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ORDINANCE NO. 04-24

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO NOISE; CREATING CHAPTER ____ OF THE CODE OF ORDINANCES ENTITLED "NOISES;" PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay (hereinafter "Village") are concerned with the general health, safety and welfare of its residents and finds that excessive sound constitutes a serious hazard to the quality of life within the Village; and

WHEREAS, the residents of the Village have a right to and should be insured of an environment free from any excessive sound that may jeopardize their health, welfare and safety and degrade their quality of life; and

WHEREAS, the Mayor and Village Council seek to improve the quality of life in the Village by creating an enforceable noise ordinance that provides for the objective measurement of sound with the use of a decibel meter and an enforcement system for uniform implementation; and

WHEREAS, the Mayor and Village Council desire to enact its own noise ordinance.

BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. Chapter __ of the Code of Ordinances of the Village of Palmetto Bay is created and entitled "Noises" to read as follows:

Chapter __

NOISES

Sec. __.01 Intent

It is the intent and purpose of this chapter to regulate uses and activities in the Village of Palmetto Bay in such a manner as to prevent excessive noises which degrade the quality of life, disturb the public peace, and jeopardize the health, safety and welfare of the citizens of Palmetto Bay. It is further the intent of this chapter to recognize that factors such as the time of day, location (e.g. proximity to residences), necessity of public projects for the public good, and necessity of sounds incidental to allowed uses and activities must be considered in balancing the protection of public peace and individual freedoms.

Sec. __.02. Scope.

The rules and regulations given in this chapter shall apply to the control of all sound originating within the geographical limits of the Village. It shall be unlawful, except as expressly permitted in this chapter, to make, cause or allow the making of any noise or sound which exceeds the limits set forth.

Sec. __.03. Definitions.

The following words, terms and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. All terminology used in this chapter not defined below shall be in conformance with applicable publications and standards of the American National Standards Institute (ANSI) or its successor body, the state and other applicable industry standards.

“A” weighted sound level is the sound level as measured using the “A” weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is Db(A). Sounds measured with the “A” weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.

Agricultural means an area classified by the zoning code as in an AU zoning district.

1 *Ambient sound level* means the sound pressure level of the all
2 encompassing noise associated with a given environment, being usually a
3 composite of sounds from many sources, exclusive from the source under
4 investigation. Ambient sound level is often referred to as neighborhood residual
5 sound level or background sound level.

6
7 *ANSI* means the American National Standards Institute.

8
9 *"C" weighted sound level* is the sound level as measured using the "C"
10 weighting network with a sound level meter meeting the standards set forth in
11 ANSI S1.4-1983 or its successors. The unit of reporting is Db(C). The "C"
12 weighting network is more sensitive to low frequencies than is the "A" weighting
13 network.

14
15 *Commercial* means an area classified by the zoning code as in BU-1, BU-
16 1A, BU-2, BU-3 or OPD zoning districts.

17
18 *Continuous sound* means any sound with duration of more than one second
19 which remains at a measurable value without interruption.

20
21 *Decibel (dB)* means a unit for measuring the volume of sound; it is a
22 logarithmic (dimensionless) unit of measure used in describing the amplitude of
23 sound. Decible is denoted as dB.

24
25 *Emergency work* means any work performed for the purpose of preventing
26 or alleviating physical trauma or property damage threatened or caused by an
27 existing or imminent peril which demands immediate action

28
29 *Extraneous sound* means a sound that is transient in nature and is neither
30 part of the ambient sound, nor comes from the sound source under investigation.
31 Examples of extraneous sounds include automobile horns and brakes, air transport
32 vehicles, people shouting and dogs barking.

33
34 *Impulsive sound* means a sound of short duration, usually less than one
35 second with an abrupt onset and rapid decay or single burst. Impulsive sounds are
36 isolated events such as explosions and the discharge of firearms.

37
38 *Industrial* means an area classified by the zoning code as in an IU-1 zoning
39 district.

40

1 *Institutional* means uses including but not limited to schools, houses of
2 worship, hospitals and nursing homes.

3
4 *Measurement standards* means the standards, instrumentation, personnel,
5 measurement procedures, and reporting procedures to be used in the measurement
6 of sound as provided for in this section consistent with accepted and sound
7 principles of noise measurement in accord with the standards of the American
8 National Standards Institute or its successor body, the state or other applicable
9 industry standards.

10
11 *MicroPascal* means the international unit for pressure, analogous to pounds
12 per square inch; 1 microPascal is one-millionth of a Pascal; the reference pressure
13 used for airborne sound is 20 microPascals.

14
15 *Noise control officer (NCO)* means the Village Manager, or person(s)
16 designated by the Village Manager such as a Code Compliance or Police Officer.

17
18 *Noise disturbance* means any sound which (a) endangers or injures the
19 safety or health of humans or animals, (b) disturbs a reasonable person of normal
20 sensitivities, or (c) endangers or injures personal or real property.

21
22 *Noise sensitive zone* means an area where certain types of facilities whose
23 operations may be detrimentally impacted by excessive sound levels are located.
24 Noise sensitive facilities include but are not limited to schools, houses of worship,
25 courts, hospitals, nursing homes, assisted living facilities, outpatient medical
26 facilities and day care facilities.

27
28 *Person* means any individual, association, partnership or corporation and
29 includes any officer, employee, department, agency or instrumentality of the
30 United States, the state or any political subdivision thereof.

31
32 *Plainly audible* means any sound that can be heard by a person using his or
33 her unaided hearing faculties. As an example, if the sound source under
34 investigation is a portable or personal vehicular sound amplification or
35 reproduction device, the detection of the rhythmic bass component of the music is
36 sufficient to verify plainly audible sound. The noise control officer need not
37 determine the title, specific words, or the artist performing the song.

38

1 *Public Facilities* means governmental uses including but not limited to
2 parks, community centers, recreational centers, court facilities and other such
3 public facilities.
4

5 *Real property line* means an imaginary line along the surface and its
6 vertical plane extension that separates one parcel of real property owned, rented,
7 or leased by one person from that owned, rented, or leased by another person
8

9 *Residential* means an area classified by the zoning code as in RU-1, RU-2,
10 RU-3M, RU-4L, RU-4A, RU-5, RU-5A, EU-M, EU-S, EU-1, EU-1C, EU-2 or
11 PAD zoning districts.
12

13 *Sound level* means the reading in decibels of a weighted sound pressure
14 level obtained by the use of a sound level meter and frequency weighting network,
15 such as A, B or C as specified in American National Standards Institute
16 specifications for sound level meters (ANSI S1.4-1983, or the latest approved
17 version thereof). If the frequency weighting employed is not indicated, the A-
18 weighting shall apply.
19

20 *Sound level meter* means an instrument that is used to measure sound
21 pressure levels and conforms to ANSI S1.4-1983 or its successors.
22

23 *Sound pressure level (SPL)* means 10 times the logarithm to the base 10 of
24 the ratio of the time-mean-square pressure of a sound of the reference pressure of
25 20 microPascals (in air) with the units of decibels.
26

27 *Steady pure tone* means any sound which can be distinctly heard as a single
28 pitch or a set of pitches.
29

30 *Total sound level* means that measured level which represents the
31 summation of the sounds from the sound source under investigation and the
32 ambient sounds which affect a given place at a given time, exclusive of extraneous
33 sound sources.
34

35 *Village recognized holidays* means New Year's Day, Martin Luther King
36 Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus
37 Day, Veteran's Day, Thanksgiving Day, Friday after Thanksgiving Day and
38 Christmas Day.

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Sec. __.04. Maximum permissible sound.

(A) *Continuous sound.*

(1) No person shall cause, suffer, allow, or permit the operation of any source of sound in such a manner as to create a sound level that exceeds the sound level limits listed in Table 1 when measured at, across or within the real property line of the receiving property land use designation. Sound pressure levels in excess of those established in Table 1 would constitute a noise disturbance and be in violation of this code.

Table 1
Permissible Sound Level Limits (dBA)
By Receiving Property Category

Receiving Property Designation	Time	Sound Level Limit (dBA)
Residential & Noise-Sensitive Zones	7:00 am to 11:00 pm	65
	11:00 pm to 7:00 am	60
Public Facilities & Institutional	7:00 am to 11:00 pm	65
	11:00 pm to 7:00 am	60
Commercial	7:00 am to 11:00 pm	70
	11:00 pm to 7:00 am	65
Agricultural	7:00 am to 11:00 pm	70
	11:00 pm to 7:00 am	65
Industrial	7:00 am to 11:00 pm	75
	11:00 pm to 7:00 am	75

17
18

1 (2) These limits may not be exceeded by any single incident
2 representing the normal, usual operation of the sound source, during any three
3 sampling intervals, the duration of which shall be no less than one-half minute,
4 within any one-hour period.

5
6 (B) *Impulsive sound.*

7
8 (1) Between the hours of 7:00 a.m. and 11:00 p.m., impulsive
9 sounds which occur less than 10 times in an hour shall not equal or exceed 10
10 decibels above the permissible sound level limits in Table 1. Impulsive sound that
11 repeats 10 or more times in any hour shall not exceed the permissible sound level
12 limits in Table 1.

13
14 (2) Between the hours of 11:00 p.m. and 7:00 a.m., impulsive
15 sounds which occur less than four times in an hour shall not equal or exceed 10
16 decibels above the permissible sound level limits in Table 1. Impulsive sound that
17 repeats four or more times in any hour shall not exceed the permissible sound level
18 limits in Table 1.

19
20 (C) *Steady pure tones.* If the sound source under investigation is a
21 mechanical device, and is in the investigating officer's opinion emitting a sound
22 with a steady tonal quality, the permissible sound level limits in Table 1 shall be
23 reduced by 10 dBA. The sound emissions must be comprised of a single
24 frequency or a narrow cluster of frequencies, which may be referred to as a whine,
25 hum or buzz. The measured sound levels of such a source must not fluctuate by
26 more than plus or minus three dB. Such sound sources include, but are not limited
27 to, heating, ventilating or air-conditioning units, refrigeration units and
28 transformers.

29
30 (D) *Fixed amplified sound reproduction devices.* If the source of sound
31 is an amplified sound reproduction device on private property, and the
32 complainant states that the rhythmic bass component of the music is disturbing
33 within their dwelling, then the NCO may take sound level measurements within
34 the dwelling of the complainant. No person shall cause, suffer, allow or permit the
35 operation of any amplified source of sound in such a manner that it raises the total
36 sound levels by the permissible sound level limits set forth in Table 1 when
37 measured within the residence of a complainant. These sound level measurements
38 shall be conducted with the sound level meter set for "C" weighting, "fast"
39 response. Such measurements shall not be taken in areas that receive only casual
40 use, such as hallways, closets and bathrooms. For the purposes of these

1 measurements, the ambient sound level is that sound level which is measured in
2 the residence when the sound source under investigation is not prominent, or in a
3 room on the same floor that is relatively unaffected by the sound source under
4 investigation. The "C" scale is more sensitive to low frequency sound levels than
5 the "A" scale; an increase of three dB is perceived by humans as being plainly
6 audible, an increase of five dB is plainly louder, and an increase of 10 dB is
7 perceived as being twice as loud.

8
9 (E) *Mobile amplified sound reproduction devices.*

10
11 (1) Personal or commercial vehicular music amplification
12 equipment shall not be operated in such a manner as to be plainly audible at a
13 distance of 50 feet in any direction from the operator between the hours of 7:00
14 a.m. and 11:00 p.m.

15
16 (2) Personal or commercial vehicular music amplification or
17 reproduction equipment shall not be operated in such a manner that it is plainly
18 audible at a distance of 25 feet between the hours of 11:00 p.m. and 7:00 a.m.

19
20 (3) Self-contained, portable, hand-held music or sound
21 amplification or reproduction equipment shall not be operated on a public space or
22 public right-of-way in such a manner as to be plainly audible to a distance of 50
23 feet in any direction from the operator between the hours of 7:00 a.m. and 11:00
24 p.m. Between the hours of 11:00 p.m. and 7:00 a.m., sound from such equipment
25 shall not be plainly audible by any person other than the operator.

26
27 Sec. __.05. Specific prohibitions against different types of noises.

28
29 In addition to the general prohibitions set out above and the maximum
30 permissible sound levels set out in Table 1, and unless otherwise exempted by this
31 article or by act of the Village, the following specific acts, or the causing or
32 permitting thereof, are hereby declared to be in violation of this chapter:

33
34 (A) *Radios, television sets, musical instruments and similar devices.*
35 Operating, playing or permitting the operation or playing of any radio, television,
36 phonograph, audio player (compact disk, cassette, computer), drum, musical
37 instrument or similar device which produces or reproduces sound:
38

1 1. between the hours of 11:00 p.m. and 7:00 a.m. in such a
2 manner as to create excessive and unnecessary noise across a residential real
3 property line or within a noise-sensitive area.

4 2. in such a manner as to exceed the levels set forth for the
5 respective property designations set forth in Table 1.

6
7 3. as to create a noise disturbance.
8

9 (B) *Loudspeakers.* Using or operating for any purpose any loudspeaker,
10 loudspeaker system or similar device between the hours of 11:00 p.m. and 7:00
11 a.m. on weekdays and 11:00 p.m. and 9:00 a.m. on weekends and Village
12 recognized holidays in areas within or adjacent to residential, commercial or
13 institutional areas, except for any noncommercial public speaking, public
14 assembly or other activity for which a special permit has been issued by the
15 Village.
16

17 (C) *Street sales.* Offering for sale, selling anything or advertising by
18 shouting or outcry within any residential or commercial area or noise-sensitive
19 zone of the Village except by special permit issued by the Village.
20

21 (D) *Loading, unloading, opening boxes.* Creating loud and excessive
22 noise to amount to noise disturbance in a residential area in connection with
23 loading or unloading any vehicle with the opening and destruction of bails, boxes,
24 crates, and containers between the hours of 11:00 p.m. and 7:00 a.m.
25

26 (E) *Animals.* Owning, possessing or harboring any animal or bird
27 which, frequently or for continued duration, howls, barks, meows, squawks, or
28 makes other sounds which create excessive and unnecessary noise across a
29 residential or commercial real property line or within a noise-sensitive zone,
30 excluding public zoos or private animal attractions operated for profit to which the
31 public has general admission and that are regulated by the Village. For the
32 purposes of this regulation, "barking dog" is defined as a dog that barks, bays,
33 cries, howls or makes any other noise continuously and/or incessantly for a period
34 of 20 minutes or barks intermittently for one hour or more to the disturbance of
35 any person at any time of day or night regardless of whether the dog is physically
36 situated in or upon private property; however, a dog shall not be deemed a
37 "barking dog" for the purposes of this regulation if, at the time the dog is barking
38 or making any other noise, a person is trespassing or threatening to trespass upon
39 private property in or upon which the dog is situated or for any other legitimate
40 cause which teased or provoked the dog.

1
2 (F) *Construction and demolition.* Operating or causing the operation of
3 any tools used in construction, drilling, repair, alteration or demolition work
4 between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, or between 7:00 p.m.
5 and 9:00 a.m. on weekends or Village recognized holidays in or within 50 yards of
6 any residential area or noise-sensitive zone, except for emergency work by public
7 service utilities or by special permit approved by the Village. This section shall
8 not apply to the use of domestic power tools as specified in subsection (K).
9

10 (G) *Refuse operators.* The collection of garbage, trash or recyclables by
11 any refuse operator between the hours of 7:00 p.m. and 7:00 a.m.
12

13 (H) *Powered model vehicles or model airplanes.* Operating or
14 permitting the operation of powered model vehicles:
15

16 1. between the hours of 7:00 p.m. and 7:00 a.m. on weekdays
17 and 7:00 p.m. and 9:00 a.m. on weekends or Village recognized holidays in or
18 within 100 feet of any residential area or noise-sensitive zone.
19

20 2. in such a manner as to exceed the levels set for public space
21 land use, measured at a distance of not closer than 100 feet from any point on the
22 path of a vehicle operating on a public space of public right-of-way.
23

24 (I) *Emergency signaling devices.* The intentional sounding or
25 permitting the sounding outdoors of any fire, burglar or civil defense alarm, fire,
26 whistle or similar stationary emergency signaling device, except for emergency,
27 shall not occur before 7:00 a.m. or after 7:00 p.m., and any testing shall use the
28 minimum cycle test time appropriate for such devices, in no case to exceed 60
29 seconds. Testing of the complete emergency signaling system, including the
30 functioning of the signaling device and the personnel response to the signaling
31 device, shall not occur for more than once in each calendar month unless
32 additional testing is permitted by special permit. Such testing shall occur only on
33 weekdays and not before 7:00 a.m. or after 11:00 p.m. and shall be exempt from
34 the time limit specified herein. The sounding or permitting the sounding of any
35 exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such
36 alarm is automatically terminated within 15 minutes of activation, shall be
37 prohibited.

1
2 (J) *Motorboats.* Operating or permitting the operation of any motorboat
3 in any lake, river, stream, canal, bay or other waterway in such a manner as to
4 cause unnecessary and excessive noise within a residential area or noise-sensitive
5 zone, or to exceed 85 dBA when measured at least 50 feet from the watercraft
6 (single incident, any mode of operation).

7
8 (K) *Noise-sensitive zones.*

9
10 1. Creating or causing any excessive and unnecessary noise
11 within or adjacent to any noise-sensitive zone provided that conspicuous signs are
12 displayed indicating the presence of the noise-sensitive zone.

13
14 2. Creating or causing any sound within any noise-sensitive
15 zone so as to exceed the decibel levels set forth in Table I for a noise-sensitive
16 zone when measured at a distance of at least 25 feet from the sound source,
17 provided that conspicuous signs are displayed indicating the presence of the noise-
18 sensitive zone.

19
20 (L) *Domestic power tools.* Operating or permitting the operation of any
21 mechanically powered saw, drill, grinder, lawn or garden tool, or similar tool
22 between 9:00 p.m. or sunset, whichever is earlier, and 7:00 a.m. the following day
23 on weekdays, or 9:00 p.m. or sunset, whichever is earlier, and 9:00 a.m. on
24 weekends and Village recognized holidays, unless such equipment is operated
25 inside a building or other structure so that the sound therefrom does not travel
26 across any residential real property line or noise-sensitive zone and does not
27 exceed the levels set forth in Table 1. All such equipment shall be properly
28 muffled and maintained in working order so as not to create excessive and
29 unnecessary noise.

30
31 (M) *Multifamily dwellings.* Operating or permitting the operation within
32 a multifamily dwelling of any source of sound in a manner so as to exceed 55 dBA
33 from 7:00 a.m. to 11:00 p.m. when measured within an adjacent intra-building
34 dwelling. The maximum permissible sound level, when measured in an adjacent
35 intra-building area between 11:00 p.m. and 7:00 a.m. on weekdays and 11:00 p.m.
36 and 9:00 a.m. on weekends and Village recognized holidays shall be 50 dBA.

1
2 (N) *Recreational motorized vehicles operating off public right-of-way.*
3 No person shall operate or cause to be operated any recreational motorized
4 vehicle, motorcycle, moped, dune buggy or any other type of motorized vehicle
5 that exceeds the limits set forth in Table 1 off the public right-of-way in any
6 residential or noise-sensitive zone. This section shall apply to all motorized
7 vehicles noted above, whether or not duly licensed and registered.
8

9 (O) *Idling vehicles.* It shall be unlawful to park a bus, truck, or other
10 motor vehicle having a gross vehicle weight of 11,000 pounds or greater and
11 allowing the engine on such vehicle to run while such vehicle is parked on public
12 or private property within the Village limits unless such vehicle is parked for the
13 purpose of making pickups or deliveries at that site, or if the vehicle is on public
14 property, at a site nearby. This section shall also not apply to a vehicle regulated
15 under this section that is parked on the premises of a licensed repair shop for the
16 purpose of making repairs to such vehicle. Under no circumstances shall any
17 vehicle regulated by this section be allowed to idle or run the engine for more than
18 45 minutes while parked at each location.
19

20 (P) *Fans and air conditioners.* It shall be deemed unlawful to create any
21 excessive loud noise by the use or operation of any noise-creating air conditioner,
22 compressor unit, power fan or blower or the electric motor or any engine used to
23 drive such device, the operation of which causes the sound level to exceed 65dBA.
24 Such noise shall be muffled and deadened by adequate noise suppression and
25 muffling devices to eliminate annoyance and disturbance to persons within the
26 range of hearing.
27

28 (Q) *Generators.* Emergency generators installed in all residential
29 districts shall be exempt from the sound levels set forth in Table 1 when operated
30 during power outages; provided however, in no event shall the sound level exceed
31 72dBA. Generators in all residential districts may be operated for testing purposes
32 one time for a period not to exceed 30 minutes in any 7-day period. Testing of
33 generators in all residential districts is permitted between the hours of 11 a.m.
34 through 5 p.m., Monday through Saturday. No testing of generators in any
35 residential district is permitted on Sundays or Village recognized holidays.

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Sec. __.06. Method of sound level measurement.

Sound level measurement shall be made with a sound level meter using the A-weighting scale, in accordance with standards promulgated by American National Standards Institute or other reasonable standards adopted by the Village or the State.

Sec. __.07. Exempt noises.

The following are exempt from the provisions of Sec. __.04.

A. Noises from lawn mowers and agricultural equipment during daylight hours (7:00 a.m. to 9:00 p.m., or sunset, whichever is earlier) when operated with all the manufacturers' standard mufflers and noise-reducing equipment in use and in proper operating condition.

B. Non-amplified crowd noises resulting from the activities such as those planned by student, governmental or community groups, such as parades or sports events.

C. Noises from construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by any agency of government; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment, manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition. Such construction shall not begin prior to 7:00 a.m. and shall cease by 7:00 p.m. unless the noise control officer grants a special permit.

D. Noises of safety signals, warning devices, emergency pressure relief valves, and bells and chimes of churches, except noise relating to operation of trains.

E. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

F. Noises resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the Village in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.

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G. Noises made by persons having obtained a permit to use the streets.

H. Noises from the normal operations of aircraft (not including model aircraft).

I. Noises, including but not limited to noise from operation of trains, of which regulation is preempted by the Federal government, but only to the extent of such Federal preemption.

J. Noises from the un-amplified human voice.

K. Noises from routine maintenance of public service facilities.

Sec. __.08. Special permits to exceed noise levels.

Application for a permit for relief from the maximum noise level limits designated in this article may be made in writing to the Village Manager. Any permit granted by the Village Manager hereunder must be in writing and shall contain all conditions upon which the permit is granted. The Village Manager may grant the applied-for special permit only as follows:

A. *Conditions.* The Village Manager may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound-attenuating devices.

1
2 B. *Permits for entertainment.* Permits may be granted for the purpose
3 of entertainment under the following conditions:
4

- 5 1. The function must be open to the public.
6
7 2. The function must take place on public property.
8
9 3. The permit will be given for only eight hours in one 24-hour
10 day.
11
12 4. The function must be staged between the hours of 9:00 a.m.
13 and 12:00 a.m.
14

15 C. *Other special permits.* Other special permits for non-entertainment
16 special purposes may be issued under the following conditions:
17

18 1. If the special purpose relates to the operation of a trade or
19 business, the special purpose must not be in the ordinary course of that trade or
20 business and must be necessary to the operation of the trade or business.
21

22 2. If the special purpose does not relate to the operation of a
23 trade or business, the special purpose must not be an ordinary event in the affairs
24 of the applicant and must be compatible with the ordinary activities within the
25 neighborhood in which the special purpose is proposed to occur.
26

27 3. If the special purpose is a recurring one, it must not recur
28 more than four times each calendar year.
29

30 4. Except in emergency situations, as determined by the Village
31 Manager, the special permit may be issued for eight hours (between 7:00 a.m. and
32 12:00 a.m.) only.
33

34 5. Special permits may be issued for no longer than 15
35 consecutive days, renewable by further application to the Village Manager.
36

37 D. *Loudspeakers.* No permit may be issued to permit the use of any
38 loudspeaker or sound-amplifying device on the exterior of any building that at any
39 time exceeds the sound level limits in Table 1 except those used for emergency
40 warnings.

1 Sec. __.09. Enforcement responsibility.

2
3 The NCO shall have primary enforcement responsibility for this Article.
4 Alleged noise disturbance violations shall be investigated on a “complaint only”
5 basis and only when the person or persons making the complaint contacts the
6 Village of Palmetto Bay’s Code Compliance Division.
7

8 Sec. __.10. Penalties.

9
10 A. *Notice of Civil Infraction.* Upon a determination by the NCO that a
11 source of noise is being conducted in violation of this article, the NCO shall issue
12 a notice of civil infraction directing the operator or operators thereof to cease and
13 desist such operations until the violation is corrected. Such notice of civil
14 infraction shall be served by personal delivery to the source of noise or by deposit
15 in the U.S. mail by registered or certified mail addressed to the operator of the
16 noise facility at the location thereof. If such notice of civil infraction is delivered
17 personally, a copy of the notice of civil infraction shall be posted on the property
18 concerned. If any operator shall fail to comply with a valid, duly served notice of
19 civil infraction, he shall be guilty of an offense and punished as heretofore
20 provided. Each day’s continuing violation shall constitute a separate and distinct
21 offense.
22

23 1. Any person receiving a notice of civil infraction may appeal
24 such order to the NCO by serving a request for hearing upon the NCO within 20
25 calendar days of receipt of such order. Such notice may be served by deposit in
26 the U.S. mail by registered or certified mail addressed to the NCO. Upon receipt
27 of a request for hearing, the NCO shall grant a hearing to the appellant at the
28 earliest possible date. At such hearing, the appellant is entitled to be heard in
29 person or by counsel and to present arguments and evidence pertaining to the
30 matter as provided for under the Village’s Special Master System, Section _____,
31 Village of Palmetto Bay Code of Ordinances.
32

33 B. *Civil proceedings.* Upon determination by the NCO that a source of
34 noise is being conducted in violation of this Article or a notice of civil infraction
35 issued by the NCO, in addition to other remedies provided in such sections and in
36 the laws of the State of Florida, the NCO may, upon authorization by the Special
37 Master, institute any appropriate action or proceedings to restrain, correct or abate
38 such violations or otherwise prevent the unlawful use of such noise operation or
39 the unlawful operation of such facility by any person, as provided for under
40 Section _____, Village of Palmetto Bay Code of Ordinances.

