

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA TO INCLUDE A CHAPTER TO BE KNOWN AS "NUISANCE" AND ARTICLE TO BE KNOWN AS "NOISE"; PROVIDING FOR DEFINITIONS; PROVIDING FOR NOISE RESTRICTIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REPEAL OF CONFLICTING LAWS; PROVIDING FOR SEVERABILITY OF INVALID PROVISIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the purpose of this ordinance is to establish rules, regulations, and guidelines regarding noise limits within the corporate limits of the City of Westlake, 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 City of Westlake City Council finds and declares that excessive sound, or noise, adversely impacts the public health, and quality of life; 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: Incorporation. The above recitals are confirmed, adopted, and are incorporated herein by reference.

Section 2: Nuisance. The code of ordinances for the City of Westlake shall contain a chapter entitled "Nuisances" which code shall contain the provisions as specifically set forth.

CHAPTER 23: NUISANCES

ARTICLE 23.1 Noise

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.

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 Subsection 23.1(4)(B), 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 specifications ANSI S1.1-2013.

Equivalent Continuous Sound Pressure Level (LEQ/LAEQ) means the steady sound pressure level which, over a given period of time, has the same total energy as the actual fluctuating noise.

Sound zone means that area designated as R-1, R-2, mixed use, medical, or town center on the official city zoning map.

Sound amplification device means a machine, equipment or device used to make sounds greater or louder.

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 specifications for sound-level meters (ANSI S1.4-1983 (R2006)).

Section 2: Generally

- A) **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 3: Indoor Noise Limitations

- A) **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. 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.
- B) **Enclosed places of public entertainment.** 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 97 dBA sustained for more than 30 seconds. 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 4: Other Noise Limitations

- A) **Outdoor sound.**
 - (1) It is unlawful to create or to allow to be created any 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 that exceeds the levels established in Table 1 below when measured on any other property unless the venue has is a certified outdoor venue or unless a special events permit has been obtained.

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

Table 1. Allowable Exterior Sound Levels per Sound Zone (Sound Standards)

<i>Zone</i>	<i>Sunday – Thursday</i>	<i>Sunday – Thursday</i>	<i>Friday – Saturday; Holiday</i>	<i>Friday – Saturday; Holiday</i>
	<i>7:00 a.m. - 10:00 p.m.</i>	<i>10:00 p.m. - 7:00 a.m.</i>	<i>7:00 a.m. – 1:00 a.m.</i>	<i>1:00 a.m. – 7:00 a.m.</i>
R-1 and R-2 Sound Zone	78 dBA	55 dBA	78 dBA	55 dBA
Mixed Use Sound Zone	85 dBA	75dBA	85 dBA	65 dBA
Town Center Sound Zone	85 dBA	60 dBA	85 dBA	65 dBA
Medical Sound Zone	78 dBA	55 dBA	78 dBA	55 dBA

B) **Certified Outdoor Venue.** Certified outdoor venues are exempt from the sound standards found in Table 1 but must not exceed the sound standards found in Table 2 below unless a special events permit has been obtained.

- (1) An outdoor venue may be approved as a certified outdoor venue provided the following standards are met:
- (a) 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. The City Council may approve a site plan with conditions.
 - (b) Details and specifications of the proposed sound amplification system device which demonstrates that the sound is being transmitted through a professional sound system.
 - (c) 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 a violation of this section.
 - (d) 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.
 - (e) Property owners who have an approved certified outdoor venue shall submit an annual event program schedule to the City by October 1st 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. Property owners may apply for an amendment to the schedule at any time.

- (2) The following sound standards, as measured at a three-minute, A-weighted equivalent continuous sound level (Leq), shall apply to certified outdoor venues within a designated sound zone:

Table 2. Allowable Exterior Sound Levels per Sound Zone for Outdoor Venues Approved With Extended Hours (Sound Standards)

<i>Zone</i>	<i>Sunday – Thursday</i>	<i>Sunday - Thursday</i>	<i>Friday – Saturday; Holiday</i>	<i>Friday – Saturday; Holiday</i>
	<i>7:00 a.m. - 11:00 p.m.</i>	<i>12:00 a.m. - 7:00 a.m.</i>	<i>7:00 a.m. – 2:00 a.m.</i>	<i>2:00 a.m. – 7:00 a.m.</i>
R-1 and R-2 Sound Zone	78 dBA	55 dBA	78 dBA	55 dBA
Mixed Use Sound Zone	85 dBA	75dBA	90dBA	65dBA
Town Center Sound Zone	85 dBA	60dBA	90 dBA	65dBA
Medical Sound Zone	78 dBA	55 dBA	78dBA	55 dBA

Section 5: Vehicular Noises and Internal Combustion Engines.

- A) **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.
- B) **Tire screeching.** The intentional and/or repeated creation of a noise disturbance through the acceleration, turning, or stopping of any motor vehicle is prohibited.
- C) **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.
- D) **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 6: Yelling, shouting, etc. It is unlawful to repeatedly, unnecessarily, and unreasonably yell, shout, hoot, whistle, or sing on the public streets 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 7: Hawkers; peddlers.

- A) Within the R-1 and R-2 zoning districts, the shouting and crying of peddlers, hawkers and vendors that 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 8: Animals and birds.

- A) 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 plainly audible at a distance of one hundred (100) feet from the building, structure, or yard in which the animal is located. 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.
- B) The city manager or designee shall investigate an alleged violation of this section upon the receipt of either:
 - (1) Sworn affidavits of complaint signed by 2 unrelated residents living in separate dwellings in the close vicinity of the alleged violation; or
 - (2) 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.
- C) 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.
- D) Upon receipt of the materials set forth in either 23.1(4)(i) or (4)(ii), enforcement procedures pursuant to the City's Code may be instituted against the owner or custodian of any animal alleged to be in violation of this section.

Section 9: Emergency Generators in all residential districts.

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

Emergency generators shall be exempt from the sound standards set forth in Table 1 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 from 10:00 p.m. – 7:00 a.m. Emergency generators in all residential districts may be operated for testing purposes for a period not to exceed 30 minutes in any 7-day period. Testing of emergency generators is prohibited between the hours of 8:00 p.m. and 7:00 a.m. Emergency generators shall be exempt from the sound standards set forth in section Table 1 when operated during the normal course of installation or repair.

Section 10: 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 within the R-1 or R-2 sound zones 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 11: 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. (collectively, the "permitted work hours"), except in case of urgent necessity in the interest of public health and safety, is prohibited without specific permission from the city manager. 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 outside the permitted work hours, and if he/she determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done outside the permitted work hours. 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 12: 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 13: Lawn maintenance equipment.

The operation of lawn mowers, edgers, trimmers, chainsaws, and power-driven hedge shears in a residential noise zone, or within 300 feet thereof, is prohibited between the hours of 10:00 p.m. and 7:00 a.m.

Section 14: Power tools.

No person shall operate within a residential noise zone, or within 300 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 property boundary.

Section 15: Blowers, fans, or internal combustion engines.

The operation of any noise-creating blower or power fan is prohibited unless the noise from such blower or fan is muffled sufficiently to reduce such noise to meet the applicable noise zone standards as set forth in Table 1.

Section 16: EXEMPTIONS.

The provisions of this Chapter shall not apply to:

- A) Radios, sirens, horns and bells and other sounds created by police, fire, and other emergency response vehicles.
- B) Parades, fireworks displays, and other activities for which a permit has been obtained from the City Manager or his/her designee, within such hours and in accordance with such restrictions as may be imposed as conditions for the issuance of the permit.
- C) The emission of sound in the performance of an activity for which the City Manager or designee has expressly approved, subject to any conditions imposed by the City Manager or designee.
- D) Noises resulting from emergency work, including but not limited to the use of generators or other equipment by communications and public utility companies in connection with a commercial power outage and/or restoration of service operations and the use of emergency generators due to loss of power other than non-payment of utility services.
- E) Indoor and outdoor activities within Amenity Center parcels that are owned or operated by homeowners/property owners' associations; however, all events at such locations that create noise in excess of the limits in Table 1 shall end no later than 11:00 p.m.

Section 17: Enforcement program.

- A) The purpose and intent of this article goes beyond the mere issuance of citations and filing of prosecutions for violations hereof. Code enforcement officers or others charged with the enforcement of this Chapter are 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.
- B) If the potential noise violation is being investigated as a result of a complaint, the sound measurement shall be taken from 50 feet from the property about which the complaint has been made or at any location on the receiving property. If the sound level on the receiving property exceeds the applicable sound standard in Table 1 or Table 2 for such receiving property, a noise violation will be deemed to have occurred.
- C) If no complaint has been made, the sound measurement shall be taken 50 feet from the property generating the noise. If the sound level at the place of sound measurement exceeds the applicable sound standard in Table 1 or Table 2 for the property generating the sound, a noise violation will be deemed to have occurred.
- D) If an acoustically effective intervening wall or barrier exists between the sound source of concern and a receiving property, the effects of the wall shall be considered.

SECTION 3: REPEAL:

The provisions of Ordinance No. 2019-04 enumerated below are hereby repealed:

~~**22.50 – Noise and Inoperable Vehicles**~~

~~**22.51 – Shouting and yelling.**~~

~~From 10:00 p.m. on each day from Sunday through Thursday through 7:00 a.m. on the next day, from 12:00 a.m. on Friday through 7:0 a.m. on Saturday, and from 12:00 a.m. on Saturday through 12:00 noon on Sunday, no person on property within a residential district or a conservation district within the city shall yell, shout, or otherwise verbally create noise, either individually or in concert with other persons at the same time and place, that can be heard at a distance of more than seventy five feet from the boundary line of such property.~~

~~**22.52 – Loudspeakers, amplifiers, and sound trucks.**~~

- ~~(a) No person shall, either as principal, agent, or employee, play, use or operate for any purpose whatsoever, on or upon the public streets, alleys, parks, or thoroughfares in the city, any device known as a sound truck, loudspeaker, or sound amplifier, or any other electronic or mechanical device with a loud speaker or sound amplifier, or any other instrument known as a calliope, which is attached to or located upon any vehicle or other device, equipment, or mechanism capable of moving or being moved upon the streets or public places of the city and which emits noise intended to be heard by persons other than those occupying the vehicle or other device, equipment, or mechanism on which such loudspeaker, sound amplifier, or other instrument is attached or located.~~
- ~~(b) An exception to the provisions of this section may be permitted for public or charitable purposes as written permission for same is granted by the city, provided that use shall not be permitted before 7:00 a.m. or after 7:00 p.m. and use shall not~~

~~be permitted with ½ mile of any hospital nor within ½ mile of any school or church while it is in session.~~

SECTION 4: 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 5: 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 6: 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.

SECTION 7: EFFECTIVE DATE. This ordinance shall be effective upon adoption on second reading.

PASSED this ____ day _____, 2021, on first reading.

PUBLISHED on this ____ day of _____, 2021 in the Palm Beach Post.

PASSED AND ADOPTED this ____ day of _____, 2021, on second reading.

City of Westlake
Roger Manning, Mayor

Zoie Burgess, City Clerk

Approved as to Form and Sufficiency
Donald Doody, City Attorney

Roll Call

Mayor Manning