



OUTDOOR HOSPITALITY PERMIT APPLICATION

City of Dunedin, Florida ♦ Community Development Department
737 Loudon Avenue, Suite 137, Dunedin, FL 34698 ♦ 727-298-3210 ♦ www.dunedingov.com

Outdoor hospitality means a use used exclusively for dining, drinking, and pedestrian circulation, located wholly on private property, in open air or under a separate cover, which is associated with a business establishment which provides food or drink service and is located on the same property. Outdoor hospitality is permissible for any restaurant, bar, café, or related business whose primary operation is to provide food or drink service to its patrons for on-site consumption. Outdoor hospitality shall be considered incidental and supplementary to the primary use of a business.

APPLICATION INFORMATION			
Applicant's Name	Email	Phone	
Business Name	DBPR License No.	Phone	
Street Address	City	State	Zip
Property Owner's Name	Email	Phone	
Property Owner's Address	City	State	Zip
Proposed Outdoor Hospitality Area [square feet (sf)]	*Please note that conditional use approval pursuant to Sec. 104-21 is required for any outdoor hospitality are greater than or equal to 2,000 sf.		

SUBMITTAL REQUIREMENTS (PLEASE ATTACH)

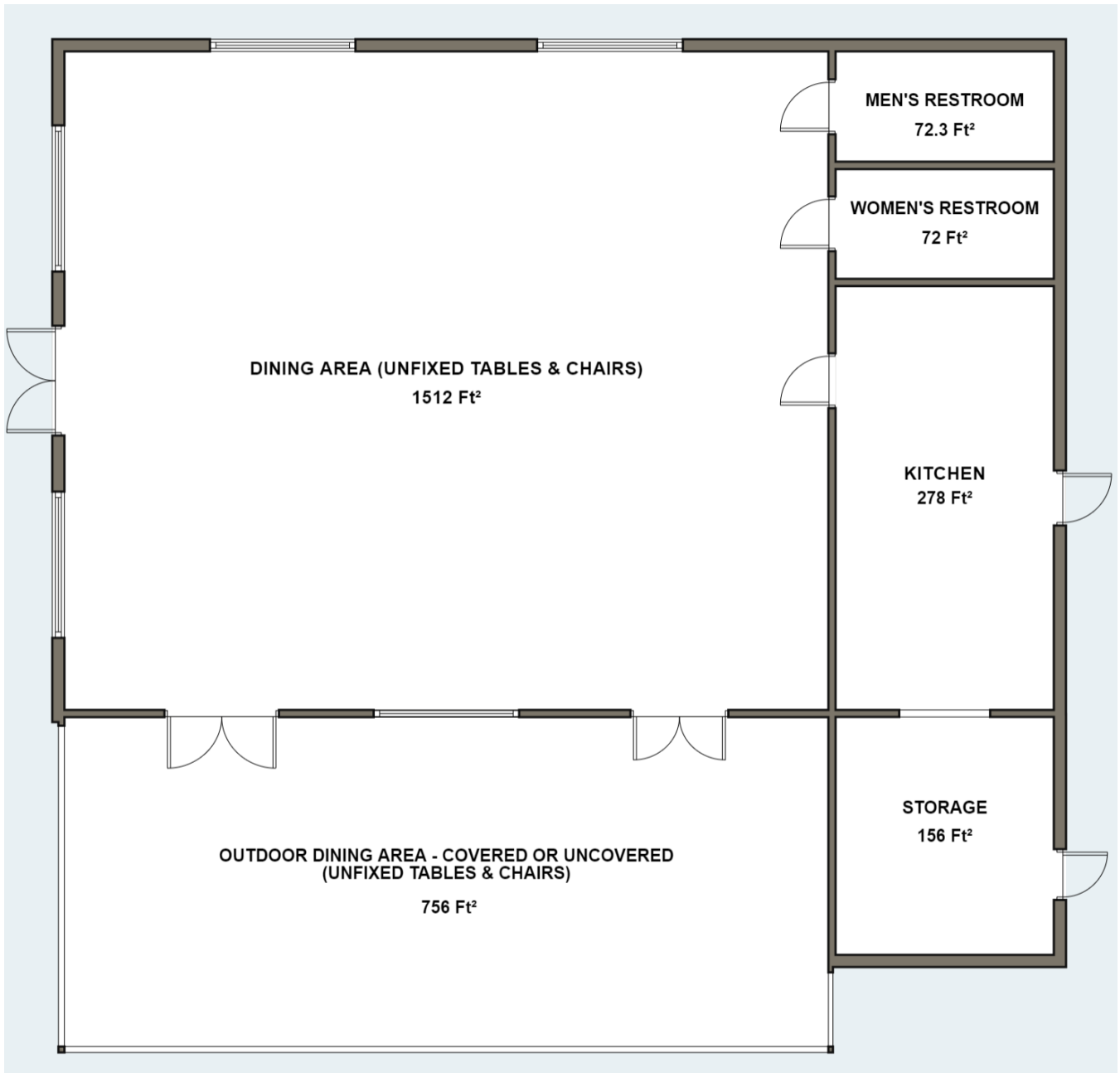
1. Survey of the property.
2. Site plan depicting the proposed outdoor hospitality area drawn to scale. The plan shall include the following information:
 - Number and placement of all seating/table arrangements and other elements within the outdoor hospitality area.
 - Location, size, type and fuel source of any portable BBQ grill or smoker, which is not included in the total allowed square footage of the outdoor hospitality area as regulated by Section 107-32.3(C)1., and which covering of shall meet NFPA 701 code.
 - For tenants as applicants, a letter of authorization from the property owner.
 - Occupant load of all existing business areas. (See attached example)
 - Number of all existing bathrooms and fixtures. (See attached example)
 - Carts or other food storage or service equipment shall be shown on the site plan and shall not be visible from a public right-of-way.
3. A sound attenuation plan shall be provided when an adjoining property is occupied by a residential use. The plan shall be prepared by a qualified professional in acoustics, sound engineering or related area.
4. Parking calculations for all existing uses and the proposed outdoor hospitality area located on the property. (See attached example)

APPLICANT'S AFFIRMATION & ACKNOWLEDGEMENT

The undersigned applicant affirms and acknowledges that the information contained in this application and attachments is true and correct. If this application is approved and a permit is granted, the undersigned applicant hereby affirms to operate the outdoor hospitality area in accordance with Sec. 107-32.3 of the City's Land Development Code (LDC), a copy of which is attached hereto. The undersigned applicant further acknowledges that they have read and understand the City's ordinances regarding noise levels (Sec. 107-41) and nuisance activity (Chapter 34), of which a copy of each is also attached hereto.

Applicant's Signature	Printed Name	Date
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SAMPLE RESTAURANT



Calculating Total Occupant Load

<u>Function of Space</u>	<u>Area (Ft²)</u>	<u>Occupant Load Factor per FBC</u>	<u>Occupants</u>
Standing Area	0	15 sq. ft. per occupant	0
Indoor Dining Area (Unfixed Tables & Chairs)	1,512	15 sq. ft. per occupant	101
Outdoor Dining Area (Unfixed Tables & Chairs)	756	15 sq. ft. per occupant	51
Kitchen Area	278	200 sq. ft. per occupant	2
Storage Area	156	300 sq. ft. per occupant	1
Restrooms	144	n/a	0
Total Area	2,846		Total Occupants 155

[SEE REVERSE FOR PLUMBING FIXTURES & PARKING REQUIREMENTS]

PLUMBING FIXTURE REQUIREMENTS BY TOTAL OCCUPANT LOAD

The number of existing plumbing fixtures in the business will generally support the following number of total occupants.

Existing Plumbing Fixtures	Business Type	
	Restaurants, banquet halls and food courts	Nightclubs, bars, taverns, dance halls and buildings for similar purposes
One (1) unisex restroom consisting of a water closet and lavatory	15 or fewer occupants	15 or fewer occupants
Male and female (or two unisex) restrooms each with 1 water closet and 1 lavatory plus 1 service sink elsewhere in the business	16-150 occupants	16-80 occupants
Male and female (or two unisex) restrooms each consisting of a 2 water closets and 2 lavatories plus 1 service sink elsewhere in the business	151-300 occupants	81-160 occupants

For this SAMPLE RESTAURANT 1 male and 1 female (or two unisex) restrooms each consisting of a 2 water closets and 2 lavatories plus 1 service sink elsewhere in the business is required.

OFF-STREET PARKING REQUIREMENTS

Below is the off-street parking requirements for those uses whose primary operation is to provide food or drink service to its patrons for on-site consumption so outdoor hospitality or sidewalk cafés is permissible.

	Minimum Required
All Zoning Districts Except Downtown Core (DC)	
Restaurant	1 space per 75 sf
Bars, taverns, nightclubs	1 space per 200 sf
Craft/micro brewery, winery or distillery	1 space per 400 sf
Downtown Core (DC) Zoning District Parking Standards	
Restaurant	1 space per 400 sf
Bars, taverns, and nightclubs	1 space per 200 sf
Craft/micro brewery, winery or distillery	1 space per 400 sf

For this SAMPLE RESTAURANT, six (6) off-street parking spaces are required if it's within the DC zoning district or thirty-two (32) spaces in all other districts.

(No parking required for the first 500 sf of outdoor dining area.)

DC Zoning District: $2,346 \text{ sf} / 400 = 6 \text{ spaces}$

All Other Zoning Districts: $2,346 \text{ sf} / 75 = 32 \text{ spaces}$

107-32 - OUTDOOR HOSPITALITY AND SIDEWALK CAFÉ REGULATIONS

107-32.1 - Generally

The City Commission finds that outdoor hospitality and sidewalk cafes are important for the success and vitality for commercial-corridor areas of the city, encourage a pedestrian- oriented environment, and help create a visually attractive atmosphere and streetscape.

107-32.2- Applicability.

Regulated by the provisions of Section 107-32, outdoor hospitality and sidewalk cafes are permissible for any restaurant, bar, cafe, or related business whose primary operation is to provide food or drink service to its patrons for on-site consumption. For the purpose of this section, outdoor hospitality or sidewalk cafes shall be considered incidental and supplementary to the primary use of a business. Any property owner operating an outdoor hospitality area or sidewalk cafe on September 1, 2024, must obtain the proper permit (as defined in section 107-32.2) or Right-of-way Use Agreement (as defined in section 107-32 .3) by no later than September 1,2027.

107-32.3 - Outdoor Hospitality

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

Outdoor hospitality means a use used exclusively for dining, drinking, and pedestrian circulation, located wholly on private property, in open air or under a separate cover, which is associated with a business establishment which provides food or drink service and is located on the same property.

Outdoor hospitality area means the area identified on a site plan as outdoor hospitality or the area approved by the City by zoning permit.

Separate cover means an overhead shelter associated with an outdoor hospitality establishment separate from the principal structure and not requiring a building permit pursuant to the Florida Building Code.

- (B) General Requirements

1. Prior to business operation within an outdoor hospitality area, a zoning permit shall be issued by the city. In lieu of a zoning permit required by this section, design review conditional use approval, pursuant to Sec. 104-21, is required for any outdoor hospitality area greater than or equal to 2,000 sf.
2. The issuance of the outdoor hospitality zoning permit does not negate the obligation to comply with all other codes, rules, regulations, permits, and/or license requirements, including but not limited to, alcoholic beverage licenses from the State of Florida.
3. The operating hours of the outdoor hospitality area are limited to the legal hours of operation of the business holding the permit.
4. Noise levels will be regulated by Section 107-41 and Chapter 34 - Environment. Repeat nuisance activity shall be subject to the penalties provided for in Chapter 34 - Environment and may result in permit revocation. Any application made for Outdoor Hospitality shall include the applicant's acknowledgement that they have read and understand these provisions.

City of Dunedin Land Development Code

- 5. The property on which the principal use is located shall be designed to provide parking for and restroom facilities to serve patrons of the outdoor hospitality area at maximum permitted capacity per applicable zoning code and Florida Building Code requirements.
- 6. Upon severe thunderstorms, tornados, tropical storm or hurricane warnings issued by the National Weather Service for Pinellas County or as required by declarations of state or local emergency, all tables, chairs, umbrellas, equipment and other objects within the outdoor hospitality area shall be removed from the outdoor hospitality area.

(C) Design Standards

- 1. Outdoor hospitality elements including tables, chairs, umbrellas, heaters and misters, televisions, and other objects associated with outdoor hospitality shall be placed only in the permitted (and designated) outdoor hospitality area.
 - i. Patio heaters. Portable heaters shall be turned off when the area in which they are being used is not occupied or being monitored closely, and keeping any flammable materials, as found in NFPA 1 (Fire Code) and NFPA 101 (Life Safety Code), at least 3 feet away.
- 2. The perimeter around the outdoor hospitality area shall be delineated using fixtures such as fencing, railings, planters, decorative chains or other approved fixtures no less than 30 inches and no greater than 42 inches in height as approved by the zoning permit.
 - i. No portion of the delineated perimeter may encroach beyond the permitted outdoor hospitality area.
 - ii. Fencing or railing shall be limited to material made of wood, PVC, wrought-iron or its equivalent, and shall be no more than fifty percent (50%) opaque in order to maintain sight visibility for traveling pedestrians.
 - iii. Posts with pointed ends facing upward are prohibited
 - iv. Plant material must be maintained in accordance with Section 105- 34 Landscape Plan.
 - v. A landscaped buffer, wall, or fence constructed at eight (8) feet in height shall be required along the common property when the adjoining property is occupied by residential use. This requirement may be waived by mutual agreement of property owners.

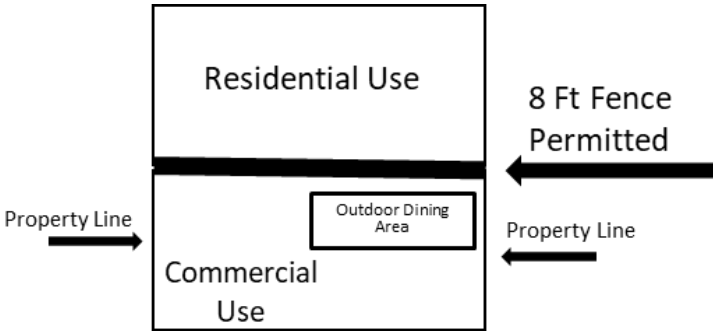


Figure 1 - Location of 8-foot landscaped buffer, wall or fence.
(For illustrative purposes only)

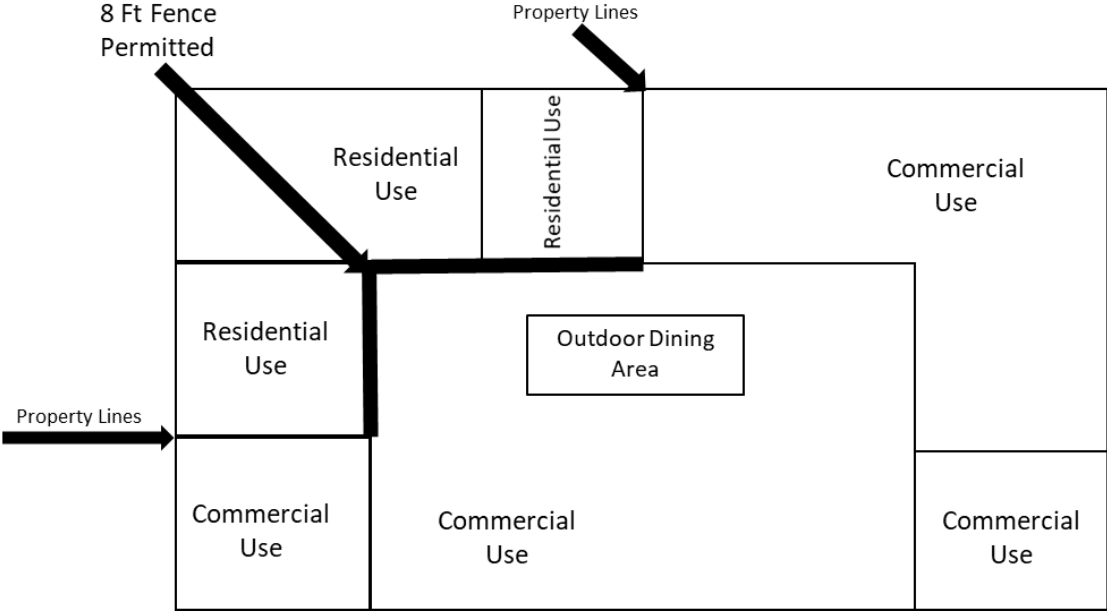


Figure 2 - Location of 8-foot landscaped buffer, wall or fence.
(For illustrative purposes only)

- 3. Parking
 - i. For an outdoor hospitality area that is greater than 500 square feet, an outdoor hospitality area shall be counted toward the gross square feet for the property for the purposes of calculating minimum off- street parking requirements. For an outdoor hospitality area that is 500 or less square feet, no additional parking is required.
 - ii. In the DC zoning category, parking shall be implemented pursuant to Section 105-24.4.8.1
 - iii. Outdoor hospitality in all other zoning districts shall provide adequate parking pursuant to Section 105-24.2.4.7.
- 4. Means of egress shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency at all times.
- 5. An exit enclosure or the perimeter around the outdoor hospitality area shall provide a continuous protected path of travel to an exit discharge for both occupants dining inside the establishment and those located in the outdoor hospitality area.

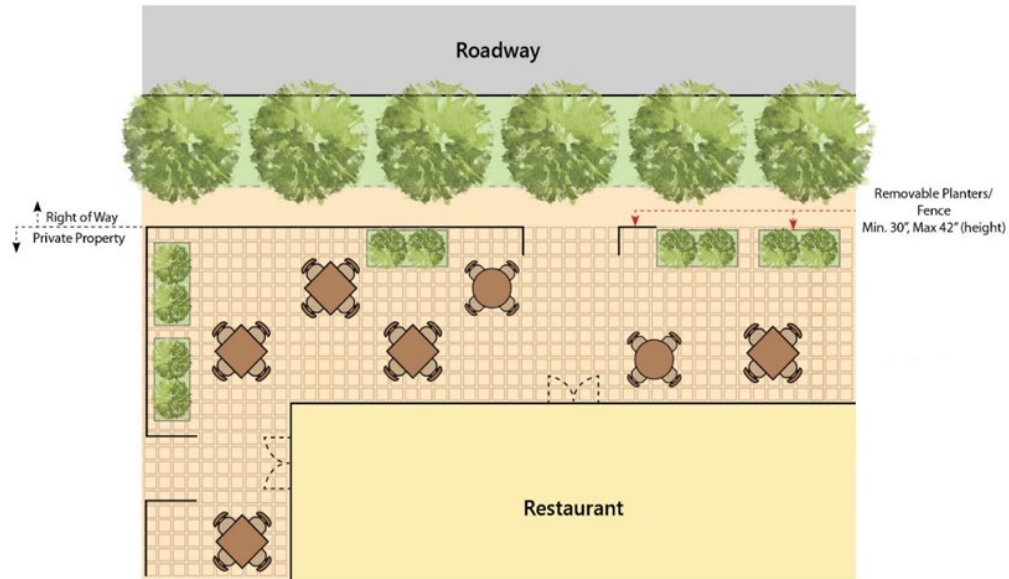


Figure 3 - Outdoor Hospitality Design Standards
(For illustrative purposes only)

(D) Zoning Permit Required - Zoning Permit application shall be made to the Community Development Department for review and approval prior to the operation of the outdoor hospitality permit. The permit application shall include the following information:

1. Survey of the property.
2. Site plan depicting the proposed outdoor hospitality area drawn to scale. The plan shall include the following information:
 - i. Number and placement of all seating/table arrangements and other elements within the outdoor hospitality area.
 - ii. Location, size, type and fuel source of any portable BBQ grill or smoker, which is not included in the total allowed square footage of the outdoor hospitality area as regulated by Section 107- 32.3(C) 1., and which covering of shall meet NFPA 701 code.
 - iii. For tenants as applicants, a letter of authorization from the property owner.
 - iv. Occupant load of all existing business area(s).
 - v. Number of all existing bathrooms and fixtures.
 - vi. Carts or other food storage or service equipment shall be shown on the site plan and shall not be visible from a public right-of-way.
 - vii. A sound attenuation plan shall be provided when an adjoining property is occupied by a residential use. The plan shall be prepared by a qualified professional in acoustics, sound engineering or related area.

(E) Prohibited Elements and Use in the Outside Hospitality Area

1. Vending machines.
2. Signage except those signs which are made valid by approved sign permit.
3. Advertising on umbrella(s).
4. Portable toilets.
5. Cooking, food or drink preparation, storage, cooling, or refrigeration.

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107-41.1 Unlawful Noise

It shall be unlawful for any person to willfully make, continue or cause to be made or continued any noise, which because of its volume level, duration and/or character annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities and tolerance for sound levels within the city limits. The following are violations that are declared to be unlawful noises and subject to the penalty provided. The inclusion of these violations does not preclude other violations which may fall within the purview of this chapter.

- A) The exhaust of any internal combustion or steam engine which is not equipped with an effective and operative muffler equal to or better than the original equipment manufacturer's specifications. Worn out or defective mufflers shall fall within this classification.
- B) The operation of construction equipment between the hours of 7:00 p.m. and 7:00 a.m. on any day, or at any time on Sunday. Such equipment includes, but is not limited to, pile drivers, pneumatic hammers, derricks, dredges, tractors, earth moving equipment, and similar construction equipment. Emergency use may be permitted as set forth in section 107-41.2.
- C) The production of sound, including sounds from any amplifier, phonograph, hi-fi, stereo, tape player, compact disc or digital sound system or other type of sound broadcasting or sound amplification device, whether from moving vehicles, vessels, or stationary locations that exceeds an A-weighted decibel threshold of 65 dB, measured at the property line of the complainant or which otherwise creates a nuisance. Such items include, but are not limited to, loudspeakers, boom boxes, and car radios. Sound created in a public park or on other public lands which exceeds an A-weighted decibel threshold of 65 dB measured (1) at the location of the complainant or (2) from a distance of 100 feet from the source of the sound, whichever is less or which otherwise creates a nuisance is unlawful.
- D) Sounds produced at frequent or continuous periods of time by any animal or bird in the possession of or under the control of a person which annoy or disturb persons in the vicinity of the sound or otherwise create a nuisance in the neighborhood.
- E) The operation of any motor vehicle or machinery which produces grinding, grating, or irritating noises while in motion or in operation, or which is not equipped with an effective motor sound suppression device equal to or better than the original manufacturer's specifications.
- F) Sounds produced from machinery, manufacturing equipment, air conditioners, heating units, ventilators, or blower equipment at frequent or continuous periods of time which annoy or disturb persons of ordinary sensibilities and tolerance in the vicinity of the sound or otherwise create a nuisance in the neighborhood. This standard shall not apply to the emergency use of electric generators when electrical service is not available from the electric utility or to emergency situations when pumps must be used to address flooding conditions and for other types of equipment during emergency conditions.
- G) Sounds produced from lawn maintenance equipment between the hours of sunset and 7:00 a.m. on any day or at any time in which such sounds are of a continuous nature or frequency that disturb persons of ordinary sensibility in the vicinity of the sound or otherwise create a nuisance in the neighborhood. Sound produced from lawn maintenance equipment operated on public parks, golf courses, athletic playing fields and other lands owned by the public are an exception to the above standard and may be operated between 6:00 a.m. and sunset.
- H) Amplified sound, generated outside of a structure, whether music or any other form of sound, that may be heard outside the property line from which the amplified sound is generated after 11:00 p.m. until 7:00 a.m. any day of the week, except of December 31st from 11:00 p.m. until 12:30 a.m. on January 1st.
- I) Amplified sound generated inside of a structure, exceeding A-weighted 65 dB, that may be heard outside the property line from which the amplified sound is generated after 11 :00 p.m. until 7:00 a.m. any day of the week, except on December 31st from 11 :00 p.m. until 12:30a.m. on January 1st. Amplified sound, which may be heard because of the opening of doors as persons enter and leave the structure that

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momentarily exceeds an A-weighted decibel threshold of 65 dB measured at the property line of the property from which the sound is generated is not a violation of this standard.

107-41.2 Exemptions

The following sounds are exempt from the provisions of this division:

- A) Emergency vehicles, such as fire, police or ambulance, while on emergency calls, using radios, sirens, horns, bells or whistles.
- B) Parades, fireworks displays and/or other special events for which permission has been granted by the city within such hours and conditions as may be imposed; festivals, concerts, athletic events and other activities taking place on publicly owned lands which are approved, sponsored or permitted by the city or other governmental agency.
- C) Emergency construction work which is necessary for the protection of life or property.
- D) Sounds produced by the ordinary operation of trains, buses, aircraft or other forms of transportation governed by either state or federal noise regulations.
- E) Emergency alarms, such as fire alarms or burglar alarms, prior to a reasonable opportunity for the owner or tenant in possession of the premises served by such alarm to turn off the alarm.
- F) Bells which are rung or organs which are played to signal religious services.
- G) Sounds produced by the ordinary operation of public service vehicles, street sweeping machinery or other vehicles, equipment, or machinery operated by employees of a county, city, or other public agency.

107-41.3 Penalty for Violation of Division

The violation of any provision of this division shall constitute a separate offense and shall subject the offender, upon conviction, to a fine of not more than \$500.00 or imprisonment for a period not exceeding 60 days, or both, in the discretion of the court.

107-41.4 Severability

It is the intention of the city commission that this article, while in addition to and supplementing the federal and state regulations, be construed to secure for the people freedom from unlawful noise as described in section 105-41.1, without violating any of the rights secured by the Constitution of the United States or the constitution of the state. If any provision of this article should ever be determined to be invalid for any reason, it is the intent of the city commission that the remaining provisions continue in effect to the extent that they can be enforced notwithstanding such determination, and, therefore, the provisions of this article are declared severable.

107-41.5 Mechanical Equipment

On property zoned for or used for commercial or industrial purposes, no mechanical equipment (air conditioners, exhaust fans, mechanical pumps, etc.) shall be placed within required setbacks when such setback area abuts residentially zoned or used property. Additionally, if mechanical equipment is placed outside the setback and within the buildable area of the lot abutting a residentially used or zoned property, such mechanical equipment, if not screened from such abutting property by a building or other solid barrier, shall be screened by a solid barrier approved by the zoning administrator.

CHAPTER 34 – ENVIRONMENT

ARTICLE IV

Sec. 34-81. Declaration of chronic nuisance property; action plan.

- (a) *Declaration of chronic nuisance property.* If a pattern of nuisance activity exists upon real property, the city may declare the property to be a chronic nuisance. The city shall notify the property owner by certified mail, return receipt required and by first class mail to the address listed on the ad valorem tax roll. Notice shall be posted at the property where the nuisance activities occurred. The declaration of chronic nuisance property shall contain at least the following information:
- (1) A reference to chapter 34, article IV (the "City of Dunedin Chronic Nuisance Property Code");
 - (2) The address and parcel control number of the property;
 - (3) The dates that the nuisance activities occurred at the property;
 - (4) A description of the nuisance activities;
 - (5) A statement that the property owner is required to provide the city with a written action plan outlining the specific measures that the property owner will take to curtail or eliminate the re-occurrence of nuisance activities on the property. A statement that the action plan must be provided to the city no later than 15 days from the date of the declaration of chronic nuisance property;
 - (6) A statement that failure to provide the city with a timely written action plan will result in a violation of this article and the entry of a chronic nuisance service order by the code enforcement board;
 - (7) A statement that the costs of any chronic nuisance services provided by the city to a property that has been declared to be a chronic nuisance may be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and
 - (8) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.
- (b) *Development of action plan.* The property owner shall provide the city with a written action plan outlining the specific measures that the owner will take to curtail or eliminate the re-occurrence of nuisance activities at the property. The property owner shall provide the action plan to the city no later than 15 days from the date of the declaration of chronic nuisance property. Failure to provide the city with a timely action plan shall be a violation of this article.
- (c) *Adequacy and implementation of action plan.* If the city determines that the action plan is adequate to curtail or eliminate the re-occurrence of nuisance activities on the property, the city shall notify the property owner by certified mail, return receipt required and first class mail. The city shall establish a reasonable time period not exceeding 45 days from the date that the action plan is determined to be adequate to implement the action plan. The city may extend the time period beyond 45 days if additional time is necessary to implement the action plan. Failure to implement the action plan within the time period established by the city shall be a violation of this article. If the property owner implements the action plan within the time period established by the city, the declaration of chronic nuisance will be closed and no further action shall be required, except that the city may require the property owner to revise the action plan in the event that a nuisance activity re-occurs.
- (d) *Revision of inadequate action plan.* If the city determines that the action plan is not adequate to curtail or eliminate the re-occurrence of nuisance activities on the property, the city may require the property owner to revise the action plan. The property owner shall provide the revised action plan to the city no later than ten days from the date that the action plan is determined to be inadequate. Failure to revise the action plan or to

provide the city with a timely revised action plan shall be a violation of this article. The provision of an inadequate action plan on three consecutive occasions shall be a violation of this article and may result in the entry of a chronic nuisance service order against the property.

- (e) *Factors determining adequacy of action plan.* Factors to be considered in determining the adequacy of an action plan may include, but shall not be limited to:
- (1) Commencement of an eviction action pursuant to F.S. ch. 83, to remove from the property those individuals engaged in the nuisance activity;
 - (2) Implementation of crime prevention through environmental design (CPTED) measures;
 - (3) Frequency of site visits and inspections at various times of both day and night;
 - (4) Hiring of property management;
 - (5) Hiring of private security;
 - (6) Installation of security cameras;
 - (7) Use of a written lease agreement;
 - (8) Criminal background checks for prospective tenants and lease renewals;
 - (9) Posting of "no trespassing" signs at the property and execution of a 'no trespass affidavit' authorizing the police department to act as an agent of the property owner to enforce trespass statutes on the property;
 - (10) Regular requests for offense and incident reports relating to the property that are available through the records custodian of the Sheriffs Department records division;
 - (11) Written documentation of all efforts to curtail or eliminate the reoccurrence of nuisance activities on the property;
 - (12) Any other action that the city determines is reasonably sufficient to curtail or eliminate the re-occurrence of nuisance activities on the property.

Sec. 34-82. Notice of violation.

- (a) *Notice of violation.* If the property owner fails to satisfy any requirement of this article, the city shall notify the property owner by certified mail, return receipt required and first class mail to the address listed on the ad valorem tax roll. The notice of violation shall be posted at the property where the nuisance activities occurred. The notice of violation shall contain at least the following information:
- (1) The address and parcel control number of the property;
 - (2) A description of the facts constituting a violation of this article;
 - (3) A statement that the property has been declared to be a chronic nuisance;
 - (4) A statement that unless the property owner files a timely request for hearing pursuant to section 34-83, the property owner shall be deemed to have waived the right to contest the notice of violation;
 - (5) A statement that the costs of any unpaid chronic nuisance services provided by the city may be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and
 - (6) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.

Sec. 34-83. Request for hearing.

- (a) *Request for hearing.* A property owner may request a hearing before the code enforcement board upon receipt of a declaration of chronic nuisance property or notice of violation regarding the action plan. A request for hearing shall be filed with the city and shall:
 - (1) Be in writing;
 - (2) Provide a short, plain statement identifying the factual, procedural or legal error upon which the request for hearing is based; and
 - (3) Include a copy of the declaration of chronic nuisance property or notice of violation.
- (b) *Time for filing a request for hearing.* A request for hearing shall be filed with the city within 15 days from the date of the declaration of chronic nuisance property or 15 days from the date of the notice of violation regarding the action plan.
- (c) *Waiver of right to contest.* If the owner of a chronic nuisance property fails to file a timely request for hearing, the property owner shall be deemed to have waived the right to contest the declaration of chronic nuisance property or notice of violation.
- (d) *Hearing by the code enforcement board.* Upon receipt of a timely request, the city shall schedule a hearing before the code enforcement board. The hearing shall be limited to the review of the record or evidence upon which the city based the declaration of chronic nuisance property or notice of violation regarding the action plan.
- (e) *Decision of the code enforcement board.* After reviewing the record or evidence upon which the city based its determination, the code enforcement board shall either uphold or reject the declaration of chronic nuisance property or notice of violation regarding the action plan, as appropriate. The decision of the code enforcement board shall be in writing and shall be deemed final. If the code enforcement board upholds the notice of violation, the code enforcement board shall immediately enter a chronic nuisance service order in accordance section 34-84. If the code enforcement board rejects the notice of violation, the code enforcement board shall identify the factual, procedural or legal error upon which the decision is based. Notwithstanding, the property owner shall be required to submit and implement an action plan in accordance with section 34-81 if the code enforcement board finds that a pattern of nuisance activity occurred at the property.

Sec. 34-84. Entry of chronic nuisance service order.

- (a) *Chronic nuisance service order.* If a timely request for hearing has not been filed pursuant to section 34-83 and a notice of violation has been issued, the code enforcement board shall enter a chronic nuisance service order. If the code enforcement board upholds the declaration of chronic nuisance property or determines after a hearing that there has been a failure to provide or implement an adequate action plan, the code enforcement board shall enter a chronic nuisance service order. The city shall provide a copy of the chronic nuisance service order to the property owner by certified mail, return receipt required and first class mail to the address listed on the ad valorem tax roll. The chronic nuisance service order shall:
 - (1) Enter findings of fact establishing a pattern of nuisance activity and violation of this article;
 - (2) Authorize the city to provide chronic nuisance services to the property;
 - (3) Authorize the city to bill the costs of any chronic nuisance services to the owner of the chronic nuisance property;
 - (4) Provide for the mailing of a copy of the chronic nuisance service order by certified mail, return receipt required and first class mail to any mortgagee of record. Failure to provide a copy of the chronic nuisance service order to a mortgagee of record shall not operate to release or discharge any obligation under this article or otherwise affect the validity of a chronic nuisance service order;

- (5) Provide for the recording of a certified copy of the chronic nuisance service order in the public records; and
- (6) Provide for continuing jurisdiction over the chronic nuisance property.
- (b) *Duration of chronic nuisance service order.* The chronic nuisance service order entered in accordance with this section shall terminate if there have been no nuisance activities at the property for one year.

Sec. 34-85. Abatement of chronic nuisances; provision of services; apportionment.

- (a) *Abatement by city.* The city may abate chronic nuisances on real property by providing chronic nuisance services to curtail or eliminate the re-occurrence of nuisance activities. The costs of such chronic nuisance services shall be billed to the property owner in accordance with section 34-86 and such costs may be collected by the city by any legal means.
- (b) *Apportionment.* Chronic nuisance service costs shall be entirely apportioned to the assessed real property receiving the chronic nuisance service.

Sec. 34-86. Establishment of costs; billing of costs; notice of delinquency.

- (a) *Chronic nuisance service costs to be established by resolution.* All chronic nuisance service costs shall be established by resolution of the city commission. No chronic nuisance service cost shall be modified other than by resolution of the city commission. Chronic nuisance service costs shall only be in the amounts established by resolution of the city commission.
- (b) *Billing of chronic nuisance service costs.* The city shall bill all chronic nuisance service costs to the owner of the chronic nuisance property by certified mail, return receipt required and first class mail to the address listed on the ad valorem tax roll. The bill shall contain at least the following information:
 - (1) The address and parcel control number of the chronic nuisance property;
 - (2) The date of each chronic nuisance service;
 - (3) A brief description of each chronic nuisance service;
 - (4) The amount of the bill for each chronic nuisance service;
 - (5) A statement that the total amount of the bill shall be paid to the city within 30 days from the date of the bill and that any chronic nuisance service cost which has not been paid within 30 days from the date of the bill shall be delinquent;
 - (6) A statement that any unpaid chronic nuisance service costs will be levied against the property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and
 - (7) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.
- (c) *Notice of delinquency.* The total amount of the bill shall be paid to the city within 30 days from the date of the bill. Any chronic nuisance service cost which has not been paid within 30 days from the date of the bill shall be delinquent. If the property owner fails to pay the total amount of the bill within 30 days from the date of the bill, the city shall notify the property owner of the delinquency. The notice of delinquency shall be by certified mail, return receipt required and first class mail to the address listed on the ad valorem tax roll and shall contain at least the following information:
 - (1) The address and parcel control number of the property;
 - (2) The amount of the delinquent billings, individual and total;

- (3) A statement that any unpaid chronic nuisance service costs will be levied as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes; and
 - (4) A statement that unpaid assessments may be certified to the tax collector for collection pursuant to the uniform method provided in F.S. § 197.3632.
- (d) *Construction of chronic nuisance service cost.* Chronic nuisance service costs shall not include any amount attributable to general law enforcement activities or the general enforcement of municipal codes upon a property that has not been declared by the city to be a chronic nuisance and that has not received a chronic nuisance service order from the code enforcement board.

Sec. 34-87. Method of notice; construction.

- (a) *Notice.* Unless otherwise provided, notice required by this article shall be by certified mail, return receipt required and by first class mail to the address listed on the ad valorem tax roll. Notice shall be posted at the property where the nuisance activities occurred.
- (b) *Construction of notice.* A property owner shall be deemed to have notice of a nuisance activity if that property owner (1) has actual knowledge of the nuisance activity; (2) has received notice of the nuisance activity; (3) has reason to know about the nuisance activity; (4) knows about a fact related to the nuisance activity; or (5) is able to ascertain the existence of a nuisance by checking an official filing or recording. The lack of knowledge of, acquiescence, or participation in, or responsibility for a nuisance activity on the part of property owner shall not be a defense to any enforcement of this article.

Sec. 34-88. Change in title to chronic nuisance property.

- (a) *Purchase at judicial sale upon final judgment of foreclosure.* Every purchaser of a chronic nuisance property at judicial sale upon final judgment of foreclosure shall provide the city with an action plan and implement an action plan no later than 45 days from the date of sale.
- (b) *Receivership.* Every trustee of a chronic nuisance property appointed after the entry of a chronic nuisance service order shall provide the city with an action plan and implement the action plan no later than 45 days from the date of appointment of receiver in any state or federal action at law.
- (c) *Probate.* Every personal representative of an owner of a chronic nuisance property shall provide the city with an action plan and implement an action plan no later than 45 days from the date of appointment. If the owner of the chronic nuisance property died intestate, beneficiaries of the estate shall be required to provide the city with an action plan and implement an action plan.
- (d) *Other changes in title to chronic nuisance property.* An arms-length purchaser of a chronic nuisance property that has purchased the property after entry of a chronic nuisance service order for the property shall have 45 days from the date of closing or recording of the order, whichever occurs last, to provide the city with an action plan and implement the action plan.

Sec. 34-89. Registration of distressed vacant property.

- (a) *Registration by owner.* Every owner of a chronic nuisance property that is also distressed vacant property shall register with the city.
- (b) *Registration by foreclosing mortgagee.* Every foreclosing mortgagee of a chronic nuisance property that is also distressed vacant property shall register with the city.

Sec. 34-90. Construction of article.

- (a) *Levy of special assessments.* This article shall not be construed to limit the city from levying special assessments and the amendments to the standard unsafe building abatement code, as adopted by the city.

- (b) *Monthly reinspection assessments.* This article shall not be construed to limit the city from imposing monthly reinspection assessments.
- (c) *Imposition of administrative fines.* This article shall not be construed to limit the city from imposing administrative fines.
- (d) *Exemptions.* This article shall not be construed to apply to property owned by the city or any other governmental entity.
- (e) *Provision of this article supplemental.* Nothing in this article shall be construed to limit the authority of the city to collect special assessments by any other method according to law.

DIVISION 2. LEVY AND COLLECTION OF NON-AD VALOREM ASSESSMENTS

Sec. 34-91. Unpaid chronic nuisance service costs; non-ad valorem assessment.

Any chronic nuisance service costs that remain delinquent and unpaid as of June 1 of each year shall be a special assessment levied against the benefited real property as a non-ad valorem assessment superior to all other private rights, interests, liens, encumbrances, titles and claims upon the benefited real property and equal in rank and dignity with a lien for ad valorem taxes.

Sec. 34-92. Initial assessment roll.

- (a) *Contents of initial assessment roll.* The finance director shall, annually, prepare or direct the preparation of an initial assessment roll which shall contain the following:
 - (1) A summary description of all benefited real property with delinquent chronic nuisance service costs to be assessed, conforming to the description contained on the ad valorem tax roll;
 - (2) The name of the owner of the benefited real property as listed on the ad valorem tax roll and maintained on the property appraiser's system; and
 - (3) The amount of the chronic nuisance service costs to be assessed against each parcel of benefited real property.
- (b) *Public inspection of initial assessment roll.* The initial assessment roll shall be retained by the city clerk and shall be open to public inspection. The foregoing shall not be construed to require that the assessment roll be in printed form if the amount of the chronic nuisance service assessment for each parcel of benefited real property can be determined by use of a computer terminal available to the public.
- (c) *Notice to property appraiser.* A copy of the initial assessment roll shall be provided to the property appraiser and included as a part of the notice of proposed property taxes under F.S. § 200.069, the truth-in-millage notification.

Sec. 34-93. Notice of public hearing.

- (a) *Public hearing.* The city commission shall adopt a non-ad valorem assessment roll at a public hearing in accordance with F.S. § 197.3632.
- (b) *Notice by mail.* The city shall notice the hearing related to the initial assessment roll by certified mail, return receipt required and first class mail. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information:
 - (1) The purpose of the assessment;
 - (2) The total amount to be levied against each parcel of assessed real property;

- (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 city commission within 20 days of the notice; and
- (5) The date, time, and place of the hearing.

The mailed notice shall conform to the requirements set forth in F.S. § 197.3632. Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at the address listed on the ad valorem tax roll. Failure of the property owner to receive such notice due to mistake or inadvertence shall not affect the validity of the assessment roll nor release or discharge any obligation for payment of a chronic nuisance service assessment.

- (c) *Notice by publication.* The city shall notice the hearing related to the initial assessment roll by publication in a newspaper generally circulated within the county. The published notice shall conform to the requirements set forth in F.S. § 197.3632 and shall contain at least the following information:
- (1) Identifying the city;
 - (2) A geographic depiction of the city boundaries subject to the assessment;
 - (3) A brief and general description of the chronic nuisance services provided;
 - (4) The proposed schedule of the assessment;
 - (5) The fact that the assessment will be collected by the tax collector;
 - (6) A statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice; and
 - (7) A statement that the initial assessment roll is available for inspection at the office of the city clerk and that all interested persons may ascertain the amount to be assessed against a parcel of assessed real property at the office of the city clerk.

Sec. 34-94. Public hearing; adoption of final assessment roll.

- (a) *Public hearing.* At the public hearing, the city commission shall receive the written objections and shall hear testimony from all interested persons. The city commission may adjourn the hearing from time to time. If the city commission adopts the non-ad valorem assessment roll, the city commission shall specify the amount of the assessment. Notwithstanding the notices provided for in this division, the city commission may adjust the assessment or the application of the assessment to any assessed real property based on the benefit which the city will provide or has provided to the property.
- (b) *Adoption of final assessment roll.* The city commission may, at the public hearing or at any subsequent meeting of the city commission, adopt an assessment roll which shall confirm, modify, or repeal the initial assessment roll with such amendments, if any, as the city commission deems equitable.
- (c) *Legislative determination of special benefit and fair apportionment.* The adoption of the final assessment roll by the city commission shall constitute a legislative determination that all assessed parcels of real property derive a special benefit from the chronic nuisance services provided by the city and a legislative determination that the assessments are fairly and reasonably apportioned to the properties.

Sec. 34-95. Lien of chronic nuisance service assessments.

Upon the adoption of the final assessment roll, all chronic nuisance service assessments shall constitute a perfected lien against the assessed real property superior to all other private rights, interests, liens, encumbrances, titles and claims upon the property and equal in rank and dignity with a lien for ad valorem taxes.

Sec. 34-96. Correction of errors and omissions.

- (a) *Validity of assessment.* Any informality or irregularity in the proceedings in connection with the levy of a chronic nuisance service assessment shall not affect the validity of the assessment after approval by the city commission. A chronic nuisance service assessment as finally approved by the city commission shall be competent evidence that the assessment was duly levied, made and adopted, and that all other proceedings were duly taken. No act of error or omission on the part of the property appraiser, tax collector, finance director, or other employee of the city shall operate to release or discharge any obligation for payment of a chronic nuisance service assessment imposed by the city under this article.
- (b) *Correction of errors by the finance director.* Prior to the delivery of the assessment roll to the tax collector in accordance with F.S. § 197.3632, the finance director shall have the authority at any time to correct any error or omission in applying the assessment to any particular parcel of assessed real property not otherwise requiring the provision of notice pursuant to F.S. § 197.3632. Any such correction shall be considered valid ab initio and shall not affect the enforcement of the chronic nuisance service assessment. Any such correction shall be processed by the finance director and not the property appraiser or tax collector.

Sec. 34-97. Method of collection.

Unless otherwise directed by the city commission, chronic nuisance service assessments shall be collected pursuant to the uniform method provided in F.S. § 197.3632. Any hearing or notice required by this division may be combined with any other hearing or notice required by F.S. § 197.3632 or other provision of law.

Sec. 34-98. Alternative method of collection.

- (a) In lieu of using F.S. § 197.3632, the city may elect to collect a chronic nuisance service assessment by any other method authorized by law or under the alternative collection method provided by this section.
- (b) The city shall have the right to foreclose and collect all delinquent chronic nuisance service assessments in the manner provided by law for the foreclosure of mortgages on real property. All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action shall be included in any judgment or decree rendered.
- (c) Notwithstanding the city's use of an alternative method of collection, the finance director shall have the same power and authority to correct errors and omissions as provided in this division.