

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 11/17/15 - KW

Division: County Attorney's Office

Bulk Item: Yes No

Staff Contact /Phone #: Steve Williams 292-3470

AGENDA ITEM WORDING:

A public hearing to consider an ordinance amending the noise ordinance as found in Monroe County Code, Chapter 17, Section 17-129, et seq.

ITEM BACKGROUND:

Previous provisions of and amendments to the noise ordinance have become outdated and no longer provide for certain circumstances affecting the health, safety and welfare of the citizens of Monroe County as well as the enjoyment of their property.

After conferring with both the Monroe County Sheriff's Department and the Code Compliance Department, amendments were drafted to sections, 17-129, 17-130, 17-131, 17-132, and 17-134 of the Monroe County Code. The amendments provide for a twofold approach to citing an alleged violator of the noise ordinance. Sheriff's deputies will now have the discretion to issue a citation on site for an observed violation and code compliance staff will also have the ability to issue violations. It is the intent of the ordinance to provide greater ability to reduce those situations where noise is created that prevents surrounding residents from peacefully enjoying the use of their property.

PREVIOUS RELEVANT BOCC ACTION: Ordinance No. 32-2000 sect. 3; Ordinance 2-2001 sect.1 and 2; Ordinance 022-2004 sect 21.

10/21/15 (R-12) BOCC scheduled public hearing for BOCC 11/17/15 at 3:00 p.m. in Key West, FL

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS: Approval.

TOTAL COST: Adv. Costs **INDIRECT COST:** _____ **BUDGETED:** Yes No

DIFFERENTIAL OF LOCAL PREFERENCE: _____

COST TO COUNTY: Adv. Costs **SOURCE OF FUNDS:** _____

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Attorney OMB/Purchasing _____ Risk Management _____

DOCUMENTATION: Included Not Required _____

DISPOSITION: _____ **AGENDA ITEM #** _____



MONROE COUNTY, FLORIDA

ORDINANCE NO. -2015

A ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, AMENDING AND CLARIFYING CHAPTER 17, ARTICLE IV, SECTIONS 17-129, 17-130, 17-131, 17-132, AND 17-134 OF THE CODE OF ORDINANCES, ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS", "NOISE"; ADDING LANGUAGE AND AUTHORITY FOR ENFORCEMENT BY LAW ENFORCEMENT OFFICERS; ADDING AND AMENDING LANGUAGE FOR AUTHORITY TO ISSUE CITATIONS AND NOTICES OF VIOLATION PROCEDURES AND PENALTIES, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Board of County Commissioners recognizes that disturbing noise can cause adverse psychological and physiological effects on humans, and deprive people of the peaceable enjoyment of their private property; and

WHEREAS, The Board of County Commissioners recognizes that disturbing noise can cause an unsafe environment and condition, violating the public health, safety and welfare; and,

WHEREAS, The Monroe County Board Of County Commissioners finds that an amendment to the current Code of Ordinances is essential to establish specific permissible noise limits in order to provide abatement, prevention and prohibition of disturbing noise so as to protect the health, safety, and general welfare of the residents of unincorporated Monroe County.

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

Section 1: The language in Chapter 17, Article IV, Section 17-129, 17-130, 17-131, 17-132, and 17-134 are hereby amended as follows:

1 **Sec. 17-129. - Definitions.**

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

4 *A-weighted sound level* means the sound level as measured with the A-weighting network on a
5 sound level meter meeting the standards set forth in the American National Standards Institute
6 (ANSI) S1.4-1983 or its successors. The unit of reporting is dBA. Sounds measured with the "A"
7 weighting network approximate the response of human hearing when measuring sounds of low
8 to moderate intensity without an amplified low frequency component.

9 *Amplified sound* means the reproduction of sound from any radio, stereo, CD player, DVD
10 player, microphone, drum, turn table, audio or visual equipment, musical instrument, sound
11 equipment, sound amplification device, television set, exterior loudspeakers, bullhorn or any
12 similar device.

13 *C-weighted sound level* means the sound level as measured using the "C" weighting network
14 with a sound level meter meeting the standards as set forth in ANSI S1.4-1983 or its successors.
15 The unit of reporting is dBC. The "C" weighting network is more sensitive to low frequencies
16 than the "A" weighting network.

17 *Construction and Demolition Allowable Hours of operation:* 8:00 am to 7:00 pm daily

18 *Customary sleeping hours* means the period of time commencing at 10:00 p.m. and ending at
19 8:00 a.m. the following morning, except that on Friday and Saturday nights, the period shall
20 commence at 11:00 p.m. rather than 10:00 p.m. On the New Year's Eve holiday, the period shall
21 not commence until 1:00 a.m. on January 1.

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

28 *Domestic Power Tools* means hand powered or mechanically powered saw, sander, grinder,
29 lawn/garden tool or reasonably similar tools. However, to be lawful, the use of sound producing
30 tools may not occur during "Customary Sleeping Hours".

31 *Disturbing noise* means noise that is an uninvited and disruptive level of sound that is
32 unreasonably loud or that is raucous and jarring, due to volume, character, or duration, and that
33 causes an actual interference with a person's ability to enjoy peacefully his residence or place of
34 business.

1 *Emergency or emergency work* means any occurrence or set of circumstances involving or
2 creating actual or imminent physical trauma or property damage that demands immediate
3 attention.

4 *Noise control officer* means, code compliance officers and law enforcement personnel authorized
5 to enforce provisions of this Code.

6 *Property boundary* means the imaginary line along the surface, and its vertical plane extension,
7 that separates the real property owned, rented, or leased by one person from that owned, rented,
8 or leased by another person.

9 *Public Event* means public events and celebrations with or without an approved and issued
10 Public Assembly Permit.

11 *Public right-of-way* means any street, avenue, boulevard, lane, highway, sidewalk, alley, or
12 similar place normally accessible to the public that is owned or controlled by a governmental
13 entity or that has been dedicated to use or access for the benefit of the public or adjacent property
14 owners.

15 *Sound level meter* means an instrument including a microphone, amplifier, an output meter, and
16 frequency weighting networks for the measurement of noise and sound levels in a specific
17 manner which complies with standards established by the American National Standards Institute
18 (ANSI) specifications for sound level meters.

19 *Soundproof* means any physical arrangement or configuration of a building that is sufficient to
20 prevent the sound of live entertainment or amplified sound from constituting unreasonable noise
21 within any residence or residential property, or from any other nonresidential establishment more
22 than 200 feet away from a property boundary of the sound source.

23

24 **Section 2.** The language in Chapter 17, Article IV, Section 17-130 is hereby amended as follows:

25 **Sec. 17-130.** - Prohibition disturbing noise: soundproofing requirement.

26 (a) No person shall make, continue, or cause to be made any *disturbing noise*. *Disturbing*
27 *noise shall be established in one of two manners:*

28

29 (i) The occurrence of any sound which through the exercise of reasonable care, the
30 maker or operator should know is loud and raucous due to its volume, character,
31 duration, time of occurrence, or the number of persons affected, regardless of its
32 source or content; or

33 (ii) The occurrence of any sound that equals or exceeds a measured sound level of
34 75 dBA or 84 dBC for more than ten percent of any measurement period that

1 shall not be less than ten minutes when measured at or beyond any property
2 boundary of the sound source.

3 (b) It shall be unlawful, and an offense, for any person(s), to permit, cause, allow, amplify, create,
4 emit, or sustain disturbing noise on any property, including air space thereof, located in
5 unincorporated Monroe County.

6 (c) If a disturbing noise is being established via a sound level meter, reading(s) shall be taken at a
7 distance within 100 feet of the property line of the sound source. The investigating officer may
8 issue a citation or Notice of Violation for disturbing noise.

9 (d) A sound level meter measurement is not required to determine disturbing noise. The
10 investigating officer may take action if the complaining party suffers disturbing noise within the
11 boundaries of his or her property.

12 (e) Any commercial structure or property that provides live entertainment or amplified sound,
13 including any portable structure or vehicle of any type, shall be fully enclosed and soundproofed
14 whenever such live entertainment or amplified sound is provided during customary sleeping
15 hours. No person shall, during customary sleeping hours, make, continue or cause to be made
16 any live entertainment or amplified sound in or on such commercial structure or property except
17 within a fully enclosed and soundproofed structure. The occasional escape of noise resulting
18 from the opening of access doors is expected and the brief period of noise therefrom shall not
19 constitute a per se violation of this subsection, but if escape noise is disturbing noise, it shall
20 constitute a violation of subsection (b) of this section.

21 **Section 3:** The language in Chapter 17, Article IV, Section 17-131 is hereby amended as
22 follows:

23 **Sec. 17-131. - Exceptions**

24 The provisions of this article shall not apply to:

25 (a) Emergencies. The emission of sound for the purpose of alerting persons to the existence of an
26 emergency or emergency vehicle or the performance of emergency work.

27 (b) Church bells and chimes

28 (c) Construction and demolition. Sound levels produced from tools and equipment used in
29 construction, demolition, auguring or reasonably similar activities. However, such sound levels
30 are limited to the hours of 8:00 am to 7:00 pm.

31 (d) Public Events. Sound Levels from public events and celebrations with an approved and
32 issued Public Assembly Permit, but only during the hours designated by the approved and issued
33 permit or permitted use.

1 (e) Government Radio Transmissions. Sound levels from equipment or radios used by police,
2 law enforcement, fire or emergency operators, and from similar equipment used by government
3 agencies in performance of official duties.

4 (f) Equipment. Noise levels for equipment, including, but not limited to air conditioners,
5 generators and pool pumps, must be set to reasonable industry standards for properly maintained
6 equipment.

7 (g) Sound created by safety and protective devices, emergency equipment, including, but not
8 limited to, emergency standby or backup equipment necessary in the interests of the health,
9 safety and welfare of the community.

10 (*Code 1979, § 13-54; Ord. No. 32-2000, § 3*)

11 **Sec. 17-132. - Motor vehicle noise emissions.**

12 (a) No person shall operate or cause to be operated any motor vehicle off a public right-of-way in
13 violation of this article. This article shall apply to all motor vehicles, whether or not duly
14 licensed or registered, including, but not limited to, commercial or recreational racing vehicles,
15 motorcycles, dirt bikes, mopeds, go-carts, amphibious vehicles, campers, power boats, personal
16 watercraft, or any other engine-powered vehicle ;provided, however, that a vessel owner may
17 operate an engine for a reasonable period of time in order to flush out the engine with fresh
18 water.

19 (b) Motor vehicles operating on the public right of way are regulated as set forth in FS§403.415.
20 The decibel measurements of this statute shall pertain to motor vehicle noise. It shall be unlawful
21 to operate a vehicle, moped, scooter or motorcycle in the unincorporated areas of Monroe
22 County in violation of this statute. In addition, every vehicle, moped, scooter or motorcycle shall
23 be equipped with a muffler in constant operation and be properly maintained to prevent
24 disturbing noise. Furthermore it shall be unlawful for a person to engage in rapid throttle
25 advancing or revving of an internal combustion engine of a vehicle, moped, scooter, or
26 motorcycle that is at a standstill or that is in the flow of traffic where such rapid throttle
27 advancing or revving is not necessary for its safe operation, thus resulting in increased noise.

28 (c) A citation issued under this section may be issued by a law enforcement officer, in the course
29 of his duties and having jurisdiction for enforcement of this section of the code.

30 17-133. Special Variance

31 17-134. Liability; penalties and enforcement.

32 (a) A violation of this article is an offense. If a citation is issued, the fine shall be \$250.00 for a
33 first offense and \$500.00 for a subsequent offense. In addition, the business tax receipt issued for

1 a commercial entity may be revoked by the Special Magistrate or court of competent jurisdiction
2 upon a finding of two or more violations of this article by the same entity.

3 (b) *Liability*. The individual controlling or responsible for maintaining the volume of disturbing
4 noise and the operator and/or owner of the premises that are its sound source shall be subject to
5 liability for violations of this article. If prosecuted jointly, each shall be jointly and severally
6 liable for fines imposed pursuant to this article. The sponsor of a public event shall not be liable
7 for disturbing noise unless conditions placed upon the sponsor in a public event permit are
8 violated.

9 (c) *Citizen Civil Suit*. In addition to any other remedy available to the County, including code
10 compliance, the County or any other adversely affected party may enforce the terms of this
11 article in law or equity. Any citizen of the County may seek injunctive relief and damages in a
12 court of competent jurisdiction to prevent a violation of this article. No section of this article
13 shall be interpreted to prevent any person from commencing a civil action on his own behalf
14 against any person who is alleged to be in violation of any section of this article. Attorney's fees
15 and costs incurred in an action to enforce this article may be awarded to a substantially
16 prevailing party in the discretion of the court.

17 (d) *Multiple unsubstantiated Complaints*. An unsubstantiated complaint is one which a noise
18 control officer has responded and found either no evidence of any noise, or sound that is ten (10)
19 decibels or more below the standard for the finding of a violation of disturbing noise. The noise
20 control officer shall explain his or her findings to the complainant and detail relevant standards
21 for determining a violation as specified by the County Code.

22 **Section 3. Severability.**
23

24 If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be
25 adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect,
26 impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be
27 confined to the section, paragraph, subdivision, clause, sentence, or provision immediately
28 involved in the controversy in which such judgment or decree shall be rendered.
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32 **Section 4. Conflicting Provisions.**
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34 In the case of direct conflict between any provision of this ordinance and a portion or provision
35 of any appropriate federal, state, or County law, rule code or regulation, the more restrictive shall
36 apply.
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1 **Section 5. Inclusion in the Monroe County Code.**

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3 The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances
4 of the County of Monroe, Florida, as an amendment thereto.
5

6 **Section 6. Effective Date.**

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8 This ordinance shall be filed with the Department of State as provided in §125.66(2), Florida
9 Statutes and shall be effective as provided by law.
10

11 **(Remainder of page left intentionally blank)**
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1 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida
2 at a regular meeting held on the ____ day of _____, 2015.
3

4 Mayor Danny L. Kolhage _____
5 Mayor *pro tem* Heather Carruthers _____
6 Commissioner Sylvia Murphy _____
7 Commissioner George Neugent _____
8 Commissioner David Rice _____
9

10 **BOARD OF COUNTY COMMISSIONERS**
11 **OF MONROE COUNTY, FLORIDA**

12
13 **BY:** _____
14 Mayor Danny L. Kolhage

15 (SEAL)

16 **ATTEST: AMY HEAVILIN, CLERK**

17
18 _____
19 Deputy Clerk
20



MONROE COUNTY, FLORIDA

ORDINANCE NO. -2015

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WHEREAS, The Board of County Commissioners recognizes that disturbing~~excessive and unnecessary~~ noise can cause adverse psychological and physiological effects on humans, and deprive people of the peaceable enjoyment of their private property; and

WHEREAS, The Board of County Commissioners recognizes that disturbing~~excessive and unnecessary~~ noise can cause an unsafe environment and condition, violating the public health, safety and welfare; and,

WHEREAS, The Monroe County Board Of County Commissioners finds that an amendment to the current Code of Ordinances is essential to establish specific permissible noise limits in order to provide abatement, prevention and prohibition of disturbing~~excessive and unnecessary~~ noise so as to protect the health, safety, and general welfare of the residents of unincorporated Monroe County.

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

[Proposed Text Changes are presented in ~~strikethrough~~ to indicate deletions and underline to indicate additions.]

1 **Section 1:** The language in Chapter 17, Article IV, Section 17-129, 17-130, 17-131, 17-132, and
2 17-134 are hereby amended as follows:

3
4 **Sec. 17-129. - Definitions.**

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6 ascribed to them in this section, except where the context clearly indicates a different meaning:

7 *A-weighted sound level* means the sound level as measured with the A-weighting network on a
8 sound level meter meeting the standards set forth in the American National Standards Institute
9 (ANSI) S1.4-1983 or its successors. The unit of reporting is dBA. Sounds measured with the "A"
10 weighting network approximate the response of human hearing when measuring sounds of low
11 to moderate intensity without an amplified low frequency component.

12 *Amplified sound* means the reproduction of sound from any radio, stereo, CD player, DVD
13 player, microphone, drum, turn table, audio or visual equipment, musical instrument, sound
14 equipment, sound amplification device, television set, exterior loudspeakers, bullhorn or any
15 similar device.

16 *C-weighted sound level* means the sound level as measured using the "C" weighting network
17 with a sound level meter meeting the standards as set forth in ANSI S1.4-1983 or its successors.
18 The unit of reporting is dBC. The "C" weighting network is more sensitive to low frequencies
19 than the "A" weighting network.

20 *Construction and Demolition Allowable Hours of operation:* 8:00 am to 7:00 pm daily

21 *Customary sleeping hours* means the period of time commencing at 10:00 p.m. and ending at
22 8:00 a.m. the following morning, except that on Friday and Saturday nights, the period shall
23 commence at 11:00 p.m. rather than 10:00 p.m. On the New Year's Eve holiday, the period shall
24 not commence until 1:00 a.m. on January 1.

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

31 *Domestic Power Tools* means hand powered or mechanically powered saw, sander, grinder,
32 lawn/garden tool or reasonably similar tools. However, to be lawful, the use of sound producing
33 tools may not occur during "Customary Sleeping Hours".

1 | Disturbing noise means noise that is an uninvited and disruptive level of sound that is
2 unreasonably loud or that is raucous and jarring, due to volume, character, or duration, and that
3 causes an actual interference with a person's ability to enjoy peacefully his residence or place of
4 business.

5 *Emergency or emergency work* means any occurrence or set of circumstances involving or
6 creating actual or imminent physical trauma or property damage that demands immediate
7 attention.

8 Noise control officer means, code compliance officers and law enforcement personnel authorized
9 to enforce provisions of this Code.

10 *Property boundary* means the imaginary line along the surface, and its vertical plane extension,
11 that separates the real property owned, rented, or leased by one person from that owned, rented,
12 or leased by another person.

13 Public Event means public events and celebrations with or without an approved and issued
14 Public Assembly Permit

15 *Public right-of-way* means any street, avenue, boulevard, lane, highway, sidewalk, alley, or
16 similar place normally accessible to the public that is owned or controlled by a governmental
17 entity or that has been dedicated to use or access for the benefit of the public or adjacent property
18 owners.

19 *Sound level meter* means an instrument including a microphone, amplifier, an output meter, and
20 frequency weighting networks for the measurement of noise and sound levels in a specific
21 manner which complies with standards established by the American National Standards Institute
22 (ANSI) specifications for sound level meters.

23 *Soundproof* means any physical arrangement or configuration of a building that is sufficient to
24 prevent the sound of live entertainment or amplified sound from constituting unreasonable noise
25 within any residence or residential property, or from any other nonresidential establishment more
26 than 200 feet away from a property boundary of the sound source.

27 ~~*Unreasonably excessive noise* means:~~

28 ~~(1) Any noise sound of which with the exercise of reasonable care, the maker or operator should~~
29 ~~know is loud and raucous due to its volume, character, duration, time of occurrence, or the~~
30 ~~number of persons affected, regardless of its source or content; or~~

31 ~~(2) Any noise sound that equals or exceeds a measured sound level of 60-75 dBA or 84 dBC for~~
32 ~~more than ten percent of any measurement period that shall not be less than ten minutes when~~
33 ~~measured at or beyond any property boundary of the sound source.~~

34 **Section 2.** The language in Chapter 17, Article IV, Section 17-130 is hereby amended as follows:

1 **Sec. 17-130. - Prohibition ~~against unreasonable~~; disturbing noise: soundproofing requirement.**

2 | (a) No person shall make, continue, or cause to be made any ~~unreasonable noise~~; disturbing
3 noise. Disturbing noise shall be established in one of two manners:

4
5 | (i) The occurrence of any sound ~~of which through the exercise of reasonable care,~~
6 the maker or operator should know is loud and raucous due to its volume,
7 character, duration, time of occurrence, or the number of persons affected,
8 regardless of its source or content; or

9 (ii) The occurrence of any sound that equals or exceeds a measured sound level of
10 75 dBA or 84 ~~DBC~~ dBC for more than ten percent of any measurement period
11 that shall not be less than ten minutes when measured at or beyond any property
12 boundary of the sound source.

13 (b) ~~If a complaint arises from a multistory structure, the determination of whether such sound~~
14 ~~constitutes unreasonable noise shall be made from a story height equal to that of the sound~~
15 ~~source.~~ It shall be unlawful, and an offense, for any person(s), to permit, cause, allow, amplify,
16 create, emit, or sustain disturbing noise on any property, including air space thereof, located in
17 unincorporated Monroe County.

18 (c) If a disturbing noise is being established via a sound level meter, reading(s) shall be taken at a
19 distance within 100 feet of the property line of the sound source. The investigating officer may
20 issue a citation or Notice of Violation for ~~unreasonably excessive~~ disturbing noise.

21 (ed) A sound level meter measurement is not required to determine disturbing noise. The
22 investigating officer may take action~~issue a citation or Notice of Violation~~ if the complaining
23 party suffers disturbing noise within the boundaries of his or her property ~~unless in the officer's~~
24 judgment a warning is sufficient to cease the violation.

25 (ee) Any commercial structure or property that provides live entertainment or amplified sound,
26 including any portable structure or vehicle of any type, shall be fully enclosed and soundproofed
27 whenever such live entertainment or amplified sound is provided during customary sleeping
28 hours. No person shall, during customary sleeping hours, make, continue or cause to be made
29 any live entertainment or amplified sound in or on such commercial structure or property except
30 within a fully enclosed and soundproofed structure. The occasional escape of noise resulting
31 from the opening of access doors is expected and the brief period of noise therefrom shall not
32 constitute a per se violation of this subsection, but if escape noise is ~~unreasonably excessive~~
33 disturbing noise, it shall constitute a violation of subsection (ab) of this section.

34 **Section 3:** The language in Chapter 17, Article IV, Section 17-131 is hereby amended as
35 follows:

36 **Sec. 17-131. - ~~Emergency exception~~ Exceptions**

1 | The provisions of this article shall not apply to:

2 | (a) Emergencies. The provisions of this article shall not apply to the emission of sound for the
3 | purpose of alerting persons to the existence of an emergency or emergency vehicle or the
4 | performance of emergency work.

5 | (b) Church bells and chimes

6 | (c) Construction and demolition. Sound levels produced from tools and equipment used in
7 | construction, demolition, auguring or reasonably similar activities. However, such sound levels
8 | are limited to the hours of 8:00 am to 7:00 pm.

9 | (d) Public Events. Sound Levels from public events and celebrations with an approved and
10 | issued Public Assembly Permit, but only during the hours designated by the approved and issued
11 | permit or permitted use.

12 | (e) Government Radio Transmissions. Sound levels from equipment or radios used by police,
13 | law enforcement, fire or emergency operators, and from similar equipment used by government
14 | agencies in performance of official duties.

15 | (f) Equipment. Noise levels for equipment, including, but not limited to air conditioners,
16 | generators and pool pumps, must be set to reasonable industry standards for properly maintained
17 | equipment.

18 | (g) Sound created by safety and protective devices, emergency equipment, including, but not
19 | limited to, emergency standby or backup equipment necessary in the interests of the health,
20 | safety and welfare of the community.

21 | *(Code 1979, § 13-54; Ord. No. 32-2000, § 3)*

22 | **Sec. 17-132. - Motor vehicle noise emissions.**

23 | (a) No person shall operate or cause to be operated any motor vehicle off a public right-of-way in
24 | violation of this article. This article shall apply to all motor vehicles, whether or not duly
25 | licensed or registered, including, but not limited to, commercial or recreational racing vehicles,
26 | motorcycles, dirt bikes, mopeds, go-carts, amphibious vehicles, campers, power boats, personal
27 | watercraft, or any other engine-powered vehicle ;provided, however, that a vessel owner may
28 | operate an engine for a reasonable period of time in order to flush out the engine with fresh
29 | water.

30 | (b) Motor vehicles operating on the public right of way are regulated as set forth in
31 | FS§§403.415. The decibel measurements of this statute shall pertain to motor vehicle noise. It
32 | shall be unlawful to operate a vehicle, moped, scooter or motorcycle in the Unincorporated
33 | areas of Monroe County in violation of a provision of this statute. In addition, every vehicle,
34 | moped, scooter or motorcycle shall be equipped with a muffler in constant operation and be

1 | properly maintained to prevent disturbing or unreasonable noise. Furthermore it shall be
2 | unlawful for a person to engage in rapid throttle advancing or revving of an internal combustion
3 | engine of a vehicle, moped, scooter, or motorcycle that is at a standstill or that is in the flow of
4 | traffic where such rapid throttle advancing or revving is not necessary for its safe operation, thus
5 | resulting in increased noise.

6 | (c) A citation issued under this section may be issued by a law enforcement officer, in the course
7 | of his duties and having jurisdiction for enforcement of this section of the code.

8 | 17-133. Special Variance

9 | 17-134. Liability; penalties and enforcement.

10 | ~~(a) The maker or creator of a noise and the operator and or owner of its sound source the~~
11 | ~~premises from which the sound emanates shall each be subject to liability for violations of this~~
12 | ~~article. If prosecuted jointly, each shall be jointly and severally liable for any fines imposed~~
13 | ~~pursuant to this article.~~

14 | ~~(ab) A violation of this article is an offense. If a code enforcement citation is issued, the fine~~
15 | ~~shall be \$250.00 for a first offense and \$500.00 for a subsequent offense. In addition, the~~
16 | ~~business license tax receipt issued for a commercial entity may be revoked by the Special~~
17 | ~~Magistrate or court of competent jurisdiction upon a finding of two or more violations of this~~
18 | ~~article by the same entity.~~

19 | ~~(ba) Liability. The individual controlling or responsible for maintaining the volume of~~
20 | ~~unreasonable excessive disturbing noise and the operator and/or owner of the premises that are~~
21 | ~~its sound source shall be subject to liability for violations of this article. If prosecuted jointly,~~
22 | ~~each shall be jointly and severally liable for fines imposed pursuant to this article. The sponsor of~~
23 | ~~a public event shall not be liable for unreasonably excessive disturbing noise unless conditions~~
24 | ~~placed upon the sponsor in a public event permit are violated.~~

25 | ~~(cb) Citizen Civil Suit. In addition to any other remedy available to the County, including code~~
26 | ~~compliance, the County or any other adversely affected party may enforce the terms of this~~
27 | ~~article in law or equity. Any citizen of the County may seek injunctive relief and damages in a~~
28 | ~~court of competent jurisdiction to prevent a violation of this article. No section of this article~~
29 | ~~shall be interpreted to prevent any person from commencing a civil action on his own behalf~~
30 | ~~against any person who is alleged to be in violation of any section of this article. Attorney's fees~~
31 | ~~and costs incurred in an action to enforce this article may be awarded to a substantially~~
32 | ~~prevailing party in the discretion of the court.~~

33 | ~~(de) Multiple unsubstantiated Complaints. An unsubstantiated complaint is one which a noise~~
34 | ~~control officer has responded and found either no evidence of any noise, or sound that is ten (10)~~
35 | ~~decibels or more below the standard for the finding of a violation of unreasonably excessive~~

1 | disturbing noise. The noise control ~~office~~ -officer shall explain his or her findings to the
2 | complainant and detail relevant standards for determining a violation as specified by the County
3 | Code.

4 | **Section 3. Severability.**

5 |
6 | If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be
7 | adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect,
8 | impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be
9 | confined to the section, paragraph, subdivision, clause, sentence, or provision immediately
10 | involved in the controversy in which such judgment or decree shall be rendered.
11 |

12 |
13 |
14 | **Section 4. Conflicting Provisions.**

15 |
16 | In the case of direct conflict between any provision of this ordinance and a portion or provision
17 | of any appropriate federal, state, or County law, rule code or regulation, the more restrictive shall
18 | apply.
19 |

20 | **Section 5. Inclusion in the Monroe County Code.**

21 |
22 | The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances
23 | of the County of Monroe, Florida, as an amendment thereto.
24 |

25 | **Section 6. Effective Date.**

26 |
27 | This ordinance shall be filed with the Department of State as provided in §125.66(2), Florida
28 | Statutes and shall be effective as provided by law.
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30 | (Remainder of page left intentionally blank)
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PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida
at a regular meeting held on the ____ day of _____, 2015.

Mayor Danny L. Kolhage _____
Mayor *pro tem* Heather Carruthers _____
Commissioner Sylvia Murphy _____
Commissioner George Neugent _____
Commissioner David Rice _____

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

BY: _____
Mayor Danny L. Kolhage

(SEAL)
ATTEST: AMY HEAVILIN, CLERK

Deputy Clerk

**NOTICE OF INTENTION TO CONSIDER
ADOPTION OF COUNTY ORDINANCE**

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN that on **November 17, 2015** at **3:00 P.M.**, or as soon thereafter as may be heard, in the **Commission Chambers** located in the **Harvey Government Center, 1200 Truman Avenue, Key West, Monroe County, Florida**, the **Board of County Commissioners of Monroe County, Florida**, intends to consider the adoption of the following County ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, AMENDING AND CLARIFYING CHAPTER 17, ARTICLE IV, SECTIONS 17-129, 17-130, 17-131, 17-132, AND 17-134 OF THE CODE OF ORDINANCES, ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS", "NOISE"; ADDING LANGUAGE AND AUTHORITY FOR ENFORCEMENT BY LAW ENFORCEMENT OFFICERS; ADDING AND AMENDING LANGUAGE FOR AUTHORITY TO ISSUE CITATIONS AND NOTICES OF VIOLATION PROCEDURES AND PENALTIES, AND PROVIDING FOR AN EFFECTIVE DATE.

Pursuant to Section 286.0105, Florida Statutes, notice is given that if a person decides to appeal any decision made by the Board with respect to any matter considered at such hearings or meetings, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".

Dated at Key West, Florida, this 23rd day of October, 2015.

(SEAL)

AMY HEAVILIN, Clerk of the Circuit Court
and ex officio Clerk of the Board of County
Commissioners of Monroe County, Florida

Publication dates:

KW Citizen (Tu) 10/27/15
Keynoter (Wed) 10/28//15
Reporter (Fr) 10/30/15

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 10/21/15

Division: County Attorney's Office

Bulk Item: Yes No

Staff Contact /Phone #: Steve Williams 292-3470

AGENDA ITEM WORDING:

Approval to advertise a public hearing to consider an ordinance amending the noise ordinance as found in Monroe County Code, Chapter 17, Sections 17-129 et seq.

ITEM BACKGROUND:

Previous provisions of and amendments to the noise ordinance have become outdated and no longer provide for certain circumstances affecting the health, safety and welfare of the citizens of Monroe County as well as the enjoyment of their property.

After conferring with both the Monroe County Sheriff's Department and the Code Compliance Department, amendments were drafted to sections, 17-129, 17-130, 17-131, 17-132, and 17-134 of the Monroe County Code. The amendments provide for a twofold approach to citing an alleged violator of the noise ordinance. Sheriff's deputies will now have the discretion to issue a citation on site for an observed violation and code compliance staff will also have the ability to issue violations. It is the intent of the ordinance to provide greater ability to reduce those situations where noise is created that prevents surrounding residents from peacefully enjoying the use of their property.

PREVIOUS RELEVANT BOCC ACTION: Ordinance No. 32-2000 sect. 3; Ordinance 2-2001 sect.1 and 2; Ordinance 022-2004 sect 21.

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS: Approval to advertise a public hearing.

TOTAL COST: _____ **INDIRECT COST:** _____ **BUDGETED:** Yes No

DIFFERENTIAL OF LOCAL PREFERENCE: _____

COST TO COUNTY: _____ **SOURCE OF FUNDS:** _____

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Attorney SW OMB/Purchasing _____ Risk Management _____

DOCUMENTATION: Included Not Required _____

DISPOSITION: _____

AGENDA ITEM # 8-12

Bulk Approved