



BEFORE THE CITY COMMISSION  
CITY OF STUART, FLORIDA

ORDINANCE No. 2315-2015

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AMENDING THE CODE OF ORDINANCES AT CHAPTER 20 BY DEFINING AND PROVIDING FOR SOUND LEVELS WITHIN THE CITY; PROVIDING FOR FINES AND PENALTIES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

\* \* \* \* \*

WHEREAS, the City Commission has determined that the existing sound ordinance is in need of revision due to recent case law and compliance with the Florida Statutes, as amended; and

WHEREAS, the City Commission recognizes that sound regulation uniformity and consistency throughout the City benefits the city, its residents, and the public; and

WHEREAS, there currently exists Section 4-3(c)(2), Stuart City Code, relating to alcoholic beverage establishments in the Historic Downtown, in which the current sound ordinance of the City of Stuart, Florida is enforced at all times of the night and day, and the City Commission desires to repeal it in favor of uniformity for the public and its residents;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

1 SECTION 1: The Code of Ordinances of the City of Stuart, Florida, is hereby amended at  
2 Chapter 20, Article VI, NOISE, by amending Sections 20-150 through 20-155, to read in their  
3 entirety as follows:

## 4 **ARTICLE VI. - NOISE**

### 5 **Sec. 20-150. - Definitions.**

6 The following words, terms and phrases, when used in this article, shall have the  
7 meanings ascribed to them in this section, except where the context clearly indicates a  
8 different meaning:

9 *Amplified sound venue* means any facility such as a business, private club, residence,  
10 or gathering of persons, whether or not for profit, that provides electronically amplified  
11 music, or speech.

12 *Attached business or dwelling unit* means two or more businesses or dwelling units that  
13 are contiguous and share a common demising wall.

14 *Ambient sound level* means the total sound pressure in the area of interest including the  
15 noise source of interest.

16 *Background sound level* means the total sound pressure level in the area of interest  
17 excluding the noise source of interest.

18 *Industrial use* means any use or process permitted under section 2.02.05, of the Stuart  
19 Land Development Code, but not including amplified sound venues, or the use of  
20 electronically amplified sound equipment.

21 *Motor vehicle* means, for the purpose of this article, any self-propelled or towed vehicle  
22 including, but not limited to, cars, trucks, truck trailers, semi-trailers, campers,  
23 motorcycles, motor-driven cycles, mini-bikes, go-carts, golf carts, all-terrain vehicles,  
24 dune buggies, swamp buggies, air-cushion vehicles, recreational vehicles, trailers, boat  
25 trailers, boats, personal watercraft, airboats, aircraft, and drones.

26 *Noise*, as used this article, means any unwanted or unwelcome sound that causes or  
27 may cause an adverse psychological or physiological effect on human beings,  
28 regardless of its source, which is acoustically, mechanically or electronically produced.  
29 It may include, but shall not be limited to sounds emanating or originating from:  
30 amplification equipment, such as loudspeakers, sound systems, televisions, radios, and  
31 musical instruments; construction equipment, blowers, motors, engines, compressors  
32 and other machinery; full size and scale model motor vehicles; and vocalization by  
33 domesticated animals, domesticated birds, and by natural persons.

34 *Premises* means the lot, parcel, dwelling or business from which any sound originates  
35 unless the sound originates from an attached business or dwelling unit. For attached  
36 business or dwelling units, including shopping centers, duplexes and triplexes, the term  
37 Premises means the area immediately adjacent to, or between, and within the demising  
38 walls of the business or dwelling unit.

1 *Sound* means any oscillation in pressure, particle displacement, particle velocity or  
2 other physical parameter in a gaseous medium, including air, with internal forces that  
3 causes compression and rarefaction of that medium.

4 *Sound level* for non-vehicular noise means the flat-weighted sound pressure level  
5 measured with slow response using a sound level meter

6 *Sound level meter* means a self-calibrating instrument complying with the specification  
7 for a Type 1 or Type 2 self-calibrating commercial sound level meter that meets the  
8 standards for sound level meters by the American National Standards Institute, Inc.  
9 (ANSI), or its successor bodies.

10 *Vehicle* means any device in, upon, or by which any person or property is or may be  
11 transported or drawn upon a highway, except devices moved by human power or used  
12 exclusively upon stationary rails or tracks.

13 *Weekday* means Sunday through Thursday (except for city recognized holidays).

14 *Weekend* means Friday, Saturday and Holidays recognized by the city; additionally,  
15 holiday eves (from 5:00 PM and later) shall be considered the same as holidays.

16  
17 **Sec. 20-151. - Sound regulation.**

18  
19 (a) *Vehicles.* For all noise emanating from vehicles, including motor vehicles, the  
20 maximum permissible sound level, and all other vehicular noise regulation, shall be that  
21 prescribed in Sec. 316.293 and Sec. 403.415, Florida Statutes, as amended from time  
22 to time.

23  
24 (b) *All other sources of noise:* For all noise, except vehicle noise, the maximum  
25 permissible sound levels, at the property line from which the sound originates, shall be  
26 80 decibels from 8:00 AM until 10:00 PM, and 60 decibels from 10:00 PM until 8:00 AM  
27 at all times throughout the city.

28  
29 (c) *Use of self-calibrating sound level meter authorized;* Measurement of any sound  
30 level shall be made using a sound level meter. No court or magistrate shall require any  
31 particular user certification in the prosecution of offenses where it can be demonstrated  
32 the officer or witness using the sound level meter possesses the general knowledge and  
33 ability to accurately use the sound level meter, and the sound meter is self-calibrating,  
34 and was self-calibrated prior to its use. If the ambient sound level is less than 3 dBA  
35 higher than the background sound level, the source level cannot be derived and  
36 violation of the chapter cannot be substantiated.

37 (d) *Location of measurement.* Measurement of any sound with a sound level meter  
38 shall be as follows:

39 (1) Non-vehicular noise originating from private property shall be measured at the  
40 property line of the property where the noise originates.

- 1 (2) Non-vehicular noise originating from a public right-of-way or public property  
2 shall be measured at a distance of fifty (50) feet from the source of the noise.
- 3 (e) **Exemptions.** Based upon public emergency, necessity or convenience,  
4 reasonable public custom, lack of jurisdiction, or municipal proprietary function, the  
5 following uses are exempted from the requirements of subsections (a) and (b):
- 6 (1) Law enforcement, fire suppression, rescue, and ambulance emergency  
7 operations.
- 8 (2) Holiday fireworks approved, sanctioned or sponsored by a governmental  
9 agency.
- 10 (3) Warning devices at railroads, airports, roadway intersections, and upon  
11 hazardous use structures; and the use of horns to warn of a dangerous condition.
- 12 (4) Burglar alarms and fire alarms.
- 13 (5) Aircraft and drones in lawful ground or aerial operations.
- 14 (6) Boats and other watercraft in lawful operations.
- 15 (7) Chimes or bells used in permitted clock towers, schools, or places of worship  
16 or assembly.
- 17 (8) Amplified sound associated with special events permitted by the city, including  
18 but not limited to: cultural and sporting events; artistic performances; ceremonial or  
19 traditional activities, including outdoor markets, festivals, speeches, concerts, or  
20 shows that have been permitted, approved, sanctioned, or sponsored by the city.  
21 Notwithstanding this exemption, the city as the permitting agency, reserves the  
22 right to require the operators of such special events to lower the sound pressure or  
23 to comply with subsection (b). Nothing contained herein shall be construed as  
24 otherwise exempting amplified sound venues from complying with the requirements  
25 of subsection (b) without a special event permit.
- 26 (9) Portable emergency power generators, portable pumps, portable  
27 compressors, and similar portable equipment run by a motor or internal combustion  
28 engine, used to abate a bona fide emergency condition. Such equipment shall not  
29 emit more than 85 dB sound pressure, off the premises from which it is originating.
- 30 (10) Sanitation operations which include the unloading, emptying or collection of  
31 any waste or recyclable container, and including the cleaning of authorized grease  
32 traps. Such operations shall only be permitted between the hours of 7:00 a.m. and  
33 7:00 p.m. daily.
- 34 (11) Landscape, power washing, lawn maintenance or similar temporary equipment  
35 operations, including those using truck mounted internal combustion engines,  
36 compressors or pumps. Such equipment shall not emit more than 85 dB sound  
37 pressure, off the premises from which it is originating.

1 **Sec. 20-152. - Enclosure of certain machinery.**

2 All heating, ventilating, air conditioning (HVAC) equipment, refrigeration equipment,  
3 swimming pool pumps, irrigation pumps, generators, or other electric or internal  
4 combustion engines, motors, pumps, compressors, and machinery, which emit noise in  
5 the operation thereof shall be installed and operated:

6 (1) Within a primary or accessory building; or  
7

8 (2) Outside of such building and enclosed within a sound absorbing structure or  
9 cabinet with the resulting sound not exceeding the requirements of subsection  
10 (b), unless the operation of said machinery without a sound absorbing structure  
11 or cabinet otherwise meets the sound pressure levels of subsection (b).

12 **Sec. 20-153. - Outdoor construction and landscape activity; loading or unloading.**

13 As a means of assuring that unlawful noise is curtailed, the following shall be further  
14 regulated:

15 (a) Outdoor construction, demolition, landscape activities, mechanical operations,  
16 and the like, that depend upon the use of mechanical, electric, internal combustion, or  
17 air driven tools, equipment and blowers, shall be prohibited between the hours of 7:00  
18 p.m. and 7:00 a.m., except on Sundays and city recognized holidays. On Sundays and  
19 city recognized holidays, construction, demolition, landscape activities, and mechanical  
20 operations, as stated herein, shall be prohibited, except between the hours of 12:00  
21 noon and 7:00 p.m.

22 (b) Outdoor loading or unloading of bulk raw materials or finished goods, in excess of  
23 one-half cubic yard (volume) or one-half ton (weight) ("deliveries"), shall be prohibited  
24 between the hours of 7:00 p.m. and 7:00 a.m., Monday through Saturday, except on city  
25 recognized holidays. On Sundays and city recognized holidays, deliveries as stated  
26 herein, shall be prohibited except between the hours of 12:00 noon and 7:00 p.m. This  
27 prohibition shall not apply to movers of household goods at a dwelling unit, which shall  
28 be prohibited from starting work any earlier than permitted herein, but which may  
29 continue beyond 7:00 p.m., until the work is concluded.

30 **Sec. 20-154. - Administrative variance for construction.**

31 In the event of a bona fide emergency, such as a public calamity, storm event, fire,  
32 flood, or for the protection of persons and property from imminent danger or destruction,  
33 or where it is determined by the city that a certain temporary construction method is  
34 more efficient or effective, environmentally beneficial, or serves the public interest, and  
35 is preferable to a non-noisy one, the city development director may grant an  
36 administrative variance to this ordinance. Said administrative variance shall be for the  
37 shortest duration necessary to resolve the emergency or perform the construction, but  
38 may be extended or renewed by the city development director for good cause shown.

39

1 **Sec. 20-155. – Citation; notice to appear; hearing; and local business tax.**

2 In addition to any other penalties or procedures provided in the code of ordinances or  
3 provided by law, noise violations may be enforced by the following procedure:  
4

5 (a) In the event that any person cited or regulated by this article disputes a citation or  
6 development order issued by the city, such person shall have ten days from the written  
7 rendition of such development order or citation within which to file a notice of request for  
8 a hearing before the city magistrate challenging such development order or citation.  
9 Such notice must be in writing, filed with the city clerk or designee, and must specify the  
10 basis upon which the development order or citation is being challenged.  
11

12 (b) A hearing challenging a development order or citation shall be barred unless  
13 filed within the time prescribed in this article.  
14

15 (c) All applicants seeking to pay the local business tax within the City shall  
16 indicate if they have, or will have, amplified sound at the business. If the applicant has  
17 or will have amplified sound, they shall be provided a copy of this ordinance, and shall  
18 acknowledge, in writing, receipt of the ordinance.

19 **Sec. 20-156. Fines and penalties; contempt.**

20 (a) Noise is transitory in nature, and once uttered or rendered cannot be undone.  
21 Therefore, any violation of this article is determined to be irreparable or irreversible in  
22 nature, and shall be subject to the enhanced fine provisions of section 162.09, Florida  
23 statutes.  
24

25 (b) Citations or notices of violation and notices to appear issued pursuant to this  
26 article shall be in accordance with the following schedule:  
27

- 28 1. If the violation is a first offense, a written warning shall be issued;
- 29
- 30 2. If the violation is a second offense, the violator shall pay a fine of \$250.00;
- 31
- 32 3. If the violation is a third offense, the violator shall pay a fine of \$500.00; if the  
33 violation is a fourth offense, the violator shall pay a fine of \$1,000.00
- 34
- 35 4. Any violation that is a fifth offense or more shall be subject to a mandatory hearing  
36 before the city's code enforcement magistrate, and shall be subject to a fine of not  
37 less than \$2,500 or more than \$5,000.  
38

39 (c) In addition to any fines and costs levied by the magistrate for violation of this  
40 ordinance, the magistrate may impose other reasonable sanctions, including but not  
41 limited to, restriction of hours of operation of the venue or portion thereof; and restriction  
42 of the type, location, and use of amplified sound equipment.  
43

Ordinance No. 2315-2015  
Noise Ordinance (Second Reading)

1 (d) Any person who fails to eliminate a noise violation when required by a police officer  
2 or code enforcement officer, or who fails to appear when compelled, may be held in  
3 contempt by a magistrate following an order to show cause, and a hearing before the  
4 issuing magistrate, and thereafter be subject to an additional fine of up to \$1,000.00,  
5 plus administrative costs.  
6

7 SECTION 2: CONFLICTS. All ordinances or parts of ordinances in conflict herewith are  
8 hereby repealed to the extent of such conflict. Section 4-3(c)(2) of the Stuart City Code, is  
9 specifically repealed.

10 SECTION 3: SEVERABILITY. If any section, sentence, clause, phrase or word of this  
11 ordinance is for any reason declared to be unconstitutional, inoperative or void, such holding  
12 shall not affect the remaining portions of this ordinance and the remaining portions shall be  
13 deemed and held to be valid.

14 SECTION 4: CODIFICATION. The operative provisions of this ordinance shall be  
15 codified.

16 SECTION 5: EFFECTIVE DATE. This ordinance shall take effect immediately upon its  
17 adoption.

18 PASSED on First Reading this 9th day of November, 2015.

19 Commissioner Krauskopf offered the foregoing ordinance and moved its adoption.

20 The motion was seconded by Commissioner McDonald and upon being put to a roll call vote,

21 the vote was as follows:

KELLI GLASS LEIGHTON, MAYOR  
JEFFREY A. KRAUSKOPF, VICE MAYOR  
TOM CAMPENNI, COMMISSIONER  
TROY MCDONALD, COMMISSIONER  
EULA R. CLARKE, COMMISSIONER


YES	NO	ABSENT
X		
X		
X		
X		
X		


22  
23 ADOPTED on Second Reading this 23rd day of November, 2015.

Ordinance No. 2315-2015  
Noise Ordinance (Second Reading)


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ATTEST:

  
CHERYL WHITE  
CITY CLERK

  
KELLI GLASS LEIGHTON  
MAYOR

APPROVED AS TO FORM  
AND CORRECTNESS:

  
MICHAEL J. MORTELL  
CITY ATTORNEY

