

AN ORDINANCE AMENDING IN ITS ENTIRETY ARTICLE IV OF CHAPTER 13 OF THE CODE OF ORDINANCES OF THE TOWN OF HAVANA PERTAINING TO NOISE AS A NUISANCE; PROHIBITING THE CREATION OF LOUD OR UNNECESSARY NOISE; PROVIDING FOR LEGISLATIVE INTENT; PROVIDING FOR DEFINITIONS; DELINEATING THE PROHIBITED ACTS; PROVIDING FOR EXCEPTIONS; PROHIBITING OTHER UNMEASURABLE NOISES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR CODIFICATION AND EFFECTIVE DATE OF JULY 1, 2007.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVANA, FLORIDA:

That Article IV of Chapter 13 of the Code of Ordinances of the Town of Havana pertaining to Noise as a Nuisance is hereby amended in its entirety to read as follows:

Sec. 13-116. Creation of loud or unnecessary noise - Prohibited.

The Town Council finds:

- (1) That excessive sound within the limits of the Town is a condition which has existed for some time and the amount and intensity of such sound is increasing.
- (2) Such excessive sound is a detriment to the public health, safety, welfare and quality of life for the residents of the Town.
- (3) 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 it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life for the Town and its inhabitants.

Sec. 13-117. Legislative intent. The intent of this

legislation is to improve the quality of life in the Town by limiting the noise of motor vehicles used on the public rights-of-way of the Town.

SEC. 13-118. Definitions.

A weighted sound pressure level means the sound pressure level in decibels as measured with a sound level meter using the A-weighting network. The unit of measurement is the dB(A).

Alarm means any fire, burglary, motor vehicle or civil defense alarm, whistle or similar stationary emergency signaling device.

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

Daytime means 8:00 a.m. to 10 p.m. the same day.

Decibel (Db) means a unit for measuring 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 micropascals (20 micronewtons per square meter).

Demolition means any dismantling, intentional destruction or removal of structures from utilities, public or private right-of-way surfaces, or similar property.

Emergency Vehicle means any motor vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized by x.316.2397 to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, volunteer firefighters and other rescue vehicles.

"GVWR" or "Gross Vehicle weight rating" means the value specified by the manufacturer s the loaded weight of a single vehicle.

Impulsive sound means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and discharge of firearms.

Nighttime means 10:00 p.m. to 8:00 a.m. the following day.

Noise means any sound which disturbs humans or other animals, or which causes or tends to cause an adverse psychological or physiological effect on humans or other animals.

Noise disturbance means any sound which:

- (1) Disturbs a reasonable person of normal sensitivities;
- (2) Exceeds the sound level limits set forth in this chapter; or
- (3) Is plainly audible as defined in this section.

Person means any person, person's firm, association, co-partnership, joint venture, corporation, or any entity public or private in nature.

Plainly audible means any sound or noise produced by any source, or reproduced by a radio, tape player, television, CD player, electronic audio equipment, musical instrument, sound amplifier or other mechanical or electronic sound making device, or non-amplified human voice that can be clearly heard by a person using his/her normal hearing facilities, at a distance of 200 feet or more from the real property line of the source of the sound or noise.

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

Public right-of-way means any street, avenue, boulevard, sidewalk, bike path 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 structures thereon owned by governmental entity and normally accessible to the public, including but not limited to parks and other public recreational areas, roadways, and easements.

Real property line means a 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.

Recreational vehicle means any scooter, golf cart, or recreational vehicle whether or not such requires a license for the operation thereof.

Sound level means the A-weighted sound pressure level measured with fast response using an instrument complying with the specification for sound level meters of the American National Standards Institute, Inc., or its successor bodies, except that only A-weighting and fast dynamic response need be provided.

Sound level meter means an instrument, including a microphone, an amplifier, and output meter, and frequency weighting networks, for the measurement of sound levels as approved by the American National Standards Institute (ANSI).

Sec. 13-119. Prohibited Acts.

- (a) General prohibition. It shall be unlawful and a violation of this chapter to make, cause or allow the making of any sound that causes a noise disturbance, as defined in Section 13-117.
- (b) Unlawful to cause noise disturbances. It shall be unlawful, except as expressly permitted herein, to make cause or allow the making of any noise or sound which causes a noise disturbance as defined herein.
- (c) Sound causing permanent hearing loss.

(1) Sound level limits. Table I specifies sound level limits which, if exceeded, will have a high probability of producing permanent hearing loss in anyone in the area where the sound levels are being exceeded. No sound shall be permitted within the Town which exceeds the parameters set forth in Table I, unless otherwise provided for in this chapter.

(2) Exemptions. No violation shall exist if the only persons exposed to sound levels in excess of those listed in Table I and Table I-A are exposed as a result of trespass, invitation upon private property by the person causing or permitting the sound or employment by the

person or a contractor of the person causing or permitting the sound.

TABLE I. MAXIMUM SOUND LEVELS IN (Db(A) FOR SOURCE LAND USES
MAXIMUM PERMISSIBLE SOUND LEVELS

TABLE INSET:

Land Use Category	Time	Sound Level Limit (dB(A))
Residential, public space or institutional	8:00 a.m.-10:00 p.m.	70
	10:00 p.m.-8:00 a.m.	65
Commercial or business	8:00 a.m.-10:00 p.m.	75
	10:00 p.m.-8:00 a.m.	70
Industrial, manufacturing or agricultural	At all times	75

** Where the property boundaries of two conflicting zones meet, the permissible decibel reading at that point/location shall be controlled by the higher of the two allowable sound levels. For example, where the property line of a residential zone meets the property line of a commercial zone, the permissible sound level limit will be 75 between the hours of 8:00 a.m. and 10:00 p.m. and 70 between the hours of 10:00 p.m. and 8:00 a.m.**

- (d) Continuous airborne sound decibel limits. No person shall create, operate or cause to be operated on private property any source of sound in such a manner as to create a continuous airborne sound which exceeds the limits set forth for the source land use category when measured at a distance of 20 feet or more from the real property line of the source of the sound. Any source of sound in violation of this subsection shall be deemed prima facie to be a noise disturbance.
- (e) Specific prohibitions. In addition to the general prohibitions set out in subsection (a) and unless otherwise exempted by this chapter, the following

specific acts, or the causing or permitting thereof, are hereby regulated as follows:

(1) Motor vehicles. No person shall operate or be permitted to operate a vehicle at any time or under any condition of roadway grade, load, acceleration, or deceleration in such a manner as to generate a sound level in excess of the following limit for the category of motor vehicle and applicable speed limit at a distance of 50 feet from the center of the lane of travel as identified in Table II. Measurement procedures are established under 316.293 (3) F.S..

	Sound Level Speed Limit 35 mph or less	Sound Level Speed Limit 35 mph or higher
Motorcycles manufactured before January 1, 1979	82 dB A	82 dB A
Motorcycles manufactured on or after January 1, 1979	78 dB A	82 dB A
Vehicle with a GVWR of 10,000 lbs or more, manufactured before January 1, 1975	86 dB A	90 dB A
Motor-driven cycles and any other motor vehicle manufactured before January 1, 1979	76 dB A	82 dB A
Motor-driven cycles and any other motor vehicle manufactured on or after January 1, 1979	72 dB A	79 dB A

(2) Radios, televisions, electronic audio equipment, musical instruments or similar devices. No person shall operate, play or permit the operation or playing of any radio, tape player, television, electronic audio equipment, musical instrument, sound amplifier, or other mechanical or electronic sound making/emitting device that produces, reproduces or amplifies

sound in such a manner as to create a noise disturbance across a real property boundary, unless such activity is specifically exempted elsewhere in this chapter.

(3) Loudspeakers and public address systems. No person shall operate, or permit the operation of, any loudspeaker, public address system or similar device, for any commercial purpose which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance across a real property boundary, unless such activity is specifically exempted elsewhere in this chapter.

(4) Animals. No person shall own, possess or harbor an animal or bird that howls, barks, meows, squawks or makes other sounds that: (a) create a noise disturbance across a residential real property boundary; (b) are of frequent or continued duration for ten or more consecutive minutes; or (c) are intermittent for a period of 30 or more minutes; providing however, that an animal shall not be deemed to be acting in violation of this section if, at the time of the making of any noise a person is trespassing or threatening to trespass upon the property in or upon which the animal is situated.

(5) Construction and demolition. No person shall operate or cause the operation of any tools or equipment used on construction, drilling, repair, alteration or demolition work between the hours of 9:00 p.m. and 6:00 a.m. the following on weekdays and 9:00 p.m. and 7:00 a.m. on weekends and holidays such that the sound therefrom creates a noise disturbance across a real property boundary, except for emergency work by public service utilities or for other work approved by the town manager or designee. This section shall not apply to the use of domestic power tools as provided below.

(6) Emergency signaling devices. No person shall intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm, siren or whistle, or similar stationary emergency signaling device, except for emergency purposes or for testing as follows: (a) testing a

stationary emergency signaling device shall not occur between 7:00 p.m. and 7:00 a.m. the following day; (b) testing of stationary emergency signaling devices shall use only the minimum cycle test time, in no case to exceed 30 seconds; and (c) testing of a complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall only occur on weekdays and not during nighttime hours, and shall be exempt from the time limit specified in subsection (b) above. No person shall permit the sounding of any exterior burglary or fire alarm unless such alarm is automatically terminated within 15 minutes of activation.

(7) Domestic power tools. No person shall operate or permit the operation of any mechanically, electrically or gasoline motor driven tool during nighttime hours as to cause a noise disturbance.

(8) Street sales. The offering for sale by shouting or outcry within any residential, commercial or noise-sensitive area, except by permit issued by the town is prohibited.

(9) Powered model vehicles. The operating of or permitting the operation of powered model vehicles between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 9:00 a.m. on weekends or holidays is prohibited. Operating such in a manner as to exceed the levels set for public space land use, measured at a distance of not closer than 100 feet from the operator is prohibited.

(10) Pumps, air conditioners, air-handling equipment and other continuously operating equipment. No person shall operate or permit the operation of any pump, air conditioning, air handling or other continuously operating motorized equipment in such a manner so as to cause a noise disturbance which exceeds the limitations set forth in Table I above. Exceptions may be made if the noise disturbance does not occur more frequently than once per hour. The burden of providing

compliance with the stated guidelines will be borne by the respondent.

Sec. 13-120. Same - Exceptions:

The following uses and activities shall be exempt from the sound level regulations:

- (1) Domestic power tools, lawn mowers and agricultural equipment, when operated with a muffler, between the hours of 7:00 a.m. and 10:00 p.m. on weekday and 7:00 a.m. and 10:00 p.m. on weekends and holidays.
- (2) Noises resulting from any authorized emergency vehicles when responding to an emergency call or acting in time of emergency.
- (3) Noises made from person having obtained a parade, park usage, festival or similar permit from the Town Manager and operating within the confines of such permit.
- (4) Any noise resulting from activities of a temporary duration, for which a special permit has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon.
- (5) Noises from church bells and chimes.
- (6) Noises resulting from emergency work as defined in this chapter.
- (7) All sounds coming from the normal operations of motor and rail carriers, to the extent that local regulations of sound level(s) of such vehicles has been preempted by the Noise Control Act of 1972 or other applicable federal laws of regulations.
- (8) Any non-amplified noise generated by noncommercial public speaking activities conducted on any public property or public right-of-way pursuant to legal authority.
- (9) Sounds produced at organized sporting events, by fireworks and by permitted parades on public property or public right-of-way.
- (10) Outdoor school and playground activities when reasonably conducted on public playgrounds and public or private

school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.

Sec. 13-121. Noises prohibited; unnecessary noise standard; statement of intent; sworn complaint required.

- (a) Some sounds may be such that they are not measurable by the sound pressure level meter or may not exceed the limits of Table I but they may be excessive, unnatural, prolonged, unusual and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the town.
- (b) Noises prohibited by this section are unlawful notwithstanding the fact that no violation of Section 13-119 is involved, and notwithstanding the fact that the activity complained about is exempted in Section 13-120.
- (c) Any person making a complaint under this section shall be required to sign a sworn complaint prior to an arrest being made; otherwise no such complaint will be honored.

Sec. 13-122. Enforcement and penalties.

Any person violating any of the provisions of this article shall be prosecuted in the same manner as misdemeanors and infractions are prosecuted in accordance with appropriate Florida Statutes and Town Ordinance Article I, Sec. 14-1.

Repeal: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Codification: It is the intention of the Town Council and it is hereby provided that the provisions of this ordinance shall be made part of the Town's Code of Ordinances; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the work "ordinance" may be changed to "section", "article", or other appropriate designation.

Effective Date:

This ordinance shall take effect on July 1, 2007.

INTRODUCED in open session of the Town Council of the Town of Havana, Florida, this 26th day of May, A.D. 2007.

ADOPTED AND PASSED on second and final reading in open session of the Town Council of the Town of Havana, Florida, this 26th day of June, A.D. 2007.

G. J. Davis
Presiding Officer of the Town Council
of the Town of Havana, Florida

ATTEST:

Shelia A. Swann
Clerk of the Town of Havana and
Clerk of the Town Council thereof