

ORDINANCE  
2017-13



## City of North Port

### ORDINANCE NO. 2017-13

(Amendments to Chapter 46, Article II, Division 2, Section 46-40 and Section 46-42 of the Code of the City of North Port, Florida as amended)

**AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE ADMINISTRATIVE CODE OF THE CITY OF NORTH PORT, FLORIDA, CHAPTER 46, ARTICLE II, DIVISION 2. NOISE, SECTION 46-40 AND SECTION 46-42 TO ADD DEFINITIONS AND PROVIDE AN EXEMPTION FOR PUMPS, AIR-CONDITIONING, AND AIR HANDLING EQUIPMENT IN PLANNED DEVELOPMENTS WITH CERTAIN SIDE SETBACKS; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODING OF AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Administrative Code of the City of North Port currently addresses sound levels of pumps, air-conditioning or air-handling equipment, and other continuously operating equipment for all platted lots in the City but does not take into consideration lots in planned developments which have specialized siting regulations regarding setbacks and sound levels; and

**WHEREAS**, the current noise regulations have measurement locations for maximum sound decibel levels that are written for a standard residential platted lot with much larger side

setbacks than planned development lots, potentially causing these lots to be in violation of those maximum sound levels; and

**WHEREAS**, planned developments generally have side setbacks less than the standard seven and one-half (7½) foot side setback for an average 80 foot by 120 foot platted lot and have covenants and/or restrictions regulating noise; and

**WHEREAS**, at a City Commission meeting held on April 11, 2017, the City Commission directed City staff to prepare an ordinance to amend the Code of the City of North Port to exempt planned developments from the noise regulations Administrative Code Section 46-42; and

**WHEREAS**, the City Commission has determined that the proposed amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AS FOLLOWS:**

**SECTION 1- FINDINGS:**

- 1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

**SECTION 2 -ADOPTION:**

- 2.01 The North Port City Commission hereby approves and adopts the following amendments and additions in strikethrough and underline format to the Administrative Code of the City of North Port:

**"Chapter 46 – OFFENSES AND MISCELLANEOUS PROVISIONS**

...

**ARTICLE II. – OFFENSES INVOLVING PUBLIC PEACE AND ORDER**

...

## **DIVISION 2. - NOISE**

### **Sec. 46-40 - Definitions.**

(a) *Generally.*

As used in this division, the following terms shall have the meanings indicated:

...

*Planned Development.* A development that is designed and developed as a cohesive, integrated unit under single ownership or unified control which permits flexibility in building sitting, mixture of housing types or land uses, clustering, common functional open space, the sharing of services, facilities and utilities and protection of environmental and natural resources.

...

*Side Setback.* A setback between any structure and the side lot line extending from the required front setback to the required rear setback and being the minimum horizontal distance between a side lot line and the side of the structure.

...

### **Sec. 46-42. - Specific prohibitions.**

In addition to the general prohibitions set forth in section 46-41 above and the maximum permissible sound levels set forth in this division and unless otherwise exempted by this division or by any other act of this governing body, the following specific acts or the causing or permitting thereof are hereby declared in violation of this division:

...

- (13) Pumps, air-conditioning or air-handling equipment and other continuously operating equipment: operating or permitting the operation of any pump, air-conditioning, air-handling or other continuously operating equipment in such a manner as to exceed any of the following sound levels when measured as specified in the code of recommended practices incorporated herein:

| Measurement Location                                                    | Sound Level [db(A)] |
|-------------------------------------------------------------------------|---------------------|
| Any point on neighboring property line                                  | 60                  |
| Centering of nearest neighboring patio or porch                         | 55                  |
| Outside a neighboring living area window nearest the equipment location | 55                  |

a. The following is exempted from the noise regulations of Sec. 46-42 (13) of this chapter: Any pumps, air-conditioning, or air handling equipment located in an approved planned development where the side setback is less than seven and one-half (7 1/2) feet from the real property line."

### **SECTION 3 – APPLICABILITY:**

3.01 For the purposes of jurisdictional applicability, this Ordinance shall apply in the City of North Port. This Ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this Ordinance.

### **SECTION 4 – SEVERABILITY:**

4.01 If any section, subsection, sentence, clause, phase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

### **SECTION 5 – CONFLICTS:**

5.01 In the event of any conflicts between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall prevail to the extent of such conflict.

**SECTION 6 – CODING OF AMENDMENTS:**

6.01 In this Ordinance, additions are shown as underlined and deletions as strikethrough.  
These editorial notations shall not appear in the codified text.

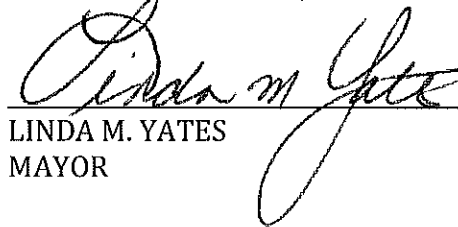
**SECTION 7 – EFFECTIVE DATE:**

7.01 This Ordinance shall take effect immediately after adoption by the City of North Port City Commission. No development order or development permits dependent on this Ordinance may be issued before it has become effective.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session this 25<sup>th</sup> day of July 2017.

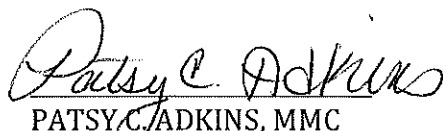
PASSED and DULY ADOPTED by the City Commission of the City of North Port, on the second and final reading in public session this 10<sup>th</sup> day of October 2017.

CITY OF NORTH PORT, FLORIDA



LINDA M. YATES  
MAYOR

ATTEST:



PATSY C. ADKINS, MMC  
CITY CLERK

APPROVED AS TO FORM AND  
CORRECTNESS:



AMBER L. SLAYTON  
CITY ATTORNEY