PLEDGE OF PUBLIC CONDUCT
We may disagree, but we will be respectful to one another.
We will direct all comments to issues.
We will avoid personal attacks.

1. ORDINANCE 2016-09 NOISE (M. Barnebey/S. Tyler) (TAB 1)

If any person desires to appeal any decision of the City Commission, CRA Board, or of any other Board of the City, that person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS §286.0105).

The City of Palmetto does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status or handicapped status in employment or in the provision of services. Handicapped individuals may receive special accommodation in services on forty-eight hours' notice (FS §286.26). Anyone requiring reasonable accommodation for this meeting as provided for in the American with Disabilities Act should contact the City Clerk by telephone at 941-723-4570, fax 941-723-4576 or e-mail jfreeman@palmettofl.org or alarowe@palmettofl.org.

POSTED: September 21, 2017
Background Discussion:
There was some simplification on the decibel levels from the prior version and a full exemption for mosquito foggers which was shown. The Chief and the City Attorney would like direction by consensus on the following issues particularly related to decibel level enforcement under these situations (Issues resolved in our last meeting are delineated in bold):

1. Do you want to be able to potentially enforce the noise ordinance in court?
   a. Yes.
   b. No. If this option is selected, then we will not likely be able to enforce the noise ordinance except by voluntary compliance. However, the City would keep the existing ordinance and would look to tweak the language as appropriate.

2. Is the proposed level of noise generally appropriate?
   Yes. Noise standards for Commercial Areas and all other properties have been amended to reflect Jonathan Davis' proposal at the last work session. See Section 5-4(2)(b).

3. Do you want to have "Entertainment Zones" to recognize existing areas that allow louder noise levels in the evening hours?
   a. If so, are the proposed areas correct?
   b. If so, are the levels of noise correct?

   Entertainment Zones have been eliminated.

4. Do you want to have Special Function Permit event noise levels exempt and reviewed on a case by case basis? A cap for Special Function Permit noise has been added consistent with Jonathan Davis' proposal at the last work session. See Section 5-3(12).

5. Do you want to create a Special Noise Permit to allow private property owners to have events on non-City property?
   If so, how many times per year?
Special Noise Permits have been eliminated.

6. Do you want any other changes?

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<thead>
<tr>
<th>Budgeted Amount:</th>
<th>Available Amount:</th>
<th>Expenditure Amount:</th>
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<td>0.00</td>
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Is this expensed from Operating Budget? Is this part of the CIP: Y/N

- [ ] Capital Expense
- [ ] Non Capital Expense

Cost and Funds Source Account Number and Name:

City Attorney Review: Y/N

Direction Requested/Potential Motion:

Staff Contact:

Attachments:
AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, REGARDING THE EMISSION OF HARMFUL NOISE WITHIN THE CITY OF PALMETTO; AMENDING ARTICLE I OF CHAPTER 5 OF THE CITY CODE; DEFINING CERTAIN TERMS; PROVIDING FOR CERTAIN EXCEPTIONS; PROHIBITING THE MAKING, CAUSING OR ALLOWING OF HARMFUL NOISE WHICH CAUSES NOISE DISTURBANCES OR EXCEEDS CERTAIN SOUND LEVELS; PROVIDING FOR THE MEASUREMENT OF LEVELS OF HARMFUL NOISE; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palmetto has codified its various noise regulations in the City of Palmetto Code of Ordinances; and

WHEREAS, the making and creation of excessive and unnecessarily loud noises within the City of Palmetto, Florida, is a condition which has existed for some time and which exists despite enforcement efforts; and

WHEREAS, excessive amplified sound from motor vehicle radios or other motor vehicle sound making devices is a public safety hazard which can inhibit a driver’s ability to hear, as well as create a hazard and annoyance to other citizens; and

WHEREAS, these noises and the amount, intensity, duration and vibration of said noises are increasing within the City as population and tourism grow; and

WHEREAS, the residents of the City of Palmetto have a right to an environment free from excessive noise including the vibration and disturbances from low frequency noise; and

WHEREAS, the making and creation of these noises may be prolonged, unusual and unnatural in their time, place and effect upon individuals, and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of Palmetto; and
WHEREAS, as a matter of public policy, the City Commission recognizes that there are certain areas where outdoor and louder forms of entertainment may be appropriate, and thus have allowed higher levels of noise disturbance at certain times and on certain days; and

WHEREAS, as a matter of legislative determination and public policy, the City Commission finds it in the public interest for the provisions, prohibitions and penalties hereinafter contained and enacted; and

WHEREAS, Chapter 162, Florida Statutes, provides a process for municipalities to enforce ordinance violations as both criminal and non-criminal civil infractions; and

WHEREAS, the City Commission wishes to adopt the non-criminal civil infraction penalty and separate fine schedule for excessive amplified sound from motor vehicles because these violators are excluded from first receiving a notice due to the itinerant or transient nature of this violation; and

WHEREAS, the City Commission wishes to adopt both the criminal and non-criminal civil infraction penalties for all other violations of this article; and

WHEREAS, it is further declared that these provisions, prohibitions and penalties are in pursuance of and for the purpose of securing and promoting the public health, comfort, safety, and welfare of the inhabitants of the City of Palmetto; and

WHEREAS, this Ordinance is enacted pursuant to the home rule power of the City of Palmetto, specifically and pursuant to Article VIII, Section 2, Florida Constitution, which provides that adequate provision shall be made by law for the abatement of excessive and unnecessary sound; and

WHEREAS, it is the intent of this Ordinance that it shall work harmoniously with existing ordinances and state statutes regulating noise emissions; and
WHEREAS, it is not the intent of this Ordinance to interfere with the individual rights to freedom of speech or religion; and

WHEREAS, the City Commission finds that the provisions of this ordinance are in the best interests of the City's residents, businesses and visitors.

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

Section 1. The foregoing whereas clauses are hereby adopted as findings of fact.

Section 2. Article I of Chapter 5 of the City of Palmetto Code of Ordinances is hereby amended to reading in its entirety and is attached as Exhibit A.

Section 3. Codification. The City Clerk shall ensure that this Ordinance shall be submitted for codification upon taking effect.

Section 4. Repeal of Inconsistent Ordinances. This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 6. Effective Date. This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

<table>
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<th>FIRST READING</th>
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<td>PUBLICATION DATE</td>
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<tr>
<td>SECOND READING</td>
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</table>
PASSED AND DULLY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, with a quorum present and voting, in regular session assembled, this ____ day of ________, 2017.

By: __________________________
Shirley Groover Bryant, Mayor

ATTEST:

By: __________________________
James R. Freeman, City Clerk
EXHIBIT A

ARTICLE I. NOISE

Sec. 5-1. Definitions. All words or phrases used in this article which are not defined below and are of a technical nature shall be defined according to applicable publications of the American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) or their successor bodies, where same have been defined.

Adjacent: Shall mean to have property lines, or portions thereof, in common or facing each other across a street, or right-of-way.

A-weighted sound level (dBA): The sound pressure level in decibels as measured using the A-weighting network on a sound level meter that meets the standards set forth in ANSI Standard S1.4-1983 (or more recent version). The level so read is designated "dBA."

Agricultural area: Any area zoned E-R Estates Residential District or RS-1 Single Family Residential District.

Ambient Sound: The surrounding or steady background sound in a particular location as distinct from the specific noise being measured.

C-weighted sound level (dBC): The sound pressure level in decibels as measured using the C-weighting network on a sound level meter that meets the standards set forth in ANSI Standard S1.4-1983 (or more recent version). The level so read is designated “dBC.”

Commercial area: Any area that is designated for commercial use pursuant to the City Zoning Code or in planned development zoning districts, any area approved for commercial uses.

Construction activity: Any site preparation, assembly, erection, substantial repair, alteration, or improvement of realty, whether publicly or privately owned, and whether above ground or below ground.

Continuous sound: A sound which remains essentially constant in level during a period of observation.

Decibel (dB): The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (twenty [20] micropascals); abbreviated "dB.”

Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma to human beings or living creatures or property damage which necessitates immediate attention.

Emergency work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, including work necessary to restore property to a safe condition following an emergency.
Entertainment Zones: Those areas depicted graphically on the map below labelled as the Fairground, Downtown and Convention center and 10th Street Areas:

- Impulsive sound: Any sound or vibration that has an abrupt increase immediately followed by an abrupt decay.

- Industrial use: Any area within that is designated for industrial use pursuant to the City Zoning Code.

- Leq: the average sound level in decibels (dB) over a given period of time.

- Motor Vehicle: Any vehicle which is self-propelled.

- Noise: Any sound which annoys or disturbs a reasonable person of ordinary sensibilities or causes or tends to cause an adverse physical or psychological effect on humans. "Noise" includes, but is not limited to, low frequency sounds that can induce vibration in structures or human beings.

- Noise disturbance: Any sound or vibration which:

  1. May disturb, annoy, or be harmful or injurious to the health or welfare of a reasonable person of ordinary sensibilities; or

  2. Exceeds the maximum allowable limits set forth in this article.

Exhibit A, Page 2
**Person:** A natural person, any corporation, firm, association, joint venture, partnership, or any other entity whatsoever or any combination of such, jointly and severally.

**Property line:**

1. The imaginary line along the ground surface, including its vertical extension that separates one parcel of real property from another; or

2. The vertical and horizontal boundaries of a dwelling unit that is one unit in a multi-dwelling-unit building.

**Public right-of-way:** Any street, avenue, boulevard, highway, sidewalk or alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

**Public space:** Any real property or structure thereon normally accessible to the public which is owned or controlled by a governmental entity.

**Receiving land:** The property which receives the transmission of sound.

**Residential area:** Any area within the City of Palmetto that is designated for residential use pursuant to the City Zoning Code or, in planned development zoning districts, any area approved for residential uses.

**School:** An organization of students for instructional purposes such as an elementary, middle or junior high school, secondary or high school.

**Short duration and non-repetitive:** Any sound with a duration of less than thirty seconds.

**Sound:** A temporal and spatial oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

**Sound analyzer:** A device for measuring the octave band level of a sound as a function of frequency.

**Sound level:** The conversion of sound pressure to a logarithmic measure called the decibel.

The criteria required to properly define the sound level limits include the following:

1. The actual sound level limit with the frequency weighting to be used, such as A-weighting or C-weighting (i.e. 55 dBA, 60 dBC, etc.)

2. The acoustical metric to be used, such as real time measurement using fast/slow time constant, an average sound level (Leq), a maximum sound level (Lmax), etc. or a combination of multiple metrics.
Sound level or noise meter: An instrument which includes a microphone, amplifier, RMS detector, integrator or time averages, output meter, and weighting networks used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated, and the instrument is of type 2 or better, as specified in the American National Standards Institute publication S1.4-1983 or its successor publication.

Sound pressure: The instantaneous difference between the actual pressure and the average or barometric pressure at a given location.

Sound pressure level: Twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) microneewtons per square meter. The sound pressure level is expressed in decibels.

Vibration: A temporal and spatial oscillation of displacement, velocity and acceleration in a solid material.

Sec. 5-2. Area of applicability. This article shall be applicable to and embrace the incorporated areas of the City of Palmetto.

Sec. 5-3. Exemptions. The following activities or sources are exempt from the requirements of this article:

1. The emission of sound or noise for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work.

2. Operation of equipment or conduct of activities normal to residential or agricultural uses as set forth herein:

<table>
<thead>
<tr>
<th>Description</th>
<th>Hours of Operations</th>
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<tr>
<td>(a) lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb chipping and other normal community operations</td>
<td>7:00 a.m. to 10:00 p.m.</td>
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<tr>
<td>(b) operation of equipment for solid waste and recycling collection in or adjacent to residential uses</td>
<td>6:00 a.m. to 6:00 p.m.</td>
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<tr>
<td>(c) operation of equipment for solid waste collection in nonresidential locations and street sweepers</td>
<td>4:00 a.m. to 9:00 p.m.</td>
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</table>

Exhibit A, Page 4
(d) Street sweeping and mosquito fogging of the day

4:00 a.m. to midnight

any time

(3) Operation of manufacturing in areas zoned for such activities and which do not create a noise disturbance on any properties not designated for such activities.

(4) The usual sounds or noises of construction activity and operation of construction equipment between the hours of 7:00 a.m. to 9:00 p.m.

(5) Motor vehicles operating on a public right-of-way in compliance with Chapter 316 and Section 403.415, Florida Statutes, as amended, or public waterway. This exception shall not apply to amplified sound or vibration produced by a radio, tape player, CD player, or other mechanical sound making device or instrument from within the motor vehicle, whether in service, idling, or parked, so that the sound is plainly audible from 50 feet from the source vehicle or the vibration can be felt from 50 feet from the source vehicle. In determining whether a sound is plainly audible:

(a) the primary means of detection shall be by means of the officer's ordinary senses, so long as the officer's senses are not enhanced by any mechanical device; and,

(b) the officer must have a direct line of sight and hearing to the motor vehicle producing the sound or vibration so that he/she can readily identify the offending motor vehicle and the distance involved; and,

(c) the officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound.

(6) Any air-conditioning or pool pump equipment when in reasonable mechanical condition operating with the standard sound and vibration control systems typically provided by the manufacturer. Air conditioning units are presumed to be in reasonable mechanical condition if the unit meets the sound specifications contained in the Air Conditioning, Heating, and Refrigeration Institute's ("AHRI") Applied Directory of Certified Product Performance Variable Air Volume Terminals.

(7) Any power generator operating during a state of emergency declared by the Governor.

(8) Railroad operations.

(9) Any aircraft operating in conformity with, or pursuant to, federal law, federal air regulations and air traffic control instructions used pursuant to and within the duly adopted federal air regulations.

(10) The usual sounds or noises associated with marina operations and port operations.

(11) Between the hours of 7:00 a.m. and 12:00 a.m. (midnight), the emission of sound or noise from lawful and proper activities on school grounds and places primarily used for athletic
contests and sporting events, or for County Fair related events at the Manatee County Fairgrounds.

(12) Those uses consistent with a Special Function Permit issued pursuant to Article VI of Chapter 19 of the Palmetto Code of Ordinances or a Special Noise Permit issued pursuant to Section 5.5. Sound levels for uses with a Special Function Permit shall not exceed one hundred dBA or one hundred and three (103) dBC.

(13) Impulsive sound.

(14) Sports shooting ranges in compliance with Sections 790.33 and 823.16, Florida Statutes, and as amended.

(15) Sounds emanating from bona fide farm operations on land classified as agricultural land which are exempt from local government regulation pursuant to Section 823.14, Florida Statutes, and as amended.

Sec. 5-4. Prohibited acts. The occurrence of the conditions, acts or omissions as described in this section shall constitute a violation of this article. Requirements in any one of said subsections stand alone. Measurements described in subsection (2) shall constitute prima facie evidence of a violation of this article. However, such measurements are not necessary for enforcement of this article, i.e., neither sound measurements and maximum permissible sound levels as provided in subsection (2) nor any other type of sound measurement are necessary to prove a violation of subsection (1) or subsection (3) of this section so long as evidence exists sufficient to establish that the sound constitutes a noise disturbance pursuant to the applicable standard of proof.

(1) Noise disturbance. Notwithstanding any other provision of this article, and in addition thereto, it shall be unlawful for any person to make or continue, or cause or permit to be made or continued, any noise disturbance, as defined in Section 5-1.

(a) Standards. The standards to be considered in determining whether a violation of subsection (1) of this section exists must include consideration of one or more of the following factors:

1. The sound level of the noise.
2. The intensity of the noise.
3. Whether the nature of the noise is unusual.
4. The volume and intensity of the ambient sound, if any.
5. The proximity of the noise to residential sleeping facilities.
6. The nature and zoning of the area from which the noise emanates.
7. The nature and zoning of the receiving land.
8. The time of the day or night the noise occurs.
9. The duration of the noise.

(b) Persons affected. Persons affected include residents, passersby, law enforcement officials, or others who may be reasonably disturbed by excessive noise in the general conduct of their affairs.
(2) Maximum permissible sound levels.

(a) Measurement. Sound level limits pursuant to this section shall be measured with a sound level meter as a Leq (average sound level) for a minimum thirty (30) second period of time.

(b) Sound Level Limits. No person shall generate or cause to be generated from any source, sound which exceeds the standards set forth below:

1. Within any area designated as an Entertainment Zone Commercial Area, the maximum dBA and dBC sound levels shall be no greater than the maximum levels set out below. The measurement shall be taken from a receiving property at the property line closest to the noise generating property, or from an individual lease boundary in the case of property which has been divided by the execution of individual leases, closest to the noise generating property.

   a. Seventy-five (75) dBA or seventy-two-fiveseight (72.58) dBC between the hours of 6:00 p.m. and 2:00 a.m. (midnight) on all days except Fridays, Saturdays and holidays when the hours shall be from 7:00 p.m. to 12:00 a.m. (midnight) and

   b. Sixty (60) dBA or sixty-five (65) dBC during all other times of day.

2. In all areas of the City other than those areas listed in subsection (b)1 above, the average measurement taken shall be no greater than the maximum levels set out below. The measurement shall be taken from a receiving property at the property line closest to the noise generating property, or at the lease boundary in the case of property which has been divided by the execution of individual leases, closest to the noise generating property.

   a. Sixty-five (65) dBA or Sixty-fiveeight (65.8) dBC—between the hours of 7:00 a.m. and 11:00 p.m., Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight—Friday, Saturday and any day immediately preceding a federally recognized holiday.

   b. Fifty-five (55) dBA or Sixty (60) dBC—during the hours between 11:00 p.m. and 7:00 a.m., Sunday through Thursday—Friday, Saturday and the day prior to a federally recognized holiday, the hours shall be from 12:00 a.m. (midnight) to 7 a.m.

(c) Correction for character of sound. For any source of sound which emits a continuous sound, the maximum sound level limits set forth in subsection (2)(b) shall be reduced by five (5) dBA. For any source of sound which is of short duration and is nonrepetitive, the maximum sound level limits set forth in subsection (2)(b) shall be increased by five (5) dBA from 7:00 a.m. to 11:00 p.m.
(d) Correction for ambient sound. Corrections for ambient sound should be made in accordance with applicable ASTM standards.

(e) Methods of measurements.

1. The measurement of sound shall be made with a decibel or a sound level meter operating on the “A” or “C”-weighted scale of any standard design and quality meeting the standards prescribed by the American National Standards Association. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source. The microphone used during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A wind-screen for the microphone should be used when required. Traffic, aircraft, and other background ambient sounds shall not be considered in taking measurements except where such ambient sound interferes with the primary noise being measured.

2. If the receiving property is an agricultural area the measurement shall be made within thirty (30) feet of a receiving occupied structure or facility approximately five (5) feet above ground.

3. For all other properties, the measurement shall be made within the boundary of the receiving property as appropriate approximately five (5) feet above ground.

4. Acoustical measurements should be made in general conformance with ASTM Standard E1503-06 (or most recent) Standard Test Method for Conducting Outdoor Sound Measurements Using a Digital Statistical Sound Analysis System or ANSI Standard S1.13, Measurement of Sound Pressure Levels in Air, with regard to addressing issues such as measurement equipment, equipment interferences, calibration of the equipment, and measurement procedures.

(3) Except to the extent of any exemption pursuant to subsection (5) of Section 5-3 herein, it shall be unlawful for any person to make, continue, or cause or permit to be made amplified sound or vibration produced by a radio, tape player, CD player, or other mechanical sound making device or instrument from within the motor vehicle, whether in service, idling, or parked, so that the sound is plainly audible from 50 feet from the source vehicle or the vibration can be felt from 50 feet from the source vehicle. In determining whether a sound is plainly audible:

(a) the primary means of detection shall be by means of the officer’s ordinary senses, so long as the officer’s senses are not enhanced by any mechanical device; and,

(b) the officer must have a direct line of sight and hearing to the motor vehicle producing the sound or vibration so that he/she can readily identify the offending motor vehicle and the distance involved; and,
(c) the officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound.

Sec. 5-5. Special Noise Permit.

(1) Up to a maximum of three (3) times per calendar year, a Special Noise Permit may be approved for a parcel of land which would allow the exceedance of noise limitations set forth in Article I of Chapter 5 of the Palmetto Code of Ordinances. The applicant shall complete an application and file the application with the City Clerk. Such application shall be established by the City Clerk and shall include, at a minimum:

(a) the location of the event;
(b) the date and times of the event;
(c) a sketch illustrating the location and orientation of any proposed noise generating devices and any noise limiting features proposed on the property.

(2) Once a completed application has been filed, the matter shall be scheduled for the City Commission review on the next available City Commission regular meeting agenda. The City Commission may approve the request, approve the request with conditions to minimize noise impact on neighboring properties or deny the request. The only grounds for denial of a Special Noise Permit are:

(a) The parcel has already received its maximum number of permits for a calendar year; or
(b) Article I of Chapter 5 has been found to have been violated on the subject parcel or by the applicant for the Special Noise Permit during the prior three (3) years.

(3) If the application is denied or the applicant objects to a condition placed on the Special Noise Permit, the City shall automatically request immediate judicial review by the Circuit Court of such action unless the applicant indicates in writing that the applicant does not wish a review of the determination by the City.

Sec. 5-65. Enforcement and penalties.

(1) The provisions of this article shall be enforced throughout the City of Palmetto pursuant to Chapter 162, Florida Statutes by the City of Palmetto Police Department and Division 3 of Article IV of Chapter 2 of the Palmetto Code of Ordinances. The police officers of the City Police Department are hereby designated as code enforcement officers for purposes of enforcing the provisions of this article and are fully authorized to enforce the provisions of this article. Pursuant to Article IV of Chapter 2 of the Palmetto Code of Ordinances enforcement methods may include, but are not limited to, the issuance of a citation, a summons, or a notice to appear in county court or arrest by a police officer for violation of any of the provisions of this article as provided for in chapter 901 of Florida Statutes. The
City of Palmetto Police Department may develop standard form notices and citations consistent with this article for use by law enforcement.

(2) Except as set forth in Subsection (4) below of this Section 5-6, when a police officer has reasonable cause to believe that a violation of this article has occurred, based upon personal investigation, he or she shall provide a warning to the person that the person has committed a violation of this article and shall establish a reasonable time period within which the person must correct the violation. Absent special circumstances, a reasonable time period shall be fifteen (15) minutes. If, upon personal investigation, a police officer finds that the person has not corrected the violation within a reasonable time period, they may engage in any of the enforcement actions set out in section (1) of this Section 5-6.

(3) A notice or citation issued under any section of this article may be contested pursuant to Section 2-105 of the Palmetto Code of Ordinances. However, the pendency of a hearing on the contested notice or citation shall not entitle the person to continue any activity which formed the basis of the alleged violation, unless and until the court rescinds such notice or overturns the citation.

(4) If a repeat violation within 365 days is found or if the police officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, the violator is engaged in violations of an itinerant or transient nature, or if the violation is irreparable or irreversible, a police officer is not required to provide the person with a reasonable time period to correct the violation prior to issuing a citation summons, notice to appear, or prior to making an arrest, and may immediately take such action.

"Repeat violation" is a violation of this article by a person who has been previously found by the judicial process, including payment of a citation, to have violated or who has admitted violating this article, notwithstanding the violations occur at different locations.

Additionally, payment of a civil citation, failure to pay the civil penalty or failure to contest the citation within the time frame specified on the citation shall be deemed an admission of a violation of this article for the purposes of a repeat violation.

Due to the mobile nature of motor vehicles, violations involving amplified sound produced by a radio, tape player, CD player, or other mechanical soundmaking device or instrument from within motor vehicles are deemed per se itinerant or transient in nature.

(5) A citation issued by a law enforcement officer shall include the following information, as provided in Section 162.21, Florida Statutes, and as may be amended:

(a) The date and time of issuance.
(b) The name and address of the person to whom the citation is issued.
(c) The date and time the civil infraction was committed.
(d) The facts constituting reasonable cause.
(e) The number or section of the code or ordinance violated.

(f) The name and authority of the law enforcement officer.

(g) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

(h) The applicable civil penalty if the person elects to contest the citation.

(i) The applicable civil penalty if the person elects not to contest the citation.

(j) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(6) For a violation of this article:

(a) First violation:

1. For all sections except Section 5-3(5)(a) through (c), a law enforcement officer shall issue a written warning for a first offense;

2. For Section 5-3(5)(a) through (c), a law enforcement officer may issue a warning that a violation exists or may issue a citation with a twenty-five dollar ($25) fine, a summons, or a notice to appear in county court.

(b) Second violation: Within 365 days of the first violation, a law enforcement officer may issue a citation with a one hundred dollar ($100) fine, a summons, or issue a notice to appear in county court, or effectuate an arrest subject to the penalties of a second degree misdemeanor, as provided in Section 775.082, Florida Statutes.

(c) Third or subsequent violation: Within 365 days of the second violation, a law enforcement officer may issue a citation with a two hundred fifty dollar ($250) fine, effectuate an arrest, issue a citation a summons or a notice to appear in county court subject to the penalties of a second degree misdemeanor, as provided in Section 775.082, Florida Statutes.

(d) One or more citations may be issued on the same day if a violation continues to exist after the time period for coming into compliance, if any.

(7) A citation issued under any section of this article shall be contested in county court.

(8) If the violator elects to contest the citation, he or she shall request a hearing through the procedure described on the citation and within the time frame specified on the citation.

Exhibit A, Page 11
(9) If the violator neither pays the civil penalty nor contests the citation within the time frame specified on the citation, he or she shall be deemed to have waived the right to contest the citation and it shall be deemed an admission to the violation. A judgment may be entered against that person for the maximum civil penalty of $500.00 plus applicable fees and costs.

(10) In accordance with Chapter 162, Florida Statutes, and as amended, any person who willfully refuses to sign and accept a citation issued by a law enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083, Florida Statutes.