

ARTICLE IV. - NOISE

Sec. 46-151. - 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:

Accessory use means those uses deemed accessory uses under the land development regulations of this Code.

Amplification device means any instrument, machine, or system, which by electronic means augments sound by increasing the sound level or volume.

Amplified sound means sound augmented by any electronic means that increases the sound level or volume.

City manager means the city manager or the city manager's designee which may be one of his assistants or a department or division head of the city designated by the city manager or the special magistrate.

Code inspector means an authorized employee or agent of the city whose duty it is to ensure code compliance, including, but not limited to, inspectors of the city's code compliance department, police officers, or any authorized agent or employee of the city whose duty it is to assure code compliance.

Conditional use means those uses deemed conditional uses under the land development regulations of this Code.

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

Habitual offender means when a person or entity has more than five offenses within 12 months of the first offense.

Offense means a notice of violation that has not been appealed timely or a finding of violation by a special magistrate following the appeal of a violation.

One day means a 24-hour period from noon to noon.

Premises means any real property or parcel of land, including the buildings, structures or other improvements thereon.

Qualified noise engineer means any person from a list of engineers maintained by the city selected pursuant to the city's competitive bidding procedures.

Violator means a person or entity determined or cited by a code inspector as being in violation of the provisions of this article.

(Ord. No. 95-2982, § 2(24-1), 3-22-95; Ord. No. 2006-3511, § 1, 3-8-06; Ord. No. 2011-3737, § 1, 9-14-11; Ord. No. 2021-4431, 7-28-21)

Cross reference— Definitions generally, § 1-2.

Sec. 46-152. - Noises; unnecessary and excessive prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

- (a) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, bus or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time.
- (b) *Radios, televisions, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 100 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- (c) *Animals, birds, etc.* The owning, harboring, possessing or keeping of any dog, animal or bird which causes frequent, habitual or long continued noise which is plainly audible at a distance of 100 feet from the building, structure or yard in which the dog, animal or bird is located.
- (d) *Whistles.* The blowing of any locomotive whistle or whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of the proper municipal authority.
- (e) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustable engine, or motor vehicle except through a muffler or other device which will effectively prevent unreasonably loud or explosive noises therefrom.
- (f) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or motor vehicle so out of repair, so loaded or in such manner as to create unreasonably loud or unnecessary grating, grinding, rattling or other noise within

a residential area.

- (g) *Schools, courts, hospitals.* The creation of any excessive or unreasonably loud noise on any street adjacent to any school, institution of learning, house of worship or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the working of such institutions, or which disturbs or unduly annoys the patients in the hospital, provided conspicuous signs are displayed in such streets indicating that it is a school, hospital or court street.
- (h) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.
- (i) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.
- (j) *Loudspeakers, etc.* The use or operation on or upon the public streets, alleys and thoroughfares anywhere in this city for any purpose of any device known as a sound truck, loud speaker or sound amplifier or radio or any other instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operated or standing upon such streets or public places aforementioned. It is provided, however, that this subsection is not intended to be construed in a manner that would interfere with the legitimate use of the foregoing loudspeaker type devices in political campaigns.
- (k) *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chain saws, power tools and other noise-producing tools which are used to maintain or at a residence out-of-doors between the hours of 8:00 p.m. and 8:00 a.m. on weekdays, and 8:00 p.m. and 10:00 a.m. on weekends and national holidays. The limitations on operation of noise-producing power tools and landscaping equipment on weekends and national holidays do not apply to single-family homes located in the RS-1, RS-2, RS-3 RS-4, RM-1, RM-2, RM-PRD, RM-PRD-2, RO, RO-2, RO-3, and TH zoning districts.
- (l) *Shouting.* Any unreasonably loud, boisterous or raucous shouting in any residential area.

(Ord. No. 95-2982, § 2(24-2), 3-22-95; Ord. No. 2006-3511, § 2, 3-8-06; Ord. No. 2011-3737, § 2, 9-14-11; Ord. No. 2018-4181, § 1, 4-11-18; Ord. No. 2019-4301, § 1, 10-16-19)

Sec. 46-153. - Responsibility for compliance.

For purposes of this article, any person owning or having responsibility for management of a premises, however temporarily, any performer or disc jockey producing sound upon any premises, any person playing music, any person having control of volume knobs or levels or amplification devices, and the business as

named on the occupational license, if applicable, shall be jointly and severally liable for compliance with this article and shall be responsible for any violations of this article.

(Ord. No. 95-2982, § 2(24-3), 3-22-95; Ord. No. 2006-3511, § 3, 3-8-06)

Secs. 46-154, 46-155. - Reserved.

Editor's note— Ord. No. 2006-3511, §§ 4 and 5, adopted March 8, 2006, repealed §§ 46-154 and 46-155, which pertained to noise levels in specific areas and additional sound limitations for public property and were derived from Ord. No. 89-2665, § 12C, adopted Oct. 1, 1989, and Ord. No. 95-2982, § 2(24-4), adopted March 22, 1995.

Sec. 46-156. - Temporary permits.

(a) *Requirements and procedures.* The city manager is authorized to issue a temporary permit to allow noise when produced by a temporary use or activity as provided in this section. The city manager may prescribe any reasonable conditions necessary to minimize any adverse effect upon the community. A permit granted under this article shall contain all conditions upon which the permit has been granted, including the period of time for which the permit has been granted. Such relief may be granted in the following situations:

- (1) *Code compliance in progress.* When an applicant is utilizing best efforts to comply with the noise restrictions in this article, but additional time is required for the applicant to modify his activity to comply and no reasonable alternative is available to the applicant, such permits may be granted for a period of time not to exceed ten consecutive days.
- (2) *Construction.* When construction activities pursuant to a valid building permit cannot be carried out in a manner which would comply with section 46-152, notwithstanding that all equipment is operated in accordance with manufacturer's specifications, is in good repair and utilizes all noise baffling methods as specified by the manufacturer, such activities shall occur only as follows:
 - a. Between the hours of 7:30 a.m. and 6:30 p.m., and between the hours of 7:30 a.m. and 7:30 p.m. during daylight savings time, on any day in areas zoned as CCC, GU, I-1, MR, CPS-1, CPS-2, CPS-3, CPS-4, RO, WD-1, WD-2, GC, HD, MXE, CD-1, CD-2 and CD-3. Construction noise that violates section 46-152 shall not be permitted on Sundays or on national holidays in the zoning districts set forth in this subsection. However, the city manager may authorize any necessary construction activities to occur earlier and/or later than as otherwise provided in this subsection based upon a finding that:
 1. There are no reasonable alternatives;
 - 2.

There are no prior code violation adjudications or fines and no pending construction noise violation cases against the property owner, contractor, or the construction site; and

3. There is a significant community need, public purpose or benefit.

The work authorized by the city manager may be conditioned upon reasonable notice to surrounding property owners and tenants. Permits issued pursuant to such authorization shall not exceed seven consecutive days.

- b. Between the hours of 8:00 a.m. and 6:00 p.m. on weekdays and 10:00 a.m. and 4:00 p.m. on Saturdays in areas zoned as RM-1, RM-2, RM-3, RM-PRD, RPS-1, RPS-2, RPS-3, RPS-4, RMPS-1, RS-1, RS-2, RS-3, RS-4, RO, TH and in any exclusively residential zoning district not otherwise specified in this subsection and within 300 feet of any of these zoning districts. On Sundays and national holidays, construction shall not be permitted before 10:00 a.m. or after 4:00 p.m. and construction noise that violates section 46-152 shall not be permitted between 10:00 a.m. and 4:00 p.m. in the zoning districts set forth in this subsection or within 300 feet thereof, except that in buildings with occupied apartment units, as defined in section 114-1 of this Code, no construction shall be allowed on Sundays or national holidays. However, the city manager may authorize any necessary construction activities to occur earlier and/or later than as otherwise provided in this subsection based upon a finding that:

1. There are no reasonable alternatives;

2. There are no prior code violation adjudications or fines and no pending construction noise violation cases against the property owner, contractor, or construction site; and

3. There is a significant community need, public purpose or benefit.

The work authorized by the city manager may be conditioned upon reasonable notice to surrounding property owners and tenants. Permits issued pursuant to such authorization shall not exceed three consecutive days.

- c. The issuance of a temporary permit is a privilege and does not constitute a right or expectation that said permit will remain in effect. Any permits issued pursuant to subsections (2)a. and b., shall not constitute or be deemed precedent for the granting of any future permits.
- d. Notwithstanding the provisions of subsections (2)a. and b., temporary permits shall be subject to authorization by the building official under emergency circumstances or when the building official determines that for reasons of technical necessity work earlier or later than the time frames specified in subsections (2)a., b. or on any day (including Sundays or

national holidays) is required. The work authorized by the building official pursuant to this subsection shall be conditioned upon reasonable notice to surrounding property owners and tenants.

- (3) *Special events and film and print permits.* A film permit issued pursuant to section 12-1 or a special event permit issued pursuant to section 12-5 may be exempted from the requirements of section 46-152 upon specific compliance with subsections 12-1(9) or 12-5(8), as applicable.
- (b) *Violation of temporary permit.* Failure to comply with any condition of a temporary permit issued pursuant to this section shall constitute a violation and shall result in enforcement procedures and penalties as set forth in sections 46-159 and 46-160.
- (c) *Revocation of temporary permits.* Any temporary permit may be immediately revoked pursuant to the procedures set forth in sections 102-383 and 102-385 if the city manager finds that an emergency condition exists involving serious danger to the public health, safety, or welfare; if the permit holder failed to disclose or misrepresented material information in the permit application or in the permit application process; or that there was a failure to comply with any condition of a particular temporary permit.

(Ord. No. 95-2982, § 2(24-5), 3-22-95; Ord. No. 97-3085, § 1, 7-2-97; Ord. No. 2001-3302, § 2, 4-18-01; Ord. No. 2001-3303, § 2, 4-18-01; Ord. No. 2003-3412, § 1, 6-11-03; Ord. No. 2006-3511, § 6, 3-8-06; Ord. No. 2006-3516, § 1, 6-17-06; Ord. No. 2006-3520, § 1, 7-12-06)

Sec. 46-157. - Exemptions.

The following uses and activities shall not constitute unnecessary and excessive noises prohibited in section 46-152:

- (1) Cries for emergency assistance and warning calls.
- (2) Radios, sirens, horns and bells and other sounds created by police, fire and other emergency response vehicles.
- (3) Parades, fireworks displays, and other activities for which a permit has been obtained from the city, pursuant to section 46-156, within such hours and in accordance with such restrictions as may be imposed as conditions for the issuance of the permit.
- (4) Authorized activities on or in municipal or publicly owned properties and facilities, except where such publicly owned properties or facilities are under private operation or use, unless the city manager or the city manager's designee has specifically authorized an exemption from this section, which exemption will be subject to specific requirements consistent with the administrative guidelines approved by separate resolution of the city commission.
- (5) Fire alarms and burglar alarms, bells and chimes of churches or other religious institutions; however, false burglar alarms shall be subject to enforcement procedures and penalties as set forth in article II of chapter 42.

- (6) Locomotives and other railroad equipment and aircraft, to the extent that city regulation is preempted by federal law.
- (7) Noises resulting from emergency work.
- (8) Any noise resulting from activities of a temporary duration permitted pursuant to section 46-156.
- (9) Noise generated by motor vehicles as defined in F.S. § 320.01 when operated and equipped in accordance with requirements set forth in the Florida Statutes.
- (10) Noise resulting from the operation of vessels when operated in compliance with the decibel limitations in F.S. § 327.65. However, noise exceeding the limitations set forth in F.S. § 327.65 shall be subject to enforcement and penalties as set forth in F.S. ch. 327.
- (11) Live or amplified sound projecting east of the east property line from each property from 1st Street to 5th Street on the east side of Ocean Drive, from 15th Street to 73rd Street on the east side of Collins Avenue, from 73rd to 75th Streets on the west side of Ocean Terrace and from 76th to 87th Streets on the east side of Collins Avenue. This exemption shall only apply to noise that is received in that area located east of the violating property and between the north and south projections of its property boundaries and where there is no part of any residential building or structure on any property to the east of the violating property unless the building or structure to the east is owned by the violator. Any noise received by a property that is outside of this area shall subject the violator to the enforcement provisions of this article.

(Ord. No. 95-2982, § 2(24-6), 3-22-95; Ord. No. 2006-3511, § 7, 3-8-06; Ord. No. 2008-3610, § 1, 7-16-08; Ord. No. 2017-4114, § 1, 7-26-17; Ord. No. 2018-4181, § 1, 4-11-18; Ord. No. 2018-4217, § 1, 10-17-18; Ord. No. 2019-4301, § 1, 10-16-19; Ord. No. 2021-4389, § 1, 1-13-21; Ord. No. 2021-4414, § 1, 5-12-21)

Sec. 46-158. - Enforcement by code inspectors; notice of violation; warnings; responsibility to provide current address.

- (a) *Notice of violation.* If the code inspector observes a violation of this article, the inspector shall issue a notice of violation to each person and entity identified in section 46-153, and a courtesy copy of the violation shall be provided to an employee or other representative of the business tax receipt holder who is on the premises of the business tax receipt holder, except as otherwise provided in subsection (b). The code inspector shall inform the violators that they must immediately cease the violation. The notice shall include the following information:
 - (1) Name of the violator.
 - (2) Date and time of violation.
 - (3) Nature of the violation.
 - (4)

Amount of fine or other penalty for which the violator may be liable pursuant to section 46-159 of this Code or as otherwise provided by law.

- (5) Instructions and due date for paying the fine.
- (6) Notice that the violation may be appealed by filing a written request for an administrative hearing with the clerk of the special magistrate within ten days after service of the notice of violation, that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing, and that unpaid fines will result in the imposition of liens which may be foreclosed by the city.

The notice shall also inform the violator that repeat violations of this article will result in the imposition of larger fines and may also result in revocation, suspension, or the imposition of restrictions on the business tax receipt, and/or certificate of use, or accessory use, and/or injunctive proceedings as provided by law. The notice shall be signed by the code inspector who witnessed the violation.

(b) *Warnings.*

- (1) *Oral warnings.* If a code inspector observes a violation of this article without a complaint having been made, the inspector may first issue one oral courtesy warning per day and inform the violator that the violator will be subject to penalties if the violation continues.
- (2) *Written warnings.* A code inspector shall first issue a written warning to immediately cease the violation prior to issuing a notice of violation unless one written warning has been issued in the 12 months preceding the date of violation.

The written warning shall be substantially in the same form as the notice of violation as stated in subsection 46-158(a) above. Failure to correct the violation within 15 minutes following the issuance of a written or oral warning shall result in the issuance of a notice of violation pursuant to this article.

A code inspector shall not issue a written warning, and instead shall issue a notice of violation, to any person, entity or establishment who:

- a. In any one day has already been issued a written warning as specified in section 46-158;
or
- b. In any 12-month period has exceeded the warning limits specified in subsection 46-158(b)2; or
- c. Is also being cited for an illegal commercial or nonpermitted nonresidential use in a residential zoning district; or
- d. Is in violation of subsection 46-152(b) and the noise is emanating from any vehicle, including bicycles, electric bicycles, and motorized bicycles, or from any vessel, except that the joint and severable liability provision set forth in section 46-153 shall only apply to

rental business operators that rent vehicles or vessels to the general public.

- (c) *Responsibility to provide current address.* The holder of the business tax receipt for the premises where a violation or warning is issued shall have the responsibility to keep the city advised of its current address and of the current address of the owner of the premises.

(Ord. No. 95-2982, § 2(24-7), 3-22-95; Ord. No. 2006-3511, § 8, 3-8-06; Ord. No. 2006-3520, § 2, 7-12-06; Ord. No. 2008-3610, § 2, 7-16-08; Ord. No. 2011-3737, § 3, 9-14-11; Ord. No. 2018-4181, § 1, 4-11-18; Ord. No. 2019-4301, § 1, 10-16-19; Ord. No. 2021-4431, 7-28-21; Ord. No. 2021-4452, § 1, 10-27-21)

Sec. 46-159. - Fines and penalties for violation; appeals; alternate means of enforcement.

- (a) The following civil fines and penalties shall be imposed for violations of this article:

- (1) If the offense is the first offense, \$250.00 fine.
- (2) If the offense is the second offense within the preceding 12 months, \$1,500.00 fine.
- (3) If the offense is the third offense within the preceding 12 months, \$3,000.00 fine.
- (4) If the offense is the fourth offense within the preceding 12 months, one weekend (noon Friday through noon Monday) business tax receipt conditions and/or accessory use restrictions shall be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violation, in addition to a \$4,000.00 fine.
- (5) If the offense is the fifth offense within the preceding 12 months, two weekend (noon Friday through noon Monday) business tax receipt conditions and/or accessory use restrictions shall be imposed limiting the ability to produce any live or amplified sound at that portion of the premises that caused the violation, in addition to a \$5,000.00 fine.
- (6) If the offense is the sixth or greater offense within the preceding 12 months, it shall be considered an habitual offender offense with penalties and fines imposed pursuant to subsection 46-159(h).
- (7) The first time an offense is committed while the violator was also engaged in an illegal commercial or nonpermitted, nonresidential use in a residential zoning district, \$1,000.00, notwithstanding the fine provision in subsection (1) above.
- (8) The second or any subsequent time an offense is committed while the violator was also engaged in an illegal commercial or nonpermitted, nonresidential use in a residential zoning district, \$5,000.00, notwithstanding the fine provisions in subsections (2)—(4) above.

A person may receive a separate notice of violation once every hour if a violation has occurred at any time within that period. Each violation shall constitute a separate offense for which a separate fine shall be imposed. An offense shall be deemed to have occurred on the date the violation occurred. Business tax receipt conditions or accessory use restrictions pursuant to this section shall be imposed by order of the special magistrate after finding an offense warranting suspension or restriction has occurred. An offense

occurring 12 months after the last offense shall be treated as a first offense for purposes of incurring new fines and penalties. However, any fines or penalties imposed in any prior 12-month period shall not be waived or altered.

- (b) A violator who has been served with a notice of violation shall elect either to:
 - (1) Pay the civil fine in the manner indicated on the notice; or
 - (2) File a written request for an administrative hearing before a special magistrate to appeal the decision of the code inspector that resulted in the issuance of the notice of violation. The written request shall be submitted to the clerical staff of the special magistrate no later than ten days of service of the notice of violation and shall be accompanied by an appeal fee as approved by a resolution of the city commission. The fee may be returned to the violator if the special magistrate rules in favor of the violator. All disputes regarding proper notice of the violation and timeliness of the appeal shall be heard by the special magistrate prior to any hearing on the merits of the violation itself.
- (c) The procedures for appeal of the notice of violation shall be as set forth in sections 102-384 and 102-385. A courtesy mail notice shall be promptly provided to the complainant of any hearing regarding the notice of violation, and the complainant may testify at such hearings; provided, however, that non-transmission of the courtesy notice to the complainant shall not in any way invalidate, affect, or impair any of the further proceedings, actions, or determinations in the case. Failure to give such notice shall not be a cause for continuance or cancellation of any scheduled hearing of the matter. Only two continuances, for no longer than 20 days each, shall be granted by the special magistrate for any administrative hearing unless the alleged offender, at a hearing on a motion for continuance, establishes by testimony, and/or other evidence, that good cause exists for a further continuance. If the special magistrate finds that a violation has occurred, the applicable penalty set forth in subsection 46-159(a) shall be imposed.
- (d) Failure of the named violator to appeal the decision of the code inspector within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special magistrate. A waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties shall be assessed accordingly. In the event of a fourth or fifth offense, and following notification by the code inspector of the violator's failure to timely request an administrative hearing, the special magistrate shall enter an order setting the time during which conditions shall be imposed on the violator's business tax receipt or, as applicable, the accessory uses shall be restricted. Such conditions or restrictions shall begin no later than 30 days after entry of the order by the special magistrate.
- (e) Any party aggrieved by the decision of a special magistrate may appeal that decision to a court of competent jurisdiction as provided in F.S. § 162.11 and section 30-77 of this Code.
- (f)

The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines. A certified copy of an order imposing a civil fine or city bill for penalties due under this section may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien that remains unpaid, the city may foreclose or otherwise execute on the lien. All costs and attorney's fees incurred by the city for collecting any fine shall be paid by the violator.

- (g) As an alternative or additional means of enforcement, the city may institute proceedings to revoke or suspend a business tax receipt and/or certificate of use or seek injunctive relief.
- (h) In cases of habitual offender violations or offenses, the city manager may issue an administrative complaint for suspension or revocation of a business tax receipt and certificate of use as provided in section 102-383. Upon a finding of habitual offender violations or offenses by the city manager, a business tax receipt suspension, revocation and/or fine shall be imposed. Suspensions shall be imposed with restrictions limiting the ability to provide any live or amplified sound as either a condition of the business tax receipt or as an accessory use restriction. In the event the violator is a hotel, motel, condominium, apartment or other residential property, accessory use restrictions shall be imposed in lieu of a business tax receipt revocation which results in the eviction of residents. Additionally, in the event of a revocation, as a condition of being permitted to resume operation under the business tax receipt, the city manager shall utilize the criteria set forth in section 142-1362 of this Code to impose such conditions or restrictions as deemed appropriate to assure compliance with all city codes.

In determining the length of the suspension or accessory use restriction to be imposed under this subsection, the city manager shall consider the following factors: the gravity of the violations or offenses; any actions taken by the violator to correct the violations or offenses; and any previous violations or offenses committed by the violator. No suspension or accessory use restriction imposed under this subsection shall be for a period of time of less than 30 consecutive days.

In the event a habitual offender does not hold a business tax receipt or certificate of use, the special magistrate shall impose a fine up to \$5,000.00 per violation.

- (i) Any fine imposed under this article shall become a lien pursuant to the procedures of sections 30-74 and 30-75 of this Code.
- (j) In addition, in the event a violator refuses to comply with a notice of violation issued under section 46-158, a violator may be punished by imprisonment not to exceed 60 days or by imposition of a fine not to exceed \$500.00 per offense or both.
- (k)

Nothing herein shall restrict the powers and authority granted to the various boards and committees of the city, including the imposition of conditions and sanctions not specifically enumerated in this article.

(l) Nothing herein shall be deemed to modify existing applicable state, county or city building and fire codes, ordinances, laws or regulations.

(m) A nolle prosequi, or any other decision made by the city not to prosecute a notice of violation, must be based upon good cause and issued in writing in a public record.

(Ord. No. 95-2982, § 2(24-8), 3-22-95; Ord. No. 2006-3511, § 9, 3-8-06; Ord. No. 2006-3520, § 4, 7-12-06; Ord. No. 2008-3610, § 3, 7-16-08; Ord. No. 2010-3696, § 4, 9-20-10; Ord. No. 2011-3737, § 4, 9-14-11; Ord. No. 2018-4181, § 1, 4-11-18; Ord. No. 2019-4301, § 1, 10-16-19; Ord. No. 2021-4431, 7-28-21; Ord. No. 2021-4452, § 1, 10-27-21)

Sec. 46-160. - Nuisance.

Any violation of this article shall constitute a nuisance. The city attorney may bring suit on behalf of the city, or any affected citizen may bring suit in his name, against the person or persons causing or maintaining the violation, and against the owner/agent of the building or property on which the violation exists. Relief may be granted according to the terms and conditions of F.S. § 60.05, relating to abatement of nuisances, or pursuant to section 46-159. In any such action, the city or affected citizen, if the prevailing party, shall be awarded costs, including reasonable attorney's fees.

(Ord. No. 95-2982, § 2(24-9), 3-22-95)

Sec. 46-161. - Motor vehicle alarms.

(a) Definition. The following term shall have the following meaning for purposes of this section:

"alarm system" shall mean a motor vehicle siren or horn alarm system contained in or appurtenant to a motor vehicle, designed to activate and sound in the event of a break-in or attempted break-in of the vehicle.

(b) It shall be unlawful for any motor vehicle equipped with an alarm system to activate and emit a siren or horn noise, audible at a distance of 100 feet intermittently or continuously within a period in excess of 15 minutes. Any person who has custody of any such offending motor vehicle shall be deemed in violation of this section.

(c) A violation of this section on the public streets or areas within the city is hereby declared a public nuisance which may be abated by the removal of such vehicle upon authorization of a law enforcement officer. Prior to removing such vehicle, the law enforcement officer shall afford the owner or custodian of such vehicle the opportunity to disconnect or deactivate the alarm system at the scene. Otherwise, the vehicle shall be removed to an authorized facility. The law enforcement agency shall ascertain the name and address of the registered owner of such vehicle and provide written notice by certified mail, return receipt requested, within 24 hours of such

removal, the reason(s) for the removal, and the place where such vehicle has been removed. The fees assessed for the removal of the vehicle may be appealed by filing a complaint in the county court and posting with the court a cash or surety bond or security equal to the amount for the removal and/or storage of the vehicle to ensure the payment of such in the event the owner or custodian of the vehicle does not prevail.

(d) A violation of this section on private property shall cause the person who owns or has custody of the offending vehicle to be fined \$50.00. Any duly designated law enforcement officer and/or code enforcement officer is authorized and empowered to enter without force upon private property in order to detect and issue a citation or notice of violation to and upon the owner or custodian of the offending motor vehicle. A copy of the citation or notice of violation may also be left on the offending vehicle and shall constitute notice. The citation or notice of violation may be appealed in accordance with the procedures set forth in sections 102-384, 102-385, and chapter 30 of this Code.

(e) It shall not be a violation of this section if it is determined by the law enforcement officer and/or code enforcement officer that the siren or horn noise has been triggered by the unauthorized opening of the hood, truck or door(s) of the vehicle, by the breaking or attempted breaking of a window or by lightning, thunderstorms, or severe weather conditions.

(Ord. No. 98-3157, § 1, 12-2-98; Ord. No. 2006-3511, § 10, 3-8-06; Ord. No. 2010-3696, § 4, 9-20-10)

Sec. 46-162. - Administrative policies and procedures.

The city manager, or the city manager's designee, is authorized to establish policies and procedures consistent with this article IV and the administrative guidelines approved from time to time by separate resolution of the city commission.

(Ord. No. 2008-3610, § 4, 7-16-08)

Secs. 46-163—46-200. - Reserved.