

ORDINANCE NO. 2016-06

ENVIRONMENT/NUISANCES

AN ORDINANCE OF LABELLE, FLORIDA; PROVIDING THAT THE CITY CODE BE AMENDED BY ADDING A CHAPTER TO BE NUMBERED CHAPTER 19. AND TITLED, "ENVIRONMENT"; PROVIDING FOR REGULATIONS INTENDED TO PROHIBIT USES AND CONDITIONAL USES WITHIN THE INCORPORATED BOUNDARIES OF THE CITY THAT INTERFERE WITH THE CUSTOMARY USE AND ENJOYMENT OF LIFE OR PROPERTY; PROHIBITING USES THAT CREATE A NUISANCE; REGULATING NUISANCE ANIMALS, VEHICLES AND ENGINE REPAIRS, HABITATION OF UNDEVELOPED PROPERTY, ACCUMULATIONS OF WASTE, OBSTRUCTIONS OF RIGHTS OF WAY, NOISE, AND/OR LIGHTING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR AMENDMENTS THAT MAY ARISE AT PUBLIC HEARINGS.

WHEREAS, the City of LaBelle, " the City," is authorized to adopt this Ordinance pursuant to Section 166.041, Florida Statutes; and

WHEREAS, the City Commission of the City is committed to protecting public health, safety and welfare by providing appropriate zoning regulations and standards relative to municipal issues; and

WHEREAS, the City Commission of the City deems it to be in the best interest of the City of LaBelle and the public to add Chapter 19 to the City of LaBelle Code of Ordinances as attached hereto as Exhibit "A" and incorporated herein by reference, and that such addition of Chapter 19., ENVIRONMENT, serves a valid municipal purpose.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF LABELLE, FLORIDA that:

1. After being read by title at two separate and duly advertised public meetings; and, after public hearing held on May 12, 1916, before the City Commission of the City of LaBelle, Ordinance No. 1916-6 is hereby adopted.
2. The City Commission for the City of LaBelle has determined that the LaBelle, Florida, Code of Ordinances shall be amended by adding Chapter 19. ENVIRONMENT, as set forth in Exhibit "A," and that such amendment shall be codified in the LaBelle, Florida, Code of Ordinances.

3. The City Commission of the City of LaBelle, Florida finds it a necessary and valid municipal purpose and necessity to amend the LaBelle, Florida, Code of Ordinances by adding Chapter 19. ENVIRONMENT, as set forth in Exhibit "A,"

4. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

5. This Ordinance shall become effective upon adoption.

PASSED AND ADOPTED in open session this 12th day May, 2016.

THE CITY OF LABELLE, FLORIDA

By: _____
David A. Lyons, Mayor

Attest:

Thomas A. Smith, Clerk-Commissioner

EXHIBIT “A”

- Chapter 19 - ENVIRONMENT
- ARTICLE I. - IN GENERAL
- Secs. 19-1—19-30. - Reserved.
- ARTICLE II. - NUISANCES
- Sec. 19-31. - Generally.
- Sec. 19-32. - Animals.
- Sec. 19-33. - Vehicle and engine repair restricted in residential districts.
- Sec. 19-34. - Habitation of undeveloped property.
- Sec. 19-35. - Accumulations of waste; weeds and noxious plants; removal of yard waste generated by contractors.
- Sec. 19-36. - Hazardous obstructions in street, alley or waterway.
- Sec. 19-37. - Noise.
- Sec. 19-38. - Lighting.
- Sec. 19-39. - Compliance requirements; abatement by city.

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- **Chapter 19 - ENVIRONMENT^[1]**
- **ARTICLE I. - IN GENERAL**
- **Secs. 19-1—19-30. - Reserved.**
- **ARTICLE II. - NUISANCES^[2]**
- **Sec. 19-31. - Generally.**

Permitted uses and conditional uses in any zone shall not create smoke, dust, noise, odor, vibration or glare which by themselves or in combination may be harmful or injurious to human health or welfare or which unreasonably interfere with the customary use and enjoyment of life or property.

• **Sec. 19-32. - Animals.**

(a) Livestock shall not be permitted within the incorporated city limits except within the agriculture zoning district. An exception shall be provided for 4-H or livestock club activities during the months of September through March, provided, however, a maximum of six (6) poultry are permitted at all times within the incorporated city limits, so long as the poultry are contained within a proper and human enclosure; and, the poultry do not create a nuisance as defined herein. For the purpose of this section, a Vietnamese potbellied pig is not considered to be of a swine class.

(b) *Standards for keeping animals.* The owner of any animal within the incorporated city limits must maintain such animal(s) allowed hereunder in such a manner as to ensure that the following minimum standards are met so that a nuisance is not created that would impact adjacent property owners:

- (1) The animal(s) does not produce noise that is reasonably objectionable to neighbors.
- (2) No offensive odor resulting from the keeping of the animal(s) is noticeable from another's property.
- (3) The animal(s) is not allowed to trespass on another's property.
- (4) All animal enclosures must be humane.

(5) The number of animals must be reasonable under the circumstances maintained.

• **Sec. 19-33. - Vehicle and engine repair restricted in residential districts.**

Motor vehicle repair or modification and engine repair or overhauling is not permitted in residential districts. Exempted from this section are occasional minor or emergency repairs.

• **Sec. 19-34. - Habitation of undeveloped property.**

No parcel of land shall be inhabited or occupied for purposes of sleeping, eating and the like during the hours of 11:00 p.m. to 7:00 a.m., unless such property is legally improved with a

safe, standard structure meeting all minimum ordinance requirements and intended to accommodate such a use.

• **Sec. 19-35. - Accumulations of waste; weeds and noxious plants; removal of yard waste generated by contractors; maintenance of right-of-way.**

(a)

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

Caretaker means the person responsible for the lawn and other areas of maintenance at property owner's location and employed directly by that property owner, either single-family or multifamily, and who is not required to hold a city certificate of competency.

Food waste means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Lot means any piece, division or parcel of land.

Refuse means all putrescible and nonputrescible solid wastes, except body wastes, including food waste, rubbish, ashes, street cleaning wastes, dead animals, abandoned automobiles and solid waste and industrial wastes.

Refuse type I means food waste, combustible rubbish from households, stores and businesses, such as, but not limited to, paper, rags, boxes, plastics, bedding, excelsior, rubber and leather, and all noncombustible rubbish such as, but not limited to, tin cans, ceramic and glass.

Refuse type II means all horticultural trimmings and all accumulations of grass, weeds, palm fronds, leaves, flowers, shrubs, vines, tree limbs and other similar accumulations incidental to yard keeping.

(b)

Removal of waste and excessive growth required. Owners and occupants of lots or agents for the owners of lots, unoccupied as well as occupied, shall control all excessive growth of grasses or weeds by cutting or removing the grasses and weeds, and shall remove any accumulation of filth or other matter on or within their premises. For the purpose of this subsection, excessive growth is defined as grasses or weeds exceeding 12 inches in height.

(c)

Control of specific noxious plants. The city commission has found growth of certain noxious plants to be a particular nuisance because they are invasive exotic plants which pose a risk to human health, safety and welfare. Therefore, on unimproved and improved lots in all

zone districts, growth of Brazilian pepper (*Schinus terebinthifolius*), Australian pines (*Casuarina* spp.), downy rose-myrtle (*Rhodomyrtus tomentosus*), bischofia (*Bischofia javanica*), melaleuca (*Melaleuca quinquenervia*), earleaf acacia (*Acacia auriculiformis*), carrotwood (*Cupaniopsis anacardioides*), and Java plum (*Syzygium cumini*) vegetation which overhangs or grows across the property line shall be trimmed or removed by the owner. At the time of development of vacant land, or redevelopment of developed land, all specimens of the above-referenced noxious plants shall be removed from the site. All specimens of the above-referenced noxious plants shall be removed from vacant properties within platted, developed subdivisions (frequently referred to as infill lots), including areas zoned PUD, within 5 years of the date of adoption of the ordinance from which this section is derived. Regrowth shall be prevented through the proper use of approved herbicides or removal of trunks and roots. If, after the 5-year time period has elapsed, a property owner has not complied with this section, the city shall have the right to remove the noxious plants, using either city staff or outside contractors, and place a lien on the property to recover the cost of said noxious plant removal. As an alternative, the party responsible for the property may implement a city-approved noxious plant removal plan, to accomplish an orderly and cost-effective compliance with this section. Sale or planting of seeds, seedlings, juvenile, or adult specimens of the above-referenced noxious plants is prohibited. For the purpose of this section, redevelopment means the demolition of the main structure on a site, and its replacement by another structure.

(d)

Disposal of yard waste generated by commercial contractors. All lawn maintenance, landscaping and tree trimming companies working for a property owner within the city limits are required to have a city Occupational License and shall be required to dispose of all refuse type II at a properly authorized disposal or recycling location, unless it is to be used as mulch on the property from which it was generated. Failure to properly dispose of refuse type II as required will result in a code enforcement action ranging from a 3-month suspension of Occupational License for a first violation to revocation of Occupational License for a subsequent violation.

• **Sec. 19-36. - Hazardous obstructions in street, alley or waterway.**

Any obstacle, organic or inorganic, which obstructs free passage or presents a potential hazard to the free passage of traffic in the streets, alleys or waterways of the city is declared a nuisance.

• **Sec. 19-37. - Noise.**

(a)

Definitions.

A-weighted level (dBA) means the total broad band sound level of the noise spectrum as measured using the "A-weighted network" of a sound level meter (SML). The unit of measurement is the dBA. All sound level meter settings shall be for slow response, except for impulsive noise measurements which shall be fast response.

Ambient sound means the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources near and far. For the purposes of this section, ambient sound level is the level obtained when the sound level is averaged over a period of at least 15 minutes without inclusion of sound from occasional or occasional and transient sources, at the location and time of day near that at which a comparison is to be made.

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

Decibel (dB) means a unit for describing the amplitude of sound, equal to 19 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 19 micronewtons per square meter.

Impulsive sound means a noise which is characterized by brief excursions of sound pressure which significantly exceed the ambient sound level.

Nearest adjacent property line means the property line closest to the noise source.

Noise, or noise disturbance, means any sound that:

- (1) Exceeds the maximum permitted sound levels set out in Table 1 of this section; or
- (2) Is loud and raucous so as to unreasonably disturb, injure or endanger the comfort, repose, health, peace, tranquility or safety of reasonable persons of ordinary sensibilities;
- (3) Constitutes a breach of the peace or a public nuisance;
- (4) Is plainly audible at a distance of 25 feet or more from the property line;
- (5) With respect to vehicles and vessels, is plainly audible at a distance of 25 feet from the noise source.

Nonresidentially zoned areas means those zoning districts which are not zoned primarily for single-family or multifamily use. Nonresidentially zoned areas include all commercial, industrial, public service, PUD for commercial uses and other districts which permit nonresidential uses.

Octave band means all of the components in a sound spectrum whose frequencies are between two sine-wave components separated by an octave.

Property line means an imaginary line exterior to any enclosed structure, at the ground surface, which separates the real property owned by one person from that owned by another person, and its vertical extension.

Pure tone means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds arithmetic value of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of 500 Hz and above and by eight dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

Receiving property means the property which is receiving the noise.

Sound means an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound including duration, intensity and frequency.

Sound amplifying equipment means any machine or device for the amplification of human voice, music, or any other sound.

Sound level meter means an instrument to measure the sound pressure level of relatively continuous and broadband noises. The sound level meter used to determine compliance with this section shall meet or exceed the requirements for Type 2 sound level meter in accordance with ANSI Standard S1.4.

(b)

General prohibitions.

(1)

It shall be unlawful and prohibited for any person to make, continue, or cause to be made or continued any noise, as defined in this section, or to create any noise disturbance within the limits of the city.

(2)

It shall be unlawful and prohibited for any person owning or in possession of any building or premises to use, allow the use, or rent the same for any business or residential use, or for any purpose of pleasure or recreation if such use makes, continues, or causes to be made or continued, any noise, as defined in this section, within the limits of the city.

(c)

Specific noise prohibitions. The following acts, where meeting the definition of noise above, are declared to be examples and prima facie evidence of noises that constitute a noise disturbance, breach of the peace and public nuisance:

(1)

Radios, audio or visual equipment, sound equipment, sound amplification devices, exterior loudspeakers, musical instruments and similar devices. Operating or permitting the use or operation of any radio, musical instrument, audio or visual equipment, sound amplification devices, exterior loudspeaker, or other device for the production or reproduction of sound in such a manner as to cause noise. The operation of any such device for the production or reproduction of sound:

a.

Between the hours of 10:00 p.m. and 7:00 a.m. shall be controlled so that it is not loud or disturbing or a nuisance to persons within the area of audibility, or

b.

At any time with louder volume than is necessary for convenient hearing for persons who are in the same dwelling unit of any multiple dwelling in which such device is operated, shall be deemed prima facie evidence of a violation of this section.

Radios, audio systems and similar devices associated with motor vehicles or motorboats, shall not be operated in such a manner as to create noise that is plainly audible at 25 feet or more from such device, when operated on a public right-of-way, waterways, beaches, or public space.

(2)

Engine mufflers. Operating any internal combustion engine, including such an engine associated with a motorboat, or motor vehicle without a muffler or other device at least as effective as that installed as original equipment by the manufacturer, which will effectively prevent loud or explosive noises therefrom.

(3)

Motor vehicle, motorcycle or motorboat repair in residential areas. The noncommercial repairing, rebuilding, modifying or testing of any motor vehicle, off-road vehicle, or motorboat within or abutting any residential land use designation in such a manner as to create noise across a real property line between the hours of 10:00 p.m. and 7:00 a.m.

(4)

Activities in the vicinity of schools, churches, and health care facilities. Creating noise on any street adjacent to any school, church, or health care facility, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in a health care facility.

(5)

Peddling, hawking, or vending. Peddling, hawking, or vending, including shouting, crying out by peddlers, hawkers or vendors along or on a roadway.

(6)

Yelling, shouting. Yelling, shouting, hooting, whistling, singing, or the making of similar noises, and loud, boisterous conduct other than normal conversation at reasonable levels, inside of or on the grounds of any public or private property between the

hours of 10:00 p.m. to 7:00 a.m., so as to annoy or disturb the quiet, comfort, or repose of other persons or create a disturbance.

(7)

Horns, signal devices. Sounding of any horn or audible signal device of any motor vehicle, boat, engine, or machine of any kind while not in motion, nor shall such horn or signal device be sounded under any circumstances except as required by law, or as a danger warning, nor shall it be sounded for any unnecessary or unreasonable period of time.

(8)

Air conditioning units and other mechanical equipment including, pool or spa heaters and pumps, and regularly-used generators, irrigation pumps and exhaust fans. Operating any noise creating fan or blower, air conditioner, compressor unit, pool heaters, pool pumps, heat pumps, or the electric motor or any engine used to drive such device, the operation of which causes excessive and unnecessary noise, unless such noise is muffled and deadened by adequate noise compression and muffling devices to minimize annoyance and disturbance to persons within range of hearing. Noise shall be presumed excessive if it exceeds decibel limitations prescribed in Table 1 when measured at the property line of the receiving property. Mechanical equipment installed before December, 1906 shall not exceed 60 decibels (DBA).

(9)

Drums, cymbals, musical instruments and loudspeakers. Creating, making, or maintaining any noise by the use of any drum, cymbals, loudspeaker, or other similar instruments in the city for the purpose of attracting attention to any performance, show, sale, or display of merchandise, or place of business. This provision shall not apply to permitted special events.

(10)

Bells or sirens on vehicles. Using, in connection with an unauthorized vehicle, any bell or siren similar to that used on ambulances or vehicles of the sheriff, fire departments, and other public safety agencies.

(11)

Skateboard ramps. Using any skateboard ramp or similar configuration for skateboarding or rollerblading between 10:00 p.m. and 7:00 a.m. in a residential land use designation in such a manner that results in noise across a real property line.

(12)

Powered model vehicles. Operating or permitting the operation of powered model vehicles in such a manner as to create noise across a real property line between the hours of 9:00 p.m. and 7:00 a.m.

(13)

Animal noises. Allowing an animal to habitually bark, whine, howl, squawk, screech, or cause any other noise which is objectionable due to pitch, frequency, duration, or timing.

(14)

Outdoor live entertainment. Providing outdoor live entertainment, as authorized by a valid special event permit, in such a manner as to create noise as defined in this section, or, in excess of the decibel limitations prescribed in Table 1, provided however, this shall not apply to Swamp Cabbage Festival activities as permitted by the city and/or the Swamp Cabbage Committee.

(d) *Exemptions.* The following noises shall be exempt from the restrictions set forth in the other sections of this article:

(1)

Noises of authorized safety signals and warning devices.

(2)

Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency or any other public safety operation.

(3)

Noises resulting from emergency work, which is to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from any imminent exposure to danger.

(4)

Noises incidental to and necessary for city approved solid waste collection equipment, public works construction and maintenance; and police or fire training.

a.

The city manager, may grant a waiver, may prescribe any reasonable conditions or requirements it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

b

A waiver may be given upon finding that it will not unreasonably disturb, injure or endanger the comfort, repose, health, peace or safety of any affected persons because it is temporary in nature, adjacent property owners do not object, or for necessity or unavailability.

c.

Waivers may be issued for no longer than 30 days, renewable by further application to the city manager.

(5) Swamp Cabbage Festival activities as permitted by the city and/or the Swamp Cabbage Committee.

(e)

Octave band levels. In addition to the noise limitations listed in this section, for any source or sound that can be detected on a receiving property, when measured at the nearest point of the property line of the receiving property, the maximum allowable sound level

limit for the individual octave bands shall comply with Table 1. In no case shall the noise level on the premises of any other occupied property measured at a point on the nearest adjacent property line closest to the noise source, or if a condominium, apartment house, duplex, or attached business, within any adjoining unit, exceed the ambient noise level by more than five decibels.

Table 1

31.5	69	64	74	69	79
63	69	64	74	69	79
125	66	61	71	66	76
250	62	57	67	62	72
500	58	53	63	58	68
1,000	53	48	58	53	63
2,000	49	44	54	49	59
4,000	46	41	51	46	56
8,000	42	37	47	42	52
DBA	60	55	65	60	70
Octave Band Center Frequency (In Hertz.)	Residential Site or Unit*		Non Residential Site or Unit*		Manufacturing, Industrial, or Agricultural Site or Unit*
	Day 7 a.m.— 10 p.m.	Night 10 p.m.— 7 a.m.	Day 7 a.m.— 10 p.m.	Night 10 p.m.— 7 a.m.	

* These uses pertain to the receiving site.

(f)

Enforcement and penalties. A violation of this section is a non-criminal infraction, and the civil penalty is \$100.00 for the first offense and \$500.00 for each subsequent offense occurring within one year after a finding of violation of the previous offense or a plea of no contest. It is also enforceable and punishable as otherwise provided in [the LaBelle Code](#). In addition, if a permit for a special event or extended hours have been allowed pursuant to a special event permit issued by the city, and the permit holder or person acting under the permit, violates this section, the permit is subject to revocation or non-renewal.

• **Sec. 19-38. - Lighting.**

Exterior lights installed on private property must be designed, arranged or shielded in such a manner that all adjacent properties and the public roadways are protected from direct or reflective glare or hazardous interference to pedestrians or motorists. The fixtures shall provide a full cutoff at the property line as classified by the Illuminating Engineering Society of North America.

• **Sec. 19-39. - Compliance requirements; abatement by city.**

(a)

If any lot shall be in violation of this article as outlined in this section, the owner and occupant of such property shall be notified in writing. If the violation has not been corrected within 5 days after receipt of the written notice, the city may clean, clear, trim or mow such lot and lien the cost of such against the owner of the property. Such lien shall accrue interest at the highest rate allowed by law from the date of recording of the lien.

(b)

If the owner or agent for the owner or occupant of any property shall fail to cease or remove the nuisance indicated in this section, a statement of violation following the initial notice of violation may be referred to the code enforcement board.

(c)

Failure to notify the owner or agent for the owner or occupant shall not relieve the owner of compliance with subsection [19-35\(b\)](#) nor shall failure to notify relieve the owner of any liability pursuant to this section.

(d)

The charge for mowing any property by the city pursuant to this section shall be established by resolution of the City.