133 under investigation is a portable or personal vehicular sound
134 amplification or reproduction device, the detection of the rhythmic bass
135 component of the music is sufficient to verify plainly audible sound. The
136 noise control officer need not determine the title, specific words, or the
137 artist performing the song.

138 *Public facilities* shall mean governmental uses including but not limited
139 to parks, community centers, recreational centers, court facilities and
140 other such public facilities in the ~~IPF and PR~~ districts.

141 *Real property line* shall mean an imaginary line along the surface and its
142 vertical plane extension that separates one parcel of real property owned,
143 rented, or leased by one person from that owned, rented, or leased by
144 another person.

145 *Residential* shall mean an area classified by the zoning code as in R-1,
146 R-2, R-1M, R-TH, R-3, R-3M, R-4L, R-4H, or, E-M, ~~EU-S~~, E-S, E-1, E-
147 1C, E-2, Neighborhood Section of Downtown zoning district or AU AG or
148 ~~IPF~~ zoning districts.

149 *Sound level* shall mean the reading in decibels of a weighted sound
150 pressure level obtained by the use of a sound level meter and frequency
151 weighting network, such as A, B or C as specified in American National
152 Standards Institute specifications for sound level meters (ANSI S1.4-
153 1983, or the latest approved version thereof). If the frequency weighting
154 employed is not indicated, the A-weighting shall apply.

155 *Sound level meter* shall mean an instrument that is used to measure
156 sound pressure levels and conforms to ANSI S1.4-1983 or its successors
157 and shall be taken from the property line of a parcel or property within
158 the Village from where the noise is emanating.

159 *Sound pressure level (SPL)* shall mean ten times the logarithm to the
160 base ten of the ratio of the time-mean-square pressure of a sound of the
161 reference pressure of 20 microPascals (in air) with the units of decibels.

162 *Steady pure tone* shall mean any sound which can be distinctly heard as
163 a single pitch or a set of pitches.

164 *Total sound level* shall mean that measured level which represents the
165 summation of the sounds from the sound source under investigation and
166 the ambient sounds which affect a given place at a given time, exclusive
167 of extraneous sound sources and shall be taken from the property line of
168 a parcel or property within the Village from where the noise is emanating.

169 *Village recognized holidays* shall mean New Year's Day, Martin Luther
170 King Day, President's Day, Memorial Day, Independence Day, Labor
171 Day, Columbus Day, Veteran's Day, Thanksgiving Day, Friday after
172 Thanksgiving Day and Christmas Day.

173 (d) *Maximum permissible sound.*

174 (1) *Continuous sound.*

a. No person shall cause, suffer, allow, or permit the operation of any source of sound in such a manner as to create a sound level that exceeds the sound level limits listed in Table 1 when measured at, or across the real property line of the emitting property within a land use designation. Sound pressure levels in excess of those established in Table 1 would constitute a noise disturbance and be in violation of this Code.

Table 1
Permissible Sound Level Limits (dBA)
By Emitting Property Category

| Emitting Property Designation | Time | Sound Level Limit (dBA) |
|--------------------------------------|--|-------------------------|
| Residential and noise-sensitive zone | 7:00 a.m. to 11:00 p.m. 11:00 p.m. to 7:00 a.m. | 60 55 |
| Public facilities and institutional | 7:00 a.m. to 11:00 p.m. 11:00 p.m. to 7:00 a.m. | 65 60 |
| Commercial | 7:00 a.m. to 11:00 p.m. 11:00 p.m. to 7:00 a.m. | 70 65 |
| Agricultural | 7:00 a.m. to 11:00 p.m. 11:00 p.m. to 7:00 a.m. | 70 65 |

b. These limits may not be exceeded by any single incident representing the normal, usual operation of the sound source, during any three sampling intervals, the duration of which shall be no less than one-half minute, within anyone-hour period.

(2) *Impulsive sound.*

a. Between the hours of 7:00 a.m. and 11:00 p.m., impulsive sounds which occur less than ten times in an hour shall not equal or exceed ten decibels above the permissible sound level limits in Table 1. Impulsive sound that repeats ten or more times in any hour shall not exceed the permissible sound level limits in Table 1.

b. Between the hours of 11:00 p.m. and 7:00 a.m., impulsive sounds which occur less than four times in an hour shall not equal or exceed ten decibels above the permissible sound level limits in Table 1. Impulsive sound that repeats four or more times in any hour shall not exceed the permissible sound level limits in Table 1.

(3) *Steady pure tones.*

If the sound source under investigation is a mechanical device and is in the investigating officer's opinion emitting a sound with a steady tonal quality, the permissible sound level limits in Table 1 shall be reduced by ten dBA. The sound emissions must be comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz. The measured sound levels of such a source must not fluctuate by more than plus or minus three dBA. Such sound sources include, but are not limited to, heating, ventilating or air-conditioning units, refrigeration units and transformers.

(4) *Fixed amplified sound reproduction devices.*

If the source of sound is an amplified sound reproduction device on private property, and the complainant states that the rhythmic bass component of the music is disturbing within their dwelling, then the NCO may take sound level measurements within the dwelling of the complainant. No person shall cause, suffer, allow, or permit the operation of any amplified source of

220 sound in such a manner that it raises the total sound levels by
221 the permissible sound level limits set forth in Table 1 when
222 measured within the residence of a complainant. These sound
223 level measurements shall be conducted with the sound level
224 meter set for "C" weighting, "fast" response. Such
225 measurements shall not be taken in areas that receive only
226 casual use, such as hallways, closets, and bathrooms. For the
227 purposes of these measurements, the ambient sound level is
228 that sound level which is measured in the residence when the
229 sound source under investigation is not prominent, or in a room
230 on the same floor that is relatively unaffected by the sound
231 source under investigation. The "C" scale is more sensitive to
232 low frequency sound levels than the "A" scale; an increase of
233 three dB is perceived by humans as being plainly audible, an
234 increase of five dB is plainly louder, and an increase of ten dB
235 is perceived as being twice as loud.

236 (5) *Mobile amplified sound reproduction devices.*

237 a. Personal or commercial vehicular music amplification
238 equipment shall not be operated in such a manner as to be
239 plainly audible at a distance of 50 feet in any direction from the
240 operator between the hours of 7:00 a.m. and 11:00 p.m.

241 b. Personal or commercial vehicular music amplification or
242 reproduction equipment shall not be operated in such a manner
243 that it is plainly audible at a distance of 25 feet between the
244 hours of 11:00 p.m. and 7:00 a.m.

245 c. Self-contained, portable, hand-held music or sound
246 amplification or reproduction equipment shall not be operated
247 on a public space or public right-of-way in such a manner as to
248 be plainly audible to a distance of 50 feet in any direction from
249 the operator between the hours of 7:00 a.m. and 11:00 p.m.
250 Between the hours of 11:00 p.m. and 7:00 a.m., sound from
251 such equipment shall not be plainly audible by any person other
252 than the operator.

253 (e) *Specific prohibitions against different types of noises.* In addition to
254 the general prohibitions set out above and the maximum
255 permissible sound levels set out in Table 1, and unless

otherwise exempted by this article or by act of the Village, the following specific acts, or the causing or permitting thereof, are hereby declared to be in violation of this section:

(1) *Radios, television sets, musical instruments and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, phonograph, audio player (compact disk, cassette, computer), drum, musical instrument or similar device which produces or reproduces sound:

a. Between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to create excessive and unnecessary noise across a residential real property line or within a noise-sensitive area.

b. In such a manner as to exceed the levels set forth for the respective property designations set forth in Table 1.

c. As to create a noise disturbance.

(2) *Reserved.*

(3) *Street sales.* Offering for sale, selling anything or advertising by shouting or outcry within any residential or commercial area or noise-sensitive zone of the Village except by special permit issued by the Village.

(4) *Loading, unloading, opening boxes.* Creating loud and excessive noise to amount to noise disturbance in a residential area in connection with loading or unloading any vehicle with the opening and destruction of bails, boxes, crates, and containers between the hours of 11:00 p.m. and 7:00 a.m.

(5) *Animals.* Owning, possessing or harboring any animal or bird which, frequently or for continued duration, howls, barks, meows, squawks, or makes other sounds which create excessive and unnecessary noise across a residential or commercial real property line or within a noise-sensitive zone, excluding public zoos or private animal attractions operated for profit to which the public has general admission and that are regulated by the village. For the purposes of this regulation, ~~"barking dog"~~ "domestic animal" is ~~defined included~~ as a ~~dog-domestic animal~~ that barks, bays, cries, howls or makes any other noise continuously and/or incessantly

for a period of 20 minutes or barks intermittently for one hour or more to the disturbance of any person at any time of day or night regardless of whether the ~~dog~~ domestic animal is physically situated in or upon private property; however, a ~~dog~~ domestic animal shall not be deemed a "~~barking dog~~" "domestic animal" for the purposes of this regulation if, (i) at the time the ~~dog~~ animal is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the ~~dog-animal~~ is situated or for any other legitimate cause which teased or provoked the ~~dog~~ animal, or (ii) if the animal is placed within the single family home, including the garage.

(6) *Construction and demolition.* Operating or causing the operation of any tools used in construction, drilling, repair, alteration or demolition work between the hours of 6:00 p.m. 7:00 p.m. and 7:00 a.m. on weekdays, or between 5 p.m and 9 a.m on Saturdays 7:00 p.m. and 9:00 a.m. on weekends, or on Sundays or Village recognized holidays, ~~in or within 50 yards of any residential area or noise-sensitive zone,~~ except for emergency work by public service utilities or by special permit approved by the Village. This section shall not apply to the use of domestic power tools as specified in subsection (12).

(7) *Refuse operators.* The collection of garbage, trash or recyclables by any refuse operator between the hours of 7:00 p.m. and 7:00 a.m.

(8) *Powered model vehicles or model airplanes.* Operating or permitting the operation of powered model vehicles:

a. Between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and 7:00 p.m. and 9:00 a.m. on weekends or Village recognized holidays in or within 100 feet of any residential area or noise-sensitive zone.

b. In such a manner as to exceed the levels set for public space land use, measured at a distance of not closer than 100 feet from any point on the path of a vehicle operating on a public space of public right-of-way.

(9) *Emergency signaling devices.* The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, fire, whistle or similar stationary emergency signaling device, except for emergency, shall not occur before 7:00 a.m. or after 7:00 p.m., and any 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 for more than once in each calendar month unless additional testing is permitted by special permit. Such testing shall occur only on weekdays and not before 7:00 a.m. or after 11:00 p.m. and shall be exempt from the time limit specified herein. The sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such alarm is automatically terminated within 15 minutes of activation, shall be prohibited.

(10) *Motorboats.* Operating or permitting the operation of any motorboat in any lake, river, stream, canal, bay or other waterway in such a manner as to cause unnecessary and excessive noise within a residential area or noise-sensitive zone, or to exceed 85 dBA when measured at least 50 feet from the watercraft (single incident, any mode of operation).

(11) *Noise-sensitive zones.*

a. Creating or causing any excessive and unnecessary noise within or adjacent to any noise-sensitive zone provided that conspicuous signs are displayed indicating the presence of the noise-sensitive zone.

b. Creating or causing any sound within any noise-sensitive zone so as to exceed the decibel levels set forth in Table I for a noise-sensitive zone when measured at a distance of at least 25 feet from the sound source, provided that conspicuous signs are displayed indicating the presence of the noise-sensitive zone.

(12) *Domestic power tools.* Operating or permitting the operation of any mechanically powered saw, drill, grinder, lawn or garden tool, or similar tool between 9:00 p.m. or sunset, whichever is

earlier, and 7:00 a.m. the following day on weekdays, or 9:00 p.m. or sunset, whichever is earlier, and 9:00 a.m. on weekends and village recognized holidays, unless such equipment is operated inside a building or other structure so that the sound does not travel across any residential real property line or noise-sensitive zone and does not exceed the levels set forth in Table 1. All such equipment shall be properly muffled and maintained in working order so as not to create excessive and unnecessary noise.

(13) *Multi-family dwellings.* Operating or permitting the operation within a multi-family dwelling of any source of sound in a manner so as to exceed 55 dBA from 7:00 a.m. to 11:00 p.m. when measured within an adjacent intra-building dwelling. The maximum permissible sound level, when measured in an adjacent intra-building area between 11:00 p.m. and 7:00 a.m. on weekdays and 11:00 p.m. and 9:00 a.m. on weekends and Village recognized holidays shall be 50 dBA.

(14) *Recreational motorized vehicles operating off public right-of-way.* No person shall operate or cause to be operated any recreational motorized vehicle, motorcycle, moped, dune buggy or any other type of motorized vehicle that exceeds the limits set forth in Table 1 off the public right-of-way in any residential or noise-sensitive zone. This section shall apply to all motorized vehicles noted above, whether or not duly licensed and registered.

(15) *Idling vehicles.* It shall be unlawful to park a bus, truck, or other motor vehicle having a gross vehicle weight of 11,000 pounds or greater and allowing the engine on such vehicle to run while such vehicle is parked on public or private property within the Village limits unless such vehicle is parked for the purpose of making pickups or deliveries at that site, or if the vehicle is on public property, at a site nearby. This section shall also not apply to a vehicle regulated under this section that is parked on the premises of a licensed repair shop for the purpose of making repairs to such vehicle. Under no circumstances shall any vehicle regulated by this section be allowed to idle or run the engine for more than 45 minutes while parked at each location.

(16) *Fans and air conditioners.* It shall be deemed unlawful to create any excessive loud noise by the use or operation of any

noise-creating air conditioner, compressor unit, power fan or blower or the electric motor or any engine used to drive such device, the operation of which causes the sound level to exceed 65 dBA. Such noise shall be muffled and deadened by adequate noise suppression and muffling devices to eliminate annoyance and disturbance to persons within the range of hearing.

(17) *Generators.* Emergency generators installed in all residential districts shall be exempt from the sound levels set forth in Table 1 when operated during power outages. Generators in all residential districts may be operated for testing purposes one time for a period not to exceed 30 minutes in any seven-day period. Testing of generators in all residential districts is permitted between the hours of 11:00 a.m. through 5:00 p.m., Monday through Sunday.

(f) *Method of sound level measurement.* Sound level measurement shall be made with a sound level meter using the A-weighting scale, in accordance with standards promulgated by American National Standards Institute or other reasonable standards adopted by the village or the state.

(g) *Exempt noises.* The following are exempt from the provisions of subsection 30-60.29(d) of this division:

(1) Noises from lawn mowers and agricultural equipment during daylight hours (7:00 a.m. to 9:00 p.m., or sunset, whichever is earlier) when operated with all the manufacturers' standard mufflers and noise-reducing equipment in use and in proper operating condition.

(2) Nonamplified crowd noises resulting from the activities such as those planned by student, governmental or community groups, such as parades or sports events.

(3) Noises from construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by any agency of government; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment, manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition. Such construction shall not begin

prior to 7:00 a.m. and shall cease by 6:00 p.m. on weekdays; shall not begin prior to 9:00 a.m. and shall cease by 5:00 p.m. on Saturdays; and shall not occur on Sundays and Village recognized holidays unless the noise control officer grants a special permit.

(4) Noises of safety signals, warning devices, emergency pressure relief valves, and bells and chimes of churches, except noise relating to operation of trains.

(5) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

(6) Noises resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the Village in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.

(7) Noises made by persons having obtained a permit to use the streets.

(8) Noises from the normal operations of aircraft (not including model aircraft).

(9) Noises, including but not limited to noise from operation of trains, of which regulation is preempted by the Federal government, but only to the extent of such Federal preemption.

(10) Noises from the un-amplified human voice.

(11) Noises from routine maintenance of public service facilities.

(12) Noises resulting from New Year's Eve celebrations, which celebrations may continue until 1:00 a.m. New Year's Day.

(h) *Special permits to exceed noise levels.* Application for a permit for relief from the maximum noise level limits designated in this article may be made in writing to the Village Manager. Any permit granted by the Village Manager hereunder must be in writing and shall contain all conditions upon which the permit is granted. The Village Manager may grant the applied-for special permit only as follows:

471 (1) *Conditions.* The Village Manager may prescribe any
472 reasonable conditions or requirements he deems necessary to
473 minimize adverse effects upon the community or the surrounding
474 neighborhood, including use of mufflers, screens or other sound-
475 attenuating devices.

476 (2) *Permits for entertainment.* Permits may be granted for the
477 purpose of entertainment under the following conditions:

- 478 a. The function must be open to the public.
- 479 b. The function must take place on public property.
- 480 c. The permit will be given for only eight hours in one 24-
481 hour day.
- 482 d. The function must be staged between the hours of 9:00
483 a.m. and 12:00 a.m.

484 (3) *Other special permits.* Other special permits for
485 nonentertainment special purposes may be issued under the
486 following conditions:

- 487 a. If the special purpose relates to the operation of a trade or
488 business, the special purpose must not be in the ordinary
489 course of that trade or business and must be necessary to
490 the operation of the trade or business.
- 491 b. If the special purpose does not relate to the operation of
492 a trade or business, the special purpose must not be an
493 ordinary event in the affairs of the applicant and must be
494 compatible with the ordinary activities within the
495 neighborhood in which the special purpose is proposed to
496 occur.
- 497 c. If the special purpose is a recurring one, it must not recur
498 more than four times each calendar year.
- 499 d. Except in emergency situations, as determined by the
500 Village Manager, the special permit may be issued for eight
501 hours (between 7:00 a.m. and 12:00 a.m.) only.
- 502 e. Special permits may be issued for no longer than 15
503 consecutive days, renewable by further application to the
504 village manager.

(4) *Loudspeakers.* No permit may be issued to permit the use of any loudspeaker or sound-amplifying device on the exterior of any building that at any time exceeds the sound level limits in Table 1 except those used for emergency. ~~warnings.~~

(i) *Enforcement responsibility.* Violations shall be written, and fines levied to the maximum amount allowed by the Village Code. Warnings should be limited to no more than one (1) per instance. Nothing herein shall limit all legal and equitable remedies of the Village. ~~The NCO shall have primary enforcement responsibility for this article. Alleged noise disturbance violations shall be investigated on a "complaint only" basis and only when the person or persons making the complaint contacts the Village of Palmetto Bay's Code Compliance Division.~~

(j) *Penalties.*

(1) *Notice of civil infraction.* Upon a determination by the NCO that a source of noise is being conducted in violation of this article, the NCO shall issue a notice of civil infraction directing the operator or operators thereof to cease and desist such operations until the violation is corrected. Such notice of civil infraction shall be served by personal delivery to the source of noise or by deposit in the U.S. mail by registered or certified mail addressed to the operator of the noise facility at the location thereof. If such notice of civil infraction is delivered personally, a copy of the notice of civil infraction shall be posted on the property concerned. If any operator shall fail to comply with a valid, duly served notice of civil infraction, he shall be guilty of an offense and punished as heretofore provided. Each day's continuing violation shall constitute a separate and distinct offense.

(2) Any person receiving a notice of civil infraction may appeal such order to the NCO by serving a request for hearing upon the NCO within 20 calendar days of receipt of such order. Such notice may be served by deposit in the U.S. mail by registered or certified mail addressed to the NCO. Upon receipt of a request for hearing, the NCO shall grant a hearing to the appellant at the earliest possible date. At such hearing, the appellant is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter as provided for under the Village's Special Master System of Village of Palmetto Bay Code of Ordinances.

(3) *Civil proceedings.* Upon determination by the NCO that a source of noise is being conducted in violation of this article or a notice of civil infraction issued by the NCO, in addition to other remedies provided in such sections and in the laws of the State of Florida, the NCO may, upon authorization by the special master, institute any appropriate action or proceedings to restrain, correct or abate such violations or otherwise prevent the unlawful use of such noise operation or the unlawful operation of such facility by any person, as provided for in this section.

(Ord. No. 07-31, § 1, 10-1-2007; Ord. No. 08-05, § 1, 3-3-2008; Ord. No. 2012-26, § 1, 11-5-2012)

Section 2. Section 30-60.10 of the Village Code of Ordinances is amended as follows:

(g) All demolition sites shall comply with the Village's noise code, demolition activity is limited between the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday. Saturday hours shall be from 9:00 a.m. to 5:00 p.m. No demolition activity is permitted on Sunday and holidays.

Section 3. Section 30-60.11 of the Village Code of Ordinances is amended as follows:

(g) All construction sites shall comply with the Village's noise code. Construction activity is limited between the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday. Saturday hours shall be from 9:00 a.m. to 5:00 p.m. No construction activity is permitted on Sunday and holidays.

Section 4. Applicability. For the purposes of jurisdictional applicability, this ordinance shall apply in the Village of Palmetto Bay. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

Section 5. Conflicting Provisions. The provisions of the Code of Ordinances of the Village of Palmetto Bay, Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are

hereby repealed.

Section 6. Severability. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect.

Section 7. Codification. It is the intention of the Village Council, and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 8. Effective Date. This Ordinance shall take effect immediately upon enactment upon Second Reading.

PASSED AND ADOPTED ON SECOND READING this 13th day of September, 2021.

| | |
|------------------------|---------------------------|
| First Reading: | <u>July 12, 2021</u> |
| Second Reading: | <u>September 13, 2021</u> |

Attest: _____

| | |
|----------------------|-------------------------|
| Missy Arocha | Karyn Cunningham |
| Village Clerk | Mayor |

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA ONLY:

John C. Dellagloria, Esq.
Village Attorney

617 **VOTE ON FIRST SECOND READING:**
618
619 Mayor Karyn Cunningham YES
620
621 Council Member Steven Cody YES
622
623 Council Member Marsha Matson YES
624
625 Vice-Mayor Leanne Tellam YES
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627 Council Member Patrick Fiore YES
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630 **FINAL VOTE AT ADOPTION ON SECOND READING:**
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632 Mayor Karyn Cunningham YES
633
634 Council Member Steven Cody YES
635
636 Council Member Marsha Matson YES
637
638 Vice-Mayor Leanne Tellam YES
639
640 Council Member Patrick Fiore YES