



## LEGISLATIVE MEMORANDUM

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Matthew Morton, City Manager

**THRU:** John Pearson, Chief Building Officer

**DATE:** December 18, 2025

**RE:** Ordinance 2025-61, amending the Code of Ordinances, Chapter 92, Noise, by including provisions related to construction work on weekends. **CONTINUED FROM 12/04/25 RCM)**

### **SUMMARY:**

#### **Overview:**

Chapter 92 of the Code of Ordinances establishes quiet hours for construction activity and outlines how enforcement proceeds when construction noise occurs outside those allowed times (no construction noise across a residential boundary between 9:00 p.m. and 7:00 a.m. Mon–Fri; 9:00 p.m. Sat until 7:00 a.m. Mon). The process relies on clear standards, including the “plainly audible” test, and provides officers with the authority to order work stopped and issue citations when violations occur.

Certain construction activities are permitted outside the normal allowed hours if they fall within the ordinance’s defined exemptions. These include emergency work necessary to protect public health and safety, as well as construction performed directly by a homeowner on their homesteaded property. In addition, work may proceed during otherwise restricted hours if the contractor or responsible party has obtained written authorization from the Building Official, City Engineer, or Public Works Director. These exemptions ensure that essential or time-sensitive activities can occur when needed.

#### **Enforcement:**

Enforcement begins when after-hours construction noise is reported by the public or independently observed by law enforcement or a code enforcement officer. The Police Department or authorized code enforcement personnel are the enforcement authorities for the Noise Ordinance. The responding officer determines whether the construction noise constitutes a prohibited noise disturbance. A disturbance may be confirmed if the sound is “plainly audible” across a residential property boundary. The officer checks the current time against the ordinance’s prohibited

construction hours and determines whether an exemption applies, such as emergency work or written authorization from the appropriate city official. When necessary, officers may take formal sound measurements using approved ANSI-compliant equipment. While not always required, this documentation supports enforcement and provides defensible evidence in case of appeal or dispute.

If a violation is confirmed, the officer identifies the individual or entity controlling the site or equipment. Responsibility may fall on the contractor, property owner, supervisor, or other party operating or directing the work. The officer may issue an order to stop work and a civil citation. Actions from code enforcement may also occur. Each noise disturbance is treated as a separate offense, allowing for escalating enforcement when repeated violations occur.

**Changes From Last Reading:**

Removed definition of *Holiday* as it is not referenced elsewhere in the ordinance.

**REQUESTING DEPARTMENTS:**

City Manager's Office

Building Department

**FISCAL IMPACT:**

NONE

**STAFF RECOMMENDATION:**

Motion to approve Ordinance 2025-61 with revisions as presented.

**ATTACHMENTS:**

1. Code of Ordinances Chapter 92 with suggested changes
2. Ordinance 2025-61

## Section

- [92.01](#) Purpose, title and scope of ordinance
- [92.02](#) Definitions
- [92.03](#) Noise disturbances prohibited
- [92.04](#) Exceptions
- [92.05](#) Excessive noise factors
- [92.06](#) Maximum permissible sound levels by receiving land use
- [92.07](#) Construction
- [92.08](#) Sounding of railroad and train horns or whistles prohibited
- [92.09](#) Implementation, administration and enforcement of ordinance
- [92.10](#) Sound variances

### **§ 92.01 PURPOSE, TITLE AND SCOPE OF ORDINANCE.**

(A) *Purpose.* The purpose of this chapter is to establish standards for the control of noise pollution in the City of Palm Bay by setting maximum permissible sound levels for various activities to protect the public health, safety and general welfare.

(B) *Title.* This chapter may be cited as the "Noise Ordinance" of the City of Palm Bay.

(C) *Scope.* This chapter shall apply to the control of all noise originating within the limits of the City of Palm Bay, provided that:

(1) A state or federal agency has not adopted a different standard or rule than that prescribed in this chapter and has so preempted the regulation of noise from a particular source as to render this chapter inapplicable to such source; or

(2) Such noise has not been permitted through a special event permit or granted a variance.

(Ord. 2020-56, passed 9-17-20)

### **§ 92.02 DEFINITIONS.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions of technical terms used in this chapter, which are not defined in this section, shall be obtained from publications of acoustical terminology issued by ANSI or its successor body.

**A-SCALE (dBA).** The sound level in decibels measured using the A-weight or network as specified in ANSI S1.11-1994, or subsequent revisions, for sound level meters. The level is designated dB(A) or dBA.

**ANSI.** The American National Standards Institute or its successor body.

**C-WEIGHTED SOUND LEVEL.** The sound pressure level, in decibels, as measured on a sound level meter using the C-weighting network. The level so read shall be designated as dBC.

**COMMERCIAL.** Property use that is for the trafficking of goods or furnishing of services for sale or profit, including banking or other financial institutions, dining establishments, retail or wholesale establishments, recreation or entertainment establishments, office buildings, transportation facilities and warehouses.

**CONSTRUCTION.** Any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair of equipment, buildings, roadways or utilities, including land clearing, grading, excavating and filling.

**DECIBEL (dB).** A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micro pascals (20 micronewtons per square meter).

**DEMOLITION.** Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**DWELLING UNIT.** A building or portion of a building regularly used for residential occupancy.

**EMERGENCY WORK.** Work made necessary to restore property to a safe condition following a public disaster, work to restore public utilities or work required to protect persons or property from imminent exposure to danger.

**EQUIVALENT SOUND LEVEL ( $L_{eq}$ ).** A sound level descriptor based on the average acoustic intensity over time.  $L_{eq}$  is intended as a single number indicator to describe the mean energy or intensity level over a specified period of time during which the sound level fluctuated. The period of time specified in this chapter is ten (10) minutes.  $L_{eq}$  is measured in dB and is expressed according to the weighting network as either A-weighted or C-weighted ( $L_{eq} A$  or  $L_{eq} C$ ).

**EXCESSIVE NOISE.** Any sound or noise conflicting with the criteria, standards, or levels set forth in this chapter for permissible noises.

**FARM OPERATION.** All conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm, honeybee, or apiculture products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

**HOLIDAY.** Whenever used in this chapter, includes: New Year's Day, Dr. Martin Luther King Jr. Birthday, Memorial Day, Fourth of July, Labor Day, Veteran's Day,

Thanksgiving Day, and Christmas., or on any day which is officially celebrated by declaration of the appropriate government body.

**IMPULSIVE SOUND.** Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions and drop-forge impacts.

**INDUSTRIAL.** Property use that is for the fabrication, manufacturing, shipping, or production of durable or nondurable goods.

**MOTOR VEHICLE.** Any motor-operated vehicle licensed for use on the public highways, but not including a motorcycle.

**MOTORCYCLE.** Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

**NOISE DISTURBANCE.** Any sound which:

- (1) Because of its volume level, duration and character, annoys, disturbs, injures, or endangers the comfort, health, peace or safety of a reasonable person of ordinary sensibilities;
- (2) Any sound prohibited under § [92.03](#) except as provided in § [92.04](#); or
- (3) Any sound that exceeds the dBA or dBC level for such sound as set out in Table 1.

**NOISE-SENSITIVE ZONE.** A quiet zone where serenity and quiet are of extraordinary significance, which is open or in session, and which is identified by conspicuous signage identifying it as a noise-sensitive or quiet zone. Noise-sensitive zones may include schools, public libraries, churches, hospitals, nursing homes, and other areas defined as such pursuant to a resolution adopted by the City Council.

**NONAGRICULTURAL.** Personal pets such as but not limited to dogs, cats, birds and similar small animals which are not bred or kept for agricultural purposes.

**PERSON.** Any individual, association, partnership, limited liability company, or corporation, including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of a state, including the City of Palm Bay.

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

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

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

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

**PUBLIC RIGHT-OF-WAY.** Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public government entity.

**PUBLIC SPACE.** Any real property, including any structure on such real property, which is owned or controlled by a governmental entity.

**REAL PROPERTY BOUNDARY.** An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

**RECEIVING LAND USE.** The use or occupancy of the property which received the transmission of sound.

**RESIDENTIAL PROPERTY.** Any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

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

**SOUND LEVEL.** The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in ANSI specifications for sound level meters (ANSI Standard 1.4-1971, or the latest approved revision of such Standard). If the frequency weighting employed is not indicated, the A-weighting shall apply.

**SOUND LEVEL METER.** An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output or play meter, and weighting networks used to measure sound pressure levels, which complies with ANSI S1.11-1994, or subsequent revisions.

**SOUND PRESSURE.** The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

**SOUND PRESSURE LEVEL.** Twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure to the reference pressure of 20 micronewtons per square meter ( $20 \times 10^{-6} \text{N/m}^2$ ). The sound pressure level is denoted  $L_p$  or SPL and is expressed in decibels.

**WEEKDAY.** Sunday through Thursday, excluding any day that immediately precedes a holiday. Monday through Friday.

**WEEKEND.** Friday, Saturday, and any day that immediately precedes a holiday. Saturday and Sunday.

(Ord. 2020-56, passed 9-17-20; Am. Ord. 2020-86, passed 1-7-21)

### **§ 92.03 NOISE DISTURBANCES PROHIBITED.**

(A) Unless exempted by this chapter, preempted by state or federal law or as provided in a special event permit, the following are hereby prohibited:

(1) No person shall produce cause to be produced, or allow to be produced, by any means, any noise within any private property that is plainly audible at a distance of seventy-five (75) feet or more, measured from the real property line of the property from which the noise is generated or exceeds the maximum sound limits as established in Table 1.

(2) No person shall generate any noise on the public right-of-way that is plainly audible at a distance of seventy-five (75) feet or more, vertically or horizontally from the source or that exceeds the sound levels as provided in Table 1.

(3) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than the maximum permissible limit measure at the property line for commercially zoned areas.

(4) The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of the proper municipal authorities.

(5) The operation between the hours of 6:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(6) The operation of any noise-creating blower or power fan for any internal-combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(7) The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create a loud and unnecessary grating, grinding, rattling or other noise.

(8) It shall be unlawful to operate lawn mowers, edgers, trimmers and power-driven hedge shears in the city between the hours of 7:00 p.m. and 7:00 a.m. the following day.

(B) The following actions are prohibited only when causing a noise disturbance as defined in this chapter:



(1) No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a real property boundary.

(2) The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the city, except as a danger warning.

(3) The using, operating or permitting to be played, used or operated of any radio receiving device, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is broadcast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure is only prohibited when causing a noise disturbance.

(4) Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m.

(5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, generator, motorboat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises from the same.

(6) The creation of any noise disturbance within seventy-five (75) feet of the property line of any school, institution of learning, church or court while the school, institution of learning, church or court is in use, provided that the public streets or sidewalks adjacent to such facilities shall be clearly marked by signs identifying those areas. The signs must be erected and maintained in some conspicuous place on every street, avenue or alley in the vicinity of the establishment indicating that the same is a "Quiet Zone." The signs must meet and conform to the procedures and restrictions in Chapter 178, Sign Ordinance of the City of Palm Bay, Florida.

(Ord. 2020-56, passed 9-17-20)

#### **§ 92.04 EXCEPTIONS.**

The provisions of this chapter shall not apply to:

(A) The emission of sound for the purpose of alerting persons to the existence of an emergency or resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;

(B) The emission of sound in the performance of emergency work;

(C) Emergency testing between 7:00 a.m. and 7:00 p.m.;

(D) The operation of a farm, excluding the ownership or possession of nonagricultural animals or birds;

(E) Parades, fireworks display and other special events for which a permit has been obtained from the city, within such hours and at such decibel levels as may be imposed as a condition for the issuance of the permit;



(F) The emission of sound in the discharge of weapons;

(G) Sounds lasting no more than five (5) minutes in any one hour created by a clock or bell tower to mark time using bells or chimes or electronic or mechanical devices that reproduce such sounds;

(H) Emergency power generators operated at any time during periods of power outage caused by natural disaster, including storm, hurricane, flood, tidal wave, tornado or other disaster, resulting in a loss of electrical service;

(I) Activities on or in city and school facilities and on or in publicly owned property and facilities, provided that such activities have been authorized by the owner of such property or facilities or its agent.

(Ord. 2020-56, passed 9-17-20)

### **§ 92.05 EXCESSIVE NOISE FACTORS.**

(A) *General provision; tests for noise disturbances.* In addition to the plainly audible standard, the following factors shall be considered in determining whether a civil violation exists:

- (1) The nature and zoning of the area within which the noise emanates;
- (2) The time of the day or night the noise occurs;
- (3) The duration of the noise; and
- (4) Whether the noise is recurrent, intermittent or constant.

(B) *Classification of use districts.* It is unlawful to project a sound or noise, from one property into another, within the boundary of a use district which exceeds the maximum permissible sound levels set forth in Table 1 below.

(1) Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the limits of each district into which the noise is projected.

(2) Measurements shall conform to standardized practices and must be completely delineated in any submitted noise report. Measurements shall be taken to present an accurate representation of the sound. The following conditions must always be met when applicable testing is underway:

(a) The measurement of sound shall be made with a sound level analyzer and shall conform to ANSI 1.4-1983. Either Type 1 or Type 2 sound analyzers are permitted per ANSI S1.4-1971. If octave band testing is required, octave band or one-third octave band analyzers filter sets shall conform to ANSI 1.11-1976.

(b) Calibration of all instruments, components, and attachments shall conform to the latest ANSI standards.

(c) The measurement shall be made at or within the property line of the receiving land use as specified in Table 1.

(Ord. 2020-56, passed 9-17-20)

## § 92.06 MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING LAND USE.

No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the property boundary of the receiving land use. These maximum permissible sound levels are ten-minute  $L_{eq}$ , dBA and dBC values measured in accordance with the guidance provided in this section. The categories listed in the table below are not to be construed as defined in the City's Land Development Code but shall have the meaning ascribed to them in this chapter.

<b>Table 1</b>			
<b>Receiving Property Category</b>	<b>Time</b>	<b>Maximum Permissible Sound Level</b> $L_{eq}$ 10 min. dBA	<b>Maximum Permissible Sound Level</b> $L_{eq}$ 10 min. dBC
Residential property or multi-family	Weekdays	65	75
	7:00 a.m. - 9:00 p.m.	60	70
	9:00 p.m. - 7:00 a.m.	65	75
	Weekends	60	70
	7 a.m. - 11:00 p.m.		
	11:00 p.m. - 7:00 a.m.		
Commercial	Weekdays	70	80
	7:00 a.m. - 9:00 p.m.	65	75
	9:00 p.m. - 7:00 a.m.	70	80
	Weekends	65	75
	7:00 a.m. - 11:00 p.m.		
	11:00 p.m. - 7:00 a.m.		
Industrial	Weekdays	75	85
	7:00 a.m. - 9:00 p.m.	70	80
	9:00 p.m. - 7:00 a.m.	70	80
	Weekends	70	80
	7:00 a.m. - 11:00 p.m.		
	11:00 p.m. - 7:00 a.m.		
Noise- sensitive zone	At all times	55	65

(Ord. 2020-56, passed 9-17-20)

## § 92.07 CONSTRUCTION.

(A) No person shall operate or permit the operation of any tool or equipment in construction, drilling or demolition work which creates a noise disturbance across a

residential real property boundary between the hours of 9:00 p.m. and 7:00 a.m. the following day on Monday through Friday, and from 9:00 p.m. Saturday until 7:00 a.m. Monday.

(B) This section shall not apply to:

(1) Emergency work or repair work performed by and for government entities or public service utilities; or

(2) Any homeowner working on their homestead property as identified by Brevard County Property Appraiser; or

(3) Work, defined as the erection, demolition, alteration or repair of any building or the excavation of streets and highways performed with the written authorization of the Building Official, City Engineer, or Public Works Director, as noted in (a) through (c) below.

(a) The Building Official may approve work to be performed on Sunday if the Building Official finds urgent necessity in the interest of public health and safety. The approval may be renewed for additional Sundays.

(b) The Building Official may permit work to be performed between the hours of 9:00 p.m. and 7:00 a.m., or on Sunday, if the Building Official determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building and/or loss or inconvenience would result to any party in interest.

(c) The City Engineer or the Public Works Director may permit work to be performed between the hours of 9:00 p.m. and 7:00 a.m., or on Sunday, if the public health and safety will not be impaired by the excavation of streets and highways.

(C) The use of domestic power tools or equipment is subject to the noise levels set forth in Table 1.

(Ord. 2020-56, passed 9-17-20)

## **§ 92.08 SOUNDING OF RAILROAD AND TRAIN HORNS OR WHISTLES PROHIBITED.**

The sounding of railroad and train horns and whistles within the corporate limits of the city is unconditionally prohibited between the hours of 10:00 p.m. and 6:00 a.m., pursuant to Fla. Stat. § [351.03](#), and adopting of all the provisions of this state statute.

(Ord. 2020-56, passed 9-17-20)

## **§ 92.09 IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT OF ORDINANCE.**

(A) This chapter shall be implemented, administered and enforced by the Police Department or any authorized code enforcement officer.

(B) The violation or failure to comply with any of the provisions in this chapter is unlawful.

(C) Persons responsible:

(1) It shall be a violation of this chapter for any owner, lessee or other person in charge of or in control of premises or a vehicle to allow or permit any noise disturbance to emanate from such premises or vehicle.

(2) Any noise disturbance made or produced at premises or in a vehicle in which the owner, lessee or other person in control is present shall be presumed and deemed to be made and produced with the consent and permission of the owner, lessee or other person in charge or control.

(3) 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 noise disturbance as prohibited in this section, shall be deemed guilty of violating this chapter.

(D) *Civil noise infraction.* As an alternative to any penalty provided in this chapter, any person who violates the provisions of this chapter may be issued a fine in an amount established by resolution.

(1) Each noise disturbance shall be considered a separate offense.

(2) Joint and several responsibility. Any person owning or having responsibility for management of a premises, however temporarily, any performer or disc jockey producing sound upon any premises, any person playing music, any person having control of volume knobs or levels, and the business as named on the occupational license, if applicable, shall be jointly and severally liable for compliance with this chapter and shall be responsible for any violations of this chapter.

(E) *Criminal violation.* It shall be unlawful for any person to produce, cause to be produced, or allow to be produced, by any means, any noise disturbance within any private property or public right-of-way. A person convicted of a violation of this chapter shall be deemed guilty of a misdemeanor and upon conviction punishable by a fine up to \$500 or by imprisonment for not more than sixty (60) days, or by both fine and imprisonment.

(F) *Other remedies.* Nothing in this section shall prevent the city from pursuing other or additional remedies including suit for injunctive relief, as may be necessary to prevent or abate violations of this chapter.

(Ord. 2020-56, passed 9-17-20)

**§ 92.10 SOUND VARIANCES.**

(A) The City Council shall have the authority, consistent with this section, to grant sound variances from this chapter after a public hearing.

(B) Any person seeking a sound variance under this section shall file an application with the City Clerk for review. The application shall contain the following information:

(1) The name of the applicant;

- (2) The applicant's mailing address;
- (3) Legal description of property from which the sound or vibration will emanate;
- (4) Description of source of sound;
- (5) The duration of time for which the variance is sought; and
- (6) The facts and reasons justifying a variance.

(C) All applications shall be subject to the application fee as set forth a resolution adopted by City Council.

(D) At the hearing of the variance application, the applicant may submit any relevant evidence or testimony, including evidence or testimony demonstrating the applicant's efforts to reduce, contain or baffle the noise or vibration. In determining whether to grant or deny an application, City Council shall balance the practical difficulty that will result to the applicant, the community, and other persons if the variance is not granted, versus the adverse impact on the health, safety, and general welfare of persons if the variance is granted. If the practical difficulty to the applicant, community and other persons outweighs the adverse impact on the health, safety or welfare of the public, the variance may be granted. The City Council may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the directly affected properties, including the use of mufflers, screens or other sound attenuating devices. If its decision is to grant the application, Council shall set forth the terms and conditions of the variance, including the effective date of the variance, the period of the variance, the time of day the variance may be used, the location where the sound or vibration may be created or caused, and the sound or vibration level limits.

(E) Sound variances shall be granted by notice to the applicant containing all conditions necessary to minimize adverse effects upon the community or the surrounding neighborhood, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject that person to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted. Variances may not exceed 365 days.

(F) Determination of modification of a granted variance shall also be made in accordance with the rules and procedures set forth in this section.

(Ord. 2020-56, passed 9-17-20)

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## ORDINANCE 2025-61

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE IX, GENERAL REGULATIONS, CHAPTER 92, NOISE, BY INCLUDING PROVISIONS RELATED TO CONSTRUCTION WORK ON WEEKENDS; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

**SECTION 1.** The City of Palm Bay Code of Ordinances, Title IX, General Regulations, Chapter 92, Noise, Section 92.02, Definitions, is hereby amended and shall henceforth read as follows:

### **“SECTION 92.02 DEFINITIONS.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions of technical terms used in this chapter, which are not defined in this section, shall be obtained from publications of acoustical terminology issued by ANSI or its successor body.

\* \* \*

**~~HOLIDAY.~~** ~~Whenever used in this chapter, includes: New Year's Day, Dr. Martin Luther King Jr. Birthday, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas, or on any day which is officially celebrated by declaration of the appropriate government body.~~

\* \* \*

**~~WEEKDAY.~~** ~~Sunday through Thursday, excluding any day that immediately precedes a holiday.~~ >>Monday through Friday.<<

**~~WEEKEND.~~** ~~Friday, Saturday, and any day that immediately precedes a holiday.~~ >>Saturday and Sunday.<<

\* \* \*



**SECTION 2.** The City of Palm Bay Code of Ordinances, Title IX, General Regulations, Chapter 92, Noise, Section 92.07, Construction, is hereby amended and shall henceforth read as follows:

**“SECTION 92.07 CONSTRUCTION.**

(A) No person shall operate or permit the operation of any tool or equipment in construction, drilling or demolition work which creates a noise disturbance across a residential real property boundary between the hours of 9:00 p.m. and 7:00 a.m. >>the following day on Monday through Friday, and from 9:00 p.m. Saturday until 7:00 a.m. Monday.<<

(B) This section shall not apply to:

(1) Emergency work or repair work performed by and for government entities or public service utilities; or

>>(2) Any homeowner working on their homestead property as identified by Brevard County Property Appraiser; or

(3)<< Work, defined as the erection, demolition, alteration or repair of any building or the excavation of streets and highways performed with the written authorization of the Building Official>>, City Engineer, or Public Works Director, as noted in (a) through (c) below<<.

(a) The Building Official may approve work to be performed on Sunday if the Building Official finds urgent necessity in the interest of public health and safety. The approval may be renewed for additional Sundays.

(b) The Building Official may permit work to be performed between the hours of 9:00 p.m. and 7:00 a.m.>>, or on Sunday,<< if the Building Official determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building and/or loss or inconvenience would result to any party in interest.

(c) The City Engineer >>or the Public Works Director<< may permit work to be performed between the hours of 9:00 p.m. and 7:00 a.m.>>, or on Sunday,<< if the public health and safety will not be impaired by the excavation of streets and highways.

\* \* \*

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is held or declared to be unconstitutional, inoperative or void, such holding of invalidity shall not affect the remaining portions of this Ordinance and shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative parts therein, and the remainder of this Ordinance, after the exclusion of such part or parts, shall be deemed to be held valid as if this Ordinance had been adopted without such unconstitutional, invalid or inoperative part herein and if this Ordinance or any provision thereof, shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holding shall not affect the application thereof to any other person, property or circumstances.

**SECTION 4.** The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2025-XX, held on \_\_\_\_\_, 2025; and read in title only and duly enacted at Meeting 2025-XX, held on \_\_\_\_\_, 2025.

\_\_\_\_\_  
Rob Medina, MAYOR

ATTEST:

\_\_\_\_\_  
Terese M. Jones, CITY CLERK

Reviewed by CAO: \_\_\_\_\_

***Strikethrough words shall be deleted; highlighted words that will included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.***