



AGENDA

COMMITTEE OF THE WHOLE WORKSHOP BOARD OF COUNTY COMMISSIONERS

Board Chambers
Suite 100
Ernie Lee Magaha Government Building
221 Palafox Place

January 8, 2013
9:00 a.m.

Notice: This meeting is televised live on ECTV and recorded for rebroadcast on the same channel. Refer to your cable provider's channel lineup to find ECTV.

1. Call to Order

(PLEASE TURN YOUR CELL PHONE TO THE SILENCE OR OFF SETTING.)
2. Was the meeting properly advertised?
3. County Medicaid Costs
(Amy Lovoy - 30 min)
A. Board Discussion
B. Board Direction
4. Policy Regarding Legal Representation for Commissioners and Staff (NO BACKUP PROVIDED)
(Alison Rogers - 30 min)
A. Board Discussion
B. Board Direction
5. Land Development Code/Comprehensive Plan
(Lloyd Kerr - 30 min)
A. Board Discussion
B. Board Direction
6. Noise Ordinance
(Alison Rogers - 30 min)
A. Board Discussion
B. Board Direction
7. Adjourn

Committee of the Whole

3.

Meeting Date: 01/08/2013

Issue: County Medicaid Costs

From: Amy Lovoy, Department Head

Information

Recommendation:

County Medicaid Costs

(Amy Lovoy - 30 min)

A. Board Discussion

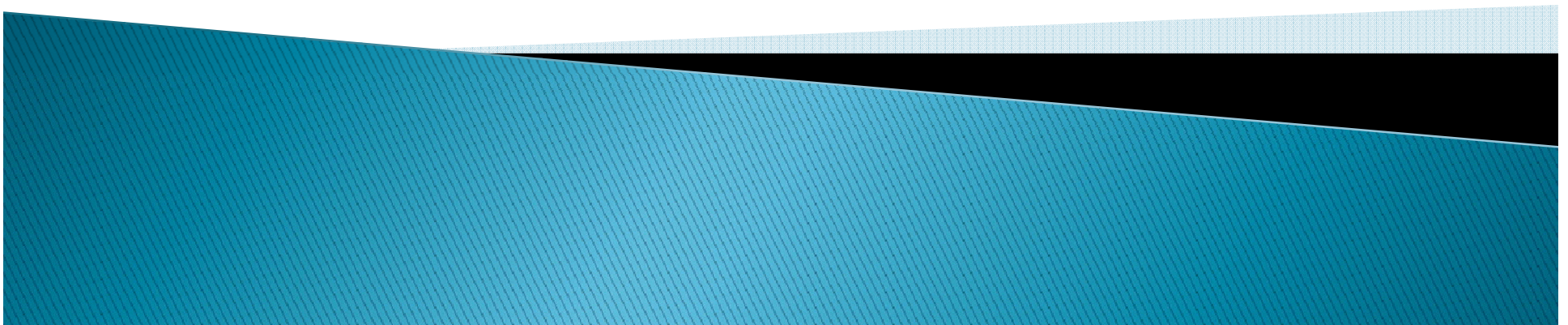
B. Board Direction

Attachments

Medicaid Presentation

Medicaid

The Effect of State Legislation



Medicaid Cost Shift

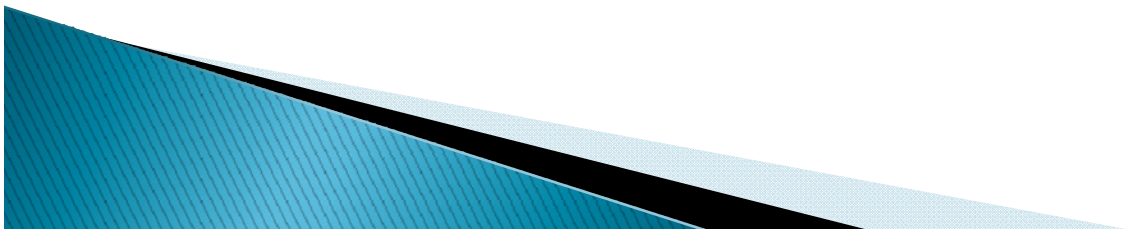
- ▶ By State law Counties are required to contribute to the Medicaid costs for citizens of their County.
- ▶ In 2012 the State passed HB5301 a law that resulted in a massive shift of Medicaid costs to Counties.
- ▶ Many of the issues surrounding the billing of these claims remain outstanding and results in Escambia County residents paying for undeserved Medicaid costs.



Examples

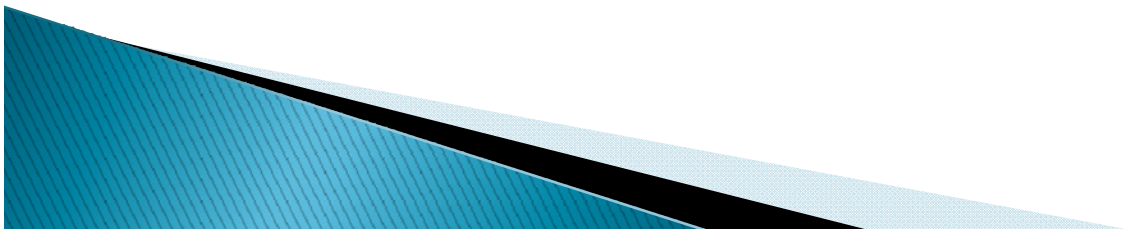
- ▶ A resident of Alabama, never having had an address in Escambia County, walks across the state line, enters an Escambia County nursing home and signs up for Florida Medicaid .
 - *Escambia County taxpayers are responsible for this cost.*

- ▶ A Mississippi resident, needing health care, comes to Pensacola and signs up for Florida Medicaid using Cordova Mall as their place of residence.
 - *Escambia County taxpayers are responsible for this cost.*



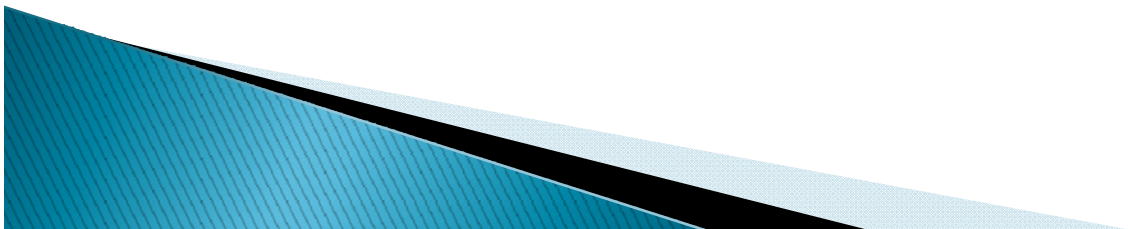
Examples

- ▶ A transient, residence unknown, comes to Escambia County and is taken to the hospital where he signs up for Florida Medicaid using a fictitious address.
 - *Escambia County taxpayers are responsible for this cost.*
- ▶ Under the new law Escambia County does not have the right to challenge these claims.



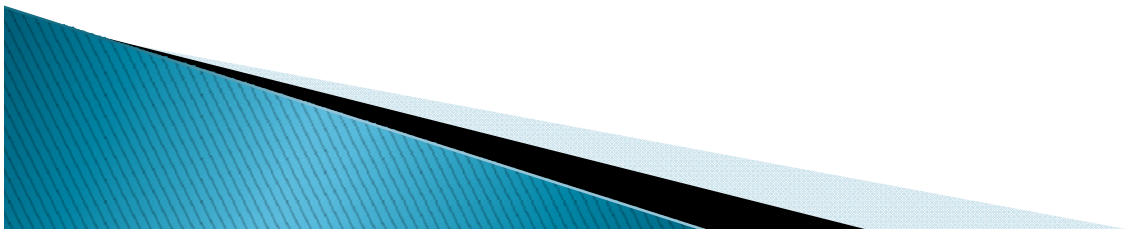
Continuing Problems

- ▶ The County receives bills for items labeled simply as “Transfers In.” These are purported to be claims that were initially incorrectly charged to other Counties and are now being transferred to the correct County for payment.
 - *Escambia County cannot challenge these charges or even know what the charges are.*



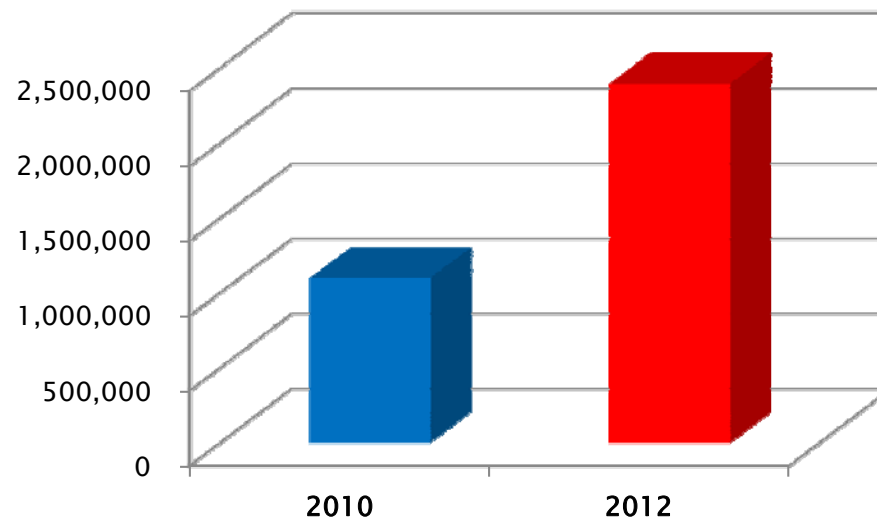
Continuing Problems

- ▶ The County will receive a claim for services provided in a given month. Research will be done that shows the residency of the recipient was not Escambia County during that month. The County will then challenge this cost.
 - *AHCA will deny the challenge using later months' data as the residency proof.*



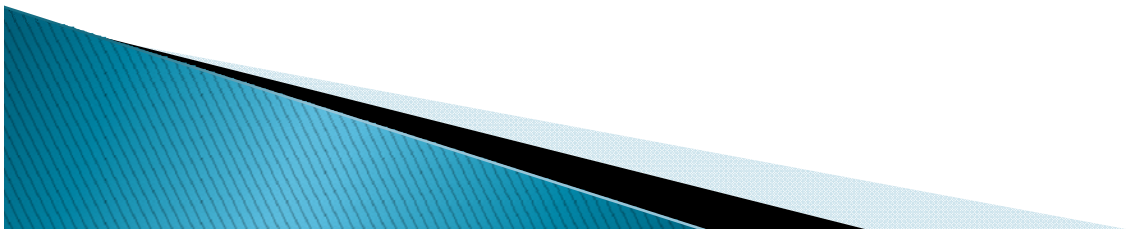
The Effect

Medicaid Costs								
	April	May	June	July	August	September	October	Total
2010	\$111,858	\$108,071	\$283,986	\$153,681	\$75,624	\$160,377	\$176,262	\$1,069,859
2012	168,881	288,285	403,775	269,690	352,563	467,631	379,287	2,330,111
% Change	50.98%	166.75%	42.18%	75.49%	366.21%	191.58%	115.18%	117.80%



The Solution

- ▶ The Florida Association of Counties (FAC) is negotiating with the Governor's Office to work out possible solutions including...
- ▶ Trading Health Departments for Medicaid
 - This is a \$22,000,000 budget with 322 full-time equivalents.
- ▶ Giving up a state-shared revenue in exchange for state-assumption of Medicaid costs.



Committee of the Whole

4.

Meeting Date: 01/08/2013

Issue: Policy Regarding Legal Representation for Commissioners and Staff

From: Alison Rogers, County Attorney

Information

Recommendation:

Policy Regarding Legal Representation for Commissioners and Staff (NO BACKUP PROVIDED)

(Alison Rogers - 30 min)

A. Board Discussion

B. Board Direction

Committee of the Whole

5.

Meeting Date: 01/08/2013

Issue: Land Development Code/Comprehensive Plan

From: T. Lloyd Kerr, AICP, Department Director

Information

Recommendation:

Land Development Code/Comprehensive Plan

(Lloyd Kerr - 30 min)

A. Board Discussion

B. Board Direction

Attachments

Letter from Planning Board Chairman

December 10, 2012

Gene M. Valentino, Chairman
Escambia County Board of Commissioners
221 Palafox Place, Suite 400
Pensacola, FL 32502

RE: Direction from Board of County Commissioners Concerning Re-Write of Escambia County Land Development Code and/or Escambia County Comprehensive Plan

Dear Chairman Valentino,

On May 6, 2010, the Board of County Commissioners (BCC) adopted Resolution R2010-81, establishing the Escambia County Land Development Code (LDC) Advisory Committee consisting of fifteen (15) members, as outlined in the attached Resolution.

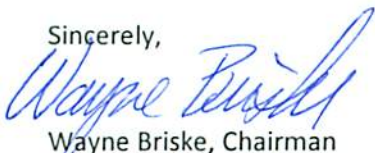
During the Workshop for review of the November 19, 2012, LDC Draft, the Planning Board Members wished to send forth a letter to the BCC formally recognizing and thanking the members of the LDC Advisory Committee for the extensive time and efforts spent working on the LDC re-write.

Additionally, the Members wished to seek guidance, within thirty (30) days, if possible, with regard to the current November 19th LDC Draft, with regard to whether the BCC's direction would be for the Planning Board to:

- A) Review the Draft, in its current form, chapter-by-chapter, with input from citizens in open forum with a definite deadline and within a short period of time;
 - 1. Realizing there were elements of concern within the current Comprehensive Plan, as noted by Mr. Dan Gilmore, former LDC Advisory Committee Chairman;
 - 2. Realizing review of the LDC would occur in conjunction with those noted elements of concern with the current Comprehensive Plan, which would remain in effect through 2017; and
 - 3. Requesting BCC direction with regard to re-establishment of the LDC Advisory Committee, noting that the remaining members would need to be contacted to determine their continued interest in participating on the Committee (note that some of the original members have been replaced); **OR**
- B) Re-write the Comprehensive Plan in conjunction with the LDC.

The Planning Board further noted that if the LDC Advisory Committee was re-established, it would like to entertain the possibility of utilizing web-based material/input to articulate changes, and inquired as to the legality of this method as it related to the Sunshine Law.

Sincerely,



Wayne Briske, Chairman
Escambia County Planning Board

Attachment

RESOLUTION NUMBER R2010 - 81

A RESOLUTION ESTABLISHING AN ESCAMBIA COUNTY LAND DEVELOPMENT CODE CITIZEN ADVISORY COMMITTEE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Sections 125.01 and 163.3167, Florida Statutes, the Escambia County Board of County Commissioners has adopted the Escambia County Land Development Code; and

WHEREAS, the Land Development Code implements the land use provisions of the Escambia County Comprehensive Plan and establishes standards for new development and redevelopment in the unincorporated areas of Escambia County; and

WHEREAS, the Escambia County Development Services Bureau is leading the effort to review and revise certain provisions of the Land Development Code; and

WHEREAS, the Board of County Commissioners and the Development Services Bureau believe that this effort would be greatly enhanced through increased public participation in the review and revision process; and

WHEREAS, establishing a citizen advisory committee comprised of subject-matter experts and other interested citizens is an optimal method for securing increased public participation in the review and revision process; and

WHEREAS, establishing such a citizen advisory committee would therefore advance the public interest.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS.

The aforementioned recital clauses are hereby incorporated into this Resolution.

Verified By: *d. wood*
Date: *6/7/10*

SECTION 2. ESTABLISHMENT.

The Escambia County Board of County Commissioners hereby establishes an Escambia County Land Development Code Citizen Advisory Committee.

SECTION 3. DUTIES OF THE LAND DEVELOPMENT CODE ADVISORY COMMITTEE.

The Development Services Bureau, through a designated Project Manager and Support Team, shall coordinate and assist Advisory Committee meetings. The Committee shall have the duty and responsibility to review and provide input for those Land Development Code standards, regulations, and provisions it may find obsolete, contradictory, confusing, insufficient, or otherwise contrary to the adopted 2007 Evaluation and Appraisal Report or the goals, objectives, and policies of the Escambia County Comprehensive Plan,

SECTION 4. COMPOSITION AND SELECTION OF THE ADVISORY COMMITTEE.

The Advisory Committee shall consist of fifteen (15) members. Each County Commissioner shall nominate one individual from among the general citizenry to serve on the Advisory Committee. The remaining ten (10) members shall be nominated by the following interest groups and organizations:

- a. One (1) from the "architectural community," as represented by the American Institute of Architects, Northwest Florida.
- b. One (1) from the Home Builders Association of West Florida.
- c. One (1) from the Associated General Contractors of America, Alabama Chapter, Northwest Florida Section.
- d. One (1) from the Pensacola Association of Realtors.

- e. One (1) from the National Association of Industrial and Office Properties, Northwest Florida Chapter.
- f. One (1) from the environmental community, as represented by Emerald Coastkeeper with the concurrence of at least three (3) other local environmental organizations.
- g. One (1) from the League of Women Voters of the Pensacola Bay Area.
- h. Three (3) from the engineering community as represented by the Florida Engineering Society, Northwest Florida Chapter.

All nominees shall be subject to confirmation by a majority vote of the Board of County Commissioners. All Advisory Committee members shall be electors of Escambia County.

SECTION 5. TERMS OF ADVISORY COMMITTEE MEMBERS.

a. ***Terms.*** Advisory Committee members confirmed by County Commissioners shall serve a term that runs concurrently with the timeline for review and revision as established by the Bureau of Development Services.

b. ***Removal.*** Should any Advisory Committee member cease to be an elector of the County, he or she shall cease to be an Advisory Committee member. Replacement of an Advisory Committee member shall be made by the County Commissioner or interest group that nominated him or her, subject to confirmation by the Board of County Commissioners. Advisory Committee members may also be removed by the Board of County Commissioners at the will of the Board. Additionally, the Advisory Committee shall recommend to the Board of County Commissioners the removal of any Advisory Committee member who accrues three unexcused absences from regularly-scheduled meetings of the Advisory Committee during the calendar year. Absences may be excused by a vote of the members present at any meeting.

SECTION 6. OFFICERS.

a. ***Chairperson.*** The Advisory Committee shall elect a Chairperson to preside at all meetings. The Chairperson shall be elected during the first meeting and shall serve until the first meeting in January of the following year. There shall be no term limits for a member to serve as Chairperson.

b. ***Vice-Chairperson.*** The Advisory Committee shall elect a Vice-Chairperson to preside and act on behalf of the Chairperson during his or her absence. The term of office and method of election for the Vice-Chairperson shall be the same as the Chairperson.

c. ***Secretary.*** The Advisory Committee shall elect a Secretary to take meeting minutes, maintain all records of the committee, and arrange with the Project Manager adequate public notice of all meetings. The term of office and method of election for the Secretary shall be the same as the Chairperson and Vice-Chairperson.

SECTION 7. REGULAR MEETINGS.

The Development Services Bureau, through the Project Manager, shall ensure a schedule of regular meetings, which shall be held monthly. A schedule of regular meetings shall be distributed to all Advisory Committee members reasonably in advance to assure proper public notice.

SECTION 8. QUORUM AND VOTING.

Ten (10) Advisory Committee members shall constitute a quorum for the purpose of conducting business. Each member shall exercise one vote on all matters subject to a vote of the Advisory Committee. All matters shall be decided by a majority vote of the members present. No member shall abstain from voting unless the member has a conflict of interest.

SECTION 9. SPECIAL MEETINGS.

The Chairperson may call a special meeting of the Advisory Committee on his or her initiative and shall call a special meeting at the request of any ten (10) members.

SECTION 10. LOCATION OF MEETING.

Advisory Committee meetings shall be held in a public facility of sufficient size to accommodate those present and at such locations as the Advisory Committee may determine from time to time.

SECTION 11. RULES OF PROCEDURE.

The Advisory Committee shall conduct its meeting in accordance with the current edition of Robert's Rules of Order, except to the extent that the provision thereof is inconsistent with this Resolution.

SECTION 12. SUNSHINE LAW.

The Advisory Committee, and any subcommittees it establishes, shall be subject to and each member shall be responsible for compliance with the Florida Sunshine Law and the Florida Public Records Act.

SECTION 13. AGENDA.

The Chairperson shall prepare an agenda for all meetings. Any Advisory Committee member may request that a matter be placed on the agenda. The agenda and related materials shall be distributed at least one day prior to the meeting date.

SECTION 14. MINUTES.

Minutes shall be kept at each Advisory Committee meeting. The written summary of each meeting shall be submitted for approval of the members at the next regular meeting. Each

written summary shall reflect the persons in attendance, items discussed, each action taken at the meeting, and the vote of the members on each item presented at the meeting.

SECTION 15. NOTICE OF PUBLIC MEETING.

Notice of regular or special meetings of the Advisory Committee and the time and location of each meeting shall be published to the public.

SECTION 16. EFFECTIVE DATE.

That this Resolution shall become effective immediately upon adoption by the Board of County Commissioners.

ADOPTED this 6th day of May, 2010.

**BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA**



**Grover C. Robinson, IV, Chairman
Date Executed**

5/6/2010

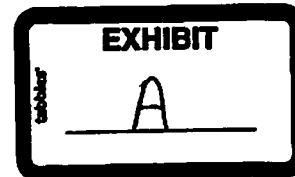
**ATTEST: Ernie Lee Magaha
Clerk of the Circuit Court**

Doris Harris
Deputy Clerk



This document approved as to form and legal sufficiency
By [Signature]
Title ASST. COUNTY ATTORNEY
Date APRIL 27, 2010

Selected LDC Advisory Group Appointees				Appointees By
Name	Address	Phone	E-Mail	
Ell H. Miller	201 S. "F" Street Pensacola, FL 32502	850.435.2801 850.982.9126	efmiller@imillerconstruction.com	Assoc. of General Contractors
Steven Jernigan	720 Bayfront Pkwy, Suite 200 Pensacola, FL 32503	850.432.0706	steve@baydesign.com	NAIOP Northwest FL.
Janice Rogers Kilgore	8026 Eight Mile Creek Road Pensacola, FL 32526	850.944.0869		Comm. Robertson
John Rasmussen	2400 West Nine Mile Road Pensacola, FL 32534	850.478.6800 Cell 393.3043	john@century21amerisouth.com	Pensacola Assoc. Realtor
Brian Spencer, AIA	P.O. Box 79 Pensacola, FL 32591	850.432.7772	brian@smbarch.com	AIA Florida Northwest
Christian M. Wagley	801 East Larua St. Pensacola, FL 32501	850.687.9968	christian@sustainabletownconcepts.com www.sustainabletownconcepts.com	Emerald Coastkeeper
J. Dan Gilmore	2142 Windermere Circle Pensacola, FL 32503	850.982.3282	jdq1949@att.net	HBA of West FL
Muriel Wagner			wags_atr@bellsouth.net	League of Women Voters
Dale E. Long, PE	119 Gregory Square Pensacola, FL 32502	850.433.6438	dale.long@fabreinc.com	Florida Eng. Society
Amy Meyers DiRusso, PE	Thompson Engineering	850.202.3030	adirusso@thompsonengineering.com	Florida Eng. Society
Scott Jernigan, PE	Donovan Inc.	850.438.9661	sjernigan@baskervilledonvan.com	Florida Eng. Society
Thomas J. Gilliam, Jr.	226 Palafox Pl. Pensacola, FL 32502	850.434.2411	tgilliam@shellfleming.com	Comm White
John M. Harold	P.O. Box 6031 Pensacola, FL	850.477.8686	jnharolinc@yahoo.com	Comm Valentino



Paul Flounlacker	25 E. Wright St. Suite 2512	850.912.822	paul@pensacolapropertylaw.com	Comm Young
	Pensacola, FL 32501			
Glenn Strange	2465 Tronjo Circle	850.324.4242	gstrange@bellsouth.net	Comm Robinson
	Pensacola, FL. 32503			

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Committee of the Whole

6.

Meeting Date: 01/08/2013

Issue: Noise Ordinance

From: Alison Rogers, County Attorney

Information

Recommendation:

Noise Ordinance

(Alison Rogers - 30 min)

A. Board Discussion

B. Board Direction

Attachments

Version "A"

Version "B"

Version "C"

Perdido Key - 1

Volusia County - 2

Decibel Chart

ORDINANCE 2012-__

AN ORDINANCE RELATING TO ESCAMBIA COUNTY, FLORIDA; REPEALING CHAPTER 42, ARTICLE III, SECTIONS 42-61 THROUGH 42-70 AND REPLACING CHAPTER 42, ARTICLE III, WITH SECTIONS 42-61 THROUGH 42-71 OF THE CODE OF ORDINANCES; THE ESCAMBIA COUNTY NOISE ABATEMENT ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the County has the authority to provide for noise abatement regulations pursuant to Fla. Const. Art. II, Section 7, which provides that adequate provisions shall be made by law for the abatement of excessive and unnecessary noise, and under the home rule power of Escambia County, Florida specifically § 125.01(1), Fla. Stat.; and

WHEREAS,

WHEREAS,

WHEREAS,

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. REPEAL AND REPLACE. Chapter 42, Article III, sections 42-61 through 42-70 is hereby repealed in its entirety and replaced with sections 42-61 through 42-71 as follows:

Sec. 42-61 – Short Title.

This ordinance shall be known as the Escambia County Noise Abatement Ordinance.

Sec. 42-62 - Purpose.

It is the purpose of this article to provide appropriate noise standards throughout the unincorporated areas of Escambia County. The Board of County Commissioners finds that noise exceeding those standards is detrimental to the public health, comfort, convenience, safety and welfare.

Sec. 42-63. - Definitions and rules of construction.

47 (a) For the purposes of administration and enforcement of this article, unless
48 otherwise stated in this article, the following rules of construction shall apply to the text
49 of this article:

50

51 (1) Words used in the present tense shall include the future; and words in the
52 singular number shall include the plural, and the plural the singular, unless the
53 context clearly indicates the contrary.

54

55 (2) The word "shall" is always mandatory and not discretionary; the word
56 "may" is permissive.

57

58 (b) The following words, terms and phrases, when used in this article, shall have the
59 meanings ascribed to them in this section, except where the context clearly indicates a
60 different meaning. Words not defined in this section shall be construed to have the
61 meanings given by common and ordinary use as defined by Webster's New Collegiate
62 Dictionary (G & C Merriam Co., 10th Edition 1993, or subsequent edition). All
63 terminology used in this article, not specifically defined, shall be in conformance with
64 applicable publications of the American National Standards Institute (ANSI) or its
65 successor body.

66

67 *A-weighted sound level* means the sound pressure level in decibels as measured
68 on a sound level meter using the A-weighted network. The level so read is designated
69 dBA.

70

71 *Agricultural* means the land uses where agricultural activities are legally
72 permitted.

73

74 *Commercial* means the land uses where retail sales and services, professional,
75 tourist and other commercial activities are legally permitted.

76

77 *Construction* means any site preparation, assembly, erection, substantial repair,
78 alteration or similar action, but excluding demolition, for or on public or private rights-of-
79 way, structures, utilities or similar property.

80

81 *County Administrator* means the county administrator and/or his designee.

82

83 *Decibel (Db)* means a unit for describing the amplitude of sound, equal to 20
84 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to
85 the reference pressure, which is 20 micronewtons per square meter.

86

87 *Emergency work* means any work performed for the purpose of preventing or
88 alleviating physical trauma or property damage threatened or caused by an existing or
89 imminent peril.

90
91 *Noise* means any sound which annoys or disturbs humans or which causes or
92 tends to cause an adverse psychological or physiological effect on humans. The term is
93 used synonymously with the term "sound."

94 *Noise disturbance* and *sound disturbance* mean any sound in quantities which
95 are or may be potentially harmful or injurious to human health or welfare, animal or plant
96 life or property, or unnecessarily interfere with the enjoyment of life or property,
97 including outdoor recreation, of a reasonable person with normal sensitivities.

98 *Person* means any individual, association, partnership, corporation,
99 governmental agency, business trust, estate, trust, two or more persons having a joint
100 or common interest or any other legal entity, and includes any officer, employee,
101 department, agency or instrumentality of the United States, a state or any political
102 subdivision of a state.

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

110 *Real property line* means an imaginary line along the surface, and its vertical
111 plane extension, which separates the real property owned, rented or leased by one
112 person from that owned, rented or leased by another person, excluding intrabuilding
113 real property divisions.

114 *RMS (root mean square)* means the square root of the mean of a set of squared
115 values.

116 *Sheriff's office* means the Escambia County Sheriff's Department.

117 *Sound* means an oscillation in pressure, stress, particle displacement, particle
118 velocity or other physical parameter, in a medium with internal forces. The description of
119 sound may include any characteristic of such sound, including duration, intensity and
120 frequency. The term is used synonymously with the term "noise."

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

126 *Sound level meter* means an instrument which includes a microphone, amplifier,
127 RMS detector, integrator or time averager, output meter and weighting networks used to
128 measure sound pressure levels. The output meter reads sound pressure level when
129 properly calibrated, and the instrument is of type 2 or better, as specified in the
130 American National Standards Institute publication S1.4-1971, or its successor
131 publications.

132 *Sound pressure* means the instantaneous difference between the actual
133 pressure and the average or barometric pressure at a given point in space, as produced
134 by the presence of sound energy.

135 *Sound pressure level* means 20 times the logarithm to the base 10 at the ratio of
136 the RMS sound pressure to the reference pressure of 20 micropascals ($20 \times 10^{-6} \text{N/m}^2$).
137 The sound pressure level is denoted L_p or SPL and is expressed in decibels.

138 *Special event permit* means an authorization, issued by the Board of County
139 Commissioners, to exceed the sound level limit for a specified period of time.

140 **Sec. 42-64 – Responsibility for violations.**

141
142 The owner of property, a tenant, a lessee, a manager, an overseer, an agent,
143 corporation or any other person entitled to lawfully possess or who claims lawful
144 possession of such property at a particular time involved shall each be responsible for
145 compliance with this article, and each may be punished for violation of this article. It
146 shall not be lawful defense to assert that some other person caused such sound, but
147 each lawful possessor or claimant of the premises shall be responsible for operating or
148 maintaining such premises in compliance with this article and shall be punishable,
149 whether or not the person actually causing such sound is also punished.

150

151 **Sec. 42-65 – Additional remedies.**

152 The operation or maintenance of any device, instrument, vehicle or machinery in
153 violation of any provisions of this article which endangers the comfort, repose, health
154 and peace of residents in the unincorporated areas of the county is declared to be a
155 public nuisance, and the county is authorized to pursue any and all remedies therefore.
156 Nothing in this article shall be construed to limit any private right of action.

157

158 **Sec. 42-66 – Jurisdiction.**

159

160 The provisions of this article shall apply in the unincorporated area of the
161 Escambia County.

162

163 **Sec. 42-67 – Enforcement standards.**

164

165 Standards for enforcement of this article shall be as determined by the Escambia
166 County Sheriff's Department. Such standards are to be based upon best professional
167 information available to the Sheriff's Department, which are necessitated by changes in
168 sound measuring equipment or changes in prevailing academic, technical or operational
169 criteria.

170

171 **Sec. 42-68 – Sound limitations established; applicability.**

172

173 (a) *Classification of use occupancy.* For the purposes of defining the use occupancy
174 under this article, all premises containing habitually occupied sleeping quarters shall be
175 considered residential use. All premises containing a transient commercial sleeping
176 quarters shall be considered commercial use. All premises containing business where
177 sales, professional or other commercial use is legally permitted, including hospitals,
178 shall be considered commercial use. All premises where manufacturing is legally
179 permitted shall be considered industrial use. In cases of multiple uses, the more
180 restrictive use category shall prevail. Nursing homes, schools, libraries and church uses
181 shall be considered residential uses. Any area not otherwise classified shall conform to
182 commercial standards.

183

184 (b) *Measurement of sound.* Standards, instrumentation, personnel, measurement
185 procedures and reporting procedures to be used in the measurement of sound as
186 provided for in this article shall be those as specified in Sec. 42-67.

187

188 (c) *Maximum permissible sound levels by receiving use occupancy.* No person shall
189 operate or cause to be operated any source of sound from any occupancy in such a
190 manner as to create a sound level which exceeds the limits set forth for the receiving

191 use occupancy category in table I, more than ten percent of any measurement period,
192 which shall not be less than ten minutes when measured at or beyond the property
193 boundary of the land use from which the sound emanates.

194 TABLE I

DECIBEL LIMITS BY RECEIVING LAND USE OCCUPANCY			
Category	Receiving Use Occupancy	Time	Sound Level Limit (dBA)
Residential		7:00 a.m. to 10:00 p.m. After 10:00 p.m. to 6:59 a.m.	60 55
Commercial		7:00 a.m. to 10:00 p.m. After 10:00 p.m. to 6:59 a.m.	65 60
Industrial		At all times	75
Agricultural		At all times	75

195
196 (d) Exemptions. The following uses and activities shall be exempt from noise level
197 regulations:

- 198 1. The unamplified human voice.
- 199 2. Air conditioners, when this equipment is functioning in accord with the
200 manufacturer's specifications and in proper operating condition.
- 201 3. Garbage and refuse collection between the hours of 7:00 a.m. and 10:00
202 p.m.
- 203 4. Lawn maintenance and farming activities between the hours of 7:00 am
204 and 10:00 p.m.
- 205 5. Outdoor school events, including athletic and playground activities,
206 whether a public or private school.
- 207 6. Construction operations for which building permits have been issued, or
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214 construction operations not requiring permits due to ownership of the project by
215 an agency of government, are exempt, providing all equipment is operated in
216 accord with the manufacturers' specifications and with all standard equipment,
217 manufacturers' mufflers and noise-reducing equipment in use and in proper
218 operating condition, between the hours of 7:00 a.m. and 10:00 p.m.
219

220 7. Noises of safety signals, warning devices, emergency pressure relief
221 valves and bells and chimes of churches.
222

223 8. Noises resulting from any authorized emergency vehicle when responding
224 to an emergency call or acting in time of emergency.
225

226 9. Noises resulting from emergency work as defined in Sec 42-62.
227

228 10. Any other noise resulting from activities of a temporary duration permitted
229 by law and for which a license or permit has been granted by the county in
230 accordance with Sec. 42-68 of this article.
231

232 11. The annual Pensacola Interstate Fair, held in October of every year. All
233 other events held at the Pensacola Fairgrounds are not exempt unless in
234 possession of a special event permit as set forth in Sec. 42-68 of this article.
235

236 12. All noises coming from the normal operations of railroad trains.
237

238 13. All noises coming from the normal operations of aircraft (not including
239 scale model aircraft).
240

241 14. Those motor vehicles controlled by § 316.293, Fla. Stat., as amended,
242 except those motor vehicles exempted from coverage.
243

244 15. Motor vehicles as defined in § 316.003, Fla. Stat.
245

246 16. Generators that are used to provide power during an outage, providing
247 that the generator is operating in accordance within the manufacturer's
248 specifications, with all standard equipment, and is in proper operating condition.
249

250 **Sec. 42-69 – Special Event Permits.**
251

252 Outdoor gatherings, dances, shows, sporting events, concerts and other similar
253 outdoor events may obtain a limited waiver of the noise ordinance standards from the
254 Escambia County Board of County Commissioners by obtaining a permit pursuant to
255 the following procedure:
256

257 1. The applicant shall file a permit application with the County Administrator on a
258 form prepared by the County which shall set forth at the minimum:
259

- 260 a. The name and address of the applicant.
261
262 b. The address of the site for the event.
263
264 c. The dates and time of the event.
265
266 d. The activity which will exceed the limits established by the noise
267 abatement ordinance.
268
269 e. The steps that will be taken to minimize the disturbance to the surrounding
270 or neighboring properties.
271
- 272 2. The County Administrator shall provide the permit application as well as any
273 other available information, to the Board of County Commissioners for consideration at
274 a meeting of the Board of County Commissioners.
275
- 276 3. A permit granted by the Board of County Commissioners shall indicate the dates
277 and times during which noise at the subject event may exceed the limits established by
278 the noise abatement ordinance. However, if a permit does not indicate the applicable
279 times for the waiver, then the permit shall not allow the excessive noise to begin earlier
280 than 12:00 noon or to extend beyond 10:30 p.m. or to continue for a period of more than
281 four hours between the hours of 12:00 noon and 10:30 p.m.
282
- 283 4. The Board of County Commissioners may impose any other conditions on the
284 permit as it deems necessary to reduce the disturbance to surrounding or neighboring
285 properties.
286
- 287 5. Violation of the terms or conditions set forth in the permit shall constitute a
288 violation of the Escambia County Noise Abatement Ordinance.
289

290 **Sec. 42-70 – Exceeding sound limitations.**

291
292 It shall be unlawful, except as expressly permitted in this article, to make, cause
293 or allow the making of any noise or sound which exceeds the limits set forth in this
294 article.
295

296 **Sec. 42-71 – Enforcement and Penalties.**

297
298 All violations of this article shall be investigated, cited, processed, adjudicated
299 and punished in the same manner as a misdemeanor by the Escambia County Sheriff's
300 Department or by other sworn law enforcement officers. Upon conviction, a violator
301 may be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail
302 not to exceed 60 days, or by both fine and imprisonment, for each violation.
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SECTION 2. SEVERABILITY.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 3. INCLUSION IN THE CODE.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall be codified as required by Section 125.68, Fla. Stat. (2012); and that the sections, subsections and other provisions of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED THIS _____ DAY OF _____, 2012.

BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA

, Chairman

ATTEST: ERNIE LEE MAGAHA
Clerk of the Circuit Court

Deputy Clerk

(Seal)

Enacted: _____

Filed with Department of State: _____

Effective: _____

ORDINANCE 2012-__

AN ORDINANCE RELATING TO ESCAMBIA COUNTY, FLORIDA; REPEALING CHAPTER 42, ARTICLE III, SECTIONS 42-61 THROUGH 42-70 OF THE CODE OF ORDINANCES; REPEALING THE COUNTY NOISE ABATEMENT ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the County has the authority to provide for noise abatement regulations pursuant to Fla. Const. Art. II, Section 7, which provides that adequate provisions shall be made by law for the abatement of excessive and unnecessary noise, and under the home rule power of Escambia County, Florida specifically § 125.01(1), Fla. Stat.; and

WHEREAS,

WHEREAS,

WHEREAS,

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. REPEAL AND REPLACE. Chapter 42, Article III, sections 42-61 through 42-70 is hereby repealed in its entirety and replaced with sections 42-61 through 42-69 as follows:

Sec. 42-61 – Short Title.

This ordinance shall be known as the Escambia County Noise Abatement Ordinance.

Sec. 42-62 – Purpose.

It is the purpose of this article to provide appropriate noise standards throughout the unincorporated areas of Escambia County. The Board of County Commissioners finds that noise exceeding those standards is detrimental to the public health, comfort, convenience, safety and welfare.

Sec. 42-63. – Definitions.

47 As used in this article the following terms, words and phrases and their
48 derivations shall have the meanings given below. When not inconsistent with the
49 context, words used in the present tense include the future, and words in the singular
50 include the plural. The word shall is always mandatory.

51
52 *County* shall mean Escambia County, Florida and its Board of County
53 Commissioners.

54
55 *dBA* shall mean the composite abbreviation for the A-weighted sound level and
56 the unit of sound level, the decibel.

57
58 *Emergency work* means any work performed for the purpose of preventing or
59 alleviating physical trauma or property damage threatened or caused by an existing or
60 imminent peril.

61
62 *Noise* shall mean any sounds or vibrations which annoy or disturb humans or
63 cause or tend to cause adverse psychological effects on humans, and which may be
64 harmful or injurious to the health or welfare of a reasonable person with normal
65 sensibilities or unreasonably interfere with the normal conduct of life, use of property, or
66 outdoor recreation. "Noise" shall include any sounds or vibrations produced by a motor
67 vehicle sound system, "boom box" sounds systems, musical instruments of any type
68 and sound amplification systems of any type.

69
70 *Noise nuisance* shall mean acts or omissions [emissions] which violate public
71 rights, subvert public order, or cause inconvenience or damage to the property of others
72 or to the public generally, by causing, allowing, permitting or continuing "noise" or by
73 causing, allowing permitting or continuing "sound levels" above the decibel limits in this
74 article.

75
76 *Property line* shall mean the imaginary line, including its vertical extension, that
77 separates one parcel of real property upon which noise is produced from another or the
78 vertical and horizontal boundaries of one unit in a multi-unit building or buildings in
79 which noise is produced.

80
81 *Sheriff's deputies* shall mean sworn law enforcement officers employed by the
82 Escambia County Sheriff.

83
84 *Sound level* shall mean the weighted sound pressure level measured with fast
85 response using an instrument complying with the specifications for sound level meters
86 of the American National Standards Institute, Inc. (ANSI).

87
88 *Zoned* shall mean the appropriate zoning category under the Escambia County
89 Development Regulations.

90
91 **Sec. 42-64 – Noise nuisances prohibited.**

92

93 It shall be unlawful for the owner of a parcel of real property or of a unit or units in
94 a multi-unit building or buildings to cause, allow, permit or to continue a noise nuisance
95 on said parcel or in said unit or units, or for any individual to cause a noise nuisance at
96 any location.

97
98 **Sec. 42-65 – Noise nuisances prohibited.**
99

100 (a) It shall be unlawful for the owner of a parcel of real property or of a unit or units in
101 a multi-unit building or buildings to cause, allow, permit or to continue a noise nuisance
102 on said parcel or in said unit or units, or for any individual to cause a noise nuisance at
103 any location.

104
105 (b) It shall be unlawful for the owner of a parcel or real property or of a unit or units in
106 a multi-unit building or buildings, or for any person to cause on public streets or on any
107 parcel, sound levels, as measured at neighboring property lines, which exceed:

108
109 (1) In areas zoned residential and conservation:

110 a. 60 dBA between 7:00 a.m. and 9:59 p.m.

111
112 b. 55 dBA between 10:00 p.m. and 6:59 a.m.

113
114 (2) In areas zoned commercial, villages, public or mixed use:

115 a. 70 dBA between 7:00 a.m. and 9:59 p.m.

116
117 b. 65 dBA between 10:00 p.m. and 6:59 a.m.

118
119 (3) In areas zoned agricultural or industrial, 75, dBA at all times.

120
121 (c) It shall be unlawful to allow or to cause a noise nuisance to be produced whether
122 measured or not, at any time, in any zoning category.

123
124 (d) Exemptions. The following uses and activities shall be exempt from noise level
125 regulations:

126
127 1. The unamplified human voice.

128
129 2. Air conditioners, when this equipment is functioning in accord with the
130 manufacturer's specifications and in proper operating condition.

131
132 3. Garbage and refuse collection between the hours of 7:00 a.m. and 10:00
133 p.m.

134
135 4. Lawn maintenance and farming activities between the hours of 7:00 am
136 and 10:00 p.m.

- 139
140 5. Outdoor school events, including athletic and playground activities,
141 whether a public or private school.
142
143 6. Construction operations for which building permits have been issued, or
144 construction operations not requiring permits due to ownership of the project by
145 an agency of government, are exempt, providing all equipment is operated in
146 accord with the manufacturers' specifications and with all standard equipment,
147 manufacturers' mufflers and noise-reducing equipment in use and in proper
148 operating condition, between the hours of 7:00 a.m. and 10:00 p.m.
149
150 7. Noises of safety signals, warning devices, emergency pressure relief
151 valves and bells and chimes of churches.
152
153 8. Noises resulting from any authorized emergency vehicle when responding
154 to an emergency call or acting in time of emergency.
155
156 9. Noises resulting from emergency work as defined in section 42-62.
157
158 10. Any other noise resulting from activities of a temporary duration permitted
159 by law and for which a license or permit has been granted by the county in
160 accordance with section 42-65 of this section.
161
162 11. The annual Pensacola Interstate Fair, held in October of every year. All
163 other events held at the Pensacola Fairgrounds are not exempt unless in
164 possession of a special event permit as set forth in section 42-65.
165
166 12. All noises coming from the normal operations of railroad trains.
167
168 13. All noises coming from the normal operations of aircraft (not including
169 scale model aircraft).
170
171 14. Those motor vehicles controlled by § 316.293, Fla. Stat., as amended, are
172 exempt, but not those motor vehicles exempted from coverage.
173
174 15. Motor vehicles as defined in § 316.003, Fla. Stat.
175
176 16. Generators that are used to provide power during an outage are exempt,
177 providing that the generator is operating in accordance within the manufacturer's
178 specifications, with all standard equipment, and is in proper operating condition.
179

180 **Sec. 42-66 – Special Event Permits.**
181

182 Outdoor gatherings, dances, shows, sporting events, concerts and other similar
183 outdoor events may obtain a limited waiver of the noise ordinance standards from the
184 Escambia County Board of County Commissioners by obtaining a permit pursuant to

185 the following procedure:

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1. The applicant shall file a permit application with the County Administrator on a form prepared by the County which shall set forth at the minimum:

- a. The name and address of the applicant.
- b. The address of the site for the event.
- c. The dates and time of the event.
- d. The activity which will exceed the limits established by the noise abatement ordinance.
- e. The steps that will be taken to minimize the disturbance to the surrounding or neighboring properties.

2. The County Administrator shall provide the permit application as well as any other available information, to the Board of County Commissioners for consideration at a meeting of the Board of County Commissioners.

3. A permit granted by the Board of County Commissioners shall indicate the dates and times during which noise at the subject event may exceed the limits established by the noise abatement ordinance. However, if a permit does not indicate the applicable times for the waiver, then the permit shall not allow the excessive noise to begin earlier than 12:00 noon or to extend beyond 10:30 p.m. or to continue for a period of more than four hours between the hours of 12:00 noon and 10:30 p.m.

4. The Board of County Commissioners may impose any other conditions on the permit as it deems necessary to reduce the disturbance to surrounding or neighboring properties.

5. Violation of the terms or conditions set forth in the permit shall constitute a violation of the Escambia County Noise Abatement Ordinance.

Sec. 42-67 – Additional remedies.

The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this article which endangers the comfort, repose, health and peace of residents in the unincorporated areas of the county is declared to be a public nuisance, and the county is authorized to pursue any and all remedies therefore. Nothing in this article shall be construed to limit any private right of action.

Sec. 42-68 – Enforcement and Penalties.

229 All violations of this article shall be investigated, cited, processed, adjudicated
230 and punished in the same manner as a misdemeanor by the Escambia County Sheriff 's
231 Department or by other sworn law enforcement officers. Upon conviction, a violator
232 may be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail
233 not to exceed 60 days, or by both fine and imprisonment, for each violation.
234

235 **Sec. 42-69 – Territorial effect.**

236
237 This article shall be effective in all areas of unincorporated Escambia County.
238

239 **SECTION 2. SEVERABILITY.**

240
241 If any section, sentence, clause or phrase of this Ordinance is held to be invalid
242 or unconstitutional by any Court of competent jurisdiction, then said holding shall in no
243 way affect the validity of the remaining portions of this Ordinance.
244

245 **SECTION 3. INCLUSION IN THE CODE.**

246
247 It is the intention of the Board of County Commissioners that the provisions of
248 this Ordinance shall be codified as required by Section 125.68, Fla. Stat. (2012); and
249 that the sections, subsections and other provisions of this Ordinance may be
250 renumbered or relettered and the word "ordinance" may be changed to "section",
251 "article", or such other appropriate word or phrase in order to accomplish such
252 intentions.
253

254 **SECTION 4. EFFECTIVE DATE.**

255
256 This Ordinance shall become effective upon filing with the Department of State.

257 DONE AND ENACTED THIS _____ DAY OF _____, 2012.

258 BOARD OF COUNTY COMMISSIONERS
259 ESCAMBIA COUNTY, FLORIDA

261
262 , Chairman

263 ATTEST: ERNIE LEE MAGAHA
264 Clerk of the Circuit Court

265
266 _____
267 Deputy Clerk

268
269
270 (Seal)

271
272

273 Enacted: _____

274 Filed with Department of State: _____

275 Effective: _____

276

DRAFT

ORDINANCE 2012-__

AN ORDINANCE RELATING TO ESCAMBIA COUNTY, FLORIDA; REPEALING CHAPTER 42, ARTICLE III, SECTIONS 42-61 THROUGH 42-70 OF THE CODE OF ORDINANCES; REPEALING THE COUNTY NOISE ABATEMENT ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the County has the authority to provide for noise abatement regulations pursuant to Fla. Const. Art. II, Section 7, which provides that adequate provisions shall be made by law for the abatement of excessive and unnecessary noise, and under the home rule power of Escambia County, Florida specifically § 125.01(1), Fla. Stat.; and

WHEREAS,

WHEREAS,

WHEREAS,

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. REPEAL AND REPLACE. Chapter 42, Article III, sections 42-61 through 42-70 is hereby repealed in its entirety and replaced with sections 42-61 through 42-71 as follows:

Sec. 42-61 – Short Title.

This ordinance shall be known as the Escambia County Noise Abatement Ordinance.

Sec. 42-62 – Purpose and Findings of Fact.

It is the purpose of this article to provide appropriate noise standards throughout the unincorporated areas of Escambia County. The Board of County Commissioners finds:

- 1. That noise exceeding those standards is detrimental to the public’s quality of life, health, comfort, convenience, safety and welfare.

47 2. Excessive noise or vibration can cause adverse psychological and
48 physiological effects on humans.

49
50 3. A substantial body of science and technology exists by which noise may
51 be measured and substantially abated.

52
53 **Sec. 42-63 – Scope**

54
55 This chapter shall be effective throughout the unincorporated area of Escambia County.

56
57 **Sec. 42-64 – Terminology, standards, and definitions.**

58
59 (a) *Terminology and standards.* All technical acoustical terminology and standards
60 used in this chapter which are not defined in subsection (b) shall be read or construed in
61 conformance with the American National Standards Institute, Inc. ("ANSI") publication
62 entitled "Acoustical Terminology," designated as ANSI S1.1-1960, or its successor
63 publication.

64
65 (b) *Definitions.* The following words, terms and phrases, when used in this chapter,
66 shall have the meanings ascribed to them in this section, unless the context clearly
67 indicates a different meaning:

68
69 (1) *A-weighted sound pressure level* shall mean the sound pressure level, in
70 decibels, as measured on a sound level meter using the A-weighting network.
71 The level so read shall be designated as dB(A).

72
73 (2) *Ambient noise level* shall mean the total outdoor sound pressure level at a
74 location due to all normally occurring sound sources.

75
76 (3) *ANSI* shall mean the American National Standards Institute.

77
78 (4) *Construction* shall mean any site preparation, assembly, erection,
79 substantial repair, alteration, or similar action, for or on public or private
80 thoroughfares, structures, utilities or similar property.

81
82 (5) *Decibel or dB* shall mean a unit for describing the amplitude of sound,
83 equal to twenty (20) times the logarithm to the base 10 of the ratio of the
84 pressure of the sound measured to the reference pressure, which is twenty (20)
85 micropascals per square meter.

86
87 (6) *Demolition* shall mean any dismantling, destructing or razing of structures,
88 utilities, public or private thoroughfares, or similar property.

89
90 (7) *Emergency* shall mean any occurrence or circumstance involving actual or
91 imminent physical death or trauma, or property damage, demanding immediate
92 emergency work or service.

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(8) *Emergency work or emergency service* shall mean any labor performed for the purpose of preventing or alleviating, or attempting to prevent or alleviate, an emergency.

(9) *Equivalent sound pressure level (Leq)* shall mean a sound level descriptor based on the average acoustic intensity over time. Leq is intended as a single number indicator to describe the mean energy or intensity level over a specified period of time during which the sound level fluctuated. Leq is measured in dB and must be A-weighted.

(10) *Leq*, see definition for "equivalent sound pressure level."

(11) *Multifamily residential dwelling* shall mean a building designed or used exclusively for residential occupancy by two (2) or more families.

(12) *Multifamily residential dwelling unit* shall mean the portion of a multifamily residential dwelling designed or used exclusively for residential occupancy by only one (1) family.

(13) *Noise* shall mean any sound produced in such quantity and for such duration that it annoys, disturbs or may injure a man or woman of normal sensitivities.

(14) *Noise-sensitive zone* shall mean a quiet zone where serenity and quiet are of extraordinary significance, which is open or in session, and which is demarcated by conspicuous signage identifying it as a noise-sensitive or quiet zone. Noise-sensitive zones may include schools, public libraries, churches, hospitals, nursing homes, and other areas defined as such pursuant to a resolution adopted by the Board of County Commissioners.

(15) *Person* shall mean an individual, association, partnership, or corporation, including any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

(16) *Plainly audible sound* shall mean any sound that is easily detected by a listener above background noises.

(17) *Property line* shall mean 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 a person from the real property owned, rented or leased by another person. Where the real property owned, rented or leased by a person abuts a waterbody, the term "property line" shall mean the established normal high water elevation of the waterbody.

- 138 (18) *Public right-of-way* shall mean any street, avenue, boulevard, highway,
139 sidewalk, alley, or similar place normally accessible to the public which is owned
140 or controlled by the county.
- 141
- 142 (19) *Pure tone* shall mean any sound which can be distinctly heard as a single
143 pitch or a set of single pitches.
- 144
- 145 (20) *Residential areas* means recorded and unrecorded subdivisions and those
146 areas in which there is a concentration of residential dwelling units on lots or
147 tracts of less than five (5) acres.
- 148
- 149 (21) *RMS sound pressure* shall mean the square root of the time averaged
150 square of the sound pressure.
- 151
- 152 (22) *Single-family residential dwelling* shall mean a detached dwelling
153 containing complete housekeeping facilities for only one (1) family, designed for
154 or occupied exclusively by one (1) family for usual domestic purposes, and
155 having no enclosed space or cooking facilities or sanitary facilities in common
156 with any other dwelling.
- 157
- 158 (23) *Single-family residential dwelling lot* shall mean the parcel of land upon
159 which a single family residential dwelling is located.
- 160
- 161 (24) *Sound* shall mean an oscillation in pressure, stress, particle displacement,
162 particle velocity or other physical parameter, in a medium (typically air). The
163 description of sound may include any characteristic of such sound, including
164 duration, intensity, and frequency.
- 165
- 166 (25) *Sound level* shall mean the sound pressure level obtained by the use of a
167 sound level analyzer using weighting A, B, or C as specified in American National
168 Standards Institute specifications for sound level analyzers (ANSI S1.4-1971), or
169 successor publications. If the weighting employed is not indicated, the A-
170 weighting shall apply.
- 171
- 172 (26) *Sound level analyzer* shall mean an instrument which includes a
173 microphone, amplifier, RMS detector, integrator or time averager, output meter,
174 and weighting network used to measure sound pressure levels. The output
175 analyzer reads sound pressure level when properly calibrated. The sound level
176 analyzer shall be of Type 2 or better, as specified in the American National
177 Standards Institute publication entitled "Specifications for Sound-Level Meters,"
178 designated as ANSI S1.4-1971 or successor publications.
- 179
- 180 (27) *Sound pressure* shall mean the instantaneous difference between the
181 actual pressure and the average or barometric pressure at a given point in
182 space, as produced by the presence of sound energy.
- 183

184 (28) *Sound pressure level* shall mean twenty (20) times the logarithm to the
185 base ten (10) of the ratio of the RMS sound pressure to the reference pressure of
186 twenty (20) micro-Pascals per square meter. The sound pressure level is
187 denoted Lp (or SPL) and is expressed in decibels.

188
189 (29) *Use* shall mean any activity, event, operation or facility which creates
190 noise.

191
192 (30) *Vibration measuring device (VMD)* means a three (3) component vibration
193 measuring device.

194
195 (31) *Vibration* shall mean a periodic motion of the particles of an elastic body or
196 medium in alternatively opposite directions from the position of equilibrium when
197 that equilibrium has been disturbed; the action of vibrating; the state of being
198 vibrated. As applied in this chapter shall mean ground-borne vibration.
199

200 **Sec. 42-65 – Maximum permissible sound levels; land use acoustic categories;**
201 **times; measurement descriptors; and adjustment for character of sound.**

202
203 (a) Table 1 lists land use acoustic categories described by the letter symbol A, B, C,
204 and D. These land use acoustic categories are to be used for the correlating times set
205 forth in Table 2, the Sound Level Limits. Subject to subsections (b), (c), and (d) of this
206 section, the sound level limits set forth in Table 2 by the land use acoustic categories
207 described in Table 1, shall not be exceeded at the receiving property line by noise
208 emanating from either the same land use acoustic category or by a different land use
209 acoustic category. (For example, the sound level limit for a noise sensitive zone at any
210 time is 55 dB(A) as shown in Table 2. This sound level limit of fifty-five (55) dB shall not
211 be exceeded by noise emanating from a residential area at any time although the noise
212 level limit of the residential property is sixty-five (65) dB(A) from 7:00 a.m. until 10:00
213 p.m.).

214
215 TABLE 1—LAND USE ACOUSTIC
216 CATEGORIES
217

Letter Symbol for Land Use Acoustic Category	Description of Land Use Acoustic Category
A	Noise-sensitive zone.
B	Residential areas, hotels, motels, time share condominiums, picnic areas, recreation areas, playgrounds, active sports areas, or parks.
C	Commercial or professional/office areas where commerce, e.g. retail sales, and/or professional services are offered, or areas zoned as such, excluding commercial areas used for industrial uses.
D	Industrial or commercial areas where manufacturing,

production/shipping, or other industrial uses occur.

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TABLE 2—TIME AVERAGED (LEQ)
A-WEIGHTED SOUND PRESSURE
LEVEL LIMITS

Land Use Acoustic Category*	Time	Sound Level db(A)
A	Any time	55
B	7:00 a.m. to 10:00 p.m.	65
B	10:00 p.m. to 7:00 a.m.	55
C	7:00 a.m. to 10:00 p.m.	65
C	10:00 p.m. to 7:00 a.m.	60
D	Any time	75

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*See Table 1 above for correlation of letter symbol with description of land use acoustic category.

(b) For any source of sound which emits a pure tone, the sound level limits set forth in Table 2 shall be reduced by five (5) dB(A).

(c) The land use acoustic categories set forth in subsection (a) shall be subject to existing special use permits, special exceptions, conditional zoning, nonconforming uses, and variances.

(d) Existing commercial uses as of the adoption date of this ordinance shall comply with the noise and vibration standards no later than six (6) months from said adoption date.

(e) Existing industrial uses as of the adoption date of this Ordinance shall comply with the noise and vibration standards no later than one (1) year from said adoption date.

Sec. 42-66 – Measurement of sound.

(a) Sound shall be measured with a sound level analyzer.

(b) The sound level shall be measured at a distance no closer than the property line of the parcel or lot from which the sound is emanating.

- 249 (c) A measurement period shall not be less than fifteen (15) minutes, must be
250 continuous, must be taken at the time when normal operation of any loud noise source
251 is occurring, and must report the Leq value for the time period.
252
- 253 (d) The sound being measured shall be representative of the sound which instigated
254 the complaint.
255
- 256 (e) A measurement shall be recorded so as to secure and ensure an accurate
257 representation of the sound.
258
- 259 (f) A measurement should be taken at approximately five (5) feet above the ground
260 or surface away from any obstructing or reflecting surface.
261
- 262 (g) A microphone windscreen shall be required to avoid wind noise biasing of a
263 measurement.
264
- 265 (h) All manufacturer's directions on the operation of the sound level analyzer shall be
266 followed (e.g., proper microphone angle).
267
- 268 (i) All sound level analyzers used for measurement shall be in conformance with
269 ANSI S1.4-1983 or successor publications.
270
- 271 (j) Instrumentation for sound level measurements shall be type 2 or better (ANSI
272 S1.4-1971) and must be capable of reporting values for the equivalent sound level (Leq)
273 in the units of dB, A-weighted (dB(A)).
274
- 275 (k) All octave and third octave band filter sets of the sound level analyzer shall be in
276 conformance with ANSI S1.11-1976 or successor publications.
277
- 278 (l) Calibration of all instruments, components, and attachments shall conform to the
279 latest ANSI standards.
280
- 281 (m) Measurements for sound shall be made by individuals trained in a noise
282 measurement program.
283

284 **Sec. 42-67 – Prohibited acts.**
285

- 286 (a) Subject to the provisions of sections 42-__ and 42-__, no person shall produce,
287 cause to be produced, or allow to be produced, by any means, any sound within any
288 private or public property, including a right-of-way, which sound, when measured
289 pursuant to section 42- __, exceeds the applicable sound level limits set forth in section
290 42- __.
291
- 292 (b) Subject to the provisions of sections 42-__ and 42-__, no person shall produce,
293 cause to be produced, or allow to be produced, by any means, any ground-borne

294 vibration at or beyond the property line of the parcel or lot from which the vibration is
295 emanating in excess of that indicated in Table 6 as measured by the V.M.D

296
297 **TABLE 6—MAXIMUM ALLOWABLE GROUND-BORNE VIBRATION DISPLACEMENT**

Frequency (Cycles per Second)	Vibration Displacement (In Inches)	
	Steady State	Impact
Under 10	.0005	.0010
10—19	.0004	.0008
20—29	.0003	.0006
30—39	.0002	.0004
40 & Over	.0001	.0002

298
299 **Sec. 42-68 – Exemptions.**

300 The following uses and activities shall be exempt from noise level regulations:

- 301 1. The unamplified human voice.
- 302
- 303 2. Air conditioners are exempt when this equipment is functioning in accord with the
304 manufacturer's specifications and in proper operating condition according to standards
305 promulgated by the American Refrigeration Institute. The same exception shall apply to
306 lawn mowers and agricultural equipment operated during daylight hours with original
307 mufflers and noise reducing equipment in use.
- 308
- 309 3. Garbage and refuse collection between the hours of 7:00 a.m. and 10:00 p.m.
- 310
- 311 4. Lawn maintenance and farming activities between the hours of 7:00 am and
312 10:00 p.m.
- 313
- 314 5. Outdoor school events, including athletic and playground activities, whether a
315 public or private school.
- 316
- 317 6. Construction operations for which building permits have been issued, or
318 construction operations not requiring permits due to ownership of the project by an
319 agency of government, are exempt, providing all equipment is operated in accord with
320 the manufacturers' specifications and with all standard equipment, manufacturers'
321 mufflers and noise-reducing equipment in use and in proper operating condition,
322 between the hours of 7:00 a.m. and 10:00 p.m.
- 323
- 324 7. Noises of safety signals, warning devices, emergency pressure relief valves and
325 bells and chimes of churches.
- 326
- 327
- 328

- 329 8. Noises resulting from any authorized emergency vehicle when responding to an
330 emergency call or acting in time of emergency.
331
- 332 9. Noises resulting from emergency work as defined in section 42-__.
333
- 334 10. Any other noise resulting from activities of a temporary duration permitted by law
335 and for which a license or permit has been granted by the county in accordance with
336 section 42-69 of this section.
337
- 338 11. The annual Pensacola Interstate Fair, held in October of every year. All other
339 events held at the Pensacola Fairgrounds are not exempt unless in possession of a
340 special event permit as set forth in section (42-69).
341
- 342 12. All noises coming from the normal operations of railroad trains are exempt.
343
- 344 13. All noises coming from the normal operations of aircraft (not including scale
345 model aircraft) are exempt.
346
- 347 14. Those motor vehicles controlled § 316.293, Fla. Stat., as amended, are exempt,
348 but not those motor vehicles exempted from coverage.
349
- 350 15. Motor vehicles defined in § 316.003, Fla. Stat., are exempt.
351
- 352 16. Generators that are used to provide power during an outage are exempt,
353 providing that the generator is operating in accordance within the manufacturer's
354 specifications, with all standard equipment, and is in proper operating condition.
355

356 **Sec. 42-69 – Special Event Permits.**
357

358 Outdoor gatherings, dances, shows, sporting events, concerts and other similar
359 outdoor events can obtain a limited waiver of the noise ordinance standards from the
360 Escambia County Board of County Commissioners by obtaining a permit pursuant to
361 the following procedure:
362

- 363 1. The applicant shall file a permit application with the County Administrator on a
364 form prepared by the County which shall set forth at the minimum:
365
- 366 a. The name and address of the applicant.
367
 - 368 b. The address of the site for the event.
369
 - 370 c. The dates and time of the event.
371
 - 372 d. The activity which will exceed the limits established by the noise
373 abatement ordinance.
374

375 e. The steps that will be taken to minimize the disturbance to the surrounding
376 or neighboring properties.

377
378 2. The County Administrator shall provide the permit application as well as any
379 other available information, to the Board of County Commissioners for consideration at
380 a meeting of the Board of County Commissioners.

381
382 3. A permit granted by the Board of County Commissioners shall indicate the dates
383 and times during which noise at the subject event may exceed the limits established by
384 the noise abatement ordinance. However, if a permit does not indicate the applicable
385 times for the waiver, then the permit shall not allow the excessive noise to begin earlier
386 than 12:00 noon or to extend beyond 10:30 p.m. or to continue for a period of more than
387 four hours between the hours of 12:00 noon and 10:30 p.m.

388
389 4. The Board of County Commissioners may impose any other conditions on the
390 permit as it deems necessary to reduce the disturbance to surrounding or neighboring
391 properties.

392
393 5. Violation of the terms or conditions set forth in the permit shall constitute a
394 violation of this Ordinance.

395

396 **Sec. 42-70 – Additional remedies.**

397 The operation or maintenance of any device, instrument, vehicle or machinery in
398 violation of any provisions of this article which endangers the comfort, repose, health
399 and peace of residents in the unincorporated areas of the county is declared to be a
400 public nuisance, and the county is authorized to pursue any and all remedies therefore.
401 Nothing in this article shall be construed to limit any private right of action.

402

403

404 **Sec. 42-71 – Enforcement and Penalties.**

405

406 All violations of this article shall be investigated, cited, processed, adjudicated
407 and punished in the same manner as a misdemeanor, in accordance with § 125.69(1),
408 Fla. Stat., by the Escambia County Sheriff's Department or by other sworn law
409 enforcement officers. Upon conviction, a violator may be punished by a fine not to
410 exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days, or by both
411 fine and imprisonment, for each violation.

412

413 **SECTION 2. SEVERABILITY.**

414

415 If any section, sentence, clause or phrase of this Ordinance is held to be invalid
416 or unconstitutional by any Court of competent jurisdiction, then said holding shall in no
417 way affect the validity of the remaining portions of this Ordinance.

418

419 **SECTION 3. INCLUSION IN THE CODE.**

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It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall be codified as required by Section 125.68, Fla. Stat. (2012); and that the sections, subsections and other provisions of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED THIS _____ DAY OF _____, 2012.

BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA

, Chairman

ATTEST: ERNIE LEE MAGAHA
Clerk of the Circuit Court

Deputy Clerk

(Seal)

Enacted: _____
Filed with Department of State: _____
Effective: _____

Perdido Key - 1

B. Perdido Key: In no event shall a person operate or cause to be operated or create any source of sound in such a manner so as to create a sound level which exceeds an average of 70 dbA (sound level measurement) when measured by taking four sound readings over a continuous 15 minute period, with the four readings taken at approximately at equal intervals. Those sound readings shall be taken at or within the property boundary of the receiving land use. With regards to sound measurements of live music performances, when possible, none of the four readings shall be taken during a break, intermission or other period when no music is emanating from the sound equipment.

Volusia County - 2

Sec. 50-498. – Loud, disturbing or unnecessary noises.

- (a) Some sounds may be such that they are not measurable or may not exceed the limits set out in this article, but they may be excessive, unnatural, prolonged, unusual and are a detriment to the public health, comfort, convenience, safety, welfare or prosperity of the residents of the unincorporated areas of the county.
- (b) With the exception of those exemptions provided by state law, noises prohibited by this article are unlawful notwithstanding the fact that no violation of section _____ is involved, and notwithstanding the fact that the activity complained about is exempted in subsection _____.
- (c) Thus, the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but said enumeration shall not be deemed to be exclusive, namely:
 - (1) The sounding of any horn or signaling device on any automobile or other vehicle, except as a danger warning; the creation by means of any signaling device of any unreasonably loud or harsh sound; the sounding of any signaling device for any unnecessary or unreasonable period of time; and the unreasonable use of any signaling device.
 - (2) The using, operating or permitting to be played, used or operated of any radio, television, tape or record player, amplifier, musical instrument or other machine or device used for the production, reproduction or emission of sound, any prolonged sounds made by people, and the keeping of any pet or animal which causes frequent or long continuous noise in such a manner as to disturb the public peace, quiet and comfort of the neighboring inhabitants or at any time with greater intensity than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such sound emitter is operated and who are voluntary listeners thereto. Quieter standards are expected during nighttime hours.
- (d) Any person making a complaint under this section must sign a sworn affidavit prior to a warrant being issued; otherwise no such complaint will be honored.

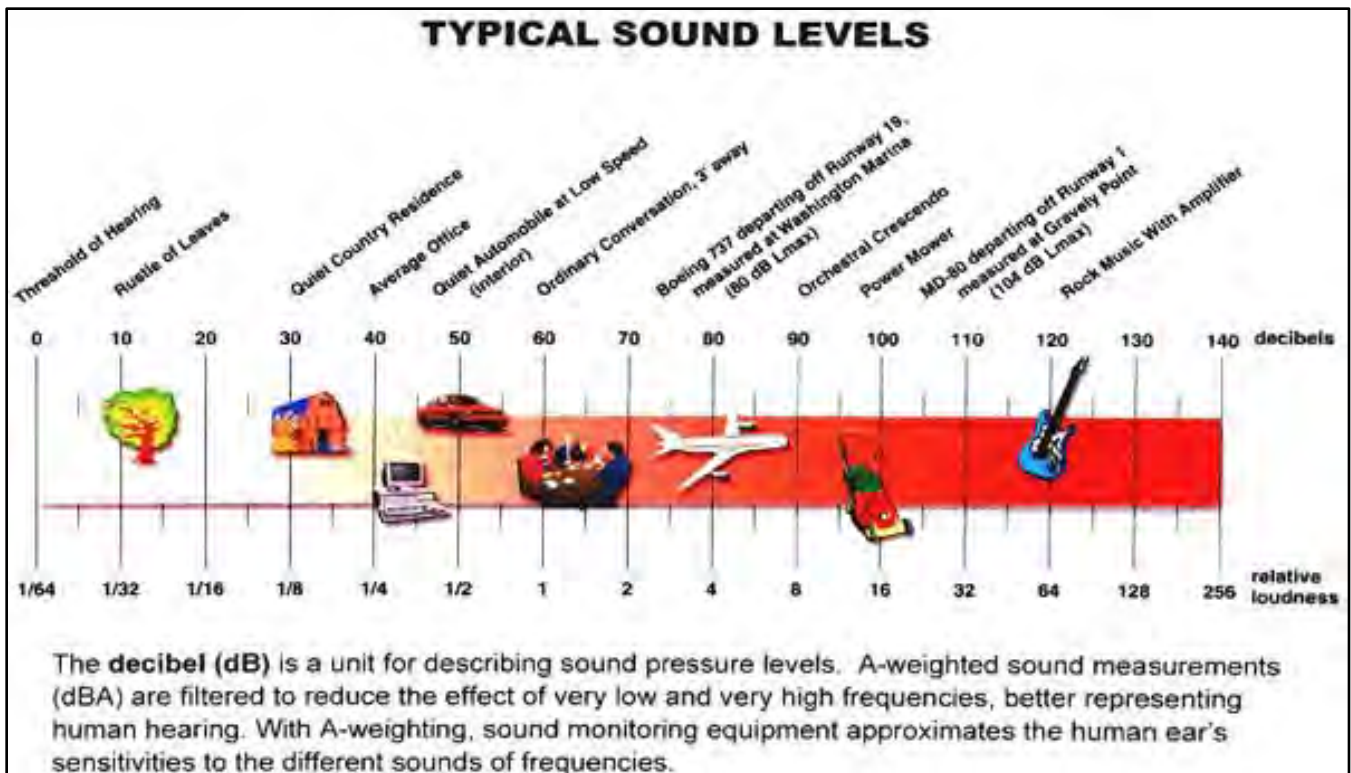


Chart from the City of Alexandria website: <http://alexandriava.gov/tes/oeq/info/default.aspx?id=3840>
 Accessed 10/3/12

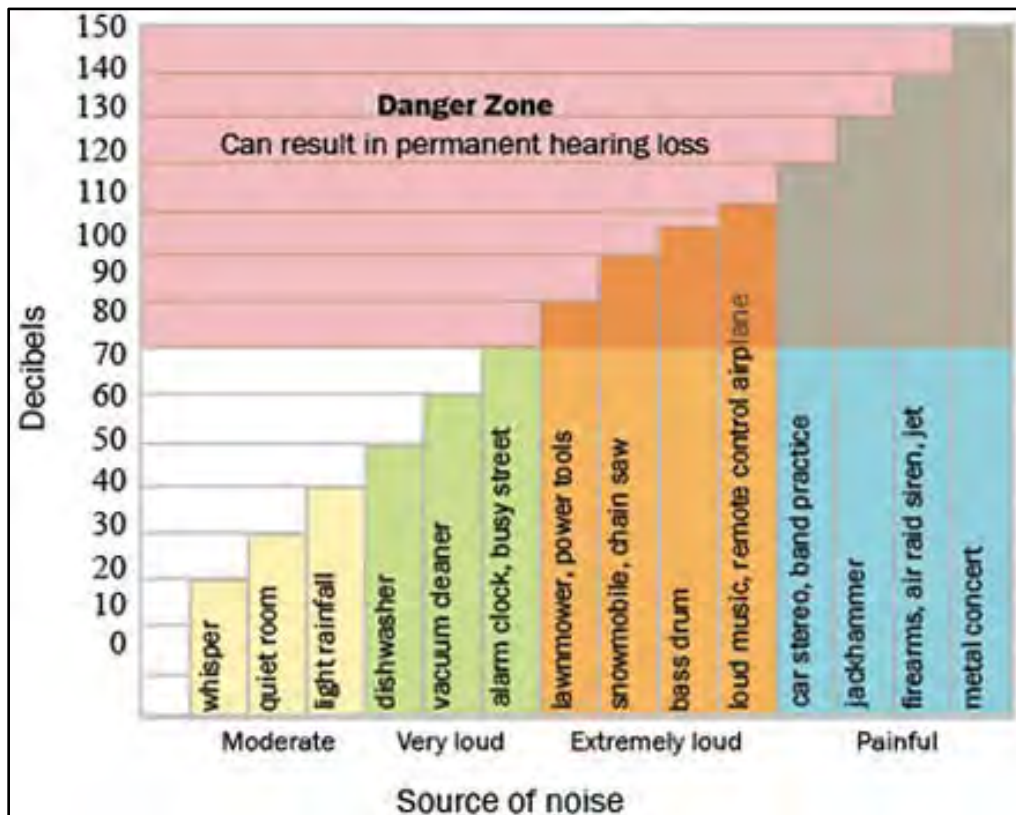


Chart from WebAnswers.com website; Accessed 10/3/12
<http://www.webanswers.com/misc/what-does-a-decibel-chart-look-like-a03487>

Decibel Levels of Environmental Sounds

<http://www.oshax.org/info/articles/decibel-levels>

Accessed 10/3/12

Source--Dangerous Level	dBA SPL
Produces Pain	120-140
Jet Aircraft During Takeoff (at 20 meters)	130
Snowmobile Tractor Without Cab	120
Rock Concert	110
Die Forging Hammer Gas Weed-Whacker Chain Saw Pneumatic Drill	100-105
Home Lawn Mowers	95 to 100 dB
Semi-trailers (at 20 meters)	90

Source--	dBA SPL
Discomfort Level	Above 80
Heavy Traffic	80
Automobile (at 20 meters)	70
Vacuum Cleaner	65
Conversational Speech (at 1 meter)	60
Quiet Business Office	50
Residential Area at Night	40
Whisper, Rustle of Leaves	20
Rustle of Leaves	10
Threshold of Audibility	0

sound-level meter

sound-level meter, device for measuring the intensity of noise, music, and other sounds. A typical meter consists of a [microphone](#) for picking up the sound and converting it into an electrical signal, followed by electronic circuitry for operating on this signal so that the desired characteristics can be measured. The indicating device is usually a meter calibrated to read the sound level in decibels (dB; a logarithmic [unit](#) used to measure the [sound intensity](#)). Threshold of [hearing](#) is about zero decibels for the average young listener, and threshold of pain (extremely [loud sounds](#)) is around 120 decibels, representing a power 1,000,000,000,000 (or 10^{12}) times greater than zero decibels.

The electronic circuitry can be adjusted to read the level of most frequencies in the sound being measured or the intensity of selected bands of frequencies. Because the alternating current (AC) signal received by the unit's microphone first must be converted to a direct current (DC), a time constant must be incorporated to average the signal. The constant selected depends on the purpose for which the instrument was designed or for which it is being used.

A typical sound-level meter can be switched between a scale that reads sound intensities uniformly for most frequencies—called unweighted—and a scale that introduces a frequency-dependent weighting factor, thus yielding a response more nearly like that of the human ear. A-frequency-weighting is the most commonly used [standard](#), but B-, C-, D-, and Z-frequency-weightings also exist. The A-frequency-weighting scale is useful in describing how complex noises affect people. Thus, the scale is recognized internationally for measurements relating to prevention of deafness from excessive noise in work environments.

In the early 1970s, as concern about [noise pollution](#) increased, accurate, versatile, portable noise-measuring instruments were developed. Sound level is not a measure of loudness, as loudness is a subjective factor and depends on the characteristics of the ear of the listener. In an attempt to overcome this problem, scales have been developed to correlate loudness with objective measurements of sound. The [Fletcher–Munson curve](#), for example, shows the relationship between loudness in decibels and subjectively judged loudness. Other variables have also been studied.

"sound-level meter". *Encyclopædia Britannica. Encyclopædia Britannica Online.* Encyclopædia Britannica Inc., 2012. Web. 03 Oct. 2012
<<http://www.britannica.com/EBchecked/topic/555351/sound-level-meter>>.