

ORDINANCE NO. 2022-008

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 14, "OFFENSES," ARTICLE II, "NOISE," BY REPEALING SECTIONS 14-26 THROUGH 14-40 IN THEIR ENTIRETY AND ENACTING SECTIONS 14-26 THROUGH 14-~~3435~~ TO SERVE AS THE CITY'S UPDATED NOISE REGULATIONS THAT ESTABLISH REASONABLE SOUND TOLERANCE STANDARDS THROUGHOUT THE CITY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, excessive noise and noise disturbances are a serious hazard to the public health, safety, and welfare and the quality of life in a closely developed community; and

WHEREAS, a substantial body of science and technology exists by which excessive noise and noise disturbances can be substantially abated without serious inconvenience to the public; and

WHEREAS, certain noises produced in the City are essential to the quality of life here and should be allowed to continue at reasonable levels with responsible regulation; and

WHEREAS, through this ordinance, the overall benefits of noise producing activities have been balanced with an individual's right to an environment reasonably free from noise that may jeopardize health or welfare or unnecessarily degrade the quality of life in the City of Coconut Creek; and

WHEREAS, the City Commission finds and determines that this ordinance will promote an environment free from excessive noise or noise disturbances, otherwise considered noise pollution, which unnecessarily jeopardizes the public health, safety and

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welfare and degrades the overall quality of the lives of the residents of this community, without unduly prohibiting, limiting, or otherwise regulating the function of certain noise producing activities which are not amenable to such controls and yet is essential to the quality of life in the City of Coconut Creek.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

Section 1: Ratification. That 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: Repeal. That the Code of Ordinances of the City of Coconut Creek, Florida, is amended by amending Chapter 14, “Offenses,” Article II, “Noise,” by repealing Sections 14-26 through 14-40, in their entirety as provided in Exhibit “A,” attached hereto and made apart hereof.

Section 3: Code Amendment. That the Code of Ordinances of the City of Coconut Creek, Florida, is amended by amending Chapter 14, “Offenses,” Article II, “Noise,” by enacting new Sections 14-26 through 14-~~34~~35, to read as follows:

Sec. 14-26. PURPOSE, DEFINITIONS, AND STANDARDS.

(a) The purpose of this Article is to establish standards for the control of noise pollution in the City by setting reasonable sound tolerance standards to protect the public health, safety, and general welfare. If any provision of any section of this Article is held invalid, the remainder of the sections, and the application of the provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected by such invalidity.

(b) The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section 14-26, except where the context clearly indicates a different meaning. Definitions of technical terms used in this Article, which are not defined in this Section 14-26, shall be obtained from publications of acoustical terminology issued by ANSI or its successor body.

~~“A-weighted sound level (dBA)”~~ means the sound pressure level in decibels as measured using A-weighting network on a sound level meter that meets the standards set forth in ANSI Standard S1.4-1983 (or more recent version). The level is designated dB(A) or dBA.

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~~“Ambient sound level”~~ means the noise associated with a given environment, exclusive of intruding noises from isolated identifiable sources. In other words, the surrounding or

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steady background sound in a particular location as distinct from the specific noise being measured.

~~“ANSI”~~ means the American National Standards Institute or its successor body.

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~~“C-weighted sound level (dBC)”~~ means the sound pressure level in decibels measured using the C-weighting network on a sound level meter that meets the standards set forth in ANSI Standard S1.4-1983 (or more recent version). The level so read is designated “dBC.”

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~~“City”~~ means the City of Coconut Creek, Florida, or the area within the territorial limits of the City of Coconut Creek over which the City has the jurisdiction or control by virtue of ownership or any constitutional or Charter provisions, or any law.

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~~“Construction”~~ means any and all activity necessary or incidental to the erection, assembly, alteration, installation, demolition, repair of any structures and corresponding equipment or buildings, roadways or utilities, including, but not limited to, land clearing, grading, excavating, filling, hoisting, grading, pile driving, and pneumatic hammering.

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~~“Continued duration”~~ means a consistent condition or pattern, either continuous, periodic, or impulsive in character, that occurs without interruption for a period of fifteen (15) minutes or more.

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~~“Decibel (dB)”~~ means 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 micropascals (20 micronewtons per square meter).

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~~“Dwelling unit”~~ means a building or portion of a building regularly used for residential occupancy.

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~~“Emergency work”~~ means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from imminent exposure to danger.

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~~“Holiday”~~, whenever used in this Article, means and includes any day which is an enumerated federal holiday and/or is officially celebrated by the City.

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~~“Impulsive sound”~~ means sound of short duration per interval, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include, but are not limited to, explosions, hammering or drop-forge impacts. Sound levels for impulsive sound may be measured in the C-weighting network on the fast meter response setting on a sound level meter.

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~~“L_{Aeq}” or “L_{Ceq}”~~ means the average sound level in A-weighted or C-weighted sound levels.

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~~“Lot” means any tract or parcel of land owned by or under the lawful control of one (1) distinct ownership. The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one (1) person from that owned by another.~~

~~“Noise” means any sound which annoys or disturbs a reasonable person of ordinary sensibilities or causes or tends to cause an adverse physical or psychological effect on humans. “Noise” includes, but is not limited to, low frequency sounds that can induce vibration in structures or human beings.~~

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~~“Noise-generating land use” means a use of land that naturally produces higher than average levels of sound based on the permitted activity that occurs on the land, such as airports, event venues, playgrounds, sports fields and courts, military training facilities, and the like. A noise-generating land use as recognized and given special treatment under this Article II, “Noise,” must be a permitted land use within its zoning district in the City.~~

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~~“Noise disturbance” means any noise or sound that exceeds the sound level standards or tolerances established in this Article, as may be amended from time to time.~~

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~~“Person” means 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.~~

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~~“Physical characteristics of sound” means the steady, impulsive or narrow band property of a sound, the level of the sound, and the extent to which it exceeds the background sound level.~~

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~~“Public right-of-way” means any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by the City, Broward County, or the State of Florida.~~

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~~“Public property” means any real property, including any structure on such real property, which is owned or controlled by the City, Broward County, State of Florida, or the United States of America.~~

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~~“Pure tone” means any sound which can be distinctly heard as a single pitch or set of single pitches.~~

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~~“Real property boundary” means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person from that owned by another person, or the vertical and horizontal boundaries of a dwelling unit that is one (1) unit in a multi-dwelling-unit building.~~

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~~“Receiving land”~~ or ~~“receiving land use”~~ means the use or occupancy of the property ~~which received~~that receives the transmission of sound, and for purposes of this Article, same is generally classified ~~throughout this Article~~ by its maximum permissible sound levels in decibels within designated zoning ~~district~~districts.

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~~“Residential use”~~ means any property on which ~~is located~~a building or structure is located that is zoned for use, wholly or partially, for living or sleeping purposes. See also *Dwelling Unit*, as defined herein.

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~~“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. See also *noise*.

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~~“Sound level”~~ means 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 1.4-1983, or the latest approved revision of such Standard). If the frequency weighting employed is not indicated, the A-weighting shall apply.

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~~“Sound level meter”~~ means 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 Standard S1.4-1983, or its successor publications, or is otherwise certified for use by the National Institute of Standards and Technology.

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~~“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 sound energy.

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~~“Sound pressure level”~~ means 20 times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter (20x10⁻⁶N/m²). The sound pressure level is denoted Lp or SPL and is expressed in decibels.

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~~“Steady sound”~~ means a sound whose level remains essentially constant (±2d) during the period of the sound level meter. See also *pure tone*.

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~~“Used and occupied”~~ include means and includes the words “intended, designed or arranged to be” used or occupied.

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~~“Zoning district”~~*District* means the district(s) established in the City’s Land Development Code, Chapter 13, *Code of Ordinances*, and indicated on the City’s official zoning map.

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Sec. 14-27. NOISE DISTURBANCES PROHIBITED GENERALLY; APPLICABILITY.

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(a) It shall be unlawful for any person to willfully ~~allow~~, make, or cause to be made, for a continued duration, any sound or noise that:

(1) Is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to residents or occupants within close proximity thereto, and detrimentally or adversely affects such residences or places of business; or

(2) Exceeds the maximum allowable sound level limits set forth in Section 14-30, "Maximum Permissible Sound Levels in Decibels by Receiving Land," of this Article II, "Noise," as may be amended from time to time.

(b) This Article shall apply to the control of all noise originating within the limits of the City, provided that a state or federal law or agency has not adopted a different standard or rule than that prescribed in this Article and has so preempted the regulation of noise from a particular source as to render this Article inapplicable to such source.

Sec. 14-28. EXCEPTIONS.

The provisions of this Article shall not apply to:

(a) Such noise that has been permitted as part of a special event permit issued by the City;

(b) 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;

(c) The emission of sound in the performance of emergency work ~~is~~ as defined herein and within Chapter 13, "Land Development Code," of the City's Code of Ordinances;

(d) The unamplified human voice, except those activities prohibited in Section 14-32, "Construction Activity; Special Considerations," hereof; or

(e) Sounds generated by a farm animal(s) and farming equipment on agriculturally zoned (and agriculturally-exempted) land.

Sec. 14-29. ESTABLISHING NOISE DISTURBANCES.

(a) Manner of establishing a Noise Disturbance using Reasonable Sound Tolerance Standards. On a case by case basis, the City employees charged with enforcing this Article II, "Noise," may determine a noise disturbance exists when, after hearing the noise, it is found to be so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to residents or occupants within close proximity

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thereto and detrimentally or adversely affects such residences or places of business. Factors that may be considered under this subsection include, but are not limited to, the following:

- (1) The volume of the noise;
- (2) The intensity of the noise;
- (3) Whether the nature of the noise is usual or unusual;
- (4) Whether the nature of the noise is objectively harsh;
- (5) Whether the origin of the noise is natural or unnatural;
- (6) The volume and intensity of the background noise, if any;
- (7) The proximity of the noise to residential sleeping facilities;
- (8) The nature and zoning of the area within which the noise emanates;
- (9) The density of inhabitation of the area within which the noise emanates;
- (10) The time of the day or night the noise occurs;
- (11) The duration of the noise;
- (12) Whether the noise is recurrent, intermittent or constant and prolonged;
- (13) Whether the noise is produced by a commercial or noncommercial activity;
and
- (14) Any other factor that detrimentally or adversely affects residences or places of business in close proximity.

(b) Manner of establishing a Noise Disturbance using Maximum Permissible Sound Levels in Decibels.

- (1) In the sole discretion of the City ~~employee investigating a Noise Disturbance,~~ an alternative measurement of sound may be performed using the Maximum Permissible Sound Levels in Decibels. Under this method for determining whether a noise disturbance exists, a sound level meter must be used to measure the sound or noise projecting from one (1) zoning district into another zoning district. Sound level measurement must not exceed the limits of the district into which the sound is projected. ~~when measured at the real property boundary of the receiving land.~~ Sound or noise projecting from one (1) property to another within the same zoning district shall not exceed the limits of that shared zoning district measured at the real property boundary of the receiving land.
- (2) The measurement of sound or noise, under this subsection (b), shall be made with a sound level meter as defined in this Article. The instrument shall be calibrated and in good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound or noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound or noise. A windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation sound or noise sources and other background sounds or noises shall not be considered in taking measurements, except where it is impracticable to separate such background sound or noise with the primary

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sound or noise being measured or when establishing sound levels above ambient sound levels.

- (3) The slow meter response of the sound level meter shall be used in order to best determine whether the average amplitude has exceeded the maximum permissible sound levels set forth in Table I within Section 14-30, "Maximum Permissible Sound Levels in Decibels by Receiving Land," of this Article. The sound levels will be measured on the A-scale and averaged over a three (3) minute period (3 minute LA_{eq}). Notwithstanding the above, the use of the slow meter response is not mandatory when measuring impulsive noises, including but not limited to musical instruments (e.g. drums, guitars, etc.). For impulsive noises, sounds levels may be measured on the C-scale and averaged over a three (3) minute period (3 minute LC_{eq}) using the fast meter response.
- (4) The measurement shall be made at the receiving property line, nearest the property on which such sound or noise is generated, or perceived to be generated, at least five (5) feet above ground level and if practical, at least ten (10) feet from walls, buildings, or other sound reflecting structures.
- (5) In the case of an elevated or directional sound or noise source, compliance with the sound or noise limits must be maintained at any elevation at the boundary.

Sec. 14-30. MAXIMUM PERMISSIBLE SOUND LEVELS IN DECIBELS BY RECEIVING LAND.

(a) With the exception of sound levels elsewhere specifically authorized or allowed in this Article or excluded by this Article, the following are the maximum permissible sound levels allowed at ~~or within~~ the real property boundary of a receiving land for a continued duration:

TABLE I: Maximum Permitted Sound Levels in Decibels (dBA/dbC)		
Receiving Zoning District:	Between the <u>nighttime to morning hours of the next day, specifically 10:00 p.m. and 7:00 a.m. on the following days: Sunday, Monday, Tuesday, Wednesday, and Thursday; and between the weekend nighttime hours of midnight and starting at 11:59 p.m. on Friday into 9:00 a.m. on the following days: Friday and on Saturday; (and 11:59 p.m. on Saturday into 9:00 a.m. on Sunday).</u>	All other times.

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Single-family Detached Residential (RS-1, RS-2, RS-3, RS-4) Districts; Single-family Detached Residential portions of Planned Unit Development (PUD) District:	5 dBA/dBC above ambient sound level or maximum of 60 dBA/dBC, whichever is greater.	10 dBA/dBC above ambient sound level or maximum of 65 dBA/dBC, whichever is greater.
Residential Cluster (RC-5, RC-8) Districts; Residential Multi-family (RM-10) District; Mobile Home Park (MH-1) District; and Multi-family Residential portions of Planned Unit Development (PUD) District or Planned Mainstreet Development (PMDD) District:	5 dBA/dBC above ambient sound level or maximum of 65 dBA/dBC, whichever is greater.	10 dBA/dBC above ambient sound level or maximum of 70 dBA/dBC, whichever is greater.
All Other Districts:	10 dBA/dBC above ambient sound level or maximum of 70 dBA/dBC; whichever is greater.	10 dBA/dBC above ambient sound level or maximum of 75 dBA/dBC; whichever is greater.
**When sound originates from Noise-generating Land Uses within each of the above listed Zoning Districts:	Same as the Zoning District in which the use is located.	+5 dBA/dBC above the established ambient sound level as depicted in the Zoning District categorized herein or the maximum of +10 dBA/dBC above the established maximum as depicted in the Zoning District categorized herein; whichever is greater.

(b) Consistent with Table I above, when the sound originates from a Noise-generating Land Use, as defined in Section 14-26, "Purpose, Definitions, and Standards," of this Article, the maximum permitted sound level for the receiving land is +5 dBA/dBC above the established ambient sound level as depicted in the relevant Zoning District as categorized in Table I, or the maximum of +10 dBA/dBC above the established maximum as depicted in the relevant Zoning District as categorized in Table I, whichever is greater, effective only between the nighttime to morning hours of 7:00 a.m. and the next day, specifically 10:00 p.m. and 7:00 a.m. on Sundays, Mondays, Tuesdays, Wednesdays the following days: Sunday, Monday, Tuesday, Wednesday, and Thursdays. Thursday; and between the weekend nighttime hours of starting at 11:59 p.m. on Friday into 9:00 a.m. to midnight on Fridays-Saturday (and Saturdays-11:59 p.m. on Saturday into 9:00 a.m. on Sunday).

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whether the manner and amount of loss or inconvenience to the requestor imposes a significant hardship. Upon an affirmative finding of the foregoing considerations, the City Manager or designee is authorized to issue the special permit. This special permit may be rescinded by the City Manager, or designee, when the construction activity exceeds seventy-five (75) decibels, averaged over a three (3) minute period (3 minute LA_{eq}/LC_{eq}), when measured at least fifty (50) feet from the construction site and such noise exists for a continued duration. A violation of this Section shall cause immediate and automatic revocation of the special permit, in addition to any other enforcement penalties initiated by the City.

Sec. 14-33. NOISE BY ANIMALS AND BIRDS.

No person shall own, possess or harbor any animal or bird which for a continued duration emits sound that is native to the species, which sound creates a noise disturbance as defined in this Article II, "Noise."

Sec. 14-34. LAWN OR LANDSCAPING MAINTENANCE ACTIVITIES.

(a) Notwithstanding the sound tolerance standards established by this Article, the operation of equipment or conduct of lawn or landscaping maintenance activities, including but not limited to lawn care, soil cultivation, domestic power tools, lawn mowers, tree or hedge trimming, saws and tractors, limb chipping and other similar operations, are prohibited between the hours of 9:00 p.m. and 8:00 a.m., every day. This section shall not apply to the operation of such equipment on golf courses.

(b) Any person desiring to engage in the operation of equipment or conduct of lawn or landscaping maintenance activities as described in this Section 14-34, "Lawn or Landscaping Maintenance Activities," beyond the stated hours of limitation, may apply for a special permit to be administered by the City Manager or designee. Based upon cases of necessity or upon the interests of public health, safety, and ultimate convenience, an application may be made in writing to the City Manager or designee for a special permit to allow activities beyond the stated hours of limitation. Such permit, if granted, must be narrowly tailored, and must reasonably balance the necessity of the noise generating lawn or landscaping maintenance activities at alternative hours with the prevention of noise pollution in the affected areas. The City Manager or designee must weigh all facts and circumstances and determine: whether the reasons given for the necessity are valid and reasonable; the general activities do not create a noise disturbance as defined within this Article; whether the public health, safety, and ultimate convenience will be protected or better served by granting the permit requested; and whether the manner and amount of loss or inconvenience to the requestor imposes a significant hardship. Upon an affirmative finding of the foregoing considerations, the City Manager or designee is authorized to issue the special permit. This special permit may be rescinded by the City Manager, or designee, when the necessity of the

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lawn or landscaping maintenance activities no longer exists either through a change of land use or such other changes pursuant to the City's Code of Ordinances. A violation of this Section shall cause immediate and automatic revocation of any special permit issued, in addition to any other enforcement penalties initiated by the City.

Sec. 14-35. ADMINISTRATION, ENFORCEMENT, AND PENALTY.

- (a) This Article shall be implemented, administered and enforced by the City's Code Enforcement Division and Police Department, as applicable.
- (b) Alleged violations of this Article will be investigated and managed in accordance with Sections 2-230 and 2-238 of the City's Code of Ordinances, as amended. However, in order to issue a written summons to the violator to appear before the Special Magistrate, the City must receive a sworn affidavit from a complainant alleging a noise disturbance as defined in this Article. The affidavit shall list the name and address of the complainant, and specify the address or location of the alleged violation, the nature, time, duration, and date(s) of the act, the name and address of the owner or custodian, if known, and a description of the sound or sound source, if known (e.g. a type of animal). Upon receipt of a sworn affidavit, a determination may be made consistent with the process detailed in Section 14-29, "Establishing Noise Disturbances." If the authorized City employee cannot perceive the complained of noise, then monitoring for thirty (30) days will commence. If the noise is not perceived within the monitoring period, the case will be closed administratively without further action. If evidence does not support the finding of a noise disturbance as outlined in Section 14-29, "Establishing Noise Disturbances," the case will be closed administratively without further action.
- (c) The penalty for violation of any section of this Article shall be as provided in Section 1-8, "General penalty for violation of Code; continuing violation and other remedies and administrative fees," as may be amended. A violation of this Article occurs when competent substantial evidence supports the finding of a noise disturbance. A noise disturbance that is uninterrupted and continuous day-after-day, may be fined per diem at the same rate fine amount until compliance is achieved. A noise disturbance that is intermittent, but reoccurring continues to reoccur after warning, may be fined per day with an escalating fine value per each reoccurring incident consistent with Section 1-8 of the City's Code of Ordinances.

Secs. 14-35 – 14-40. Reserved.

Section 4: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

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Section 5: Severability. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 6: Codification. That the provisions of this ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 7: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS ____ DAY OF _____, 2022.

PASSED SECOND READING THIS ____ DAY OF _____, 2022.

Joshua Rydell, Mayor

Attest:

Joseph Kavanagh, City Clerk

	<u>1st</u>	<u>2nd</u>
Rydell	_____	_____
Welch	_____	_____
Tooley	_____	_____
Railey	_____	_____
(Vacant) Brodie	_____	_____

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