

**COLUMBUS COUNTY BOARD OF COMMISSIONERS
NOISE ORDINANCE WORKSHOP**

October 09, 2006

5:00 P.M.

The Honorable Columbus County Commissioners met on the above stated date and at the above stated time in the Economic Development Conference Room, Administration Building, 111 Washington Street, Whiteville, North Carolina, for the purpose of holding a Noise Ordinance Workshop.

COMMISSIONERS PRESENT:

Kipling Godwin, **Chairman**
Amon E. McKenzie (arrived at 5:51 P.M.)
James E. Prevatte
Bill Memory
Lynwood Norris

APPOINTEES PRESENT:

Jimmy Varner, **County Manager**
June B. Hall, **Clerk to Board**
Steven W. Fowler, **County Attorney**

COMMISSIONERS ABSENT:

David L. Dutton, Jr., **Vice Chairman**
Sammie Jacobs

APPOINTEES ABSENT:

Leo Hunt, **Interim Finance Officer**

OTHERS PRESENT:

Bobbie Faircloth, Paralegal for County Attorney
Jim Nance, Private Citizen

WORKSHOP CALLED to ORDER:

At 5:00 P.M., Chairman Godwin called the Noise Ordinance Workshop to order, and stated the purpose of this workshop is to discuss the changes that Steven Fowler, Columbus County Attorney, has made to the Noise Ordinance, as was recommended at the last workshop.

PRESENTATION of the PROPOSED REVISED ORDINANCE for the CONTROL of SOUND CROSSING OUTDOOR REAL PROPERTY BOUNDARIES:

Steven Fowler, Columbus County Attorney, distributed copies of the following Proposed Revised Ordinance for the Control of Sound Crossing Outdoor Real Property Boundaries, with the revisions that have been made since the last Noise Ordinance Workshop.

State of North Carolina
County of Columbus

**PROPOSED REVISED ORDINANCE FOR THE CONTROL OF SOUND
CROSSING OUTDOOR REAL PROPERTY BOUNDARIES**

Section 1 Title

This Ordinance shall be known as the "Ordinance for the control of sound crossing outdoor real property boundaries in the County of Columbus."

Section 2 Purpose

This ordinance shall apply to all sound, vibration, and noise originating within the recognized geographic and political limits of the County of Columbus, North Carolina. Nothing in this ordinance shall be construed to limit or prevent the County of Columbus or any person from pursuing any other legal remedies for damages or the abatement of noises in the county.

The specific intent of this ordinance is to define *sufficient* objective criteria to establish that a sound crossing a real property boundary outdoors creates a nuisance, annoyance, interference with the useful enjoyment of property, or endangerment of health. This ordinance specifically does not define these criteria as a *necessary* condition for the proof of existence of these conditions or a civil cause of action. Specifically, it is recognized that a noise disturbance may exist in a quiet community for sounds that do not exceed the objective criteria of this ordinance.

Section 3 Terminology and Standards

(a) Conformance: All terminology used in the provisions of sections through not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

(b) Definitions: [The following definitions shall apply to this ordinance]

1. **Ambient Background Sound:** Those sound normally present at a location when a sound source under investigation is not in operation.
2. **Amplified sound:** Any sound or noise, including the human voice that is increased in volume or intensity by means of electrical power.
3. **A-Weighted Sound Level:** The sound level in decibels as measured on a sound level meter using the A-weighting network as defined in ANSI S1.42. In proper terminology, such a sound level should be stated for example as "The A-weighted sound level is 60 dB." In common practice this is abbreviated as "The sound level is 60 dBA." The "A" added to "dB" to signify that the sound is A-weighted during the measurement.
4. **Classification of use occupancies:** For the purpose of defining the "use occupancy" all premises containing habitually occupied sleeping quarters shall be considered in residential use. All premises containing transient commercial sleeping quarters shall be considered commercial use. All premises containing businesses where sales, professional or other commercial use is legally permitted shall be considered commercial use. All premises where industry is legally permitted shall be considered industrial use. In case of multiple uses, the more restrictive use category shall prevail. Hospitals, nursing homes, schools, libraries, and church uses shall be considered residential uses. Any area not otherwise classified shall conform to commercial standards. All premises where agricultural activity is legally permitted shall be considered agricultural use.
5. **Construction:** On-site erection, fabrication, installation, alteration, repair, demolition or removal of any structure, facility, or addition thereto, including all related activities, including but not restricted to, clearing of land, earthmoving, blasting, landscaping, and paving.
6. **Commercial Land Use:** Any tract or parcel of land used for commercial, office, or institutional purposes including retail sales and government facilities, but not including those uses that involve offering a place for sleep such as hospitals, rest and nursing homes, dormitories, hotels, motels, and campgrounds.
7. **Decibel (dB):** A unit of level (see level) that denotes the ratio between two quantities that are proportional to power. The number of decibels is 10 times the logarithm (to the base 10) of this ratio. (When measuring sound, the square of the sound pressure is the quantity proportional to power.)
8. **Discrete Tone:** A sound that concentrated at a single frequency or few individual frequencies such that it is difficult to ignore and gives the sensation of a specific pitch. Examples are sirens, bells, whistles, and the whining sound produced by certain fans.
9. **Emergency Work:** Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
10. **Frequency:** The number of times in one second (i.e., the number of cycles per second) that a periodic phenomenon, such as a sound wave, repeats itself. The unit of frequency is the Hertz (Hz).
11. **Hertz (Hz):** The unit of frequency, formerly "cycles per second."
12. **Industrial Land Use:** Any tract or parcel of land used for manufacturing or commercial agriculture, not including the land within 50 feet of a farm residence.
13. **Level:** A measure defined by the logarithm of the ratio of a given power-like quantity to a reference quantity of the same kind.
14. **Loudspeaker:** A device actuated by an electrical signal that produces sounds controlled by the electrical signal. The sounds produced are usually a reproduction of speech or music or other

sound encoded in the electrical signal.

15. **Mobile sound vehicle:** Any motorized vehicle fitted with external loudspeakers or so designed or modified as to project electronically amplified sound outside of the passenger area of the vehicle.

16. **Motorized vehicles:**

(A) Generally-Any vehicle as defined in G.S. 20-4.01-(49) including but not limited to:

- a. Excursion passenger vehicles as defined in G.S. 20-4.01(27) a.
- b. Common carriers of passengers as defined in G.S. 20-4.01(27) c.
- c. Motorcycles and mopeds as defined in G.S. 20-4.01(27) d.
- d. Truck tractors as defined in G.S. 20-4.01(48).
- e. Farm tractors as defined in G.S. 20-4.01(11).

(B) Motorboat-Any vessel which operates on water and which is propelled by a motor including but not limited to boats, barges, amphibious craft, water-ski towing devices, and Hovercraft.

17. **Music:** A progressive combination of sounds, usually rhythmic, which in the opinion of the person producing or causing the sounds to be produced, and possibly others, is a pleasing artistic expression.

18. **Musical Instrument:** Any device used in producing music.

19. **Noise:** Any sound or combination of sounds which, because of its volume or quality, tends to disturb reasonable persons of normal sensitivity or to interfere with normal human activity.

20. **Noise disturbance:** Any unreasonably loud and raucous sound or noise which:

- (A) Endangers or injures the health or safety of humans or animals;
- (B) Endanger or injures personal or real property; or
- (C) Disturbs a reasonable person of normal sensitivity.

21. **Noise sensitive zones:** Any zone so designated by the Board of County Commissioners which displays conspicuous signs indicating the presence of such zone.

22. **Outdoor entertainment:** Any activity offered to, provided for, or attended by one (1) or more spectators, not conducted within a wholly enclosed structure.

23. **Person:** Any individual, association, partnership, corporation, firm, association, trust, estate, public or private institution, group, or agency, including any officer, employee, department, agency or instrumentality of the State of North Carolina or any political subdivision of the State or any legal successor, representative, agent or agency of the foregoing.

24. **Person responsible:** An owner, occupant, employee, agent, landlord or any other person who is or who appears to be responsible for a premise, dwelling, or business, or a noise-producing machine or device.

25. **Public Right-of-Way :** Any street, avenue, boulevard, highway, sidewalk, alley or similar place that is owned or controlled by a governmental entity.

26. **Real Property Boundary:** An imaginary line along the ground surface, and its vertical extension, separating the real property owned by one person from that owned by another person, but not including real property divisions within buildings. Public Rights-of-Way that divide the property of one owner are not real property boundaries.

27. **Repetitive Impulsive Sound:** Any sound composed of individual sounds lasting less than a second (such as hammer blows, drumbeats, or gunshots) that are repeated continuously at a rate such that a sound level meter set at "fast" time-weighting will show changes in sound level greater than 10 dB between individual sounds, while the same meter set on "slow" time-weighting will show changes of less than 5 dB between the individual sounds.

28. **Residential Land Use:** Any tract or parcel of land used or zoned for residential or sleeping purposes, including, but not limited to, land on which is located private homes, apartments, hospitals, nursing homes, rest homes, hotels, motels, dormitories, and campgrounds.

29. **Sound:**

A. An oscillation in pressure, particle displacement, or particle velocity, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, amplitude, and frequency.

B. Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by persons of normal sensitivity.

30. **Sound Level:** The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, as specified by the American National Standards Institute (ANSI) standards for sound level meters. If the frequency weighting employed is not specified, the A-weighting shall apply.

31. **Sound Level Meter** (also decibel meter): An instrument for measuring sound levels meeting standards ANSI S1.4 and IEC 651, which for the purposes of this ordinance must include the A-weighting network, slow time-weighting, fast time weighting, and ability to measure the time-average sound level over a period as defined in the standards.

32. **Sound Pressure Level:** In decibels, 10 times the logarithm (to the base 10) of the ratio of the square of a sound pressure to the square of the reference sound pressure of 20 microPascals.

33. **Speech:** A meaningful combination of sounds produced by the human voice or a reproduction of such sounds by a loudspeaker.

34. **Time-Average Sound Level:** The level of an equivalent steady sound that over a stated period for a stated location has the same sound energy as an actual sound that may be varying in level over the stated period.

35. **Weekend:** A weekend shall be defined as that period of time between 12:00 midnight on Friday to 12:00 midnight on Sunday.

Section 4 Maximum Permissible Sound Levels and Prohibition of Noise Disturbance

1. **Prohibition of Noise Disturbance** - No person shall cause or allow the emission of sound across a real property boundary onto the property of another person that does any of the following.

(A) Endangers or injures the safety or health of humans or animals.

(B) Annoys or disturbs a reasonable person of normal sensitivities.

(C) Endangers or injures personal or real property.

(D) Is at all recognizable as music on a complainant residential land use whether produced by musical instruments directly or by a loudspeaker, after 11:00 pm and before 7:00 am.

(E) Is understandable speech on a residential land use at a distance of 20 feet or more inside the real property boundary of the complainant property at any time.

(F) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, or similar device which produces or reproduces sound between the hours of 11:00 p.m. and 7:00 a.m. on weekdays and 12:00 a.m. and 9:00 a.m. on weekends in such a manner as to create excessive and unnecessary noise across a residential real property line.

2. **Maximum Permissible A-weighted Sound Levels** - No person shall cause or allow the emission of sound across a real property boundary onto the property of another person such that any of the following conditions occur when the sound is measured according to Section 11 of this ordinance consistent with the requirements of Section 5 of this ordinance except as permitted in Sections 6, 7 or 8 of this ordinance.

(A) The limits of Table A are exceeded by more than 10 dB at any time when measured with slow time weighting.

(B) The limits of Table A are exceeded for more than 90 seconds continuously when measured

with slow time weighting.

(C) The limits of Table A are exceeded by the time-average sound level measured over a period of 15 minutes with a sound level meter capable of measuring the time-average sound level.

TABLE A. SOUND LEVELS IN DECIBELS BY LAND USE

Land use of measurement site>

Land use of "Source of Sound"	Residential	Residential	Commercial	Industrial
Time of day	11:00 pm to 7:00 am	7:00 am to 10:00pm	Anytime	Anytime
A-weighted Sound Level, dB	55	60	65	70

Note - For any sound identified by the measuring officer as speech, music, repetitive impulsive, or a discrete tone, the limits of Table A are all reduced by 5 dB except when the measurement is made on an Industrial Land Use.

Note - For any sound identified by the measuring officer as dominated by gunshots, the limit will be a time-average sound level for 15 minutes that is 10 dB less than the indicated limits in Table A, except when the measurement is made on an Industrial Land Use.

Note – Any sounds associated with bona fide farms or other non-incident agricultural usage shall not be subject to the limits of this ordinance, and no citations shall be issue to persons while engaged in seasonal activity, such as (by way of illustration and not limited to) harvesting at the end of the growing season or planting during planting season.

Section 5 Proof of Source and Ambient Background Level

A source of sound shall not be deemed in violation of Section 4 of this ordinance if, after the source is stopped, the sound level measured in the same manner as the measurement that produced the apparent violation is reduced by less than three decibels. All individual sources of sound on a single parcel of real property shall be considered a single source.

If the sound is intermittent, and exceeds the maximum allowed sound level, the measuring officer may establish the 3 dB differential when the source is not operating. Otherwise, if the sound levels as measured exceed any appropriate level of Table A, and the measuring officer can clearly identify the dominant offending sound source, the measuring officer shall attempt to contact the operator of the sound source. If successful, the measuring officer shall inform the operator of the following facts and offer to make sound level measurements with the source stopped.

1. The sound source in question is in apparent violation of the ordinance.
2. The owner/operator or responsible party for the sound source will be considered in violation of the ordinance until operations are ceased or actions taken to reduce the sound level at the point of violation.
3. The ordinance provides the opportunity for the owner/operator/responsible party to demonstrate that the sound source in question is not the primary cause of the high sound levels and not in violation by ceasing operations to allow further measurements.

If the owner/operator ceases operation of the sound source, the enforcing officer shall measure the ambient background sound in the same manner and at the same location as the original measurements. If the ambient background sound so measured is within 3 dB of the original measurements, no violation has been shown, and the owner/operator shall be informed so operations of the sound source may continue. In this case, the enforcing officer shall make it clear to the owner/operator that measurements at another time, at another location, or (if appropriate) using a different criteria in the ordinance, could yield a different result.

Section 6 Construction

When the source of sound is a construction operation, the sound level limits shall be 10 dB higher than indicated in Table A including the Notes, except in residential land uses between the hours of 10:00 pm and 7:00 am the following morning. No provision is made for temporary permits to exceed these limits.

Section 7 Specific prohibitions.

In addition to the general prohibitions set out in section 4 and the maximum permissible sound levels set out in Table A and unless otherwise exempted in section 8, the following specific acts, or the causing or permitting thereof are hereby declared to be unlawful:

1. Radios, television sets, musical instruments and similar devices. Operating, playing, or permitting the operation or playing of any drum, musical instrument, television, tape recorder, cassette player or other machine or device for reproducing sound.

(A) Between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to create excessive and unnecessary noise across a residential real property line or within a noise sensitive area; or

(B) In such a manner as to exceed the levels set forth for the occupancy category set forth in Table A.

2. Loudspeakers. Using or operating for any purpose any loudspeaker (loudspeaker system) or similar device between the hours of 11:00 p.m. and 7:00 a.m. on weekdays and 12:00 a.m. and 9:00 a.m. on weekends and holidays in areas within or adjacent to residential) commercial) or noise sensitive areas, except for any noncommercial public speaking) public assembly, or other activity for which a special permit has been issued by the sheriff.

3. Street sales. Offering for sale, selling anything or advertising by shouting or outcry within any residential or commercial area or noise sensitive zone of the county; except by special permit issued by the sheriff.

4. Animals. Owning, possessing, or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks, or makes other sounds which create excessive and unnecessary noise across a residential or commercial real property line or within what reasonably can be construed as a noise sensitive zone. This provision shall not apply to public zoos or private animal attractions operated for profit to which the public has general admission and which are regulated by the county. This section shall not apply to dogs.

5. Loading and unloading. Loading and unloading, opening, closing or other handling of boxes, crates, containers" equipment, building materials, garbage cans, or similar: objects between the hours of 7:00 p.m. and 6:00 a.m. on weekdays and 7:00 p.m. and 8:00 a.m. on weekends or holidays in or within fifty(50) yards of residential area or noise sensitive zone.

6. Construction and demolition. Operating or causing the operation of any tools used in construction, drilling, repair, alteration, or demolition work between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, or between 9:00 p.m. and 9:00 a.m. on weekends or holidays in or within fifty (50) yards of any residential area or noise sensitive zone, except for emergency work by public service utilities or by special permit issued by the sheriff. This section shall not apply to the use of domestic power tools as specified in Section 7, Subsection 11.

7. Powered model vehicle. Operating or permitting the operation of powered model vehicles:

(A) Between the hours of 7:00 p.m. and 6:00 a.m. on weekdays and 7:00 p.m. and 10:00 a.m. on weekends or holidays in or within one hundred (100) feet of any residential areas or noise sensitive zone; or

(B) In such a manner as to exceed the levels set for public space land use, measured at a distance of not closer than one hundred (100) feet (thirty (30) meters) from any point on the path of a vehicle operating on a public space or public right-of-way.

8. Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any fire, burglary, or civil defense alarm, fire, whistle, or similar stationary emergency signaling device, except for emergency, shall not occur before 7:00 a.m. or after 7:00 p.m., and any testing shall use the minimum cycle test time appropriate for such devices, in no case to exceed sixty (60) seconds. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall occur only on weekdays and not before 7:00 a.m. or after 11:00 p.m., and shall be exempt from the time limit specified herein. The sounding or permitting the

sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such alarm is automatically terminated within fifteen (15) minutes of activation, shall be prohibited.

9. Motor boats. Operating or permitting the operation of any motor boat in any lake, river, stream, canal, bay, or other waterway in such a manner as to cause unnecessary and excessive noise within a residential area or noise sensitive zone, or to exceed eighty-six (86) dB(A) when measured at least fifty (50) feet from the craft.

10 Noise sensitive zones. Creating or causing the creation of any sound within any noise sensitive zone so as to exceed the decibels levels set forth for such zone when measured at a distance of at least twenty-five (25) feet (seven and one-half (7.5) meters) from the sound source, provided that conspicuous signs are displayed indicating the presence of the noise sensitive zone or the creating or causing the creation of any excessive and unnecessary noise within or adjacent to any noise sensitive zone containing a hospital, nursing home, school, court or other designated area, provided that conspicuous signs are displayed indicating the presence of the noise sensitive zone.

11. Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill grinder, lawn or garden tool, or similar tool between 11:00 p.m. and 7:00 a.m. on weekdays, or 12:00 a.m. and 9:00 a.m. on weekends and holidays, unless such equipment is operated inside a building or other structure so that the sound there from does not travel across any residential real property line or sensitive zone and exceed the levels set forth in Table A. All such equipment shall be properly muffled and maintained in working order so as not to create excessive and unnecessary noise.

12. Multifamily dwellings. Operating or permitting the operation within a multifamily dwelling of any source of sound in a manner so as to exceed fifty-five (55) dB(A) from 7:00 a.m. to 11:00 p.m. or forty-five (45) dB(A) from 11:00 p.m. to 7:00 a.m. on weekdays and 11:00 p.m. to 9:00 a.m. on weekends and holidays, when measured with an adjacent intrabuilding dwelling. These noise limits shall not be exceeded more than ten (10) per cent of any measurement, which shall not be less than ten (10) minutes. The maximum permissible sound level, when measured in an adjacent intrabuilding area between 11:00 p.m. and 7:00 a.m. on weekdays and 11:00 p.m. and 10:00 a.m. on weekends and holidays shall be fifty (50) dB(A).

13. Places of public entertainment. Operating or permitting to be operated any loudspeaker or other source of sound in any place of public entertainment that exceeds the level shown in Table A at any point normally occupied by a customer, without a conspicuous and legible sign stating, "WARNING" SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."

Section 8 Exceptions

The limits of Section 4 apply to all sources except construction sound and those listed below in this section, and no provision is made for any temporary exceptions for any other sources.

1. The sound of emergency warning devices such as sirens and horns legally used.
2. The sound of vehicles traveling on public rights-of-way, unless such vehicle is stopped and is producing sound by use of a bell, loudspeaker, or other device for the purpose of attracting attention (for other than an emergency warning) or for the entertainment of the occupant(s) or owner of the vehicle.
3. The sound of aircraft while in the air, except unoccupied scale model aircraft.
4. Sounds associated with railroad operations.
5. The sounds of lawn care equipment used between 7:00 am and 10:00 pm, provided gasoline-fueled engines have a functioning muffler.
6. The sounds of agricultural tractors and self-propelled harvesting equipment used between 7:00 am and 10:00 pm, provided such tractors and equipment have functioning mufflers.
7. Non-amplified crowd noises resulting from activities such as those planned by student, governmental, or community groups.

8. Music produced by school bands while practicing or performing on school property.
9. Sounds due to emergency work to provide electricity, water, or other public utilities when public health or safety is involved including the operation of emergency generators.
10. The testing or exercise of emergency generators but not the routine use of such generators in non-emergency situations for generation of power to reduce use of public utility power.
11. The sound of chimes or bells of schools or religious institutions for any length of time in the daytime hours between 7:00 am and 10:00 pm.

Section 9 Burden of Proof Regarding Exceptions

The person who would benefit from the application of any exception set out in this ordinance shall have the burden of proving that the exception applies and that the terms of the exception have been met.

Section 10 Enforcement

The Sheriff shall have primary responsibility for enforcing this ordinance and shall investigate and pursue possible violations of this ordinance.

Section 11 Measurement Requirements

Instrumentation used for enforcement of this ordinance shall be designated by its manufacturer as meeting the precision requirements of IEC 651 or ANSI S1.4 for Type 1 or Type 2 sound level meters as defined in those standards. Except as otherwise allowed in this paragraph, all measurements shall be made using "slow" time-weighting. "Fast" time-weighting may be used to identify a repetitive impulsive sound. The time-average sound level may be measured with either a meter that samples the "slow" response level, or one that measures the time-average sound level directly. A windscreen approved by the manufacturer of the instrument shall be used on the microphone when making measurements. The instrument calibration shall be checked (and adjusted if necessary) using an external calibration device within at least one hour before the measurement, and checked again within one hour after the measurement. All measurements shall be made at a height of at least 4 feet from the ground. They shall be made at least 10 feet from any building, tree trunks, vehicles, or other obstruction other than the person making the measurement. Measurements may be made with the permission of the property owner on any property other than the property containing the suspected excessive sound source, and other than a public right-of-way. The data record shall contain the data, descriptions of the apparent source of the dominant noise and its apparent location, the location of the measurements, the approximate time of the measurements, and sufficient information to identify the instruments used. The measuring officer shall take care that measurements are not controlled by sound excepted by Section 7 of this ordinance. The Sheriff's Department shall develop and document operating procedures for the guidance of its officers and agents in making measurements. A copy of those procedures shall be made available to any person upon request.

Section 12 Interference with Enforcement

It shall be unlawful for any person to interfere, using interfering sound or otherwise, with the taking of sound level measurements or the enforcement of this ordinance.

Section 13 Changes of Land Use

If an Industrial Land Use property is converted to commercial or residential use, or a Commercial Land Use property is converted to residential use, the land use designation of such property for purposes of this ordinance shall not be changed if the sound existing on the property (from sources outside the property) at the time of the conversion would then violate this ordinance. However, if the sound existing on the property at the time of the conversion would be in compliance with the requirements of the new land usage, then the owner of the converted property may petition the County Commissioners to change the designation of the property for purposes of this ordinance. The County Commissioners shall consider the interests of all neighboring property owners before deciding whether to make the change.

Section 14 Penalties and Remedies

Any violation of this ordinance shall subject the offender to a civil penalty in the amount of One Hundred and No/100 Dollars (\$100.00) for each offense. Each day of violation shall be considered a separate violation. If a violation exceeds the appropriate limit by more than 10 decibels, the penalty shall be doubled. Failure to pay the civil penalty within sixty (60) days after demand for payment is made shall subject the offender to civil action in the appropriate court of jurisdiction for recovery of the penalty.

In addition to or instead of a civil penalty, any violation of this ordinance may be prosecuted as a misdemeanor punishable by a fine of not more than One Hundred and No/100 Dollars (\$100.00) or imprisonment for not more than thirty days in accordance with G.S. 14-4 and G.S. 153A-123.

In addition to any other remedy, whenever the Sheriff has reasonable cause to believe that an offender continues to violate any provisions of this ordinance, the Sheriff may seek injunctive relief in the appropriate court of jurisdiction to halt operation of the sound producing the violation. The institution of an action for injunctive relief shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this ordinance.

Section 15 Other Remedies

No provision of this ordinance shall be construed to impair any common law or statutory cause of action or legal remedy of any person for injury or damage to person or property, arising from violation of this ordinance or arising from sound crossing a property boundary that does not violate this ordinance.

Section 16 Severability

If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or in any circumstance shall be held to be invalid, such invalidity shall not affect the validity of the other provisions or applications of this ordinance as a whole or of any part, sub-part, sentence, or clause thereof not held to be invalid, and to this end the provisions of this ordinance are hereby declared to be severable.

Section 17 Effective Date

This ordinance shall become effective on the date of signature by the Chairman of the Columbus County Board of Commissioners.

RECOMMENDATIONS of ADDITIONAL CHANGES to be MADE:

After in-depth discussion was conducted, the following changes were recommended to be made:

1. Define measurement site;
2. Change in time for Residential from 10:00 P.M. to 11:00 P.M.;
3. Change in penalties for any additional violation after the first violation; **and**
4. Delete: "This section shall not apply to dogs" (Page 11).

Commissioner Memory stated this was a Land-use Ordinance and would require two (2) Public Hearings to be held.

After further discussion was conducted, it was the general consensus of all present for the following procedure to take place:

1. Steve Fowler, Columbus County Attorney, will make the recommended changes to this Ordinance;
2. Another Ordinance Workshop would be set at the October 16, 2006 Board Meeting, and this workshop will include three (3) additional Ordinances that are in process;
3. The Public Hearing would be called for at the October 16, 2006 Board meeting; **and**
4. This Ordinance, and any of the other three (3) Ordinances that are ready, would be placed on the November 06, 2006 Agenda.

ADJOURNMENT:

At 6:00 P.M., Chairman Godwin stated this Noise Ordinance Workshop was adjourned.

APPROVED:

JUNE B. HALL, Clerk to Board

KIPLING GODWIN, Chairman