



CITY OF FORT LAUDERDALE

**DRAFT**  
**MEETING MINUTES**  
**CITY OF FORT LAUDERDALE**  
**NOISE CONTROL ADVISORY COMMITTEE (NCAC)**  
**TUESDAY, JANUARY 25, 2022 – 1:00 P.M.**

**July 2021 – June 2022**

**Attendance**

Eugenia “Genia” Ellis, Chair	P	1	0
Jacqueline Scott, Vice-Chair	P	1	0
Ralph Stone	P	1	0
Rocco Ferrara [arrived 1:06]	P	1	0
Steven Hudson	A	0	1
Chad McCoury	P	1	0
Dev Motwani	P	1	0
Miquel Pilgram	P	1	0
Tim Petrillo	P	1	0
Renee Quinn	P	1	0

**Call to Order & Determination of Quorum**

Chair Ellis called the meeting to order at 1:05 P.M.

Roll was called and a quorum was present.

**Staff**

- Greg Chavarria, Assistant City Manager and Liaison
- Porshia Williams, Assistant Director, Development Services Department
- Alain E. Boileau, City Attorney
- Stephanie Bass, Code Compliance Supervisor
- Sarah Spurlock, Nighttime Economy Manager
- Donna Varisco, Executive Assistant to the City Manager
- Amber Cabrera, Senior Management Fellow
- Carla Blair, Recording Secretary, Prototype, Inc.

**Communication to the City Commission**

**Motion** was made by Mr. Stone, seconded by Mr. Pilgram, recommending that the City of Fort Lauderdale hire a noise consultant to assist the City in updating and qualifying any proposed changes or amendments to the City’s existing Noise Ordinance, paying special attention to advising on various possible methodologies, while also providing a holistic approach. The advisory committee advised that the noise consultant hired have expertise in modern, large city, downtown, and beach environments, that consist of a mix of residential, business/commercial, and special entertainment districts that have experienced a robust growth of the business sector and residential sector. The consultant’s report should include a recommendation of appropriate dBC levels, for each area in question, rather than a primary focus on dBA levels. In a voice vote, the **motion** passed unanimously (9-0).

### **Approval of the November 30, 2021, Meeting Minutes**

A **motion** was made by Mr. Petrillo, seconded by Mr. McCoury, to approve the November 30, 2021, meeting minutes. In a voice vote, the **motion passed** unanimously (9-0).

### **New Business**

#### Presentation/Discussion

- Chapter 17 - Noise Control & Code Compliance
- Chapter 11 - Code Enforcement

Porshia Williams, Assistant Director, Development Services Department, introduced herself and her colleague, Stephanie Bass, Code Compliance Supervisor. She began the presentation reviewing the resource devices used to measure noise. The first is a handheld sound measurement device purchased from Amazon. She noted it is not calibrated but it is a resource they can equip all Code Officers with. The second item is a professional sound meter which is calibrated and used for formal enforcement. She stated they recently procured a stationary sound measurement device from NTI Solutions. It has not been deployed in the field yet, but they did conduct 60 days of testing on the device last year. The device will allow the stationary meter to be placed in a set location, establish decimal levels for area, record sound, and send an alert if necessary. It would be placed in a public right-of-way or at the business or residence with permission from the owner. The device has been used frequently in the Fort Lauderdale downtown area. It was used to see if it would improve the response to noise complaints, staff training and certification in noise. Ms. Williams said all Code Officers are certified in noise. She then asked the Committee if they had any questions.

Ms. Scott asked if the handheld device is something she could use and what is its purpose.

Ms. Williams responded that if a private citizen uses it, it cannot be used as primary evidence. However, if a Code Officer observed it, then it can be used in support of additional evidence.

Ms. Scott noted that since they are not calibrated, it sounds like a joke. She inquired whether the City has a lot of non-calibrated devices.

Ms. Williams replied that those are standard issue, but they have handheld calibrated device.

Ms. Scott asked if they will be phasing out the non-calibrated devices.

Ms. Williams noted they will not phase them out since they can still be used to do readings. She confirmed they can then move to calibrated devices to issue violations.

Mr. McCoury suggested the handheld devices can help establish patterns.

Ms. Scott said it sounds like they respond to calls using a handheld device and if the noise is elevated, they need to dispatch another person to the scene.

Ms. Williams replied not necessarily. She noted most noise complaints are received on the weekends and the weekend Officers have calibrated handheld devices on them. She stated during the week, on routine calls, the Officers can use the non-calibrated devices to issue a courtesy first to the person in violation.

Ms. Williams reviewed how they measure sound. She noted they receive a majority of their complaints after 10 P.M.

Mr. Petrillo asked how they access decibels when there are areas that are both commercial and residential.

Ms. Williams stated there is language in Chapter 17 that addresses how to apply the limits in mixed-use areas. She said the Code specifies residential use, commercial use, industrial use, and special entertainment district. She confirmed most of the time they are applying residential use or commercial use.

Mr. Petrillo asked Ms. Williams to clarify property line. He asked if it is the property line of where the noise emanates from or the property where the person is being disturbed by the noise.

Ms. Williams responded it is the property line of the complainant. She said state laws require the City to have a complainant with first name, last name, and property address for the complainant. She gave an example of a Special Magistrate case with no complainant address. She noted within the last year, the City has become more responsive to noise complaints.

Mr. Motwani asked if that requirement is the same for the special entertainment district.

Ms. Williams responded no. In the special entertainment district, it is five (5) feet from the property line.

Mr. Motwani asked which property line.

Ms. Williams replied from the business. She confirmed as of the law change on July 1, 2021, they still require a first name, last name, and address of the complainant for their records.

Mr. Motwani asked why there is a different test for the special entertainment district.

Ms. Williams confirmed that area is designed by code to have a higher sound level.

Mr. Motwani said five (5) feet from the property line seems arbitrary. In the special entertainment district, it seems contradictory to measure it geographically.

Mr. Boileau stated that one of the issues is that the City relied heavily on a noise consultant report from 2006. He acknowledged that times have changed and part of the task of the committee is to re-address all these issues. He noted it is poorly written in some places and there is ambiguity.

Mr. Petrillo asked if the Committee would have input on areas where the code might be flawed.

Mr. Boileau replied yes, and it is the reason the Committee is comprised on individuals with different perspectives.

Ms. Scott asked if it is common to get a complaint and to measure five (5) feet away from the property line.

Ms. Williams confirmed they do but often it is just high decibels, but not a violation.

Ms. Scott asked why decibels are so high.

Ms. Williams said the code allows 85 decibels in the special entertainment district. She clarified in a commercial property the maximum permissible decibel is 65 but in the special entertainment area it is 85 decibels.

Mr. Boileau said they receive a lot of complaints because, to someone walking down the street, it seems loud, but the decibel level is still allowable within the code and is compliant.

Mr. Stone stated that within the last 10-15 years the allowable dBA (high frequency decibels) is up to just below a level where you can have serious health issues. He said what is harming people is the low frequency bass (dBC). He said he can hear the bass from the area clubs all night long. He mentioned the three standards that define noise in residential areas and, violation of decibel level is just one of them. He believes the C level frequency is the problem.

Ms. Williams continued with the presentation. She reviewed amplified sound and noted they rarely receive complaints in industrial areas. A majority of complaints are residential and commercial use. She noted that in the special entertainment district they measure dBA and dBC.

Mr. McCoury asked about personnel allowed to enforce.

Ms. Williams confirmed if it is weekend or after hours, it will be tracked with data she provides to the Board. She said if it is a common complaint, they may begin monitoring that establishment proactively.

Mr. McCoury asked about Q-Alert.

Ms. Williams clarified it is a system of record they use to follow up with reported complaints that come in through the City's customer service number.

Ms. Williams reviewed other factors that influence noise.

Ms. Williams reviewed Chapter 11 Code Enforcement Process. She stated she has staff that work nights and weekends, and a special team works with the City Police during Spring Break. She noted there is a warning for a business or residential property that has not received a violation in the past.

Ms. Scott asked about the purpose of giving a one (1) hour timeframe to continue making noise.

Ms. Williams responded that they have to provide due process.

Mr. McCoury asked about the types of noise tracked and if it included cars.

Ms. Williams stated the Police Department is involved with vehicular noise. The Code Officer will not pull a car over. Other noise includes barking dogs, house parties, development, construction, and trash service.

Discussion ensued about other types of noise, the civil citation process, the Special Magistrate, and fees.

Ms. Scott suggested the Committee could make some recommended adjustments to fees.

Mr. Boileau added that maximum fees are regulated by State law.

Ms. Williams noted the citations accrue daily. They recently created a citation form that is specific to noise. She further explained the daily accrual for citations.

Mr. Pilgram asked about a jazz concert downtown and the accrual for a repeat offender.

Ms. Williams clarified the code defines repeat offenders as the same owner and the same violation.

Mr. Boileau said if it is a special event, you will not have repeat offenders because the City would not approve the event again.

Mr. Motwani asked if the City is educating complainants.

Ms. Williams responded that if they have the complainant's information, they reach out for a dialogue to explain the situation and the code. She said the target from complaint to response is 24 hours. She said most complaints are between 10:00 P.M. to 2:00 A.M. and after 2:00 A.M. the Police respond.

Ms. Scott noted the issues on Las Olas Boulevard East where residential abuts the commercial area.

Ms. Williams said the Inspector visits the buildings during the day to ensure they have proper permits for outdoor music and speakers. Ms. Scott noted the 24-hour target to respond is not helpful.

Discussion ensued about logging complaint calls, number of calls received, and the tracking sheet data.

Ms. Scott wants to discuss recommending increasing staff for enforcement.

Mr. Motwani asked about ambient noise.

Ms. Williams responded that prior to the code change in 2018, there was language in the code to allow for 1-3 decibels for margin of error but now it is up to the discretion of the Code Officer.

Ms. Scott said she thinks the ordinance is good, but the issue is enforcement based on lack of staff. She asked Ms. Williams where she believes the code could be changed.

Ms. Williams responded one challenging area is how the Regional Activity Center (RAC) is defined, training and retraining staff with code changes, and different interpretations of the ordinance.

Mr. Boileau noted, from a legal perspective, the challenge is the downtown area.

Ms. Williams agreed, accounting for ambient sound is an issue.

Mr. Petrillo illustrated that, on Friday and Saturday nights, even with no businesses playing music, the ambient sound can spike over 50 decibels.

Mr. Boileau noted that would be a great reason for a noise consultant to look at it from a more scientific way. He said there is likely a better way to measure ambient noise than in 2006.

Mr. Pilgram asked about addressing future complaints of large residential development areas directly across from entertainment areas.

Ms. Spurlock responded that is what they are dealing with, currently, with Rooftop and said municipalities are looking at Agent of Change legislation. The responsibility would be

with the developer to mitigate for the sound for their development. The City does not currently have that legislation, but it is something Ms. Spurlock has been advocating for. She mentioned Seattle and San Francisco currently have this type of legislation. Ms. Spurlock clarified stating a new residential development going into an entertainment area would mitigate for the sound by installing better soundproofing in their own building. In the alternative, a new entertainment development going into a residential area would be responsible for mitigating the noise emanating from their establishment.

Ms. Scott asked Ms. Spurlock to send her an email with examples and she will bring up the topic at the City's next Planning and Zoning Board meeting.

Mr. Stone reiterated he believes the problem is the C frequency bass until 4:00 A.M. He said it is an issue in the building he personally resides in.

Ms. Williams said she contacted Miami Beach to discuss what they use. They are attempting to adopt using decibels.

### **Good of the Order**

Mr. McCoury wanted to let the public know he hears them.

### **Public Comments**

Chair Ellis opened the floor for public comments.

Ron Tenenhaus, resident of Bamboo Flats, complained about the noise coming from the Flagler Village area bars and the impact on his windows. He called Code Enforcement, and they came out, but they could not get a reading. He said it is affecting his quality of life. He said the regulations are not addressing the issue or benefitting the residents. He believes they either need a blanket ban on amplified sound after a certain hour or lower the decibel threshold. He noted Wilton Manors created a blanket ban city-wide after 11:00 P.M.

Enrique Bargioni, resident of Bamboo Flats, agreed that noise is a serious health issue and agrees with the recommendation to review the code.

Brent Pagnotta, resident of Bamboo Flats, asked for clarification on the decibels and the property lines.

Mr. Boileau clarified the difference between commercial and residential.

Michael Peebles is a resident of Bamboo Flats since 2007. He noted it is a different neighborhood with the entertainment district. He has called code compliance a lot and described the intense C level and bass. He said his windows shake and people urinate on the street.

Bill Brown, CBA President, encouraged the City Manager to hire consultants as soon as possible since the Committee will sunset in eighteen (18) months.

Chair Ellis closed the public comments and brought it back to the Committee to discuss goals and next steps. She thanked Ms. Williams for the data.

Ms. Scott asked if they could measure the bass.

Ms. Williams replied it is possible to measure bass with the handheld device by switching the wave rating from A to C frequency. She noted to be able to use the C level, it would have to be written in the code. Currently, the C limits are only for the special entertainment area.

Chair Ellis responded that may be one of the goals.

Mr. Petrillo would like to further understand why cases are being lost at the Magistrate level and what can be done to make sure we are in alignment with governing rules.

Discussion ensued about hiring a consultant.

Mr. Petrillo asked if there are other successful cities or best practices that can be looked at.

Mr. Boileau noted they have looked at other cities and acknowledged, each city is unique and hard to compare. He would share the 2006 consultant report with the Committee.

Mr. Stone recommended looking at cities that experience similar problems with new development and outdoor entertainment. He said there are likely experts in Tampa and Nashville.

Discussion ensued about the businesses on SW 2<sup>nd</sup> Street.

Mr. Chavarria said, process-wise, communication should be sent to the City Commission.

Mr. Boileau said they should vote on the communication, so it is from the Committee.

A **motion** was made by Ms. Scott, seconded by Mr. Pilgram to send communication to the City Commission to hire a consultant to assist with their process. In a voice vote, the **motion passed** unanimously (9-0).

Ms. Cabrera noted the City Commission will make the ultimate decision on the consultant, but the Committee will provide criteria.

Ms. Scott withdrew the motion.

Mr. Petrillo withdrew his second.

Mr. Stone recommended hiring a consultant with experience in large size cities with both beach and downtown environments that experienced robust growth of the business sector and residential sector. He does not believe it should be someone who has only done a noise ordinance. He suggested a consultant look at the code in its entirety.

Mr. Boileau reminded the Committee they won't be part of the consultant procurement process.

An **amended motion** was made by Mr. Stone, seconded by Mr. Pilgram recommending that the consultant hired have expertise in modern, large city, downtown, and beach environments, that consist of a mix of residential, business/commercial, and special entertainment districts. In a voice vote, the **motion** passed unanimously (9-0).

Discussion ensued about transmitting the recommendation to the City Commission, the procurement process, and scope of work.

Mr. Petrillo noted the Committee should take a holistic approach to the process.

#### **Next Scheduled Meeting Date**

The next meeting will be held on Tuesday, February 22, 2022, at 1:00 P.M.

#### **Adjournment**

A **motion** was made by Chair Ellis, seconded by Mr. Petrillo to adjourn the meeting. The meeting was adjourned at 2:45 P.M.

[Minutes prepared by TBaclawski, Prototype Inc.]

# COMMISSION AGENDA REPORT

COMMISSION MEETING DATE: 07-01-2008 AGENDA ITEM: O-07

COMMISSION REPORT NO: 08-0927

PREPARED BY: Cate McCaffrey 06-25-2008 09:50:59

DEPT: Business Enterprises

DEPARTMENT DIRECTOR'S SIGNATURE

Cate McCaffrey, Business Enterprises, x5129

AUTHOR'S NAME, TITLE, AND TELEPHONE NUMBER

George Gretsas 06-26-2008 17:12:57

CITY MANAGER'S SIGNATURE

TITLE 1: CODE AMENDMENT - CHAPTER 17, NOISE CONTROL

TITLE 2:

SUBJECT:

An ordinance repealing the current Code of Ordinances, Chapter 17, Noise Control, and adopting a new Chapter 17 on noise control.

REQUESTED ACTION (STAFF RECOMMENDATION - CONTENT OF MOTION):

Introduce ordinance on first reading.

- REGULAR AGENDA
  - Motion
  - Public Hearing
  - Resolution
  - Purchase
  - Consent Resolution
- CONFERENCE
  - Old/New Business
  - Exec Closed Door
  - Conference Reports
  - Advisory Boards
- MOTION FOR DISCUSSION
  - Motion for Discussion
  - Presentation
  - Citizen Presentation
- CITY COMMISSION REPORTS
  - City Commission Reports
  - City Manager Reports
- ORDINANCE

Public Notice Advertised:

FUNDS APPROPRIATION/TRANSFER (provide index code, subobject, and title of subobject):

No budgetary impact.

## FOR PROCUREMENT ITEMS ONLY

PROCUREMENT REFERENCE NO: TRANSACTION TYPE:

BIDS SOLICITED/RECEIVED: WBE: LATE BID:

Vendor: MBE: NO BID:

Amount: Details:

Procurement Recommendation:

**Description of Exhibits:**

1. CAR 08-0218	2. Draft Noise Ordinance	3.
4.	5.	6.
7.	8.	9.

**EXHIBITS: AVAILABLE VIA HARDCOPY: Exhibit #s:**

**PRIOR COMMISSION/BOARD ACTION: (attach additional file if necessary)**

May 6, 2008 Commission Conference Meeting (I-C) Presentation of draft ordinance by Eric Zwerling, Chief Executive Officer of Noise Consultancy, LLC. Attached hereto as Exhibit I is CAR 08-0218.

Background detail continued: The new Chapter 17, Noise Control provides definitions; penalties; general prohibitions; specific restrictions; maximum permissible sound levels; exemptions; and provides for sound level measurements; noise control officers; construction of large public works transportation projects; construction of large projects; repeal of conflicting ordinance provisions; severability; and an effective date.

The Noise Ordinance is attached hereto as Exhibit 2.

Staff recommends adoption of the ordinance on first reading.

**BACKGROUND/DETAIL:**

In November 2006, the City hired Eric Zwerling, Chief Executive Officer of Noise Consultancy, LLC, to review and revise City Code, Chapter 17, Noise Control. Included in Exhibit 1: Mr. Zwerling's final report entitled "Basis and Background, Proposed Amendments, Fort Lauderdale Code of Ordinances, Chapter 17-Noise Control." After taking numerous sound level measurements throughout the City, reviewing the present ordinance and considering the varied sources of sound, several key determinations were made including the following:

- more specific restrictions for noise control were necessary to ensure uniform enforcement;
- noise level limits needed to be specific to use district, including the Special Entertainment District;
- both the A-weighted and C-weighted sound levels needed to be measured to adequately measure sound;
- both indoor and outdoor sound level limits needed to be considered;
- specific types of noise including construction, lawn equipment, sanitation and delivery operations, HVAC equipment, generators, animals and amplified sound needed to be addressed.

On May 6, 2008 staff presented proposed changes to the City's noise ordinance at the Commission Conference Meeting. In attendance was Mr. Zwerling, who answered questions and provided background and technical information. After input from Commission and public, two significant changes were added to the ordinance, the first of which is to include a clarification of the maximum sound level measured during the sound measurement period, and the other is the inclusion of decreasing permissible nighttime sound levels in the Special Entertainment District.

**Attorney's Initials:**



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**THE NOISE CONSULTANCY, LLC**

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## **BASIS AND BACKGROUND**

## **PROPOSED AMENDMENTS**

# **CITY OF FORT LAUDERDALE CODE OF ORDINANCES CHAPTER 17 - NOISE CONTROL**

**April 29, 2008**

Exhibit 2  
CAR08-0218  
Consultant's  
Report

The following is a summary report of the process we undertook in developing recommendations for amending the City of Fort Lauderdale Code of Ordinances (Code), Chapter 17, Noise Control.

### **Qualifications**

I am the president of The Noise Consultancy, LLC, and currently serve as director of the Rutgers University Noise Technical Assistance Center<sup>1</sup>. My resume is attached as Appendix A. In short, I have assisted numerous jurisdictions across the United States to amend or redraft their noise ordinance, and have trained over four thousand noise enforcement officers in the past 17 years.

### **Task**

I was engaged by the city of Fort Lauderdale in 2006 to review Chapter 17, and tasked to update and clarify the Code in light of the specific noise problems that face the city.

There was a focus on the crafting of a regulation with objective performance standards that would:

- be relatively easy for both enforcement officers and facility management to understand and apply;
- enable enforcement officers to determine the compliance of a single facility, regardless of whether there were other facilities in close proximity;
- allow reasonable levels of sound amplification so as to foster continued economic activity; and,
- set reasonable limits on the sound that can be emitted from the property of a facility so as to be protective of the rights of people in residential zones to the peaceable enjoyment of their private property.

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<sup>1</sup> All work in this matter has been performed in my capacity at The Noise Consultancy, LLC. Any affiliation with Rutgers University is for identification purposes only, and is not meant to imply any endorsement by Rutgers University or any of its departments.

In order to prepare for the task I was supplied and reviewed the following documents supplied by Code Enforcement Division: Chapter 17: Noise Control; Chapter 5 Alcoholic Beverages Article III. Special Entertainment Overlay District; Chapter 6 Animals; Special Entertainment Overlay District Agreement (3/1/96); Establishment and Designation of a Special Entertainment Overlay District (Sample Application); Ordinance No. C-92-17 Section 5-36 Special Entertainment Overlay District; and, numerous ancillary documents such as field reports of sound level measurements conducted by the Code Enforcement Division, and aerial maps of several of the SEDs.

I conducted an on-site visit November 16-18, 2006. We held several meetings to discuss the Code, which included an extensive review of the specific concerns that were to be addressed in the amendments. We conducted tours of the jurisdiction both daytime and nighttime, during which I measured sound levels at several locations.

Virtually every aspect of the Noise Code was addressed and amended, to address current issues, or ones that may be expected to arise in a major metropolitan area.

### **Summary of Significant Proposed Changes**

#### **General Prohibitions, Section 17-5**

#### **Proposed Sound Level Limits, Section 17-6**

The limits in Table I are based upon the protection of sleep and speech, for residential and commercial receptors.

The specific sound level limit of 50 dBA for night hours is based upon data published by the US EPA<sup>2</sup> detailing the sound levels at which people begin to awaken, as well as the sound attenuation of the average house with open windows. The data show that people start to wake up to sound events that exceed 35 dB in their bedroom. EPA reports also show that the average sound attenuation of a house is 15 dB (the amount of the sound that is reduced as it travels from the outdoors to the inside through the

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<sup>2</sup> "Protective Noise Levels Condensed Version of EPA Levels Document" EPA 550/9-79-100. United States Environmental Protection Agency Office of Noise Abatement and Control (1978)

structure). Thus, many jurisdictions have adopted the limit of 50 dB for night hours, as is proposed for Fort Lauderdale<sup>3</sup>.

The same EPA documents detail the impact of ambient sound levels on speech intelligibility. When the ambient sound level exceed 65 dBA, it becomes difficult to have a conversation at a distance of 1 meter (3.3 feet). When the ambient sound level exceeds 60 dBA, conversations are difficult at a distance of two meters. We chose this level for Fort Lauderdale's daytime limit, when the receptor is a residential use property. People should be able to have a conversation in their yard at a reasonable distance.

The proposed permissible daytime limits are 65 dBA for residents living in commercial, industrial or mixed-use zones, or within 200 feet of these zones.

#### **Amplified Sound, Section 17-7.1**

Residential Use, Section 17-7.1(a) establishes a plainly audible standard for residential amplified sound sources. A plainly audible standard, with compliance determined at a specific distance, provides unambiguous guidance to both regulated sources and enforcement officers.

#### **Motor Vehicles; Right-of-Ways, Section 17-7.1(b)**

The plainly audible standard for mobile audio systems established in FSS 316.3045 has been proposed for Fort Lauderdale.

#### **Special Entertainment Districts (SED), Section 17-7.1(c)**

Amplified sound sources within the SEDs are regulated under the proposed ordinance, however, not as restrictively as other sound sources in the Code, in deference to their commercial importance.

The SED ordinance directs that these districts be established no closer than 500 feet from a residential zone,<sup>4</sup> and this distance between the source and receptor allows

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<sup>3</sup> Examples include: State of New Jersey Noise Code N.J.A.C. 7:29; City of Anchorage (AK) Chapter 15.70 Noise Control; Lafayette City-Parish (LA) Ordinance 0-204-2000; Long Beach (NY) Chapter 16 Noise; State of Hawaii Title 11, Chapter 46 Community Noise Control (45 dBA residential zone, 50 dBA multi-family apartment zone); City of Sandusky (OH) Chapter 519 Noise Control; Binghamton (NY) Chapter 29 Noise; Walton County (FL) Ordinance 2003-09; Ossining (NY) Chapter 130 Noise

sound levels to attenuate. A permissible sound limit of 85 dBA is proposed from noon to midnight weekdays or 1 a.m. on weekends. This level is to be measured at a distance of 5 feet from the facility. A distance of 500 feet or more between the facility and a residential zone will attenuate the sound levels to below 65 dBA.

A permissible level of 85 dBA was also chosen as it is an "action level" for Hearing Conservation Programs under the regulations of the Occupational Safety and Health Administration. While the exposure to sound at these levels and above may be one of choice for patrons and employees of the facilities, such exposure may well be involuntary for officers stationed outside one of these facilities on the sidewalk.

Conducting the measurements at a distance of 5 feet insures that an enforcement officer is measuring sound from the closest facility; it also provides a clear opportunity for facilities to self-police.

The limit is reduced to 70 dBA after hours so as to protect sleep in residential zones.

#### **Commercial, Mixed-Use, or Industrial Uses, Section 17-7.1(d)**

Sound level limits have been established on the C-Scale (dBC), for amplified sound from the listed sources. This standard is applied (measured) within the premises of a complaining receptor. The C-Scale is more sensitive to low frequency (e.g., the bass component of music) than is the A-Scale. This is an effective way to determine if thumping bass is intruding into the residence of a complainant.

#### **Emergency Generators, Section 17-7.5**

It is the standard within the industry to measure and rate the sound level emissions from generators at a distance of 23 feet (7 meters). The proposed limit for Fort Lauderdale is 68 dBA, at this distance. Establishing a limit based upon industry methodology will allow for the review of equipment prior to purchase, based upon manufacturer's sound emission data. This is a reasonable limit that generators across the

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<sup>4</sup> Ordinance No. C-92-17 Section 5-36 Special Entertainment Overlay District

spectrum can comply with, or can be brought into compliance with optional equipment available from the manufacturer or aftermarket vendors.

**Additional changes have been proposed with regard to the following (Section 17-7):**

- **Animals:** proposed changes specify what constitutes a violation thereby enhancing effective enforcement
- **Delivery, Loading and Sanitation Operations:** times have been amended to protect residential uses
- **Construction:** times have been amended on Sundays to protect residential uses
- **Residential Heating, Ventilation and Air Conditioning Equipment:** specific guidelines for testing have been established
- **Landscaping Equipment:** times for operation established
- **Motorboat:** proper muffling required.
- **Motorcycle and motor vehicle:** the rapid throttle advance (revving) of an internal combustion engine may be a noise disturbance.

**Compliance measurements – what if the ambient levels already exceed the permissible limits?**

It is important to discuss how the Source Sound Level is calculated from measurements of the Total Sound Level and the Ambient Sound Level.

Compliance with a noise ordinance is based upon the Source Sound Level. However, sound sources always exist in an environment in which there are other off-site sounds (Ambient Sounds); you can't measure the sound level from the activity in question in complete isolation.

An enforcement officer takes measurements while the source is operating, in and amongst the ambient sounds. These measurements are called Total Sound measurements. The officer then takes a measurement of the Ambient Sound Level alone by one of several methods. The enforcement officer then calculates the Corrected Source Sound Level from the measurements of the Total Sound Level and the Ambient Sound Level.

The decibel scale is logarithmic, and subtraction of sound levels is not the same as if they decibel scale were linear. For instance, if the Total Sound Level is measured to be 65 dBA, and the Ambient Sound Level is measured at 60 dBA, the Corrected Source Sound Level is calculated to be 63 dBA. This calculation is easily performed by field enforcement officers with the use of a simple table.

For a facility to be found in violation of the Code, the Source Sound Level must not only exceed the permissible sound level limits in the Code, *they must also exceed the Ambient Sound Level*. Thus, if the example above represented actual measurements taken by an enforcement officer in the middle of the night, when the permissible limit is 50 dBA for a residential receptor, the Source Sound Level of 63 dBA would constitute a violation, even though the Ambient Level is 60 dBA.

#### **What about bus brakes, honking horns and other extraneous sounds?**

In order for these measurements to be fair to the source under investigation and the complainant, all extraneous noise sources must be excluded from the measurements. The inclusion of extraneous noise events, such as aircraft overhead, or an un-muffled pickup would be incorrect. If that truck were included in the Total Sound measurements, and not the Ambient Sound Level measurements, then upon calculation the sound levels of the truck would be attributed to the Source Sound Level, and that is clearly unfair. If that truck were included in the Ambient Sound Level measurements, and not in the Total Measurements, then the singular event of the truck would establish an Ambient Sound Level that is completely unrepresentative of the sound levels in that neighborhood to be expected the vast majority of the time, and that would be clearly unfair.

#### **Conclusions**

The proposed amendments to Fort Lauderdale's Noise Code strike a reasonable balance between protecting residents and allowing vibrant economic activity. Compliance determination methods are simple and unambiguous, providing meaningful guidance to the regulated community regarding what is expected of them. Should they desire, they can determine their compliance status before an enforcement investigator makes that determination for them.

**The Noise Consultancy, LLC**

**(908)237-0298 NoiseConsultancy@aol.com  
www.noiseconsultancy.com**

**ERIC MICHAEL ZWERLING  
PRESIDENT**

**CURRENT POSITIONS**

- 1991-Present *Director* - Noise Technical Assistance Center  
Department of Environmental Sciences  
Rutgers - The State University of New Jersey
- 1999-Present *President* The Noise Consultancy, LLC  
Noise Consultant/ Expert Witness (Since 1992)  
Expert for the Defendants, City of New York Law Department  
-in- Robert Turley, *et al.*, - against- Rudolph Guiliani, *et al.*,
- 1993-Present *Noise Enforcement Expert* - New Jersey Department of Environmental  
Protection. Contracted (as Director of the RNTAC) to provide technical expertise  
on noise related issues to the NJDEP and the State of New Jersey.
- 1998-Present *Instructor* - "Noise Hazards" in 'Fundamentals of Industrial Hygiene'.  
University of Medicine and Dentistry of New Jersey, School of Public Health,  
Office of Public Health Practice
- 1992-Present *Adjunct Professor*- Rutgers University Department of Environmental  
Sciences. Course: 375:336 'Community and Occupational Noise'
- 1998-Present Committee Member - S12 Working Group 41, Model Community Noise  
Ordinances. Acoustical Society of America
- 2001-Present Committee Member - Technical Study Group on Community Noise  
Institute of Noise Control Engineering
- 1994-Present *Instructor* - "Community Noise" in 'Environment and Public Health Course,"  
Rutgers Continuing Education Program,  
Cook College Office of Continuing Professional Education.
- 1998-2000 Commissioner -Franklin Township (NJ) Environmental Commission

**PROFESSIONAL AFFILIATIONS**

Member - Institute of Noise Control Engineering

**EDUCATION**

ABD Ph.D. Candidate  
Rutgers - the State University of New Jersey  
Department of Environmental Sciences

Occupational Hearing Conservationist  
Council for Accreditation in Occupational Hearing Conservation.

Approved Noise Control Investigator  
New Jersey Department of Environmental Protection  
Pursuant to N.J.A.C. 7:29-2.11(a)3

Graduate Certificate in Environmental Ethics -  
Department of Philosophy, University of Georgia.

B.S., M.S. University of Georgia.

## AWARDS

1997 *Advisor of the Year Award*  
Rutgers College Student Activities Advisory Council  
Faculty Advisor - Students for Environmental Awareness

## PUBLICATIONS

Zwerling, E.M. 2005. Regulatory Scheme For Noise Enforcement In New Jersey. *Invited paper*. Journal of the Acoustical Society of America. V.118, No. 3, Pt 2 of 2, Sept. 2005, p. 1849.

Zwerling, E.M. 2004. Training as a Critical Component of Successful Noise Enforcement Programs. *Invited paper*. Journal of the Acoustical Society of America. V.115, No. 5, Pt 2 of 2, May 2004, p. 2568.

Zwerling, E.M. 2004. Noise Enforcement in Cities. *Invited paper*. Journal of the Acoustical Society of America. V.115, No. 5, Pt 2 of 2, May 2004, p. 2593.

Zwerling, E.M. 2002. Characteristics of Successful Local Noise Enforcement Programs. *Invited paper*. Journal of the Acoustical Society of America. V.112, No. 5, Pt 2 of 2, Nov. 2002, p. 2375.

Zwerling, E.M. 2002. Boom Car and Boom Box Code Drafting. The Quiet Zone. Spring 2002.

Zwerling, E.M. 2002. Hearing Protection. In *Encyclopedia of Public Health*, ed. Lester Breslow. Macmillan Reference USA.

Zwerling, E.M. 2001. Vehicle Noise Enforcement. Rutgers Noise Technical Assistance Center. Developed for North Salem, NY.

Zwerling, E.M. 2000. Regulation of Amplified Sound Sources. Proceedings of Noise-Con 2000. Acoustical Society of America/ Institute of Noise Control Engineering. Newport Beach, CA. December 3-5, 2000.

Zwerling, E.M. 2000. State of Michigan Model Noise Ordinance. Proceedings of Michigan Municipal League Annual Convention/ Michigan Association of Municipal Attorneys Annual Meeting. September 28-30, 2000, Macinac Island, MI.

Zwerling, E. M. Contributing Editor. 1991-Present. Community Noise Enforcement. Rutgers Noise Technical Assistance Center.

Zwerling, E. M. Contributing Editor. 1998. Vehicle Sound Reproduction Enforcement. Rutgers Noise Technical Assistance Center. Developed for the City of Rochester, New York

Zwerling, E.M. 1997. Community Noise Enforcement: A Mature Technology. Hearing Rehabilitation Quarterly. 22:4, 4-8+.

Zwerling, E.M., D. Pinto, P. Hanna, J. Lepis, B. Turpin. 1997. Local Noise Enforcement Options and Model Noise Ordinance *With Pre-Approved Language for the State of New Jersey*. Rutgers Cooperative Extension Publication #E215.

Zwerling, E.M. 1997. Community Noise Infosheet. Environmental and Occupational Health Sciences Institute. Public Education and Risk Communication Division.

Zwerling, E.M. 1996. Turning Down the Volume: Effective Strategies for Community Noise Enforcement. The Police Chief. V. 63, Dec. 53-59.

Zwerling, E. M. & B. J. Turpin. 1996. Community Noise Enforcement: Reviving a Moribund Program or Developing One Anew. Proceedings of Noise-Con 96, The 1996 National Conference on Noise Control Engineering. 955-960.

Zwerling, E.M. 1996. Community Noise Pollution Certification and Assistance. Home page for Rutgers Noise Technical Assistance Center. <http://www.envsci.rutgers.edu/org/rntac/>

## CONFERENCE PRESENTATIONS

How to Control Noise Pollution in Your Community. *Invited Presentation*. 90th Annual Conference - New Jersey State League of Municipalities. Atlantic City, NJ November 15, 2005.

Regulatory Scheme for Noise Enforcement in New Jersey. *Invited Paper*. 150th Meeting - Acoustical Society of America. Minneapolis, MN October 17-21, 2005

Noise Enforcement in Cities. *Invited Paper*. 147th Meeting - Acoustical Society of America. New York, New York May 24-28, 2004.

Training as a Critical Component of Successful Noise Enforcement Programs. *Invited Paper*. 147th Meeting - Acoustical Society of America. New York, New York May 24-28, 2004.

Community Noise Impacts. *Invited Presentation*. Topics in Public Health. New Jersey Department of Health and Senior Services. April 16, 2003.

Characteristics of Successful Local Noise Enforcement Programs. *Invited Paper*. First Pan-American/Iberian Meeting on Acoustics. Jointly Sponsored: Acoustical Society of America, the Iberoamerican Federation of Acoustics and the Mexican Institute of Acoustics. Cancun, Mexico. Dec 2-6, 2002.

Community-Based Environmental Noise Management, *Invited Panelist*; The Role of State and Local Governmental Agencies in Noise Abatement and Control, *Invited Panelist*. Inter-Noise 2002, The 2002 International Congress and Exposition on Noise Control Engineering. Dearborn, MI Aug. 19-21, 2002.

Community Noise Regulation and Enforcement: Theory and Practice. American Association of Code Enforcement. 4th Semi-Annual Education Conference. Bowie, MD. May 1-3, 2002

Regulation of Amplified Sound Sources. Noise-Con 2000. Acoustical Society of America/Institute of Noise Control Engineering. Newport Beach, CA. December 3-5, 2000.

Writing and Enforcing a Noise Ordinance. Michigan Municipal League Annual Convention.  
Nuts and Bolts of Writing a Noise Ordinance. Michigan Association of Municipal Attorneys Annual Conference. Macinac Island, MI, September 28-30, 2000.

Municipal Noise Regulation - Theory and Practice. International Municipal Lawyers Association, Mid-Year Seminar. Washington, D.C. April 9-11, 2000.

Effective Strategies for Community Noise Enforcement:

Michigan Municipal League 9th Annual Education Conference. Mt. Pleasant, MI.  
March 11, 1998.

The Association of Towns of the State of New York, Annual Meeting,  
Educational Training Courses. New York City, February 16, 1998.

American Association of Code Enforcement 8th Annual Business and Educational  
Conference. Hagerstown, MD, October 20-25, 1997.

Community Noise Enforcement: Reviving a Moribund Program or Developing One Anew. Noise-Con '96, The 1996 National Conference on Noise Control Engineering, Seattle, WA, September 29-October 2, 1996.

#### **NOISE ENFORCEMENT CERTIFICATION COURSES TAUGHT**

Community Noise Enforcement  
Vehicular Noise Enforcement  
Vehicle Sound Reproduction Enforcement  
Motor Sports Ordinance Enforcement  
Octave Band Analysis for Enforcement Purposes  
Motor Sports Ordinance Enforcement

New Jersey:

Certification and recertification - every three months, 1991 to present.

On-Site:

New Rochelle, NY; Jacksonville, FL (twice); Long Beach, NY (three times); Everett, WA; St. Augustine, FL (three times), Seattle, WA; Neptune Beach, FL; Gainesville, FL; Anchorage, AK; Binghamton, NY (twice); Washington State Association of Code Enforcement; Ft. Collins, CO; Shelter Island, NY (three times); Rochester, NY; Newport, RI; Platekill, NY; Traverse City, MI, Twinsburg, OH; Sandusky, OH; North Salem, NY; Honolulu, HI; Lafayette, LA (twice); Philadelphia, PA; Barbados, West Indies; Collier County, FL; Walton County, FL (twice); Greenville County (SC)

#### **ON-SITE ORDINANCE DEVELOPMENT WORKSHOPS**

Lafayette, LA; Traverse City, MI; Plattekill, NY; St. Augustine, FL; Charleston County, SC; Lansing, MI; DeKalb County, GA; Walton County, FL, Overland Park, KS; Greenville County, SC, Decatur, AL; Yonkers, NY; Ossining, NY; Newport RI; Monroe County, FL

**PARTIAL LIST OF CLIENTS**

City of New York Law Department; City of Philadelphia Law Department, Environmental & Regulatory Compliance Division; U. S. State Department (subcontractor to MasiMax, Inc.); City of New York Police Department; Bergen County (NJ) Utilities Authority; New York City Department of Environmental Protection; New York State Office of Attorney General; McDonald's Corporation, Lafayette (LA) Consolidated Government; Gaeta Recycling, Inc.; National Ecology; Browning Ferris Industries; Township of Manalapan (NJ); Kansas State Legislature; City of Lansing (MI); City of St. Augustine (FL); Atlantic Development and Management Corp.; CareMatrix Corporation; County of Charleston (SC); DeKalb County (GA); Greenville County (SC); Ethicon, Inc.; City of Yonkers (NY); Walton County (FL); City of Overland Park (KS); City of Newport (RI); City of Ossining (NY); Alliance to Save Southern Ulster's Rural Environment; Roche Molecular Systems; Wheelabrator, Inc.; Monroe County (FL); City of North Las Vegas (NV); Township of Branchburg (NJ), Union County United (PA)

NEEDED TO PLACE AN IMMOBILIZATION "BOOT" ON A VEHICLE;  
PROVIDING FOR SEVERABILITY PROVIDING FOR AN EFFECTIVE  
DATE.

Commissioner Moore returned to the chamber at approximately 9:32 p.m.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners  
Hutchinson and Teel, Vice Mayor Rodstrom, and Mayor Naugle. NAYS: Commissioner  
Moore.

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**Code Amendment – Chapter 11, Code Enforcement**

**(O-06)**

**No budgetary impact.**

Donna Mergenhagen said that the alternative code system sounds like a long-awaited  
solution for residential neighborhoods where there has been a history of unresolved  
code violations. However, she felt the opportunity for abuse, selective enforcement and  
bias is substantial. Her opinion is based on current and routine practice of selective and  
inconsistent enforcement. She noted some examples. She believed current practices  
are a poor base on which to add citations, penalties and hearing costs. This would  
adversely affect citizens who are most vulnerable, those who own small businesses,  
individuals with limited income, people of color and those targeted by code enforcement  
for reasons of personal bias. She asked the Commission to address the current  
discrepancies before adding new complexities. She provided photographs of examples  
noted.

Commissioner Hutchinson introduced the following ordinance on FIRST reading:

**ORDINANCE NO. C-08-36**

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA,  
REPEALING CHAPTER 11, CODE ENFORCEMENT, OF THE CODE OF  
ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, AND  
ADOPTING A NEW CHAPTER 11, CODE ENFORCEMENT, FOR THE  
CREATION OF A NEW CODE ENFORCEMENT SYSTEM WITHIN THE  
CITY OF FORT LAUDERDALE; PROVIDING A DECLARATION OF  
INTENT; PROVIDING DEFINITIONS; PROVIDING CODE  
ENFORCEMENT BOARD AND SPECIAL MAGISTRATE  
PROCEDURES; PROVIDING CODE ENFORCEMENT PROCEDURES;  
PROVIDING CITATION VIOLATION NOTICE PROCEDURES;  
PROVIDING FOR REPEAL OF CONFLICTING ORDINANCE  
PROVISIONS; PROVIDING FOR SEVERABILITY AND PROVIDING  
FOR AN EFFECTIVE DATE.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners  
Hutchinson and Teel, Vice Mayor Rodstrom, Commissioner Moore, and Mayor Naugle.  
NAYS: None.

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**Code Amendment – Chapter 17, Noise Control**

**(O-07)**

**No budgetary impact.**

Ryan Burns, representing Ronald Armbrust, a resident of District IV. He referred to Section 7, Subsection 7, involving lawn maintenance. The window proposed in this ordinance is 7 a.m. to 7 p.m. on weekdays and 8 a.m. to 7 p.m. on Saturdays and Sundays. Clearly, the ordinance takes into account that noise pollution could have harmful effects on the health of residents. He presented a study conducted for the City of Sacramento who chose to not allow the type of lawnmowers and leaf blowers that we are accustomed to but instead provide only for electric motors. Current lawnmowers and leaf blowers run at 70-75 decibels. This ordinance would outlaw anything above 65 decibels for commercial uses, but enforcement is very difficult. Mr. Armbrust has a neighbor who cuts lawns for a living. This individual cuts a number of yards all at once so the noise could extend for 6-7 hours. It prevents people from being able to enjoy their property. He proposed a window for commercial uses on Saturdays, Sundays and holidays of 8 a.m. to 4 p.m.

Ralph Enderby, resident of The Esplanade Condominium, encouraged this noise ordinance be adopted. He commented that noise from the entertainment district is loud and obnoxious. He provided sound measurements that he took from his balcony. The America's Backyard is a particular problem since it is an outdoor venue and operates until 4 a.m. He was concerned about enforcement problems with the existing code. He encouraged the Commission to pass the proposed ordinance.

Jeff John said he is the owner and managing partner of Revolution and America's Backyard. He understood there are complaints. He is fully supportive of doing whatever necessary to correct any problem where people are feeling uncomfortable. Outdoor concerts are no longer being held. They are a restaurant and bar that specializes in a happy hour atmosphere. A microphone is used but they would be agreeable to restrictions. They have reduced the number of outdoor speakers from twenty-four to six. He believed they have attempted to comply with all regulations. A lot of resources were invested. Changes were made for the good of the city. He wanted people to enjoy an outdoor atmosphere.

**ORDINANCE NO. C-08-37**

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, REPEALING CHAPTER 17, NOISE CONTROL, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, AND ADOPTING A NEW CHAPTER 17, NOISE CONTROL, PROVIDING DEFINITIONS; PROVIDING PENALTIES; PROVIDING FOR NOISE CONTROL OFFICERS; PROVIDING FOR SOUND LEVEL MEASUREMENT; PROVIDING GENERAL PROHIBITIONS AND SPECIFIC RESTRICTIONS; PROVIDING MAXIMUM PERMISSIBLE SOUND LEVELS; PROVIDING EXEMPTIONS; PROVIDING FOR CONSTRUCTION OF LARGE PUBLIC WORKS TRANSPORTATION PROJECTS; PROVIDING FOR CONSTRUCTION OF LARGE PROJECTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCE PROVISIONS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioner Hutchinson and Teel, Vice Mayor Rodstrom, and Commissioner Moore. NAYS: Mayor Naugle.

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**Dissolution of Bay Colony Special Recreation District Ordinance** (O-08)  
**Providing For Referendum Election on Dissolution**

**None.**

Commissioner Hutchinson introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-08-38

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING FOR THE DISSOLUTION OF THE BAY COLONY SPECIAL RECREATION DISTRICT UPON A REFERENDUM VOTE OF THE QUALIFIED ELECTORS IN THE DISTRICT AND UPON DISCHARGE OF CERTAIN FURTHER CONDITIONS; DESCRIBING THE BOUNDARIES OF THE DISTRICT; DIRECTING THE BOARD OF SUPERVISORS OF THE DISTRICT TO REQUEST THE SUPERVISOR OF ELECTIONS TO PLACE THE REFERENDUM PROPOSITION ON THE NOVEMBER 4, 2008 GENERAL ELECTION BALLOT FOR THE QUALIFIED ELECTORS OF THE DISTRICT TO DETERMINE WHETHER THE DISTRICT SHOULD BE DISSOLVED; PROVIDING FOR THE BALLOT QUESTION; PROVIDING FOR ADDITIONAL CONDITIONS TO DISSOLUTION OF THE DISTRICT; PROVIDING FOR THE DISTRICT TO BEAR ALL COSTS OF THE REFERENDUM ELECTION; PROVIDING FOR NOTICE OF THE REFERENDUM TO BE PUBLISHED TWICE IN A NEWSPAPER OF GENERAL CIRCULATION; PROVIDING FOR ADOPTION OF A RESOLUTION BY THE BOARD OF SUPERVISORS OF THE DISTRICT UPON DISCHARGE OF ALL CONDITIONS PRECEDENT TO DISSOLUTION AND FILING OF SUCH RESOLUTION WITH CERTAIN GOVERNMENTAL AGENCIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Hutchinson and Teel, Vice Mayor Rodstrom, Commissioner Moore, and Mayor Naugle. NAYS: None.

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**Amendments To Pay Plan – Schedules I and VI** (O-09)

**Funding identified in Commission Agenda Report.**

Commissioner Hutchinson introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-08-39

building height of 44 feet with an adjacent building of 33 feet and the setbacks are inadequate.

Roll call showed: YEAS: Commissioners, Hutchinson, and Teel, Vice Mayor Rodstrom, Commissioner Moore, and Mayor Naugle. NAYS: None.

**Rezoning To Residential Multi-Family Mid-Rise (O-03)**  
**721 and 723 NW 2 Street Townhouses – RDM**  
**Development – Case 2-Z-08**

**No budgetary impact.**

**Applicant: RDM Development**  
**Location: 721 and 723 NW 2 Street**  
**Current Zoning: General Business B-2**  
**Proposed Zoning: Residential Multi-Family Mid-Rise – Medium High Density RMM-25**  
**Future Land Use: Northwest Regional Activity Center**

Commissioner Hutchinson introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-08-32

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM B-2 TO RMM-25, LOTS 25 AND 26, BLOCK "D", "FORT LAUDERDALE LAND & DEVELOPMENT CO. SUBDIVISION OF BLOCK 6, FORT LAUDERDALE, FLORIDA," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 57 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LOCATED ON THE NORTH SIDE OF NORTHWEST 2<sup>ND</sup> STREET, BETWEEN NORTHWEST 8<sup>TH</sup> AVENUE AND NORTHWEST 7<sup>TH</sup> AVENUE, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND AMENDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Hutchinson and Teel, Vice Mayor Rodstrom, Commissioner Moore, and Mayor Naugle. NAYS: None.

**Code Amendment – Chapter 17, Noise Control (O-04)**

**No budgetary impact.**

Commissioner Hutchinson introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-08-37

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, REPEALING CHAPTER 17, NOISE CONTROL, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, AND ADOPTING A NEW CHAPTER 17, NOISE CONTROL; PROVIDING DEFINITIONS; PROVIDING PENALTIES; PROVIDING FOR NOISE CONTROL OFFICERS; PROVIDING FOR SOUND LEVEL MEASUREMENT; PROVIDING GENERAL PROHIBITIONS AND SPECIFIC RESTRICTIONS; PROVIDING MAXIMUM PERMISSIBLE SOUND LEVELS; PROVIDING EXEMPTIONS; PROVIDING FOR CONSTRUCTION OF LARGE PUBLIC WORKS TRANSPORTATION PROJECTS; PROVIDING FOR CONSTRUCTION OF LARGE PROJECTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCE PROVISIONS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Which ordinance was read by title only.

Commissioner Hutchinson suggested limiting weekend hours to 8 a.m. until 5 p.m. Mayor Naugle commented that due to the heat some individuals mow their lawns as late as 7 or 8 p.m. while there is still daylight. Vice Mayor Rodstrom asked about the hours being adjusted seasonally. Mayor Naugle suggested sundown, but Commissioner Hutchinson preferred 8 a.m. to 5 p.m.

**Motion** made by Commissioner Moore and seconded by Commissioner Hutchinson to offer the item as written.

Bruce Toski said there is nothing in the amendment as to how residents may determine their compliance status. He suggested there be a way for residents to have a noise level tested at no cost. He was concerned about Section 17-7.1a being too vague. He thought his garage stereo would put him in non-compliance if it was plainly audible from the street. The City Attorney indicated the noise level would have to be tested with a decibel meter before one would be in violation. Mr. Toski was confused because other sections specify decibel readings, but in this section it says plainly audible. Also he wanted to know what the consultant was paid for this report.

Janice Allende, representing the applicant Ronold Armbrust. She commented about the debris and noise level emanating from commercial lawn maintenance equipment is a nuisance in the sense that it hinders a community's ability to enjoy activities outside on their property. Also, there are hazardous health effects of inhaling lawn debris as a result of commercial lawn maintenance practices. There should be reasonable time restrictions.

Douglas Burrill suggested a charter amendment to incorporate a citizen common sense commission. People should talk with each other. The Golden Rules should be applied.

In response to Mayor Naugle, Ms. McCaffrey indicated the ordinances does not specifically exempt human beings. She believed that children playing would be hard pressed to be in violation of this ordinance. Mayor Naugle referred to a provision about impulsive sounds. He wanted to know how many minutes an individual's dog could bark. Ms. McCaffrey believed it is more than five minutes without interruption. Mayor Naugle was concerned about too many rules.

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Roll call showed: YEAS: Commissioners Hutchinson and Teel, Vice Mayor Rodstrom, and Commissioner Moore. NAYS: Mayor Naugle.

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**Amendments To Pay Plan – Schedules I and VI** (O-05)

**Funding is listed in detail on CAR.**

Commissioner Hutchinson introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-08-39

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SCHEDULES I AND VI OF THE PAY PLAN OF THE CITY OF FORT LAUDERDALE, FLORIDA, BY CREATING AND ADDING TWO NEW CLASSES AND CHANGING THE SALARY RANGE OF A CLASS, AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Hutchinson and Teel, Vice Mayor Rodstrom, Commissioner Moore, and Mayor Naugle. NAYS: None.

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**Vacate Right-of-Way – Fairwinds On The Ocean Portion Of North Atlantic Boulevard – Case 9-P-08** (O-06)

**No budgetary impacts.**

Commissioner Moore introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-08-34

AN ORDINANCE VACATING, ABANDONING AND CLOSING A PORTION OF NORTH ATLANTIC BOULEVARD (PLATTED AS ATLANTIC AVENUE), AS SHOWN ON THE PLAT OF "LAUDERDALE BEACH," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 4, PAGE 2, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LYING SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF THIRD STREET (NOW NORTHEAST 23 STREET) AND LYING NORTH OF THE CENTERLINE OF SECOND STREET (NOW NORTHEAST 22 STREET), LOCATED BETWEEN NORTH OCEAN BOULEVARD (S.R. A-1-A) AND THE ATLANTIC OCEAN, BETWEEN NORTHEAST 22 STREET AND NORTHEAST 23 STREET, SUCH LAND BEING LOCATED IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

Which ordinance was read by title only.

Vice Mayor Rodstrom indicated this is all contingent upon the development agreement being approved by the Commission. She has not seen the agreement and until it is finalized, she is having trouble voting for this. At the last meeting the Commission

# OBJECTIVES FOR THE NOISE CONSULTANT

February 22, 2022





How ambient noise is measured.



Residential development abutting commercial areas.



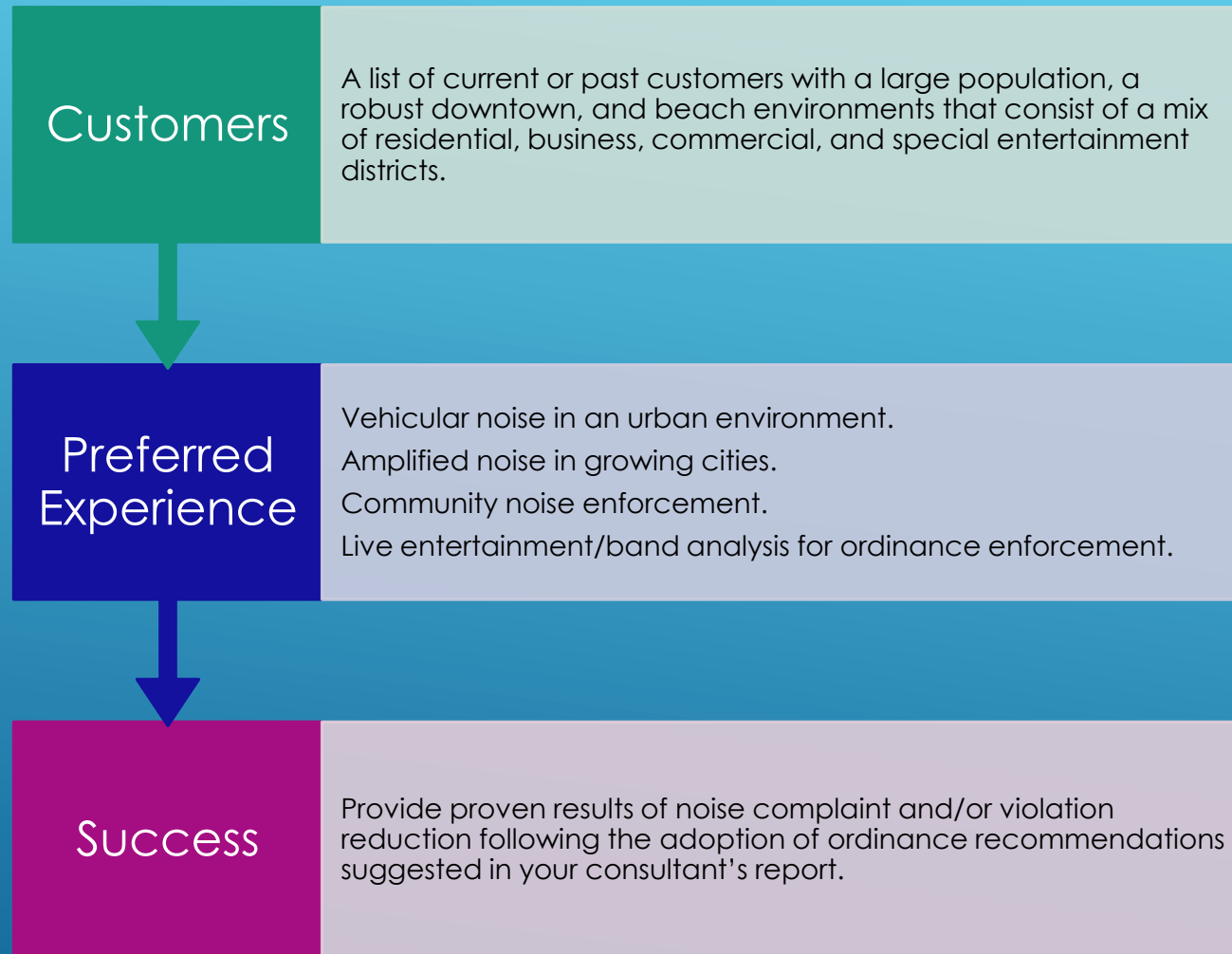
Creating maximum dBC frequency to measure and reduce the impact of bass in amplified sound.



Selection of a consultant with expertise in modern, large city, downtown, and beach environments, that consist of a mix of residential, business, commercial, and special entertainment districts.

# NOISE ADVISORY COMMITTEE'S INTERESTS

# SPECIALTIES FOR THE CONSULTANT



# OBJECTIVES FOR NOISE CONSULTANT

