

**ORDINANCE NO. 1197**

AN ORDINANCE OF PANAMA CITY BEACH COUNCIL RELATING TO NOISE; PROVIDING FOR PURPOSE; PROVIDING FOR AUTHORITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICATION AND SETTING FORTH THE POWERS OF A NOISE CONTROL ADMINISTRATOR AND NOISE CONTROL OFFICERS; PROVIDING MAXIMUM PERMISSIBLE SOUND LEVELS GENERALLY; PROVIDING MAXIMUM PERMISSIBLE SOUND LEVELS LIMITS FOR SOUND PRODUCTION DEVICES SPECIFICALLY; PROVIDING FOR MEASUREMENT OF SOUND; PROHIBITING THE CREATION OR MAINTENANCE OF NOISE IN VIOLATION OF THIS ORDINANCE; PROVIDING EXEMPTIONS AND RESTRICTED USE REGULATIONS; PROVIDING FOR VARIANCES; PROVIDING FOR ENFORCEMENT, VIOLATIONS AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE OF JUNE 24, 2011.

BE IT ORDAINED BY THE CITY COUNCIL OF PANAMA CITY BEACH, FLORIDA, AS FOLLOWS:

**SECTION 1. PURPOSE.**

The purpose of this ordinance is to establish specific permissible noise limits in order to provide for the abatement, prevention and prohibition of excessive and unnecessary Noise so as to protect the health, safety, and general welfare of the residents of Panama City Beach. Excessive and unnecessary Noise can cause adverse psychological and physiological effects on humans, and deprive people of the peaceable enjoyment of their private property.

This ordinance provides clear guidance to both enforcement agencies and regulated Noise sources, with ease and certainty of compliance being the primary goal.

**SECTION 2. AUTHORITY.**

The authority for the enactment of this Ordinance is Section 166.021, Florida Statutes, and the State Constitution.

**SECTION 3. DEFINITIONS.**

For the purpose of this Ordinance, the following terms, phrases, words, abbreviations and their derivations shall have the meaning herein given. When not inconsistent with the context,

words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their common and ordinary meaning, or for those so included, the meaning found in this ordinance.

**"A" weighted sound level (A Scale)** means the sound level as measured using the "A" weighting network with a Sound Level Meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(A). Sounds measured with the "A" weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.

**"Affected Person"** means any person who has lodged a Noise complaint with an authorized enforcement agency that he or she is the receptor of Noise on property within the City, and said Affected Person has an interest in the property as an owner, tenant, or employee.

**"Ambient Sound Level"** means that measured value which represents the summation of sound from all of the discrete sources affecting a given site at a given time, exclusive of Extraneous Sounds, and those from the source under investigation. Examples of ambient sounds include steady traffic of properly muffled vehicles or the surf. Ambient Sound Level is synonymous with background sound level. Ambient sounds are differentiated from Extraneous Sounds by the fact that the former are produced consistently, although they may not be continuous.

**"ANSI"** means the American National Standards Institute which serves as the administrator and coordinator of the United States private sector voluntary standardization system. ANSI facilitates development of American National Standards (ANSs) by establishing consensus among qualified groups. ANSs in the fields of acoustics and sound measurement are developed by the Acoustical Society of America in order to standardize practices and equipment.

**"Boom Box"** is slang for and means a self-contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this ordinance. For purposes of enforcing this Noise Ordinance, however, a Boom Box shall not be considered a Sound Production Device.

**"Boom Car"** is slang for and means a personal or commercial vehicle with music amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this ordinance.

**"C" weighted sound level (C Scale)** means the sound level as measured using the "C" weighting network with a Sound Level Meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low Frequencies than is the "A" weighting network.

**“Commercial Property”** means any premises solely containing businesses where sales, offices, professional services, or other commercial use is legally permitted.

**"Continuous Sound"** means any sound with a duration of more than one second, as measured with a Sound Level Meter set to the "slow" meter response.

**"Construction"** means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

**"Decibel (dB)"** means a relative unit for the measurement of sound pressure. It is based upon a reference pressure of 20 micropascals (zero Decibels) which is the average threshold of hearing for a person with very good hearing. The Decibel scale is logarithmic, and as such, an increase or decrease of 3 dB is a doubling or halving of sound pressure, respectively.

**"Emergency Energy Release Device"** means a device used specifically to release excess energy on a non-scheduled basis as necessary for purposes of safety.

**"Emergency Work"** means any work or action necessary to deliver essential public services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

**"Extraneous Sound"** means a sound of high intensity and relatively short duration which is neither part of the ambient sound, nor comes from the sound source under investigation. Examples of Extraneous Sounds include: an unmuffled vehicle passing the measurement location; an aircraft overflight; a pedestrian talking loudly; a quick wind gust rustling leaves. Extraneous Sounds shall be excluded from measurements of the Ambient Sound Level and the Total Sound Level.

**"Frequency"** means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz). "Frequency" is sometimes colloquially referred to as "pitch." Low Frequency sounds can correspond to the bass notes in music. Low Frequency sound waves travel farther and penetrate structures more efficiently than high Frequency sound waves.

**"Impulsive Sound"** means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of one second or less.

**“Industrial Property”** means any premises where manufacturing, processing, production, shipping, or equipment or materials storage yards, or any combination of them, is legally permitted.

**"Motor Vehicle"** means any vehicle that is propelled other than by human or animal power on land. This includes but is not limited to: trucks, automobiles, motorcycles, and off-road vehicles.

**"Muffler"** means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment. The Muffler must be designed to substantially reduce the level of the sound emissions, and may not exceed the sound levels of the original Muffler supplied by the manufacturer, or accentuate the low frequencies of these emissions.

**"Multi-dwelling unit building"** means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

**"Multi-use Property"** means any single and distinct parcel of land that maintains two or more major uses. Examples include, but are not limited to:

1. A property which contains a commercial, residential or industrial use or Public Service Facility having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels for another use on the same distinct parcel of land; or
2. A building which maintains both commercial (usually on the ground floor) and residential uses.

**"Noise"** means, for the purposes of this ordinance, any sound not in compliance with the provisions of this ordinance.

**"Noise Control Administrator"** means the City Manager, or person(s) designated by the City Manager to oversee enforcement of this ordinance, to review and act upon applications for variances, and perform other duties specified herein.

**"Noise Control Officer"** means an employee of the City who has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons in order to be considered a noise control officer.

**"Noise Sensitive"** means a facility whose daytime operations may be detrimentally impacted by excessive sound levels, but do not necessarily require sleep protection at night. Such facilities include but are not limited to:

1. schools;
2. houses of worship;
3. outpatient medical facilities.

**"Person"** means any individual, association, partnership, or corporation, and includes any officer,

employee, department, agency or instrumentality of the United States, the State, or any political subdivision thereof.

**“Plainly Audible”** means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify Plainly Audible sound. The Noise Control Officer need not determine or be able to discern the title, specific words, or the artist performing the song.

**“Private right-of-way”** means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

**“Public Service Facility”** means institutions such as schools, churches, libraries, and government offices and the property on which such uses are located.

**“Public right-of-way”** means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

**“Real Property Line”** means either (a) the imaginary line including its vertical extension that separates one parcel of real property from another; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

**“Receptor”** means the location where persons are located who are annoyed by Noise or sound they hear coming from another property.

**“Residential Property”** means and includes property used for human habitation, unless the habitation is a condition of employment, including, but not limited to:

1. private property used for human habitation;
2. commercial living accommodations and commercial property used for human habitation;
3. hospitals.

**“Sound Level Meter”** means an instrument that conforms to ANSI S1.4-1983 or its successors.

**“Sound Production Device”** means any device whose primary function is the production of sound, including, but not limited to any musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

**"Total Sound Level"** means that measured level which represents the summation of the sounds from the sound source under investigation and the ambient sounds which affect a given place at a given time, exclusive of Extraneous Sound sources.

**"Tourist District"** means and includes any property which fronts Front Beach Road, South Thomas Drive or Thomas Drive.

#### **SECTION 4. APPLICABILITY.**

This Ordinance shall be applied only to facilities and operations about which an Affected Person has lodged a complaint with an authorized enforcement agent or agency. Sound level measurements for compliance determination shall be conducted only on the property of the Affected Person regardless of whether there are other Receptors in closer proximity to the source under investigation, unless a specific provision in this ordinance requires compliance measurements at another location. The requirement of a prior complaint does not apply to portable or vehicular sound sources operated in a public space or public right of way.

#### **SECTION 5. NOISE CONTROL ADMINISTRATOR**

The Noise Control Administrator shall have the power to:

- A. Coordinate the noise control activities of all departments in Panama City Beach and cooperate with all other public bodies and agencies to the extent practicable; and
- B. Consider the actions of the City Council of Panama City Beach and advise of the effect, if any, of such actions on noise control; and
- C. Review and advise on the appropriateness of public and private projects which require the mandatory review or approval by other departments or boards, in order to assist in the determination of whether the proposed project may have difficulty in complying with this ordinance, however this review shall not be construed as mandatory or the findings as binding; and
- D. Promulgate and publish rules and procedures to establish techniques for measuring Noise, and to provide for clarification, interpretation, and implementation of this Ordinance; and
- E. Periodically review the provisions of this Ordinance and recommend revisions consistent with technology to reduce Noise, or to address new sound sources within Panama City Beach, provided, however, that failure to review or recommend revisions shall not affect the validity of the provisions then in effect; and

- F. Review and revoke enforcement grace periods pursuant to Section 13, below; and
- G. Revoke Permits of Variance pursuant to Section 12, below.

#### **SECTION 6. NOISE CONTROL OFFICERS.**

Where the provisions of this ordinance require the measurement of sound with the use of a Sound Level Meter, such measurement shall be made by Noise Control Officers. A person shall be qualified to be a Noise Control Officer if the person meets the criteria set forth in the definition above and completes, at a frequency specified by the Noise Control Administrator, a noise certification or re-certification course which has been approved by the Administrator. When no measurement of the sound level is necessary to determine whether a sound is in violation of the provisions of this ordinance, or when the level of sound is measured by a Noise Control Officer as being in violation of the provisions of this ordinance, any law enforcement officer having jurisdiction in the area where the violation takes place may issue a summons for violations of this Ordinance.

Noise Control Officers shall have the power to:

- A. Investigate and pursue possible violations of this ordinance for sound levels which equal or exceed the sound levels set forth in Section 8 of this Ordinance, and upon confirming violations of this Ordinance, have the authority to issue citations or summons, or both, for same.
- B. Cooperate and assist any law enforcement officer in Panama City Beach in measuring sound to determine if same is in violation of this Ordinance or any other ordinance having provisions requiring the measurement of sound with Sound Level Meters.

#### **SECTION 7. CLASSIFICATION OF USE OCCUPANCIES.**

For purposes this ordinance, "use occupancy" shall mean the primary use of the property of the Affected Person. In the cases of Multi-use Property, the Affected Person's primary use of the property shall determine the classification. Any property or use not otherwise classified shall conform to Receptor and source standards for Commercial Property.

#### **SECTION 8. PROHIBITIONS.**

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

**A. Maximum permissible sound levels by receptor use occupancy measured under the A Scale.**

No person shall operate or cause to be operated any source of sound from any use occupancy in such a manner as to create a sound level which exceeds the limits set forth in the Receptor's use occupancy category in Table I, when measured as per the requirements of Section 9 below.

These limits may not be exceeded by incidents representing the normal, usual operation of the sound source, during any three sampling intervals, the duration of which shall be no less than one half minute, within any one hour period. If the total duration of the sound under investigation is less than one and one half minute, the requirement for three measurements shall be waived. For example, if a motor fan belt was to squeal for twenty seconds upon starting, but the sound was emitted with regularity from this source, a single measurement shall be sufficient. If a sound source terminates operation in response to the presence of a Noise Control Officer, a single measurement shall be sufficient.

**TABLE I  
MAXIMUM PERMISSIBLE CORRECTED SOUND LEVEL LIMITS  
BY RECEPTOR USE OCCUPANCY  
dB(A)**

Residential 7:00 a.m. – 12:00 p.m.  Noise Sensitive 24 hours	Residential 12:00 p.m. – 7:00 a.m.	Commercial or Public Service Facility 24 hours	Industrial 24 hours
OUTDOORS			
60	50	65	75
INDOORS			
45	35	50	65

Indoor measurements shall only be taken if the sound source is on or within the same property occupied by the Affected Person, as in the case of a Multi-dwelling Unit Building or a Multi-use Property (e.g., sound generated within a commercial unit of a multi-use property building and received within a residential unit of the same building or if the Real Property Line between the Receptor and the source property is a common wall, floor or ceiling.



If the residential or Noise Sensitive Receptor is within the Tourist District, or within 200 feet of the Tourist District, the permissible sound level limit between the hours of 7:00 a.m. – 12:00 p.m. are increased by 5 dB(A).

**B. Impulsive Sound:**

Between 7:00 a.m. and 12:00 p.m., Impulsive Sounds which occur less than ten times in an hour shall not equal or exceed 20 Decibels above the permissible sound level limits in Table I. Impulsive Sound which repeats ten or more times in any hour shall not exceed the permissible sound level limits in Table I.

Between the hours of 12:00 p.m. and 7:00 a.m., Impulsive Sounds which occur less than four times in an hour shall not equal or exceed 20 Decibels above the permissible sound level limits in Table I. Impulsive sound which repeats four or more times in any hour shall not exceed the permissible sound level limits in Table I.

**C. Additional limit for Sound Production Devices measured under the C Scale:**

In addition, no person shall operate or cause to be operated any Sound Production Device from any property in such a manner as to raise the Total Sound Level above the Ambient Sound Level by the permissible sound level limits set forth in Table II when measured in accordance with the applicable provisions of Section 9 (sub-sections A, B, C, F and I), at the Real Property Line of the source or 10 feet from the structure from which the sound is emitted, whichever distance is greater from the source of sound.

These limits may not be exceeded during any three sampling intervals, the duration of which shall be no less than one half minute, within any one hour period. If the total duration of the sound under investigation is less than one and one half minute, the requirement for three measurements shall be waived.

**TABLE II  
SOUND PRODUCTION DEVICES  
MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS**

**dB(C) INCREASE IN TOTAL SOUND LEVEL ABOVE AMBIENT SOUND LEVEL**

Sources in Tourist District <sup>1</sup>	
Week nights 12:00 a.m. - 7:00 a.m. Weekend nights 12:00 a.m - 9:00 a.m.	All other times

6 dB(C)	12 dB(C)
Residential Receptors in All Other Locations <sup>2</sup>	
Week nights 10:00 p.m. - 7:00 a.m. Weekend nights 12:00 a.m - 9:00 a.m.	All other times
3 dB(C)	6 dB(C)

- 1 - Measured at the Real Property Line of the source or 10 feet from the structure from which the sound is emitted, whichever distance is greater from the source of sound.
- 2- Measured at or within the Real Property Line of the Affected Person.

**D. Steady Pure Tones:**

If the sound source under investigation is a mechanical device, and is, in the opinion of the investigating officer, emitting a sound with a steady tonal quality, the permissible sound level limits in Table I shall be reduced by 5 dB(A). The sound emissions must be comprised of a single Frequency or a narrow cluster of Frequencies, which may be referred to as a whine, hum or buzz. The measured sound levels of such a source must not fluctuate by more than plus or minus 3 dB(A). Such sound sources include, but are not limited to: heating, ventilating or air-conditioning units; refrigeration units; and transformers. This provision shall not apply to residential HVAC equipment.

**E. Residential HVAC Equipment**

Residential HVAC equipment shall not exceed 60 dB(A) between the hours of 7:00 AM and 12:00 PM on the property of an affected residence when measured in an outdoor area that is regularly used by the Affected Person. An example of these areas may include: a patio or deck, a picnic area, poolside areas, etc.

Residential HVAC equipment shall not exceed 40 dB(A) between the hours of 12:00 PM and 7:00 AM when measured within the sleeping quarters of the Affected Person.

**SECTION 9. MEASUREMENT OF SOUND AND COMPLIANCE DETERMINATION.**

- A. The Sound Level Meter and calibrator shall be re-certified annually at a laboratory approved by the Noise Control Administrator. A field check of meter calibration and batteries shall be conducted before and after every set of measurements, and at least every hour as necessary. The Sound Level Meter shall be adjusted to the output of the calibrator, as specified by the manufacturer. If the Sound Level Meter cannot be adjusted to the output of the calibrator, then the meter shall be taken out of use until repaired. If the Sound Level Meter drifts by more than 0.5 dB between calibrations, all measurements

taken since the last valid calibration shall be voided.

- B. Wind speed measurements shall be taken at the sound measurement location, and sound level measurements shall not be conducted when the wind speed exceeds the specifications set forth by the Sound Level Meter manufacturer. Measurements may be taken in a location where the microphone is shielded from excessive wind speeds. No outdoor measurements shall be conducted without a windscreen affixed to the sound meter microphone.
- C. The Noise Control Officer shall positively identify the source of sound by conducting a survey of the immediate vicinity so as to establish the approximate location and character of the main source, and to select suitable locations for the measurement of the Total Sound Level and the Ambient Sound Level.
- D. Total Sound Level measurements shall be conducted at or within the Real Property Lines of the Affected Person, unless otherwise provided in this Ordinance. The location of outdoor measurements, at the discretion of the Noise Control Officer, must represent a location on that property which would see regular use by the complainant during the day, or be within 25 feet of the residential structure at night. The Sound Level Meter reading range (minimum to maximum) shall be noted during the period of observation, excluding Extraneous Sounds. The reported Total Sound Levels shall represent the normal and usual operations of the source under investigation for the time periods under observation.
- E. When conducting indoor sound level measurements, the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may be closed, at the discretion of the Noise Control Officer. The configuration of the windows and doors shall be the same when measuring Total and Ambient Sound Levels, and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.
- F. Ambient Sound Level measurements shall be conducted in such a manner as to quantify the contribution of the background sound sources to the location at which the Total Sound Measurements were conducted. If sound from the source under investigation can reasonably be discontinued, these measurements shall be conducted at the same location at which the Total Sound Level measurements were conducted, while the source under investigation is not operating. If sound from the source under investigation cannot reasonably be discontinued then alternative measurements may be taken by one of the following methods: walking away from the sound source until the sound level drops sufficiently to calculate a Corrected Source Sound Level (below), or; behind a barrier which blocks the sound from the source under investigation, but not the sound of the ambient sound sources, or; in a similar neighborhood with a similar distribution of

structures and traffic. The choice of an alternate location or time for these measurements must take into consideration the primary source(s) of ambient sound, and remain equidistant to those sources at the new measurement location when compared to the distance between these sources and the location at which the Total Sound Level measurements were conducted on the property of the Affected Person. The Sound Level Meter reading range (minimum to maximum) shall be noted during the periods of observation, excluding Extraneous Sounds.

- G. The Corrected Source Sound Level shall be calculated by subtracting the Ambient Sound Level from the Total Sound Level, as per Table III, below. This provision shall not apply to the measurement of Sound Production Devices (see I, below) under the C Scale.

**TABLE III  
CORRECTION FOR  
AMBIENT SOUND LEVELS  
dB(A)**

<b>Difference between Total Sound Level and Ambient Sound Level (TSL – ASL) in dB(A)</b>	<b>Correction Factor to be Subtracted from Total Sound Level to Calculate Corrected Source Sound Level</b>
0-2	Source Level < Ambient Sound Level
3	3
4,5	2
6-9	1
10 or more	0

**Procedure for Using Table III**

Step 1: Subtract the maximum measured Ambient Sound Level from the maximum measured Total Sound Level.

Step 2: Refer to Table III to determine the correction factor for the difference calculated in Step 1.

Step 3: Subtract the correction factor from the maximum measured Total Sound Level. The resultant number is the Corrected Source Sound Level.

- H. Compliance determination shall be based upon the Corrected Source Sound Level.
  1. No violation shall be based upon any exceedance that is the result of numerical rounding.
  2. Allowances shall be made for the accuracy of the meter, as per manufacturer's specifications.
  3. A violation shall only be confirmed if the Corrected Source Sound Level exceeds both the permissible sound level limits (Table I) and the measured Ambient Sound Levels.

- I. Compliance determination of Sound Production Devices under the C Scale shall be based on the difference between the Total Sound Level and the Ambient Sound Level, compared to the permissible limits in Table II. Calculating the Corrected Source Sound Level per Table III is not necessary.

#### **SECTION 10. EXEMPTIONS.**

A. Construction operations between 7:00 a.m. and 10 p.m. on Monday through Friday and between 8:00 a.m. and 7:00 p.m. on Saturday 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 accordance with its manufacturers' specifications and uses as standard equipment, its manufacturers' Mufflers and noise-reducing equipment and in proper operating condition.

B. Emergency Energy Release Devices, or facility-wide warning devices.

C. Back-up alarms so long as they are self-adjusting to Ambient Sound Levels.

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. Any other Noise resulting from activities of a temporary duration permitted by law and for which a variance therefore has been granted by the City in accordance with Section 12. Regulation of Noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained in Section 12.

G. Noises made by persons having obtained a permit to use the public streets for open-air short term events, such as fairs, festivals, concerts, etc., or a "Special Event" as defined by the City Code.

H. All Noises coming from the normal operations of aircraft (not including scale model aircraft).

I. Motor Vehicles defined in Florida Statutes, Section 316.003 (2000). This exemption shall only extend to the locomotion of the vehicle, not any Sound Production Devices on or in the vehicle.

J. Vessels operated on the waters of the Panama City Beach muffled pursuant to Section 327.65, Florida Statutes, (2009).

K. Unamplified Sound Production Devices while being used in conjunction with on-going religious services.

L. Non-amplified crowd Noises.

M. Agricultural activities, when all internal combustion engines are equipped with a properly functioning Muffler.

N. Impulse sound resulting from the controlled detonation of explosives at quarries and Construction sites.

O. Sanitation vehicles on a public right of way.

P. Road construction or maintenance projects.

Q. Normal operation of a handgun, rifle, shotgun, skeet shooting or trapshooting range which was sited and in operation prior to the enactment date of this ordinance.

## **SECTION 11: RESTRICTED USES AND ACTIVITIES**

Notwithstanding the provisions of Table I and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

A. Excluding Emergency Work, power tools, home maintenance tools, landscaping or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of sunset and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I. At all other times the limits set forth in Tables I do not apply to non-commercial or non-industrial power tools used for landscaping maintenance. All motorized equipment used in these activities shall be operated with a Muffler or sound reduction device, or both.

B. Excluding Emergency Work, power tools, landscaping or yard maintenance equipment used by commercial operators shall not be operated on a residential, commercial, Industrial or public (e.g. golf course) property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I. At all other times the limits set forth in Tables I do not apply to maintenance on a residential property by commercial operators. All motorized equipment used in these activities shall be operated with a Muffler and/or sound reduction device.

C. All interior and exterior burglar alarms of a building or Motor Vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for Continuous Sound and fifteen (15) minutes for intermittent sound after it has been activated. For alarms operating beyond the durations set forth herein, the limits set forth in Tables I or II shall apply.

D. Self-contained, portable, hand-held Sound Production Devices, including but not limited to devices such as Boom Boxes, radios, stereos, or any similar device shall not be operated on a public space or public right-of-way in such a manner as to be Plainly Audible at a distance of 50 feet in any direction from the operator between the hours of 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 7:00 a.m., sound from such equipment shall not be Plainly Audible by any person other than the operator.

E. Personal or commercial vehicular Sound Production Devices, including but not limited to vehicles referred to as "broadcast vehicles" or Boom Cars, shall not be operated in such a manner as to be Plainly Audible at a distance of 50 feet in any direction from the equipment between the hours of 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 7:00 a.m. such equipment shall not be operated in such a manner that it is Plainly Audible at a distance of 25 feet in any direction.

F. Nuisance animal enforcement shall be conducted pursuant to Chapter 5 of the City Code of Ordinances.

## SECTION 12. VARIANCES.

- A. Any person who owns or operates a sound source, or intends or desires to operate or maintain a sound source, for one of the following purposes may apply for a variance from the City Council:
1. private or public celebrations;
  2. nighttime Construction projects; or
  3. homeowner Construction projects.
- B. Applications for a permit of variance shall supply information including, but not limited to:
1. The nature and location of the Noise source for which such application is made;
  2. The reason for which the permit of variance is requested, including the hardship, if any, that will result to the applicant or the public if the permit of variance is not granted;
  3. The nature and intensity of Noise that will occur during the period of the variance;
  4. A description of interim Noise control measures to be taken by the applicant to

5. minimize Noise and the impacts occurring therefrom; and
5. The name, address and means of contacting a responsible party during the hours of operation for which the permit of variance is issued.
- C. The City Council may charge the applicant a fee established by Resolution of the City Council to cover expenses resulting from the processing of the permit of variance application.
- D. In making the determination on granting a variance, the City Council shall consider:
  1. The character and degree of injury to, or interference with, the health and welfare of the reasonable use of adjacent property which is caused or threatened to be caused by the sound to result from the permit of variance;
  2. The social and economic value of the activity for which the variance is sought; and
  3. The ability of the applicant to apply best practical Noise control measures.
- E. The permit of variance shall enumerate the conditions of the variance, including but not limited to:
  1. Specific location, dates and times for which the variance is valid;
  2. Sound level limits which shall not be exceeded at the nearest affected residential or Noise Sensitive property;
  3. The use Noise control measures to minimize Noise impacts on adjacent property.
- F. A variance may be revoked by the Noise Control Administrator and the issuance of future variances withheld, if there is:
  1. Violation of one or more conditions of the variance;
  2. Material misrepresentation of fact in the variance application; or,
  3. Material change in any of the circumstances relied upon by the Noise Control Administrator in granting the variance.

### **SECTION 13. ENFORCEMENT.**

- A. This section governs the initiation of enforcement actions, the issuance of citations or summons for violations of this Ordinance, and the imposition of penalties for violations of this Ordinance.
- B. If a person violates any provision of this Ordinance, or an order issued pursuant thereto, the enforcement agency may issue a citation or summons, institute an action in a court of competent jurisdiction for injunctive relief, or any or all of them, to prohibit and prevent such violation or violations, in which event the matter shall proceed as a summary matter in a court of competent jurisdiction.



- C. Any person violating any provision of this ordinance may be punished as follows:
1. First Offense: By a fine of one hundred dollars (\$100.00).
  2. Second Offense: By a fine of two hundred and fifty dollars (\$250.00).
  3. Third offense or two or more violations occurring within any six months period: Misdemeanor of the second degree punishable by a fine of no more than \$500.00 or a sentence of not more than sixty (60) days in jail, or both.
  4. Any Motor Vehicle found to be in violation of Section 11(F) of this Ordinance may be subject to towing and impoundment. If the vehicle is redeemed from the auto pound within 24 hours, the redemption fee shall be seventy five dollars (\$75), which is not inclusive of the fine.
  5. Each day that a nuisance Noise exists shall constitute a separate violation of this ordinance.
- D. The enforcement agency shall classify a violation as a "major" or "minor" violation for the purposes of issuing an enforcement document and compliance grace period. If compliance is achieved during the grace period, then no fine shall be levied. A violation shall be classified as a major violation if it is not deemed a minor violation. A violation, regardless of how intense, is deemed to be minor if:
1. The violation is not the result of willful, reckless or grossly negligent conduct of the violator; and
  2. The activity or condition constituting the violation has not been the subject of an enforcement action against the violator in the immediately preceding 12 months; and
  3. The violation is not the result of the operation of a Sound Production Device of any kind, with the exception of safety warning devices.
- E. If the violation is deemed to be minor, the enforcement agency shall notify the violator that the activity or condition must be corrected and compliance achieved within 30 days or less, at the discretion of the enforcement agency, or any other reasonable period of time, not to exceed 180 days, to be determined based upon the nature, extent and impact of the violation and a reasonable estimate of the time needed to correct the violation. The violator may request, from the enforcement agency, an extension of the compliance deadline and the enforcement agency may approve any reasonable request for an

extension in the violator can demonstrate that a good faith effort has been made to achieve compliance. The Noise Control Administrator shall offer special consideration, during the six month period immediately following final enactment of this ordinance, for pre-existing sound sources which will require physical plant modifications to come into compliance.

- F. If the violation is deemed to be minor, the enforcement agency shall notify the violator that if s/he achieves compliance within the period of time specified in the enforcement document, the enforcement agency shall not seek to collect a civil penalty from the violator for that violation.
- G. If, during the grace period, the sound emissions for which the violation has been assessed increase in duration or intensity, the Noise Control Administrator may revoke the grace period. In determining whether to revoke the grace period, the Noise Control Administrator may consider the following factors including but not limited to: the relative increase in intensity; whether the change of sound emissions is directly related to ongoing sound abatement measures, and; the anticipated duration of the increased sound levels.
- H. If the violator does not correct a minor violation within the period of time specified in the enforcement document, the violation is reclassified as major, and the enforcement agency may seek injunctive relief and/or a penalty for a violation of this ordinance. If the enforcement agency has reason to believe that the violator is not acting in good faith during the grace period, they may conduct further investigations during that period, and if the violator has not achieved compliance within the period of time specified in the enforcement document, the enforcement agency may prosecute any violations documented during the grace period.
- I. If the violation is not deemed to be minor, it shall be classified as a major violation and the enforcement agency shall notify the violator that s/he will not be allowed a period of time to correct the violation before a penalty is sought, and that s/he may be liable to a civil penalties and imprisonment for that violation, and that the enforcement agency may seek summary injunctive relief.
- J. Any claims for a civil penalty may be compromised and settled based upon the following factors:
  - 1. Mitigating or other extenuating circumstances;
  - 2. The timely implementation by the violator of measures which lead to compliance;
  - 3. The conduct of the violator; and
  - 4. The compliance history of the violator.
- K. The owner of the property, or any person lawfully entitled to possess the property or manage a business premises from which the offending sound is emitted at the time the

offending sound is emitted shall be jointly and severally liable for compliance with this ordinance even if not present upon or in the property and each shall be punished for its violation as shall the person or persons actually causing such sound. It shall not be a lawful defense to assert that some other person caused the sound. The lawful possessor, manager or operator in or on the property shall be responsible for operating or maintaining the property in compliance with this ordinance, and arrest and penalties shall be applied to such person or persons as well as to the person or persons actually causing the sound.

- L. Any owner, lessee, agent, supervisor, or other person in charge of operating, ordering, directing or allowing the operation or maintenance of any device or machine creating a nuisance Noise as prohibited in this ordinance, shall be deemed guilty of violating this ordinance.

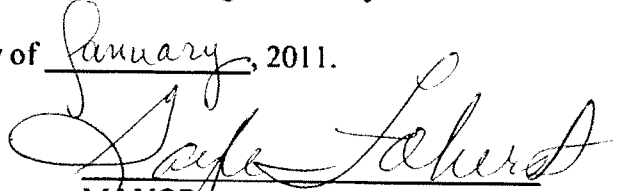
**SECTION 14. SEVERABILITY.** Each separate provision of this Ordinance is deemed independent of all other provisions herein so that if any portion or provision of this Ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

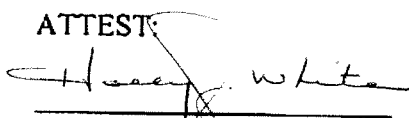
**SECTION 15. EFFECTIVE DATE.** This Ordinance shall become effective June 24, 2011.

**SECTION 16. CODIFICATION.** The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, after its effective date and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.


January 24, 2011

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of  
the City of Panama City Beach, Florida, this 27<sup>th</sup> day of January, 2011.

  
MAYOR

ATTEST:  
  
CITY CLERK

EXAMINED AND APPROVED by me this 27<sup>th</sup> day of January, <sup>2011</sup>~~2010~~.

  
MAYOR

POSTED AT:

Panama City Beach City Hall Dated: February 1, 2011

Panama City Beach Public Lib Dated: February 1, 2011

W Panama City Beach Post Ofc Dated: February 1, 2011