



January 26th, 2012

Dr. Jesus Jara
Monroe County School District
241 Trumbo Road
Key West, Florida 33040

Re: HOB / Working Hours

Dear Dr. Jara,

Coastal requests that the City of Key West grant this project modified hours for construction noise producing activities as defined in Chapter 26, Article IV Sec. 26-193.3 of the Key West Code of Ordinances. The requested hours are 7 am to 7 pm from Monday to Friday and 8 am to 6 pm on Saturdays. It should also be noted that when placing large quantities of concrete, we will require earlier starts and extended hours due to the set time required for finishing. The large pours will be an ongoing activity from February to June of this year.

We understand that we will need to work with some constraints due to the proximity of homes and businesses, and will try to minimize obtrusive noise when working adjacent to said.

As you are aware, we have a very aggressive schedule to maintain and will require the hours noted above to achieve the completion dates. I wish to thank you in advance for your cooperation in the matter.

Sincerely:

Keith Sockaloski
Project Executive
Coastal Construction

Coastal Construction

1107 George Street
Key West, FL 33040

305 296 6808 Telephone
305 296 6869 Facsimile

Key West, Florida, Code of Ordinances >> SUBPART A - GENERAL ORDINANCES >> Chapter 26 - ENVIRONMENT >> ARTICLE IV. - SOUND CONTROL >>

ARTICLE IV. - SOUND CONTROL

Sec. 26-191. - Definitions.

Sec. 26-192. - Prohibition against unreasonable noise.

Sec. 26-193. - Exceptions.

Sec. 26-194. - Citation procedure.

Sec. 26-195. - Intent to enforce.

Sec. 26-196. - Motor vehicle noise emissions.

Sec. 26-197. - Animals.

Sec. 26-198. - Retail establishment sound amplifiers; setback.

Secs. 26-199—26-220. - Reserved.

Sec. 26-191.- 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:

Commercial district means the HRO, HRCC-1, HRCC-2, HRCC-3, HNC-1, HNC-2, HCT, HPS (Mallory Square only), CL, CG, CT and A zoning districts.

Decibel means a measure of a unit of sound pressure. Sound waves having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles per second (i.e., whether the pitch of the sound is high or low). Thus, an A-weighted filter, constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches shall be used on any sound level measurements required by this article. Accordingly, all measurements are expressed in dBA to reflect the use of this A-weighted filter.

Disturbing noise means an uninvited or disruptive level of noise that is unreasonably loud or that is raucous and jarring, due to volume, character, or duration, and that causes an actual interference with a person's ability to enjoy peacefully his residence or place of business.

Emergency and emergency work mean any occurrence or set of circumstances involving or creating actual or imminent physical trauma or property damage which demands immediate attention.

Property boundary means the 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.

Public right-of-way means any street, avenue, boulevard, lane, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a governmental entity or which has been dedicated to use or access for the benefit of the public or adjacent property owners.

Residential district means the HMDR, HPRD, HPS (except Mallory Square), HHDR, C-OW, C-FW, C-TW, CM, C-UH, LDR-C, SF, MDR-C, MDR, HDR, RO, PRD, and PS zoning districts.

Unreasonable noise means:

- (1) Any noise in or emanating from a commercial district which equals or exceeds a measured sound level of 75 dBA (maximum permitted sound level in decibels) collectively for more than 30 seconds of any measurement period which shall not be less than five minutes.
- (2) Any noise in or emanating from a residential district which equals or exceeds a measured sound of 75 dBA between 8:00 a.m. and 7:59 p.m. and 60 dBA from 8:00 p.m. to 7:59 a.m. (maximum permitted sound level in decibels) collectively for more than 30 seconds of any measurement period which shall not be less than five minutes.

(Code 1986, § 55.01)

Cross reference—Definitions generally, § 1-2.

Sec. 26-192.- Prohibition against unreasonable noise.

No person shall make, continue, or cause to be made any unreasonable noise or disturbing noise.

(Code 1986, § 55.02(a))

Sec. 26-193.- Exceptions.

The prohibitions contained in this article shall not apply to the following:

- (1) *Emergencies.* The emission of sound for the purpose of alerting persons to the existence of an emergency or emergency vehicle or to the performance of emergency work.
- (2) *Religious service or observance.* Sound levels produced from a religious service or observance.
- (3) *Construction/demolition.* Sound levels produced from tools and equipment in commercial construction, demolition, drilling, or reasonably similar activities. However, such sound levels are limited to the hours of 8:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. The tools and equipment must be muffled and maintained equal to the functional standards of the industry. No exceptions contained in this subsection shall apply on Thanksgiving Day, Christmas Day and New Year's Day.
- (4) *Domestic power tools.* Sound levels produced from any hand-powered or mechanically powered saw, sander, drill, grinder, lawn/garden tool or reasonably similar tools. However, to be lawful, sound producing the use must conform to industry standards for the equipment and must occur only between 8:00 a.m. and 7:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday and Sunday only.
- (5) *Public events.* Sound levels from public events and celebrations sponsored by the city or approved by resolution of the city commission, but only during the hours designated by the resolution.
- (6) *Government radio transmissions.* Sound levels from equipment used by police, fire, and other city department radio or emergency equipment, and from similar equipment used by other government agencies in performance of official duties.
- (7) *Public address systems.* Sound levels from public address broadcast systems used in public stadiums, ballfields, parks and schoolyards.
- (8) *Sunset celebration.* Sound levels produced by performers engaged in activities sponsored by the city's lessee at Mallory Square Dock during sunset celebration.
- (9) *Franchisees.* Narration of tours of the city's franchisees upon the city right-of-way.
- (10) *Industrial equipment.* Noise levels for industrial equipment, including but not limited to air conditioners, generators, and pool pumps, must be set to reasonable industry standards for properly maintained equipment.

(Code 1986, § 55.03)

Sec. 26-194.- Citation procedure.

- (a) Except as provided in subsection (e) of this section, all citations for violations issued under this article shall be based on a complaint to the city. The complainant shall be identified by name and address, the sound source shall be identified, and the investigating officer shall verify all information provided by the complainant. The investigating officer shall provide the complainant with a copy of the complaint form which may serve as a record of complaints relating to a property.
- (b) A decibel meter shall be used for a complaint of unreasonable noise made at or within 100 feet of the property line of the sound source. The decibel reading shall be made at the location of the complaint. The investigating officer shall issue a citation for unreasonable noise, unless in his judgment a warning is sufficient to cease the violation. There shall be no more than a total of one warning per offending person or establishment.
- (c) A complaint of disturbing noise may be made when the location of the complaint is beyond 100 feet of the property line of a commercial property sound source. Additionally, a complaint of disturbing noise may be made when the location of the complaint is a residential property and the location of the sound source is a residential property or a commercial property that was a residential property as of September 1, 2000, at any distance from each other. A decibel meter measurement is not required to determine disturbing noise. The investigating officer shall issue a citation if the complainant suffers disturbing noise within the boundaries of his property. The investigating officer may issue a warning if in his judgment a warning is sufficient to cease the violation. There shall be no more than a total of one warning per offending person or establishment.
- (d)

If a complaint arises of unreasonable noise emanating from a multistory structure, the determination of whether such sound constitutes unreasonable noise shall be made from a story height equal to that of the sound source or from the nearest accessible point on the ground floor.

- (e) Upon the authorization of the city manager, the city may act as the complainant of unreasonable noise when a commercial establishment from which alleged unreasonable noise is emanating holds an entertainment license pursuant to division 2 of article II of chapter 18. A code enforcement officer shall conduct the decibel reading at any point beyond the property line of the sound source. In addition to its being subject to citation for unreasonable noise, the establishment shall also be subject to the further penalties set forth in division 2 of article II of chapter 18.
- (f) Citations issued for unreasonable noise or disturbing noise under this article shall be of a content-neutral character.
- (g) Either a police officer or a code enforcement officer may issue a citation to an offender under this article.
- (h) Notwithstanding the provisions of paragraphs (b) and (c) above, a complaint of disturbing noise may be made at any distance from a commercial or residential property when the location of the sound source is a public right-of-way. The investigating officer shall issue a citation if the complainant suffers disturbing noise within the boundaries of his or her property. The investigating officer may issue a warning if in his or her judgment a warning is sufficient to cease the violation. There shall be no more than a total of one warning issued during any 12-month period.

(Code 1986, §§ 55.02(b)—(g), 55.07(b); Ord. No. 10-21, § 1, 10-5-2010)

Sec. 26-195.- Liability; citizen suit.

- (a) *Liability.* The maker or creator of unreasonable noise or disturbing noise and the operator and/or owner of the premises that are its sound source shall each be subject to liability for violations of this article. If prosecuted jointly, each shall be jointly and severally liable for any fines imposed pursuant to this article. The sponsor of a special event shall not be liable for unreasonable noise or disturbing noise unless conditions placed upon the sponsor in the special event permit are violated.
- (b) *Citizen suit.* In addition to any other remedy available to the city, including code enforcement, the city or any other adversely affected party may enforce the terms of this article in law or equity. Any citizen of the city may seek injunctive relief and damages in a court of competent jurisdiction to prevent a violation of this article. No section of this article shall be interpreted to prevent any person from commencing a civil action on his own behalf against any person who is alleged to be in violation of any section of this article. Attorney's fees and costs incurred in an action to enforce this article may be awarded to a substantially prevailing party in the discretion of the court.
- (c) *Mediation services.* Upon request of parties to a residential noise dispute, the city manager shall provide mediation services.

(Code 1986, § 55.07(a), (c), (d))

Sec. 26-196.- Motor vehicle noise emissions.

- (a) Motor vehicles operating on the public right-of-way are regulated as set forth in F.S. § 403.415. The decibel measurements of this statute shall pertain to motor vehicle noise. It shall be unlawful to operate a vehicle, moped, scooter or motorcycle in the city in violation of a provision of this statute. In addition, every vehicle, moped, scooter and motorcycle shall be equipped with a muffler in constant operation and be properly maintained to prevent disturbing or unreasonable noise. Furthermore, it shall be unlawful for a person to engage in rapid throttle advancing or revving of an internal combustion engine of a vehicle, moped, scooter or motorcycle that is at a standstill or that is in the flow of traffic where such rapid throttle advancing or revving is not necessary for its safe operation, thus resulting in increased noise.
- (b) No person shall operate or cause to be operated any motor vehicle off a public right-of-way in violation of this article. This article shall apply to all motor vehicles, whether or not duly licensed or registered, including but not limited to commercial or recreational racing vehicles, motorcycles, dirt bikes, mopeds, go-carts, amphibious vehicles, campers, power boats, personal watercraft, or any other engine-powered vehicle; provided, however, that a vessel owner may operate an engine for a reasonable period of time in order to flush out the engine with fresh water.
- (c) A citation issued under this section need not be initiated by citizen complaint. It may be issued by a police officer in the course of his duties.

(Code 1986, § 55.04; Ord. No. 03-13, § 1, 6-3-2003)

Sec. 26-197.- Animals.

The owner of an animal that creates a noise nuisance as provided in section 10-2 is subject to citation for violation of this article. Animal noise need not be measured by decibel meter to be unreasonable. If animal

noise disturbs at least two persons residing in separate residences adjacent to or within 100 feet of the property on which the animal is kept and such persons file a joint complaint or separate complaints with the city as provided in section 26-194, their complaint shall constitute prima facie evidence of a violation.

(Code 1986, § 55.05)

Cross reference— Animals, ch. 10.

Sec. 26-198.- Retail establishment sound amplifiers; setback.

- (a) The property owner or operator of a retail establishment shall establish an interior 15-foot setback for sound amplifiers and speakers. This requirement pertains to sound that emanates directly from the retail establishment to a street, sidewalk or alley. All sound amplifiers and speakers shall be located inside the retail establishment at least 15 feet from the plane of the front, side or rear entrance and at least 15 feet from the plane of any open window. "Retail" shall be determined by business tax receipt status. This regulation shall apply only to the retail portion of a mixed-use commercial establishment.
- (b) A property owner may apply to the board of adjustment for a variance to this section. The property owner must demonstrate a hardship based on the size or configuration of the retail establishment.

(Ord. No. 03-13, § 2, 6-3-2003; Res. No. 06-292, § 1, 9-6-2006)

Secs. 26-199—26-220.- Reserved.

Tim Hruska

From: Tim Hruska
Sent: Friday, January 06, 2012 11:26 AM
To: Bill Pippine
Subject: FW: Fl. Building Code Local Ordinances exemption
Attachments: FBC code local ordinances.jpg

Please see attached code and Len's opinion below:

Tim Hruska

From: Len Rhodus [mailto:Len.Rhodus@KeysSchools.com]
Sent: Tuesday, February 08, 2011 9:45 AM
To: Tim Hruska
Cc: Fred Sims
Subject: Fl. Building Code Local Ordinances exemption

FYI

Local ordinances do not apply to educational facilities. They should not have stopped you from working on Sunday

Florida has a very broad Public Records Law. Email addresses and virtually all written communications to or from School District Personnel are public records available to the public and media upon request. E-mail sent or received on the School District system will be considered public and will only be withheld from disclosure if deemed exempt from disclosure or confidential pursuant to applicable state and federal law.

stored and dispensed in a manner to prevent contamination. Common drinking cups are prohibited.

422.2.14.2 Hot and cold running water under pressure and at safe temperature, not to exceed 110°F (43°C) to prevent scalding, shall be provided to all restrooms, lavatories and bathing areas.

422.2.15 Sewage disposal.

422.2.15.1 All sanitary facilities shall comply with the requirements of the *Florida Building Code, Plumbing*.

422.2.15.2 For facilities with nine or more birth rooms, mop sinks or curbed areas with floor drains shall be available in convenient locations throughout the facility to facilitate cleaning and for the proper disposal of cleaning water.

422.2.16 Fire control. Each birth center shall provide fire protection through the elimination of fire hazards, the installation of necessary safeguards such as extinguishers and smoke alarms to insure rapid and effective fire control.

422.2.16.1 To safeguard all clients, the birth center shall have:

422.2.16.1.1 "No Smoking" signs prominently displayed in those areas where smoking is not permitted.

422.2.16.1.2 Fire regulations and evacuation route prominently posted.

422.2.16.2 The written fire control plan approved by the appropriate local fire authority shall contain provisions for prompt reporting of all fires, extinguishing fires, protection of personnel and guests, evacuation, and cooperation with fire-fighting authorities.

422.2.16.3 New centers' carpeting must comply with the maximum flame spread rating of 75 in accordance with ASTM E 84 test as required under Chapter 69A-3.012 Standards of the National Fire Protection Association Adopted, *Florida Administrative Code*. Those existing centers not having affirmative evidence of complying with such flame spread rating shall establish fire control measures including the prohibition of smoking in carpeted areas. Such procedures shall be approved by the authority having jurisdiction.

SECTION 423 STATE REQUIREMENTS FOR EDUCATIONAL FACILITIES

423.1 Scope: Public educational facilities. Public educational facilities shall comply with the *Florida Building Code* and the *Uniform Fire Safety Standards* as adopted by the State Fire Marshal. These are minimum standards; boards may impose more restrictive requirements. Additional requirements for public educational facilities in Florida, including public schools and public community/junior colleges, are found in these standards.

Note: Other administrative and programmatic provisions may apply. See Department of Education Rule 6-2 and Chapter 1013, Florida Statutes.

423.2 Public schools and community colleges general requirements.

423.2.1 Owner. Each school board and community college board of trustees is deemed to be the owner of facilities within its respective jurisdiction. Boards shall provide for enforcement of the *Florida Building Code* and the *Uniform Fire Safety Standards* as adopted by the State Fire Marshal, including standards for health, sanitation, and others as required by law.

423.2.2 Exemption from local requirements. All public educational and ancillary plants constructed by a school board or a community college board are exempt from all other state, county, district, municipal, or local building codes, interpretations, building permits, and assessments of fees for building permits, ordinances, road closures, and impact fees or service availability fees as provided in Section 1013.37(1)(a), Florida Statutes.

423.3 Code enforcement.

423.3.1 School boards and community college boards. Section 553.80(6), Florida Statutes provides options for plan review services and inspections by school boards and community college boards.

423.3.2 Owner review and inspection. A school board or community college board which undertakes the construction, remodeling, renovation, lease, or lease-purchase of any educational plant or ancillary facility, or day labor project, regardless of cost or fund source, shall review construction documents as required by law in Section 1013.38, Florida Statutes and Section 553.80(6), Florida Statutes and shall ensure compliance with requirements of law, rule, and the *Florida Building Code* and the *Uniform Fire Safety Standards* as adopted by the State Fire Marshal. Section 553.80(6), Florida Statutes states that district school boards and community college boards shall provide for plan review and inspections for their projects. They shall use personnel certified under Part XII of Chapter 468, Florida Statutes to perform the plan reviews and inspections or use one of the options provided in Section 1013.38, Florida Statutes. Under this arrangement, school boards and community college boards are not subject to local government permitting, plan review, and inspection fees.

423.3.3 Local government review and inspection. As an option to the owner providing plan review and inspection services, school boards and community college boards may use local government code enforcement offices who will not charge fees more than the actual labor and administrative costs for the plan review and inspections. Local government code enforcement offices shall expedite permitting. Any action by local government not in compliance with Section 553.80(6), Florida Statutes may be appealed to the Florida Building Commission, which may suspend the authority of that local government to enforce the *Florida Building Code* and the *Uniform Fire Safety Standards* as adopted by the State Fire Marshal on the facilities of school boards and community college boards.

423.3.4 Other regulatory agencies. Boards shall coordinate the planning of projects with state and regional regulatory and permitting agencies, as applicable. Other state or