

ORDINANCE NO. 2024-001

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA AMENDING CHAPTER 17 OF THE TOWN' S CODE OF ORDINANCES, ENTITLED "NOISE;" PROVIDING DEFINITIONS FOR NOISE, NOISE DISTURBANCE, AND PLAINLY AUDIBLE; PROVIDING FOR VIOLATIONS WHEN NOISE IS PLAINLY AUDIBLE AT CERTAIN DISTANCES IN VARIOUS ZONING DISTRICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Town staff recently reviewed the Town's noise ordinances and desire to update the ordinance to provide for clarified definitions and improved enforceability; and

WHEREAS, the Town's noise ordinance was last updated in 2001; and

WHEREAS, the Town staff desire to use the plainly audible standard in addition to decibel readings to aid in the enforcement of the Town's noise ordinances ; and

WHEREAS, the use of a plainly audible standard will improve the health, safety, and welfare of the residents of the Town; and

WHEREAS, the Town Commission has conducted a public hearing and considered the input of the public; and

WHEREAS, the Town Commission finds that updating the Town code to provide for definitions for noise, noise disturbance, and plainly audible, in addition to providing for violations when noise is plainly audible at certain distances in various zoning districts is in the best interests of the citizens and residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, THAT:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2. Chapter 17 of the Town's Code of Ordinances entitled "Noise," is amended

as follows:

Chapter 17 - NOISE

Sec. 17-1. - Declaration of intent.

The Commission of the Town of Pembroke Park finds and declares that excessive sound is a serious hazard to the public health, welfare, safety and quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; and that people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health, welfare or safety or degrade the quality of life.

Sec. 17-2. - Definitions.

(a)All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

(b)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:

A weighting is the electronic filtering in sound level meters that models human hearing frequency sensitivity.

Background sound level is the total sound pressure level in the area of interest excluding the noise source of interest.

Commercial area is all property which is used primarily for the sale of merchandise or goods, or for the performances of services, or for office or clerical work.

Construction means any site preparation, assembly, erection, repair, alteration, demolition or similar action on public or private right of way, structures, buildings, utilities or similar property.

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

dBA is the A-weighted unit of sound pressure level.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action; economic loss shall not be a factor in the determination of an emergency. It shall be the burden of an alleged violator to prove an "emergency".

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage, but not economic loss, threatened or caused by an emergency.

Impulsive sound means a sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound includes explosions and the discharge of firearms.

Industrial area is any property which is used primarily for manufacturing or processing.

Legal holidays recognized by the Town of Pembroke Park include New Years Day, Martin Luther King Jr. Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day After Thanksgiving and Christmas Day.

Muffler, means a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

Multi-family dwelling is any building or other shelter that has been divided into separate units to house more than one (1) family.

Noise means for the purposes of this chapter, any sound that is in violation of any provision of this chapter. ~~any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.~~

Noise disturbance means any sound which is unreasonably loud, raucous, or jarring to reasonable persons of ordinary sensibilities, or any sound which affects the health, safety, or welfare of other persons, or exceeds the noise levels as defined. ~~is any sound that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property.~~

Octave band is all of the components in a sound spectrum whose frequencies are between two (2) sine waves components separated by an octave.

Person means any natural person, individual, public corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties.

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

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

Real property line means any imaginary line along the surface, and its vertical plane extension, which separates the real property owned, rented or leased by one (1) person from that owned, rented or leased by another person, excluding intrabuilding real property divisions.

Residential area is all property on which people live and sleep, or parks or hospitals or schools or nursing homes of that which is not commercial or industrial.

Sound means 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 means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B or C as specified in American National Standards Institute specifications for sound level meters ANSI 51.4-1983, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

Sound level meter (SLM) is an instrument used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in ANSI Standard 51.4-1983 or the latest version thereof.

Sound pressure level (SPL) is twenty (20) multiplied by the logarithm, to the base 10, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

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

Sec. 17-3. - Sound level limitations.

(a) No person shall cause, suffer, allow, or permit the operation of any sound source in such a manner as to create a sound level that exceeds the sound level limits set forth in Table 1 when measured at or within the real property line of the receiving property using the slow response setting unless otherwise noted. Such a sound source would constitute a noise disturbance.

TABLE 1
SOUND LEVEL LIMITS BY RECEIVING PROPERTY

Receiving Property Category	Time	Sound Level Limit (dBA)
Residential, Public Space, or Institutional	7:00 a.m.—7:00 p.m.	60
	7:00 p.m.—7 a.m.	50
Commercial or Business	7:00 a.m. - 7:00 p.m.	65
	7:00 p.m.—7:00 a.m.	60
Industrial or Manufacturing	At all times	70

(1) If the noise is an impulsive sound, the fast response setting shall be used and the daytime (7:00 a.m.—7:00 p.m.) limits of Table 1 shall be increased by ten (10) dBA.

(2) In a multi-family dwelling, it shall be unlawful to create or permit to be created any noise that exceeds the daytime (7:00 a.m.—7:00 p.m.) limit of fifty-five (55) dBA and the nighttime (7:00 p.m. - 7:00 a.m.) limit of forty-five (45) dBA as measured from a neighbor's dwelling.

(3) In addition to the limits of Table 1 and section (a)(2), for any sound source which impacts residential, public space or institutional property, the maximum allowable sound level limits for the individual octave bands whose centers are sixty-three (63), one hundred twenty-five (125), two hundred fifty (250) and five hundred (500) Hertz shall not exceed sixty-five (65) dB.

(b) The following are exempt from the sound level limits of subsection (a):

(1) Noise from emergency signaling devices;

(2) Sound from church bells and chimes when a part of a religious observance or service;

(3) Noise from landscape and yard equipment when operated between 8:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends and legal holidays, provided all motorized equipment are equipped with functioning mufflers.

(4) Noise from construction activity between 7:00 a.m. and 6:00 p.m. on weekdays and between 9:00 a.m. and 6:00 p.m. on weekends and legal holidays provided all motorized equipment used in such activity are equipped with functioning mufflers.

(c) No person shall cause, allow, or permit the operation of any amplified sound device from the following use districts or locations in the following manner:

1. Residential use:

i. Sound shall not be plainly audible for a period of one (1) minute or longer at a distance of twenty-five (25) feet or more when measured from the source property line between the hours of 7:00 p.m. and 7:00 a.m. daily.

ii. Sound shall not be plainly audible for a period of one (1) minute or longer at a distance of fifty (50) feet or more when measured from the source property line between the hours of 7:00 a.m. and 7:00 p.m. daily.

2. Commercial, mixed-use, or industrial, or other uses. No person shall cause, allow, or permit the operation of any amplified sound device plainly audible for a period of one (1) minute or longer at a distance of fifty (50) feet or more when measured from the source property line.

Sec. 17-4. - Exemptions.

The provisions of this chapter shall not apply to:

- (a) The generation of sound for the purpose of alerting persons to the existence of an emergency;
- (b) The generation of sound in the performance of emergency work; or
- (c) Noise generated from municipal sponsored or approved celebrations or events.

Sec. 17-5. - Enforcement procedures.

- (a) The Town of Pembroke Park may prosecute noise related violations by issuance of a Town of Pembroke Park Ordinance Citation, in which case, the penalty for a violation shall be as set in Chapter 7 of the Code of Ordinances. If the violation is of a continuing nature, each day during which it occurs shall constitute a separate violation.
- (b) In lieu of issuing a citation as provided in subsection (a), the certified code enforcement officer or law enforcement officer of the Town of Pembroke Park may issue an order requiring immediate abatement of any sound source alleged to be in violation of this chapter.
- (c) No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law.

Sec. 17-6. - Reserved.

Sec. 17-6.1. - Noise and businesses, restriction on hours of operation.

It shall be unlawful for any person to perform labor or work, or to operate or conduct any business or enterprise in the Town except between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday at a location within two hundred (200) feet of inhabited dwellings, apartments, mobile homes, or hotels which emits noise from the operation of such business or enterprise that disturbs or is detrimental to the health, peace and quiet of any occupants thereof. In the event that any emergency exists, or conditions with reference to the operation of any business are such that it would be unjust and inequitable for same not to be operated during the prohibited hours, upon application made to the Town Manager, and after an investigation has been conducted by him or her, the Town Manager may issue a permit authorizing any business to operate for only a limited period of time.

Sec. 17-7. - Construction operations.

It shall be unlawful for any person to engage in the erection, including excavating, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on any day except in case of urgent necessity in the interest of public health and safety and then only with a permit from the Building Official. Such permit may be granted for a period not to exceed three (3) days or less while the emergency continues, and may be renewed for periods of three (3) days or less while the emergency continues. If the Building Official shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or

repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that no loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.

Secs. 17-8—17-10. - Reserved.

Sec. 17-11. - Enforcement.

- (a) The Town may prosecute noise related violations by issuance of a notice of violation, which violation will be brought before the Town Code Enforcement Board and a penalty for a violation shall be as set forth in Chapter 162, Florida Statutes. If the violation is of a continuing nature, each day during which it occurs shall constitute a separate violation.
- (b) In lieu of issuing a notice of violation, the Town may institute a judicial proceeding requesting the immediate abatement of any sound source alleged to be in violation of this article.
- (c) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

Section 3. It is the intention of the Town Commission of the Town of Pembroke Park that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Pembroke Park, Florida, and that the Sections of this ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

Section 4. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the remaining portions or applications remaining in full force and effect.

Section 6. This Ordinance shall become effective upon passage and adoption.

**PASSED AND ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF
PEMBROKE PARK, FLORIDA, ON THE FIRST READING, THIS ____ DAY OF
_____, 2024.**

**PASSED ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE
PARK, FLORIDA, ON THE SECOND AND FINAL READING, THIS ____ DAY OF
_____, 2024.**

ATTEST:

ASHIRA MOHAMMED
Mayor

MARLEN D. MARTELL
Town Clerk

Approved as to form and legal sufficiency:

JACOB G. HOROWITZ
Interim Town Attorney

VOTE

ASHIRA MOHAMMED _____

ERIK MORRISSETTE _____

WILLIAM R. HODGKINS _____

MUSFIKA KASHEM _____

GEOFFREY JACOBS _____

