

Chapter 15 - NOISE^[1]

Footnotes:

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Editor's note— Section 1 of Ord. No. 88-59, adopted Sept. 26, 1988, amended the Code by deleting Ch. 15 in its entirety, which chapter contained provisions relative to noise, and which derived from §§ 9A-1—9A-4 of the town's 1964 Code. In addition, Ord. No. 88-59 enacted new provisions designated as a new Ch. 15, §§ 15-1—15-14.

Cross reference— Code enforcement, Ch. 6; health and sanitation, Ch. 10; landscaping, Ch. 12.

Sec. 15-1. - Declaration of intent.

The Town of Davie finds and declares that excessive sound is a serious hazard to the public health, welfare, safety, and quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; and that people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health, welfare or safety or degrade the quality of life. Therefore, it is the policy of the Town of Davie to prevent excessive sound which may jeopardize the health, welfare or safety of the citizens of the town or degrade the quality of life.

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-2. - Definitions.

All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (1) *A-weighted sound level* means the sound pressure level in decibels as measured on a sound level meter using the A-Weighting Network. The level so read is designated dBA.
- (2) *Construction* means any site preparation, assembly, erection, substantial repair, alteration, or similar action on public or private right-of-way, structures, utilities or similar property.
- (3) *Decibel* means a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).
- (4) *Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.
- (5) *Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action; economic loss shall not be a factor in the determination of an emergency. It shall be the burden of an alleged violator to prove an "emergency."
- (6) *Emergency work* means any work performed for the purpose of preventing or alleviating the physical trauma or property damage, but not economic loss, threatened or caused by an emergency.
- (7) *Holidays* include New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas.
- (8) *Impulsive sound* means a sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound includes explosions and the discharge of firearms.
- (9) *Noise* means any sound which annoys or disturbs humans or which causes or tends to cause any adverse psychological or physiological effect on humans.
- (10) *Noise disturbance* means any sound at levels as set forth in this regulation.
- (11) *Noise sensitive zone* means any area designated pursuant to section 15-5 of this chapter for the purpose of ensuring exceptional quiet.

- (12) *Person* means any natural person, individual, public corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
- (13) *Powered model vehicle* means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.
- (14) *Public right-of-way* means any street, avenue, boulevard, highway, sidewalk, or alley, or similar place normally accessible to the public which is owned or controlled by a governmental entity.
- (15) *Public space* means any property or structures thereon normally accessible to the public.
- (16) *Pure tone* means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purpose of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third octave bands by five (5) dBA for center frequencies of five hundred (500) HZ and above, by eight (8) dBA for center frequencies between one hundred sixty (160) HZ and four hundred (400) HZ and by fifteen (15) dBA for center frequencies less than or equal to one hundred twenty-five (125) HZ.
- (17) *Real property line* means any imaginary 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, excluding intrabuilding real property divisions.
- (18) *Receiving land use* means the use of the land which is receiving the noise as designated on the town's official zoning map, provided for in chapter 27, article 1, section 27-3 of the Davie Code, notwithstanding the actual use of the land.
- (19) *RMS sound pressure* means the square root of the timed averages square of the sound pressure.
- (20) *Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
- (21) *Sound level* means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B or C as specified in American National Standards Institute specifications for sound level meters ANSI S1.4-1971, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply.
- (22) *Sound level meter* means an instrument, as specified in the American National Standards Institute publication S1.4-1971, or its successor publications, which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.
- (23) *Sound pressure* means the instantaneous difference between the actual pressure and the average of barometric pressure at a given point in space, as produced by the presence of sound energy.
- (24) *Sound pressure level* means twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference of twenty (20) micropascals ($20 \times 10^{-6} \text{N/M}^2$). The sound pressure level is expressed in decibels.
- (25) *Standards adopted.* The following standards are hereby adopted by reference as part of this chapter, and said standards supplement but do not supersede the specific requirements set forth herein:
- a. The following standards of the American National Standards Institute, 1430 Broadway, New York, New York, 10018:
 1. ASA S1.1-1960. American Standard Acoustical Terminology.
 2. ASA S1.2-1962. American Standard Method for the Physical Measurement of Sound.

3. ANSI S1.4-1971. American National Standard Specifications for Sound Level Meters.
4. ANSI S1.13-1971. American National Standard Methods for the Measurement of Sound Pressure Levels.
5. ANSI S5.1-1971. American National Standards Test Code for the Measurement of Sound From Pneumatic Equipment.

b. The following standards of the Society of Automotive Engineers, 2 Pennsylvania Plaza, New York, New York, 10001:

1. SAE Recommended Practice J 184. Qualifying a Sound Data Acquisition System.
2. SAE Recommended Practice 366. Exterior Sound Level for Heavy Trucks and Buses.
3. SAE Standard J 952b. Sound Levels for Engine-Powered Equipment.

(26) Vibration means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-3. - Noise disturbance prohibited.

No person shall make, continue or cause to be made or continued any noise disturbance as defined herein.

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-4. - Maximum permissible sound levels by receiving land use.

No person shall operate or cause to be operated any source of sound arising from those activities set forth in section 15-7 in such manner as to create a sound level which exceeds the limits set forth for the receiving land use district in Table 1, for more than fifty (50) percent of any measurement period which shall not be less than ten (10) minutes, when measured at the boundary of the receiving land use and as a result of a source of sound being located on some other property.

Table 1
Sound Levels By Receiving Land Use

Receiving Land Use	Time	Sound Level Limit dBA
Agricultural	6:00 a.m.—7:00 p.m.	55
	7:00 p.m.—6:00 a.m.	50
Residential	7:00 a.m.—7:00 p.m.	55
	7:00 p.m.—7:00	50

	a.m.	
Residential Office	7:00 a.m.— 7:00 p.m. 7:00 p.m.— 7:00 a.m.	55 50
Office/Business	At all times	60
Industrial, Utilities	At all times	65
Community Facilities	7:00 a.m.— 10:00 p.m.	60
Recreation/Open Space Commercial Recreation	10:00 p.m.— 7:00 a.m.	55

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-5. - Noise sensitive zones.

It shall be unlawful to create any excessive and unnecessary loud noise on any street or any adjacent area within five hundred (500) feet of any hospital or within five hundred (500) feet of any school, institution of learning, public park, church or court room in the Town of Davie during the period of use thereof, where such noise causes interference with the workings of such facility or disturbs or annoys the persons using such facility. There shall be no conviction for violation of this provision, however, unless signs bearing an appropriate warning legend are posted and displayed in a conspicuous manner on the streets approaching facilities.

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-6. - Sound limits—Pure tone.

For any source of sound which emits a pure tone, the sound level limits set forth in section 15-4 shall be reduced by five (5) dBA.

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-7. - Specific prohibitions.

The following specific acts, and the causing thereof are declared to be in violation of this chapter notwithstanding the noise levels set forth in section 15-4:

- (1) *Radios, television sets musical instruments and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:
 - a. Between the hours of 7:00 p. m. and 7:00 a. m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone (except for activities open to the public and for which a permit has been issued by the Town of Davie);
 - b. In such a manner as to create a noise disturbance at fifty (50) feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public waters; or,
 - c. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;
- (2) *Loudspeakers public address systems:*
 - a. Using or operating for any noncommercial purpose any loudspeaker, public address system or similar device between the hours of 8:00 p. m. and 7:00 a. m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.
 - b. Using or operating for any commercial purpose any loudspeaker, public address system or similar device:
 1. Such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or
 2. Between the hours of 8:00 p. m. and 7:00 a. m. the following day on a public right-of-way or public space.
- (3) *Street sales.* Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the town, except by permit issued by the Town of Davie.
- (4) *Animals and birds.* Owning, possessing or harboring any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone.
- (5) *Loading and unloading.* Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 7:00 p. m. and 7:00 a. m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.
- (6) *Vehicle or motorboat repairs and testing.* Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.
- (7) Explosives, firearms and similar devices when not used in compliance with any state regulation or law applicable thereto, especially F.S. § 790.15.
- (8) *Powered model vehicles.* Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary in a public space or within a noise sensitive zone between the hours of 7:00 p. m. and 7:00 a. m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in section 15-4 and shall be measured at a distance of four (4) feet from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by section 15-4 and section 15-5 respectively.
- (9)

Vibration. Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at fifty (50) feet from the source if on a public space or public right-of-way. For the purpose of this section, "vibration perception threshold" means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

- (10) *Domestic power tools.* Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 7:00 p. m. and 7:00 a. m. the following day so as to cause a noise disturbance across a residential real property boundary.
- (11) *Engines, generators pumps, motors and other machinery.* Operating or permitting the operation of any engines, generators, pumps, motors or other machinery including air conditioning and air-handling equipment so as to cause, a noise disturbance at any time.
- (12) *Vehicle defect or condition of load.* It shall be unlawful for any person to operate a motor vehicle or motor-propelled boat so out of repair or defective, or under any condition of load, acceleration or deceleration as to create excessive and unnecessary loud or explosive noises therefrom.
- (13) *Noise from buildings or premises.* No person owning or in possession or control of any building or premises shall use the same for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall by its boisterous nature be excessive or unusually loud and thereby disturb or destroy the peace of the neighborhood in which such building or premises is situated or be dangerous or detrimental to health.
- (14) *Construction.* It shall be unlawful for any person to do, perform or engage in any construction work, building excavating, hoisting, grading, pile driving, pneumatic hammering, demolition, dredging, building alteration or repair work of any nature to any building or structure or upon any site for the same in the Town of Davie without a special variance as provided for in section 15-11:
 - a. Between the hours of 7:00 p. m. and 7:00 a. m. the following day, and at all times on Saturdays, Sundays and holidays, such that the sound therefrom exceeds fifty (50) dBA at a real property boundary;
 - b. At any other time such that the sound level at a real property boundary exceeds eighty (80) dBA for the daily period of operation.
 - c. This section shall not apply to the use of domestic power tools subject to section 15-7(10).
- (15) *Lawn maintenance devices.* It shall be unlawful to operate knocker-type lawn sprinklers, lawn mowers, edgers, trimmers and power-driven hedge shears in the Town of Davie between the hours of 8:00 p. m. and 7:00 a. m. the following day.
- (16) *Idling vehicles.* It shall be unlawful for any person to operate any motor of a motor vehicle of a weight in excess of eight thousand (8,000) pounds for a consecutive period of time longer than two (2) minutes while such vehicle is standing on private property and located within one hundred fifty (150) feet of property zoned and used for residential purposes, except where such vehicles are standing within a completely enclosed structure. Emergency vehicles and public transportation vehicles shall be exempt from this provision of the noise control chapter. Delivery vehicles shall be exempt when such a motor is an integral component of the delivery process in question.
- (17) *Mufflers.* No person shall modify or change the exhaust muffler, intake muffler or any other noise-abatement device of a motor vehicle in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured.
- (18) *Boats.* No person shall operate any engine-powered pleasure vessel, engine-powered craft or motor boat on any body of water, lake, canal or waterway being within the Town of Davie in such a manner as to exceed seventy-five (75) dBA, as measured at a distance of not less than fifty (50) feet from the path of

travel.

- (19) *Motorcycles, trailbikes, minibikes, scooters.* It shall be unlawful and declared a public nuisance to use or operate any motorcycle, trailbike, minibike, scooter or vehicle, as defined in F.S. section 316.003, which emits frequent or long-continued noise that exceeds seventy-five (75) dBA from a distance of fifty (50) feet or which disturbs the comfort and repose of any person in the vicinity. Exemption: This section shall not apply to those vehicles regulated by Florida Statute.
- (20) *Motor vehicle horns and signaling devices.* The following acts and the causing thereof are declared to be in violation of this chapter:
- a. The sounding of any horn or other signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger.
- (21) *Refuse collection vehicle.* No person shall:
- a. On or after five (5) years following the effective date of this chapter, operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse and which creates, during the compacting cycle, a sound level in excess of seventy-five (75) dBA when measured at fifty (50) feet from any point on the vehicle; or
 - b. Operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse between the hours of 7:00 p. m. and 7:00 a. m. the following day in a residential area or noise sensitive zone; or
 - c. Collect refuse with a refuse collection vehicle between the hours of 7:00 p. m. and 7:00 a. m. the following day in a residential area or noise sensitive zone.

(Ord. No. 88-59, § 1, 9-26-88; Ord. No. 2011-34, § 2(A)II, 10-5-11)

Sec. 15-8. - Exemptions.

The provisions of section 15-3 shall not apply at any time to:

- (1) Motor vehicles operating on a public right-of-way;
- (2) The unamplified human voice;
- (3) Any noise generated by new products or interstate motor and rail carrier vehicles to the extent that local regulation of noise levels of such new products and interstate motor and rail carrier vehicles has been pre-empted by the Noise Control Act of 1972 (49 U. S. C. Section 4901 et seq.) or other applicable federal laws or regulations;
- (4) Nonstationary farming equipment;
- (5) Any noise generated by the movement of aircraft in accordance with or pursuant to applicable federal laws or regulations;
- (6) Routine maintenance of public service utilities;
- (7) Noise generated for the purpose of alerting persons to the existence of an emergency or noise generated in the performance of emergency work;
- (8) Any noise generated by any noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way pursuant to lawful authority; and
- (9) Any noise generated by the operation of engines, generators, pumps, construction tools or other equipment for emergency use.
- (10) Any noise generated by a town-sanctioned event at the Bergeron Rodeo Grounds of Davie, Florida, including the rodeo arena facility located adjacent to Town Hall.

(Ord. No. 88-59, § 1, 9-26-88; Ord. No. 97-11, § 1, 2-5-97)

Sec. 15-9. - Noise measurement.

For the purpose of determining and classifying any noise as excessive and unnecessary noise, or as an unusually loud noise, which is hereby declared to be unlawful and prohibited by this chapter, the test measurements, requirements and provisions in section 15-10 may be applied; provided, however, a violation of this chapter may occur without the occasion of the measurements being made as therein provided.

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-10. - Periods of observation.

All periods of observation made hereunder shall be determined with regard to the character of the noise being measured, and the particular instrument used to make the measurement, and shall be made in accordance with the standards contained in ANSI S1.13-1971 of the American National Standards Institute, or its updated version.

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-11. - Special variances.

- (a) The Town of Davie shall have the authority, consistent with this section, to grant special variances which may be requested pursuant to sections 15-7(8) and 15-7(14).
- (b) Applications for variances shall be accompanied by a nonrefundable fee, as set by the council by means of a resolution enacted by a majority of the council, at a public hearing and with proper legal advertising. The council reserves the right to waive all or part of the nonrefundable fees to nonprofit organizations and for variances that are initiated at the town's request.
- (c) Any person seeking a special variance pursuant to this section shall file an application with the town's department of development services. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute unreasonable hardship on the applicant, on the community or on other persons. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the department containing any information to support his claim.
- (d) In determining whether to grant or deny the application, the department director shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, and any adverse impacts of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the department director may reasonably require. In granting or denying an application, the department director shall place on public file a copy of the decision and the reasons for denying or granting the special variance.
- (e) The department shall, not less than seven (7) days prior to granting or denying the variance, give notice by U. S. Mail, postage prepaid, to all persons owning property within five hundred (500) feet of the boundary of the property from which the noise will originate. The mailing of the notices shall constitute service and shall fulfill the requirements of this section.
- (f) A sign shall be posted by the town on each street frontage of the land from which the noise will originate not less than seven (7) days prior to a determination to grant or deny a variance.
- (g) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted.
- (h) Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under paragraph (b) above.
- (i)

The town may issue guidelines defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

- (j) The decision of the department director may be appealed to the town council within thirty (30) days of the director's decision. The town council shall conduct a public hearing to consider the director's decision and may deny, approve or approve with conditions the application for variance.

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-12. - Display of permit.

A person who has been granted a special variance as provided in section 15-11 shall firmly affix such permit to operate upon the article, machine, equipment or other contrivance in such manner as to be clearly visible and accessible. In the event that the article, machine, equipment or other contrivance is so constructed or operated that the permit to operate cannot be so placed, the permit to operate shall be mounted so as to be clearly visible in an accessible place within twenty-five (25) feet of the article, machine, equipment or other contrivance. (Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-13. - Transfer.

A variance shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

(Ord. No. 88-59, § 1, 9-26-88)

Sec. 15-14. - Enforcement.

This regulation shall be enforced by all appropriate administrative and judicial proceedings established by the ordinance of the Town of Davie and the Florida Statutes.

(Ord. No. 88-59, § 1, 9-26-88)