

**ORDINANCE NO. 2022-36**

**AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 34, ENVIRONMENT, ARTICLE II, NOISE CONTROL, SECTION 34-31, DEFINITIONS, SECTION 34-32, PENALTY, SECTION 34-33 ADDITIONAL REMEDIES, SECTION 34-34 PROHIBITED NOISE GENERALLY, SECTION 34-35, SPECIFIC PROHIBITIONS, SECTION 34-36, MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING LAND USE, SECTION 34-37 EXEMPTIONS FROM ARTICLE, SECTION 34-38 METHOD OF MEASUREMENT, SECTION 34-39, SPECIAL PERMIT TO EXCEED NOISE LIMITS, AND SECTION 34-40 TO 34-60, RESERVED; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Venice has determined the need to effectively monitor and abate noise disturbances within the city; and

**WHEREAS**, the purpose of this ordinance is to provide updated regulations and enforcement procedures with concise guidelines for regulating noise disturbances within the City; and

**WHEREAS**, this ordinance will provide consistency with the existing Sarasota County noise regulations; and

**WHEREAS**, City Council recognizes that excessive noises can degrade the quality of life, disturb the public peace, and jeopardize the health, safety, and welfare of the citizens of Venice; and

**WHEREAS**, City Council finds that this ordinance serves a municipal and public purpose, and is in the best interest of the citizens of Venice.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA** as follows:

**SECTION 1.** The above whereas clauses are ratified and confirmed as true and correct.

**SECTION 2.** Chapter 34, Environment, Article II, Noise Control, Section 34-31, Definitions, is hereby struck in its entirety and replaced with the following:

**Sec. 34-31 Definitions.**

(a) All terminology used in this article, unless otherwise defined in subsection (b) of this section, shall be in conformance with applicable and current publications of the American National Standards Institute (ANSI) or its successor body.

(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:

A-weighted sound level means the sound level of all noise as measured with a sound level meter using the A-weighting network. The unit of measurement shall be dB(A).

Code Enforcement Officer means those authorized agents or employees of the city whose duty it is to ensure compliance with this Code.

Commercial or Commercial Areas means a property or area with the primary use being the sale of goods, merchandise or services carried out for profit, including retail sales, business services, professional services, personal services, recreational services, entertainment services, resort services, or related activities. This definition also includes a property or area with the primary use being business or professional activities in which the showing or delivery from the premises of retail or wholesale goods to a customer is not the typical or principal activity.

Construction means any site preparation, or any assembly, erection, substantial repair, alteration or similar action, excluding demolition, for or on public or private property, including right-of-ways.

Continuous sound means any sound that is not an impulse sound.

C-weighted sound level means the sound level of all noise as measured with a sound level meter using the C- weighting network. The unit of measurement shall be dB(C).

dB(A) means sound level in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by ANSI.

dB(C) means sound level in decibels measured on the "C" scale of a standard sound level meter having characteristics defined by ANSI.

Decibel means the unit for measuring the amplitude of sound, as that term is defined in applicable and current publications of ANSI.

Demolition means any dismantling, intentional destruction or removal of structures from public or private property, including right-of-ways, and shall also include site clearing or land clearing.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which necessitates immediate action.

Generating Property means the property or site where the sound originates.

Impulse Sound means any sound which is characterized by brief excursions (usually less than one second) of sound pressure which significantly exceeds ambient sound levels, such as from forge hammers and punch presses.

Industrial or Industrial Area means a property or area with the primary use being activities predominantly connected with manufacturing, assembly, processing, or storage of products.

Law Enforcement Officer means a police officer with the Venice Police Department or any other sworn law enforcement officer certified pursuant to F.S. Ch. 943.

Motor vehicle means any vehicle which is or is designed to be self-propelled or is designed or used for transporting persons or property, including off-road vehicles being operated for recreational purposes.

Multifamily dwelling means a building or other shelter that has been divided into separate units to house more than one family, including but not limited to condominiums, apartments, duplexes and triplexes.

Noise means any sound which annoys or disturbs humans or which causes or tends to cause adverse psychological or physiological effect on humans.

Person means individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

Powered model vehicle means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons, including but not limited to any model airplane, drone, boat, car or rocket.

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

Public space means any real property or structure thereon which is normally accessible to the public.

Real Property Line means either:

- a. The imaginary line including its vertical extension that separates one parcel of real property from another;
- b. The vertical and horizontal boundaries of a dwelling unit that is part of a multidwelling unit building; or
- c. On a multi-use property, the interface between the portions of the property on which different categories of activity are being performed.

Receiving Property means the property or site from which the complaint originated.

Residential or Residential Area means a property or area comprised of dwelling units, in whole or in part, for non-transient human habitation, including single-family and multifamily housing.

Sound level means the weighted sound pressure level obtained by use of a metering characteristic and weighting, as specified in ANSI specifications for sound level meters, ANSI S1.4-1971, or in its successor publications. Unless otherwise indicated, the A-weighting scale shall apply in the application of this article.

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 shall read sound pressure levels when properly calibrated, and the instrument shall be of type 2 or better, as specified in the American National Standards Institute publication S1.4-1971, or its successor publications.

Unusually loud, excessive and unnecessary noise means any sound in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life or property, or

which unnecessarily interferes with the enjoyment of life or property, including outdoor recreation. In addition to the specific noise-generating activities set out in this section, this term includes the excessive and unnecessary honking of horns, whistles, operation of radios, television sets, phonographs, loudspeakers, amplifiers or equipment, and excessive and unnecessary noise caused by animals.

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

**SECTION 3.** Chapter 34, Environment, Article II, Noise Control, Section 34-32, Penalty, is hereby struck in its entirety and replaced with the following:

**Sec. 34-32. Maximum permissible sound levels by land use.**

(a) Continuous sound. The maximum decibel levels from any activity (unless exempted by section 34-34) shall not exceed, at any point on the generating property's real property line, the sound level limits listed in Table I below. When a Code Enforcement Officer or Law Enforcement Officer cannot take measurements at the real property line of the generating property, for one of the reasons outlined in section 34-35 below, the maximum decibel levels from any activity (unless exempted) shall not exceed, at any point on the receiving property's real property line, the sound level limits listed in Table II below.

TABLE I

<u>Generating Property Use</u>	<u>Time</u>	<u>Sound Level Limit (dB(A))</u>	<u>Sound Level Limit (dB(C))</u>
<u>Residential</u>	<u>7:00 a.m. to 10:00 p.m.</u>	<u>65</u>	<u>70</u>
	<u>10:00 p.m. to 7:00 a.m.</u>	<u>55</u>	<u>60</u>
<u>Commercial / Office</u>	<u>7:00 a.m. to 10:00 p.m.</u>	<u>75</u>	<u>80</u>
	<u>10:00 p.m. to 7:00 a.m.</u>	<u>70</u>	<u>75</u>
<u>Government / Public Space</u>	<u>7:00 a.m. to 10:00 p.m.</u>	<u>65</u>	<u>70</u>
	<u>10:00 p.m. to 7:00 a.m.</u>	<u>60</u>	<u>65</u>
<u>Industrial</u>	<u>All times</u>	<u>75</u>	<u>80</u>

TABLE II

<u>Receiving Property Use</u>	<u>Time</u>	<u>Sound Level Limit (dB(A))</u>	<u>Sound Level Limit (dB(C))</u>
<u>Residential</u>	<u>7:00 a.m. to 10:00 p.m.</u>	<u>60</u>	<u>65</u>
	<u>10:00 p.m. to 7:00 a.m.</u>	<u>55</u>	<u>60</u>
<u>Commercial / Office</u>	<u>7:00 a.m. to 10:00 p.m.</u>	<u>75</u>	<u>80</u>
	<u>10:00 p.m. to 7:00 a.m.</u>	<u>70</u>	<u>75</u>
<u>Government / Public Space</u>	<u>7:00 a.m. to 10:00 p.m.</u>	<u>65</u>	<u>70</u>
	<u>10:00 p.m. to 7:00 a.m.</u>	<u>60</u>	<u>65</u>
<u>Industrial</u>	<u>All times</u>	<u>75</u>	<u>80</u>

(b) Impulse sound. Impulse sounds shall be measured in accordance with section 34-35. The sound level limits set forth in Tables I and II shall be increased by six decibels during 7:00 a.m. and 8:00 p.m.

**SECTION 4.** Chapter 34, Environment, Article II, Noise Control, Section 34-33, Additional remedies, is hereby struck in its entirety and replaced with the following:

**Sec. 34-33. Prohibitions.**

- (1) Loudspeakers. Using or operating for any purpose any loudspeaker, loudspeaker system or similar device between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays, in areas within or adjacent to residential or commercial areas.
- (2) Street sales. Offering for sale, selling anything or advertising by shouting or outcry within any residential or commercial area of the city.
- (3) Animals. Owning, possessing or harboring any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which create unusually loud, excessive and unnecessary noise across a residential or commercial real property line.
- (4) Loading and unloading. Loading and unloading, opening, closing or other handling of boxes, crates, containers, equipment, building materials or similar objects between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and 7:00 p.m. and 10:00 a.m. on weekends or holidays, in a residential area or within 50 yards of any residential real property line.
- (5) Powered model vehicles. Operating or permitting the operation of powered model vehicles
  - a. Between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and 7:00 p.m. and 10:00 a.m. on weekends or holidays, in or within 100 feet of any residential area; or
  - b. In such a manner as to exceed the levels set for public space in section 34-36, measured at a distance of not closer than 100 feet to any point on the path of a vehicle operating on a public space or public right-of-way.
- (6) Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any fire, burglary or civil defense alarm, fire, whistle or similar stationary emergency signaling device before 7:00 a.m. or after 7:00 p.m., except for the purpose of signaling an emergency or testing such alarm or device. The sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm for more than 15 minutes from activation shall be prohibited.

**SECTION 5.** Chapter 34, Environment, Article II, Noise Control, Section 34-34, Prohibited noise generally, is hereby struck in its entirety and replaced with the following:

**Sec. 34-34. Exemptions.**

The maximum decibel levels of section 34-32 shall not apply to:

- (1) The unamplified human voice.

- (2) The interstate railways, locomotives and cars.
- (3) Nonstationary farming equipment.
- (4) Airports, landing fields, and aircrafts.
- (5) The construction, maintenance, or repair of any public utility, right-of-way, property, or structure, including the operation of public street sweepers.
- (6) Church bells and carillons.
- (7) The Sarasota County public gun range during operating hours.
- (8) Law enforcement and fire department activities and training.
- (9) Solid waste and recycling operations and collection in residential areas from 7:00 a.m. to 7:00 p.m. and in non-residential areas between 5:00 a.m. and 7:00 p.m. During a declared state of emergency, solid waste and recycling operations are fully exempt from the requirements of section 34-32.
- (10) Motor vehicles operating within public and private streets when functioning with all manufacturer's mufflers and noise reducing equipment in use and in proper operating condition.
- (11) Any special event or recreational activity permitted by the City or County.
- (12) Generators, pumps, or other equipment used during power outages, floods, or other emergencies. Such equipment must be functioning with all manufacturers' mufflers and sound reduction equipment installed and in proper operating condition at all times.
- (13) Dewatering pumps for projects with an approved City construction permit provided such equipment is placed as far away from existing residential properties as possible, is posted with a 24-hour contact name and phone number, and is functioning with all manufacturers' mufflers and sound reduction equipment installed and in proper operating condition at all times.
- (14) Operating, playing or permitting the operation or playing of any radio, television, musical instruments or similar device between the hours of 7:00 a.m. and 10:00 p.m.
- (15) Operating or permitting to be operated any loudspeaker, musical instrument, sound reproduction device or similar equipment in any place of public entertainment, including restaurants and bars, between the hours of 7:00 a.m. and 10:00 p.m. During all other times, the sound produced shall not be able to be heard in any residential area.
- (16) Utilizing power equipment and tools to perform golf course maintenance between the hours of 5:00 a.m. and 9:00 p.m.
- (17) Heating and cooling devices, chillers and residential pool and spa equipment, provided the equipment is in proper working order.
- (18) Operating or causing the operation of any equipment or tools used in construction, drilling, repair, alteration or demolition work between the hours of 6:00 a.m. and 9:00 p.m. on weekdays, or between 9:00 a.m. and 9:00 p.m. on weekends or holidays. This

subsection shall not apply to the use of domestic power tools as specified in subsection (17) of this section.

(19) Operating or permitting the operation of any domestic power tool, powered lawn or garden tool, or similar tool between the hours of 7:00 a.m. to 10:00 p.m. on weekdays, and between the hours of 8:00 a.m. to 10:00 p.m. on Saturdays and legal holidays, and between the hours of 9:00 a.m. to 10:00 p.m. on Sundays. All such equipment shall be properly muffled and maintained in working order so as not to create unusually loud, excessive and unnecessary noise.

**SECTION 6.** Chapter 34, Environment, Article II, Noise Control, Section 34-35, Specific prohibitions, is hereby struck in its entirety and replaced with the following:

**Sec. 34-35. Method of measurement.**

- (a) Sound level meters shall be maintained in calibration and in good working condition in accordance with manufacturer's instructions including any and all applicable ANSI criteria. Measurements recorded shall be taken so as to provide proper representation of the sound source. All measurements shall be taken at approximately five feet above ground. Location and timing of measurements shall be arranged to exclude or minimize background noise, to the greatest extent practicable. The microphone used during measurements shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used when required.
- (b) Measurements shall be made using the "A weighting" (dB(A)) and the "C weighting" (dB(C)) scales.
- (c) Sound level measurements shall be taken at the real property line of the Generating Property closest to a complainant, except when a Code Enforcement Officer or Law Enforcement Officer cannot obtain a measurement at the real property line of the Generating Property, for one of the following reasons:
1. The closest real property line to a complainant is not easily accessible or discernible, including, but not limited to the following reasons: steep embankments, fences, or a shoreline;
  2. The use of the real property line closest to a complainant would endanger the safety of the Code Enforcement Officer or Law Enforcement Officer, including, but not limited to the following circumstances:
    - i. Unsafe surfaces or unstable ground.
    - ii. Risk of being struck by vehicular traffic.
    - iii. Risk associated with triggering potential violent behavior by those persons allegedly in violation of this article.
  3. The use of the real property line closest to the complainant would result in unnatural enhancement or diminution of the measured sound, such as standing on a hillside.

In the event that a Code Enforcement Officer or Law Enforcement Officer cannot obtain a measurement at the real property line of the Generating Property closest to a complainant, then the Code Enforcement Officer or Law Enforcement Officer shall take a measurement at the real property line of the Receiving Property.

- (d) Background sound levels shall be determined in accordance with accepted practices at the time of sampling. A correction factor shall be applied to compensate for background noise when the difference between background and source is less than ten decibels.
- (e) The "slow" response setting of the sound level meter shall be used in order to best determine that the sound has not exceeded the standards set forth in section 34-36(1).
- (f) The "fast" or "impulse" response setting of the sound level meter shall be used to best determine that the sound has not exceeded the standards set forth in section 34-36(2).

**SECTION 7.** Chapter 34, Environment, Article II, Noise Control, Section 34-36, Maximum permissible sound levels by receiving land use, is hereby struck in its entirety and replaced with the following:

**Sec. 34-36. Special permit to exceed noise limits.**

Any person desiring to seek relief from any provisions of this article shall apply to the city manager's office for a special permit to cause or create noise at levels which would otherwise be in violation of this article. Such permits shall be granted only upon the showing of good cause therefor and shall specify the duration for which such noncompliance shall be permitted and shall prescribe the conditions or requirements necessary to minimize adverse effects upon the community or the surrounding neighborhood. Any request for a special permit may be referred to the city council by the city manager's office for final action.

**SECTION 8.** Chapter 34, Environment, Article II, Noise Control, Section 34-37, Exemptions from article, is hereby struck in its entirety and replaced with the following:

**Sec. 34-37. Warning and penalty.**

- (a) When a code enforcement officer or law enforcement officer has probable cause to believe that a violation of this article has occurred, the officer shall issue a warning to the person or persons responsible for the noise and directions for desisting and complying with this article. The warning shall advise the person or persons of the violation of this article and specify a reasonable time to comply.
- (b) Absent special circumstances, "reasonable time" shall mean 15 minutes in the case of all nonvehicular sound emissions, vehicular horns, or other vehicular signaling devices; and two calendar days for all vehicular sound emissions.
- (c) If the sound violation is not eliminated within a reasonable time after the warning as prescribed in this section or the violation recurs within 90 days of the issuance of the warning, the person or persons so warned and not complying shall be subject to enforcement proceedings in accordance with section 2-333, as amended, of this Code or may be arrested for a violation of this article and, upon conviction, shall be subject to a fine not exceeding \$500.00, imprisonment in the County jail for a period not exceeding 60



days, or both such a fine and imprisonment. Each day that such violation continues shall be considered a separate offense.

**SECTION 8.** Chapter 34, Environment, Article II, Noise Control, Section 34-38, Method of measurement, is hereby struck in its entirety and replaced with the following:

**Sec. 34-38. Additional remedies.**

No provisions of this article shall be construed to impair any common law or equitable or statutory cause of action or other legal remedy of any person for injury or damage arising from any violation of this article. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this article and which causes discomfort or annoyance, or endangers the comfort, repose, health or peace of other persons, shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by proceedings in a court of competent jurisdiction for injunction, both temporary and permanent.

**SECTION 9.** Chapter 34, Environment, Article II, Noise Control, Section 34-39, Special permit to exceed noise limits, is hereby struck in its entirety and replaced with the following:

**Sec. 34-39-34-60. Reserved.**

**SECTION 10.** All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 11.** If any part, section, subsection or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, such part, section, subsection or other portion, or the prescribed application thereof, shall be severable and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The city council specifically declares that no invalid or prescribed provision or application was an inducement to the enactment of this ordinance and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

**SECTION 12.** This ordinance shall become effective immediately upon its approval and adoption, as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 10<sup>TH</sup> DAY OF JANUARY 2023.**

First Reading: December 13, 2022

Final Reading: January 10, 2023

Adoption: January 10, 2023

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Nick Pachota, Mayor

ATTEST:

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Kelly Michaels, MMC, City Clerk

I, Kelly Michaels, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council, at a meeting thereof duly convened and held on the 10<sup>th</sup> day of January 2022, a quorum being present.

WITNESS my hand and the official seal of said City this 10th day of January, 2023.

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Kelly Michaels, MMC, City Clerk

Approved as to form:

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Kelly Fernandez, City Attorney