

Chapter 368 - NOISE CONTROL<sup>1</sup>

Footnotes:

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**State Law reference**— Motor vehicle noise, F.S. §§ 316.293, 403.415 et seq.

State rule reference—Motor vehicle noise, F.A.C. Ch. 62-18.

PART 1. - GENERAL PROVISIONS

Sec. 368.101. - Legislative findings and determinations.

The Council finds and determines as follows:

- (a) The making, creating and maintenance of excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the City.
- (b) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy and the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the City and its residents.

(Ord. 84-674-684, § 3)

Sec. 368.102. - Exercise of County powers; territorial application of Chapter.

This Chapter is an exercise of the City's powers as a County under Section 3.01 of the Charter of the City. This Chapter shall apply throughout the General Services District.

(Ord. 85-1295-690, § 3)

Sec. 368.103. - Short title.

This Chapter shall be known and may be cited as the Jacksonville Noise Control Ordinance.

(Ord. 84-674-684, § 3; Ord. 85-1295-690, § 3)

Sec. 368.104. - Definitions.

In this Chapter and the rules promulgated by the Board under this Chapter, unless the context otherwise requires:

- (a) A-weighted sound level means the sound pressure level, in decibels, as measured on a sound level meter using the A-weighting scale. This level is designated dB(A) or dBA.
- (b) Board means the Jacksonville Environmental Protection Board.

- (c) Chief means the Chief of the Environmental Quality Division.
- (d) Decibel or dB means a unit of level when the base of the logarithm is the tenth root of ten, and the quantities concerned are proportional to power, as defined in ANSI S1.1 - 1994, or subsequent revisions.
- (e) Emergency means an occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
- (f) Emergency work means work performed for the purpose of preventing or alleviating an emergency.
- (g) Noise means a sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans, or that exceeds standards established by the Board.
- (h) Noise disturbance means a sound which exceeds any standard established by the Board or violates a work practice standard established by the Board.
- (i) Noise pollution means the emission of sound that violates any standard established by the Board.
- (j) Noise source means any equipment or facility or combination thereof, which operates within any land classified as Class A, B, C or D by SLUCM Codes as defined and established by the Board, and which equipment or facility or combination thereof, emits sound beyond the property line of the land on which said equipment or facility is operated.
- (k) Real property boundary means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but does not include intrabuilding divisions.
- (l) Receiving land use means the use or occupancy of the real property which receives the transmission of sound.
- (m) Rupture Disc means a pressure relieving device that vents the pressure in a pipe or vessel if the pressure exceeds a fixed amount.
- (n) Safety relief valve means a relief valve used and designed to prevent explosion by high pressure in the pipe or vessel to which it is connected.
- (o) Sound means an oscillation in pressure in air.
- (p) Sound level means in decibels, a weighted sound pressure level, determined by the use of metering characteristics and frequency weightings specified in ANSI S1.4-1983, or subsequent revisions, "Specifications for Sound Level Meters".
- (q) Sound-level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output or display meter and the weighting networks used to measure sound pressure levels.
- (r) Sound pressure level means ten times the logarithm to the base ten of the ratio of the time-mean-square pressure of a sound, in a stated frequency band, to the square of the reference sound pressure in gases of 20  $\mu$ Pa, Unit, decibel (dB), as defined in ANSI S1.1 - 1994, or subsequent revisions.
- (s) Person has the meaning given to it in Section 1.102(II), Ordinance Code of the City of Jacksonville and in addition includes any officer, employee, agent, department or instrumentality of the Federal Government, any state, municipality, or political subdivision of the state, or of any foreign government.

(Ord. 84-674-684, § 3; Ord. 85-1295-690, § 3; Ord. 94-144-121, § 6; Ord. 94-1307-763, § 2; Ord. 2008-513-E, § 1; Ord. 2009-359-E, § 3)

Sec. 368.105. - Exceptions.

This Chapter shall not apply to:

- (a) The emission of sound for the purpose of alerting persons to the existence of an emergency or a potential danger.
- (b) The emission of sound in the performance of emergency work.
- (c) Agricultural activities of a farm as FARM is defined in the Florida Right to Farm Act, F.S. § 823.14.
- (d) Commercial water-borne traffic, mass transportation vehicles, air transportation and rail transportation (except railroad switching yards).
- (e) Unamplified carillons, bells or chimes.
- (f) The emission of sound in the discharge of weapons at sport shooting ranges as defined and exempted in F.S. § 823.16.
- (g) The unamplified human voice.
- (h) Sound emitted from safety relief valves and rupture discs.

(Ord. 84-674-684, § 3; Ord. 85-1295-690, § 3; Ord. 2009-359-E, § 3; Ord. 2013-226-E, § 2)

Sec. 368.106. - Administration; rules and administrative orders.

The Board may make, adopt, amend and repeal rules and administrative orders to implement, administer and enforce this Chapter.

(Ord. 84-674-684, § 3; Ord. 85-1295-690, § 3)

Sec. 368.107. - Adoption of standards.

The American National Standards Institute, Inc. publication entitled Specifications for Sound-Level Meters, designated as ANSI S1.4-1983, or subsequent revisions, is hereby adopted as the standard specifications for sound-level meters. The American National Standards Institute, Inc. publication entitled Acoustical Terminology, designated as ANSI S1.1-1994, or subsequent revisions, is hereby adopted as the standard reference for technical definitions of acoustical terms not defined in this Chapter.

(Ord. 84-674-684, § 3; Ord. 85-1295-690, § 3; Ord. 2009-359-E, § 3)

Sec. 368.108. - Chapter 360 applicable.

The provisions of Chapter 360 shall be applicable to this Chapter, unless otherwise specifically provided in this Chapter.

(Ord. 84-674-684, § 3; Ord. 85-1295-690, § 3)

Sec. 368.109. - Special Noise Standards for Special Events at Metropolitan Park.

For any entertainment event, concert or special event held at Metropolitan Park in which it is anticipated that 500 or more individuals will attend the event and amplified sound will be utilized, a Metropolitan Park License Agreement (the "License Agreement") shall be executed between the City and the party requesting use of Metropolitan Park (the "Applicant") for the event (the "Event"). The following

requirements for sound control shall apply to such Events and shall be incorporated within the executed License Agreement between the parties:

"This paragraph applies to all applicants of Ticketed Events (an event in which general admission is charged and use of the entire Metropolitan Park property is restricted for the Event) and those applicants of Non-Ticketed Events (event with no general admission and open to the public or an event that has an admission fee but is restricted to a portion of the Metropolitan Park property) who have elected to utilize the sound waiver for production of musical events in which the noise decibel level, pursuant to Chapter 368, Ordinance Code, or Environmental Protection Board Rule 4, is exceeded. Applicant (including all artists, performers, entertainers, sound technicians, employees, and subcontractors of Applicant, and any others participating in production of the Event) shall comply and ensure compliance with the following provisions during the Event:

- (a) The hours of event production and sound checks utilizing amplified sound in the Park ("Permitted Hours") is restricted to:
  1. Friday - 12 p.m. to 11 p.m.
  2. Saturday - 11 a.m. to 11 p.m.
  3. Sunday - 12 p.m. to 10 p.m. (unless prior to a Monday which is a holiday in which case the permitted hours are from 11 a.m. to 11 p.m.)
  4. Weekday events, other than Holiday events, are 12 p.m. to 10 p.m.
  5. Sound checks shall begin not earlier than the later of 9 a.m. on the day of the scheduled Event or four (4) hours prior to the scheduled beginning time on each day of an Event.
  6. If weather conditions delay or disrupt the Event, the Permitted Hours may be extended up to 30 minutes beyond the end times stated above.
- (b) The maximum allowable sound level, as measured no more than 100 feet perpendicular from the stage at the sound board, shall not exceed the following Broadband levels limits during the applicable time frames:

Time: Permitted Event Hours

Broadband, dB(A) 105

Time: All Non-Permitted Hours

Normal provisions of Chapter 368, Ordinance Code and EPB Rule 4 apply.

Method of Noise Measurement: During a Permitted Event, Environmental Quality Division staff ("EQD") shall measure noise for a continuous five minute period using the time average sound level, also known as the "equivalent continuous sound level" measurement technique ("Leq 5min"). If the Leq 5min exceeds 105 dB(A) during a Leq 5min (a "violation"), a violation shall be registered and EQD shall contact the Primary Sound Compliance Designee and/or the Second Sound Compliance Designee of such violation, in the process described in subsection (c) below, which shall be deemed a notification to Applicant of a sound violation. The Applicant shall have ten (10) minutes following such notification to reduce the noise level to 105 dB(A) or less before EQD will begin the next measurement period, at which time the procedure for Leq 5min measurement shall start over again and the issuance of fines shall occur for additional violations.

If Applicant complies with the sound level restrictions above during the Permitted Event Hours, Applicant shall not be liable for any offsite decibel level noise exceedance pursuant to Chapter 368, Ordinance Code, or Environmental Protection Board Rule 4, during the Permitted Event Hours.

- (c) Notification: The purpose of the notification provisions herein is to provide Applicant with a mechanism to correct sound levels after one violation occurs but prior to a subsequent violation being registered by EQD. The reduction in sound levels will not correct an existing violation or prevent a fine from issuance. With this in mind, the Applicant shall designate two individuals as authorized representatives (one primary and one secondary) who shall be notified by the EQD monitoring staff when a violation is recorded. One authorized representative will be the Primary Sound Compliance Designee and the other will be the Secondary Sound Compliance Designee. When a violation is recorded, EQD monitoring staff shall notify the Primary Sound Compliance Designee of the recorded violation. Notification shall occur by the manner designated by Applicant (i.e., by cell phone, pager, text, email, etc.) and indicated in paragraph A2 of this Agreement. If the Primary Sound Compliance Designee does not immediately respond (i.e., does not answer the call), the Secondary Sound Compliance Designee shall be notified. If neither the Primary nor Secondary Sound Compliance Designee respond to the notification, EQD monitoring staff need not make additional attempts to notify the Applicant for that particular recorded violation. The first notification of recorded violation (either to the Primary Sound Compliance Designee or the Secondary Sound Compliance Designee, as applicable) will represent the first and only Warning to the Applicant.

All further notifications of a recorded violation of the sound level standards shall result in fines being imposed against the Applicant as described in subsection (d) below. The Applicant shall have ten (10) minutes from the time of notification of a violation to reduce the sound levels prior to EQD recording a subsequent violation. If neither the Primary nor Secondary Sound Compliance Designees respond to the notification within a particular ten (10) minute time period, EQD shall begin their Leq 5min measurement period again pursuant to the procedure outlined in subsection (b) above, which shall result in an additional fine if a subsequent violation is measured.

- (d) Fine Structure: The first violation, as established under (b) above, shall result in a warning. Subsequent violations shall be issued according to the following graduated fine structure:
- i. Greater than 105 dB(A) but less than 108 dB(A): \$250 per occurrence;
  - ii. Greater than 108 dB(A) but less than 110 dB(A): \$500 per occurrence;
  - iii. Greater than 110 dB(A) but less than 112 dB(A): \$1000 per occurrence;
  - iv. Greater than 112 dB(A) but less than 115 dB(A): \$1500 per occurrence;
  - v. Greater than 115 dB(A): \$2000 per occurrence.
- (e) Applicant shall be responsible for the sound monitoring costs associated with the Environmental Quality Division staffing and monitoring of the Event, which costs shall not exceed \$1000 per day.
- (f) The Event shall occur no longer than 16 hours a day, including time for sound check.
- (g) No more than three (3) additional or temporary stages will be permitted for the Event. The additional temporary stages shall be set to face away from the St. Johns River. The location and arrangement of the stages and sound systems shall be in accordance with the Stage Configuration Map attached hereto as Exhibit 2. Sound attenuation blankets or sound walls shall be erected at the rear of any temporary stages. Such temporary stage installations shall be installed in such a manner so as to minimize the noise impact on surrounding residential properties."

All of the foregoing terms shall be included in each License Agreement entered into and may not be waived or altered by City staff.

To the extent that the foregoing conflicts with other provisions of Chapter 368, Ordinance Code, or Environmental Protection Board Rule 4, the provisions of this section shall govern, supersede and control any inconsistent provisions of Chapter 368, Ordinance Code, or Environmental Protection Board Rule 4,

as to any entertainment, concert or special event held at Metropolitan Park in which it is anticipated that 500 or more individuals will attend and amplified sound will be utilized.

(Ord. 2013-676-E, § 1)

## PART 2. - NOISE DISTURBANCES

### Sec. 368.201. - Unlawful noises prohibited.

No person shall make or continue or cause to be made or continued, except as permitted by this Chapter, a noise disturbance or a noise in excess of the standards for noise established in the rules of the Board.

(Ord. 84-674-684, § 3; Ord. 2009-359-E, § 3)

### Sec. 368.202. - Maximum permissible sound levels.

With the exception of sound levels specifically authorized by the rules of the Board, the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use shall not exceed the general levels fixed in the rules of the Board. An activity or use that produces a sound in excess of the permitted sound levels for a receiving land use shall be deemed a noise disturbance and in violation of this Chapter and the rules of the Board.

(Ord. 84-674-684, § 3; Ord. 2009-359-E, § 3)

### Sec. 368.203. - Measurement of sound.

The measurement of sound shall be made with a sound-level meter meeting the standards prescribed in the rules of the Board. Recorded measurements shall be taken so as to provide a proper representation of the noise source. The measurement of sound levels shall be made at or within the real property boundary of the receiving land use.

(Ord. 84-674-684, § 3; Ord. 2009-359-E, § 3)

## PART 3. - ENFORCEMENT<sup>2</sup>

### Footnotes:

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**Editor's note**—Ord. 2009-359-E, § 3, amended the Code by repealing former Pt. 3, §§ 368.301—368.304, which pertained to enforcement, and derived from Ord. 84-674-684, Ord. 85-1295-690 and Ord. 94-1307-684, and renumbering former Pt. 4 as a new Pt. 3. Formerly, Pt. 4 was pertained to violations and penalties.

Sec. 368.301. - Violations and criminal penalties.

- (a) A person who knowingly and willfully or by culpable negligence commits a violation specified in Section 368.301(c)(1), (2) (3), and (4), Ordinance Code, may, upon conviction by a court of appropriate jurisdiction thereof, be punished by:
  - (1) A fine of not more than \$500; or
  - (2) Not more than 90 days in jail; or both.
- (b) Each day during any portion of which such violation, as described in subsection (c) of this Section occurs constitutes a separate offense.
- (c) The following persons shall be guilty of a class D offense:
  - (1) Persons who, when taking a measurement of sound levels under this ordinance, falsify the record or tamper with the sound-level meter so as to produce false measurement, or procure or acquiesce in this falsification or tampering; or
  - (2) Persons who violate a rule, regulation, order or compliance plan of the board with respect to noise pollution control; or
  - (3) Persons making, causing to be made, or continuing to make a noise in excess of the standards for noise established under rules of the Board; or
  - (4) Persons aiding or participating in a violation for which a criminal penalty may be assessed under this Chapter shall be considered a principle in the violation and may be assessed a criminal penalty up to the maximum amount prescribed for that violation.

(Ord. 84-674-684, § 3; Ord. 88-117-123, § 16; Ord. 94-1307-684, § 7; Ord. 2009-359-E, § 3)

Sec. 368.302. - Violations and civil penalties.

The following civil penalties may be assessed by administrative or judicial process.

- (a) A person who:
  - (1) Makes or continues or causes to be made or continued a noise disturbance or a noise in excess of the standards for noise established under the rules of the Board;
  - (2) Violates a condition of a variance granted by the Board under Section 368.304;May be administratively or judicially assessed a civil penalty of up to \$10,000 for each violation.
- (b) An applicant for a variance under this Chapter and an officer, director, partner, agent or attorney of an applicant who knowingly makes a false statement or provides false information on a document or paper accompanying and forming a part of the application shall be administratively or judicially assessed a civil penalty of up to \$1,000.00 for each false statement or false item of information.
- (c) A person who aids or participates in a violation for which a civil penalty may be assessed under this Chapter shall be considered a principal in the violation and may be assessed a civil penalty of up to the maximum amount prescribed for that violation.
- (d) For violations that are of a continuing nature, each day that the violation continues shall be a separate offense subject to penalty.
- (e) Each day during any portion of which such violation as described in subsection 368.302(a) occurs constitutes a separate offense.

(Ord. 84-674-684, § 3; Ord. 88-117-123, § 17; Ord. 89-1235-597, § 1; Ord. 94-1307-763, § 8; Ord. 2009-359-E, § 3)

Sec. 368.303. - Assessment and recovery of civil penalty.

Civil penalties shall be assessed by the administrative process in Chapter 360 or, in the alternative, by judicial process in a civil action filed, in the name of the City, in a court of competent jurisdiction, giving due consideration to the appropriateness of the penalty with respect to the gravity of the violation, the good faith of the violator, the history of previous violations, and the financial ability of the violator to respond. A civil penalty assessed and owed under this Chapter shall be paid to the Tax Collector for deposit into the Environmental Protection Fund established by Section 360.601. An administratively assessed civil penalty under this Section may be recovered in a civil action in the name of the City. The City shall be entitled to reasonable attorney's fees and costs, including appellate fees and costs, in an action where the City is successful in obtaining affirmative relief.

(Ord. 84-674-684, § 3; Ord. 88-117-123, § 18; Ord. 2009-359-E, § 3)

Sec. 368.304. - Variances.

A variance to cause or create a noise which would otherwise be in violation of this Chapter may be requested as provided in Section 360.111.

(Ord. 2009-359-E, § 3)

Sec. 368.305. - Appeals.

Appeals shall be in accordance with Part 4, Chapter 360.

(Ord. 2009-359-E, § 3)