

**AGENDA
LOCAL PLANNING AGENCY
THURSDAY, August 24, 2017
DESTIN CITY HALL BOARDROOM
5:30 P.M.**

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

A. April 20, 2017

4. NEW BUSINESS

- A. A public hearing regarding Ordinance No. 17-19-CC. The proposed ordinance addresses a growing community concern about the impacts of excessive noise on neighborhood quality of life which has become a top priority of the City Council. Proposed Ordinance 17-19-CC will help ensure city Code Enforcement Officers and other city Staff are provided with the regulatory and enforcement tools to help improve the quality of life for all residents and visitors affected by excessive noise. The proposed ordinance title is as follows:

ORDINANCE NO. 17-19-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO NOISE POLLUTION CONTROL; AMENDING CHAPTER 14, ARTICLE II "NOISE" OF THE CITY CODE OF ORDINANCES; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

5. NEXT MEETING DATE: September 21, 2017

6. ADJOURNMENT

Copies of the above-mentioned matters may be reviewed at the Destin City Hall, Community Development Department. The public is encouraged to provide written and/or verbal comments on the above referenced matters.

All persons are advised that, if any person decides to appeal any decision made at any of these meetings, he/she will need a record of the proceedings and, for such purpose, they 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. *Florida Statutes* 286.0105.

Persons with disabilities who require assistance to participate in this meeting are requested to notify the City Clerk's office at (850) 837-4242 at least 48 hours in advance.

**MINUTES
LOCAL PLANNING AGENCY
THURSDAY, APRIL 20, 2017 - 5:30 P.M.
DESTIN CITY HALL BOARDROOM**

1. CALL TO ORDER:

Chairman Wood called the Local Planning Agency meeting to order on Thursday, April 20, 2017 at 5:30 p.m., in the Destin City Hall Boardroom and Pledge of Allegiance.

2. ROLL CALL:

Members Present

James Wood
Steven Menchel
Donald David
Corey Ledbetter
Scott Jacobs
Darryl Shelton
Andrew McDowell

Staff

Kim Montgomery, Deputy City Clerk
Hank Woollard, Planner
Jeff Burns, City Attorney
Kimberly Kopp, Land Use Attorney

3. APPROVAL OF MINUTES: March 2, 2017

Motion by Agency member Menchel, seconded by Agency member Jacobs to approve the minutes of the March 2, 2017 meeting minutes, passed unanimously with a 7-0 vote.

4. NEW BUSINESS:

- A. A public hearing regarding Ordinance No. 17-08-LC. The proposed ordinance creates a new zoning district, Calhoun Mixed Use – Village (CMU-V) within a 17.76 acre area between Calhoun Avenue and Sibert Avenue. This area includes twenty-five (25) individual parcels and one (1) nine (9) –unit condominium. The area is bounded by Calhoun Avenue on the west, Zerbe Street on the south; lands designated Institutional (I) and Medium Density Residential-Village (MDR-V) on the north and Sibert Avenue on the east. The proposed ordinance re-zones the subject area from Residential Office Institutional – General Development (ROI-GD) to CMU-V. The proposed ordinance title is as follows:

ORDINANCE NO. 17-08-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA CREATING A NEW ZONING DISTRICT, CALHOUN MIXED USE – VILLAGE (CMU-V); CHANGING THE ZONING DESIGNATION OF AN AREA BETWEEN CALHOUN AND SIBERT AVENUES FROM RESIDENTIAL OFFICE INSTITUTIONAL-GENERAL DEVELOPMENT (ROI-GD) TO CMU-V; PROVIDING FOR AN AMENDMENT TO THE OFFICIAL ZONING MAP; PROVIDING FOR AN AMENDMENT TO TABLE 7-1 IMPLEMENTING ZONING DISTRICTS; PROVIDING FOR AMENDMENTS TO SECTION 7.12.06. ZONING DISTRICTS BY CREATING A NEW ZONING DISTRICT, CALHOUN MIXED USE-VILLAGE (CMU-V); PROVIDING FOR THE AMENDMENT OF LAND DEVELOPMENT CODE SECTION 7.12.06 ZONING DISTRICTS, TABLE 7-2: TABLE OF ALLOWABLE

USES; PROVIDING FOR THE AMENDMENT OF SECTION 7.12.08 DIMENSIONAL REQUIREMENTS, TABLE 7-3: SCHEDULE OF DIMENSIONAL REQUIREMENTS; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Attorney read the ordinance into the record. The Land Use explained the reason for this ordinance is to make both the Future Land Use Map and the official Zoning Map consistent with one another with the creation of the new zoning designation of CALHOUN MIXED USE – VILLAGE (CMU-V).

The Planner explained the key point of this is to create an extension of Calhoun Mixed Use's Future Land Use and Zoning District to the lower intensity of Bay Estates and Low Density Residential zones to the north. Pointing out that the trend for the areas of Calhoun and Siebert Avenue areas closer to Highway 98 is going more towards commercial and short-term use.

On a motion by Agency member Ledbetter, seconded by Agency member Menchel; the members voted 7-0 to recommend the Local Planning Agency find the proposed ordinance 17-08-LC consistent with the Comprehensive Plan: 2020 and recommends City Council approve proposed Ordinance 17-08-LC on first reading.

5. ADJOURNMENT:

Having no further discussion at this time, the meeting adjourned at 5:10 p.m.

Adopted and approved this _____ day of _____ 2017.

James T. Wood, Jr, Chairman

Kim Montgomery, Deputy City Clerk

CITY OF DESTIN



AGENDA ITEM

LOCAL PLANNING AGENCY DATE: August 24, 2017

TYPE OF AGENDA ITEM: Public Hearing

TO: Local Planning Agency Members

THROUGH: City Manager, Carisse LeJeune *CML*
 Interim Community Development Director, Steve Schmidt *SS*
 City Land Use Attorney, Kimberly Kopp *KK*

FROM: Planner, Hank Woollard, AICP *HW*

DATE: August 14, 2017

SUBJECT: Ordinance 17-19-CC – Noise Ordinance

- I. **BACKGROUND:** The Destin Code Enforcement Division is receiving an increasing number of complaints about noise in certain areas of the City. Because this is an important quality of life issue and because current noise abatement standards seem to be ineffective, the City Council asked for updated noise standards. A Management Project in Progress from the FY 2016/2017 was to research Best Practices for more stringent noise ordinance. A proposed draft noise ordinance was prepared by City Attorney, Jeff Burns and was reviewed at the June 19, 2017 City Council meeting. The City Council voted unanimously in favor of a motion to present the final draft of the proposed noise ordinance to City staff for review and bring back to Council for first reading. Staff is seeking the Local Planning Agency review of proposed Ordinance 17-19-CC for consistency with Comprehensive Plan: 2020 prior to taking back to the City Council for a public hearing on 1st Reading.
- II. **DISCUSSION:** Proposed Ordinance 17-19-CC (refer to exhibit “A”) represents the proposed staff recommended amendments to Article II. Noise within Chapter 14 of the Code of Ordinances. The proposed Ordinance has been formatted for style compatibility with the Code of Ordinances.

Link to Strategic Goals / Objectives:

4B: Enhance and Preserve Heritage and Environment

A. **Effect on Budget (EOB):** Undetermined

B. **Level of Service (LOS):** The proposed recommended amendments to the existing noise regulations will enhance enforcement/compliance level of service thus improving neighborhood quality of life.

- III. **COMPREHENSIVE PLAN CONSISTENCY:** Proposed Ordinance 17-19-CC is consistent with Future Land Use Element **Policy 1-3.7.7: Manage Current Developmental Impacts.** Evaluate and manage impacts of proposed development pursuant to existing ordinances, including, but not limited to, public facilities, natural environment, and impact on stable residential neighborhoods.
- IV. **CONCLUSION:** A growing community concern about the impacts of excessive noise on neighborhood quality of life became a top priority of the City Council. Proposed Ordinance 17-19-CC will help ensure city code enforcement officers and other city staff are provided with the regulatory and enforcement tools to help improve the quality of life for all residents and visitors affected by excessive noise.
- V. **RECOMMENDED MOTION:** I move that the Local Planning Agency find proposed Ordinance 17-19-CC is consistent with Comprehensive Plan: 2020 and recommend its adoption by the City Council.”

Exhibits:

- A. Proposed Ordinance 17-19-CC

ORDINANCE NO. 17-19-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO NOISE POLLUTION CONTROL; AMENDING CHAPTER 14, ARTICLE II "NOISE" OF THE CITY CODE OF ORDINANCES; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. AUTHORITY. The authority for enactment of this Ordinance is Article 1, Section 1.01(b) of the City Charter and section 166.021, *Florida Statutes* (2001).

SECTION 2. FINDINGS OF FACT.

WHEREAS, the City Council finds that excessive and unnecessary noise interferes with the quality of life and can interfere with the health, safety and general welfare of the public.

WHEREAS, the City Council finds that in particular, excessive and unnecessary noise can cause adverse psychological and physiological effects on humans.

WHEREAS, the City Council finds that a substantial body of science and technology exists by which noise may be measured and substantially abated.

WHEREAS, the City Council finds that the provisions and prohibitions contained in this article are enacted in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life in the City for its residents and visitors.

WHEREAS, the City Council of the City of Destin has determined that it is in the best interests of the residents of the City and its visitors to enact this Ordinance.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: The language in Section 3 of this ordinance that is underlined language is language proposed to be added, language that is not ~~struck through~~ or underlined is not to be changed, and * * * represents sections of the Code of Ordinances that have been skipped and remain unchanged. The language in Appendix A of this ordinance that is ~~struck through~~ is language proposed to be deleted.

SECTION 3. AMENDMENT OF CODE OF ORDINANCES CHAPTER 14 OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE II NOISE. Code of Ordinances Chapter 14 Offenses and Miscellaneous Provisions, Article II Noise, is hereby amended as follows:

CHAPTER 14

ARTICLE II

Sec. 14-52. - Terminology, standards, and definitions.

(a) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

Breach of the peace shall mean as defined in F.S. § 877.03.

Commercial or commercial area shall mean those areas so designated by the City of Destin Zoning Map. Specifically, "commercial" or "commercial area" shall include the following zoned areas of land in the City of Destin: Commercial Limited (CL); Commercial General (CG); Commercial Trades and Service (CTS).

Construction shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or on public or private thoroughfares, structures, utilities or similar property.

Development permit shall have the meaning as described in F.S. § 163.3164.

Demolition shall mean any dismantling, destructing or razing of structures, utilities, public or private thoroughfares, or similar property.

City Manager or City Manager's designee shall mean the City, City Manager or City Manager's designee, as defined in this chapter, or his/her designee.

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

Explosive sound shall mean the sound made by the report of a pyrotechnic, or any type of incendiary device. Any explosive sound made as part of an official activity or exercise sponsored by the United States Military, or law enforcement, shall be exempt from this ordinance.

Holiday weekend means the following weekends: Easter, Memorial Day, 4th of July, and Labor Day.

Investigating officer shall mean either a City of Destin Code Enforcement Officer, the City Manager, the City Manager's Designee, or a duly authorized Okaloosa County Sheriff's Deputy.

Mixed use and mixed use area shall mean those areas so designated by the City of Destin Zoning Map. Specifically, "mixed use" or "mixed use area" shall include the following zoned areas of land in the City of Destin: Crystal Beach Resort (CBR); Residential, Office, & Institutional – Crystal Beach Residential (ROI-CBR); Residential, Office, & Institutional – General Development (ROI-GD); Residential, Office, & Institutional – Tourist Development (ROI-TD); Residential, Office, & Institutional – Village Residential (ROI-VR); Calhoun Mixed Use (CMU); Town Center Mixed Use (TCMU); Holiday Isle Mixed Use (HIMU); Gulf Resort Mixed Use (GRMU); North Harbor Mixed Use (NHMU); South Harbor Mixed Use (SHMU); Bay Resort Mixed Use (BRMU).

Motor vehicle shall mean any vehicle defined as "motor vehicle" by F.S. § 320.01(1).

Noise or noise disturbance, for purposes of this article, shall mean any sound produced in such quantity and for such duration that it annoys, disturbs or injures a reasonable individual of

normal sensitivities, and exceeds the sound level limits set forth in this article or is plainly audible.

Person means any individual, association, partnership, corporation, or any other business entity, and includes any officer, employee, department, agency or instrumentality of the United States, the state, or any political subdivision thereof.

Plainly audible shall mean any noise or noise disturbance produced by any source, or reproduced by a radio, tape player, television, CD player, electronic audio equipment, musical instrument, sound amplifier or other mechanical or electronic sound making device that can be clearly heard by a person using his/her normal hearing faculties, at a distance as defined in subsection 14-54(c)(1) from the property line or right-of-way line of the source of the noise disturbance. When the particular sound or noise involves words or phrases, sound or noise may be deemed as "clearly heard" even though the investigating officer cannot determine the specific words or phrases being uttered or produced. The detection of a rhythmic bass reverberating type of noise disturbance is sufficient to constitute a plainly audible sound or noise.

Property line shall mean an imaginary line along the surface of land or water, and its vertical plane extension, which separates the real property owned, rented or leased by a person from the real property owned, rented or leased by another person. Where the real property owned, rented or leased by a person abuts a waterbody, the term "property line" shall mean the established normal high water elevation of the waterbody.

Public right-of-way shall mean any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by the state, county, or municipality.

Pyrotechnics shall mean either (1) a combustible or explosive device for producing a striking display of light or a loud noise, used for signaling or as part of a celebration; (2) any device containing gunpowder or other combustible chemicals that causes a spectacular explosion when ignited, used typically for display or in celebrations; or (3) a device consisting of a combination of explosives and combustibles, set off to generate colored lights, smoke, and noise for amusement. Pyrotechnics include devices that explode on the ground, are shot in air, or both are shot in the air and explode in the air. Signal flares used for emergencies are not considered Pyrotechnics under this ordinance. Bullets fired from a gun are not a pyrotechnic.

Receiver means the location, or land use category of a location, where persons are located that are annoyed by noise or sound they hear coming from another property.

Residential and residential area shall mean those areas so designated by the City of Destin Zoning Map. Specifically, "residential" or "residential area" shall include the following zoned areas of land in the City of Destin: Bay Estates (BE); Crystal Beach Neighborhood (CBN); High Density Residential (HDR); Low Density Residential – Harbor (LDR-H); Low Density Residential – Holiday Isle (LDR-HI); Low Density Residential – Village (LDR-V); Medium Density Residential – Holiday Isle (MDR-HI).

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

Source means the location of and the activity which emits noise or sound which is audible outside the source owner's property line.

Weekdays means any time that is not a Weekend.

Weekends means Friday 5:00 p.m. through Sunday 10:00 p.m.

Sec. 14-53. - Purpose; intent; authority and responsibility of City Manager or City Manager's designee and investigating officer.

- (a) The purpose of this article is to prevent, prohibit, and also provide for the abatement of, excessive and unnecessary noise, known as noise disturbance, in order to protect the health, safety, and general welfare of people of the city.
- (b) It is the intent of this article to clearly define and describe the respective authority and responsibility under this article for the City Manager or City Manager's designee and the investigating officer relating to noise disturbance investigation and enforcement, unless the noise disturbance is otherwise exempt under this article.
- (c) The City Manager or City Manager's designee shall have the authority pursuant to this article to investigate and, if applicable, issue a notice of violation or civil citation as provided in this article in any case involving a noise disturbance emanating from any residential or nonresidential property that exceeds the allowable limits set forth in section 14-54 of this article.
- (d) The investigating officer shall have the authority pursuant to this article to investigate and, if applicable, issue a civil or criminal citation for a violation of the plainly audible standard, as established in section 14-54, and noise disturbance complaints which may involve the consumption of alcohol or any suspected illegal activities and noise disturbance complaints involving "breach of the peace" as defined in F.S. § 877.03.

Sec. 14-54. - Measurement or assessment of noise.

- (a) Assessment of noise without sound level meter.
 - (1) No person shall create a sound that is plainly audible at the time and distance requirements set forth in Table 1.
 - (2) Noise disturbances in violation of this subsection shall be confirmed by the investigating officer. The investigating officer who hears a noise disturbance that is plainly audible shall assess the noise disturbance by measuring the distance from the property line or right-of-way line of the source of the noise disturbance according to the following standards:
 - a. The primary means of detection shall be the investigating officer's normal hearing faculties, provided the investigating officer's hearing is not enhanced by any mechanical or medical device, such as a hearing aid.
 - b. The investigating officer shall have a direct line of sight and hearing to the real property that is the source of the noise disturbance so that the investigating officer can identify the offending source of such noise disturbance and the distance involved.

TABLE 1

MAXIMUM ALLOWABLE SOUND LEVEL LIMIT FOR A PLAINLY AUDIBLE SOUND

(as determined by the investigating officer)

<u>Underlying Land Use Category from which Noise Emanates (as defined by the City of Destin Zoning Map)</u>	<u>Time of Day</u>	<u>Distance</u>
<p style="text-align: center;">COMMERCIAL & MIXED USE</p> <p>Bay Resort Mixed Use (BRMU); Crystal Beach Resort (CBR); Commercial General (CG); Commercial Limited (CL); Calhoun Mixed Use (CMU); Commercial Trades & Services (CTS); Gulf Resort Mixed Use (GRMU); Holiday Isle Mixed Use (HIMU); Industrial (IN); Institutional (INST); Medium Density Residential – Village (MDR-V); North Harbor Mixed Use (NHMU); Residential, Office, and Institutional – Crystal Beach Resident (ROI-CBR); Residential, Office, and Institutional – General Development (ROI – GD); Residential, Office, and Institutional – Tourist Development (ROI-TD); Residential, Office, and Institutional – Village Residential (ROI-VR); South Harbor Mixed Use (SHMU); Town Center Mixed Use (TCMU).</p>	All times.	300 feet or more.
<p style="text-align: center;">RESIDENTIAL</p> <p>Bay Estates (BE); Crystal Beach Neighborhood (CBN);</p>	All times.	150 feet or more.

High Density Residential (HDR);		
Low Density Residential – Harbor (LDR-H);		
Low Density Residential – Holiday Isle (LDR-HI);		
Low Density Residential – Village (LDR-V);		
Medium Density Residential – Holiday Isle (MDR-HI).		

Sec. 14-55. - Prohibited acts.

Subject to the provisions of section 14-59, no person shall produce, cause to be produced, or allow to be produced, by any means: (1) any explosive sound, (2) any noise disturbance on any private or public property, including a right-of-way, when such noise is plainly audible as described in section 14-54(c), or (3) when such noise is measured pursuant to section 14-54(a) & (b), and, where applicable, exceeds the applicable sound level limits set forth in section 14-54(a) & (b).

Sec. 14-56. - Exemptions.

The provisions of section 14-54 shall not apply to the following sounds:

- (1) Lawn maintenance activities, from 7:00 a.m. until 9:00 p.m. on all days of the week;
- (2) Aircraft and airport activity conducted in accordance with federal laws and regulations;
- (3) Official law enforcement and official military activities, including training;
- (4) Emergency signals during emergencies;
- (5) Emergency signal testing between 7:00 a.m. and 7:00 p.m.;
- (6) Emergency work or emergency service;
- (7) Generators used during or as a result of an emergency;
- (8) Motor vehicles operating on a public right-of-way subject to F.S. § 316.293 and applicable federal criteria;
- (9) Refuse collection vehicles, including street sweepers, while in the process of performing their intended activities;
- (10) Construction or demolition activities, other than the placement of concrete as described in subsection (13) below, for which the City has issued a development permit, provided such activity occurs between 7:00 a.m. and 10:00 p.m.;
- (11) Placement of concrete associated with nonresidential development activities, for which the City of Destin has issued a development permit, when conducted between 3:00 a.m. and 10:00 p.m. If placement of concrete is planned to occur prior to 7:00 a.m., notice shall be provided to surrounding residential areas or noise sensitive zones with a minimum of forty-eight (48) hours notice prior to commencement of this activity. A copy of the notice and distribution list shall be provided to the City Manager or City Manager’s designee at least forty-eight (48) hours prior to commencement of this activity;

- (12) Construction activities related to city, county, state or federal roads, highways or freeways;
- (13) Scheduled organized activities at a publicly-owned or operated facility;
- (14) Permitted public displays of fireworks;
- (15) Unamplified human voices;
- (16) Any motor vehicle engaged in a professional or amateur sanctioned, competitive sports event for which admission or entry fee is charged, or practice or time trials for such event, at a facility being used for such purposes as of October 15, 1995; and
- (17) Outdoor events for which the organizer has been issued a special outdoor event permit by the City Manager, provided it is conducted in accordance with such permit.
- (18) Air conditioners are exempt from all provisions of this Article when the equipment is functioning in accord with the manufacturer's specifications and with all manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition according to standards promulgated by the American Refrigeration Institute.

Sec. 14-57. - Enforcement/penalty.

- (a) The City Manager or City Manager's designee, the investigating officer, any other authorized code enforcement officer, and the City shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon private property while in the discharge of duties under this article.
- (b) The City Council may adopt such resolutions as are necessary to effectively administer this article.
- (c) It shall be unlawful for any person to violate any provisions of this article, or any provisions of any resolution enacted pursuant to this article. The provisions of this article may be enforced by notice of violation, civil citation, or criminal citation. Any person not in compliance with this article, or any provisions of any resolution enacted pursuant to the authority of this article, may be prosecuted as provided in Article 3 and/or Article 4 this Chapter. Each violation shall be considered a separate offense.
- (d) If law enforcement enforces this Article, then any person violating any provision of this Article may be punished as follows:
 - 1. First Offense: A written warning notifying the offender that further violations will result in fines and potential imprisonment.
 - 2. Second Offense: By a fine of one hundred dollars (\$100.00).
 - 3. Third Offense: By a fine of two hundred and fifty dollars (\$250.00).
 - 4. Fourth offense or four or more violations occurring within any six months period: Misdemeanor of the second degree punishable by a fine of no more than \$500.00 or a sentence of not more than sixty (60) days in jail, or both.
 - 5. Each hour that a noise violation exists shall constitute a separate violation of this article.
- (f) The violation of any provision hereof which endangers the comfort, repose, health and peace of residents of the City of Destin is declared to be a public nuisance and the City of Destin is authorized to pursue any and all remedies therefore.
- (g) Any private individual or entity may seek a private nuisance cause of action against any non-governmental entity violator of any provisions of this ordinance. Unless prohibited by state or

federal law, the prevailing party in any private nuisance cause of action brought against a non-governmental entity under this ordinance shall be entitled to prevailing party's attorney's fees and costs in the event a civil lawsuit is filed.

* * *

SECTION 4. INCORPORATION INTO CODE OF ORDINANCES. This ordinance shall be incorporated into the City of Destin's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS ___ DAY OF _____.

By: _____
Scott Fisher, Mayor

ATTEST:

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney.

Rey Bailey, City Clerk

Kimberly R. Kopp, City Land Use Attorney

First Reading: _____

Second Reading: _____

APPENDIX A

~~Sec. 14-52. Definitions.~~

~~For the purpose of this article, the following terms, phrases, words, abbreviations and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their common and ordinary meaning, or for those so included, the meaning found in Ordinance 001 [section 1-2].~~

~~*Ambient noise* means the all-encompassing noise that is normally associated with a particular environmental surrounding, usually being made up of a composite of sounds. This is sometimes referred to as background noise.~~

~~*Average level* means the average of the sound level over some stated period of time.~~

~~*A-weighted sound level* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dBA.~~

~~*Decibel (dB)* means a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.~~

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

~~*Holiday weekend* means the following weekends: Easter, Memorial Day, 4th of July, and Labor Day.~~

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

~~*Person* means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of the United States, the state, or any political subdivision thereof.~~

~~*Property line* means an imaginary line along the surface and its vertical plane extension, which defines the boundary of the real property owned, rented, or leased by one (1) person from that owned, rented, or leased by another person. Intra-building real property lines are excluded.~~

~~*Receiver* means the location, or land use category of a location, where persons are located that are annoyed by noise or sound they hear coming from another property.~~

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

~~Sound level means the A-weighted sound pressure level, usually measured with a sound level meter (SLM).~~

~~Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing networks used to measure sound pressure levels.~~

~~Sound pressure level means twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure level to the reference of twenty (20) micronewtons per square meter.~~

~~Source means the location of and the activity which emits noise or sound which is audible outside the source owner's property line.~~

~~Weekend means Friday 5:00 p.m. through Sunday 10:00 p.m.~~

Sec. 14-53. Prohibitions.

~~It shall be unlawful, except as expressly permitted herein, to make, cause, or allow the making of any noise or sound which exceeds the limits set forth in this article for the use occupancy.~~

Sec. 14-54. Measurement of sound.

~~(a)The measurement of sound or noise shall be made with the city's sound level meter which shall meet the standards prescribed by the American National Standards Institute (ANSI). The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used at all times. Traffic, aircraft and other transportation noise sources and other noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. If the background noise interferes with the primary noise being measured, the primary noise being measured shall be limited to a level which is the greater of either the Table I value, or where combined with the ambient sound, a level which is two (2) decibels above the level of the ambient sound level measurement alone.~~

~~(b)The slow meter response of the city's sound level meter shall be used in order to best determine that the average level has not exceeded the limits set forth for the use occupancy category in Table I below. A sound level meter with a level averaging circuit may be used.~~

~~(c)The measurement shall be made at or up to fifty (50) feet beyond the property line of the property on which such noise is generated. In the event of a complaint, the measurement shall be made at or up to fifty (50) feet beyond the property line of the property on which such noise is generated in the direction of the complainant location. Any measurement shall be at least two (2) minutes in duration.~~

~~(d)In the case of an elevated or directional sound or noise source, compliance with the noise limits shall be maintained at any elevation at the boundary.~~

~~(e)The ambient sound level measurement shall be measured at the same location along the property line utilized in section 14-54(e), while the primary noise being measured is inoperative. If the primary noise being measured cannot be turned off, is not turned off or if additional sound is created to distort the ambient sound level measurement, the ambient sound level measurement will be estimated by performing a measurement in the same general area of the noise being measured.~~

Sec. 14-55. ~~Classification of use occupancies.~~

~~For purposes of defining "use occupancies," all premises zoned as a residential category shall be considered residential use. All premises containing transient commercial sleeping quarters legally permitted shall be considered tourist use. All premises containing business where sales, professional, or other commercial use is legally permitted shall be considered commercial use. All premises where manufacturing is legally permitted shall be considered manufacturing use. Hospitals, nursing homes, schools, libraries, and church uses shall be considered residential uses. In other cases of multiple use zones, the more restrictive zoned use category shall prevail. Any area not otherwise classified shall conform to commercial standards.~~

Sec. 14-56. ~~Maximum permissible sound levels by use occupancy.~~

~~No person shall operate or cause to be operated any source of sound from any use occupancy in such a manner as to create a sound level which exceeds the limits set forth in the use occupancy category in Table I.~~

TABLE I

Use Occupancy Category	Time	Sound Level Limit dBA
Residential (Non-holiday weekends)	6 a.m. — 10 p.m. 10 p.m. — 6 a.m.	60 55
Residential (Holiday weekends)	6 a.m. — 12 a.m. 12 a.m. — 6 a.m.	60 55
Luxury Motor Home Resort	6 a.m. — 10 p.m. 10 p.m. — 6 a.m.	75 55
Commercial or Tourist	6 a.m. — 10 p.m.	70

(Weekdays)	10 p.m. — 6 a.m.	65
Commercial or Tourist (Weekends)	6 a.m. — 12 a.m. 12 a.m. — 2 a.m. 2 a.m. — 6 a.m.	70 70 65
Manufacturing	At all times — no sound that is generated by a source facility shall be audible at the property line of the said source facility.	

Sec. 14-57. Exemptions.

The following uses and activities shall be exempt from noise level regulations:

~~(a) Air conditioners are exempt from provisions of Table I of this article when this equipment is functioning in accord with the manufacturer's specifications and with all manufacturer's standard mufflers and noise reducing equipment in use and in proper operating condition according to standards promulgated by the American Refrigeration Institute. The same exception shall apply to lawn mowers, agricultural equipment and homeowners' mechanized tools during daylight hours.~~

~~(b) Nonamplified crowd noises.~~

~~(c) Construction operations:~~

~~(1) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by a government agency;~~

~~(2) Provided all equipment is operated in accordance with the manufacturers' specifications and with all standard equipment, manufacturers' mufflers and noise-reducing equipment in use and in proper operating condition;~~

~~(3) Provided construction operations are limited to the hours between 6:00 a.m. and 6:00 p.m. Monday through Sunday for projects located adjacent to non-residential properties; and~~

~~(4) Provided construction operations are limited to the hours between 6:00 a.m. and 6:00 p.m. Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday and Sunday for projects located adjacent to residential properties.~~

~~(d) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches.~~

~~(e) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.~~

~~(f) Noises resulting from emergency work as defined in section 14-52.~~

~~(g) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the city in accordance with section 14-~~

~~58. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained in section 14-58.~~

~~(h) Noises made by persons having obtained a permit to use the streets.~~

~~(i) All noises coming from the normal operations of aircraft (not including scale model aircraft).~~

~~(j) Those motor vehicles controlled by Florida Statutes, Section 316.293(1988), but not those motor vehicles exempted from coverage.~~

~~(k) Motor vehicles defined in F.S. (1988) § 316.293(6)(a) and (b).~~

~~(l) Vessels operated on the waters of the city muffled pursuant to F.S. § 327.65.~~

Sec. 14-58. Special permits.

~~Applications for a special permit for relief from the maximum allowable noise level limits designated in this article may be made in writing to the city manager or his designee. Any special permit granted by the city manager or his designee hereunder must be in writing and shall contain all conditions upon which said special permit shall be effective. The city manager, or his designee, may grant the relief as applied for under the following conditions:~~

~~(a) The city manager or his designee may prescribe any reasonable conditions or requirements as deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound attenuating devices.~~

~~(b) Special permits for entertainment. Special permits may be granted for the purpose of entertainment under the following conditions:~~

~~(1) The function must be open to the public (admission may be charged).~~

~~(2) The function can take place on either public or private property.~~

~~(3) The function must be staged between the hours of 9:00 a.m. and 12:00 midnight.~~

~~(4) The function must not be an ordinary event in the affairs of the applicant.~~

~~(5) A special permit for entertainment may be issued for no longer than three (3) consecutive days and is nonrenewable.~~

~~(6) If the function is to recur, it shall not recur more than four (4) times each calendar year.~~

~~(c) Special permits for non-entertainment. Special permits for non-entertainment special purposes may be issued under the following conditions:~~

~~(1) a. If the special purpose relates to the operation of a trade or business but is not in the ordinary course of that trade or business; or,~~

~~b. If the special purpose does not relate to the operation of a trade or business and is not be an ordinary event in the affairs of the applicant; and~~

~~(2) If the special purpose is a recurring purpose but does not recur more often than four (4) times each calendar year; and~~

~~(3) a. That the special purpose be absolutely necessary to the operation of the applicant's trade or business; or~~

~~b. If the special purpose does not relate to the operation of the trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur; and~~

~~(4) Except in emergency situations, as determined by the city manager, the special permit may be issued only for four (4) hours between 7:00 a.m. and 11:00 p.m. on weekdays and 1:00 p.m. and 11:00 p.m. on weekend days.~~

~~(5) Special permits may be issued for no longer than fifteen (15) consecutive days, renewable by further application to the city manager.~~

~~(d) No special permit may be issued to permit the use of any loudspeaker or sound amplifying device on the exterior of any building which at any time exceeds the sound level limits in Table I except those used for emergency warnings.~~

Sec. 14-59. -- Violations and penalties.

~~(a) No acts proscribed by this article shall be deemed a violation thereof, unless and until the following conditions have been met:~~

~~(1) The city manager or his designee has issued a written warning to the offender.~~

~~(2) Within seven (7) days, the person or party causing such excessive and unnecessary noise has persisted in the creating of such noise.~~

~~(b) Any person who, after meeting the conditions outlined in subsection 14-59(a) above, violates any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.~~

~~(c) Any person or persons entitled to lawfully possess or who claims lawful possession of such property at the particular time involved shall each be responsible for compliance with this article and each may be punished for its violation as may the person actually causing such sound.~~

Sec. 14-60. -- Additional remedies.

~~The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions hereof which endangers the comfort, repose, health and peace of residents in the area is declared to be a public nuisance and the City of Destin is authorized to pursue any and all remedies therefore. Nothing herein shall be construed to limit any private right of action.~~