

**ORDINANCE NO.
23-026**

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 26, ARTICLE II, NOISE; AMENDING AND CLARIFYING SECTION 26-38, SUBSECTION (c) – MAXIMUM PERMISSIBLE SOUND LEVELS BY USE OCCUPANCY; AMENDING AND CLARIFYING SECTION 26-40 – SOUND LEVEL LIMITATIONS, TABLE 1; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, excessive noise is injurious to the health, safety, and welfare of the City; and

WHEREAS, the City last amended its noise ordinance in 2014; and

WHEREAS, in approximately the last year, the Police Department and City staff have received increased calls for service and/or complaints regarding the noise levels in various areas of the City; and

WHEREAS, to address the aforementioned concerns and to ensure the health, safety, and welfare of the City, it is necessary to clarify and amend portions of Chapter 26, Article II, Noise; and

WHEREAS, on January 9, 2023, the City Commission received a sound level demonstration from an acoustics expert; and

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida:

SECTION 1. Chapter 26, Article II, Section 26-38, Subsection (c) of the Code of Ordinances, is hereby amended to read as follows:

(c) Maximum permissible sound levels by use occupancy. It shall be unlawful to project a sound or noise, from one property into another property ~~within the boundary of the use occupancy, which exceeds either the limiting noise spectra limitations set forth in Table 1 in section 26-40-, which limitations shall be based on the use occupancy of the receiving property. below or exceeds the ambient noise level by more than three decibels when measured as specified under the noise enforcement practices as adopted by the city commission by ordinance.~~

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

~~(2) The limits hereinabove referred to shall be in accordance with Table 1 in section 26-40.~~

SECTION 2. Chapter 26, Article II, Section 26-40, Table 1 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 26-40. Sound level limitations.

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 from the real property line of the nearest 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

<i>Receiving Property Category</i>	<i>Time</i>	<i>Sound Level Limit (dBA)</i>	<i>Sound Level Limit (dBC)</i>	<i>Sound Level Limit (dBZ)</i>
Residential	Monday through Saturday, 7:00 a.m.—11:00 p.m.	60 <u>55</u>	60 <u>55</u>	60 <u>55</u>
Residential	Sunday, 7:00 a.m.—1:00 p.m.	See subsection (1) of this section.	See subsection (1) of this section.	See subsection (1) of this section.
<u>Residential</u>	<u>Sunday, 1:00 p.m.—11:00p.m.</u>	<u>55</u>	<u>55</u>	<u>55</u>
Residential	Sunday through Saturday, Each Day, 11:00 p.m.—7:00 a.m.	See subsection (1) of this section.	See subsection (1) of this section.	See subsection (1) of this section.
Commercial	At all times	65 <u>60</u>	65 <u>60</u>	65 <u>60</u>
Industrial	At all times	70 <u>65</u>	70 <u>65</u>	70 <u>65</u>

- (1) It shall be unlawful for any person to make, continue or cause to be made or continued within that portion of the city which has been designated as a residential or mixed use area of the city, between the hours of 11:00 p.m. and 7:00 a.m. of each day, and on Sunday from 7:00 a.m. to 1:00 p.m. any unreasonably loud, excessive, unnecessary, or unusual noise in such manner that noise produced, or the vibration made, by the same would be obvious, or cause discomfort and annoyance to an ordinary, reasonable prudent person at a distance greater than 50 feet from the real property line of the nearest receiving property. A sound level meter or sound level reading shall not be necessary for the enforcement of this subsection.
- (2) If the noise is an impulsive sound, the fast response setting shall be used and the daytime (7:00 a.m. to 11:00 p.m.) limits of Table 1 shall be increased by ten dBA, dBC, or dBZ.
- (3) In a multifamily dwelling, it shall be unlawful to create or permit to be created any noise that exceeds the daytime (7:00 a.m. to 11:00 p.m.) limit of 50 dBA, dBC, or dBZ and the nighttime (11:00 p.m. to 7:00 a.m.) limit of 40 dBA, dBC, or dBZ as measured from a neighbor's dwelling.
- (4) In a mixed use building, it shall be unlawful to create or permit to be created any noise that exceeds the daytime (7:00 a.m. to 11:00 p.m.) limit of 55 dBA, dBC, or dBZ and the nighttime (11:00 p.m. to 7:00 a.m.) limit of 45 dBA, dBC, or dBZ as measured within the residential use portion of the building.
- (5) In addition to the limits of Table 1, for any sound source which impacts residential property, the maximum allowable sound level limits for the individual octave bands whose centers are 31.5, 63 and 125 Hertz shall not exceed 65 dBA, dBC, or dBZ.

SECTION 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, which shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 4. All ordinances or parts thereof that may be determined to be in conflict herewith are hereby repealed.

SECTION 5. This Ordinance shall be and become effective immediately upon final passage.

APPROVED AS TO FORM & CORRECTNESS:

Tanya M. Earley
City Attorney

STATE OF FLORIDA
COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 23-026 was duly advertised by title only in the St. Lucie News Tribune on _____, 2023; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on _____, 2023; and was duly introduced, read by title only, and passed on second and final reading _____, 2023, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this _____ day of _____, 2023.

Linda Hudson
MAYOR

ATTEST

Linda W. Cox
CITY CLERK

(CITY SEAL)