

ARTICLE VI. NOISE*

***Cross references:** Music or entertainment festivals, § 10-31 et seq.; loudspeakers, radios and similar devices on beach, § 20-122.

State law references: Motor vehicle noise, F.S. §§ 316.293, 403.415.

Sec. 50-491. Definitions and rules of construction.

(a) For the purposes of administration and enforcement of this article, unless otherwise stated in this article, the following rules of construction shall apply to the text of this article:

(1) Words used in the present tense shall include the future; and words in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(b) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not defined in this section shall be construed to have the meanings given by common and ordinary use as defined by Webster's New Collegiate Dictionary (G & C Merriam Co., 10th Edition 1993, or subsequent edition). All terminology used in this article, not specifically defined, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dBA.

Agricultural means the land uses where agricultural activities are legally permitted.

Commercial means the land uses where retail sales and services, professional, tourist and other commercial activities are legally permitted.

Construction means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or on public or private rights-of-way, structures, utilities or similar property.

County manager means the county manager and/or his designee.

Daylight hours means one-half hour before sunrise and one-half hour after sunset.

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

Emergency work means any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

Environmental control officer means the director of the Volusia County environmental services group.

Environmental management services means the Volusia County environmental management

services group.

Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. The term is used synonymously with the term "sound."

Noise disturbance and *sound disturbance* mean any sound in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life or property, or unnecessarily interfere with the enjoyment of life or property, including outdoor recreation, of a reasonable person with normal sensitivities.

Person means any individual, association, partnership, corporation, governmental agency, business trust, estate, trust, two or more persons having a joint or common interest or any other legal entity, and includes any officer, employee, department, agency or instrumentality of the United States, a state or any political subdivision of a state.

Pure tone means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five decibels for center frequencies of 500 H z and above, and by eight decibels for center frequencies between 160 and 400 H z , and by 15 decibels for center frequencies less than or equal to 125 H z .

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

RMS (root mean square) means the square root of the mean of a set of squared values.

Sheriff's office means the Volusia County Public Safety Department or the Volusia County Sheriff's Department.

Sound means an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity and frequency. The term is used synonymously with the term "noise."

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 S1.4-1971, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated, and the instrument is of type 2 or better, as specified in the American National Standards Institute publication S1.4-1971, or its successor publications.

Sound pressure means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.

Sound pressure level means 20 times the logarithm to the base 10 at the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20×10^{-6} N/m²). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

Special variance and *variance* mean an authorization, issued by the county manager or his duly authorized representative, to exceed the sound level limit for a specified period of time.

(Ord. No. 83-22, § II, 12-15-83; Ord. No. 2000-29, § I, 9-7-00)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 50-492. Penalty; confiscation of noise-creating equipment; responsibility for violations.

(a) Violations of this article are punishable as provided in section 1-7. Any person who continues to violate the provisions of this article after having been previously cited may be subject to further citations, including further citations issued on the day upon which the original citation was issued.

(b) Upon conviction of being in violation of this article three times for the same offense within a 12-month period, when such sound is created by the same sound emitter, the noise-creating equipment may be confiscated by the court following such latest conviction until such time as the offender can satisfy the court that he is prepared to and in fact will operate said equipment within the limits of this article. Further violation shall result in the permanent confiscation by the court upon such conviction.

(c) The owner of property, a tenant, a lessee, a manager, an overseer, an agent, corporation or any other person entitled to lawfully possess or who claims unlawful possession of such property at a particular time involved shall each be responsible for compliance with this article, and each may be punished for violation of this article. It shall not be lawful defense to assert that some other person caused such sound, but each lawful possessor or claimant of the premises shall be responsible for operating or maintaining such premises in compliance with this article and shall be punishable, whether or not the person actually causing such sound is also punished.

(d) The environmental management service group under the direction of the environmental control officer shall be responsible for the enforcement and interpretation of this article. However, the department of public safety (sheriff) shall exercise primary enforcement for section 50-498.

(Ord. No. 83-22, § IV, 12-15-83; Ord. No. 2000-29, § II, 9-7-00)

Sec. 50-493. Additional remedies.

The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this article which endangers the comfort, repose, health and peace of residents in the unincorporated areas of the county is declared to be a public nuisance, and the county is authorized to pursue any and all remedies therefor. Nothing in this article shall be construed to limit any private right of action.

(Ord. No. 83-22, § V, 12-15-83)

Sec. 50-494. Jurisdiction.

The provisions of this article shall apply in the unincorporated area of the county.

(Ord. No. 83-22, § VII, 12-15-83)

Sec. 50-495. Enforcement standards.

Standards for enforcement of this article shall be adopted by resolution of the county council. Such standards are to be based upon best professional information available to the county council, which are necessitated by changes in sound measuring equipment or changes in prevailing academic,

technical or operational criteria. Any enforcement standards adopted or amended by the county manager are hereby repealed.

(Ord. No. 83-22, § VI, 12-15-83; Ord. No. 2000-29, § III, 9-7-00)

Sec. 50-496. Sound limitations established; applicability.

(a) *Classification of use occupancy.* For the purposes of defining the use occupancy under this article, all premises containing habitually occupied sleeping quarters shall be considered residential use. All premises containing transient commercial sleeping quarters shall be considered tourist use. All premises containing business where sales, professional or other commercial use is legally permitted, including hospitals, shall be considered commercial use. All premises where manufacturing is legally permitted shall be considered manufacturing use. In cases of multiple use, the more restrictive use category shall prevail. Nursing homes, schools, libraries and church uses shall be considered residential uses. Any area not otherwise classified shall conform to commercial standards.

(b) *Measurement of sound.* Standards, instrumentation, personnel, measurement procedures and reporting procedures to be used in the measurement of sound as provided for in this article shall be those as specified in section 50-495.

(c) *Maximum permissible sound levels by receiving use occupancy.* No person shall operate or cause to be operated any source of sound from any occupancy in such a manner as to create a sound level which exceeds the limits set forth for the receiving use occupancy category in table I, more than ten percent of any measurement period, which shall not be less than ten minutes when measured at or beyond the property boundary of the land use from which the sound emanates.

TABLE I

TABLE INSET:

DECIBEL LIMITS BY RECEIVING LAND USE OCCUPANCY		
Receiving Use Occupancy Category	Time	Sound Level Limit (dBA)
Residential	7:00 a.m. to 10:00 p.m.	60
	After 10:00 p.m. to 6:59 a.m.	55
Commercial or tourist	7:00 a.m. to 10:00 p.m.	65
	After 10:00 p.m. to 6:59 a.m.	60
Manufacturing	At all times	75
Agricultural	At all times	75

(d) *Exceptions.* The following uses and activities shall be exempt from noise level regulations:

(1) Air conditioners are exempt when this equipment is functioning in accord with the manufacturer's specifications and in proper operating condition according to standards promulgated by the American Refrigeration Institute. The same exception shall apply to lawn mowers and agricultural equipment operated during daylight hours with original mufflers and noise reducing equipment in use.

(2) Nonamplified crowd noises resulting from activities such as those planned by student government, community groups or racing/sport events are exempt.

- (3) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government, are exempt, providing all equipment is operated in accord with the manufacturers' specifications and with all standard equipment, manufacturers' mufflers and noise-reducing equipment in use and in proper operating condition.
 - (4) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches are exempt.
 - (5) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency are exempt.
 - (6) Noises resulting from emergency work as defined in section 50-491 are exempt.
 - (7) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit has been granted by the county in accordance with subsection (e) of this section is exempt.
 - (8) Noises made by persons having obtained a permit to use the streets are exempt.
 - (9) All noises coming from the normal operations of railroad trains are exempt.
 - (10) All noises coming from the normal operations of aircraft (not including scale model aircraft) are exempt.
 - (11) Those motor vehicles controlled by F.S. § 316.293, as amended, are exempt, but not those motor vehicles exempted from coverage.
 - (12) Motor vehicles defined in F.S. § 316.003 are exempt.
 - (13) Generators that are used to provide power during an outage are exempt, providing that the generator is operating in accordance within the manufacturer's specifications, with all standard equipment, and is in proper operating condition. Manual and automatic exercising or testing of any generator shall be limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Saturday.
- (e) *Special permits.* Applications for a permit for relief from the maximum allowable noise level limits designated in this article may be made in writing to the county manager or his duly authorized representative. Any permit granted by the county manager under this subsection must be made in writing and shall contain all conditions upon which said permit shall be effective. The county manager or his duly authorized representative may grant the relief as applied for under the following conditions:
- (1) The county manager may prescribe any reasonable conditions or requirements as he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound-attenuating devices.
 - (2) Permits may be granted for the purpose of entertainment under the following conditions:
 - a. The function must be open to the public (admission may be charged).
 - b. The function must take place on public property.
 - c. The permit will be given only for four hours in one, 24-hour day.
 - d. The function must be staged between the hours of 9:00 a.m. and 12:00 midnight.
 - (3) Special permits for nonentertainment special purposes may be issued under the following conditions:

- a. 1. If the special purpose relates to the operation of a trade or business, that the special purpose not be in the ordinary course of that trade or business; and
 - 2. If the special purpose does not relate to the operation of a trade or business, that the special purpose not be an ordinary event in the affairs of the applicant.
- b. If the special purpose be a recurring purpose, that it not recur more often than four times each calendar year; and
- c. 1. That the special purpose be absolutely necessary to the operation of the applicant's trade or business; or
 - 2. If the special purpose does not relate to the operation of the trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur.
- d. Except in emergency situations, as determined by the county manager, the special permit may be issued only for four hours between 7:00 a.m. and 11:00 p.m. on weekdays; and
- e. Special permits may be issued for no longer than 15 consecutive days, renewable by further application to the county manager.

(4) No permit may be issued to permit the use of any loudspeaker or sound-amplifying device on the exterior of any building which at any time exceeds the sound level limits in table I of this section, except those used for emergency warnings.

(Ord. No. 83-22, § II, 12-15-83; Ord. No. 2000-29, § IV, 9-7-00; Ord. No. 2006-25, § I, 12-7-06)

Sec. 50-497. Exceeding sound limitations.

It shall be unlawful, except as expressly permitted in this article, to make, cause or allow the making of any noise or sound which exceeds the limits set forth in this article.

(Ord. No. 83-22, § I, 12-15-83)

Sec. 50-498. Loud, disturbing or unnecessary noises.

(a) Some sounds may be such that they are not measurable or may not exceed the limits set out in this article, but they may be excessive, unnatural, prolonged, unusual and are a detriment to the public health, comfort, convenience, safety, welfare or prosperity of the residents of the unincorporated areas of the county.

(b) With the exception of those exemptions provided by state law, noises prohibited by this article are unlawful notwithstanding the fact that no violation of section 50-496 is involved, and notwithstanding the fact that the activity complained about is exempted in subsection 50-496(d).

(c) Thus, the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but said enumeration shall not be deemed to be exclusive, namely:

- (1) The sounding of any horn or signaling device on any automobile or other vehicle, except as a danger warning; the creation by means of any signaling device of any unreasonably loud or harsh sound; the sounding of any signaling device for any unnecessary or unreasonable period of time; and the unreasonable use of any signaling device.

(2) The using, operating or permitting to be played, used or operated of any radio, television, tape or record player, amplifier, musical instrument or other machine or device used for the production, reproduction or emission of sound, any prolonged sounds made by people, and the keeping of any pet or animal which causes frequent or long continuous noise in such a manner as to disturb the public peace, quiet and comfort of the neighboring inhabitants or at any time with greater intensity than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such sound emitter is operated and who are voluntary listeners thereto. Quieter standards are expected during nighttime hours.

(d) Any person making a complaint under this section must sign a sworn affidavit prior to a warrant being issued; otherwise no such complaint will be honored.

(Ord. No. 83-22, § III, 12-15-83; Ord. No. 2000-29, § V, 9-7-00)

Sec. 50-499. Loudspeakers and public address systems.

Loudspeakers or public address systems used to produce sound signals from any source for either advertising or other purposes may not be operated on or over public property and public rights-of-way unless a license has been issued by the county environmental control officer. A fee of \$50.00 shall be paid for such license. The permit may be canceled for noncompliance with this article. Such systems may be used Monday through Saturday during daylight hours only. No such systems shall be used on or over the Atlantic Ocean Beach at any time, except systems used by lifeguards, police officers, county employees acting in an official capacity, and special uses approved by the county council.

(Ord. No. 83-22, § VIII, 12-15-83; Ord. No. 2000-29, § VI, 9-7-00)

Editor's note: Ord. No. 2000-29, § VII, adopted on September 7, 2000 repealed Addendum A, Enforcement standards. See the Code Comparative Table.