

ORDINANCE NO. 2013-364

AN ORDINANCE OF THE CITY OF PARKER, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES RELATING TO DEFINITIONS, NOTICES, ABATEMENT OF UNSAFE OR UNFIT DWELLINGS OR STRUCTURES; ESTABLISHING A SPECIAL ASSESSMENT DISTRICT; AUTHORIZING THE LEVY OF NON-AD VALOREM ASSESSMENTS IN CERTAIN INSTANCES; PROVIDING SEVERABILITY, CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER AS FOLLOWS:

Section 1. Section 26-1 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

**Sec. 26-1.-Definitions.**

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

*Actual cost* means the actual cost to the city for terminating and abating a violation of this chapter on a lot, tract, or parcel, plus administrative fees, filing fees, costs of pictures taken of the property, the cost of serving notice(s) of the violation, postage, the cost of obtaining title information on the property, and all other identifiable costs including but not limited to attorneys' fees and costs incurred by the city in the terminating and abating of a violation of this chapter. In addition to the foregoing, if the city has entered into a contract for the termination or abating of a violation of this chapter, the actual cost shall include the contract amount plus interest, if any, as invoiced by an independent, private contractor for terminating and abating a violation of this chapter on a lot, tract, or parcel.

*City attorney* means the designated attorney(s) for the city.

*Code* means each and every ordinance, this Code or any land use regulation enacted by the city.

*Code enforcement* means any action initiated by the code enforcement officer to assure compliance with the Code.

*Code inspector* means any agent or employee of the city whose duty it is to assure code compliance.

*Continuing violation* means any violation which remains uncorrected beyond the reasonable time period for correction contained in either the civil violation notice or the final order of the special magistrate, whichever is applicable. For each day of a continued violation after the time for correction has run, an additional penalty in the same amount as that prescribed for the original violation shall be added. The maximum total fine for any one continuing violation shall not exceed 20 times the original penalty amount. No continuing violation penalties shall accrue during the time period from the date of the civil violation notice until the date of the administrative hearing, if the named violator timely requests an administrative hearing of the notice of civil violation. Continuing violation penalties cannot be imposed by the special magistrate for uncorrectable violations.

*Excessive growth* means grass, weeds, rubbish, brush, branches, or undergrowth that has reached a height of one (1) foot or more.

*Fill* means material such as dirt that is imported and deposited on property by artificial means.

*Grass, weeds, or brush* means grass or weeds or brush that, when allowed to grow in a wild and unkempt manner, will reach a height of one (1) foot or more. This definition does not include bushes, shrubs, trees, vines, flowering plants, and other living plant life typically used and actually being used for landscaping purposes.

*Imminent public-health threat* means the condition of a lot, tract, or parcel of land that, because of the accumulation of trash, junk, or debris, such as broken glass, rusted metal, automotive and appliance parts, some of which may contain chemicals, such as freon, oils, fluids, or the like, may cause injury or disease to humans or contaminate the environment, or the condition of a lot, tract or parcel that, because of the excessive growth of grass, weeds, or brush, or because of the presence of any other condition, can harbor a nuisance as

defined in article III of this chapter, criminal activity, vermin, or disease.

*LDR* means the comprehensive planning and land development regulation code of the city, adopted pursuant to Ordinance No. 90-177, as amended.

*Levy* means the imposition of a non-ad valorem assessment against property found to be in violation of this article.

*Non-ad valorem assessment* means a special assessment that is not based upon millage and that can become a lien against a homestead as permitted in Section 4 of Article X of the Florida Constitution.

*Non-ad valorem assessment roll* means the roll prepared by the city and certified to the county property appraiser and tax collector, as appropriate under Florida law, for collection.

*Nonliving plant material* means nonliving vegetation such as leaves, grass cuttings, shrubbery cuttings, tree trimmings and other material incidental to attending the care of lawns, shrubs, vines and trees.

*Repeat violation* means a recurring violation of a code by a violator who has previously been guilty of the same violation within five years prior to the present violation, or who has admitted violating the same provision within five years prior to the present violation, even if the violations occurred at different locations. In the case of correctable violations, a repeat violation can occur only after correction of the previous violation has been made. For the first repeat violation, the amount of the civil penalty shall be double the amount of penalty prescribed for the original violation by this article or any other code, ordinance or resolution referenced in this article. The amount of civil penalty due for each subsequent repeat violation shall be double the amount of penalty due for the first day of the immediately preceding violation, provided that the maximum penalty payable for the first day of any one repeat violation shall be \$500.00. A repeat violation that remains uncorrected beyond the time prescribed for correction in the civil violation notice shall be treated as a continuing violation, and the additional penalty for each day of continued violation shall be equal to the doubled amount due for the first day of the repeat violation.



*Special magistrate* means any individual, designated by the city council, granted the authority to hold hearings and assess fines against persons violating the City Code. A hearing officer shall be the same as a special magistrate.

*Trash, junk, or debris* means waste material, including, but not limited to, putrescible and nonputrescible waste, combustibile and non-combustibile waste, and generally all waste materials such as paper, cardboard, tin cans, lumber, concrete rubble, glass, bedding, crockery, household furnishings, household appliances, dismantled pieces of motor vehicles or other machinery, rubber tires, and rusted metal articles of any kind.

*Uncorrectable violation* means a violation that cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an ongoing condition or circumstance. Each reoccurrence of an uncorrectable violation shall constitute a separate violation and shall subject the violator to an additional penalty in the same amount as that prescribed for the original violation. If, however, a violator has been once found guilty of an uncorrectable violation, and causes the same uncorrectable violation to occur a second time, each reoccurrence of the uncorrectable violation by such violator shall constitute a repeat violation.

*Unfit or unsafe dwelling or structure* means any dwelling, structure or building, or portions thereof, including but not limited to any accessory building, which is structurally unsafe, unstable or unsanitary by reason of fire, age, decay, moisture intrusion, deterioration, structural defects, improper design, unstable foundation, termite infestation or by any other condition; is inadequately provided with exit facilities; constitutes a fire hazard; is unsuitable or improper for the use or occupancy for which it is used; constitutes a hazard or menace to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; is unfit for human habitation if so intended or used; is otherwise in violation of the housing, building, electrical, mechanical, plumbing, sanitation, health, safety and fire codes of the city, the county or the state; is so unsafe as to endanger life or property; or to render the use of public streets dangerous.

*Violation* means any noncompliant act, condition of whatever origin or cause, whether intentional or unintentional, of the code of the city.

Violator means any person who is legally responsible for a violation of any code of the city. For the purposes of this chapter, violators shall be deemed to be those persons or entities creating or permitting a violation of the codes listed in section 26-37, or those persons or entities owning or possessing land where a violation of codes listed in section 26-37 is created or maintained.

Section 2. Section 26-18 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

**Sec. 26-18. Notices.**

(a) All notices required by this part shall be provided to the alleged violator by:

- (1) Certified mail, return receipt requested. If a notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices and at any other address provided to the city by such owner, and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraph (b)(2) and by first class mail directed to the addresses provided to the city by such owner with a properly executed proof of mailing or affidavit confirming the first class mailing;
- (2) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the city council;
- (3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
- (4) In the case of commercial premises, leaving the notice with the manager or other person in charge.

(b) In addition to providing notice as set forth in subsection (a), at the option of the special magistrate, notice may also be served by publication or posting as follows:

- (1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in this county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50, as may be amended or superseded, for legal and official advertisements. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051, as may be amended or superseded.
- (2) In lieu of publication as described in subparagraph (b)(1) above, notices may be posted at least (10) days prior the hearing, or prior to the expiration of any deadline contained in the notice, in at least two (2) locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be City Hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
- (3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a).

Section 3.        Section 26-19 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Sec. 26-19.        Abatement of unsafe or unfit dwellings or structures.

- (1) Code inspectors shall have the authority to initiate enforcement proceedings including but not limited to abatement for all violations involving an unsafe or unfit dwelling or structure as provided below. Except as specifically provided in this section relating to the abatement of unsafe or unfit dwellings or structures, the remaining provisions of articles II and III of this chapter shall apply.
- (2) A code inspector is hereby authorized to order the vacation, demolition and removal of any unsafe or unfit dwelling or structure, or to order the repair and/or replacement of any part or parts of any structure in the city upon the recommendation of the



authorized building official of the city or any other designated person and following a determination by the city council that any such part or parts of any structure, are unsafe or unfit.

- (3) Once the determination is made by the city council that a structure is unsafe or unfit, the code inspector shall issue a civil violation notice to the violator and all other interested parties in accordance with section 26-18 of this article. The notice may require the vacation, demolition or removal of the structure or may order the repair, restoration or replacement of any part of the structure; provided however, that no dwelling or structure shall be subject to repair, restoration or replacement where the cost of repairing, restoring or replacing any part or parts thereof would exceed fifty (50) percent of the value of such structure after repair, restoration or replacement.
- (4) The civil violation notice shall be sent in accordance with section 26-18 and shall include the following:
  - a. Date and time of issuance.
  - b. Name of code inspector issuing the notice.
  - c. Name and address of the violator.
  - d. Section number of the code section that has been violated.
  - e. A description of the property and the structure(s) that have been found in violation.
  - f. A statement providing an accurate description of the violation for which the notice is issued.
  - g. A statement of the nature of and extent of such repairs or alterations necessary to comply with this section.
  - h. A date by which the owners must make such repairs or alterations necessary to bring the structure into compliance with this section.

- i. A statement that a building or demolition permit must be secured prior to the commencement of any corrective work including repair and/or replacement rehabilitation, or demolition and removal.
  - j. If the structure is of such a character that repairs or alterations cannot bring the building into compliance, a statement to this effect and an order of demolition of the building fully indicating the reason therefore.
  - k. If demolition is necessary for compliance, a specification of time for performing such demolition shall be stated in the notice which shall not be less than 14 days nor more than 60 days.
  - l. A statement advising that upon the owner's failure to comply with the notice, the city may demolish or otherwise abate the unsafe or unfit dwelling or structure in accordance with the order stated in the notice, and the expense of such performance by the city shall be charged against the real property and the assessment when made shall constitute a lien upon such property by the city.
  - m. A statement advising the procedures for review of the action of the code inspector as set out in sections 26-32 and 26-33 of this article.
- (5) The notice and order shall require the owner and other interested parties within 14 days after service to obtain a permit and begin specified repairs or improvements, or begin to demolish and remove the structure or portion thereof. This work shall be completed within 60 days from the date of the permit for repair or demolition. Any demolition permit necessary as a result of any condemnation in this section shall not require a fee.
- (6) Except as otherwise provided in this section, the code inspector may order such work to be completed within such time as determined to be reasonable considering the nature of the structure, the danger to the public



and the amount of work involved to abate the unsafe or unfit condition.

- (7) In addition to sending the notice to the owner of record and to interested parties, the code inspector shall post a notice stating "This Structure is Unsafe and/or Unfit for Human Habitation" at the entrance to the structure. The placard shall remain posted until the required repairs and/or rehabilitations are made or until the structure is demolished.
- (8) Once the structure is posted, it shall be unlawful for any person to enter such structure except for the purposes of making the required repairs or demolishing it. If the structure is occupied at the time of posting, it shall be vacated immediately. Thereafter, no person shall occupy or let to another for occupancy such a placarded structure. The owner shall immediately begin action to bring it into compliance within the time prescribed. It shall be unlawful for any person to remove or deface the placard that has been posted on an unsafe or unfit dwelling or structure. The placard shall remain until such time as the code inspector orders the placard to be removed.
- (9) If an interested party obtains a building or demolition permit within the 14 day period and, in good faith and in due time, begins work to comply with the order, but it appears that they will not be able to complete the work by the date ordered, they may file a written request stating the reasons they have been unable to complete compliance. If reasonable grounds are shown therefore, the City Council or its designee may issue an amended order authorizing an extension of time, not to exceed 60 days, in which to complete compliance with the original order. The City Council, in exceptional cases, upon written request, may extend the completion date as merited by special hardship, unusual difficulty, or uniqueness of the situation; however, in no event shall the completion date extend beyond a maximum period of 90 days.
- (10) If the unsafe or unfit condition is not corrected within the specified time indicated on the notice of unsafe or unfit dwelling or structure, the code

inspector shall condemn the unsafe or unfit structure and send a condemnation order to the owner of record and other interested parties.

- (11) In addition to sending a condemnation order to the owner of record and to interested parties, a copy of the order shall be posted in a conspicuous place upon the unsafe or unfit dwelling or structure and a notice of intent to demolish shall be recorded in the public records of Bay County, Florida.
- (12) Ten days prior to authorizing the demolition of any unsafe or unfit dwelling or structure, a notice of intent to demolish shall be served on the owner and other interested parties and published in a newspaper of general circulation within the City. Such notice shall be substantially in the following form:

Notice of Intent to Demolish

The owner or other interested parties, having failed to either repair or demolish the structure at (address) as ordered by the City of Parker, are hereby notified that the City of Parker will proceed to have the structure demolished on (date), and shall place a lien against the property to recover all costs.

- (13) When a rodent infestation exists in a structure that is to be demolished or removed, the code inspector may require that a licensed pest control operator exterminate the rodents to preclude the migration of rodents.
- (14) A lot from which a structure is demolished and removed shall be sodded, seeded with grass, or otherwise covered with vegetative landscaping within five days of the completion of demolition.
- (15) The city council, upon recommendation of the authorized building official of the city or other designated person, may order the vacation of adjacent structures and may require the protection of the public by appropriate fencing or such other means as

may be necessary, and for this purpose may close a public or private way.

(16) Upon determination by the city council to proceed with demolition, exterior and interior photographs of the structure will be taken when feasible. Written notification of intent to demolish the structure will be sent by certified mail to the owner of record and interested parties. This written notification shall document the cause for demolition. However, failure to effect personal notice upon the owner of record or interested parties shall not prevent the city from demolishing the structure and placing a lien on the property for the costs incurred by the city or assessing the actual costs of the abatement of the unfit or unsafe condition on the property in the form of a non-ad valorem assessment in accordance with section 26-21 of this article.

(17) In the event the unsafe or unfit condition is not abated by the owner or other interested party, the city shall complete the demolition required under this section using city employees or an independent contractor submitting the best and lowest bid. Any and all fines imposed and costs incurred by the City including but not limited to postal expenses, publication costs, attorneys' fees and costs shall be assessed against the property in the form of a lien in accordance with section 26-34 of this article.

Section 4. Section 26-20 of the Code of Ordinances,

City of Parker, Florida, is hereby added to read as follows:

**Sec. 26-20. - Imminent public-health threat.**

(a) The following conditions on property within the city may be declared to be an imminent public-health threat by the city council and may be remedied and abated by the city immediately and without notice to the owner:

- (1) Accumulation of trash, junk, debris, living and nonliving plant material, or stagnant water;
- (2) Excessive growth of grass, weeds, brush, or other overgrowth; or



(3) Keeping of fill on property that presents an imminent public-health threat.

(b) The city will attempt to contact the owner prior to remediation; however, prior notice of an imminent public-health threat shall not be required for remediation.

(c) After remediation, notice will be provided by the city to the owner within a reasonable time after the abatement. After-the-fact notice shall be sent as set forth in section 26-21(b) below, and the owner shall have fifteen (15) days from the date notice is received to reimburse the city for the actual costs of the abatement of the imminent public-health threat.

Section 5. Section 26-21 of the Code of Ordinances, City of Parker, Florida, is hereby added to read as follows:

**Sec. 26-21. - Non-ad Valorem Assessments.**

(a) In addition to any other remedy set forth in this code, the city may assess the actual cost of terminating and abating a violation of this chapter on a lot, tract, or parcel including but not limited to all administrative expenses, attorneys' fees and costs and all other identifiable costs incurred by the city upon the property and the property owner. All assessments shall be paid in full within twenty (20) days after the property owner has received notice of the assessment. Thereafter, the unpaid amount of the assessment will accrue interest at the rate of ten (10) percent per annum or at the maximum rate allowed by law, whichever is less.

(b) Upon completion of the actions undertaken by the city to remedy the violation on the property, the city may deliver a notice to the property owner setting forth that a special assessment has been imposed on the property. The notice shall be delivered in the manner set forth in sec. 26-18.

(1) The notice of assessment shall set forth the following:

a. A description of the violation, a description of the actions taken by the city to remedy the violation and the fact that the property has been assessed for the

actual costs incurred by the city to remedy the violation;

- b. The aggregate amount of such costs and an itemized list of such costs;
- c. The intent of the city to record the assessment as a lien against the property if not paid timely, within the period of twenty (20) days as set forth;
- d. The intent of the city to place the assessment on the tax roll as a non-ad valorem assessment if not paid by December 1 of the year the Notice of Violation was sent;
- e. The potential for the property to be subject to the sale of a tax certificate if the non-ad valorem assessment is not paid as part of the tax bill on the property; and
- f. The potential for the property to be sold and conveyed by tax deed if the tax certificate is not redeemed by payment of the non-ad valorem assessment in full, plus interest, as required by Florida law.

(c) *Establishment of special assessment district.* The City of Parker, Florida, in its entirety, as its municipal boundaries exist on the date of enactment of this article and as they may be expanded or contracted from time to time, is hereby declared a special-assessment district for the purposes of collecting the actual cost expended by the city for remedying violations of this code. Individual properties within the city's boundaries, as they may exist from time to time, may be assessed for the costs incurred by the city in abating and remedying violations of this article.

(d) *Levy of non-ad valorem assessments.* There is hereby levied, and the city council is authorized to levy from time to time, a non-ad valorem assessment against each and every property in the city:

- (1) On which there occurs or has occurred a violation of this article;

- (2) The city undertakes or has undertaken action to abate and/or remedy the violation and, thereby, incurs or has incurred costs pursuant to secs. 26-19, 26-20, or 26-104;
- (3) The property owner fails or refuses or has failed or refused, for whatever reason, to pay timely the amount owed to the city under this article for the costs incurred by the city in carrying out such abatement and remedy.

(e) *Collection of non-ad valorem assessments.* The city council elects to use the uniform method to impose and collect non-ad valorem assessments against properties on which violations of this code occur or have occurred and city funds are expended to remedy the violations. The non-ad valorem assessments collected pursuant to this section will be included in the combined notice for ad-valorem taxes and non-ad valorem assessments as provided in Section 197.3635 of the Florida Statutes as may be amended from time to time. Non-ad valorem assessments collected pursuant to this section are subject to all collection provisions in Section 197.3632 of the Florida Statutes as may be amended from time to time, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

(f) *Agreement to reimburse the property appraiser and the tax collector.* In order to use the uniform method for the levy, collection, and enforcement of the non-ad valorem assessments, the city is authorized to enter into a written agreement with the county property appraiser and the county tax collector providing for the reimbursement of their costs incurred in the administration and collection of the non-ad valorem assessments levied under this section.

(g) *Adoption of a resolution.* The city council will adopt a resolution at a public hearing prior to March 1, 2014, in accordance with Section 197.3632(3)(a) of the Florida Statutes, which resolution shall state the following:

- (1) The city's intent to use the uniform method of collecting non-ad valorem assessments.
- (2) The city's need for the imposition of non-ad valorem assessments.



- (3) Declaring that the entire city is a special-assessment district, with individual properties being subject to a non-ad valorem assessment from time to time if and when violations of the code occur.
- (4) Publish in a newspaper of general circulation four weeks preceding the hearing of the boundaries of the local government of the properties subject to levy.
- (5) The city shall send a copy of the resolution to the property appraiser and the tax collector by March 10, 2014.

The city will comply with all statutory notice prerequisites set forth in Section 197.3632 of the Florida Statutes, as may be amended or superseded.

(h) *Annual non-ad valorem assessment roll.* Each year, the city council will approve a non-ad valorem assessment roll at a public hearing between January 1 and September 15. The non-ad valorem assessment roll will be comprised of properties that have had levied against them non-ad valorem assessments under this section, and such assessments have not otherwise been paid in full prior to approval of the roll.

(i) The city clerk is authorized and directed each year (i) to prepare the notice that must be provided as required by Section 197.3632(4)(b) of the Florida Statutes as may be amended or superseded; and (ii) to prepare and publish the newspaper notice required by Section 197.3632(4)(b) of the Florida Statutes as may be amended or superseded.

(j) The notice to be sent by first-class mail will be sent to each person owning property that will be on the non-ad valorem assessment roll and will include the following:

- (1) The purpose of the assessment;
- (2) The total amount to be levied against the parcel, which includes the amount of any actual cost incurred by the city;
- (3) A statement that failure to pay the assessment will cause a tax certificate to be issued against the property, which may result in a loss of title;

(4) A statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within twenty (20) days of the notice; and

(5) The date, time, and place of the hearing.

Upon its approval by the city council, the non-ad valorem assessment roll will be certified to the tax collector as required by law.

Section 6. Section 26-101 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

**Sec. 26-101. 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:

*A-weighted sound pressure level* means the sound pressure level, in decibels, as measured on a sound level meter using the A-weighting network. The level so read shall be designated as \_\_\_\_\_ db (A) or \_\_\_\_\_ dBA.

*Appliance* means any refrigerator, icebox, freezer, washing machine, clothes dryer, mechanical dishwasher, stove, deep freeze, locker, smoker or oven that was originally manufactured with a door, lid or other device in which to enclose any contents placed therein.

*Ambient noise level* means the sound pressure level of the all-encompassing noise emanating from a given environment, usually being a composite of sounds from many sources.

*Construction* means any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or on public or private thoroughfares, structures, utilities or similar property.

*Construction debris* means any refuse generated by a contractor, subcontractor or other person, or supplier during the course of repair of, addition to, or construction of any building or structure, whether such activity requires a building permit or not.

*Decibel* or *dB* means a unit for measuring the volume of sound; it is a logarithmic (dimensionless) unit of measure used in describing the amplitude of sound.

*Demolition* means any dismantling, destructing, razing or removal of structures, utilities, public or private thoroughfare surfaces, or similar property.

*Demolition debris* means any refuse generated through:

- (1) Cutting or trimming of grass, bushes or shrubbery;
- (2) The destruction, or demolition, in whole or in part, of any structure or building; or
- (3) The clearing of land by any person, whether for hire, by the owner, or by an occupant.

*Deteriorated* means the condition or appearance of any property, or parts thereof, characterized by holes, breaks, rotting, crumbling, cracking, degenerating, peeling, rusting or other evidence of physical decay, decomposition, decline, neglect or lack of maintenance.

*Device* means a mechanism which is intended to produce or which actually produces noise when operated or handled.

*Dilapidated* means the condition of disrepair or deterioration to the extent requiring rehabilitation, reconstruction or demolition of at least 45 percent, based on square footage.

*Emergency* means any occurrence or circumstance involving actual or imminent physical death or trauma or property damage, demanding immediate emergency work or service. It shall be the burden of the alleged violator to prove the "emergency."

*Emergency vehicle* means a motor vehicle, boat or aircraft used in response to an emergency. Such vehicles include, but are not limited to, police vehicles, fire and rescue vehicles, and ambulances.

*Fluctuation noise* means the sound pressure level of noise varying more than six dB(A) during the period of observation when measured with the slow meter characteristic of a sound level meter. It does not equal the previously existing ambient



noise level more than once during the period of observation.

*Garbage* means all household waste resulting from the handling, preparation, cooking and consumption of food; every accumulation of animal and vegetable matter that attend the preparation, decay, dealing and handling of or storage of food such as meats, fish, fowl, game, fruits and vegetables.

*Graffiti* means the unlawful application of any drawing, inscription, figure or mark upon any structure, wall, rock, bridge, fence, gate, roadway, building, tree or other real or personal property, whether privately or publicly owned. Graffiti shall include, by way of explanation, words, phrases, marks, pictures or drawings deemed to be lewd or obscene or containing any messages that evidence prejudice based upon race, color, creed, sexual orientation, ethnicity, ancestry, religion, natural origin or other protected class.

*Improved real property* means any lot, tract or parcel of land upon which a structure of any kind or type has been either placed or constructed.

*Impulsive sound* means a sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop force impacts, the discharge of firearms, the barking of dogs, and the beating of drums.

*Infestation* means the presence of insects, rodents, snakes, vermin or other pests.

*Level, day-night (Ldn)* means a 24-hour average of the A-weighted sound pressure level, with the levels during the period of 10:00 p.m. to 7:00 a.m. increased by ten dB(A) before averaging.

*Litter* means trash, garbage, junk, lawn clippings, cans, bottles, containers and other discarded waste material or refuse, including items that can no longer be used for their original purpose, lying scattered about.

*Motor vehicle* means any vehicles defined as motor vehicle by F.S. § 320.01(1), including, but not limited to, passenger cars, trucks, truck trailers, semi-trailers, campers, motorcycles, minibikes, go-carts, amphibious craft on land, dune buggies, and racing vehicles which are propelled by mechanical power.

*Motorboat* means any vehicle which is primarily operated on water or which does operate on water, such as boats, barges, amphibious craft or hover craft, and which is propelled by mechanical power.

*Motor vehicle graveyard* means any establishment or place of business that is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, junked or dismantled motor vehicles or motor vehicle parts.

*Motor vehicle wrecking establishment* means any establishment, building or place where any activity is carried or for the wrecking of old, used, disabled, junked, dilapidated or secondhand motor vehicles, and adding or employing the accessories, or parts thereof, in equipping, repairing or rebuilding motor vehicles, or storing, selling or otherwise disposing of such vehicles, accessories or parts.

*Muffler* means any apparatus consisting of baffles, chambers or acoustical absorbing material whose primary purpose is to transmit liquids or gases while causing a reduction in sound emission at one end.

*Noise* means any sound produced in such quantity and for such duration that it annoys, disturbs or may injure a reasonable man or woman of normal sensitivities, including any sounds or sound levels specifically prohibited by this article.

*Noise sensitive zone* means a quiet zone which is open or in session, and which is demarcated by conspicuous signs identifying it as a quiet zone. Noise-sensitive zones may be established be established by the city council only for schools, public libraries, churches, hospitals and nursing homes.

*Nuisance* means the occurrence or the existence of any of the following within the city:

- (1) Any accumulation of litter, trash, refuse, yard waste, rubbish, construction or demolition debris, disabled, junked, dilapidated, deteriorated and abandoned materials, vehicles, vessels, metals, plastics, glass, lumber, wood or other abandoned items.
- (2) Any excessive accumulation of untended growth of weeds (in excess of one foot in height), underbrush, yard waste, or other dead or living plant material upon any

improved or unimproved property such that the real property:

- a. Is or may become infested or inhabited with rodents, vermin, snakes or other pests;
  - b. Is or may become a breeding place for mosquitoes;
  - c. Threatens or endangers the public health, safety and welfare;
  - d. May reasonably be deemed to cause disease; or
  - e. Adversely affects and impairs the economic welfare of any adjacent property.
- (3) Any unfit or unsafe structure erected or constructed on real property.
  - (4) Any weeds which exceed one foot in height.
  - (5) All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other cause that give rise to the emission or generation of such odors and stench.
  - (6) The carcasses of animals or fowl not disposed of within 24 hours after death.
  - (7) The pollution of any public well, stream, lake, canal, ditch, culvert, catch basin or any other body of water by sewage, dead animals, industrial wastes, trash, refuse, yard waste or other substances or materials.
  - (8) Any building, structure, real property, premises or location where any activity that is in violation of local, state or federal law is conducted, performed or maintained.
  - (9) Any accumulation of stagnant water permitted or maintained or allowed to accumulate on any real property, premises or location, including but not limited to that water confined in a swimming pool, spa, or hot tub.
  - (10) Dense smoke, noxious fumes, gas, soot, cinders or ash in unreasonable quantities.



(11) Unsheltered or outdoor storage of unused, discarded, stripped, disabled, junked, dilapidated or deteriorated motor vehicles, vessels, household furnishings, machinery, equipment or appliance and parts thereof that may be viewed from public property or another's private property. Items such as barbecue grills, lawn furniture, garden tools, outdoor play equipment or lawnmowers may be stored outside in an orderly fashion and shall not be deemed a nuisance under this article.

(12) Unsheltered storage of motor vehicles or motor vehicle parts in a motor vehicle graveyard.

(13) The production, cause of production or allowing production or projection, by any means, of any sound or noise across a property line in such manner as to create a sound level which exceeds the limits set forth for the receiving land use listed below when measured at or within the property line of the receiving property. For any activity or use of land or buildings not authorized under the land use categories of the city, the city council, upon notice to the owner or occupant of the property producing sound, may determine the category of use under this article for which the activity or use is to be considered.

Receiving Land Use Designation	Time	Sound Level LimitLimit
Low-density residential; recreation district; conservation district; public/instit utional district; any noise- sensitive zone	7:00 a.m. - 10:00 p.m.	60
10:00 p.m. - 7:00 a.m.	55	
Mixed use; general commercial	7:00 a.m. - 10:00 p.m.	75

10:00 p.m. -	70	
7:00 a.m.		

Note: Any source of sound which emits a pure tone or is characterized as an impulsive sound will reduce by five dBA the sound level limits set forth in this subsection.

(14) In addition to any sound or noise prohibited pursuant to subsection (13) above, the following specific uses and activities within the city are declared to be loud, disturbing and excessive noise in violation of this article:

- a. Radios, television sets, exterior loudspeakers, musical instruments, and similar devices. Operating or permitting the use or operation of any radio receiving set, exterior loudspeaker, musical instrument, phonograph, television set, or other machine or device for the production or reproduction of sound between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to create a noise across a property line. Radios, cassette players, disk players and similar devices associated with motor vehicles or motorboats, shall not be operated or amplified in such a manner as to be felt or heard at 50 feet or more from such device, when operated or parked on a public right-of-way or public space.
- b. Construction equipment and activity. Operating or causing to be operated any equipment or performing any outside activity in furtherance of construction, repair, alteration or demolition work on buildings, structures, roads or projects within the city except between the hours of 7:00 a.m. and 9:00 p.m. Monday through Friday and between the hours of 9:00 a.m. and 7:00 p.m. on Saturday and Sunday. A variance may be obtained from the city clerk or some other designee of the city for such construction repair work outside of such hours.
- c. Engine mufflers. Operating any internal combustion engine, including such an engine associated with a motor boat, 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.

- d. Motor vehicle, motorcycle or motorboat repair. Repairing, rebuilding, modifying or testing any motor vehicle, off-road vehicle, or motorboat within or abutting any low-density residential or mixed use land use area in such a manner as to create noise across a property line between the hours of 9:00 p.m. and 7:00 a.m.
- e. Activities in the vicinity of schools, courts, churches or hospitals. Creating any excessive noise on any street adjacent to any school, court, church, or hospital which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in a hospital.
- f. Peddlers, hawkers, or vendors. It shall be unlawful for peddlers, hawkers or vendors to shout or cry along or on a roadway to the disturbance of the peace or quiet of a neighborhood.
- g. Drums, cymbals 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 ice cream trucks or approved public events.
- h. 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 police, fire departments, and other public safety agencies.
- i. Skateboard ramps. Using any skateboard ramp or similar configuration for skateboarding or rollerblading between 9:00 p.m. and 7:00 a.m. in a low-density residential or mixed use land use category in such a manner that would result in



noise across a property line.

- j. Air blow or vacuum cleaners. Operating any air-blow or vacuum cleaning equipment or similar devices for the cleaning of parking lots, walkways, driveways, or similar areas between the hours of 10:00 p.m. and 7:00 a.m. that would result in noise across a property line.
- k. Places of public entertainment. It shall be unlawful for any public entertainment establishment or person associated with or working for said establishment to operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to create noise across a property line.
- l. Landscape maintenance. Undertaking landscape maintenance activities in such a manner as to create noise across a property line between the hours of 9:00 p.m. and 7:00 a.m. Golf courses engaged in the regular maintenance of greens, fairways, practice areas, etc. are exempt from this provision.
- m. Powered model vehicles. Operating or permitting the operation of powered model vehicles in such a manner as to create noise across a property line between the hours of 10:00 p.m. and 7:00 a.m.
- n. Animal noises. It shall be unlawful for the owner or custodian of any animal to permit such animal to habitually bark, whine, howl, squawk, screech, crow or cause any other noise which is objectionable due to pitch, frequency, timing or any combination thereof.
- o. Loading docks. It shall be unlawful for any commercial establishment to engage in any loading or unloading of equipment or merchandise from a vehicle between the hours of 10:00 p.m. and 7:00 a.m. which activity results in any sound or noise being generated across a property line in a low-density residential or mixed use land use category.

The following noise and sounds are exempt from this article III of this chapter:

- a. Noise and sounds caused by or related to emergency vehicles, equipment and personnel during emergencies, which shall be deemed to include all work made necessary by an emergency to restore property to a safe condition, all work made necessary by an emergency to restore public utility service and all work made necessary by an emergency to protect persons or property from imminent injury, death, or substantial harm.
- b. Noise and sounds produced by city, county, state, and federal government vehicles, equipment and personnel during the pursuit of official duties of the respective governments, including but not limited to public works construction and maintenance, authorized safety signals, warning devices and emergency testing.
- c. Noise and sounds produced by public utility vehicles, equipment and personnel during the pursuit of the public duty of such public utility.
- d. Noise and sounds produced by activities or events approved by the city council where the person responsible for such activities or events obtains the city council's approval after such person clearly and expressly has advised the city council that the noise or sounds associated with the activities or events would be in violation of this article III of this chapter but for this exemption.
- e. Noise and sounds produced between the hours of 7:00 a.m. and 9:00 p.m. by the mowing of grass; the operation of other yard maintenance equipment; the construction of properly permitted buildings, structures and other improvements; and the operation of farm equipment during farming activities.
- f. Railway locomotives and railway cars.

- g. Aircraft and airport activity conducted in accordance with federal laws and regulations.
- h. Motor vehicles operation on a public right-of-way subject to F.S. § 316.293.
- i. Organized athletic contests.
- j. Community events, such as fairs, school activities, community festivals and the like which do not extend their activities beyond 11:00 p.m. or commence before 7:00 a.m. Any community activity which extends beyond 11:00 p.m. or commences before 7:00 a.m. and would otherwise violate this article must apply for and receive prior approval from the city.
- k. Noise and sounds produced by an electrical generator during a time period in which regular electrical utility service is temporarily unavailable to the property upon which the generator is located.
- l. Noise and sound associated with uses or activities for which a variance has been obtained from the city clerk or some other designee of the city approving such noises and sounds contrary to the restrictions of this article.
- m. To the extent any portion of this article III covers a matter covered by F.S. § 403.415, the Florida Motor Vehicle Noise Prevention and Control Act of 1974, the provisions of this article III of this chapter covered by such act shall be of no effect. For matters not covered by said Act, all of the sections of this article III of this chapter are in full force and effect. Additionally, any violation of such Act within the city shall be a violation of this article III, and such violation may be penalized and such act may be enforced through the enforcement provisions of this article III and this Code.

(15) Any condition or use of real property which is detrimental to the property of others, or which causes substantial diminution in the value of other property in the neighborhood where located, including, but not



limited to, a dilapidated parking lot.

- (16) Any motor vehicle wrecking establishment located, built, constructed, maintained or operated within the city.
- (17) Any graffiti existing on real property located within the city existing for a period of more than ten days from the date of its application.
- (18) Maintaining, leaving, abandoning, storing, placing or putting any disabled or junked motor vehicle, machinery, implement, equipment (including trailers), vessel, other personal property or article, or any portion, part, or piece thereof, which is no longer safely useable for the purposes for which it was manufactured, within view from any public property or another person's private property.
- (19) Such other acts or conditions that are declared by other city ordinances, this Code, land use regulations or any local, state, or federal laws to be or that constitute a nuisance.

*Office use* means uses allowed under the commercial land use category of the city.

*Officer* means any law enforcement officer, police officer of the city, code enforcement officer of the city or any other employee of the city or other person duly designated by the city council to enforce this article.

*Period of observation* means the time interval during which acoustical data and facts are obtained.

*Powered model vehicles* means any powered vehicles, either airborne, waterborne or landborne, which are designed not to carry persons or property, such as, but not limited to, model airplanes, boats, cars, rockets, and which are being propelled by mechanical means.

*Property line* means an imaginary line along the surface of land or water, and its vertical plane extension, which separates the real property owned, rented or leased by one person from the real property owned, rented or leased by another person.

*Public right-of-way* means any street, avenue, boulevard,

highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by the city, county, state or federal government.

*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 the arithmetic average 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 land use* means the use of the land which is receiving the sound or noise.

*RMS sound pressure* means the square root of time averaged square of the sound pressure.

*Rubbish* means any trash, rubble, wreckage, decayed material or deteriorated material.

*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 level* means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971), or successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

*Sound level meter* means an instrument which includes a microphone, RMS detector, integrator or time average output meter, and weighting network used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The instrument is of type 2 or better, as specified in the American National Standards Institute publication entitled "Specifications for Sound-Level Meters," designed as ANSI S1.4-1971, or successor publication.

*Sound pressure* means the instantaneous difference between the actual pressure and the average or barometric pressure at a

given point in space, as produced by the presence of sound energy.

*Sound pressure level* means 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per meter squared. The sound pressure level is denoted  $L_p$  or SPL and is expressed in decibels.

*Steady noise* means a sound pressure level which remains essentially constant during the period of observation, i.e., the fluctuations are too small to meet the criteria for fluctuating noise.

*Street or highway* means:

- (1) The entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic;
- (2) The entire width between the boundary lines of any private property used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons, or any limited access road owned or controlled by a special district, whenever, by written agreement entered into under F.S. § 316.606(2) (b) or (3) (b), a county or municipality exercise traffic control jurisdiction over such way or place; or
- (3) Any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district which has been created under F.S. § 418.30 and the recreational facilities of which district are open to the general public.

*Structure* means anything constructed, installed or portable, the use of which requires a location on a lot or parcel of land, including a moveable structure while it is located on land in which it will be used for housing, business, commercial, agricultural or office purposes either temporarily or permanently.

*Underbrush* means any growth or brush conducive to the collection of insects, snakes, vermin, rodents or other pests.



*Unimproved real property* means any lot, tract, acreage or parcel of land upon which no structure of any type has been either placed or constructed.

*Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, excepting devices used exclusively upon stationary rails or tracks.

*Weeds* means any plants which are useless to persons or injurious to crops, grasses, trees, plants or flowers.

*Yard waste* includes grass clippings, loose leaves, weeds, rotted or rotting trees, tree debris, bushes, shrubbery, plants, wood chips, leavings, vines, branches, limbs, sticks, trunks, or uprooted stumps, rocks, natural fertilizers, compost, and other garden trash.

#### Section 7. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

#### Section 8. Codification.

The provisions of this Ordinance shall become and be made part of the Code of the City. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

#### Section 9. Repeal of Conflicting Codes, Ordinances, and

Resolutions.

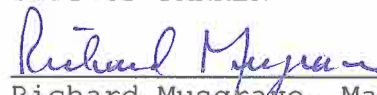
All codes, ordinances and resolutions or parts of codes, ordinances and resolutions or portions thereof of the City of Parker, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 10.      Effective Date.

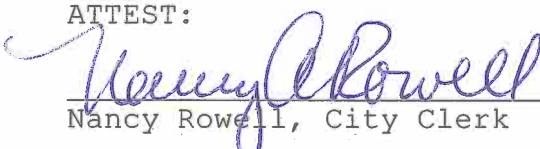
This Ordinance shall take effect immediately upon its passage.

PASSED, ADOPTED AND ADOPTED at a Meeting of the City Council of the City of Parker, Florida as of the 17<sup>th</sup> day of December, 2013.

CITY OF PARKER

  
Richard Musgrave, Mayor

ATTEST:

  
Nancy Rowell, City Clerk

Examined and approved by me, this 17<sup>th</sup> day of December, 2013.

  
Richard Musgrave, Mayor