

Deputy Clerk MBASS

**ORDINANCE
NUMBER 2015-09**

**AN ORDINANCE OF LEVY COUNTY, FLORIDA,
PROVIDING THAT THE LEVY COUNTY CODE BE
AMENDED BY AMENDING THE NOISE REGULATIONS IN
CHAPTER 50, ARTICLE VIII, DIVISION 2, SECTIONS 50-
346 THROUGH 50-359 OF SUCH CODE; PROVIDING FOR
SEVERABILITY; PROVIDING A REPEALING CLAUSE;
AND PROVIDING AN EFFECTIVE DATE.**

RECITALS

WHEREAS, on November 16, 1999, the Board of County Commissioners of Levy County, Florida ("the Board"), adopted Ordinance 99-5, codified in the Levy County Code as Chapter 50, Article VIII, Division 2, Sections 50-346 through 50-359, creating noise regulations for Levy County; and

WHEREAS, on November 20, 2007, the Board adopted Ordinance 2007-07, amending such noise regulations by amending Section 50-349 of the Levy County Code; and

WHEREAS, the Board desires to amend Chapter 50, Article VIII, Division 2 of the Levy County Code to provide for revision to the noise regulations for Levy County, in order to provide for the public health safety and welfare of the County and its inhabitants and visitors;

BE IT ORDAINED, by the Board of County Commissioners of Levy County, Florida:

SECTION 1. References. All references contained in this Ordinance to a "current" section of the Levy County Code refer to the referenced Code section as it was numbered and existed prior to the adoption of this Ordinance.

SECTION 2. Amendment of Code. Sections 50-346 and 50-347, Levy County Code, shall be deleted in their entirety and replaced with the following:

1 **Sec. 50-346. Authority and applicability.**

2 This division is adopted pursuant to the provisions of Article VIII, Section 1,
3 Florida Constitution, Sections 125.01 and 125.66, Florida Statutes, and other
4 applicable provisions of law. The provisions of this division shall apply in the
5 unincorporated areas of the county.

6 **Sec. 50-347. Legislative findings.**

7
8 It is hereby ascertained, determined and declared that:

- 9 (1) Excessive sound within the limits of the county is a condition which has
10 existed for some time and the amount and intensity of such sound is
11 increasing.
- 12 (2) Such excessive sound is a detriment to the public health, safety, welfare
13 and quality of life of the residents of the county and visitors to the county.
- 14 (3) The necessity in the public interest for the provisions and prohibitions
15 hereinafter contained and enacted is declared as a matter of legislative
16 determination and public policy, and it is further declared that the
17 provisions and prohibitions hereinafter contained and enacted are in
18 pursuance of and for the purpose of securing and promoting the public
19 health, safety, welfare and quality of life of the county and its inhabitants.

20
21 **SECTION 3. Amendment of Code.** Section 50-348, Levy County Code, is
22 hereby amended to read as follows (deletions shown as ~~stricken through~~, additions
23 shown as underlined):

24 **Sec. 50-348. Definitions. Terminology and standards.**

- 25 ~~(a)~~ The following words, terms and phrases, when used in this division, shall
26 have the following meanings ascribed to them in this section, except where the
27 context clearly indicates a different meaning. All technical acoustical terminology
28 and standards used in this division, which are not defined in section 50-1 or
29 otherwise defined in this section, shall be read or construed in conformance with
30 the applicable publications and standards of the American National Standards
31 Institute, Inc. (ANSI), or its successor bodies publication entitled "Acoustical
32 Terminology," designated as ANSI S1.1 1960, or its successor publications.
- 33 ~~(b) Sources of sound shall conform to the sound level limits by receiving land use as~~
34 ~~set forth in section 50-348, table 1, unless otherwise specified in sections 50-350~~
35 ~~and 50-351~~
- 36 ~~(c) The measurement of sound or noise levels shall conform to standards in section~~
37 ~~50-353~~

1 A-weighted sound level means the sound pressure level in decibels as
2 measured with a sound level meter using the A-weighting network. The unit of
3 measurement is the decibel or dBA.

4 Construction means any site preparation, any assembly, erection, substantial
5 repair, alteration or similar action, excluding demolition, for or on public or private
6 property or rights-of-way, structures, utilities or similar property.

7 Continuous airborne sound means sound that is measured by the slow-
8 response setting of a sound level meter manufactured to the specifications of
9 ANSI S1.4-1971 (R1976), or its successor.

10 Decibel, also dBA, means a unit for measuring the intensity of a sound wave,
11 equal to 20 times the logarithm of the ratio of the pressure produced by the
12 sound wave measured to a reference pressure, usually 0.0002 microbar, or 20
13 micropascals (20 micronewtons per square meter).

14 Demolition means any dismantling, intentional destruction or removal of
15 structures from public or private property.

16 Emergency means any occurrence or set of circumstances involving actual or
17 imminent physical trauma or damage to persons or property which necessitates
18 immediate action. Economic loss shall not be the sole determining factor in the
19 determination of an emergency. It shall be the burden of an alleged violator to
20 prove an "emergency."

21 Emergency work means any work made necessary to restore property to a
22 safe condition following an emergency, or to protect persons or property
23 threatened by an imminent emergency, to the extent such work is necessary to
24 protect such persons or property from exposure to imminent danger or damage.

25 Frequency means the number of complete oscillation cycles per unit of time.

26 Noise means any sound which is unwanted or which causes or tends to
27 cause an adverse psychological or physiological effect on humans.

28 Noise disturbance means any sound in excess of 50 dBA between the hours
29 of 10:00 p.m. and 7:00 a.m. when measured not closer than the property line of a
30 property with a zoning district of RR, RR-2, RR-3, RR-3C, RR-3M, R or RMU or a
31 residential designation on the comprehensive plan future land use map, or from
32 the nearest affected dwelling unit.

33 Plainly audible means any sound or noise produced by any source, or
34 reproduced by a radio, tape player, television, CD player, electronic audio
35 equipment, musical instrument, sound amplifier or other mechanical or electronic
36 sound making device, that can be clearly heard by a person using his/her normal
37 hearing faculties.

38 Public right-of-way means any street, avenue, boulevard, sidewalk, bike path
39 or alley, or similar place normally accessible to the public which is owned or
40 controlled by a governmental entity.

1 Public space means any lot or parcel, either privately or publicly owned,
2 which may or may not contain a building or structure, which is open to the
3 general public during its hours of operation.

4 Sound means an oscillation in pressure, stress, particle displacement, particle
5 velocity or other physical parameter, in a medium with internal forces that causes
6 compression and rarefaction of that medium. The description of sound may
7 include any characteristic of such sound, including duration, intensity and
8 frequency.

9 Sound level means the weighted sound pressure level as measured in dB(A)
10 by a sound level meter and as specified in ANSI specifications for sound-level
11 meters S1.4-1971 (R1976), or its successor. If the frequency weighting employed
12 is not indicated, the A-weighting shall apply.

13 Sound level meter means an instrument, including a microphone, an
14 amplifier, an output meter, and frequency weighting networks, for the
15 measurement of sound levels.

16 Weekday means any day Monday through Friday that is not a paid holiday as
17 defined in F.S. § 110.117(1), as the same may be amended.

18
19 **SECTION 4. Amendment of Code.** New Sections 50-349 and 50-350 shall be
20 added to the Levy County Code, with the current Sections 50-349 and 50-350 to be
21 renumbered and amended as provided in Section 5 of this Ordinance. New Sections
22 50-349 and 50-350, Levy County Code, shall read in their entirety as follows:

23 **Sec. 50-349. General prohibitions.**

24 It shall be unlawful and a violation of this division, except as expressly
25 permitted or exempt herein, to make, cause or allow the making of any noise or
26 sound that exceeds the noise or sound levels set forth in this division.

27 **Sec. 50-350. Specific prohibitions.**

28 Unless otherwise exempted in this division, or unless expressly allowed by
29 special exception or other specific approval by the board of county
30 commissioners or other county board or committee or official with specific
31 authority to grant such approval, any of the following acts, or the causing or
32 permitting thereof, shall be unlawful and a violation of this division:

- 33 (1) *Motor vehicles.* The operation, or causing or permitting the operation, of
34 a public or private motor vehicle, or combination of vehicles towed by a
35 motor vehicle, that creates sound exceeding the sound level limits in the
36 districts/areas provided in Table 1 when the vehicle(s) are not traveling

on public streets, highways, driveways, parking lots and ways open to vehicle travel.

(2) *Radios, televisions, electronic audio equipment, musical instruments or similar devices.*

(a) The use, operation or playing of any radio, television, phonograph, stereo set, tape player, CD player, electronic audio equipment, sound amplifier, musical instrument or similar device which produces or reproduces sound in a manner as to be plainly audible ten feet (10') beyond the property line of the property where the source of the sound is located; or

(b) The use, operation or playing of any radio, television, phonograph, stereo set, tape player, CD player, electronic audio equipment, sound amplifier, musical instrument, or similar device which produces sound located on a public or private right-of-way or a public space in such a manner as to be plainly audible at a distance of fifty (50) feet from the source of the sound.

(3) *Loudspeakers and public address systems.* The operation, or causing or permitting the operation, of any loudspeaker, public address system or similar device, for any purpose, between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible ten feet (10') beyond the property line of the property where the source of the sound is located, or, if the source of the sound is on a private or public right-of-way or public space at a distance of fifty (50) from the source of the sound.

(4) *Animals.* The owning, possessing, or harboring of an animal or bird that howls, barks, meows, squawks or makes any other sound that:

(a) Is plainly audible ten feet (10') beyond the property line where the animal is located and the receiving property of the sound is in a residential zoning district or a rural agricultural zoning district that allows residential uses; and

(i) Is of frequent or continued duration for ten (10) or more consecutive minutes; or

(ii) Is intermittent for a period of thirty (30) or more minutes.

It shall not be a violation of this division, however, for any animal or bird to give a sound of danger or warning under particular circumstances reasonably requiring the need for a warning.

(5) *Construction and demolition.* The operation, or causing or permitting the operation, of any tools or equipment used in construction, building, excavation, grading, pile driving, pneumatic hammering, drilling, repair, alteration, demolition, or any other similar work, between the hours of 10:00 p.m. and 7:00 a.m. such that the sound therefrom is plainly audible ten feet (10') beyond the property line of the property where the

1 source of the sound is located, except for emergency work or other
2 work approved by the county coordinator or his/her designee. This
3 section shall not apply to the use of domestic power tools as provided
4 below.

5 (6) *Emergency signaling devices.*

6 (a) The intentional sounding, or causing or permitting the intentional
7 sounding, outdoors of any vehicle horn, or any fire, burglar or civil
8 defense alarm, siren or whistle, or similar stationary emergency
9 signaling device, except for emergency purposes or for testing as
10 follows:

11 (i) Testing of a stationary emergency signaling device shall not
12 occur between 10:00 p.m. and 7:00 a.m. the following day.

13 (ii) Testing of a stationary emergency signaling device shall use
14 only the minimum cycle test time, in no case to exceed 60
15 seconds.

16 (iii) Testing of a complete emergency signaling system, including
17 the functioning of the signaling device and the personnel
18 response to the signaling device, shall not occur more than
19 once in each calendar month. Such testing shall only occur on
20 weekdays and not between the hours of 10:00 p.m. and 7:00
21 a.m., and shall be exempt from the time limit specified in
22 subsection 50-350(6)(a)(i).

23 (b) No person shall permit the sounding of any exterior burglar or fire
24 alarm unless such alarm is automatically terminated within 15
25 minutes of activation.

26 (7) *Domestic power tools.* The operation, or causing or permitting the
27 operation, of any portable mechanical, electrical, or gasoline motor-
28 driven equipment, tool, or garden tool, outdoors between the hours of
29 10:00 p.m. and 7:00 a.m., such that the sound is plainly audible ten feet
30 (10') beyond the property line where the source of the sound is located
31 and the receiving property of the sound is in a residential zoning district
32 or a rural agricultural zoning district that allows residential uses.

33 (8) *Fixed equipment.* The operation, or causing or permitting the
34 operation, of any pump, air conditioning, air-handling, air compressor
35 unit, power fan or blower, fixed electric motor or engine, or other
36 continuously operating motorized equipment such that the sound is
37 plainly audible ten feet (10') beyond the property line where the source
38 of the sound is located.

39
40 **SECTION 5. Amendment of Code.** The current Sections 50-349 and 50-350,
41 Levy County Code, shall be renumbered as Sections 50-351 and 50-352, Levy County

Code, respectively, and shall be amended to read as follows (deletions shown as stricken through, additions shown as underlined):

Sec. 50-351. General Nnoise control measurement standard and prohibitions.

It shall be unlawful for any person to create, operate, or cause to be operated on private property or any public space any source of sound in such a manner as to create a sound level which exceeds the limits set forth in ~~Table~~ Table 1 for the zoning district or category of property receiving the sound when measured at or within the boundary of the property receiving the sound. The measurement of sound or noise levels shall conform to the standards in section 50-355.

TABLE 1.
Maximum Sound Levels for Receiving Land Uses at the Real Property Line
(Unless Otherwise Specified).

<u>Zoning District or Category of Property Receiving Sound</u>	<u>Times</u>	<u>Sound Levels (dBA)</u>
Residential <u>zoning districts excluding RR (RR-1, RR-2, RR-3, RR-3C, RR-3M, and R) and other residential areas designated residential on the comprehensive plan future land use map</u>	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	55
Rural agricultural <u>zoning districts (A/RR, F/RR and RR, and RMU) for sound levels measured at the residence and areas designated Natural Reservation on the comprehensive plan future land use map</u>	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	55
Commercial <u>zoning districts (C-1, C-2) and areas designated Commercial on the comprehensive plan future land use map that are not in zoning districts I, C-3, or C-4</u>	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	60
Industrial <u>zoning districts and commercial zoning districts (I, C-3, C-4)</u>	Anytime	75

1
2 **Sec. 50-352. Specific noise control measurement standards and**
3 **disturbance prohibitionsbetween 10:00 p.m. and 7:00 a.m. at**
4 **residential real property line or the nearest effected dwelling**
5 **unit.**

6 ~~In addition to the general standards stated in sections 50-349, and uUnless~~
7 ~~otherwise exempted in this division or expressly allowed by special exception or~~
8 ~~other specific approval by the board of county commissioners or other county~~
9 ~~board or committee or official with specific authority to grant such approval,~~
10 ~~specific noise disturbances caused by the following shall be prohibited: shall be~~
11 ~~defined and prohibited as sound in excess of 50 dBA between the hours of 10:00~~
12 ~~p.m. and 7:00 a.m. when measured not closer than the lot line of a residential lot~~
13 ~~or from the nearest affected dwelling unit.~~

- 14 (1) *Loud music and amplified sound.* For loud music and amplified sound,
15 the maximum level shall be 50 dBA between the hours of 10:00 p.m. and
16 7:00 a.m. No person shall operate, play or permit the operation or
17 playing of electronic audio equipment, musical instruments, or any other
18 ~~and similar mechanical or electronic sound making devices~~ including but
19 not limited to radios, television sets, live bands, loud speakers and public
20 address systems in such a manner as to create a noise disturbance
21 ~~across a residential property; except for any noncommercial public~~
22 ~~speaking, public assembly or other activity for which a special event~~
23 ~~permit has been issued by the county.~~
- 24 (2) *Places of public and private recreational activities and entertainment.* For
25 places of public and private recreational activities and entertainment, the
26 maximum level generated by any recreational activities or entertainment
27 shall be 50 dBA between the hours of 10:00 p.m. and 7:00 a.m. No
28 person shall operate or permit the operation of any loudspeaker or other
29 source of noise in any enclosed or unenclosed place of public
30 entertainment or at a recreational facility in such a manner as to create a
31 noise disturbance ~~across a residential real property line.~~
- 32 (3) *Vehicle and motorboat repair and testing in residential areas.* For vehicle
33 and motorboat repair and testing ~~in residential areas~~, the maximum level
34 shall be 50 dBA between the hours of 10:00 p.m. and 7:00 a.m. No
35 person shall repair, rebuild, or test any motor vehicle or motorboat within
36 ~~any residential area~~ in such a manner that creates a noise disturbance
37 ~~across a residential real property line.~~

38
39 **SECTION 6. Amendment of Code.** The current Section 50-351, Levy County
40 Code, shall be renumbered as Section 50-353, Levy County Code, and shall be

1 amended to read as follows (deletions shown as ~~stricken through~~, additions shown as
2 underlined):

3 **Sec. 50-353. Exemptions for the sound level limits.**

4 The provisions of this division shall not apply to the following sounds or
5 sources of sounds:

- 6 (1) Railway and airport activities when conducted in accordance to with all
7 applicable state and federal laws and regulations.
- 8 (2) Sound resulting from any ~~law enforcement and~~ emergency work as
9 defined in section 50-348activities, including training.
- 10 (3) Sound resulting from any authorized emergency vehicle when
11 responding to an emergency call or acting in time of emergency.
- 12 (4) Sound resulting from any law enforcement activities or operations,
13 including training activities.
- 14 (35) Scheduled road construction and maintenance by city, county or state
15 agencies and their authorized contractors.
- 16 (46) Recreational or entertainment activities, supervised fireworks displays,
17 carnivals, festivals, parades, sporting events, and spectator games at
18 a legally approved public or privately owned or operated facilities where
19 such use(s) are allowed use(s), when conducted in accordance with
20 subsection 50-352(2).
- 21 (5) ~~Noise consistent with cultural, historical, or traditional observances,~~
22 ~~holidays, and ceremonies. This shall include church activities,~~
23 ~~noncommercial public speaking and officially authorized public assembly~~
24 ~~activities on any public space or public right of way such as carnivals,~~
25 ~~festivals, sporting events, parades, supervised fireworks displays or the~~
26 ~~like.~~
- 27 (6) ~~Activities of a temporary duration for which a special event permit has~~
28 ~~been granted by the county to the extent allowed under the permit.~~
- 29 (7) Farming, forestry and mining operations and incidental activities
30 including but not limited to sounds created by equipment, domestic
31 livestock and production and marketing activities in A/RR or
32 F/RRagriculture and forestry/rural residential zoning districts.
- 33 (8) Sounds emanating from activities permitted by right on properties
34 designated as A/RR or F/RR zoningagricultural/rural residential and
35 forestry/rural residential.
- 36 (9) Sounds from the operation of motor vehicles as regulated by sections
37 316.272 and 316.293, Fla. Stat., as the same may be amended.

1 **SECTION 7. Amendment of Code.** The current Section 50-352, Levy County
2 Code, *Waivers and special event permits*, current Section 50-353, Levy County Code,
3 *Noise control measurement standard*, and current Section 50-354, Levy County Code,
4 *Nonconforming preexisting uses*, shall be deleted in their entirety.

5 **SECTION 8. Amendment of Code.** New Section 50-354 shall be added to the
6 Levy County Code. New Section 50-355 shall be added to the Levy County Code, with
7 the current Section 50-355 to be renumbered and amended as provided in Section 9 of
8 this Ordinance. New Sections 50-354 and 50-355, Levy County Code, shall read in
9 their entirety as follows:

10 **Sec. 50-354. Special permits.**

11 (a) *Permit process.*

- 12 (1) Applications for a special permit for relief from the maximum sound level
13 limits designated in this division for the events or activities described
14 below, also referred to in this section as a permit, may be made in
15 writing to the county coordinator or designee. A permit is not required
16 under this section if sound levels, including amplified sound, will not
17 exceed the maximum sound level limits designated in this division.
- 18 (2) A permit application shall include the name, address and telephone
19 number of the permit applicant; the date, hours and location for which
20 the permit is requested; and the nature of the event or activity. The
21 application must be submitted at least ten days in advance of the event,
22 excluding holidays and weekends.
- 23 (3) Upon receipt of a permit application, the county coordinator or designee
24 will review the application and issue a decision promptly, but in no event
25 less than three days prior to the date of the event. If no decision is
26 issued by the time specified, the permit will be considered to be issued.
27 The permit shall be issued provided the proposed activity meets the
28 requirements of this section.
- 29 (4) Any permit granted pursuant to this section must be in writing and shall
30 contain all conditions upon which the permit shall be effective or allowed.
- 31 (5) The county coordinator or designee may prescribe any reasonable
32 conditions or requirements for any permit issued that he/she deems
33 necessary to minimize noise disturbances upon the community or the
34 surrounding neighborhood, including but not limited to the use of
35 mufflers, screens or other sound-attenuating devices.

36 (b) *Permits for entertainment.* Permits may be granted for the purpose of
37 entertainment under the following conditions:

- 1 (1) The function must be open to the general public (admission may be
2 charged).
- 3 (2) The function must take place on public property, or public space,
4 provided that only six functions requiring a permit pursuant to this
5 section may be held on any particular public property or public space per
6 calendar year.
- 7 (3) The permit will be granted for only four hours in one 24-hour day or any
8 reasonable extension thereof as authorized by the county coordinator or
9 designee.
- 10 (4) The permit will only be granted for hours between 9:00 a.m. and. 12:00
11 midnight on all days other than Friday and Saturday; and, on Friday and
12 Saturday, between the hours of 9:00 a.m. and 1:00 a.m. of the following
13 day, except in the following circumstances:
 - 14 (a) A permit may be granted for hours between 9:00 a.m. on New
15 Year's Eve and 1:00 a.m. the following day (New Year's Day).
 - 16 (b) A permit may be granted for hours between 9:00 a.m. and 2:00 a.m.
17 the following day if there are no private residences, hospitals or
18 nursing homes within a 0.5 mile radius of the property where the
19 function is taking place.
- 20 (5) Functions for which the permits are issued shall be limited to a
21 continuous airborne sound level not to exceed 70 dBA, as measured 200
22 feet from the real property boundary of the source property. When one or
23 more streets are closed adjacent to the source of the sound, the
24 measurement shall be taken 200 feet from the boundary of the closed
25 area. An applicant may be required to provide the equipment and
26 measurements described under this subsection in order to demonstrate
27 compliance herewith.
- 28 (c) *Other permits.* Special permits for non-entertainment special purposes
29 may be issued under the following conditions:
 - 30 (1) *Nonrecurring.*
 - 31 (a) If the special purpose relates to the operation of a trade or business,
32 the special purpose shall not be in the ordinary course of that trade
33 or business; or
 - 34 (b) If the special purpose does not relate to the operation of a trade or
35 business, the special purpose shall not be an ordinary event in the
36 normal and customary allowed use of the property that is the subject
37 of the application.
 - 38 (2) *Recurring.* If the special purpose is a recurring purpose, it shall not recur
39 more often than four times each calendar year; and:
 - 40 (a) The special purpose shall be essential to the operation of the
41 applicant's trade or business; or

1 (b) If the special purpose is not essential to the operation of a trade or
2 business, the special purpose shall be compatible with the normal
3 and customary uses and activities of the surrounding
4 neighborhoods;

5 (3) *Hours.* A permit for a non-entertainment special purpose may be issued
6 only for hours between 7:00 a.m. and 11:00 p.m. the same day on
7 weekdays; and

8 (4) *Duration.* A permit for a non-entertainment special purpose may be
9 issued for no longer than one week, renewable by further application to
10 the county coordinator or designee, provided the applicant otherwise
11 meets the provisions of this section.
12

13 **Sec. 50-355. Measurement or assessment of sound.**

14 (a) *Measurement with sound level meter.* When sound levels or violations
15 of sound levels of this division are used or described in decibels, the following
16 measurement standards shall be used:

17 (1) The measurement of sound shall be made with a sound level meter
18 meeting the standards prescribed by ANSI S1.4-1971 (R1976). The
19 instruments shall be maintained in calibration and good working
20 order. A calibration check shall be made of the system at the time
21 of any sound level measurement. Measurements recorded shall be
22 taken so as to provide a proper representation of the source of the
23 sound. The microphone during measurement shall be positioned so
24 as not to create any unnatural enhancement or diminution of the
25 measured sound. A windscreen for the microphone shall be used at
26 all times. However, a violation of this chapter may occur without the
27 occasion of the measurements being made as otherwise provided.

28 (2) The slow meter response of the sound level meter shall be used in
29 order to best determine the average amplitude.

30 (3) The measurement shall be made at any point on the property into
31 which the sound is being transmitted and shall be made at least
32 three feet away from any ground, wall, floor, ceiling, roof and other
33 plane surface.

34 (4) In case of multiple occupancy of a property, the measurement may
35 be made at any point inside the premises to which any complainant
36 has right of legal private occupancy; provided that the
37 measurement shall not be made within three feet of any ground,
38 wall, floor, ceiling, roof or other plane surface.

39 (5) All measurements of sound provided for in this chapter will be
40 made by qualified officials of the county who are designated by the
41 county coordinator or designee or county sheriff or designee to
42 operate the apparatus used to make the measurements.

(6) The operator conducting sound level measurements shall document all results in a written record. Such record shall include the following:

(a) The instrumentation used, including name, make, type, and serial number.

(b) Date of last laboratory calibration.

(c) On-site calibration verification before and after each series of measurements, or calibration verification in accordance with manufacturer's recommendations.

(d) Name and location of the measuring area.

(e) A detailed sketch of the measuring area.

(f) Time and date of the measurements.

(g) Name of the observers.

(h) General weather conditions.

(b) *Assessment without sound level meter.* Any person who hears a noise or sound that is plainly audible, as defined in section 50-348, in violation of this division, shall be entitled to measure the sound according to the following standards:

(1) The primary means of detection shall be by means of the person's ordinary hearing faculties, so long as the person's hearing is not enhanced by any mechanical device, such as a hearing aid.

(2) The person must have a direct line of sight or hearing to the real property of the source of the sound so that the person can readily identify the source of the sound and the distance involved. If the person is unable to have a direct line of sight or hearing to the real property of the source of the sound, then the person shall confirm the source of the sound by approaching the suspected real property source of the sound until the person is able to obtain a direct line of sight or hearing, and identify the identical or same sound that was heard at the place of original assessment of the sound.

(3) The person need not determine the particular words or phrases being said or produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type of sound is sufficient to constitute a plainly audible sound.

SECTION 9. Amendment of Code. The current Sections 50-355, 50-356, 50-357 and 50-358, Levy County Code, shall be renumbered as Sections 50-356, 50-357, 50-358, and 50-359, Levy County Code, respectively, and shall be amended to read as follows (deletions shown as ~~stricken through~~, additions shown as underlined):

1 **Sec. 50-356. Enforcement.**

2
3 (a) The county sheriff, or designee or other enforcement agencies with
4 jurisdiction in the county shall be the enforcing official(s) for these ~~noise~~
5 regulations set forth in this division and shall have the authority and duty to
6 enforce these ~~noise~~ regulations as set forth in this section.

7 (b) When the enforcing official determines that there is a violation of the
8 ~~sound level limits contained~~ regulations set forth in this division, the official shall
9 issue an ~~official~~ warning to the person responsible for the sound. The warning
10 shall advise the person of the violation, and of the possible penalty if the person
11 fails to eliminate the sound or reduce the sound so that it is within permitted
12 allowable limits and it is not plainly audible.

13 (c) ~~If a warning or citation is given to a manager, employee, or agent of a~~
14 ~~business, a letter shall be sent by regular mail to the owner or registered agent of~~
15 ~~the business, as determined by occupational license or other public record,~~
16 ~~notifying him of the warning or citation and of the consequences of further noise~~
17 ~~violations.~~

18 (d) ~~The person receiving the warning shall have a reasonable time to~~
19 ~~comply with the warning. In the case of a radio, television, phonograph, stereo~~
20 ~~set, tape player, CD player, electronic audio equipment, sound amplifier, musical~~
21 ~~instrument, or similar device which produces sound located on a public or private~~
22 ~~right-of-way or a public space in such a manner as to be plainly audible at a~~
23 ~~distance of fifty (50) feet from the source of the sound, a reasonable time is~~
24 ~~immediately upon receiving the warning. For all other violations, a~~
25 ~~Absent special~~
circumstances, reasonable time is 15 minutes.

26 ~~(de)~~ For the purposes of ~~this section these noise regulations~~, it is sufficient
27 warning for all prohibited sounds if the person responsible for such sound has
28 been warned of, or cited for, one or more offending sounds of the same type
29 within the previous 90 days, or in the case of a business, in the time period since
30 ownership of the business changed, whichever is less.

31 ~~(ef)~~ If the sound is not eliminated or is not reduced to allowable limits within
32 a reasonable time after the warning, or if the noise or sound is abated after
33 warning and then reoccurs, the person so warned and not complying shall be
34 cited and/or arrested for a violation of this division and upon conviction shall be
35 subject to the penalties designated in this division.

36 (f) In addition to the enforcement procedures and penalties provided in this
37 section and section 50-358, the county is hereby authorized to institute any other
38 action or proceeding allowed by law, including but not limited to county code
39 enforcement procedures or suit for injunctive relief, in order to prevent or abate
40 violations of this division.

1 **Sec. 50-357. Filing of complaints.**

2 (a) Any complaint regarding a violation of this division ~~a noise disturbance~~
3 must be filed by a person who is an owner or tenant of any building in the vicinity
4 in which the alleged violation occurs, or a person who is in the vicinity of the
5 public or private right-of-way or public space in which the alleged violation occurs
6 so that the alleged violation is plainly audible to that person.

7 (b) When a complaint has been received, the enforcing official shall
8 investigate the charges. If the official finds probable cause to believe the
9 ~~owner/operator~~ person alleged to be causing or allowing to be caused the
10 offending sound is in violation of this division ~~these noise regulations~~, the official
11 shall follow the enforcement procedures set forth in section 50-3565.

12 (c) If the ~~owner/operator~~ person issued a warning does not take corrective
13 action within a reasonable time as defined in subsection 50-3565(cd), or if the
14 ~~noise or sound~~ is abated after warning and then reoccurs, the ~~complainant may~~
15 ~~file a sworn complaint with the enforcing official who may then issue a citation or~~
16 ~~file a sworn complaint with the state attorney.~~

17 (d) Any person found guilty of violating the provisions of this division based
18 ~~on a sworn complaint~~ shall be subject to the penalties in this division.

19
20 **Sec. 50-358. Penalties.**

21 (a) The provisions of this division may be enforced by civil citation or by
22 criminal citation.

23 (b) The first violation of this division by any person, firm or corporation shall
24 be deemed a civil infraction with a minimum fine of \$50 per infraction plus the
25 costs of enforcement, which fine shall be payable to the clerk of court within thirty
26 (30) days of the applicable violation. A second violation by any person, firm or
27 corporation within thirty (30) days of the issuance of a citation for a first violation
28 to such person, firm or corporation shall be deemed a civil infraction with the
29 same minimum fine, costs and method and time for payment as a first violation.
30 Costs of enforcement for civil violations shall include but not be limited to: court
31 costs, attorney fees, administrative fines, and any other fees or costs imposed by
32 statute or ordinance.

33 (c) A third violation of this division by any person, firm or corporation within
34 thirty (30) days of the issuance of a citation for a second violation to such person,
35 firm or corporation shall be deemed a criminal infraction. Any person or persons,
36 firm or corporation, or any agent thereof who violates any of the provisions of this
37 division shall upon conviction be guilty of a second degree misdemeanor offence
38 punishable as provided under sections 775.082 and 775.083, Fla. Stat.

39 (d) Violations of this division may also be processed in accordance with
40 any other enforcement procedure allowed by law.

1 ~~First citation. Any person or persons, firm or corporation, or any agent~~
2 ~~thereof who violates any of the provisions of this division shall upon the first~~
3 ~~citation be deemed a civil infraction with a minimum fee of \$35.00 and the cost of~~
4 ~~enforcement payable to the clerk of the court with 30 days of the violation. Cost~~
5 ~~of enforcement shall include but not be limited to: Court costs, attorney's fees,~~
6 ~~administrative fines and travel expenses. A hearing in county court must be~~
7 ~~requested within 30 days of the cited violation should the offender desire to~~
8 ~~contest the charge.~~

9 ~~(b) Subsequent citations. Any person who violates the provisions of this~~
10 ~~division after previously being adjudicated guilty of a violation of this division shall~~
11 ~~be guilty of an offense.~~
12

13 **Sec. 50-359. Joint and several responsibility.**

14 The owner, tenant or lessee of a property, or a manager, overseer or agent,
15 or any other person lawfully entitled to possess the property from which a sound
16 is emitted in violation of this division at the time the offending sound is emitted,
17 shall be responsible for compliance with this division. It shall not be a lawful
18 defense to assert that some other person caused the sound. The person that
19 lawfully resides on and is the operator of the premises also shall be responsible
20 for operating or maintaining the premises in compliance with this division.
21

22 **SECTION 10. Amendment of Code.** The current Section 50-359, Levy County
23 Code, *Violation may be declared public nuisance*, shall be deleted in its entirety.

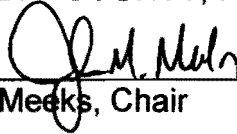
24 **SECTION 11. Severability.** It is declared to be the intent of the Board that if
25 any section, subsection, sentence, clause, phrase, portion or provision of this ordinance
26 is for any reason declared or held invalid or unconstitutional by any court of competent
27 jurisdiction, such section, subsection, sentence, clause, phrase, portion or provision
28 shall be deemed a separate, distinct and independent provision, and the remainder of
29 this ordinance shall be not affected by such declaration or holding.

30 **SECTION 12. Repealing Clause.** All ordinances or parts of ordinances and all
31 resolutions or parts of resolutions of Levy County in conflict herewith are hereby
32 repealed to the extent of such conflict.

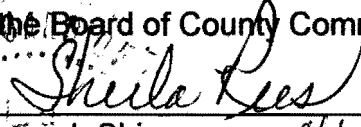
33 **SECTION 13. Effective Date.** This ordinance shall take effect upon its filing in
34 the Office of the Secretary of State, State of Florida.
35
36

1 PASSED AND DULY ADOPTED this 8th day of December, 2015.

2 BOARD OF COUNTY COMMISSIONERS
3 OF LEVY COUNTY, FLORIDA

4 
5 _____
6 John Meeks, Chair
7

8 ATTEST: Danny J. Shipp, Clerk of
9 the Circuit Court and Ex-Officio Clerk
10 to the Board of County Commissioners

11 
12 _____
13 Danny J. Shipp *Chief Deputy*
14

15 APPROVED AS TO FORM AND LEGAL
16 SUFFICIENCY:

17 
18 _____
19 Anne Bast Brown, County Attorney
20

R

21 z:/ord/noise.levy.revisions.final
22 LR2015-023

LEVY COUNTY JOURNAL
PUBLISHED WEEKLY
BRONSON, LEVY COUNTY, FLORIDA

STATE OF FLORIDA,
COUNTY OF LEVY:

Before the undersigned authority personally appeared Linda Cooper, who on oath says she is General Manager of the LEVY COUNTY JOURNAL, a newspaper published at Bronson, Levy County, Florida; that the attached copy of advertisement,

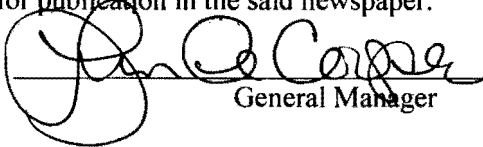
being a Notice of Public Hearing for Enactment of Ordinance 2015-09 by the Levy County Board of County Commissioners

in the matter of ORD No.: 2015-09
Amending Noise Regulations in Chapter 50, Article VIII,
Division 2, Sections 50-346 through 50-359

On December 8, 2015 at 9:00 AM in the Board of County Commissioners Meeting Room at Levy County Courthouse, 355 S. Court St., Bronson, Levy County, Florida

was published in the said newspaper in the issues of:
November 26, 2015
as well as being posted on FloridaPublicNotices.com

Affiant further says that the said LEVY COUNTY JOURNAL is a newspaper published at Bronson, in said Levy County, Florida, and that the said newspaper has heretofore been continuously published in said Levy County, Florida, each week and has been entered as second class mail matter at the post office in Bronson, in said Levy County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

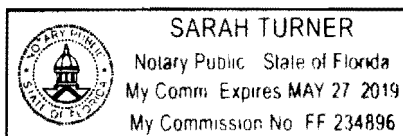

General Manager

Sworn to and subscribed before me, and is personally known to me, appeared Linda Cooper, who did take an oath, this

26 day of Nov., A.D., 2015.


Signature, Notary Public

My commission expires: (SEAL)



**NOTICE OF ENACTMENT OF
ORDINANCE 2015-09
BY THE BOARD OF COUNTY
COMMISSIONERS OF LEVY
COUNTY, FLORIDA.**

NOTICE IS HEREBY GIVEN the proposed Ordinance amending Chapter 50, of the Levy County Code by amending the noise regulations, found in Article VIII, Division 2, Sections 50-346 through 50-359, will be considered for enactment by the Levy County Board of County Commissioners, at a public hearing on Tuesday, December 8, 2015 at 9:00 a.m., or as soon thereafter as the same may be heard, in the Board of County Commissioners Meeting Room, Levy County Courthouse, 355 S. Court Street, Bronson, Florida. Copies of said Ordinance may be inspected by any member of the public at the Office of the Board of County Commissioners located at 355 S. Court Street, Bronson, Florida, during regular business hours or contact by phone at (352) 486-5217. On the date, time and place first above-mentioned, all interested persons may appear and be heard with respect to the proposed Ordinance.

2015-09

AN ORDINANCE OF LEVY COUNTY, FLORIDA, PROVIDING THAT THE LEVY COUNTY CODE BE AMENDED BY AMENDING THE NOISE REGULATIONS IN CHAPTER 50, ARTICLE VIII, DIVISION 2, SECTIONS 50-346 THROUGH 50-359 OF SUCH CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

All persons are advised that, if they decide to appeal any decisions made at this public hearing, they will need a record of the proceedings and, for such purpose, they may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring reasonable accommodations to participate in this meeting should contact the County Commissioners Administration Office at (352) 486-5216.

John Meeks, Chairman
Levy Co. Board of County
Commissioners

Pub. Nov. 26, 2015

