

**Ordinance 2021-01**

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA TO INCLUDE A SECTION TO BE KNOWN AS THE "NOISE ORDINANCE" PROVIDING FOR TITLE; DECLARATION OF LEGISLATURE FINDING; DECLARATION OF INTENT; DEFINITIONS; MAXIMUM PERMISSIBLE SOUND LEVELS, GENERAL PROHIBITIONS; SPECIFIC PROHIBITIONS; VARIANCE PROCEDURE; EXEMPTIONS; PUBLIC NUISANCE/INJUNCTIVE RELIEF; OTHER REMEDIES; PROVIDING FOR SEVERABILITY OF INVALID PROVISIONS; PROVIDING FOR REPEAL OF CONFLICTING LAWS; PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, on or about May 3, 2018, the Florida Department of Economic Opportunity provided the City with notice of intent to find the City's initial comprehensive plan in compliance; and

**WHEREAS**, the purpose of this ordinance is to promote the health, safety, welfare, and well-being of the community establish rules, regulations and guidelines regarding commercial, non-residential and residential developments within the corporate limits of the City of Westlake, and

**WHEREAS**, the City of Westlake City Council finds and declares that excessive sound, or noise, adversely impacts the public health, and quality of life; and

**WHEREAS**, excessive or unusually loud noise interferes with the peaceful enjoyment of residential property, can cause hearing loss, interferes with sleep, distracts from individual pursuits and can cause serious annoyance and irritation to residents of the City of Westlake; and

**WHEREAS**, the citizens of City of Westlake, have a right and should be insured an environment free from excessive sound that may jeopardize their health or welfare; and

**WHEREAS**, the City of Westlake City Council determines that the regulation of sound is necessary and appropriate to further the public's health, safety and general welfare.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:**

**Section 1: Definitions.**

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. All technical definitions not defined above shall be in accordance with applicable publications and standards of the American National Standards Institute ANSI S1.4-1983 (R2006) and ANSI S1.1-2013.

**A-weighted sound level** means the total sound level of all sound measured with a sound level meter with reference to a pressure of 20 micropascals using the A-weighting network (scale) and slow time response. The unit of measurement is the A-weighted dBA.

**Ambient noise** means the all-encompassing sound associated with a given environment, being usually a composite of sounds from all sources, excluding the alleged offensive sound, at the location and approximate time at which a comparison with the alleged offensive sound is to be made.

**Bel** means a unit of sound power level when the base of the logarithm is ten. Use of the bel is restricted to levels of quantities proportional to power.

**Certified outdoor venue** means a property that has been approved by the City Council for an exception to the sound regulations regarding hours of operation and frequency of events and has met all of the requirements of Section 13-108, and, if applicable, the conditions of developmental approval.

**Decibel (dB)** means the measure used in describing the amplitude of sound as set forth in American National Standards Institute (ANSI) specifications ANSI S1.1-2013.

**Emergency work** means any work performed for the purpose of remedying conditions that create an imminent peril to life, health or property.

**Establishment** means a privately owned place of business to which the public is invited, including, but not limited to, a place of amusement or a place of entertainment.

**Fixed sound source** means a stationary device which creates sounds while fixed or motionless, including, but not limited to, residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

**Mechanical equipment** means implements and tools produced or operated by a machine, that are used to provide energy, light, heat, air or broadcast telecommunication services to a building, structure and/or property. This includes, but is not limited to, air conditioning units, pool equipment, satellite dishes, gas tanks (aboveground only), solar panels, antennas and generators.

**Microbar** means a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

**Mobile sound source** means any sound source other than a fixed sound source.

**Sound zone** means that area designated as residential, commercial, mixed use or industrial on the official city zoning map. For the purpose of sound zones, public institutional and quasi-public institutional properties are designated as residential sound zones.

**Period of a periodic quantity** means the smallest increment of time for which the function repeats itself.

**Periodic quantity** means an oscillating quantity, the values of which recur for equal increments of time.

**Sound amplification device** means a machine, equipment or device used to expand, or increments of time.

**Sound level meter** means an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks, for the measurement of sound levels as specified in American National Standards Institute (ANSI) specifications for sound-level meters (ANSI S1.4-1983 (R2006)).

**Sound pressure level, in decibels of sound,** means 20 times the logarithm to the base ten of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.

## **SECTION 1:     GENERALLY**

### **Section 1-01. - Sound disturbances prohibited.**

It shall be unlawful for persons to make, continue or cause to be made, any excessive, unnecessary or unusually loud sound, or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of normal sensibilities, within the town limits, as prohibited in this chapter.

**Section 1-02. - Loud and unnecessary sounds.**

The acts enumerated in this chapter, among others, are declared to be loud, disturbing and unnecessary sounds which create a public nuisance, and which constitute a violation of this chapter. Such enumeration shall not be deemed to be exclusive.

**Section 1-03. - Horns, signaling devices, etc.**

It is unlawful to sound any horn or signaling device on any automobile, motorcycle, truck, or other vehicle on any street or public place of the town, or on private property, if the noise exceeds the standards established herein as measured from any private property or public place which is adjacent thereto, except as a danger warning, which creates any unreasonably loud or harsh sound for an unnecessary and unreasonable period of time, including the use of any signaling device, except one operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up.

**Section 1-04. - Operation of indoor sound amplification devices.**

It is unlawful to use, operate or permit to be played, used or operated any indoor or in-vehicle sound amplification device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, pedestrians, or operators of vehicles with sound emanating therefrom which is louder in volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated. The operation of any such device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from a pedestrian, room, building, structure or vehicle in which said machine or device is being operated shall be prima facie evidence of a violation of this section.

**Section 1-05. - Outdoor sound.**

- (a) It is unlawful to create outdoor sound or to use, operate or permit to be played, used, or operated any outdoor sound amplification or device for the production or reproduction of sound between the hours of 11:00 p.m. and 7:00 a.m. which exceed the levels established or for approved and certified outdoor levels established.
- (b) All outdoor sounds including those emanating from an outdoor amplification device in any sound zone or within the public right-of-way shall be limited in volume and tone so as not to exceed the regulations established herein.
- (c) Outdoor sound amplification devices associated with properties which have been approved and certified as an outdoor venue shall not exceed the sound volumes or the hours of operation as established in Table 2 unless they have obtained special permits pursuant to Chapter – entitled Special Permits.

**Section 1-06. Outdoor venue.** An outdoor venue may be approved to have the standards applied for the for the use of sound amplification devices used as part of an outdoor venue and may be operated an additional hour until 12:00 a.m., provided all of the following are met:

- (1) Exterior sound standards of section 13-144.
- (2) The City Council has approved a site plan which identifies the location and details of all sound amplification devices within a property intended to be an outdoor venue. The plan shall illustrate the means and methods the property owner will implement to minimize the projection of sound beyond the outdoor venue’s upland property lines to the upland property line of adjacent properties.

(3) Details and specifications of the proposed sound amplification system device which demonstrates that the sound is being transmitted through a professional sound system.

(4) The use of a professional sound system to control sound amplification with an automatic sound limiter and tamper-resistant volume control limiter. The volume shall be set and locked at and below the maximum permitted decibel level for the property at its upland property line. The sound levels from the outdoor venue shall not exceed the decibel levels established at the property line for properties located in adjacent zoning districts. The City shall be provided with the sound data report from the automatic sound limiter and access to the sound system upon request. The failure to provide the City with the sound data, or the refusal to provide the City with access to the data from the automatic sound limiter shall be an irreparable violation of this section.

(5) The installation of such sound attenuation at an adequate height, length and density such as perimeter walls, berming or other barriers around the perimeter of the outdoor venue as necessary to ensure that the sound standards herein are met.

(6) Property owners who have an approved and certified outdoor venue shall submit an annual event program schedule to the City by October 1<sup>st</sup> of each year identifying the events for the following calendar year, and designate which events, if any recurring events and those which require a separate special permit. The annual event program schedule shall be subject to the City Council's review and approval regarding the frequency of the events proposed and to ensure the public's safety at the outdoor venue.

#### **Section 1-07. - Yelling, shouting, etc.**

It is unlawful to yell, shout, hoot, whistle, or sing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence or of any persons in the vicinity.

#### **Section. 1-08. - Animals and birds.**

(1) It shall be unlawful to keep or maintain any dog, cat, bird or other animal, within residential zones of the city which causes a noise disturbance by habitually howling, barking, meowing, squawking, or other noise making. It shall also be unlawful to cause any animal, bird or fowl to make or create any excessive or unnecessary noise by taunting, beating or coercing the animal, bird or fowl, or by depriving same of necessary food, water or shelter.

(2) The city manager or designee shall investigate an alleged violation of this section upon the receipt of either:

(a) Sworn affidavits of complaint signed by 2 unrelated residents living in separate dwellings in the close vicinity of the alleged violation; or

(b) Sworn affidavit of complaint signed by a resident living in the close vicinity of the alleged violation together with a video tape of the activity complained of recorded by, or recorded in the physical presence of, such resident.

(3) The affidavit(s) shall specify the address or location of the alleged violation, the nature, time and date(s) of the act, the name and address of the owner or custodian, if known, and a description of the animal, if known. The video tape shall include the date and time of the event being recorded and shall provide evidence of the nature and extent of the violation.

(4) Upon receipt of the materials set forth in either (2)(a) or (2)(b), enforcement procedures pursuant to section 2-100 of this Code may be instituted against the owner or custodian of any animal alleged to be in violation of this section.

**Section 1-09. – Emergency Generators in all residential districts.**

The following provisions shall apply to emergency generators in all residential districts.

Emergency generators installed in all residential districts shall be exempt from the sound rating values set forth in section 10-72, Code of Ordinances when operated during power outages; provided however, in no event shall the sound rating value of emergency generators in any residential district exceed 72 dBA. Emergency generators in all residential districts may be operated for testing purposes 1 time for a period not to exceed 30 minutes in any 7-day period. Testing of emergency generators in all residential districts is permitted between the hours of 11 a.m. through 5 p.m., Monday through Saturday. No testing of emergency generators in any residential districts is permitted on Sundays or federal holidays.

**Section 1-10. - Tire screeching.**

The intentional and/or repeated creation of a noise disturbance through the acceleration, turning, or stopping of any motor vehicle is prohibited.

**Section 1-11. - Exhausts.**

The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is prohibited.

**Section 1-12. - Defect in vehicle or load.**

The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in any other such manner as to create loud and unnecessary grating, grinding, rattling or other noise or noise disturbance is prohibited.

**Section 1-13. - Loading, unloading, and unpacking.**

No person shall load, unload, pack or unpack or open crates, boxes or containers on any vehicle as to create a noise disturbance across a residential noise zone between the hours of 10:00 p.m. and 7:00 a.m. This section shall not apply to holders of solid waste franchises or to any solid waste collection.

**Section 1-14. - Construction or repairing of buildings.**

The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays (Monday through Friday), and on Saturdays between the hours of 8:00 a.m. and 4:00 p.m., except in case of urgent necessity in the interest of public health and safety, is prohibited without specific permission from the city manager or his designee. Permission may be granted for a period not to exceed three days while the emergency continues and may be renewed for periods of three days or less while the emergency continues. If the city manager determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 8:00 p.m. and 7:00 a.m., and if he determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 8:00 p.m. and 7:00 a.m. Application for such permission shall be made to the city manager at the time the permit for the work is awarded or during the progress of the work.

**Section 1-15. - Schools, courts, churches, and hospitals.**

The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, is prohibited. Conspicuous signs shall be displayed in such streets indicating that it is a street in which there is a school, church, hospital or court.

**Section 1-16. - Hawkers; peddlers.**

- (a) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood is prohibited.
- (b) The use of any drum or other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale is prohibited.
- (c) However, the selling by shouting or outcry of merchandise, food, and beverages at licensed sporting events, stadiums, parades, fairs, circuses, approved special events, and other similar public entertainment events is permitted.

**Section 1-17. - Lawn maintenance equipment.**

The operation of lawn mowers, edgers, trimmers, chainsaws, and power-driven hedge shears in a residential noise zone, or within 500 feet thereof, is prohibited between the hours of 10:00 p.m. and 7:00 a.m.

**Section 1-18. - Power tools.**

No person shall operate within a residential noise zone, or within 500 feet thereof, any power equipment, excluding construction equipment used for construction activities, such as, but not limited to, chain saws, pavement breakers, log chippers, riding tractors, and power hand tools, between the hours of 10:00 p.m. and 7:00 a.m. This section shall not apply if the sound produced by such power equipment cannot be heard outside that person's residence.

**Section 1-19. - Blowers, fans, or internal combustion engines.**

The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, is prohibited unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to reduce such noise to meet the applicable noise zone standards as set forth in section 13-144.

**Section 1-20. - Enclosed places of public entertainment.**

- (a) It shall be unlawful to sustain in any enclosed place of public entertainment including, but not limited to, a restaurant, bar, cafe, club, nightclub, discotheque, or dance hall, a sound decibel equal to or in excess of 95 dBA sustained for more than 30 seconds.
- (b) Such sound to be measured by a sound level meter approved by the American National Standards Institute from any area to which the public is invited within any enclosed place of public entertainment.

**Section 1-21. - Exterior sound standards.**

- (a) The following sound standards, as measured at a three-minute equivalent continuous sound level (Leq), shall apply to all property with a designated sound zone:

**Table 1. Allowable Exterior Sound Levels per Sound Zone**

<i>Zone</i>	<i>Daytime Leq (7:00 a.m. to 10:00 p.m.)</i>	<i>Nighttime Leq (10:00 p.m. to 7:00 a.m.)</i>
Residential sound zone	55 dBA	45 dBA
Mixed use sound zone	60 dBA	50 dBA
Commercial sound zone	65 dBA	55 dBA
Industrial sound zone	70 dBA	60 dBA

**Table 2. Allowable Exterior Sound Levels per Sound Zone for Outdoor Venues Approved With Extended Hours  
(Measured at a Three-Minute Leq)**

<i>Zone</i>	<i>Daytime Leq (7:00 a.m. to 11:00 p.m.)</i>	<i>Transitional Nighttime Leq (11:00 p.m. to 12:00 a.m.)</i>	<i>Nighttime Leq (12:00 a.m. to 7:00 a.m.)</i>
Residential sound zone	55 dBA	45 dBA	45 dBA
Mixed use sound zone (properties with residential)	60 dBA	50 dBA	50 dBA
Mixed use sound zone (properties without residential)	65 dBA	55 dBA	50 dBA
Commercial sound zone	65 dBA	55 dBA	50 dBA
<i>Zone</i>	<i>Daytime Leq (7:00 a.m. to 11:00 p.m.)</i>	<i>Transitional Nighttime Leq (11:00 p.m. to 12:00 a.m.)</i>	<i>Nighttime Leq (12:00 a.m. to 7:00 a.m.)</i>

(b) It is unlawful for any person at any location within the incorporated area of the city to create any sound, or to allow the creation of any sound, on property owned, leased, occupied or otherwise controlled by such person or business, which causes the sound level when measured on any other property line to exceed either of the following:

- (1) The sound levels listed in Table 1 or Table 2, based on the property's designated sound zone, based on a three-minute, A-weighted Leq.
- (2) A maximum A-weighted instantaneous sound level or peak measurement value which is greater than or equal to the relevant sound standard by ten dBA for any time period for sound from mechanical equipment.

(c) If the sound measurement location is on a boundary between two different abutting sound zones, the standard to be applied shall be the logarithmic dBA average of the standards from the respective sound zones (see Table 3). The sound levels shall not be averaged if the two sound zones are separated by another property, public or private right-of-way or a waterway. If an acoustically effective intervening wall or barrier exists between the sound source of concern and the sound-sensitive receiver, the effects

of the wall shall be considered. Otherwise, the sound measurements may be conducted along the vertical plane of the property boundary or anywhere else on the receiving property.

**Table 3. Logarithmic Averages [Leq dBA]**

Sound Standard Value (Generating Property)	Sound Standard Value (Receiving Property)						
	45	50	55	60	65	70	75
45	45	48	52	57	62	67	72
50	48	50	53	57	62	67	72
55	52	53	55	58	62	67	72
60	57	57	58	60	63	67	72
65	62	62	62	63	65	68	72
70	67	67	67	67	68	70	73
75	72	72	72	72	72	73	75

(d) The operation of an outdoor sound amplification device in such a manner as to be plainly audible by the Palm Beach County Sheriff's Office or code compliance officer who has been given permission by the property owner or tenant to enter in any residential dwelling unit (measured with the windows and doors closed) which is located 150 feet or more from the property line where said sound amplification or device is being operated shall be prima facie evidence of a violation of this section.

**Section. 1-22. - Enforcement program.**

The purpose and intent of this article goes beyond the mere issuance of citations and filing of prosecutions for violations hereof. The city environmental officer is directed to help and assist those persons creating excessive and unusual loud noise to conform to the standards as herein provided whenever possible by voluntary compliance.

**SECTION 2: SEVERABILITY:**

The provisions of this Ordinance are severable and it is the legislative intention to confer upon the whole or any part of the Ordinance the powers herein provided for. If any provision of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of the Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included herein.

**SECTION 3: CONFLICT OF LAW:**

In the event this Ordinance conflicts with any other Ordinance of the City of Westlake or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

**SECTION 4: CODIFICATION AND SCRIVENER'S ERRORS:**

The City of Westlake intends that this Ordinance will be made part of the City of Westlake Code of Ordinances; and that sections of this Ordinance can be renumbered or re-lettered



and the word "Ordinance" can be changed to "Section," "Article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-lettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the City Manager and City Attorney without the need for public hearing.

**SECTION 5: EFFECTIVE DATE.** This ordinance shall be effective upon adoption on second reading.

**PASSED** this 8th day February, 2021, on first reading.

**PUBLISHED** on this \_\_\_\_ day of \_\_\_\_\_, 2021 in the Palm Beach Post.

**PASSED AND ADOPTED** this 21st day March 8, 2021, on second reading.

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City of Westlake  
Roger Manning, Mayor

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Zoie Burgess, City Clerk

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Approved as to Form and Sufficiency  
Pam E. Booker, City Attorney