ORDINANCE 2187

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT WALTON BEACH, FLORIDA, REPEALING AND REPLACING IN ITS ENTIRETY CODE OF ORDINANCES CHAPTER 9.06 TITLED LOUD AND UNUSUAL NOISES PROHIBITED; CREATING SECTION 9.06.01 TITLED INTENT; CREATING SECTION 9.06.02 TITLED DEFINITIONS; CREATING SECTION 9.06.03 TITLED EXEMPTIONS; CREATING SECTION 9.06.04 TITLED CODE VIOLATION, CODE ENFORCEMENT PENALTIES; CREATING SECTION 9.06.05 TITLED CRIMINAL VIOLATION, CRIMINAL PENALTIES; CREATING SECTION 9.06.06 TIT LED CIVIL CAUSES OF ACTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, on June 24, 2025, the City Council discussed revisions to the City's noise ordinance and the language included in this proposed ordinance; and

WHEREAS, the City Council has received input from law enforcement, and the opinion of counsel that the City's existing ordinance is effectively impossible to enforce, and needs to be replaced with an ordinance based on the plainly audible standard; and

WHEREAS, the City Council has determined that it is in the public interest to repeal and replace Chapter 9.06 Loud and Unusual Noises Prohibited to both simplify the City's noise ordinance and to make it more enforceable.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WALTON BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY AND INTENT

The authority for enactment of this ordinance is pursuant to the powers vested in the City by Home Rule Authority of Section 166.021(1) of the Florida Statutes, the provisions of Chapter 162 of the Florida Statutes, and the City Charter.

SECTION 2. AMENDING SECTION 11.4.03 HEARINGS.

Chapter 9.06 of the City of Fort Walton Beach Code of Ordinances shall be amended as follows with additions <u>underlined</u> and deletions ~~struck-through~~:

<u>9.06 LOUD AND UNUSUAL NOISES PROHIBITED</u>

<u>9.06.01. Intent</u>

This chapter shall be known and cited as the "City of Fort Walton Beach Noise Control Ordinance." The specific intent of this section is to regulate the times and manner as to how noise and sound may be produced and heard in areas of the City, in order to protect the health, safety, and general welfare of people of the city. Nothing in this section should be implied or interpreted to impose any prohibitions or restrictions on the message, content, or free speech of any naturally, mechanically, or electronically produced noise or sound.

9.06.02. Definitions.

As used in this chapter, the following terms shall have the meanings as indicated:

Construction. Any site preparation, assembly, erection, repair, alteration, or similar action, but excluding demolition of buildings or structures.

Community Redevelopment District. The district established per Section 2.04.08 of this Code.

Downtown Business and Entertainment District. The district whose purpose and boundaries are defined at Section 8.09.01 of this Code.

Demolition**:** Any dismantling, destroying, or razing of structures, utilities, public or private thoroughfares surfaces, or similar property.

Emergency**:** Any occurrence or circumstance involving actual or imminent physical death, injury or trauma to person or property which demands immediate emergency work.

Emergency work. Any work or action for the purpose of preventing or alleviating, or attempting to prevent or alleviate, an emergency, including but not limited to repairing water, gas, electricity, telephone or sewer facilities or public transportation facilities, removing fallen trees on a public right-of-way or abating life-threatening conditions.

Motor vehicle. Any vehicle that is propelled or drawn on land by an engine, motor, or battery.

Muffler. A sound-dissipative device or system for abating the sounds of escaping gasses of an internal-combustion engine.

Noise. For the purposes of this Chapter, any sound not in compliance with the provisions of this Chapter.

Noise disturbance. Any sound not exempted in section 9.06.03, which is:

(I). Plainly audible for a continuous period of one (1) minute or longer at a distance of fifty (50) feet or more when measured from the source property line, or

(II). Plainly audible for a total of two (2) minutes within a fifteen (15) minute interval, at a distance of fifty (50) feet or more when measured from the source property line.

Outdoor event. Any planned assemblage of the general public held outdoors for which admission is charged and/or booths are available for rent. Outdoor events may include, but not be limited to, contests, fairs, carnivals, festivals, concerts, seasonal or annual events, competitions, car shows, art/craft shows, or other similar activities which meet the definition listed herein for outdoor events.

Person. Any individual, entity, corporation, company, association, society, firm, partnership, or joint-stock company.

Plainly audible. Plainly audible shall mean any sound produced by any source that can be clearly heard by a person using his or her unaided hearing faculties 50 feet or more from the source property line of the property from which the sound emits. When the particular sound involves words or phrases, sound may be deemed as "clearly heard" even though the investigating police officer or investigating code enforcement officer cannot determine the specific words or phrases being uttered or produced. The detection of the rhythmic bass component of music is sufficient to constitute a plainly audible sound, and one need not determine the lyrics of the song, if any.

Public right-of-way. Any street, avenue, boulevard, road, highway, sidewalk, alley, right-of-way, or parking lot used by members of the general public.

Sound production device. Any device whose primary function is the production of sound, including, but not limited to any musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

Source property line. An imaginary line that separates parcels of property, or which separates units that are part of a multi-unit building, that runs along the surface of land or water, and its vertical plane extension, which separates the real property owned, rented, or leased by a person or entity from the real property owned, rented, or leased by another person or entity. Where the real property owned, rented, or leased by a person or entity abuts a waterbody, the term "source property line" shall mean the established normal high water elevation of the waterbody.

9.06.03. Exemptions.

The following sounds are exempt from the restrictions of this chapter:

1. Any sounds originating from the Downtown Business Entertainment District between the hours of 9:00 a.m. to 11:59 p.m., Sunday through Thursday. Any sounds originating from the Downtown Business Entertainment District between the hours of 9:00 a.m. to 2:00 a.m. the next day, on Friday and Saturday.

2. Any sounds originating from the Community Redevelopment District between the hours of 9:00 a.m. to 11:59 p.m.

3. Sounds from unamplified human voices that are plainly audible between the hours of 7:00 a.m. and 10:00 p.m.

4. Live music from any establishment licensed to sell alcohol between the hours of 10:00 a.m. to 11:59 p.m.

5. Sounds made by any official military operations or activities of any branch of the United States Armed Forces.

6. Sounds from construction, repair, or demolition activities for which the city has issued a permit, provided such activity occurs between 7:00 a.m. and 10:00 p.m. and 8:00 a.m. and 8:00 p.m. on Saturday and Sunday, with no construction activity noise allowed on observed federal holidays.

7. Sounds from construction, repair, or demolition activities related to city, county, state or federal roads, highways, or freeways.

8. Sounds associated with the pouring of concrete after sunset when temperatures in the daylight would preclude such activity.

9. Sounds coming from a permitted outdoor event between 7:00 a.m. and 10:00 p.m.

10. Sounds coming from an authorized public or private school event.

11. Sounds from any fireworks launched or exploded on July 4th, December 31st, and January 1st.

12. Sounds from permitted public or permitted private displays of fireworks.

13. Sounds from organized athletic contests of any level between the hours of 8:00 a.m. to 10:00 p.m.

14. Sounds from lawn maintenance activities, between 7:00 a.m. and 10:00 p.m. and 8:00 a.m. and 8:00 p.m. on Saturday and Sunday.

15. Sounds from aircraft and airport activity conducted in accordance with federal laws and regulations.

16. Sounds from the activities of law enforcement, fire fighters, EMTs, or first responders, including training.

17. Sounds from emergency signals during emergencies.

18. Sounds from the national warning system (NAWAS) or any other systems used to warn the community of attack or imminent public danger such as flooding, explosion, or hurricane.

19. Sounds from emergency signal testing between 7:00 a.m. and 10:00 p.m.

20. Sound used for the purposes of alerting a person of an emergency during, or immediately prior to an emergency.

21. Sounds from generators used during an officially declared state of emergency.

22. Sounds from the operation of a standby or portable generator whenever there is a power outage.

23. Sounds from official City activities or any City sponsored event.

24. Sounds from outdoor events for which the organizer has been issued a special outdoor event permit by the city manager, provided it is conducted in accordance with such permit.

25. Sounds from scheduled organized activities at a City owned or operated facility.

26. Sounds from motor vehicles operating on a public right-of-way subject to F.S. § 316.293 and applicable federal criteria.

27. Sounds from refuse collection vehicles while in the process of performing their intended activities.

28. Sounds from air conditioners are exempt from all provisions of this Chapter when the equipment is functioning in accord with the manufacturer's specifications and with all manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition according to standards promulgated by the American Refrigeration Institute.

29. Sounds from noises or sounds produced by, or emanating from any facilities owned or leased by, equipment owned or leased by, or individuals employed or contracted by any utility (water, gas, electric, telecommunications, etc.) serving the residents and businesses within the city.

30. Sounds from engines operating on a vessel or boat, which have not been modified to produce more sound than the engines are capable of producing at the time they are originally manufactured.

31. Sounds from vessel horns/air horns, or boat horns/air horns when lawfully used.

32. Sounds from repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a frequent, repetitive, or continuous noise disturbance between the hours of 7:00 a.m. and 10:00p.m.

33. Sound from an exterior burglar alarm of any building, provided that such alarm shall terminate within fifteen (15) minutes after it has been activated, unless the property where the alarm is located has been actually burglarized.

9.06.04 Code Violation, Code Enforcement Penalties

The City Manager or City Manager's designee shall have the authority pursuant to this Chapter to investigate and, if applicable, issue a code enforcement notice of violation or civil citation in any case involving a noise disturbance. Every fifteen minutes that a noise disturbance exists shall constitute a separate violation of this Chapter.

9.06.05. Criminal Violation, Criminal Penalties.

A. No person shall produce, cause to be produced, or allow to be produced, by any means any noise disturbance on any private or public property, including a public right-of-way, when such noise is plainly audible as defined in 9.06.02. Every fifteen minutes that a noise disturbance exists shall constitute a separate violation of this Chapter.

B. Any person violating any provision of this Chapter may be punished as follows:

(1) ***First offense****:* A written warning notifying the offender that further violations will result in fines and potential imprisonment.

(2) ***Second offense:*** By a fine of one hundred dollars ($100.00).

(3) ***Third offense:*** By a fine of two hundred and fifty dollars ($250.00).

(4) ***Fourth offense or four or more violations occurring within any consecutive six (6) month period:*** Misdemeanor of the second degree punishable by a fine of no more than five hundred dollars ($500.00) or a sentence of not more than sixty (60) days in jail, or both.

9.06.06. Civil Causes of Action

A. The violation of any provision hereof which endangers the comfort, repose, health, and peace of residents of the City of Fort Walton Beach is declared to be a public nuisance and the City of Fort Walton Beach is authorized to pursue any and all civil remedies therefore in the Civil Courts of the State of Florida.

B. Any private individual or entity may seek a private nuisance cause of action against any non-governmental violator of any provisions of this Chapter. **9.06.01. Title.**

~~This chapter shall be known and cited as the "City of Fort Walton Beach Noise Control Ordinance."~~

~~9.06.02. Legislative Intent.~~

~~The intent of this chapter is to supersede the present Noise Control Law of the City of Fort Walton Beach at Chapter 9.06, as well as Section 8.09.03 Noise applicable in the Downtown Business and Entertainment District, by the enactment of the following provisions, definitions and standards for noise control in the City of Fort Walton Beach.~~ **~~9.06.03. Findings and Declarations.~~**

~~It is hereby found and declared that:~~

~~The purpose of this chapter is to establish specific permissible noise limits in order to provide for the abatement, prevention and prohibition of excessive and unnecessary noise so as to protect the health, safety, and general welfare of the residents of Fort Walton Beach, while allowing economic activity. Excessive and unnecessary noise can cause adverse psychological and physiological effects on humans and deprive people of the peaceable enjoyment of their private property.~~

This chapter provides clear guidance to both enforcement agencies and regulated noise sources, with ease and certainty of compliance being the primary goal.

9.06.04. Definitions.

As used in this chapter, the following terms shall have the meanings as indicated:

Affected person. Any person who has lodged a noise complaint with an authorized enforcement agency that they are the receptor of noise on property within the City, and said person has an interest in the property as an owner, tenant, or employee.

Ambient sound. The sound level at a given location that exists as a result of the combined contribution in that location of all sound sources, excluding the contribution of the source or sources under investigation for potential violation of this chapter and excluding the contribution of extraneous sound sources. Ambient sounds are differentiated from extraneous sounds by the fact that ambient sounds are being emitted the majority of the time although they may not be continuous. Examples of ambient sounds may include steady traffic of properly muffled vehicles, summer insects in the distance, pedestrians talking, and adjacent commercial/industrial operations or mechanical equipment.

Commercial uses. Includes commercial, mixed business and manufacturing, and mixed-use zoning districts as defined in the City of Fort Walton Beach Land Development Code. For the purposes of establishing permissible daytime sound level limits within this chapter, this designation shall include the following zoning districts (per City of Fort Walton Beach Zoning Map): [CG, MB, MX-1, and MX-2].

Construction. Any site preparation, assembly, erection, repair, alteration or similar action, but excluding demolition of buildings or structures.

Continuous sound. Sound with a duration of one (1) second or longer measured by the slow response of a sound level meter. Impulsive sounds that are rapidly repetitive and occur over a period of time with a duration of one (1) second or longer shall be measured as continuous sound.

Corrected source sound level. The sound level attributable to the source or sources under investigation for potential violation of this chapter, which is calculated by subtracting the measured ambient sound level from the measured total sound level.

Daytime hours. The hours between 7:00 a.m. and 10:00 p.m.

dBA. The sound level as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4 or IEC 61672. The unit of reporting is dB(A). The "A" weighting network discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear.

dBC. The sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4 or IEC 61672. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

Decibel. The practical unit of measurement for sound pressure level. The number of decibels of a measured sound is equal to twenty (20) times the logarithm to the base of ten (10)

of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (twenty (20) micropascals); abbreviated as "dB."

Downtown business and entertainment district. The district whose purpose and boundaries are defined at Section 8.09.01 of this Code.

Demolition. Any dismantling, intentional destruction or removal of buildings or structures.

Emergency work. Any work or action necessary to deliver essential services, at the site of an emergency, including but not limited to repairing water, gas, electricity, telephone or sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way or abating life-threatening conditions.

Extraneous sound. Any sound that is intense and intermittent and is neither ambient sound nor sound attributable to a source or sources under investigation for a potential violation of this chapter. Such sound includes but is not limited to sirens of emergency vehicles, unusually loud motor vehicle exhaust or braking, people shouting or talking next to the sound level meter, animal vocalizations, aircraft passing overhead, car door slams, etc. When conducting compliance measurements, such extraneous sound sources may be noted but their sound levels are excluded.

Impulse sound. Any sound with a rapid onset and rapid decay with either a single pressure peak or a single burst (multiple pressure peaks) having a duration of less than one (1) second.

Industrial uses. All industrial land use areas as defined by City of Fort Walton Beach Land Development Code; this shall include land uses within the CTP zoning district.

Motor vehicle. Any vehicle that is propelled or drawn on land by an engine or motor.

Motorized equipment. Any power equipment utilizing an electric or internal combustion engine.

Muffler. A sound-dissipative device or system for abating the sounds of escaping gasses of an internal combustion engine.

Multi-dwelling-unit building. Any building wherein there are two (2) or more dwelling units.

Multi-use property. Any distinct parcel of land that is used for more than one (1) category of activity. Examples include, but are not limited to:

(1) A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or,

(2) A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent thereto.

Nighttime hours. The hours between 10:00 p.m. and 7:00 a.m.

Noise. For the purposes of this Chapter, any sound not in compliance with the provisions of this Chapter.

Noise control administrator. The City Manager, Chief of Police, or the Growth Management Director, or person(s) designated to oversee enforcement of this Chapter, to review and act upon applications for permits, and perform other duties specified herein.

Noise control investigator. A City of Fort Walton Beach police officer or code enforcement officer who has not received noise enforcement training; however, they are knowledgeable about the provisions of this Chapter. A noise control investigator may only enforce the sections of this chapter that do not require the use of a sound level meter. Said officer is empowered to issue an order of abatement or an appearance ticket for a violation of this Chapter.

Noise control officer. A City of Fort Walton Beach police officer or code enforcement officer trained in the measurement of sound. Said officer is empowered to issue an order of abatement or an appearance ticket for a violation of this chapter.

Noise disturbance. Any sound which is of such duration, volume, intensity or character so as to be:

(1) Injurious to human or animal life, or property; or,

(2) Unreasonably interferes with the comfortable enjoyment of life, property, or the conduct of business; or,

(3) Alarming, disturbing, or unreasonably loud, raucous, jarring, unseemly, or a nuisance to or annoying to reasonable people.

Person. Any individual, corporation, company, association, society, firm, partnership or joint-stock company.

Plainly audible. Any sound that can be detected by an investigator using their unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound production device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The investigator need not determine the title, specific words, or the artist performing the song.

Public right-of-way. Any street, avenue, boulevard, road, highway, sidewalk, alley or parking lot used by members of the general public.

Public space. Any real property or structures therein that are either owned, leased or controlled by a governmental entity or used by members of the general public. Public space includes but is not limited to parks, sports fields or lots.

Real property line. Either (a) the legal boundary that separates one (1) parcel of property (i.e., lot and block) from another parcel; (b) the vertical and horizontal boundaries of a dwelling unit that are part of a multi-unit dwelling building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two (2) portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit).

Residential property. Property used for human habitation, including but not limited to:

(1) Private property used for human habitation.

(2) Commercial living accommodations and commercial property used for human habitation.

(3) Recreational and entertainment property used for human habitation.

(4) Community service property used for human habitation.

(5) Hospitals, long-term medical or residential care facilities.

Responsible entity. An entity that is responsible for a source of sound, including but not limited to any individual, public or private corporation, industry, or association, including condominium or co-op associations, limited liability corporations, and partnerships and limited liability partnerships.

Sound level. Unless otherwise stated, the sound pressure level measured in decibels with a sound level meter set for A-weighting; sound level is expressed in dBA. Sound levels may also be measured with a sound level meter set for C-weighting, which is expressed as dBC, as specified to meet the requirements of provisions within this Chapter.

Sound level meter. An instrument used to measure sound level which conforms to Type 1 or Type 2 standards specified by the American National Standards Institute (ANSI) "Specifications for Sound Level Meters" S1.4 or the International Electrotechnical Commission (IEC) "Electroacoustics - Sound level meters" 61672 (or subsequent revisions).

Sound level meter calibrator. An instrument used to conduct field calibration checks of a sound level meter, and which conforms to the American National Standards Institute (ANSI) "Specifications and Verification Procedures for Sound Calibrator" S1.40 or the International Electrotechnical Commission (IEC) "Electroacoustics – Sound calibrators" 60942 (or subsequent revisions).

Sound production device. Any device whose primary function is the production of sound, including, but not limited to any musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

Total sound level. The measured level which represents the sum of sound from the source or sources under investigation for potential violation of this chapter and the ambient sound sources, excluding any extraneous sound, when measured on the property of an affected person or at another specified location.

Weekday. Any day that is not a legal holiday, beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

Weekday night. Sunday night through Thursday night, excluding nights preceding legal holidays.

Weekend. Begins on Friday at 6:00 p.m. and ends on the following Monday at 7:00 a.m.

Weekend night. Friday and Saturday nights and the nights preceding legal holidays.

9.06.05. Noise Disturbance Prohibited.

(1) It shall be unlawful for any responsible entity to make, cause or allow any noise disturbance, either orally, mechanically or electronically, which affects persons in the City of Fort Walton Beach.

(2) Factors that shall be considered in determining whether a noise disturbance exists include, but are not limited to, the following:

a. The volume (intensity) of the noise under investigation for potential violation of this Chapter.

b. The volume (intensity) of the ambient sound levels at the time of the observations.

c. The time of day or night the noise occurs.

d. The duration of the noise.

e. Whether the nature of the noise is unnatural, harsh, tonal, impulsive, jarring, disturbing, and/or raucous.

f. The nature of the area and land use district from which the sound emanates in relation to the area and land use in which it is perceived, including the proximity of the noise source to residential properties, parks or other public places, hospitals, nursing homes, day-care centers or schools, and houses of worship.

g. Whether the noise trespasses onto residential property or into a residential dwelling and infringes upon the ability of an affected person to repose or sleep, or trespasses into a commercial establishment and infringes on the ability of an affected person to conduct normal business activities.

h. Whether the emission of the noise is purposeful or unnecessary or serves no legitimate purpose.

i. Whether the sound emissions are of such intensity or low frequency as to cause perceptible vibration within the dwelling or place of business of the affected person.

j. The number of complaints received regarding the noise source, and/or whether the noise source has been previously issued a warning or enforcement document.

9.06.06. Sound Level Limits.

No responsible entity shall operate or cause to be operated any source of sound from any use occupancy in such a manner as to create a sound level which exceeds the limits set forth in the use occupancy category in Table 1, when measured at or within the property line of an affected person.

(1) Continuous Sound. The limit in Table 1 may not be exceeded by incidents representing the normal, usual operation of the sound source, during any three (3) or more sampling intervals, the duration of which shall be no less than one-half (½) minute, within any one (1) hour period. If the total duration of the sound under investigation is less than one and one-half (1½) minute, the requirement for a minimum of three (3) measurements shall be waived.

TABLE 1

MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS BY RECEIVING LAND USE dB(A)

Residential[1] – 7:00 AM – 10:00 PM	Residential – 10:00 PM – 7:00 AM	Commercial – 24 hours	Industrial – 24 hours
OUTDOORS			
60	50	65	70
INDOORS[2]			
50	40	55	60

a. TABLE 1 notes

1. If the residential receptor is within a zoning district which allows commercial or industrial uses, within two hundred (200) feet of a property containing an existing land use of commercial or industrial, or within two hundred (200) feet of such a zoning district, the permissible sound level limits in Table 1 are increased by five (5) dB(A) during daytime hours.

2. Indoor measurements for compliance with Table 1 shall only be taken if the sound source is on or within the same property as the receiving property, as in the case of a multi-dwelling unit building or a multi-use property (e.g., sound generated within a commercial unit of a multi-use property building and received within a residential unit of the same building). In addition, indoor measurements shall be taken if the property line between the receiving property and the source property is a common wall, floor or ceiling.

(2) Impulsive Sound.

a. No responsible entity shall make, cause, allow or permit the operation of any impulsive source of sound that has a maximum sound level in excess of eighty (80) dBA, when measured at or within the real property line of an affected person. If an impulsive sound occurs more frequently than ten (10) times in any hour, the levels set forth in Table 1 shall apply. At nighttime, if an impulsive sound occurs more frequently than four (4) times in any hour, the levels set forth in Table 1 shall apply.

b. If measurements of impulsive sound are conducted indoors, the permissible limit is sixty (60) dBA. If an impulsive sound occurs more frequently than ten (10) times in any hour, the levels set forth in Table 1 shall apply. At nighttime, if an impulsive sound occurs more frequently than four (4) times in any hour, the levels set forth in Table 1 shall apply.

(3) Sound Production Devices. No responsible entity shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels (dBC) above the ambient sound level (dBC) by more than the permissible sound level limits set forth in Table 2 when measured within the residence of an affected person according to the measurement protocols in Section 9.06.12(4)g. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" or "impulse" response. Observations for plain audibility shall be conducted with all exterior doors and

windows closed, otherwise in all respects the measurement protocols in Section 9.06.12(4)g apply.

TABLE 2
SOUND PRODUCTION DEVICE MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS WITHIN A RESIDENTIAL PROPERTY

Week Days 7:00 AM – 8:00 PM Weekend Days 10:00 AM – 10:00 PM	6 dB(C)
Week Nights 8:00 PM – 10:00 PM Weekend Nights 10:00 PM – 12:00 PM	3 dB(C)
At all other times	Plainly audible within the residence of the Affected Person

(4) Downtown Business and Entertainment District.

a. Notwithstanding limitations set elsewhere in this Chapter, the following are the only sound level limitations that apply to sound production devices operated by commercial establishments within the Downtown Business and Entertainment District.

b. These limits shall apply to sound production devices within the Downtown Business and Entertainment District when measured at a distance of five (5) feet or more from the building, structure, or establishment from which the sound is emanating, or if observed from within the dwelling of an Affected Person if so indicated. Observations within a dwelling for plain audibility shall be conducted with all exterior doors and windows closed, otherwise in all respects, the measurement protocols in Section 9.06.12(4)g apply.

TABLE 3
MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS SOUND PRODUCTION DEVICES IN COMMERCIAL ESTABLISHMENTS DOWNTOWN BUSINESS AND ENTERTAINMENT DISTRICT

Day of the Week	Time	Sound Level Limit	
		Facilities Not Abutting Residential Property	Facilities Abutting Residential Property
Sun – Thu	10:00 AM – 12:00 AM	85 dBA, 95 dBC	75 dBA, 85 dBC
Fri – Sat*	10:00 AM – 2:00 AM, the following day		
Mon – Fri	12:00 AM – 1:00 AM	75 dBA, 85 dBC	65 dBA, 75 dBC
Sat – Sun*	2:00 AM – 3:00 AM		
Mon – Fri	1:00 AM – 10:00 AM	Plainly audible within the dwelling of the Affected Person	
Sat – Sun*	3:00 AM – 10:00 AM		

* The extended weekend hours also apply to legal holidays, or dates of public celebration declared by the City Council. **9.06.07. Specific Prohibited Acts, Restricted Uses and Activities.**

In addition to the general prohibitions set out above and the maximum permissible sound levels set out in Tables 1 and 2, and unless otherwise exempted in this Chapter, the following specific acts are hereby declared to be in violation of this Chapter. This enumeration shall not be deemed to be exclusive.

(1) Construction, repair and demolition: excluding emergency work, operating or permitting the operation of any tool or equipment used in construction, repair, demolition or excavation shall not be permitted between the hours of 10:00 p.m. and 7:00 a.m. on any day unless it can meet the limits in Table 1. At all other times, the limits set forth in Table 1 do not apply. This section shall not apply to road maintenance/ improvement on preexisting roads, on which daytime construction would prove disruptive to traffic flow. All motorized equipment used in construction and demolition activity shall be operated with a muffler.

(2) Landscaping and yard maintenance: operating power tools used for landscaping and yard maintenance, excluding emergency work, within two hundred (200) feet of a residential property line shall not be permitted between the hours of 10:00 p.m. and 7:00 a.m. on any day unless such activities can meet the limits set forth in Table 1. At all other times the limits set forth in Table 1 do not apply. All motorized equipment used in these activities shall be operated with a muffler.

(3) The operation of a standby or portable generator is exempt from the limits in this chapter when there is a power outage. The regular testing/exercising of a generator must be conducted between the hours of 7:00 a.m. and 10:00 p.m. and for the minimum duration suggested by the manufacturer. During such testing, the sound level limit shall be seventy (70) dBA at the property line of any affected person. The permissible limits in Table 1 apply to the operation of generators tested outside of the prescribed hours or operated when there is no power outage. No person shall at any time operate a generator during nighttime hours in a Residential District unless there is a power outage.

(4) Self-contained, portable, hand-held sound production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the operator between the hours of 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 7:00 a.m., such devices shall not be plainly audible at a distance of twenty-five (25) feet in any direction from the operator.

(5) Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a frequent, repetitive or continuous noise disturbance across the real property line of an affected person or between the hours of 10:00 p.m. and 7:00 a.m. is prohibited. When these activities are conducted during daytime hours, and do not cause a noise disturbance, the limits in Table 1 do not apply.

9.06.08. Animals.

It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which creates a noise disturbance or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the noise disturbance when ordered to do so by a noise control officer or noise control investigator. Prima facie evidence of a violation of this section shall include but not be limited to:

(1) Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four (4) or more vocalizations per minute in that period; or,

(2) Vocalizing for twenty (20) minutes intermittently, defined as an average of two (2) vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

9.06.09. Motor Vehicles.

(1) It is prohibited to operate or permit the operation of any motor vehicle, or any auxiliary equipment attached to such a vehicle, for a period longer than five (5) minutes in any sixty-minute period so out of repair or in such a condition as to create a noise disturbance.

(2) No motor vehicle may be operated without a properly functioning muffler on a public right-of-way. The operation of a vehicle which is unmuffled or is equipped with straight pipes is a violation of this chapter.

(3) A sound production device mounted on, within, or being towed by a motor vehicle shall not be operated in such a manner that it is plainly audible at distance of twenty-five (25) feet in any direction from the operator between the hours of 10:00 p.m. and 7:00 a.m. This provision shall not apply to a horn or traffic warning signal operated in compliance with Section 9.06.09.

(4) A sound production device mounted on, within, or being towed by a motor shall not be operated in such a manner that is plainly audible at a distance of fifty (50) feet in any direction from the operator between the hours of 7:00 a.m. and 10:00 p.m. This provision shall not apply to a horn or traffic warning signal operated in compliance with Section 9.06.09(5).

(5) The horn or signaling device on any motor vehicle may not be operated except when used as a danger or traffic warning signal, and such operation must terminate when the danger has passed.

(6) The registered owner of the vehicle, if present when the violation occurs, is in violation of this section. If the owner of the vehicle is not present, the violation will be served upon the person in charge or control of the vehicle, or anyone who assists in the production of the sound that is found to be in violation.

(7) It shall be unlawful for a motor vehicle to audibly sound a false alarm.

(8) An exterior alarm of a motor vehicle must not audibly sound for more than five (5) minutes continuously or ten (10) minutes intermittently. While operating within these parameters, the limits in Table 1 do not apply.

(9) It shall be unlawful to create a noise or disturbance or operate a motor vehicle in such a manner as to cause excessive squealing or other excessive noise of the tires.

(10) Sound production devices on public transportation: operating, playing or permitting the operation or playing of any sound production device in any method of public transportation in such a manner that the sound from such device is plainly audible to any other person.

9.06.10. Content of Regulated Sound.

The specific intent of this code is to regulate the times and manner as to how noise and sound may be produced and heard. Nothing in this code should be implied or interpreted to impose any prohibitions or restrictions on the message, content or free speech of any naturally, mechanically, or electronically produced noise or sound.

9.06.11. Exemptions.

The following sounds are exempt from the restrictions of this chapter:

(1) Construction, repair and demolition conducted pursuant to Section 9.06.07(1).

(2) Landscaping and yard maintenance conducted pursuant to Section 9.06.07(2).

(3) Sound from bells or chimes, which may include electronic devices that imitate the sound of bells or chimes, while being used in conjunction with ongoing religious services.

(4) Unamplified sound production devices while being used in conjunction with on-going religious services.

(5) Sounds associated with the pouring of concrete during nighttime hours when daytime temperatures would preclude such activity.

(6) Sound from an exterior burglar alarm of any building, provided that such alarm shall terminate within fifteen (15) minutes after it has been activated.

(7) Sound used for the purposes of alerting a person of an emergency.

(8) Sound from the performance of emergency work.

(9) Sound from a municipally sponsored event or one for which a permit has been issued by the City. Permitted events are subject to the conditions of the permit, which may include restrictions on the hours of operation and alternative sound level limits.

(10) National warning system (NAWAS); systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane.

(11) Sounds from municipal-sponsored projects or repairs as ordered by the City Engineer or a state or county agency.

(12) Motor vehicles operated on public roadways except as regulated under Section 9.06.09.

(13) The unamplified human voice, except as determined to be a noise disturbance.

(14) Normal operations of aircraft (not including scale model aircraft).

(15) Sanitation vehicles on a public right-of-way.

(16) Back-up alarms so long as they are self-adjusting to the ambient sound level.

9.06.12. Sound Level Measurement Procedures and Calculation of Corrected Source Sound Level.

For the purpose of determining sound level as set forth in this chapter, the following guidelines shall be applicable:

(1) All personnel conducting sound measurements shall be trained in the measurement of sound to determine compliance with this Chapter.

(2) Sound level meters and calibrators used to conduct measurements shall conform to the definitions of this Chapter.

(3) The sound level meter and calibrator shall be recertified annually by the manufacturer or at a laboratory accredited for such calibrations by either the American Association for Laboratory Accreditation or the National Institute of Standards and Technology.

(4) The general steps listed below shall be followed when conducting sound level measurements:

a. A field calibration check of the sound level meter shall be conducted before and after each set of measurements. If the meter drifts by more than 0.5 dB between calibrations, all measurements taken since the last valid calibration shall be voided.

b. When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound level meter as per the manufacturer's instructions. Wind speed measurements shall be taken at the sound measurement location, and sound measurements shall not be conducted when the wind speed exceeds twelve (12) MPH. Measurements may be taken in a location where the microphone is shielded from excess wind speeds.

c. The sound level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least four (4) feet above the ground.

d. Unless otherwise specified in this chapter, sound level measurements or observations shall be conducted at or within the property line of an affected person, at any location or elevation on their property or within their premises that reasonably represents a location at which they may be exposed to the noise. This may include but is not limited to conducting measurements at an elevated balcony or bedroom window.

e. The investigator shall survey the immediate vicinity of the source or sources under investigation, in order to confirm the identity of the source(s), and to select suitable locations for the measurement of the total sound level and the ambient sound level.

f. Total sound level measurements shall be conducted at or within the property lines of the affected person, unless otherwise specified in this chapter. The location of outdoor measurements, at the discretion of the investigator, should represent a location on that property which would see regular use by the affected person

during the day, or be within twenty five (25) feet of the residential structure at night. The sound level meter reading shall be noted during the period of observation, excluding extraneous sounds.

g. When conducting indoor sound level measurements, the measurements shall be taken at least three (3) feet from any wall, floor or ceiling and all exterior doors and windows shall be closed. When measuring both total and ambient sound levels, all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas that receive only casual use such as hallways, closets and bathrooms.

h. Ambient sound level measurements shall be conducted in such a manner as to quantify the contribution of the ambient sound sources to the location at which the total sound measurements were conducted. If sound from the source under investigation can reasonably be discontinued, these measurements shall be conducted at the same location at which the total sound level measurements were conducted while the source under investigation is not operating. If sound from the source under investigation cannot reasonably be discontinued (pursuant to Section 9.06.13(2), then for purposes of enforcement of this code, the ambient sound level of a given location may be determined based upon measurements taken at a comparable site (which includes but is not limited to comparable physical locations and time of day) in the nearby area. The choice of an alternate location or time for these measurements must take into consideration the primary source(s) of ambient sound (e.g., a major roadway), and remain the same relative distance from that ambient sound source at the new measurement location when compared to the distance between the ambient source and the location at which the total sound level measurements were conducted with traffic patterns relatively the same. The sound level meter reading shall be noted during the periods of observation, excluding extraneous sounds.

i. Measurements of continuous sound are conducted with the meter set for slow response and measurements of impulse sound are conducted with the meter set for fast or impulse response.

(5) The corrected source sound level shall be calculated by subtracting the ambient sound level from the total sound level as per Table 4 below. This procedure is utilized to determine compliance with the limits in Tables 1 and 3.

TABLE 4

CORRECTION FOR AMBIENT SOUND LEVELS dB

Difference between Total Sound Level and Ambient Sound Level (TSL – ASL) in dB	Correction Factor to be Subtracted from Total Sound Level to Calculate Corrected Source Sound Level
0-3	Source Level < Ambient Sound Level, Unenforceable
4,5	2
6-9	1
10 or more	0

Procedure for Using Table 4

Step 1: Subtract the ambient sound level from the total sound level.

Step 2: Refer to Table 4 to determine the correction factor for the difference calculated in Step 1.

Step 3: Subtract the correction factor from the total sound level. The resultant number is the corrected source sound level.

(6) Compliance determination shall be based upon the corrected source sound level.

a. No violation shall be based upon any exceedance that is the result of numerical rounding.

b. A violation shall only be confirmed if the corrected source sound level exceeds both the permissible sound level limits in Table 1 and the measured ambient sound levels.

(7) Compliance determinations for sound production devices pursuant to the C-Scale limits in Table 2 do not require the calculation of the corrected sound level, using Table 4. The permissible limits in Table 2 are based upon the increase of the total sound level above the ambient sound level [difference between total sound level and ambient sound level (TSL – ASL)].

9.06.13. Inspections.

(1) For the purpose of determining compliance with the provisions of this Chapter, the noise control administrator or their designated representative is hereby authorized to make inspections of all noise sources and to take measurements and make tests whenever necessary to determine the quantity and character of noise.

(2) No person shall refuse to allow the noise control administrator or their designated representative to perform reasonable sound testing on any device or devices, including but not limited to requiring the temporary shutting down of said device or devices for the purposes of such testing except that upon showing that the inspection would produce a noticeable interruption of services that would cause discomfort to employees or customers or require a building engineer or other professional to work with the equipment. Such authorized employee shall reschedule the inspection for a more convenient time.

(3) In the event that any person refuses or restricts entry and free access to any part of a premises or refuses inspection, testing or noise measurement of any activity, device, facility or process where inspection is sought, the noise control administrator and/or designated representative may seek from the appropriate court a warrant without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise.

(4) No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with, any authorized person while in the performance of their duties under this Chapter.

~~9.06.14. Application for Permit.~~

~~(1) Any person who owns or operates a sound source in one (1) of the following categories may apply for a permit from the noise control administrator or their designee: private or public celebrations, construction projects outside of permissible hours, or sound producing devices in public areas.~~

~~(2) Applications for a permit shall set forth the following information:~~

~~a. The name and address of the applicant.~~

~~b. The name and location of the noise source for which such application is made.~~

~~c. The reason for which the permit is requested, including the hardship that will result to the applicant or the public if the variance is not granted.~~

~~d. The nature and intensity of noise that will occur during the period of the permit.~~

~~e. The section or sections of this Chapter to which the variance shall apply.~~

~~f. Applications for after-hours construction permits shall include an explanation as to why the construction could not be completed during regular hours as well as a presentation of adequate proof that compliance with this chapter would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefit to the public.~~

~~(3) The applicant's failure to supply the foregoing information shall be cause for rejection of the application.~~

~~(4) The noise control administrator may charge the applicant a fee in accordance with the Comprehensive Fee Schedule to cover expenses resulting from the processing of the permit application.~~

~~(5) In making the determination on granting a permit, the noise control administrator shall consider:~~

~~a. The character and degree of injury to, or interference with, the health and welfare of the reasonable use of property which is caused or threatened to be caused by the sound to result from the permit.~~

~~b. The social and economic value of the activity for which the permit is sought.~~

~~c. The ability of the applicant to apply best practical noise control measures, if appropriate.~~

~~(6) The permit shall enumerate the specific dates and times for which the permit is valid and may establish specific sound level limits which may not be exceeded at the nearest affected residential or noise sensitive property that apply during the period of the permit.~~

9.06.15. Revocation of Permit.

(1) The permit may be revoked by the noise control administrator if:

a. There is a violation of one (1) or more conditions of the permit, including but not limited to sound level limits specified in the permit; or

b. There is a material misrepresentation of fact in the permit application; or

c. There is a material change in any of the circumstances relied upon by the noise control administrator in granting the permit.**9.06.16. Enforcement.**

(1) This Section governs the initiation of enforcement actions, the issuance of citations and/or summons for violations of this Chapter, and the imposition of penalties for violations of this Chapter.

(2) If a person violates any provision of this Chapter or an order issued pursuant thereto, the enforcement agency may issue a citation and/or summons, institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations in which event the matter shall proceed as a summary matter in the municipal court of competent jurisdiction.

(3) Any person violating any provision of this chapter shall be fined as follows. Fine rates shall be included in the City's Comprehensive Fee Schedule.

a. First offense.

b. Second offense.

c. Third offense or two (2) or more violations occurring within any six (6) months period.

d. Each time a noise control officer or investigator is required to respond, and more than an hour has passed since their last response, a new violation may be generated and may constitute a separate violation. If the sound source found to be in violation is a sound production device, each separate hour in which a violation of this chapter exists may constitute a separate violation providing that adequate notification has been served to the responsible entity that a violation of this Chapter exists.

(4) The enforcement agency shall classify a violation as a "major" or "minor" violation for the purposes of issuing an enforcement document and compliance grace period. If compliance is achieved during the grace period, then no fine shall be levied. A violation shall be classified as a major violation if it is not deemed a minor violation.

A violation is deemed to be minor if:

a. The violation is not the result of willful, reckless or grossly negligent conduct of the violator; and,

b. The activity or condition constituting the violation has not been the subject of an enforcement action against the violator in the immediately preceding twelve (12) months; or,

c. The violation is not the result of the operation of a sound production device of any kind, with the exception of safety warning devices; or,

d. The violation is not the result of excessive sound resulting from the removal or modification of a muffler installed by the manufacturer of any device or vehicle.

(5) If the violation is deemed to be minor, the enforcement agency shall notify the violator that the activity of condition must be corrected and compliance achieved within thirty (30) days or less at the discretion of the enforcement agency or any other reasonable period of time not to exceed one hundred eighty (180) days to be determined based upon the nature, extent and impact of the violation and a reasonable estimate of the time needed to correct the violation. The violator may request from the enforcement agency an extension of the compliance deadline and the enforcement agency may approve any reasonable request for an extension if the violator can demonstrate that a good faith effort has been made to achieve compliance. The noise control administrator shall offer special consideration during the six-month period immediately following final enactment of this Chapter for pre-existing sound sources which will require physical plant modifications to come into compliance.

(6) If the violation is deemed to be minor, the enforcement agency shall notify the violator that if compliance is achieved within the period of time specified in the enforcement document, the enforcement agency shall not seek to collect fines from or impose other penalties upon the violator for that violation.

(7) If during the grace period the sound emissions for which the violation has been assessed increase in duration or intensity, the noise control administrator may revoke the grace period. In determining whether to revoke the grace period, the noise control administrator may consider the following factors: the relative increase in intensity; whether the change of sound emissions is directly related to ongoing sound abatement measures; and, the anticipated duration of the increased sound levels.

(8) If the violator does not correct a minor violation within the period of time specified in the enforcement document, the violation is reclassified as major and the enforcement agency may seek injunctive relief and/or a penalty for a violation(s) of this Chapter. If the enforcement agency has reason to believe that the violator is not acting in good faith during the grace period, they may conduct further investigations during that period, and if the violator has not achieved compliance within the period of time specified in the enforcement document, the enforcement agency may prosecute any violations documented during the grace period.

(9) If the violation is not deemed to be minor, it shall be classified as a major violation and the enforcement agency shall notify the violator that the violation shall be corrected upon notice of said violation. There will not be a period of time allowed to correct the violation before a penalty is sought, and that the violator may be liable to civil penalties and imprisonment for that violation, and the enforcement agency may seek summary injunctive relief.

(10) Any claims for a civil penalty may be compromised and settled based upon any of the following factors:

a. Mitigating or other extenuating circumstances; or

b. The timely implementation by the violator of measures which lead to compliance; or

c. The conduct of the violator; or,

d. The compliance history of the violator.

~~(11) The owner of the property or any responsible entity lawfully entitled to possess the property or manage a business premises from which the offending sound is emitted at the time the offending sound is emitted shall be jointly and severally liable for compliance with this Chapter even if not present upon or in the property, and each shall be punished for its violation as shall the person or persons actually causing such sound. It shall not be a lawful defense to assert that some other person caused the sound. The lawful possessor, manager or operator in or on the property shall be responsible for operating or maintaining the property in compliance with this chapter, and arrest and penalties shall be applied to such person or persons as well as to the person or persons actually causing the sound.~~

~~(12) Any owner, lessee, agent, supervisor, or other person in charge of operating, ordering, directing or allowing the operation or maintenance of any device or machine creating a nuisance noise as prohibited in this Chapter shall be deemed guilty of violating this Chapter.~~

SECTION 3. SEVERABILITY.

In the event any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of City Council that such invalidity shall not affect any other provisions of the Ordinance which may be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared severable.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect immediately upon approval on second reading by the City Council and signature of the Mayor.

Adopted: **August 26, 2025**

Additions are underlined; ~~deletions are stricken~~.