

## ARTICLE IV. - NOISE

*Footnotes:*

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**Cross reference**— *Offenses involving public peace and order, § 94-26 et seq.*

**State Law reference**— *Motor vehicle noise generally, F.S. §§ 316.272 et seq., 403.415; noise from watercraft, F.S. § 327.65.*

### Sec. 54-81. - Title and citation.

This article shall be known and may be cited as the "Collier County Noise Control Ordinance".

(Ord. No. 90-17, § 2)

### Sec. 54-82. - Definitions.

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

*Agricultural Zone* means any geographic area designated for agricultural activities by the zoning authority having jurisdiction over such area.

*Ambient Noise* means the all encompassing noise associated with a given environment, being usually a composite of sound from many sources near and far.

*Ambient Sound Level* means the A-weighted or C-weighted Sound Level of the Ambient Noise at a given location.

*Amplified Sound* means use of a public address system, loudspeaker, amplifier or any other device which electronically or mechanically augments the volume of sound. For purposes of this Ordinance, Amplified Sound does not include Background Music.

*ANSI* means the American National Standards Institute.

*A-Weighted Sound Level dB(A)* means the sound pressure level in decibels as measured on a Sound Level Meter using the A-weighting network. The level so read is designated dB(A).

*Background Music* means any music or other Sound played in a public or private space whose main function is to create an atmosphere suitable to a specific occasion, rather than to be listened to. Background Music shall normally generate Sound Levels no higher than 45 dB(A) at any location on the property where it is being played.

*Commercial Zone* means any geographic area designated for commercial or professional activities by the zoning authority having jurisdiction over such area.

*Community Event* means any cultural, sporting, historical or traditional observance, holidays and ceremonies, parades and concerts open to the public, including events operated for profit or for which admission is charged.

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

*Continuous Noise* means a noise whose sound pressure level exceeds the Ambient Sound Level and remains essentially constant in level during the period of observation.

*County Code Enforcement Department* means the designated authority charged with administration of this Ordinance and enforcement in addition to enforcement by the County Sheriff's Office.

*C-weighted Sound Level, dB(C)* means the sound pressure level in decibels as measured on a Sound Level Meter using the C-weighting network. The level so read is designated dB(C).

*Decibel (dB)* means a logarithmic unit of measurement that expresses the magnitude of a physical quantity relative to a specified or implied reference level. Since it expresses a ratio of two quantities with the same unit, it is a dimensionless unit. In the case of this Noise Ordinance, a Decibel means a unit for measuring the amplitude of sound, equal to 20 times the base ten logarithm of the ratio of the measured sound pressure to the reference pressure, which is 20 microPascals. Generally, higher decibel levels represent louder sounds.

*Emergency* means an occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss, which demands immediate action.

*Emergency Work* means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an Emergency.

*Equipment* includes, but is not limited to, air conditioning unit, heating unit, pump, fan, generator, utility facility, and any other substantially similar item, operating in accordance with its manufacturer's specifications, large or small, commercial or non-commercial, whether or not a fixture.

*Equivalent A-weighted or C-weighted Sound Level, Leq,A or Leq,C* means the constant Sound Level that in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted or C-weighted sound. For the purposes of this Ordinance, a minimum measurement time period of one minute shall be used, unless otherwise specified.

*Hertz (Hz)* is the unit of measure of the frequency of sound. One Hertz equals one cycle per second. The audible frequency range for normal human hearing is between 20 Hertz and 20,000 Hertz. The higher the frequency (measured in Hertz), the higher the pitch of the sound.

*Impulsive Sound* means a sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

*Industrial Zone* means any geographic area designated for industrial or manufacturing activities by the zoning authority having jurisdiction over such area.

*Intermittent Noise* means a noise whose sound pressure level exceeds the Ambient Level at either regular or irregular intervals.

*Mixed-Use Project* means a development or structure characterized by the use or occupancy of any geographic area, determined by reference to tract boundary, designated for both residential and nonresidential purposes by the zoning authority having jurisdiction over such area.

*Motor Vehicle* means any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistance mobility device, or moped. Many vehicles are not motor vehicles.

*Multifamily Dwelling* means any building or structure containing two or more residences, each occupied in whole or in part as the temporary or permanent residence of one or more natural persons.

*Noise* means any sound which annoys or disturbs, or which causes or tends to cause an adverse psychological or physiological effect on humans.

*Noise Level* means the sound pressure level as measured in dB(A) unless otherwise specified.

*Person* means any individual natural person, public or private corporation, firm, association, joint venture, partnership, or any other entity whatsoever or any combination of such, jointly and severally. Person shall include any owner, agent, or employee of a business establishment or other entity.

*Property Boundary* means the Real Property Line of any real property.

*Pure Tone* means any Sound consisting of a single frequency. For the purposes of measurement, a Pure Tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of 500 Hz and above; by eight dB for center frequencies between 160 and 400 Hz; and by fifteen dB for center frequencies less than or equal to 125 Hz.

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

*Residential Zone* means any geographic area designated for single or Multifamily Dwelling by the zoning authority having jurisdiction over such area.

*Road* means the entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to public use for vehicular traffic, and every private way or private place over which the Sheriff's Office has traffic control jurisdiction under a F.S. § 316.006(3)(b), traffic control assignment.

*RMS Sound Pressure* means the square root of the time averaged square of the sound pressure, denoted Prms.

*Sheriff's Office* means the Collier County Sheriff's Office.

*Sound* means an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may, include any characteristic of such sound including duration, intensity and frequency.

*Sound Level* means the weighted sound pressure level obtained by the use of a Sound Level Meter and frequency-weighting network, such as A or C, as specified in the latest revision of the ANSI Standard S1.4, "Specification for Sound Level Meters". If the frequency weighting employed is not indicated, the A-weighting shall apply.

*Sound Level Meter* means an instrument used for the measurement of sound pressure level, A-weighted Sound Level, or C-weighted Sound Level. Any Sound Level Meter used to determine compliance with this Ordinance shall meet or exceed the requirements for Type 2 Sound Level Meter in accordance with the latest revision of ANSI Standard S1.4, "Specification for Sound Level Meters". To be valid, readings from a Sound Level Meter shall be properly calibrated prior to each set of readings per the manufacturer's specifications.

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

*Sound Pressure Level* means 20 times the base 10 logarithm of the ratio of the RMS sound pressure to the reference pressure of 20 microPascals. The sound pressure level is denoted Lp or SPL and is expressed in decibels.

*Vehicle*, which also includes all motor vehicles, means every device in, upon, or by which any individual or property is or may be transported or drawn upon roadway (excepting devices used exclusively upon stationary rails or tracks), including but not limited to automobiles, commercial motor vehicles, trucks, tandem trailer trucks, trailers, semi-trailers, buses, motorcycles, tractors, farm labor vehicles, all-terrain vehicles, two-rider all-terrain vehicles, mopeds, go-carts, maxi-cube vehicles, motorized scooters, motorized bikes, and bicycles, whether moving or stationary.

(Ord. No. 90-17, § 5; Ord. No. 93-77, § 2; Ord. No. 07-61, § 1; Ord. No. 2008-68, § 4)

**Cross reference—** Definitions generally, § 1-2.

Sec. 54-83. - Reserved.

**Editor's note**— Ord. No. 2008-68, § 10, adopted Dec. 16, 2008, renumbered former § 54-83, entitled "violations; penalties; enforcement", as § 54-90.

Sec. 54-84. - Additional remedies.

- (a) In addition to the criminal penalties provided for herein, the Board of County Commissioners is hereby authorized to institute any appropriate action or proceeding, including an action at law for damages or a suit for injunctive relief in order to prevent or abate violations of this article. For the purposes of this article, the emission of any sound or 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 of the County is declared to be a public nuisance.
- (b) Nothing in this section shall be construed to prohibit the County from prosecuting any violation of this article by means of a code enforcement board established pursuant to the authority of F.S. ch. 162. Nothing herein shall be construed to limit any private right of action.

(Ord. No. 90-17, § 12)

Sec. 54-85. - Findings and purpose.

- (a) The Board of County Commissioners finds and determines that noise level emissions in excess of the requirements established in this article are potentially harmful and injurious to the public health, safety and welfare, and unreasonably interfere with the enjoyment of life and property in the County.
- (b) It is therefore the purpose of this article to eliminate, regulate or restrict sources and occurrences of amplified sound or noise at decibel levels or frequencies and intensities which are contrary to the public welfare, constitute a nuisance to the public at large and degrade the quality of life. It is declared that the provisions and prohibitions hereinafter contained and enacted are for the purpose of securing and promoting public health, comfort, convenience, safety and welfare, and the peace and quiet of the County and the inhabitants therein.

(Ord. No. 90-17, § 1; Ord. No. 93-77, § 1; Ord. No. 07-61, § 2)

Sec. 54-86. - Applicability.

All territory within the legal boundaries of the unincorporated area of the County shall be embraced by the provisions of this article. Noises originating in an area not embraced by the provisions of this article which emanate into an area embraced shall constitute a violation of this section.

(Ord. No. 90-17, § 3)

Sec. 54-87. - Exemptions.

The following uses and activities shall be permitted under this Ordinance and are exempt from the Sound Level limits set forth in subsection 6.B:

- A. Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturers' specifications and with all standard equipment, manufacturers' mufflers and noise reducing equipment in use and in proper operating condition, and is operated in compliance with subsection 6.F hereof.
- B. Noises of safety signals, warning devices, and emergency pressure relief valves.
- C. Noises resulting from reasonable use of bells and chimes, such as those from churches.
- D. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of Emergency.
- E. Noises resulting from Emergency Work.
- F. Noises resulting from equipment or operations incidental to the emergency repair or restoration of services such as public utilities or other Emergency activities in the public interest.
- G. Any other Noise resulting from activities of a temporary duration permitted by law and for which permission has been granted by the County Manager or designee in accordance with this Ordinance.
- H. Noises made by persons having obtained a permit to use the streets.
- I. All Noise coming from the normal operations of aircraft (not including scale model aircraft), including Noise from mosquito fogging aircraft, and from the normal operations of airports within the County.
- J. Motor vehicles used on public roadways, as defined in F.S. §§ 316.293(2)(a), (b) and (c).
- K. Ordinary noise created by the normal operation of railways.
- L. Operation of Equipment or conduct of activities normal to residential or agricultural communities such as lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, refuse collection, agricultural equipment, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb chipping and other normal community operations, between the hours of 7:00 a.m. to 10:00 p.m.
- M.

Exception for existing operations. An exception to the Sound Level limits contained in Section Six, Table I, shall be permitted where a commercial use or other non-residential use had in prior years established its place of business in an area away from a residential use, and through subsequent development or rezoning, now finds itself adjoining a Residential Zone. In these instances, the Sound Level limits in Table I pertaining to the previously existing zoning or use category shall apply, and the commercial use or other nonresidential use shall not be required to meet those Sound Level limits pertaining to residential zoning or use.

- N. The reasonable use of the unamplified human voice.
- O. Noise resulting from regular maintenance testing of standby emergency power generators, provided that any sound attenuation provided by the manufacturer is retained, and provided that the noise occurs between the hours of 9:00 a.m. and 5:00 p.m., Monday through Saturday, excluding holidays stated in subsection 6.F.2.a hereof. The frequency of maintenance testing and the duration of each test shall be no more frequent and not longer in duration than thirty (30) minutes once a week.
- P. Authorized School, Park or Playground Activities. Sounds emanating from any authorized playground or school sporting event, entertainment event, or authorized event at a public or private school, park, or playground, provided the sounds therefrom conform to the official authorization granted to conduct that event.
- Q. Raceway Facilities and Activities at the Immokalee Regional Airport. This Ordinance shall apply to the existing one-eighth mile drag strip at the Immokalee Regional Airport and shall continue to apply thereto unless and until different noise levels may be determined by means of the following permitting processes. This Ordinance does not establish any Sound Level standards that are to apply to any future racing facilities or activities hereafter located at the airport. If additional raceway facilities are authorized at that airport, the Sound Level standards that shall apply thereto shall be determined by and during the permitting processes that authorize such future facilities and/or activities. The Board shall have final approval authority of the applicable Sound Levels after public hearing thereon. Those new Sound Level standards shall then be applied equally to the one-eighth mile drag strip. Those new Sound Level standards can exceed, but shall not be stricter than, the Sound Level limits now specified in this Ordinance, and shall be determined by and during the permitting processes that authorize such future facilities and/or activities. Such standards shall be described in terms of A-weighted and C-weighted Sound Level testing under Table I, and there shall be no time averaging of any of those sounds. Notwithstanding any other then existing enforcement alternatives, those standards, once established, shall be enforceable by applying this Ordinance.
- R.

Noise from Swamp Buggy events. Noise associated with allowable events emanating from the current location of the Swamp Buggy Recreation and Sports Park, including but not limited to, motor racing, tractor pulls, festivals and music concerts. Developers of parcels that adjoin the Swamp Buggy Recreation and Sports Park, or parcels that would otherwise be substantially affected by the noise generated by the Swamp Buggy Recreation and Sports Park, must provide both actual and recorded notice to all prospective residents within such properties of this exemption, in a form to be approved by the County.

S. Noise associated with the discharge of firearms.

(Ord. No. 90-17, § 8; Ord. No. 93-77, § 5; Ord. No. 00-68, § 3; Ord. No. 07-61, § 3; Ord. No. 2008-68, § 6; Ord. No. 2010-16, § 1; Ord. No. 2011-33, § 1)

Sec. 54-88. - Community event permits.

The County Land Development Code contains the requirement for and process related to Community Event Permits.

(Ord. No. 90-17, § 9; Ord. No. 93-77, § 6; Ord. No. 00-68, § 4; Ord. No. 2008-68, § 7)

Sec. 54-89. - Right to appeal.

Any person aggrieved by the denial of his application for a permit, or revocation of an existing permit, by the County Manager, or designee, may appeal such denial or revocation to the Board of County Commissioners. Such appeals shall be taken within 30 days from the date of denial or revocation by filing with the County Manager written notice specifying the grounds thereof. Due public notice of the hearing on the appeal shall be given.

(Ord. No. 90-17, § 11; Ord. No. 93-77, § 8; Ord. No. 2008-68, § 9)

**Editor's note**— Ord. No. 2008-68, § 8, adopted Dec. 16, 2008, deleted former § 54-89, which pertained to waivers and derived from Ord. No. 90-17, § 10; and Ord. No. 93-77, § 7. Section 9 of Ord. No. 2008-68 renumbered provisions of former § 54-90 as § 54-89 as set out herein.

Sec. 54-90. - Violations; penalties; enforcement.

A. Any person violating any of the provisions of this Ordinance shall, upon adjudication of a violation by the Code Enforcement Board, Special Magistrate, or court of competent jurisdiction, be subject to a fine not exceeding \$500.00, as follows:

First Violation	\$100.00 fine
Second Violation	\$250.00 fine

Third or more Violation	\$500.00 fine
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Each incident of violation shall constitute a separate offense and shall be punishable as such hereunder. Any person who continues to violate the provisions of this Ordinance after having been previously cited, may be subject to further citations.

- B. Upon adjudication by the Code Enforcement Board, Special Magistrate, or court of competent jurisdiction of three violations of this Ordinance for the same offense within a 12-month period, when the offending Sound is created by the same Sound emitter, the noise creating equipment may be confiscated by the Code Enforcement Board, Special Magistrate, or court following the third adjudication of violation, until such time as the offender can satisfy the Code Enforcement Board, Special Magistrate, or court that he or she is prepared to and, in fact, will operate said equipment within the limits of this Ordinance. Further adjudications of violation thereafter shall be grounds for permanent confiscation by the Code Enforcement Board, Special Magistrate or court.
- C. The owner of property, a tenant, a lessee, a manager, employee, an overseer, an agent, corporation or any other person or persons entitled to lawfully possess or who claims lawful possession of such property involved at a particular time shall each be responsible for compliance with this Ordinance and each may be punished for violation of this Ordinance.
- D. It shall not be a lawful defense to assert that some other person caused such sound but each lawful possessor or claimant of the premises shall be responsible for operating or maintaining such premises in compliance with this Ordinance and the offending act shall be punishable whether or not the person actually causing such sound is also punished.
- E. The County Sheriff or designee or any other authorized enforcement agency is empowered to investigate any situation where a person, business or other establishment is alleged to be in violation of this Ordinance. If the Sheriff or designee or other authorized enforcement agent encounters a circumstance which reasonably indicates that a person is in violation of this Ordinance, or where the Sheriff or designee or other authorized enforcement agent responds to complaints regarding Amplified Sound or nonamplified music from any area for which an Annual Sound Permit has been issued, he may administer a test with a Sound Level Meter and ascertain whether a violation of this Ordinance has occurred. If the result of the test indicates a violation of this Ordinance, the Sheriff or designee or other authorized enforcement agent is authorized to demand that the violative sound cease, and to issue a citation or notice to appear to the person producing, causing to be produced, or allowing to be produced the Amplified Sound.
- F. In addition to the foregoing provisions, the following enforcement procedures shall apply where an annual permit is required pursuant to Section Six:

- (1) Upon the first violation of the annual permit the County Code Enforcement Department or Sheriff's Office may issue a verbal or written warning, if one has not been previously issued by another authorized enforcement agency, and upon the second violation or any subsequent violations within a 24-hour period a written citation may be issued. Any violations for which a written citation has been issued may be referred to the County Code Enforcement Board, Special Magistrate, or to a court of competent jurisdiction, in accordance with the procedures set forth in County Ordinance No. 2007-44, the "Consolidated Code Enforcement Ordinance".
- (2) If cited to the Code Enforcement Board or Special Magistrate, the Code Enforcement Board or Special Magistrate shall conduct a hearing and provide for and enforce such penalties as provided by law.
- (3) In addition to the authority of the Code Enforcement Board or Special Magistrate to impose fines and other penalties, the person, business establishment or other entity causing or allowing to be caused the violative sound may be subject to civil and/or criminal penalties as provided by this Ordinance upon conviction by a court of competent jurisdiction.

- G. *Statutory Vehicle Related Noise Violations.* Motor vehicle noise prohibited by F.S. § 316.272, (excessive or unusual noise from motor vehicle exhaust system), or by F.S. § 316.293, (maximum motor vehicle decibel levels measured by testing equipment), or any vehicle noise prohibited by any other Florida Statute, shall be enforceable by the Sheriff's Office, and shall not be enforceable by Code Enforcement officers.
- H. Noise that violates this Ordinance emitted from a vehicle (including motor vehicle) when on a road, or emitted from a noise producing device related to a vehicle when on a road, shall be enforceable by the Sheriff's Office, and shall not be enforceable by Code Enforcement officers. These violations, when off road, can be enforced by Code Enforcement officers or by the Sheriff's Office, including without noise testing by applying Section Twelve.
- I. *Other Remedies Preserved.* Nothing in this Ordinance shall prohibit the Sheriff's Office from charging persons responsible for acts which affect the peace and quiet of persons who may witness them for breach of the peace or disorderly conduct under Florida Statutes. In addition, no provision of this Ordinance is intended to disturb the right of the County or of any person or entity to pursue any other remedy for the abatement of a nuisance, or any other remedy that may then be available under law or equity. This Ordinance does not apply to the extent the specific regulation is preempted by Florida or federal law.

(Ord. No. 90-17, § 12; Ord. No. 93-77, § 9; Ord. No. 2008-68, § 10)

**State Law reference—** Penalty for ordinance violations, F.S. § 125.69.

Sec. 54-91. - Prohibitions.

It shall be unlawful, except as expressly permitted herein, to make, cause, or allow the making of any noise or sound which exceeds the Sound Level limits set forth in this Ordinance.

(Ord. No. 90-17, § 4; Ord. No. 2008-68, § 3)

Sec. 54-92. - Maximum permissible sound levels.

(a) *Classification or use occupancy.* For the purposes of defining "use occupancy" in the Ordinance, the following classifications shall apply:

- (1) All premises containing habitually occupied sleeping quarters shall be considered residential use.
- (2) Premises containing transient commercial sleeping quarters shall be considered tourist use.
- (3) All premises containing businesses where sales, professional, or other commercial use is legally permitted shall be considered commercial use.
- (4) All premises where manufacturing is legally permitted shall be considered manufacturing use.
- (5) Nursing homes, hospitals, hospices, public or private schools including colleges and universities, libraries in use, churches in use, and courts in session shall be considered residential uses.
- (6) Legally permitted use(s) of the site or unit shall supersede the zoning classification of the site or unit and in cases of multiple uses, the most restrictive actual lawfully permitted use shall supersede and control the zoning classification applicable to that site or unit.
- (7) Each site or unit not otherwise classified as to zoning shall conform to the commercial sound-level limits.

(b) *Maximum Permissible Sound Levels by Zoning Classification or Use Occupancy.*

- (1) No person shall operate, or cause or suffer to be operated any source of sound from any use occupancy in such a manner as to create a Sound Level, after applicable character of sound adjustments, if any, which exceeds the limits set forth for the use occupancy category in Table I. No Sound tested by a Sound Level Meter shall be deemed to be in violation of this Ordinance unless the offending Sound exceeds the Sound Level limits in Table I, and also exceeds the then existing Ambient Sound Level by at least five (5) dB(A) or five (5) dB(C), at the sound-affected site or unit. Sounds that are tested shall be measured at or within the property boundary of the sound-affected site or unit from which the complaint originated. In order to file a complaint, the complainant must provide his/her name, address and phone number. The test equipment should normally be at a distance greater than fifty (50) feet from the sound source unless there is a valid reason for measuring at a closer distance. A "valid reason" exists where land use, location, zoning, physical barriers, and/or acoustical impediments adversely affect the accuracy of sound measurements. Measurements shall be

made in accordance with the latest revision of ANSI Standard S1.13, "Measurement of Sound Pressure Levels in Air". Test equipment shall be placed at a height at least three (3) feet above the ground and at least four and one-half (4½) feet away from walls, barriers, obstructions and any other sound-reflecting surfaces that might affect the measured Sound Level(s). Microphone wind screens shall be used when appropriate. The measured Sound Levels used for comparison with the Table I Sound Level limits shall be the equivalent A-weighted Sound Level and equivalent C-weighted Sound Level measured over a minimum duration of sixty (60) seconds, after correction for the applicable A-weighted or C-weighted Ambient Sound Level. No person shall hinder, obstruct, delay, resist, prevent in any way, interfere with, or attempt to interfere with any authorized person while he or she is in the performance of duties pursuant to this Ordinance. The Board, by resolution(s), after public hearing thereon, may make, adopt, amend and repeal rules and administrative orders to implement, administer and enforce this Ordinance.

**TABLE I**

Zoning/Use at the location of the Sound-affected Site or Unit	Time of Day or Night*	Sound Level Limits	
		dB(A)	dB(C)
Residential	7:00 a.m. to 10:00 p.m.	60	72
	After 10:00 p.m. to 7:00 a.m.	55	67
Commercial or tourist	7:00 a.m. to 10:00 p.m.	65	77
	After 10:00 p.m. to 7:00 a.m.	60	72
Manufacturing or industrial	At all times	75	87
Agricultural	At all times	75	87

\* All times are the current local standard or daylight savings time in effect during the test, as applicable.

Correction for Ambient Sound Level shall be made as specified in Table II, below. If the measured difference between the applicable Ambient Sound Level and the alleged violating Sound Level is five (5) dB(A) or five (5) dB(C), each alleged violating sound level shall be reduced by two (2) dB(A) or two (2) dB(C). If the measured difference is six (6) to eight (8) dB(A) or dB(C), the alleged violating Sound Level readings shall be reduced by one (1) dB(A) or one (1) dB(C). If such measured difference is nine (9) or more dB(A) or dB(C), the alleged violating Sound Level shall not be adjusted based upon the difference. Fractional decibels shall be rounded to the nearest whole decibel.

TABLE II

Difference between alleged violating Sound Level* and Ambient Sound Level*	Correction (to be subtracted from the measured alleged violating Sound Level*)
9 and higher	0
6—8	1
5	2

\* Sound Levels in dB(A) or dB(C)

(c) *Correction for character of sound.*

- (1) *Pure Tone.* For each sound that is a Pure Tone, the Sound Level limits set forth in Table I shall be reduced by five (5) decibels at sound-affected sites/units in residential use or zoning.
- (2) *Non-repetitive impulsive sound.* For any non-repetitive impulsive sound (up to five (5) impulses an hour), the Sound Level limits set forth in Table I shall be increased by ten (10) decibels from 7:00 a.m. to 10:00 pm.

(d) *Multifamily Dwellings.* This subsection applies only to sounds when measured within a multifamily residence unit (occupied in whole or in part as the temporary or permanent residence of one or more natural persons) in residential, tourist residential, or commercial use or zoning and the building contains two or more such dwelling units. It shall be a violation of this Ordinance to emanate any Sound, including from Equipment, live performance music, or Amplified Sound, that, when measured inside of the Multifamily Dwelling unit in residential or tourist residential use or zoning, completely enclosed by walls and a roof with all doors and windows closed, exceeds 53 dBA anytime between the daytime hours of 7:00 a.m. to 10:00 p.m., or exceeds 45 dBA anytime between the nighttime hours of 10:00 p.m. and 7:00 a.m.

(e) *Mixed-Use Projects.* This subsection shall only apply if both the sound-affected site/unit and the source of the sound are located within the same Mixed-Use Project. In the case of a Mixed-Use Project, and notwithstanding anything to the contrary as may be contained in this Ordinance, it shall only be a violation of this Ordinance to emanate any Sound (including from Equipment, live performance music, or Amplified Sound) that, when measured from inside of the sound-affected residential dwelling unit, completely enclosed by walls and a roof with all doors and windows closed, exceeds the limits set forth in Table III below. No Sound tested by a Sound Level Meter shall be deemed to be in violation of this subsection or this Ordinance unless the offending Sound exceeds the Sound Level limits in Table III and also exceeds the then existing Ambient Sound Level by at least five (5) dB(A) or five (5) dB(C), as applicable to the respective A or C frequency-weighting network, when measured from inside of the enclosed sound-affected residential dwelling unit, completely enclosed by walls and a roof with all doors and windows closed. The measured Sound Levels used for comparison with the Table III Sound Level limits shall be the equivalent A-weighted Sound Level and equivalent C-weighted Sound Level measured over a minimum duration of sixty (60) seconds, after correction for the applicable A-weighted or C-weighted Ambient Sound Level. For Mixed-Use Projects, Table I Sound Level limits shall only apply to sound-affected residential land uses or zoning located outside of the Mixed-Use Project, and shall not apply to residential uses or zoning within the Mixed-Use Project.

**TABLE III**

Zoning/Use at the location of Sound Affected Site or Unit	Time of Day or Night*	Sound Level Limits	
		dB(A)	dB(C)
Residential Dwelling Unit	7:00 a.m. to 12:00 p.m.	53	68
	After 12:00 p.m. to 7:00 a.m.	45	62

\* All times are the current local standard or daylight savings times in effect during the test, as applicable.

(f) *Construction Sounds.*

(1) *Power driven construction equipment.* No person shall operate or permit to be operated any power driven construction equipment without a muffler or other sound reduction device that is at a minimum as effective as that recommended by the manufacturer or provided as

original equipment. Construction equipment that must be operated within 2,500 feet of a residentially zoned area on a 24-hour per day basis (including, but not limited to, pumps, well tips and generators) shall be shielded by a barrier to reduce the Sound Level during the hours of 6:00 p.m. to 7:00 a.m. unless the unshielded Sound Level is less than the Sound Level limits stated in Table I.

(2) *Regulating Noise from Construction Activity.*

- a. Any construction activities and site preparation activities including but not limited to land clearing and grading, excavation and vegetation removal, authorized or permitted pursuant to the provisions of this Code shall occur only during the following hours: 6:30 a.m. to 7:00 p.m., Monday through Saturday. No construction activity or site preparation activity is permitted on Sundays or on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.
- b. Any person desiring to engage in the aforementioned activities beyond the stated hours of limitation, based upon cases of Emergency, may apply in writing to the County Manager or designee for an Emergency Construction Permit. Such application shall state all facts and circumstances demonstrating the existence of an Emergency and the need for such permit. Such permits, if granted, shall be limited to 15 days, but may be renewed for additional periods if the Emergency or need therefor continues. Requests for renewals of said permit shall be made in writing prior to the expiration of permits previously issued pursuant to this section. In the issuance of such permits, the County Manager or designee shall weigh all facts and circumstances presented and shall determine whether the reasons given for the Emergency are valid and reasonable; whether the public health, safety, and welfare will be protected or better served by granting the permit requested; and whether, should the permit not be granted, the manner and amount of loss or inconvenience to the applicant presented by the Emergency imposes a significant hardship. Upon an affirmative finding of the foregoing considerations, the County Manager or designee is authorized to issue the Emergency Construction Permit. Notice of said permit application shall be given to all property owners adjacent to the subject site. During such periods of emergency activities and during the normal construction or site preparation hours of 6:30 a.m. to 7:00 p.m., the Sound Levels generated by construction or site preparation activities shall not exceed those permitted under this Ordinance.

(3) *Exceptions.* Construction activities or site preparation activities performed by the County, state or federal governments are exempt from the Emergency Construction Permit requirement, provided that such activities are conducted in compliance with applicable law, including this Ordinance.

(g) *Permitting for Amplified Sound providing outdoor entertainment.*

(1)

*Purpose and applicability.* In order to aid in monitoring and control of Amplified Sound providing outdoor entertainment for certain public and/or private events, and provide for enforcement action to address violations of this Ordinance resulting from outdoor entertainment activities generating such Amplified Sound, a one-time, site-specific Amplified Sound Permit will be required for any commercial business or nonresidential land use (such as, but not limited to, public park, amphitheater, fraternal organization, or church) which conducts such outdoor entertainment activities within 2,500 feet of any property containing a residential use or of any residential zoning district. That distance must be measured from the location of the actual sound source within the sound-producing property to the Real Property Line of the sound-affected residentially zoned or used property. For purposes of this subsection, no Amplified Sound Permit is required where the Sound source(s) and the Sound-affected residential use or zoning are located within the same Mixed-Use Project.

- (2) *Residential amenities.* For the purposes of this Section, any residential amenity (including, but not limited to, clubhouses, recreation centers, swimming pools, and pavilions) will be considered a residential use and Amplified Sound from outdoor entertainment emanating from these locations will *not* be subject to a requirement for an Amplified Sound Permit.
- (3) *Commercial establishments.* In the event that any commercial establishment utilizing Amplified Sound to provide *indoor* (that is, occupiable space within the building walls) entertainment for public and/or private events is adjudicated by the Code Enforcement Board, Special Magistrate, or court of competent jurisdiction to be in violation of this Ordinance pursuant to the provisions of Section Six, that land use or commercial establishment will be considered to have expanded their entertainment outside the confines of the building walls and must obtain an Amplified Sound Permit, subject to all of the provisions of this Section.
- (4) *Compliance with Sound Level limits.* All activities governed by the Amplified Sound Permit requirements must be conducted in accordance with the provisions of Section 6.B (Maximum Permissible Sound Levels by Zoning Classification or Use Occupancy).
- (5) *Application for Amplified Sound Permit.* Prior to issuance of the permit, an application must be completed which includes the following information:
  - a. The name, address and telephone number of the applicant;
  - b. The name, address and telephone number of the business or location at which the event will occur;
  - c. Identification of the type of business or other nonresidential land use (e.g. restaurant, night club, public park, church);
  - d. A sketch and description of the area in which the event will occur on the property (e.g., patio, outdoor dining area, poolside);
  - e.

A narrative description of any factors which might mitigate the impact of close proximity of the activity to adjacent residential use or zoning;

- f. A description of the proposed entertainment (e.g., live band, recorded music, disc jockey, theater performance);
- g. Frequency of occurrence (monthly, weekly, daily) or estimated number of events per calendar year with dates to be determined;
- h. Proposed hours of activity.

(6) *Issuance or denial.*

- a. Issuance. Upon receipt of an Amplified Sound permit application, the County Manager or designee will verify that the physical location of the proposed Amplified Sound source(s) is within 2,500 feet of any residential zoning district or land use (as opposed to the Real Property Line of the property on which the Sound-producing event will occur). This distance will be measured according to a survey, if provided by the applicant, or by the Official Zoning Map, aerial photography, or other reliable and accurate means. Upon completion of such verification, the County Manager or designee shall issue an Amplified Sound Permit.
- b. Denial. The only basis for denial of an Amplified Sound Permit application shall be prior adjudication for violation of this Ordinance relating to the same Amplified Sound activity.

(7) *Terms of approval.* Once granted, the permit will remain valid, so long as there is no change in use on the subject property and no substantive change to the information provided on the application. Change of ownership or change of business will not invalidate the permit so long as the use remains the same; however, the permit may be revoked in accordance with the provisions of subsection G.10. The permit and related Sound-producing activity may be reviewed periodically to ensure compliance with this Ordinance.

(8) *Fee for permit.* A nonrefundable fee for the permit covering costs associated with administration and processing will be assessed in accordance with the Fee Schedule approved by the Board of County Commissioners and in effect at the time of application, and will be payable at time of application.

(9) *Enforcement.* All Amplified Sound activities approved in conjunction with the permit must be conducted in accordance with the provisions of Section 6.B (Maximum Permissible Sound Levels by Zoning Classification or Use Occupancy).

(10) *Violations.* Any violations of the provisions of the permit shall be enforced in accordance with the provisions of Section Ten of this Ordinance. In the event of two (2) adjudications of violation of this Section within any 12-month period by the Code Enforcement Board, Special Magistrate, or court of competent jurisdiction, the Amplified Sound Permit shall be revoked by the County Manager or designee for one year from the date of the second adjudication,

and the permitted activity must cease immediately, unless otherwise ordered. During said period of revocation, the person having held the revoked permit shall be ineligible to apply for an annual permit issued pursuant to Section Six. Appeal of the revocation of the permit must be taken in accordance with Section Nine of this Ordinance.

(Ord. No. 90-17, § 6; Ord. No. 93-77, § 3; Ord. No. 96-29, § 1; Ord. No. 00-68, § 1; Ord. No. 04-55, § 2.A; Ord. No. 07-61, § 4; Ord. No. 2008-68, § 5)

Sec. 54-93. - Noise violations that do not require use of testing equipment.

- A. This Section, which shall be narrowly construed, applies notwithstanding other provisions in this Ordinance relating to Sound measured by Sound Level Meters.
- B. This Section applies only to noise affected sites classified as residential use in Section Six.
- C. Taking into account the time of day, day of the week, and the unmeasured Ambient Noise at the noise affected site, the following Noises are a violation of this Ordinance without use of testing equipment provided such Noise, based upon observation by listening by an enforcement officer and a complainant at the noise affected site, is clearly:
  - (1) *Unreasonably loud, raucous or jarring*: (is clearly annoying or clearly disturbing to any individual of normal sensibilities at such site); or
  - (2) *A nuisance*: (without reasonable justification is unreasonably interfering with the peace and quiet of any individual of normal sensibilities at such site).
- D. This Section applies when either (or both) above-listed Noise is emitted from a:
  - (1) Domesticated animal, including dog, bird or fowl, which violations pursuant to this Section shall be enforced only by Domestic Animal Services or by the Sheriff's Office when testing equipment is not used. These noises can be enforced by Code Enforcement officers when noise testing equipment is used.
  - (2) Vehicle (including motor vehicle) including the total volume of noise from the vehicle or from any part thereof including motor/engine, if any. This includes all vehicles for which any part of the vehicle's original manufacturer's exhaust system is modified or removed, and all vehicles that are out of repair and any vehicle related sound producing device that is out of repair. These noises are enforceable by the Sheriff's Office, but shall not be enforceable by Code Enforcement officers unless the location of the source of such noise is off road.
  - (3) Sound Producing Device. These devices include every device designed to produce, reproduce or amplify sound, whether or not related to a vehicle, such as horn, siren, whistle, bell, musical instrument, radio, TV, phonograph, speaker, loudspeaker, microphone, or other substantially similar device, including when a horn, siren, whistle, bell or similar device is

sounded longer than necessary. These noises are enforceable by the Sheriff's Office, but shall not be enforceable by Code Enforcement officers unless the sound producing device is off road.

- (4) Exceptions; Lawful Business, Profession or Occupation. This Section does not apply to any lawful business, profession, or occupation provided any such above-listed class of Noise is typically emitted from that type of business, profession or occupation, and at that hour of the day and day of the week. This Section applies if such Noise is either not typical for such type business, profession or occupation, or is typical but is emitted at a time other than the normal hours of operation of that specific business, profession or occupation, at that location.

(Ord. No. 07-61, § 5; Ord. No. 2008-68, § 12)

Sec. 54-94. - Use of loudspeakers.

Loudspeakers or public address systems used to produce sound signals from any source may not be operated on or over public property and public right-of-way, unless an annual permit has been issued by the County Manager or designee. An annual permit fee shall be paid for such permit. The permit may be canceled for noncompliance with this Ordinance. Such systems may be used Monday through Saturday during daylight hours only.

(Ord. No. 90-17, § 13; Ord. No. 2008-68, § 11)

Secs. 54-95—54-115. - Reserved.

