

CITY OF FORT PIERCE

CONFERENCE AGENDA

Conference Agenda Meeting - Monday, January 9, 2023 - 9:00 a.m.

City Hall - Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **New Business**
 - a. Discussion with Major D. Bonds, Captain J. Yetter, and Lieutenant D. Rogerson of the Florida Fish and Wildlife Conservation Commission.
 - b. Discussion of proposed Edgartown Historic District noise ordinance
 - c. Discussion and presentation with the South Florida Water Management District regarding a proposed year-round irrigation ordinance. The District is requesting local governments to review their existing irrigation ordinance and codes for consistence with the District's Year-Round Landscaping Irrigation Conservation Measures Rule, Chapter 40E-24, Florida Administrative Code.
 - d. Discussion of creating a dog friendly beach in Fort Pierce
5. **COMMENTS FROM THE PUBLIC**

Any person who wishes to comment on any subject may be heard at this time. Please limit your comments to three (3) minutes or less, as directed by the Mayor, as this section of the Agenda is limited to thirty minutes. The City Commission will not be able to take any official actions under Comments from the Public. Speakers will address the Mayor, Commissioners, and the Public with respect. Inappropriate language will not be tolerated.
6. **City Commission Boards and Committees Updates**

7. **Adjournment**

Immediately following adjournment, please move toward the doors and exit the chambers. This allows for the safe and courteous exit of all persons, and those on the dais. Conversations after the meeting should be held outside of chambers, in the foyer or elsewhere, but not in the commission chambers where lights will be out as soon as the chambers are empty.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772) 467-3065 at least 48 hours prior to the meeting.

City Commission Conference Agenda

4. a.

Meeting Date: 01/09/2023

Re: FWC Presentation

Submitted For: Nick Mimms, City Manager, City Manager

SUBJECT:

Discussion with Major D. Bonds, Captain J. Yetter, and Lieutenant D. Rogerson of the Florida Fish and Wildlife Conservation Commission.

Attachments

Presentation

Form Review

Inbox	Reviewed By	Date
City Manager	Nick Mimms	12/30/2022 12:56 PM
City Manager	Nick Mimms	01/04/2023 08:19 AM
Form Started By: Jennifer Robinson		Started On: 12/09/2022 02:57 PM
Final Approval Date: 01/04/2023		

Waterways overview



**Florida Fish and Wildlife Conservation Commission
Division of Law Enforcement**

Marine Law overview

- Discuss the **applicable rules and regulations** that pertain to the waters of the state and specifically within the jurisdiction of the **City of Ft. Peirce.**
- Our current interaction state with the boating public and how violations are addressed to obtain compliance.
- Current status of **waterway related issues.**



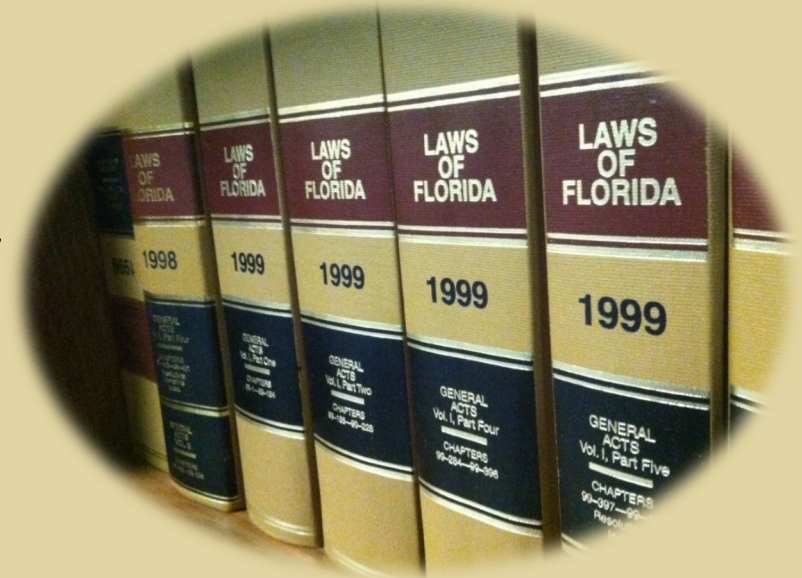
FWC Authority

State Constitution

- granted broad Constitutional authority to manage fish and wildlife resources



- ## Legislature assigned some responsibilities and limited statutory authority
- captive wildlife
 - boating



Division of Law Enforcement priorities

- DLE is one of six Divisions within FWC and is the enforcement arm of the state conservation framework.
- F.S. 379.3313: Full arrest authority for all state laws and rules of the commission.
- Proactive and Reactive patrols.
- Lead agency on state waters and state lands.
- Federally deputized out to 200 miles offshore



FWC's Priority Missions

Boating and Waterway protection

Hunting and Fishing enforcement

Boating safety

Habitat Protection

Captive Wildlife

Marine Fisheries Enforcement

State lands and State Park Patrols (WMAs, WEAs, CWAs,
(Fort Pierce Inlet).

Public Safety Enforcement (General LE function/Assisting
partners)

Division of Law Enforcement

...the statewide leader in boating law enforcement efforts:

- water patrol
- investigating and reporting boating accidents
- conducting and/or participating in search and rescue missions
- organizing boating safety/BUI enforcement details
- activities of the Boating and Waterways Section
- Hunting and Fishing regulations enforcement



Enforcement Authority

327.70 Enforcement of this chapter and 328

- This chapter and chapter 328 shall be enforced by FWC, Sheriff departments, municipal police officers, and any other law enforcement officer as defined in s. 943.10, all of whom may order the removal of vessels deemed to be an interference or a hazard to public safety, enforce the provisions of this chapter and chapter 328, or cause any inspections to be made of all vessels in accordance with this chapter and chapter 328.
 - Inspection of required safety equipment
 - Any law violation observed
 - Reason to believe there is participation in a highly regulated activity

If a vessel properly displays a valid safety inspection decal created or approved by the division, a law enforcement officer may not stop the vessel for the sole purpose of inspecting the vessel for compliance with the safety equipment carriage and use requirements



Safety Inspection Decal

s. 327.70, F.S.

If a vessel properly displays a valid safety inspection decal, a law enforcement officer may not stop the vessel for the sole purpose of inspecting the vessel for safety equipment carriage.

Unless:

- i. Reasonable suspicion for safety equipment violations
- ii. Any law violation observed
- iii. Reason to believe there is participation in a highly regulated activity
- iv. Conducting safety equipment inspections after stopping for any other lawful purpose



327.50 Vessel safety regulations; equipment and lighting requirements

The owner and operator of every vessel on the waters of this state shall carry, store, maintain, and use safety equipment in accordance with current United States Coast Guard safety equipment requirements as specified in the Code of Federal Regulations.

What do you need to have on your vessel to meet the safety requirements?

- Wearable, serviceable PFD sized for each person on board.
- Sound producing device (SPD)=whistle or horn
- Throw-able, type IV
- Fire extinguisher
- Visual Distress Signal (VDS)=flares



327.35 Boating under the influence

A person is guilty of the offense of boating under the influence ...if the person is operating a vessel...the person is under the influence of alcoholic beverages, any chemical substance...affected to the extent that the person's normal faculties are impaired;

Florida law establishes the following penalties, of:

- \$500 to \$1000 and imprisoned for up to six months for the first conviction
 - \$1000 to \$2000 and imprisoned for up to nine months for a second conviction.
 - Up to \$5000 and imprisoned for up to five years for a third conviction WITHIN 10 YEARS FELONY
- If an operator is involved in a boating accident which causes serious bodily injury or death, while BUI, they may be charged with a felony (SBI) or BUI manslaughter(death).

Boating Under the Influence

ZERO
TOLERANCE
OVER THE LIMIT. UNDER ARREST.



327.46 Boating-restricted zones

Boating-restricted areas may be established on the waters of this state for any purpose necessary to protect the safety of the public. if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards.

- (a) The commission may establish boating-restricted areas by rule
- (b) Municipalities and counties have the authority to establish the following boating-restricted areas by ordinance, after FWC approval.

It is unlawful for any person to operate a vessel in a prohibited manner or to carry on any prohibited activity, as defined in this chapter, within a boating-restricted area which has been clearly marked by regulatory markers as authorized under this chapter



327.53 and .56 Marine Sanitation Equipment (MSD)

- Vessels 26 ft or longer with berthing facilities shall be equipped with a toilet.
- Permanently installed MSDs must be USCG certified
- Houseboats and floating structures included when berthing facilities present, regardless of length
- Raw Sewage shall not be discharged in Florida waters.
 - Systems shall be locked/secured to prevent discharge into state waters
- All waste shall be disposed of at an approved pump-out or waste reception facility
- No officer shall board any vessel to inspect MSD if the owner or operator is not onboard.

Moored Vessels

- **327.4109 Anchoring or mooring prohibited; exceptions; penalties.**—(1)(a) The owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:
 1. Within 150 feet of any public or private marina, boat ramp, boatyard, or other public vessel launching or loading facility;
 2. Within 500 feet of a superyacht repair facility. For purposes of this subparagraph, the term “superyacht repair facility” means a facility that services or repairs a yacht with a water line of 120 feet or more in length; or
 3. Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the commission upon request of a local government within which the mooring field is located. The commission may adopt rules to implement this subparagraph.
 4. A vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.



F.S. 328 Vessel Title and Registration requirements

Titling/Registration

- All powered vessels must be titled.
- All powered vessels must be registered in the state of Florida unless exemptions apply
- Title transfers must occur within 30 days of purchase.
- All powered vessels must display valid registration and operator must have registration certificate in their possession.

328.46 Operation of registered vessels

- Every vessel required to be registered and that is being operated on the waters of the state shall be registered and numbered within **30** days
- Bill of sale is temp certificate and must have all descriptors and date of sale

328.48 Vessel Registration, number, decal and duplicate cert.

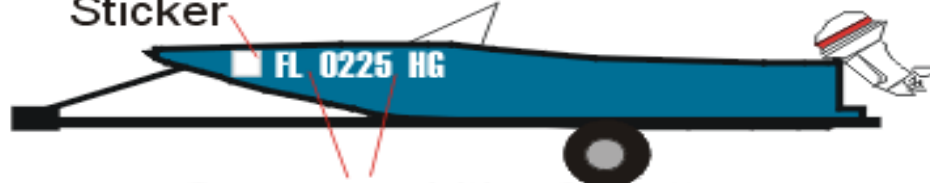
- Must display FL numbers on forward half on both sides
 - Contrasting color
 - 3 inch letters
- Registration shall be available for inspection when vessel is in operation
- Yearly decal must be affixed

Plain block characters

contrasting with the background

Lettering NOT LESS than
3 inches in height

Sticker



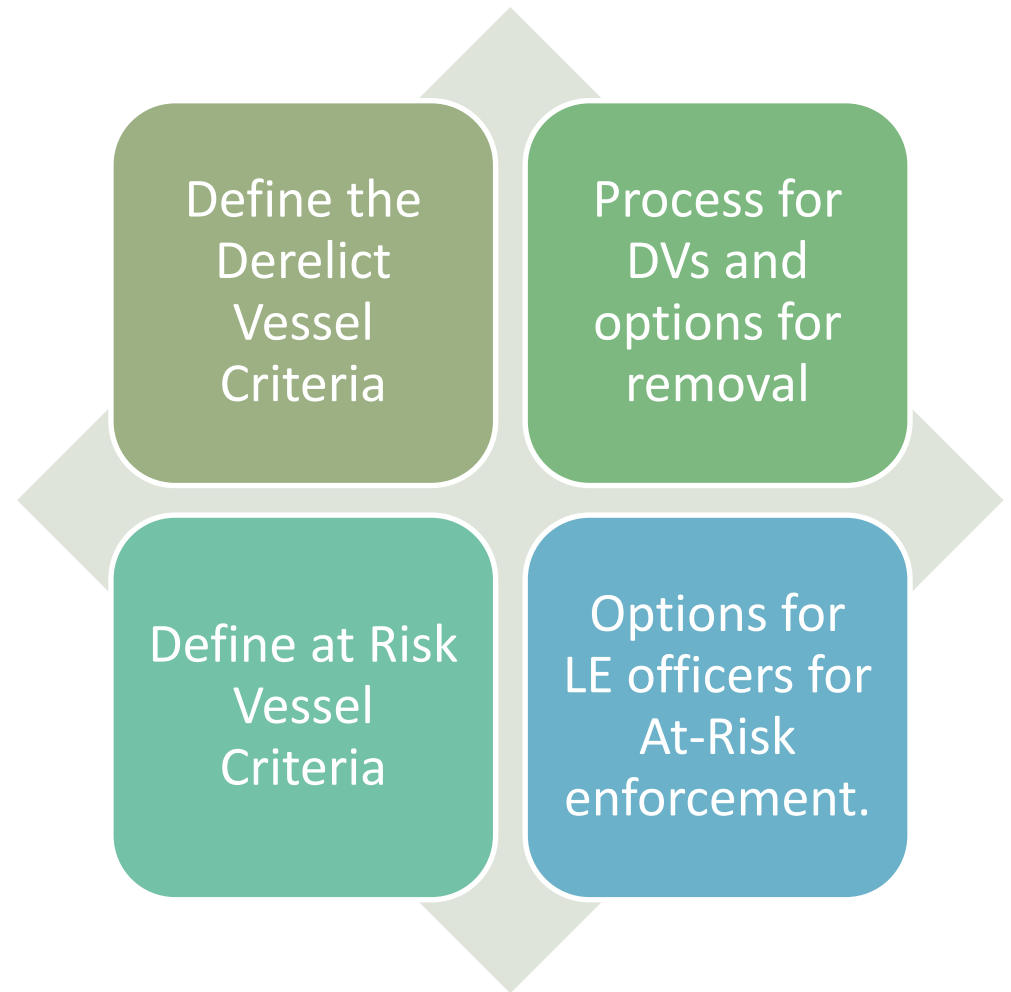
Space = width of a letter



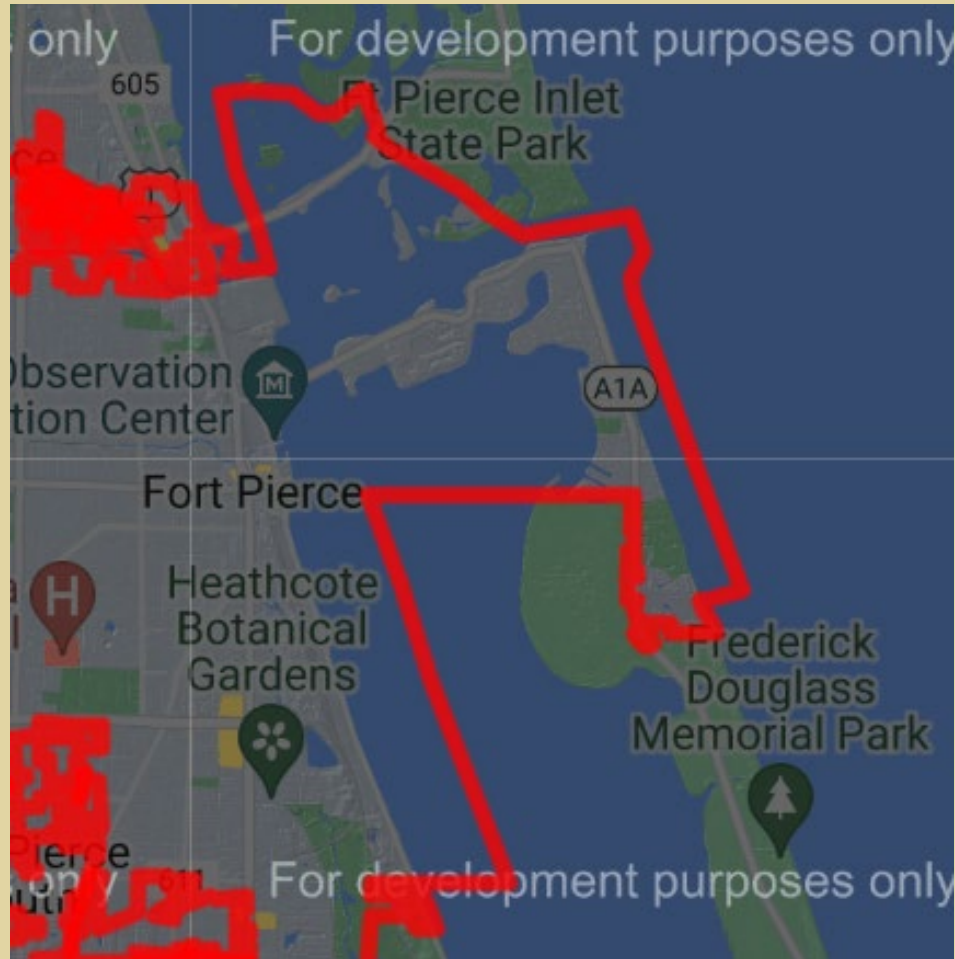
Waterway Collaboration

- United States Coast Guard
- St. Lucie Sheriff's Office
- Fort Pierce Police Department

Derelict & At-Risk Vessels



Fort Pierce Waterway





Current DV Investigation

12/30/2022



Current DV
Investigation

Displaced
DV/Hurricane
Nicole



12/30/2022



DV Investigation

12/30/2022



DV Investigation

Questions?



City Commission Conference Agenda

4. b.

Meeting Date: 01/09/2023

Re: Edgartown Noise Ordinance

Submitted For: Nick Mimms, City Manager, City Manager

SUBJECT:

Discussion of proposed Edgartown Historic District noise ordinance

Attachments

Proposed Ordinance
Article II Noise Ordinance
Presentation

Form Review

Inbox	Reviewed By	Date
City Manager	Nick Mimms	12/30/2022 12:57 PM
City Manager	Nick Mimms	01/04/2023 08:19 AM
Form Started By: Jennifer Robinson		Started On: 12/21/2022 03:54 PM
Final Approval Date: 01/04/2023		

ORDINANCE NO. 23-XXX

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA, CHAPTER 125 – ZONING, ARTICLE IV, BASIC ZONING DISTRICTS, SECTION 125-197, EDGARTOWN SETTLEMENT (ES) ZONING DISTRICT; AMENDING SAID SECTION TO CLARIFY PURPOSE FOR THE ORDINANCE; AMENDING THE INTENSITY AND DIMENSIONAL STANDARDS; AMENDING AND REORGANIZING CHART 1-1, USES ALLOWED; AMENDING USE DEFINITIONS, CLASSIFICATIONS, AND STANDARDS AS TO RESIDENTIAL USES, CHILDCARE, COMMERCIAL USES, AND OVERNIGHT ACCOMODATIONS; AMENDING REGULATIONS REGARDING PERMISSABLE NOISE AND HOURS OF INDOOR AND OUTDOOR ENTERTAINMENT AT EATING AND DRINKING ESTABLISHMENTS WITHIN THE DISTRICT; REORGANIZING EXISTING SUBSECTIONS AND CREATING SUBSECTIONS (g) THROUGH (o); PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125-197 has been amended from time to time since it was formally adopted by Ordinance L-270; and

WHEREAS, the City of Fort Pierce Planning Board held a properly noticed hearing at a regularly scheduled meeting to consider the revisions, and at their _____, 2023, meeting, voted _____ to recommend Approval of the request.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida:

SECTION 1. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (a) is hereby amended as follows:

- (a) *Purpose.* The Edgartown Settlement zoning district is intended to provide for a mix of uses integrating small scale, compatible commercial uses, public uses, and accessory dwelling units into an existing urban residential neighborhood with access to multi-modal transit options and adjacency to a mixed use downtown area; to create new housing units while respecting the scale of the neighborhood; to increase the housing stock in a manner that is less intense than alternatives; to allow more efficient use of existing housing stock and infrastructure; to provide a mix of housing that responds to changing family needs and smaller households; and to provide a broader range of accessible and more affordable housing.

SECTION 2. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (b) is hereby amended as follows:

~~(b) — *Density calculations.* Density is calculated based on the ES boundaries, as defined on Map 1-1, per future land use density caps of the subject properties. A total of 137 dwelling units are permitted within the map area, regardless of lot configuration and size. Maximum density is not calculated based on each lot as it is subdivided.~~

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

Accessory dwelling unit (ADU). A second dwelling subordinate in size to the principal dwelling unit on the lot, located in an accessory structure.

Accessory structure. A structure located on the same lot with the main building, detached or attached, and is subordinate and incidental to the primary or accessory uses of the site.

Artisan manufacturing. On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations, on site-retail or storage, and occupying no more than 1,000 square feet of gross floor area.

Catering. An establishment that supplies food to be consumed off-premises.

Childcare. Day care home or day care center (as licensed by the state) which provides regular shelter, care, activity, and supervision for children. Academic instruction may or may not be included.

Community Garden. Vacant land used for vegetable, fruit or flower gardening by individuals or groups in order to strengthen the community food system.

Cultural/community. Uses of a public, nonprofit, or charitable nature providing ongoing education, training, or counseling to the general public on a regular basis.

Detached dwelling. A principal residential building containing one dwelling unit.

Detached garage. An accessory structure detached from the primary structure onsite which is designed for the storage of vehicles.

Eating and drinking establishment; brewpub. A restaurant or pub which also brews beer on-site.

Eating and drinking establishment; neighborhood bistro. An eating establishment that may serve wine, beer, or other alcohol, but does not have a separate bar with seating.

Eating and drinking establishment; wine and cigar bar. A bar that serves only wine and beer and may or may not serve food.

Habitable space. An insulated, finished living space.

Microbrewery. A craft beer brewery with a production of less than 15,000 barrels per year.

Mixed use. A structure which contains a commercial or public use on the ground floor, with residential uses located above and/or to the rear of the commercial or public use on the ground floor.

Office. A location at which the affairs of a business, profession, service industry or government are conducted.

Overnight accommodations, bed and breakfast. Overnight accommodations, serving breakfast, and located in an owner-occupied residential structure, offering up to eight guest rooms.

Overnight accommodations, boutique hotel. Overnight accommodations which include an amenity such as a restaurant or spa, offering up to 18 rooms and located within a structure of residential building typology.

Overnight accommodations, vacation rental. Vacation rentals shall be as defined in Chapter 22, Article X – Short Term and Vacation Rental Regulations.

Park and open space. A public or private area of land, with or without buildings, opens to the public for outdoor active or passive recreational uses.

Pedicabs. Any vehicle with three or more wheels propelled solely by human power, which is used for transporting passengers for consideration.

Primary use. A permitted or conditional use of a property as defined by the ES use table, classifications, definitions, and standards.

Retail sales, service, and repair (light). Companies or individuals involved in the sale, lease, or rental of new or used products, or providing personal or repair services to the general public.

Rowhouse. A single dwelling unit in a rowhouse group.

Rowhouse group. At least three and no more than six contiguous rowhouses located on conforming rowhouse lots.

Two-unit residential. A structure used for two separate dwelling units, having the exterior appearance of a detached dwelling, each unit having private egress or a common stairwell egress.

Urban food production. The use of land for growing crops for sale off premises to support the community food system.

SECTION 3. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (d) is hereby amended as follows:

~~(d) — Intensity and dimensional standards.~~

~~(1) — Lot types.~~

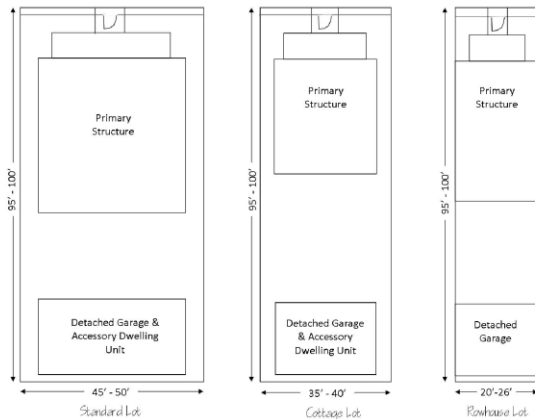
~~a. — Standard lot: 45 feet to 50 feet wide lots reflective of the existing historic development pattern of the neighborhood. Standard lots are permitted fronting on any vehicular right-of-way and require rear alley access for new subdivision. Standard lots permit up to a 2½ story primary structure as well as a detached garage with an accessory dwelling unit located above the garage. Up to three separate primary uses are permitted: two uses in the primary structure, and one in the accessory dwelling unit. Accessory uses are permitted in addition to the primary permitted uses.~~

~~b. — Cottage lot: 35 feet to 40 feet wide lots which permit a small scale, tightly knit pedestrian court type of housing. Cottage lots are permitted fronting a pedestrian-only right-of-way in groups of at least three contiguous lots. Rear access alley access is required for new subdivision. Cottage lots permit a 1½ story primary structure as well as a detached garage with an accessory dwelling unit located above the garage. Up to two separate primary uses are permitted: One use in the primary structure and one use in the~~

~~accessory dwelling unit. Accessory uses are permitted in addition to the primary permitted uses.~~

~~c. Rowhouse lot: 20-foot wide lot in a group of at least three but no more than ten contiguous lots (rowhouse group), with separate dwelling units attached horizontally in a linear arrangement to one or more rowhouse units. Rowhouse groups are permitted along any vehicular right-of-way and require rear alley access for new subdivision. Each lot permits a two-story connected rowhouse and a detached garage. Accessory dwelling units are not permitted. One use is permitted on a rowhouse lot in the primary structure. Accessory uses are permitted in addition to the primary use.~~

~~Edgartown Settlement (ES) Zoning District Lot Types~~



~~(2) Dimensional standards.~~

	Standard	Cottage	Rowhouse
Lot area, minimum	4,275 s.f.	3,325 s.f.	1,900 s.f.
Lot width, minimum	45'	35'	20'
Lot depth, minimum	95'	95'	95'
Lot coverage, maximum	60 percent	50 percent	70 percent
Build-to, front, including porch	6'	6'	6'
Build-to, side corner	8'	6'	6'
Build-to, side corner including porch	6'	6'	6'
Setback, side, minimum	5'	4'	0'
Setback, rear, primary structure, minimum	40'	40'	40'
Build-to, rear, detached garage	2'	2'	2'
Building height, maximum	2.5 stories	1.5 stories	2 stories
Accessory dwelling permitted	Yes	Yes	No
Uses allowed per lot (total)	3	2	4
Dwelling units per lot	2	2	4
Lot area per dwelling	2137	1662	1900
Fence/wall height, front yard	4'	4'	N/A

Fence/wall setback, front yard	2'	2'	N/A
Fence/wall height, rear yard	6'	6'	6'

a. ~~Additional dimensional standards and definitions.~~

~~1. *Alleys.* Functional public-access alleys which connect a property to a public right-of-way are required prior to any subdivision of land, and when constructing a rear-access garage/accessory dwelling unit. If an alley does not yet exist, the applicant shall work with the planning department to secure required land, plat and construct said alley portion to city standards.~~

~~2. *Building height.* Measured from base flood elevation (BFE) to top of eave. First story may measure up to 12 feet in height; subsequent stories may measure up to nine feet in height. Roofs and incorporated architectural features such as cupolas and widows walks are not included in building height unless habitable space is incorporated within, such as a half-story. Half stories shall be incorporated into a sloped roof line with dormers and gables, and may exceed nine feet at the peak of roof. All new construction shall follow historic construction patterns of building the first floor elevation at least 1½ feet to two feet above grade on a stem wall or pillars even if BFE is lower. In such case, building height shall be measured from first floor elevation.~~

~~3. *Contextual build-to/setback.* When subject lot is adjacent to lots with existing structures, the director of planning may permit a contextual setback/build-to based on an average of the requirement and the adjacent properties.~~

~~4. *Porches.* All new construction shall incorporate an open, covered, eight feet deep front porch. On corner lots, open, covered side porches are encouraged but not required.~~

~~5. *Parking.* No off-street parking is required for any use. Any proposed off-street parking shall be located to the rear of the property behind the primary structure, and served by an alley.~~

~~6. *Uses allowed per lot, total.* Indicates the total number of primary uses (does not include accessory uses) allowed on a specific lot type. For instance, a standard lot could have one commercial use, and two residential dwelling units, or two commercial uses and one residential dwelling unit. The combination of uses is limited only by dwelling units per lot, imposed by density constraints. Accessory uses, regulated by separate standards, are allowed in addition to primary uses.~~

~~7. *Variances.* The historic preservation board shall have the power to waive, with or without conditions, subdivision and general dimensional standards in the Edgartown Settlement zoning district of those properties designated by the city commission as historic sites, either individual sites or buildings within districts under the following standards for review. The proposed variance shall further the continued preservation of the historic site or historic district more appropriately than adherence to the subject regulation. The board shall only grant such variances when an application for a certificate of appropriateness has been issued to promote preservation, rehabilitation or restoration. In carrying out this responsibility, the historic preservation board must follow the same procedures specified for the board of adjustment in division 3 of article II of this chapter.~~

(d) Uses allowed.

(1) *Permitted uses.* Uses identified with a "P" in Chart 1-1, use table are permitted as-of-right, subject to any listed use standards and all other applicable standards of this Code.

(2) *Conditional uses.* Uses identified with a "C" in Chart 1-1, use table may be allowed if reviewed and approved in accordance with conditional use criteria and

procedures of the land development regulations. Conditional uses are subject to compliance with any listed use standards and all other applicable standards of this Code.

(3) Accessory uses. Uses identified with an "A" in Chart 1-1, use table are subordinate to a primary use of the property, shall not be located within any front facade bay, and are subject to any listed use standard, and to all other applicable standards of this Code. All accessory uses shall be located either within the rear section of the primary structure, within the rear yard or within an accessory structure at the rear of the property. Few customers, especially the general public, come to the site to access the use. All accessory uses in total may occupy no more than 20 percent of the parcel's total lot area.

<u>Chart 1-1 Uses Allowed</u>	
<u>P – Permitted Use; C – Conditional Use; A – Accessory Use</u>	
<u>RESIDENTIAL</u>	
<u>Detached dwelling</u>	<u>P</u>
<u>2—4 Units</u>	<u>P</u>
<u>Rowhouse</u>	<u>P</u>
<u>Vertical or horizontal mixed use</u>	<u>P</u>
<u>Accessory dwelling unit/detached garage</u>	<u>A</u>
<u>PUBLIC AND CIVIC</u>	
<u>Cultural/Community</u>	<u>P</u>
<u>Community garden</u>	<u>P</u>
<u>Childcare</u>	<u>P</u>
<u>Park and open space</u>	<u>P</u>
<u>COMMERCIAL/BUSINESS</u>	
<u>Adaptive re-use of historic structure</u>	<u>C</u>
<u>Artisan manufacturing</u>	<u>A</u>
<u>Catering</u>	<u>A</u>
<u>Office</u>	<u>P</u>
<u>Pedicabs</u>	<u>P</u>
<u>Retail sales</u>	<u>P</u>
<u>Retail service</u>	<u>P</u>
<u>Retail repair (light)</u>	<u>P</u>
<u>Urban food production</u>	<u>A</u>
<u>Brewpub</u>	<u>C</u>

<u>Neighborhood bistro</u>	<u>C</u>
<u>Wine/Cigar bar</u>	<u>C</u>
<u>ACCOMMODATION</u>	
<u>Bed and breakfast</u>	<u>P</u>
<u>Boutique hotel</u>	<u>P</u>
<u>Vacation rental</u>	<u>P</u>

SECTION 4. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (e) is hereby amended as follows:

~~(e) — Uses allowed.~~

~~(1) — Permitted uses. Uses identified with a "P" in chart 1-1, use table are permitted as-of-right, subject to any listed use standards and all other applicable standards of this Code.~~

~~(2) — Conditional uses. Uses identified with a "C" in chart 1-1, use table may be allowed if reviewed and approved in accordance with conditional use criteria and procedures of the land development regulations. Conditional uses are subject to compliance with any listed use standards and all other applicable standards of this Code.~~

~~(3) — Accessory uses. Uses identified with an "A" in chart 1-1, use table are subordinate to a primary use of the property, shall not be located within any front facade bay, are subject to any listed use standards, and to all other applicable standards of this Code. All accessory uses shall be located either within the rear section of the primary structure, within the rear yard (subject to approval by the director of planning) or within an accessory structure at the rear of the property, accessible by an alley. Few customers, especially the general public, come to the site to access the use. All accessory uses in total may occupy no more than 20 percent of the parcel's total lot area.~~

Chart 1-1 Uses Allowed	
Residential	Permitted/Conditional/Accessory
Detached dwelling	P
2—4 Units	P
Rowhouse	P
Vertical mixed use	P
Accessory dwelling unit/detached garage	A
Public and Civic	Permitted/Conditional/Accessory
Cultural/Community	P
Community garden	P
Childcare	P
Park and open space	P
Commercial	Permitted/Conditional/Accessory
Adaptive re-use of historic structure	C
Artisan manufacturing	A
Catering	A
Eating and drinking establishments	Permitted/Conditional/Accessory
Brewpub	P
Neighborhood bistro	P

Wine/Cigar bar	P
Office	P
Overnight Accommodations	Permitted/Conditional/Accessory
Bed and breakfast	P
Boutique hotel	P
Vacation rental	P
Pedicabs	P
Retail sales	P
Retail service	P
Retail repair (light)	P
Urban food production	A

(4) ~~Use definitions, classifications and standards.~~

a. ~~Residential uses.~~

1. ~~Detached dwelling. A principal residential building containing one dwelling unit.~~

2. ~~Two-unit residential. A structure used for two separate dwelling units, having the exterior appearance of a detached dwelling, each unit having private egress or a common stairwell egress.~~

3. ~~Rowhouse. A single dwelling unit in a rowhouse group.~~

(i) ~~Use standards.~~

A. ~~Rowhouse group. A rowhouse group must be comprised of at least three and no more than ten contiguous rowhouses located on conforming rowhouse lots.~~

B. ~~Site design. Each unit's entrance is located on its fully exposed front facade, within a covered porch, and has a fully exposed rear facade opening to a private, fenced or walled rear yard and detached garage with access to a functioning alley.~~

4. ~~Vertical mixed use. A structure which contains a commercial or public use on the ground floor, with residential uses located above and/or to the rear of the commercial or public use on the ground floor.~~

5. ~~Accessory dwelling unit (ADU). A second dwelling subordinate in size to the principal dwelling unit on the lot, located in an accessory structure with access to a rear-access alley. Such structure shall be designed to respect the historic, small-scale residential detached building typology in the Edgartown Settlement Preservation Area, as well as the architectural design of the primary structure on the site. Accessory dwelling units may or may not include a detached garage. A detached garage may be constructed without an incorporated accessory dwelling unit. Accessory dwelling units are encouraged in the ES zoning district to:~~

(i) ~~Create new housing units while respecting the scale of the neighborhood;~~

(ii) ~~Increase the housing stock in a manner that is less intense than alternatives;~~

(iii) ~~Allow more efficient use of existing housing stock and infrastructure;~~

(iv) ~~Provide a mix of housing that responds to changing family needs and smaller households;~~

(v) ~~Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and~~

(vi) ~~Provide a broader range of accessible and more affordable housing.~~

6. ~~Use standards.~~

(i) ~~Build-to-line, rear: two feet.~~

~~(ii) — Build-to, side corner: eight feet; or with porch: six feet.~~

~~(iii) — Setback, side: five feet.~~

~~(iv) — Building height. No greater than height of principal structure unless granted variance. Maximum height of proposed structure may not exceed the maximum height allowed on subject lot. The historic preservation board will act as the decision-making body for this variance.~~

~~(v) — Massing. No greater than mass of principal structure unless granted variance. The historic preservation board will act as the decision-making body for this variance.~~

~~(vi) — Parking. No additional parking is required for the ADU.~~

~~(vii) — Architectural compatibility. Architectural style and building materials shall be compatible with the primary structure's architectural style. Architectural compatibility is not synonymous with an exact mimicking of the primary structure's design and materials.~~

~~(viii) — Variance standards.~~

~~A. — Only properties which contain contributing historic structures are eligible for building height or massing variances. Detached garages without ADUs incorporated may also be eligible for building height and massing variances if located on a site with a contributing historic structure.~~

~~B. — Shall be sited, designed and landscaped in such a manner that size and/or height does not overwhelm the principal structure as viewed from the right-of-way.~~

~~b. — *Public and civic uses.*~~

~~1. — *Cultural/community.* Uses of a public, nonprofit, or charitable nature providing ongoing education, training, or counseling to the general public on a regular basis.~~

~~2. — *Community garden.* Vacant land used for vegetable, fruit or flower gardening by individuals or groups in order to strengthen the community food system.~~

~~3. — *Use standards.*~~

~~(i) — *Compatibility.* No adverse impacts to adjacent properties such as persistent odor, light, vibration, visual blight or chemical drift.~~

~~(ii) — *Xeriscape.* Water source shall be reclaimed on-site or off-site water, i.e., rain barrel, sub-grade or landscape-screened cistern, etc.~~

~~(iii) — *Top soil retention.* Site shall be configured in such a way that no exposed soil shall be prone to stormwater runoff.~~

~~(iv) — *Outdoor storage.* All equipment and materials shall be enclosed within a permitted structure. Compost shall be screened with landscaping.~~

~~(v) — *Ownership.* Owner of site shall provide a written agreement allowing the site to be used as a community garden.~~

~~c. — *Childcare.* Day care home or day care center (as licensed by the state) which provides regular shelter, care, activity and supervision for children. Academic instruction may or may not be included.~~

~~1. — Use standards.~~

~~(i) — *Arrival and departure.* Site design must provide for the safe arrival and departure of children.~~

~~A. — *Traffic.* Drop-off areas must be arranged so that an adult can remove a child from the pedestrian side of the vehicle and proceed directly to the front entrance on a sidewalk.~~

~~B. — *Security.* The entrance must be readily identifiable and accessible to emergency personnel. The location must allow for all entrances and exits to be secured, with a secured play yard perimeter and controlled access.~~

~~(ii) — *Exterior play yards.* The site shall provide an outdoor play yard and amenities. Play yards should provide for a variety of developmentally appropriate activities and amenities per the below standards:~~

~~A. — *Sunlight and shade.* Play yards should have exposure to both shade and sunlight. Additional shade trees or tree pruning may be required to create a balance of shade and sun in the play yard.~~

~~B. — *Amenities.* Select three or more amenities below for the outdoor play yard:~~

~~1. — *Open or screened porch.* Porches are highly desirable play elements as they provide for outdoor play in inclement or hot weather. Porches are a significant architectural symbol of a nurturing environment and provide a transition to the natural elements.~~

~~2. — *Circulation.* Dedicated, hard surface, connected pathways for wheeled toys of at least five feet in width, allowing two tricycles to pass, as well as provision of wheeled toys to ride, and a wheeled toy parking area off the paths.~~

~~3. — *Shaded seating.* Provide seating in a shaded area with views to other areas of the play yard. Such seating may include benches, tables and chairs, picnic table, and/or chair and easel.~~

~~4. — *Sand and water play.* Sand and/or water tables at children's height with areas for sand and/or water, flat surface building area, storage areas for spoons, shovels, toy vehicles, buckets. Sand tray area must be fitted with removable cover to protect from rodent or small animal intrusion.~~

~~5. — *Dramatic play area.* Stage and/or shaded play house structure with seating, including props for dramatic play. Play house area should be adjacent to circulation paths to incorporate paths and parking areas into make believe play.~~

~~6. — *Large motor play area.* Options include superstructure playground equipment with climbing obstacles, climb-through tunnels and slides, berms that create small hills, large rocks for climbing, or open, grassy yard area for running and games.~~

~~7. — *Infant play area.* Separate space consisting of soft exterior paving materials that protect crawling children and provide a comfortable surface for seating, exposed to the natural element but shaded from direct sun. Appropriate activities within the area include crawling spaces with slight inclines or undulations; low barriers to climb over, pull up bars, low platforms, and low slope slides. A place hard enough to use wheeled and push toys may also be included.~~

~~8. — *Children's garden.* Garden area for planting, tending and harvesting of fruits, vegetables and flowers.~~

~~9. — *Quiet space.* Quieter space set apart from active area such as a labyrinth walking path, shaded or sunny seating niches for reading, or easels for art.~~

~~C. — *Alternative compliance.* When play yard areas cannot be provided in compliance with these criteria due to site constraints, the center may propose access to alternate play areas for large motor skill development. These may include public parks with appropriate play equipment within one-fourth mile of the childcare center, provided safe pedestrian routes with adequate sidewalks and crosswalks are identified.~~

~~D. — *Fencing.* Play yards must be enclosed by fences to define and secure the play yard. Chainlink is not an acceptable material. The material chosen must have no sharp exposed connections. When play yards are located adjacent to a street, raised planters should be incorporated into fencing design to create a more secure barrier between an errant vehicle and children in the play yard.~~

~~d. — *Park and open space.* A public or private area of land, with or without buildings, opens to the public for outdoor active or passive recreational uses.~~

~~e. — *Commercial uses.*~~

~~1. — Use standards, applicable to all commercial uses, in addition to use standards for specific primary uses.~~

~~(i) — *Size:* 2,000 square feet, max per tenant.~~

~~(ii) — *Hours of operation:* No business may operate between the hours of 11:00 p.m. and 7:00 a.m.~~

~~(iii) — *Parking, off-street; not required.* When provided, parking shall be located to the rear of the primary structure and accessed by a rear access alley.~~

~~(iv) — *Parking, on-street.* If on-street parking is not present on all adjacent rights-of-way, the applicant shall be required to install adopted streetscape improvements for deficient street, including on-street parking, street trees, lighting and sidewalks.~~

~~(v) — *Compatibility.* No adverse impacts to adjacent properties such as persistent light, odor, vibration, noise or visual blight.~~

~~2. — Adaptive re-use of a historic structure. Provides for a wider variety of allowed uses than those allowed in the existing zoning district for structures designated as contributing or individually designated historic structures on the city register of historic places. A proposed use not listed as permitted or conditional in the ES zoning district may be applied for through this adaptive re-use conditional use process. The historic preservation board will act as the decision-making body for this conditional use.~~

~~(i) — Use standards.~~

~~A. — *Architectural character.* The proposed use and any subject alterations shall maintain the architectural character of the historic property and modifications shall be governed by the Secretary of the Interior's Standards for the Treatment of Historic Properties.~~

~~B. — *Historic character.* The proposed use shall promote the preservation of the historic character of the historic district or, if the structure is individually designated, shall benefit the character of the surrounding neighborhood.~~

~~C. — *Comprehensive plan.* The proposed conditional use is consistent with the comprehensive plan.~~

~~D. — *Concurrency.* The proposed conditional use will not cause the level of service of public facilities that are subject to concurrency requirements to drop below levels of service established by the comprehensive plan.~~

~~E. — *Compatibility.* The proposed conditional use at the proposed location will not result in adverse impacts to adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may exist in the future.~~

~~Existing regulations are in place to mitigate potential adverse impacts of the proposed conditional use, or reasonable conditions can be imposed and enforced to mitigate potential adverse impacts.~~

~~3. — Artisan manufacturing. On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage, and occupying no more than 1,000 square feet of gross floor area.~~

~~(i) — Use classifications (examples). Cabinetry; art fabrication; microbrewing without a retail or restaurant component; ceramics.~~

~~4. Catering. An establishment that supplies food to be consumed off-premises.~~

~~5. Eating and drinking establishment; brewpub. A restaurant or pub which also brews beer on-site.~~

~~(i) Use standards.~~

~~Table of Use Standards~~

Size, Restaurant/Pub	1,500 s.f. max interior; 800 s.f. max exterior
Size, Brewing facilities	2,000 s.f. max; up to 4,000 s.f. with Conditional Use
Location, Restaurant/Pub	Front facade bay
Location, Brewing facilities	Accessory to restaurant/pub and located to the rear of restaurant/pub. May be integrated into design of restaurant/pub area. Brewing facilities may also be located in an accessory structure to the rear of the site.
Hours of Operation	No later than 11:00 p.m.
Live Entertainment	Outside: Acoustic only and permitted no later than 9:00 p.m.
	Inside: No music audible outside establishment after 9:00 p.m.

~~6. Eating and drinking establishment; neighborhood bistro. An eating establishment that may serve wine, beer or other alcohol, but does not have a separate bar with seating.~~

~~(i) Use standards.~~

Size:	1,500 s.f. max interior; 800 s.f. max exterior
Hours of Operation:	7:00 a.m. to 11:00 p.m.
Live Entertainment:	Acoustic only, permitted outside until 9:00 p.m., permitted inside until 11:00 p.m.; no music of any kind may be audible outside establishment after 9:00 p.m.

~~7. Eating and drinking establishment; wine and cigar bar. A bar that serves only wine and beer, and may or may not serve food.~~

~~(i) Use standards.~~

Size:	1,500 s.f. max, interior; 800 s.f. max, exterior.
Hours of operation:	No later than 11:00 p.m.
Live entertainment:	Acoustic only, permitted outside until 9:00 p.m., permitted inside until 11:00 p.m.; no music of any kind may be audible outside establishment after 9:00 p.m.
Mixed Use:	If mixed use, premises shall be fitted with filtration system so as to not allow smoke odors to leave the premises and infiltrate surrounding or attached businesses or residences. Smoking is not permitted on outdoor areas if part of a mixed use site.

~~8.— *Office.* A location at which the affairs of a business, profession, service industry or government are conducted.~~

~~9.— *Overnight accommodations, bed and breakfast.* Overnight accommodations, serving breakfast, and located in an owner-occupied residential structure, offering up to eight guest rooms.~~

~~10.— *Overnight accommodations, boutique hotel.* Overnight accommodations which include an amenity such as a restaurant or spa, offering up to 18 rooms and located within a structure of residential building typology.~~

~~11.— *Overnight accommodations, vacation rental.* A detached dwelling or apartment within a building of residential building typology which is rented out for the purposes of providing accommodations for less than six months to tourists.~~

~~(i) — Use standards.~~

~~A.— A separate entrance shall be provided for each unit to the exterior or to an interior, secure common area.~~

~~B.— A business license shall be required for each vacation rental unit.~~

~~C.— Such units shall be managed by either a state-licensed property management agent or the owner-occupant residing in another unit, and shall collect and pay all applicable taxes.~~

~~D.— Current contact information for the management agency or owner-occupant shall be displayed in an accessible location outside the vacation rental.~~

~~12.— *Pedicabs.* Any vehicle with three or more wheels propelled solely by human power, which is used for transporting passengers for consideration, subject to the use standards found in section 125-157(2)c.1.B.~~

~~13.— *Retail sales.* Companies or individuals involved in the sale, lease or rental of new or used products, or providing personal or repair services to the general public.~~

~~(i) — Use classifications (examples):~~

~~A.— *Sales oriented.* Examples of sales-oriented retail sales and service include stores selling, leasing or renting consumer, home and business goods including alcoholic beverages; antiques; small appliances; art; art supplies; baked goods; bicycles; books; cameras; carpet and floor coverings; crafts; clothing; computers; convenience goods; dry goods; electronic equipment; fabric; flowers; garden supplies; gifts; groceries; hardware; household products; jewelry; medical supplies; microbreweries with a retail off-premises sales component; musical instruments; neighborhood commercial sales; pet food and/or pets; pharmaceuticals; photo finishing; picture frames; plants; printed material; produce; sporting goods; seafood retailers and markets; stationery; tobacco and related products and videos.~~

~~B.— *Personal service oriented.* Examples of personal service-oriented retail sales and service include animal grooming facilities; health clubs; business, driving, trade and other commercial schools; dance, art, fitness/wellness, gymnastic, yoga or music studios or classes; dry cleaning and laundry drop-off establishments; hair, nail, tanning and personal care services; laundromats; massage therapy; funeral homes; neighborhood commercial services; photocopy, blueprint and quick-sign services; photographic studios; security services and small-scale catering.~~

~~C.— *Repair oriented.* Examples of repair-oriented retail sales and service include locksmiths; small appliances and electronics, bicycles, canvas products, clocks, computers, jewelry, musical instruments, shoes, televisions and watches; and tailors, milliners and upholsterers.~~

~~D.— *Uses not included.* Adult entertainment; large-scale catering; laundry and dry-cleaning plants; lumber yards and other building material sales that sell primarily to~~

~~contractors and do not have a retail orientation; repair and service of motor vehicles, motorcycles, recreational vehicles, boats, light and medium trucks; sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; tattoo or piercing services; exterior freestanding vending machines.~~

~~14. — *Urban food production.* The use of land for growing crops or raising small livestock for sale off premises to support the community food system.~~

~~(i) — Use classifications (examples).~~

~~A. — Gardens to produce food, feed or fiber; raising small animals of less than 20 pounds; apiculture of one hive; aquaculture.~~

~~B. — Uses not included. Community gardens, gardens or fruit trees for any animal which causes excessive noise or odor, such as roosters or peacocks.~~

~~(ii) — Use standards.~~

~~A. — *Size.* No more than ten percent of the site may be dedicated to the use.~~

~~B. — *Compatibility.* No adverse impacts to adjacent properties such as persistent odor, light, vibration visual blight or chemical drift.~~

~~C. — *Xeriscape.* Irrigation source shall be reclaimed on-site or off-site water, i.e., rain barrel, sub-grade or landscape screened cistern, etc.~~

~~D. — *Top soil retention.* Site shall be configured in such a way that no exposed soil shall be prone to erosion.~~

~~E. — *Buffer.* Use shall be buffered from view from any adjacent right-of-way or property by appropriate fencing and/or landscaping.~~

~~F. — *Outdoor storage.* All equipment and materials shall be enclosed within a permitted structure. Compost shall be screened with vegetation or enclosed within a bin.~~

(e) *Density calculations.* Density is calculated based on the ES boundaries, as defined on Figure 1-1, per future land use density caps of the subject properties. A total of 137 dwelling units are permitted within the map area, regardless of lot configuration and size. Maximum density is not calculated based on each lot as it is subdivided.

SECTION 5. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (f) is hereby amended as follows:

~~(f) — *Ancillary definitions.*~~

~~*Accessory structure* means a structure located on the same lot with the main building, detached or attached, and is subordinate and incidental to the primary or accessory uses of the site.~~

~~*Apiculture* means beekeeping of one or more hives along with associated equipment for the extraction of honey.~~

~~*Aquaculture* means the farming of aquatic organisms such as fish, crustaceans, mollusks and aquatic plants. Aquaculture involves cultivating freshwater and saltwater populations under controlled conditions.~~

~~*Community food system* means a local or regional food system in which food production, processing, distribution and consumption are integrated to enhance the environmental, economic, social and nutritional health of a particular place. Four aspects distinguish community food systems from the globalized food systems: food security, proximity, self-reliance and sustainability.~~

~~(1) — Food security is a key goal of community food systems. While food security traditionally focuses on individual and household food needs, community food security addresses food access within a community context, especially for low-income households. It has a simultaneous goal of developing local food systems.~~

~~(2) — Proximity refers to the distance between various components of the food system. In community food systems such distances are generally shorter than those in the dominant or global food system. This proximity increases the likelihood that enduring relationships will form between different stakeholders in the food system; farmers, processors, retailers, restaurateurs, consumers, etc.~~

~~(3) — Self-reliance refers to the degree to which a community meets its own food needs. While the aim of community food systems is not total self-sufficiency (where all food is produced, processed, marketed and consumed within a defined boundary), increasing the degree of self-reliance for food, to be determined by a community partnership, is an important aspect of a community food system.~~

~~(4) — Sustainability refers to following agricultural and food system practices that do not compromise the ability of future generations to meet their food needs. Sustainability includes environmental protection, profitability, ethical treatment of food system workers, and community development. Sustainability of the food and agriculture system is increased when a diversified agriculture exists near strong and thriving markets, when non-renewable inputs required for every step in the food system are reduced, when farming systems rely less on agri-chemical fertilization and pest control, and when citizen participation in food system decision-making is enhanced.~~

~~Detached garage means an accessory structure detached from the primary structure onsite which is designed for the storage of vehicles, which has legal access to and is served by a rear access alley.~~

~~Habitable space means insulated, finished living space.~~

~~Microbrewery means craft beer brewery with a production of less than 15,000 barrels per year, accessory to either a restaurant/pub (brewpub) or to a retail, off-premises sales establishment located on the front facade. Microbreweries may also be an accessory use to an alternate primary use if no retail or restaurant component is proposed, provided it meets the use standards of accessory use. Shall include a filtration system so as to not allow odors to leave the premises.~~

~~Primary use means a permitted or conditional use of a property as defined by the ES use table, classifications, definitions and standards.~~

(f) Development standards.

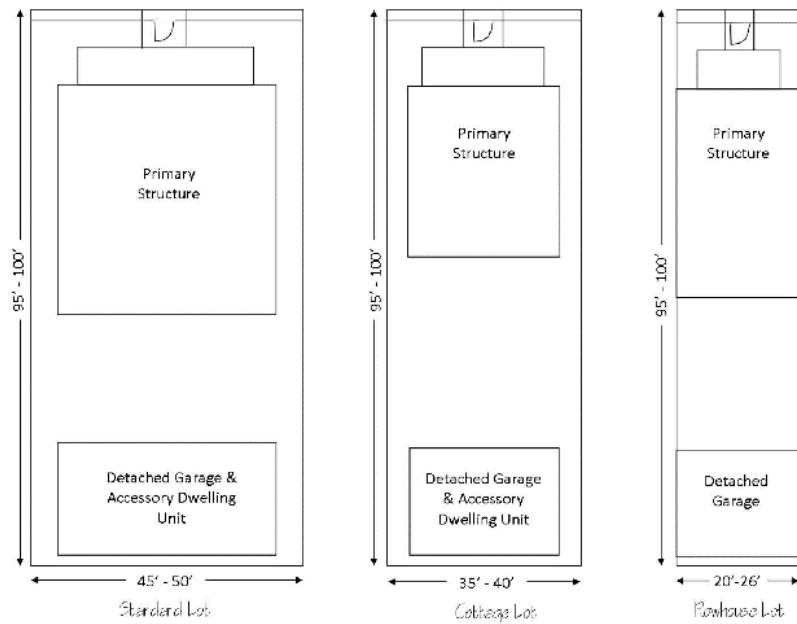
(1) Standard lot: 45 feet to 50 feet wide lots reflective of the existing historic development pattern of the neighborhood. Standard lots are permitted fronting on any vehicular right-of-way. Standard lots permit up to a 2½ story primary structure as well as a detached garage with an accessory dwelling unit located above the garage. Up to three separate primary uses are permitted: two uses in the primary structure, and one in the accessory dwelling unit. Accessory uses are permitted in addition to the primary permitted uses.

(2) Cottage lot: 35 feet to 40 feet wide lots which permit a small scale, tightly knit pedestrian court type of housing. Cottage lots are permitted fronting a pedestrian-only right-of-way in groups of at least three contiguous lots. Cottage lots permit a two-story primary structure as well as a detached garage with an accessory dwelling unit located above the garage. Up to two separate primary uses are permitted: One use in the primary structure and one use in the accessory dwelling unit. Accessory uses are permitted in addition to the primary permitted uses.

(3) Rowhouse lot: 20 feet wide lot in a group of at least three but no more than six contiguous lots (rowhouse group), with separate dwelling units attached horizontally in a linear arrangement. Rowhouse groups are permitted along any vehicular right-of-way. Each lot permits a two-story connected rowhouse and a detached garage. Accessory dwelling units are not permitted. One primary use is permitted on a rowhouse lot in the primary structure. Accessory uses are permitted in addition to the primary use.

(4) Lot types:

Edgartown Settlement (ES) Zoning District Lot Types



(5) Lot dimensional standards.

	<u>Standard</u>	<u>Cottage</u>	<u>Rowhouse</u>
<u>Lot area, minimum</u>	<u>4,275 s.f.</u>	<u>3,325 s.f.</u>	<u>1,900 s.f.</u>
<u>Lot width, minimum</u>	<u>45'</u>	<u>35'</u>	<u>20'</u>
<u>Lot depth, minimum</u>	<u>95'</u>	<u>95'</u>	<u>95'</u>
<u>Lot coverage, maximum</u>	<u>60 percent</u>	<u>60 percent</u>	<u>70 percent</u>
<u>Build-to, front, including porch</u>	<u>6'</u>	<u>6'</u>	<u>6'</u>
<u>Build-to, side corner including porch</u>	<u>6'</u>	<u>6'</u>	<u>6'</u>
<u>Setback, side, minimum</u>	<u>5'</u>	<u>4'</u>	<u>0'</u>
<u>Setback, rear, primary structure, minimum</u>	<u>6'</u>	<u>6'</u>	<u>6'</u>
<u>Build-to, rear, detached garage</u>	<u>2'</u>	<u>2'</u>	<u>2'</u>
<u>Building height, maximum</u>	<u>2.5 stories</u>	<u>1.5 stories</u>	<u>2 stories</u>
<u>Accessory dwelling permitted</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>Uses allowed per lot (total)</u>	<u>3</u>	<u>2</u>	<u>1</u>
<u>Dwelling units per lot</u>	<u>2</u>	<u>2</u>	<u>1</u>
<u>Fence/wall height, front yard</u>	<u>4'</u>	<u>4'</u>	<u>N/A</u>
<u>Fence/wall setback, front yard</u>	<u>2'</u>	<u>2'</u>	<u>N/A</u>
<u>Fence/wall height, rear and side yard</u>	<u>6'</u>	<u>6'</u>	<u>6'</u>

(6) Additional dimensional standards and definitions.

a. Building height. Measured from first floor elevation to top of eave. Roofs and incorporated architectural features such as cupolas and widow's walks are not included in building height unless habitable space is incorporated within half stories shall be incorporated into a sloped roof line with dormers and gables. All new construction shall follow historic construction patterns of building the first-floor elevation at least 1½ feet to two feet above grade on a stem wall or pillars even if base floor is lower.

b. Contextual build-to/setback. When subject lot is adjacent to lots with existing structures, the planning director may permit a contextual setback/build-to based on an average of the requirement and the adjacent properties.

c. Porches. All new construction shall incorporate an open, covered, minimum eight feet deep front porch. On corner lots, open, covered side porches are encouraged but not required.

d. Parking. No off-street parking is required for any use. Any proposed off-street parking shall be located to the rear of the property behind the primary structure.

e. Uses allowed per lot, total. Indicates the total number of primary uses (does not include accessory uses) allowed on a specific lot type. For instance, a standard lot could have one commercial use, and two residential dwelling units, or two commercial uses and one residential dwelling unit. The combination of uses is limited only by dwelling units per lot, imposed by density constraints. Accessory uses, regulated by separate standards, are allowed in addition to primary uses.

f. Variances. The historic preservation board shall have the power to waive, with or without conditions, subdivision, and dimensional standards in the Edgartown Settlement zoning district. The proposed variance shall further the continued preservation of the historic site and historic district more appropriately than adherence to the subject regulation. The board shall only grant such variances when an application for a certificate of appropriateness has been issued to promote preservation, rehabilitation, or restoration. In carrying out this responsibility, the historic preservation board must follow the same procedures specified for the board of adjustment in division 3 of article II of this chapter.

SECTION 6. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (g) is hereby created as follows:

(g) Residential use standards.

(1) Rowhouse standards. Each unit's entrance is located on its fully exposed front facade, within a covered porch, and has a fully exposed rear facade opening to a private, fenced or walled rear yard.

(2) Accessory dwelling unit (ADU) use standards. ADU should be designed to respect the historic, small scale residential detached building typology in the Edgartown Settlement zoning district, as well as the architectural design of the primary structure on the site. Accessory dwelling units may or may not include a detached garage. A detached garage may be constructed without an incorporated accessory dwelling unit.

(3) ADU Development Standards.

- a. Build-to line, rear: two feet.
- b. Build-to, side corner: eight feet; or with porch: six feet.
- c. Setback, side: five feet.
- d. Building height. No greater than height of principal structure unless granted variance. Maximum height of proposed structure may not exceed the maximum height allowed on subject lot. The historic preservation board will act as the decision-making body for this variance.
- e. Massing. No greater than mass of principal structure unless granted variance. The historic preservation board will act as the decision-making body for this variance.
- f. Parking. No additional parking is required for the ADU.
- g. Architectural compatibility. Architectural style and building materials shall be compatible with the primary structure's architectural style.

SECTION 7. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (h) is hereby created as follows:

(h) Public and Civic use standards.

(1) Community Garden standards.

- a. Entrance. Each unit's entrance located on its fully exposed front facade, within a covered porch, and has a fully exposed rear facade opening to a private, fenced or walled rear yard.
- b. Compatibility. Community Gardens shall be subject to the compatibility standards for general commercial uses set forth in Section 125-197(i)(6).
- c. Xeriscape. Water source shall be reclaimed on-site or off-site water, i.e., rain barrel, sub-grade, or landscape-screened cistern, etc.
- d. Topsoil retention. Site shall be configured in such a way that no exposed soil shall be prone to stormwater runoff.
- e. Outdoor storage. All equipment and materials shall be enclosed within a permitted structure. Compost shall be screened with landscaping.
- f. Ownership. Owner of site shall provide a written agreement allowing the site to be used as a community garden.

(2) Childcare. Day care home or day care center standards

- a. Arrival and departure. Site design must provide for the safe arrival and departure of children.

b. Traffic. Drop off areas must be arranged so that an adult can remove a child from the pedestrian side of the vehicle and proceed directly to the front entrance on a sidewalk.

c. Security. The entrance must be readily identifiable and accessible to emergency personnel. The location must allow for all entrances and exits to be secured, with a secured play yard perimeter and controlled access.

d. Exterior play yards. The site shall provide an outdoor play yard and amenities. Play yards should provide for a variety of developmentally appropriate activities and amenities.

e. Fencing. Play yards must be enclosed by fences to define and secure the play yard. Chain-link is not an acceptable material. The material chosen must have no sharp exposed connections. When play yards are located adjacent to a street, raised planters should be incorporated into fencing design to create a more secure barrier between an errant vehicle and children in the play yard.

f. Alternative compliance. When play yard areas cannot be provided in compliance with these criteria due to site constraints, the center may propose access to alternate play areas for large motor skill development. These may include public parks with appropriate play equipment within one-fourth mile of the childcare center, provided safe pedestrian routes with adequate sidewalks and crosswalks are identified.

SECTION 8. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (i) is hereby created as follows:

(i) Commercial general use standards.

(1) Applicability. These standards are applicable to all commercial uses, except as modified by applicable standards for specific primary uses.

(2) Floor Area: 2,000 square feet, maximum per tenant.

(3) Hours of operation: No business may operate between the hours of 11:00 p.m. and 7:00 a.m.

(4) Parking, off-street; not required. When provided, parking shall be located to the rear of the primary structure.

(5) Parking, on-street. If on-street parking is not present on all adjacent rights-of-way, the applicant shall be required to install adopted streetscape improvements for deficient street, including on-street parking, street trees, lighting, and sidewalks.

(6) Compatibility. No business may operate in such a manner that it generates persistent light, odor, vibration, noise, or visual blight of such a nature that it adversely affects the comfort, repose, health, or safety of persons occupying an adjacent property, as deemed by a reasonable person. Compliance with Chapter 26, Article II of this Code shall meet this compatibility requirement regarding the generation of noise.

(7) Adaptive re-use of a historic structure. Provides for a wider variety of allowed uses than those allowed in the existing zoning district for structures

designated as contributing or individually designated historic structures on the city register of historic places. A proposed use not listed as permitted or conditional in the ES zoning district may be applied for through this adaptive re-use conditional use process. The historic preservation board will act as the decision-making body for this conditional use based on the following criteria:

a. *Architectural character.* The proposed use and any subject alterations shall maintain the architectural character of the historic property and modifications shall be governed by the Secretary of the Interior's Standards for the Treatment of Historic Properties.

b. *Historic character.* The proposed use shall promote the preservation of the historic character of the historic district or, if the structure is individually designated, shall benefit the character of the surrounding neighborhood.

c. *Comprehensive plan.* The proposed conditional use is consistent with the comprehensive plan.

d. *Concurrency.* The proposed conditional use will not cause the level of service of public facilities that are subject to concurrency requirements to drop below levels of service established by the comprehensive plan.

e. *Compatibility.* The proposed conditional use at the proposed location will not result in adverse impacts to adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may exist in the future.

f. *Impact.* Existing regulations are in place to mitigate potential adverse impacts of the proposed conditional use, or reasonable conditions can be imposed and enforced to mitigate potential adverse impacts.

SECTION 9. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (j) is hereby created as follows:

(j) *Eating and drinking establishment; brewpub, use standards.*

<u>Size, Restaurant/Pub</u>	<u>1,500 s.f. max interior; 800 s.f. max exterior</u>
<u>Size, Brewing facilities</u>	<u>2,000 s.f. max; up to 4,000 s.f. with Conditional Use</u>
<u>Location, Restaurant/Pub</u>	<u>Front facade bay</u>
<u>Location, Brewing facilities</u>	<u>Accessory to restaurant/pub and located to the rear of restaurant/pub. May be integrated into design of restaurant/pub area. Brewing facilities may also be located in an accessory structure to the rear of the site.</u>
<u>Hours of Operation</u>	<u>Between 7.00 a.m. and 11.00 p.m. only</u>
<u>Entertainment Indoor</u>	<u>Permitted subject to Chapter 26, Article II, Noise.</u>

<u>Entertainment Outdoor</u>	<u>Permitted subject to Chapter 26, Article II, Noise, except that no outdoor entertainment shall occur after 9.00 p.m.</u>
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SECTION 10. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (k) is hereby created as follows:

(k) Eating and drinking establishment; neighborhood bistro, use standards.

<u>Size:</u>	<u>1,500 s.f. max interior; 800 s.f. max exterior</u>
<u>Hours of Operation:</u>	<u>Between 7:00 a.m. to 11:00 p.m. only.</u>
<u>Entertainment Indoor</u>	<u>Permitted subject to Chapter 26, Article II, Noise.</u>
<u>Entertainment Outdoor</u>	<u>Permitted subject to Chapter 26, Article II, Noise, except that no outdoor entertainment shall occur after 9.00 p.m.</u>

SECTION 11. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (l) is hereby created as follows:

(l) Eating and drinking establishment; wine and cigar bar, use standards.

<u>Size:</u>	<u>1,500 s.f. max, interior; 800 s.f. max, exterior.</u>
<u>Hours of operation:</u>	<u>Between 7:00 a.m. to 11:00 p.m. only.</u>
<u>Entertainment Indoor</u>	<u>Permitted subject to Chapter 26, Article II, Noise.</u>
<u>Entertainment Outdoor</u>	<u>Permitted subject to Chapter 26, Article II, Noise, except that no outdoor entertainment shall occur after 9.00 p.m.</u>
<u>Mixed Use:</u>	<u>If mixed use, premises shall be fitted with filtration system so as to not allow smoke odors to leave the premises and infiltrate surrounding or attached businesses or residences. Smoking is not permitted on outdoor areas if part of a mixed-use site.</u>

SECTION 12. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (m) is hereby created as follows:

(m) Vacation rental use standards. Vacation rentals shall be subject to the standards in Chapter 22, Article X – Short Term and Vacation Rental Regulations.

SECTION 13. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (n) is hereby created as follows:

(n) Retail sales, service, and repair (light) use standards.

Use classifications (examples, similar and not limited to):

(1) Sales Oriented. Examples of sales-oriented retail sales and service include stores selling, leasing or renting consumer, home and business goods including alcoholic beverages; antiques; small appliances; art; art supplies; baked goods; bicycles; books; cameras; carpet and floor coverings; crafts; clothing; computers; convenience goods; dry goods; electronic equipment; fabric; flowers; garden supplies; gifts; groceries; hardware; household products; jewelry; medical supplies; microbreweries with a retail off-premises sales component; musical instruments; neighborhood commercial sales; pet food and/or pets; pharmaceuticals; photo finishing; picture frames; plants; printed material; produce; sporting goods; seafood retailers and markets; stationery; tobacco; and related products and videos.

(2) Personal service oriented. Examples of personal service-oriented retail sales and service include animal grooming facilities; health clubs; business, driving, trade and other commercial schools; dance, art, fitness/wellness, gymnastic, yoga or music studios or classes; dry-cleaning and laundry drop-off establishments; hair, nail, tanning and personal care services; laundromats; massage therapy; funeral homes; neighborhood commercial services; photocopy, blueprint and quick-sign services; photographic studios; security services; and small-scale catering.

(3) Repair oriented. Examples of repair-oriented retail sales and service include locksmiths; small appliances and electronics, bicycles, canvas products, clocks, computers, jewelry, musical instruments, shoes, televisions, and watches; and tailors, milliners, and upholsterers.

(4) Uses not included. Adult entertainment; large-scale catering; laundry and dry-cleaning plants; lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation; repair and service of motor vehicles, motorcycles, recreational vehicles, boats, light and medium trucks; sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; tattoo or piercing services; and exterior freestanding vending machines.

SECTION 14. Chapter 125 – Zoning, Article IV, Basic Zoning Districts, Edgartown Settlement (ES) Zoning District, Section 125-197, Subsection (o) is hereby created as follows:

(o) Urban food production use standards.

(1) Size. No more than ten percent of the site may be dedicated to the use.

(2) Compatibility. Urban food production shall be subject to the compatibility standards for general commercial uses set forth in Section 125-197(i)(6).

(3) Xeriscape. Irrigation source shall be reclaimed on-site or off-site water, i.e., rain barrel, sub-grade, or landscape-screened cistern, etc.

(4) Topsoil retention. Site shall be configured in such a way that no exposed soil shall be prone to erosion.

(5) Buffer. Use shall be buffered from view from any adjacent right-of-way or property by appropriate fencing and/or landscaping.

(6) Outdoor storage. All equipment and materials shall be enclosed within a permitted structure. Compost shall be screened with vegetation or enclosed within a bin.

(7) Uses not included. Gardens or fruit trees for any animal which causes excessive noise or odor, such as roosters or peacocks.

SECTION 15. All ordinances or parts thereof that may be determined to be in conflict herewith are hereby repealed.

SECTION 16. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, which shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 17. This Ordinance shall take effect immediately upon passage.

APPROVED AS TO
FORM AND CORRECTNESS:

Tanya M. Earley, Esq.
City Attorney

STATE OF FLORIDA COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 22-033 was duly advertised by title only in the St. Lucie News Tribune on _____, 2023; copy of said Ordinance was made available at the Office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on _____, 2023; and was duly introduced, read by title only, and passed on second and final reading on _____, 2023, by the City Commission of Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this _____ day of _____, 2023.

Linda Hudson, Mayor

ATTEST:

Linda W. Cox
City Clerk

(SEAL)

ARTICLE II. NOISE

Sec. 26-37. Purpose.

- (a) Excessive, unnecessary or unusually loud noise is a detriment to the public health, comfort, convenience, safety, welfare and prosperity of city residents.
- (b) It is in the public interest that the regulations contained in this article be adopted as public policy to promote the public health, comfort, safety, welfare and repose of the city and its inhabitants.

(Code 1983, § 11-52.1; Ord. No. 14-033, § 1, 12-1-2014)

Sec. 26-38. Terminology, standards, and definitions.

- (a) *Definitions.* All technical definitions are in accordance with American National Standards Institute Standard S1.1-1960 or in successor publication entitled Acoustical; Terminology, as reaffirmed. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighting means the electronic filtering in sound level meters that models human hearing frequency sensitivity.

Ambient noise means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far, independent of any single, identifiable noise source.

Background sound level means the total sound pressure level in the area of interest excluding the noise source of interest.

Bel means a unit of level when the base of logarithm is ten. Use of the bel is restricted to levels of quantities proportional to power.

C-weighted scale is often used to characterize low frequency sounds capable of inducing vibrations in buildings or other structures.

Commercial property means any property zoned for commercial purposes that is used primarily for the sale of merchandise or goods, or for the performance of service, or for office or clerical work.

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

Decibel (dB) means the unit of measurement for sound pressure level at a specified location.

dBA means the A-weighted unit of sound pressure level. C-weighted measurements are expressed as dBC. Z-weighted measurements are expressed as dBZ.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage that demands immediate action.

Emergency work means any work or action performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency or delivering essential services.

Frequency of a function periodic in time means the reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.

Impulsive sound means a sound having a duration of less than one second with an abrupt onset and rapid decay.

Industrial property means any property that is used primarily for manufacturing or processing.

Legal holiday means and includes the following: New Year's Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Eve and Christmas Day.

Mixed use building means a building in which both residential and commercial uses are permitted.

Muffler means a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

Multifamily dwelling means any building or other shelter that has been divided into separate units to house more than one family.

Noise means any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans or that would unreasonably interfere with the enjoyment of life or property.

Octave band means all of the components in a sound spectrum whose frequencies are separated by an octave.

Real property line means the line, including its vertical extension that separates one parcel of real property from another.

Residential property means any property on which people live and sleep.

Sound level means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, C or Z as specified in American National Standards Institute specifications for sound level meters, ANSI S1.4-1971, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

Sound level meter (SLM) means an instrument used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the ANSI Standard S1.4-1983 or the latest version thereof.

Sound pressure level (SPL) is 20 multiplied by the logarithm, to the base of ten, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

Weekday means any day, Monday through Friday that is not a legal holiday.

Z-weighting means the true absolute unweighted dB sound levels. Unweighted decibel measurements are used for refined analyses that require data on the frequency spectrum of a sound (e.g., when determining the sound absorption or sound transmission properties of materials). As a direct measure of the pressure fluctuations associated with sound, unweighted decibel measurements also have considerable usefulness in evaluating noise-induced vibrations.

- (b) *Classification of use occupancy.* For purposes of defining the use occupancy, all premises containing habitually occupied sleeping quarters shall be considered residential use. All premises containing transient commercial sleeping quarters shall be considered commercial use. All premises containing businesses where sales, professional or other commercial uses are legally permitted shall be considered commercial use. All premises where manufacturing is legally permitted shall be considered industrial use. In cases of multiple use, the more restrictive use category shall prevail. Hospitals, nursing homes, schools, libraries, churches and all institutional uses shall be considered residential uses. Any area not otherwise classified shall conform to commercial standards.
- (c) *Maximum permissible sound levels by use occupancy.* It shall be unlawful to project a sound or noise, from one property into another property within the boundary of the use occupancy, which exceeds either the limiting noise spectra set forth in Table I below or exceeds the ambient noise level by more than three

decibels when measured as specified under the noise enforcement practices as adopted by the city commission by ordinance.

- (1) Sound or noise projecting from one use occupancy into another use occupancy with a different noise level limit shall not exceed the limits of the use occupancy into which the noise is projected.
- (2) The limits hereinabove referred to shall be in accordance with Table 1 in section 26-40.

(Code 1983, § 11-52.16; Ord. No. 14-033, § 1, 12-1-2014)

Sec. 26-39. Classification of use districts.

For purposes 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 manufacturing is legally permitted shall be considered industrial use. In cases of multiple use, the more restrictive use category shall prevail. Hospitals, nursing homes, schools, libraries, churches and all institutional uses shall be considered residential uses. Any area not otherwise classified shall conform to commercial standards.

(Code 1983, § 11-52.17; Ord. No. 14-033, § 1, 12-1-2014)

Sec. 26-40. Sound level limitations.

No person shall cause, suffer, allow, or permit the operation of any sound source in such a manner as to create a sound level that exceeds the sound level limits set forth in Table 1 when measured from the real property line of the nearest receiving property, using the slow response setting unless otherwise noted. Such a sound source would constitute a noise disturbance.

Table 1. Sound Level Limits by Receiving Property

<i>Receiving Property Category</i>	<i>Time</i>	<i>Sound Level Limit (dBA)</i>	<i>Sound Level Limit (dBC)</i>	<i>Sound Level Limit (dBZ)</i>
Residential	Monday through Saturday, 7:00 a.m.—11:00 p.m.	60	60	60
Residential	Sunday, 7:00 a.m.—1:00 p.m.	See subsection (1) of this section.	See subsection (1) of this section.	See subsection (1) of this section.
Residential	Sunday through Saturday, 11:00 p.m.—7:00 a.m.	See subsection (1) of this section.	See subsection (1) of this section.	See subsection (1) of this section.
Commercial	At all times	65	65	65
Industrial	At all times	70	70	70

- (1) It shall be unlawful for any person to make, continue or cause to be made or continued within that portion of the city which has been designated as a residential or mixed use area of the city, between the hours of 11:00 p.m. and 7:00 a.m. of each day, and on Sunday from 7:00 a.m. to 1:00 p.m. any unreasonably loud, excessive, unnecessary, or unusual noise in such manner that noise produced, or the vibration made, by the same would be obvious, or cause discomfort and annoyance to an ordinary, reasonable prudent person at a distance greater than 50 feet from the real property line of the nearest

receiving property. A sound level meter or sound level reading shall not be necessary for the enforcement of this subsection.

- (2) If the noise is an impulsive sound, the fast response setting shall be used and the daytime (7:00 a.m. to 11:00 p.m.) limits of Table 1 shall be increased by ten dBA, dBC, or dBZ.
- (3) In a multifamily dwelling, it shall be unlawful to create or permit to be created any noise that exceeds the daytime (7:00 a.m. to 11:00 p.m.) limit of 50 dBA, dBC, or dBZ and the nighttime (11:00 p.m. to 7:00 a.m.) limit of 40 dBA, dBC, or dBZ as measured from a neighbor's dwelling.
- (4) In a mixed use building, it shall be unlawful to create or permit to be created any noise that exceeds the daytime (7:00 a.m. to 11:00 p.m.) limit of 55 dBA, dBC, or dBZ and the nighttime (11:00 p.m. to 7:00 a.m.) limit of 45 dBA, dBC, or dBZ as measured within the residential use portion of the building.
- (5) In addition to the limits of Table 1, for any sound source which impacts residential property, the maximum allowable sound level limits for the individual octave bands whose centers are 31.5, 63 and 125 Hertz shall not exceed 65 dBA, dBC, or dBZ.

(Code 1983, § 11-52.18; Ord. No. 14-033, § 1, 12-1-2014)

Sec. 26-41. Exemptions.

- (a) The following uses and activities shall be exempt from noise level regulations:
 - (1) Noise of safety signals, warning devices, and emergency pressure relief valves.
 - (2) Noise resulting from any authorized emergency vehicles, when responding to an emergency call or acting in time of emergency.
 - (3) Noise resulting from emergency work.
 - (4) Noise resulting from the operation of any type of aircraft, not including scale model aircraft.
 - (5) Noise resulting from the operation of any motor vehicle as specified in F.S. chs. 316 and 403.
 - (6) Noise resulting from the operation of the following facilities existing and in operation on the effective date of the ordinance from which this article:
 - a. Electricity regulating substations.
 - b. Electric generation plants.
 - c. Other electric utilities.
 - d. Gas pressure control stations.
 - e. Gas production plants.
 - f. Natural or manufactured gas storage and distribution points.
 - g. Other gas utilities.
 - h. Pipeline pressure control stations.
 - i. Railroad, rapid rail transit, and street railway transportation.
 - j. Industrial wastewater disposal.
 - k. Sewage disposal.
 - l. Sewage pressure control stations.

-
- m. Sewage treatment plants.
 - n. Sewage sludge drying beds.
 - o. Water utilities and irrigation.
 - p. Solid waste disposal.
- (7) Air conditioners are exempt from provisions of Table I when this equipment is functioning in accord with the manufacturer's specifications and with all manufacturers' 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 and agricultural equipment during daylight hours.
 - (8) Non-amplified crowd noises resulting from the activities such as those planned by student, governmental or community groups.
 - (9) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government, provided that all equipment is operated in accord with the manufacturer's specifications and with all standard equipment, manufacturers' mufflers and noise-reducing equipment in use and in proper operating condition.
 - (10) Noises made by persons having obtained a special events permit to use the streets as provided for in chapter 28, article IV.
 - (11) Noises resulting from any authorized law enforcement and firefighting training activities, including, but not limited to, police department shooting range exercises.
 - (12) Noise resulting from the activities of any permitted use, conditional use or accessory use permitted in districts zoned industrial, light or industrial, heavy.
 - (13) Noise resulting from the temporary operation of equipment or activities relating to normal maintenance of residential or commercial uses, between the hours of 7:00 a.m. and 10:00 p.m., including, but not limited to, the following activities: lawn mowing, maintenance of trees, hedges and gardens; refuse collection; soil cultivation; and pavement sweeping and cleaning.
 - (14) Noise resulting from the operation of railways and shipping activities.
 - (15) Noise resulting from construction activities occurring between 7:00 a.m. and sundown. The exemption shall be effective upon obtaining a building permit and shall pertain to any construction activity directly related to the construction authorized under the permit. A special permit issued pursuant to section 26-42 shall be required for the generation of noise resulting from construction activities between sundown and 7:00 a.m. For any violation of the terms of the special permit, the permit holders shall be jointly and severally liable.
 - (16) 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 manager, or his designated appointee.
- (b) Where an industrial or commercial use is established on property not adjacent to a residential use district and the adjacent property subsequently becomes residential, the noise resulting from the operation of the preexisting industrial or commercial use which is projected into the residential use district shall be subject to the permissible noise levels for industrial or commercial use districts, as appropriate.
 - (c) Where the noise levels for a preexisting use are more restrictive than those for a subsequent use established adjacent to the preexisting use, the noise level for the preexisting use shall apply.

(Code 1983, § 11-52.19; Ord. No. 14-033, § 1, 12-1-2014)

Sec. 26-42. Application for special permit.

Application for a permit for relief from the noise levels designated in this section on the basis of undue hardship may be made to the city manager, or his designated appointee. Any permit granted by the city manager, or his designated appointee hereunder, shall be in writing and contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The city manager, or his designated appointee, may grant the relief as applied for under the following conditions:

- (1) The city manager, or his designated appointee, may prescribe any reasonable conditions or requirements as he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound-attenuating devices.
- (2) Permits for entertainment. Special event permits are covered under chapter 28, article IV. Permits for noise generated by and related to public events held on public property may be obtained as provided for in chapter 28, article IV.
- (3) Other. Special permits for noise generated by non-entertainment special purposes may be issued under the following conditions:
 - a. 1. If the special purpose relates to the operation of a trade or business, that the special purpose not be in the ordinary course of that trade or business; or
 2. If the special purpose does not relate to the operation of a trade or business, that the special purpose not be an ordinary event in the affairs of the applicant.
 - b. If the special purpose be a recurring purpose, that it not recur more often than four times each calendar year.
 - c. 1. That the special purpose be absolutely necessary to the operation of the applicant's trade or business; or
 2. 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.
 - d. Except in emergency situations, as determined by the city manager, or his designated appointee, the special permit may be issued for only four hours between 7:00 a.m. and 11:00 p.m. on weekdays; and
 - e. Special permits may be issued for no longer than 15 consecutive days, renewable by further application to the city manager or his designated appointee.
- (4) No 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.

(Code 1983, § 11-52.20; Ord. No. 14-033, § 1, 12-1-2014 ; Ord. No. 15-011, § 1, 6-15-2015)

Sec. 26-43. Noises prohibited, unnecessary noise standard, required.

- (a) Sounds may be such that they may be excessive, unnatural, prolonged, unusual and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the city as deemed by a reasonable person are prohibited.

(b) With the exception of those exemptions provided by state law, noises prohibited by this section are unlawful notwithstanding the fact that no violation of this article is involved and notwithstanding the fact that the activity complained about is exempted in this article.

(c) A sound level meter or sound level reading shall not be necessary for the enforcement of this section.

(Code 1983, § 11-52.21; Ord. No. 14-033, § 1, 12-1-2014)

Sec. 26-44. Penalties for each violation.

Violations of this article shall be punishable as provided in section 1-7:

- (1) Upon receipt of a first complaint of violation at the subject location, the violator shall be given a warning;
- (2) Upon receipt of a second complaint of violation at the same location, within the same 24-hour period of time, the violator shall be issued a citation pursuant to section 1-100 with such violation to be deemed a civil infraction;
- (3) Upon receipt of a third complaint of violation within the same 24-hour period of time, at the same location, the violation shall be deemed a misdemeanor and the violator will be issued a summons to appear in court;
- (4) Upon receipt of a fourth complaint of violation within the same 24-hour of time, at the same location, the violation shall be deemed a misdemeanor as above provided and the violator shall be taken under physical arrest.

(Code 1983, § 11-52.22; Ord. No. 14-033, § 1, 12-1-2014)

Secs. 26-45—26-61. Reserved.

THE BASICS OF SOUND AND OUTDOOR SOUND PROPAGATION

presented to:

City of Fort Pierce

presented by:

RML Acoustics

Alachua, Florida

www.rmlacoustics.com

Rob Lilkendey

Principal Consultant

rob@rmlacoustics.com

January 9, 2022



Topics Covered

1. Introduction
2. What is sound?
3. Sound Pressure, Sound Pressure Level, and Decibels
4. Decibel Addition and Subtraction
5. Loudness and Human Perception of Changes in Sound Level
6. Frequency (perception of frequency), wavelength, speed of sound
7. Octave Bands, Frequency Weightings (A-weighting and C-weighting)
8. Outdoor Sound Propagation Paths
9. Measurement of Sound
10. Factors influencing outdoor sound propagation/attenuation
11. Tools for reducing outdoor sound propagation

WHAT IS SOUND?

Sound: *Sound is a disturbance in a material or medium caused by changes in pressure that can be detected by an instrument.*

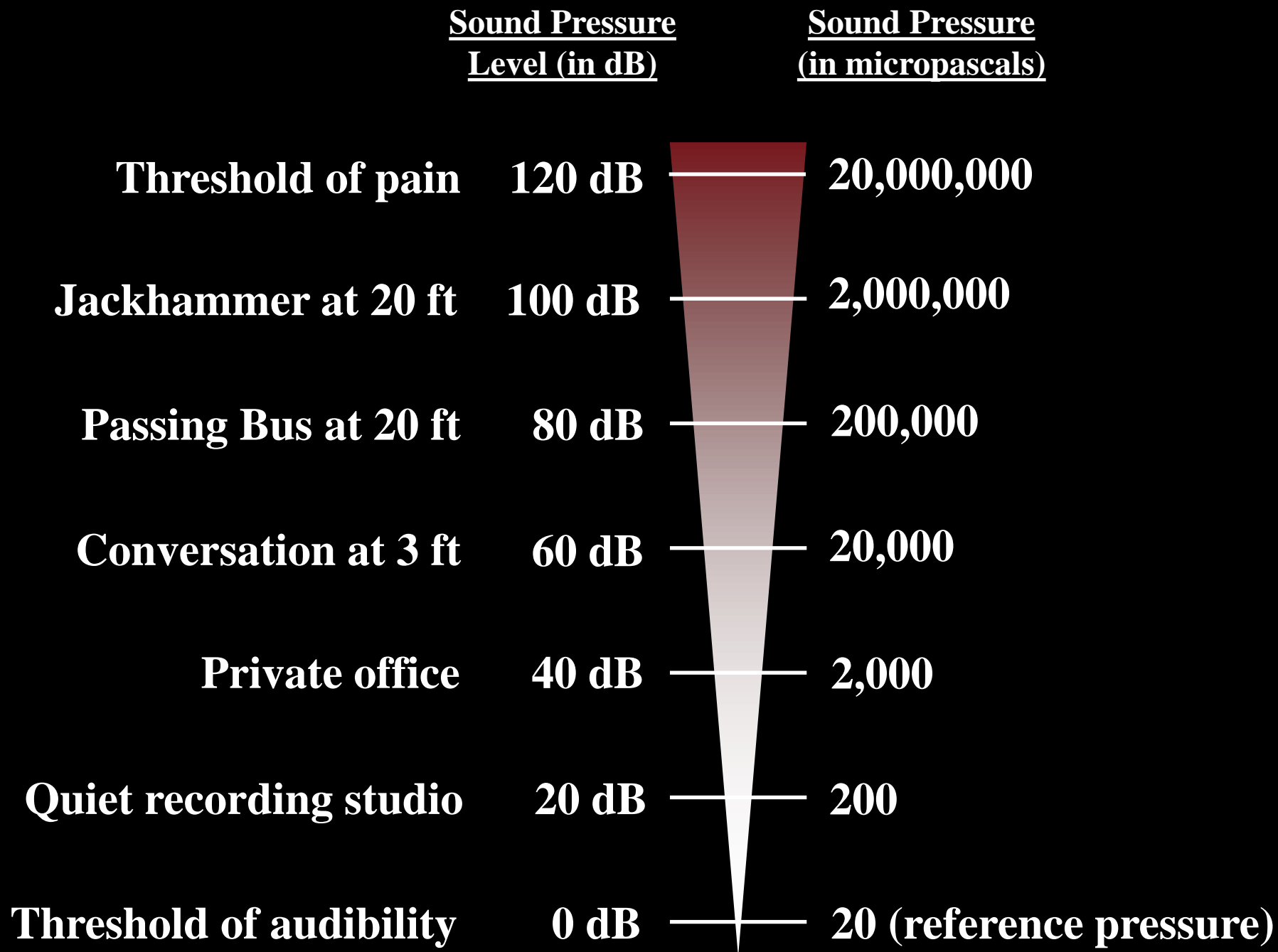
- Must have vibrating object to generate changes in pressure in the medium (**Source**) – mechanical equipment, human vocal cords, loudspeaker driver
- Must have an elastic material/medium (**Path**) – air, water, wood, concrete, etc.
- Must have detector of pressure changes (**Receiver**) – human ear, microphone



SOUND PRESSURE

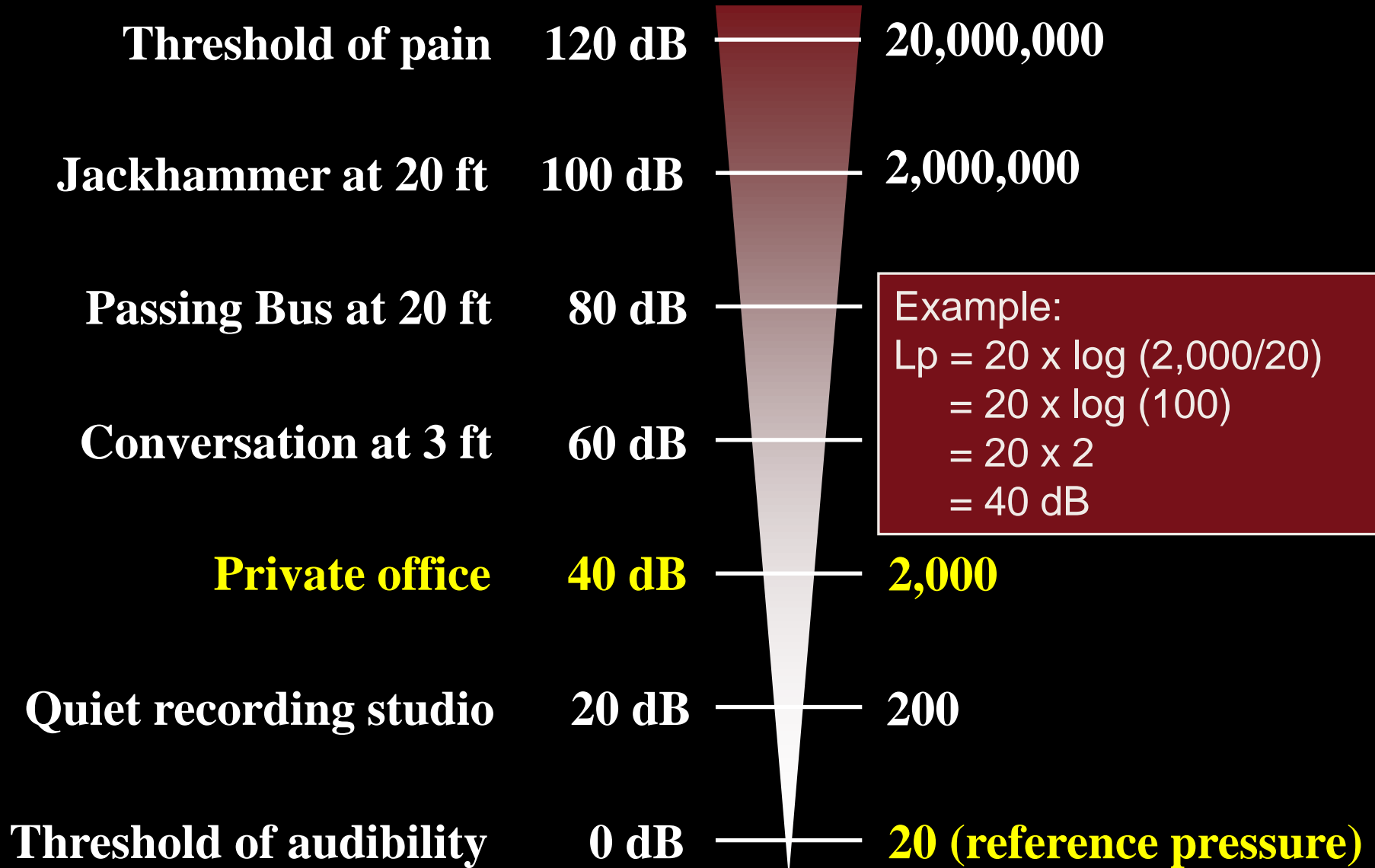
Sound Pressure: *The periodic deviation in pressure above and below atmospheric pressure caused by a sound wave.*

- Sound pressure is what we measure with a sound level meter. Unit = micropascals
- Sound Pressure Level (L_p or SPL) is what we convert sound pressure to. Unit = decibel (dB)
- So why do we use Sound Pressure Level (i.e., Sound Level) and the decibel and not Sound Pressure and micropascals?



Sound Pressure
Level (in dB)

Sound Pressure
(in micropascals)



SO WHAT'S THE BIG IDEA?

- Relatively large changes in sound pressure or sound energy result in small changes in dB.
- Because decibels represent the logarithm of a ratio, they have to be added and subtracted logarithmically, not linearly.

DECIBEL ADDITION AND SUBTRACTION

Not So Simple Quiz – Decibel Addition

$$60 \text{ dB} + 40 \text{ dB} = ?$$

$$60 \text{ dB} + 40 \text{ dB} = \text{100 dB}$$

$$60 \text{ dB} + 40 \text{ dB} = 60.04 \text{ dB} \quad \checkmark$$

Why?

$$10^{(60/10)} = 1,000,000 \text{ microPa}$$

$$10^{(40/10)} = 10,000 \text{ microPa}$$

$$10 * \log(1,000,000 + 10,000) = 60.04 \text{ dB}$$

DECIBEL ADDITION AND SUBTRACTION

Not So Simple Quiz – Decibel Addition

When adding decibels, if there is a 10 dB or more difference between two numbers, then the result will just be the higher number.

(i.e., $70 \text{ dB} + 60 \text{ dB} = 70 \text{ dB}$)

If both sources are the same sound level, add 3 dB.

(i.e., $70 \text{ dB} + 70 \text{ dB} = 73 \text{ dB}$)

When adding two sound levels, in dB, the most that will be added to the higher number is 3 dB.

DECIBEL ADDITION AND SUBTRACTION

Not So Simple Quiz – Decibel Subtraction

Why would we subtract decibels?

Ambient sound level = 50 dB

Ambient sound level + Noise Source = 80 dB

How loud is Noise Source alone?

DECIBEL ADDITION AND SUBTRACTION

Not So Simple Quiz – Decibel Subtraction

$$80 \text{ dB} - 50 \text{ dB} = ?$$

$$80 \text{ dB} - 50 \text{ dB} = \del{30} \text{ dB}$$

$$80 \text{ dB} - 50 \text{ dB} = 79.996 \text{ dB} \checkmark$$

Why?

$$10^{(80/10)} = 100,000,000 \text{ microPa}$$

$$10^{(50/10)} = 100,000 \text{ microPa}$$

$$10 * \log(100,000,000 - 100,000) = 79.996 \text{ dB}$$

DECIBEL ADDITION AND SUBTRACTION

Not So Simple Quiz – Decibel Subtraction

When subtracting decibels, if there is a 10 dB or more difference between two numbers, then the result will be the higher number.

(i.e., 70 dB - 60 dB = 70 dB)

In other words, if the “source + ambient” sound level is 10 dB or more greater than the “ambient only” sound level, then you have a “clean” source level.

If not, then you must use decibel subtraction formula to obtain the source sound level, or the following table.

DECIBEL ADDITION AND SUBTRACTION

Not So Simple Quiz – Decibel Subtraction

Difference between ambient and “ambient + noise source” sound levels	Correction factor to be subtracted from total sound level to get source only sound level
3 dB	3 dB
4 - 5 dB	2 dB
6 - 9 dB	1 dB
10 dB or more	0 dB

$(\text{Ambient} + \text{Source}) - \text{Ambient} = \text{Source}$

$$63 \text{ dB} - 60 \text{ dB} = 60 \text{ dB}$$

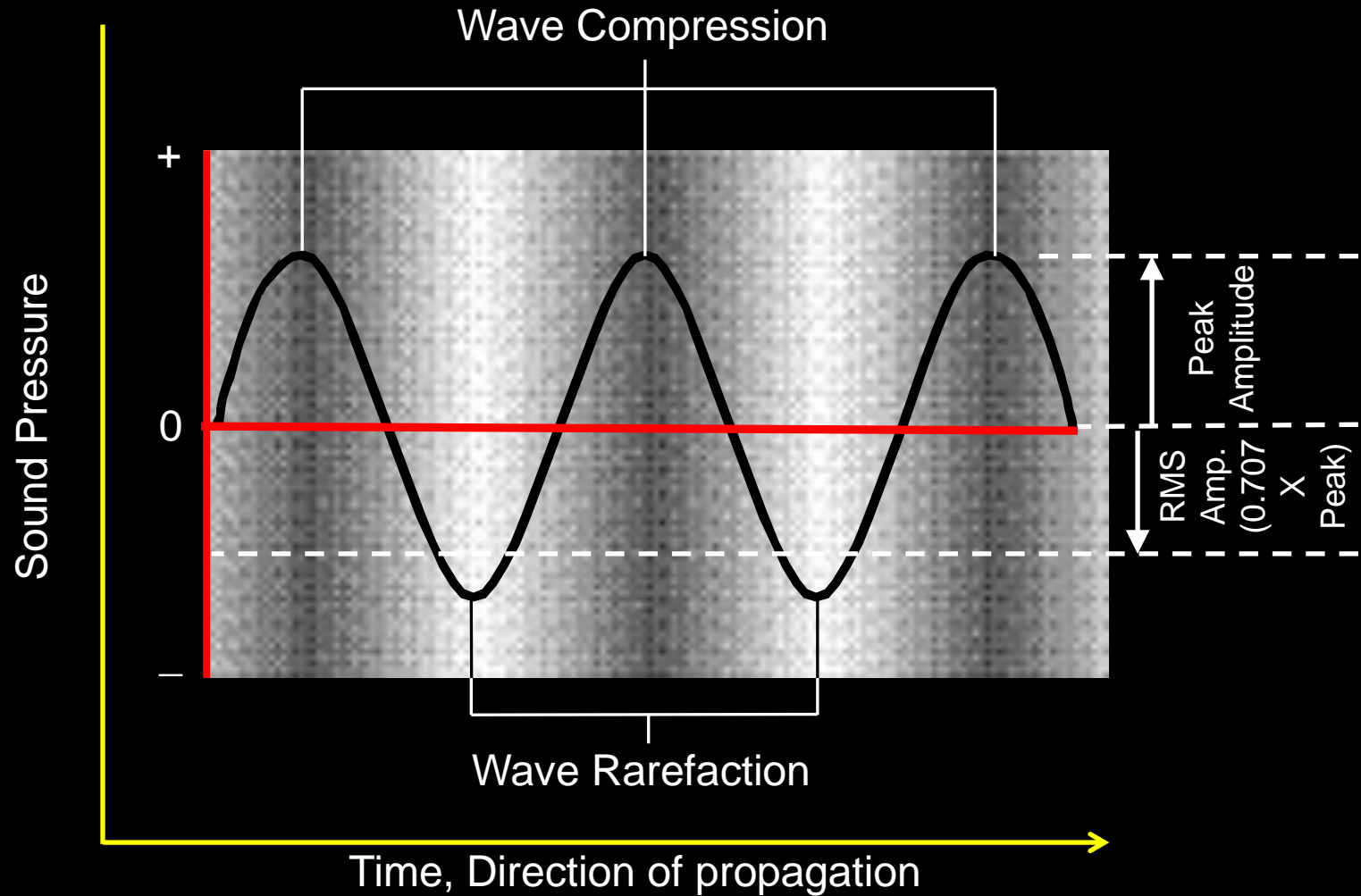
$$65 \text{ dB} - 60 \text{ dB} = 63 \text{ dB}$$

$$68 \text{ dB} - 60 \text{ dB} = 67 \text{ dB}$$

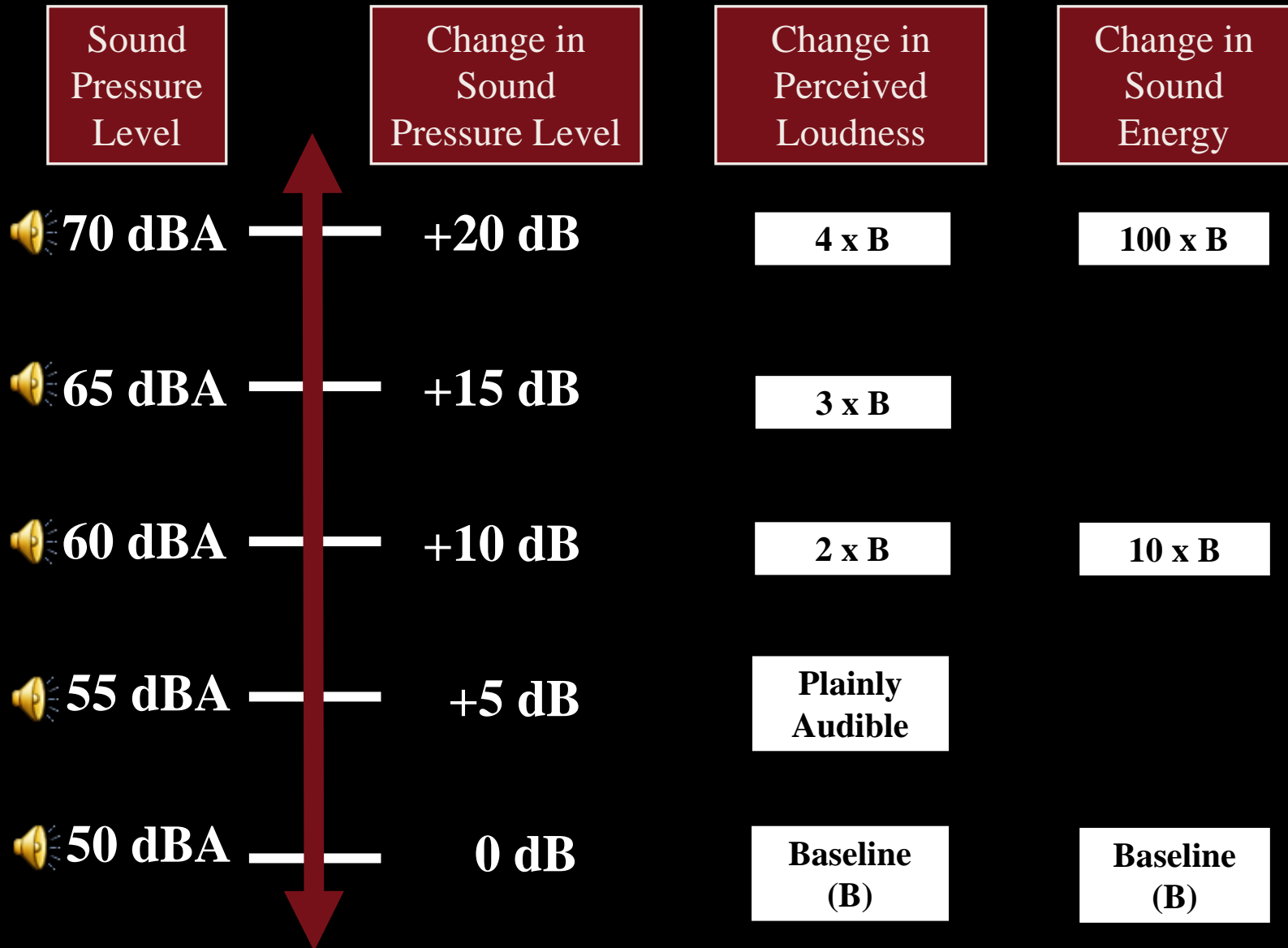
$$70 \text{ dB} - 60 \text{ dB} = 70 \text{ dB}$$

DECIBEL → AMPLITUDE → LOUDNESS

- Amplitude = Magnitude of sound pressure above or below atmospheric pressure
- Increase in Amplitude = Increase in Loudness

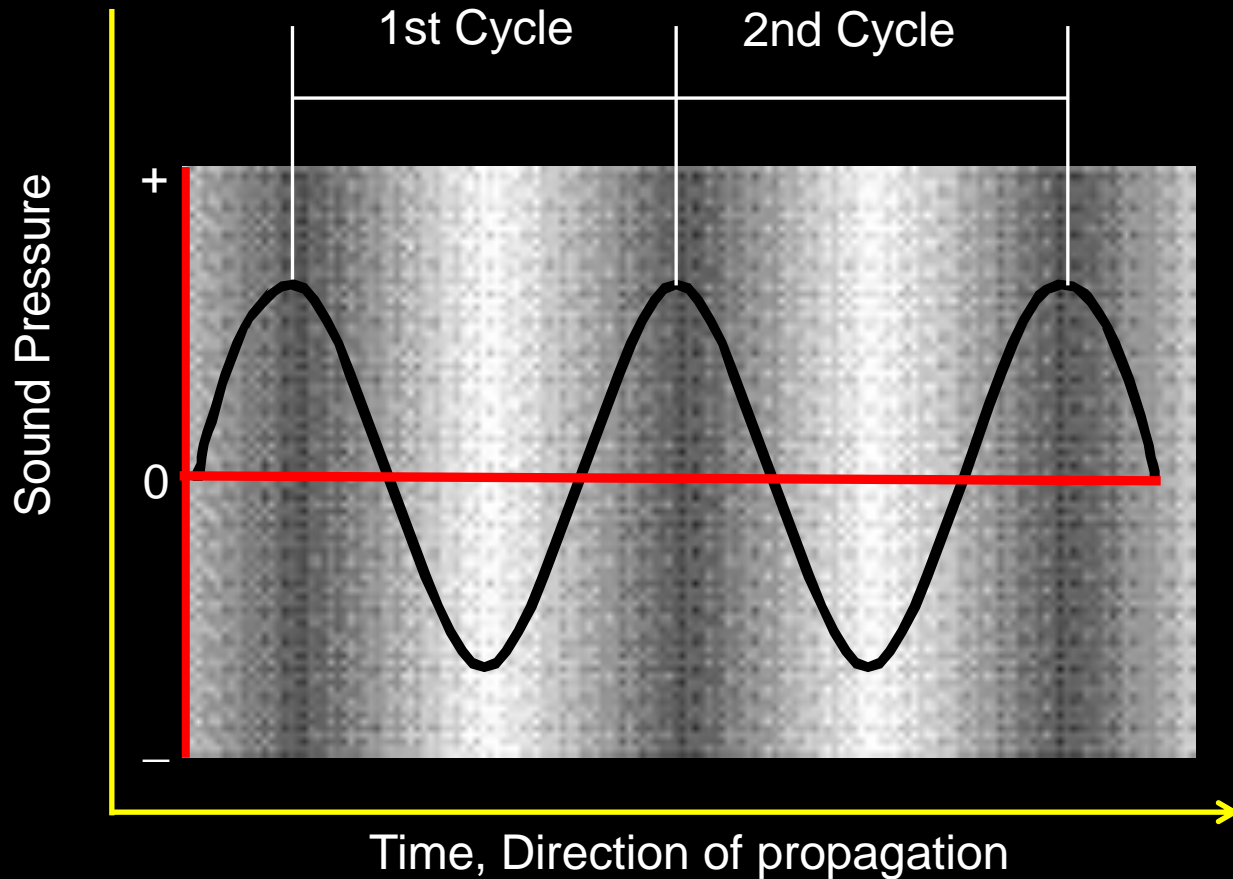


RELATIVE LOUDNESS OF SOUNDS



FREQUENCY

- Frequency (in Hz) = # of cycles per second
- Example: 1,000 cycles in one second = 1,000 Hz sound wave, or 1 kHz
- Approximate Human Hearing Range is 20 Hz to 20 kHz
- Our perception of frequency is pitch, as in low pitch (bass) or high pitch (treble)



FREQUENCY



63 Hz Pure Tone



500 Hz Pure Tone



4000 Hz Pure Tone

Low Frequency

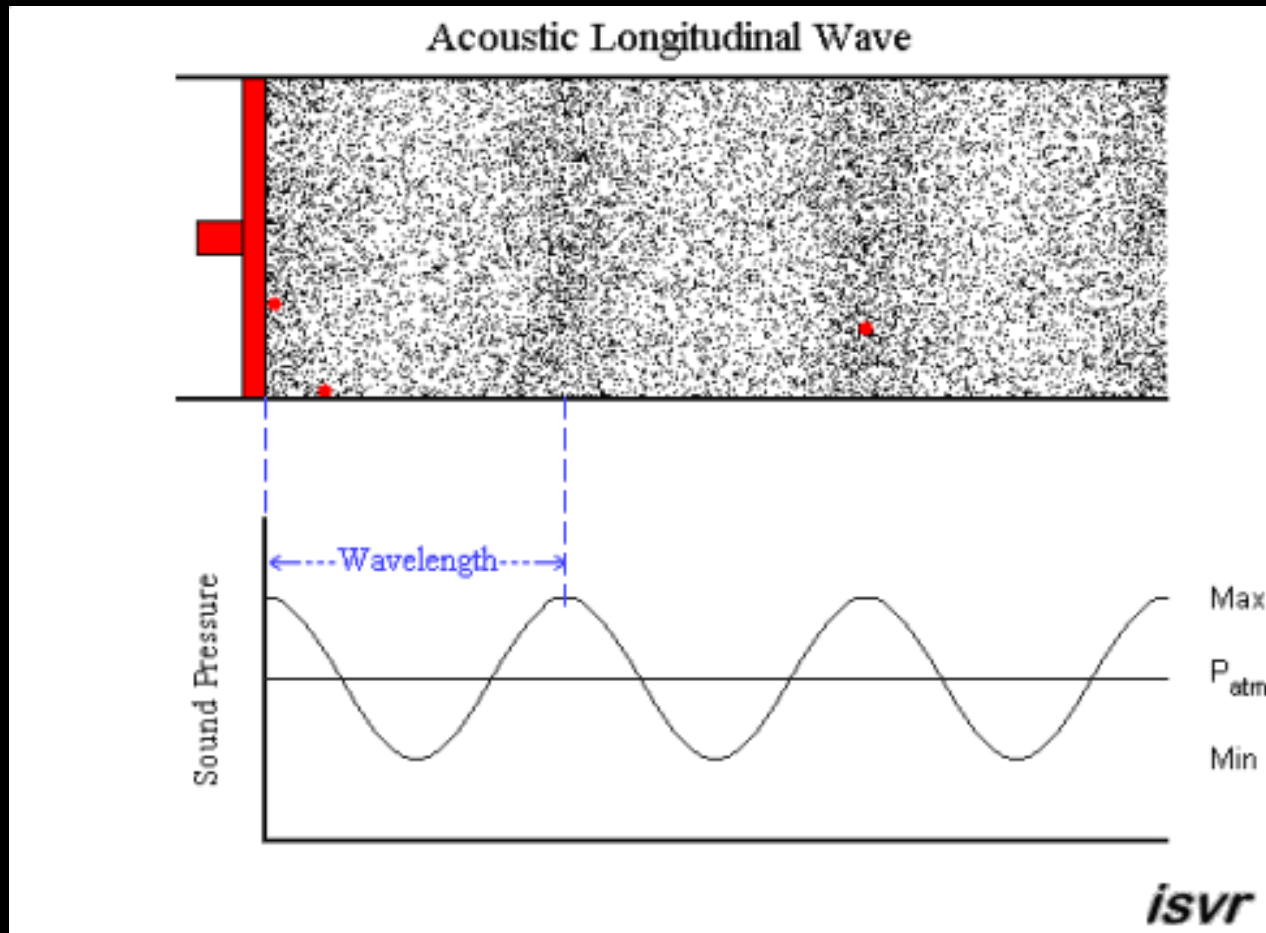
Mid Frequency

High Frequency



WAVELENGTH

- The **wavelength** is the distance sound travels in one cycle
- Wavelength is constant for sound at a given frequency



WAVELENGTH

- Related to the speed of sound and the frequency of sound by the formula:

$$\lambda = V/f$$

λ = Wavelength (ft)

V = Velocity (ft/sec) = 1,130 ft/sec in air

f = Frequency (cycles/sec or Hz)

- Therefore, low frequency sounds have longer wavelengths and high frequency sounds have shorter wavelengths

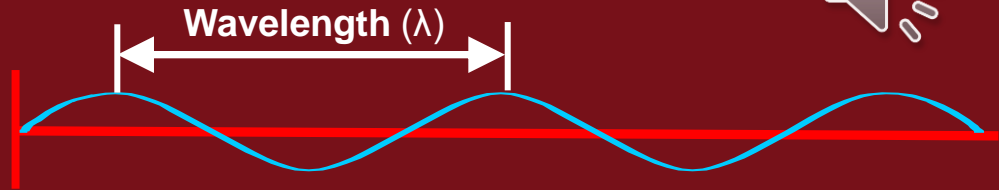
WAVELENGTH

- Example: What is the wavelength of a 63 Hz sound?

$$\lambda = v/f$$

$$\lambda = 1,130 / 63$$

$$\lambda = 18 \text{ ft}$$



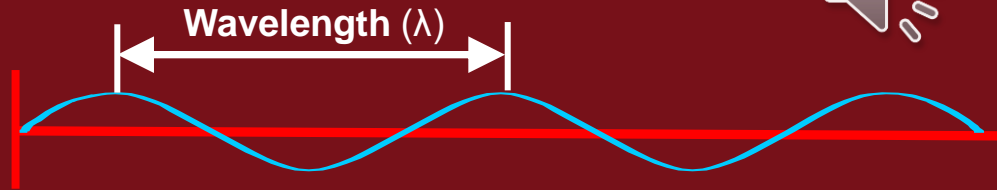
WAVELENGTH

- Example: What is the wavelength of a 63 Hz sound?

$$\lambda = v/f$$

$$\lambda = 1,130 / 63$$

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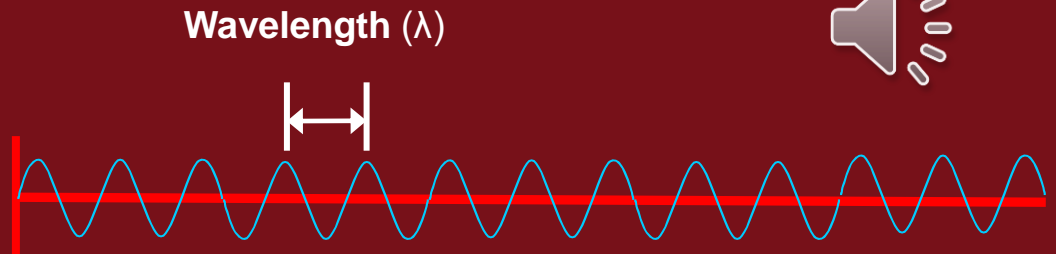
- Example: What is the wavelength of a 2,000 Hz sound?

$$\lambda = v/f$$

$$\lambda = 1,130 / 2,000$$

$$\lambda = 0.56 \text{ ft}$$

$$\lambda = 7 \text{ inches}$$



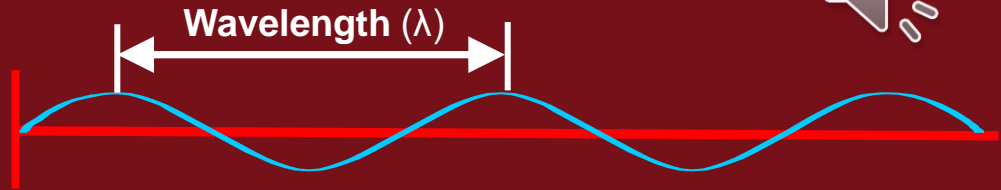
WAVELENGTH

- Example: What is the wavelength of a 63 Hz sound?

$$\lambda = v/f$$

$$\lambda = 1,130 / 63$$

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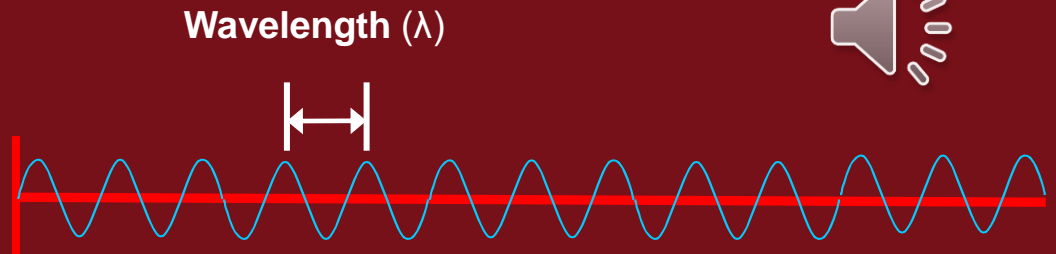
- Example: What is the wavelength of a 2,000 Hz sound?

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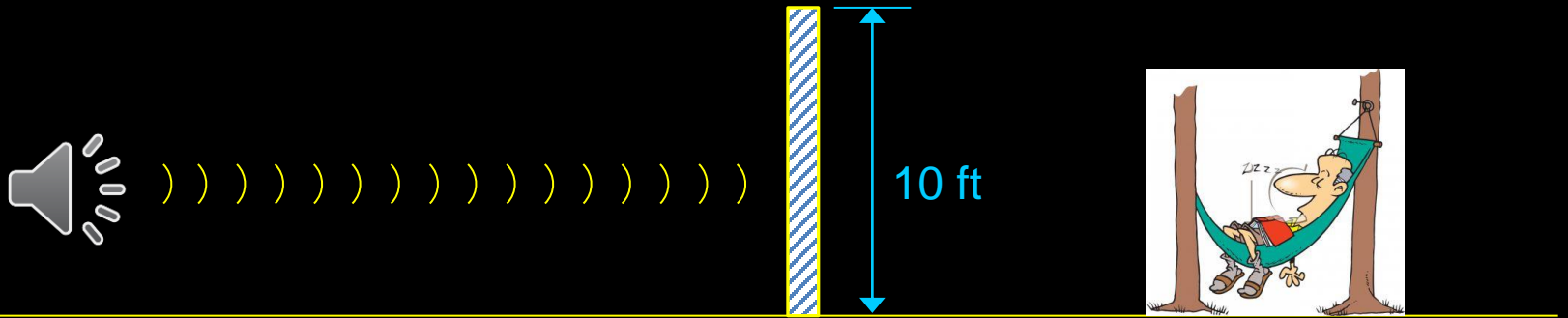
$$\lambda = 7 \text{ inches}$$



Frequency	Wavelength
63 Hz	18 ft
125 Hz	9 ft
250 Hz	4.5 ft
500 Hz	2.3 ft

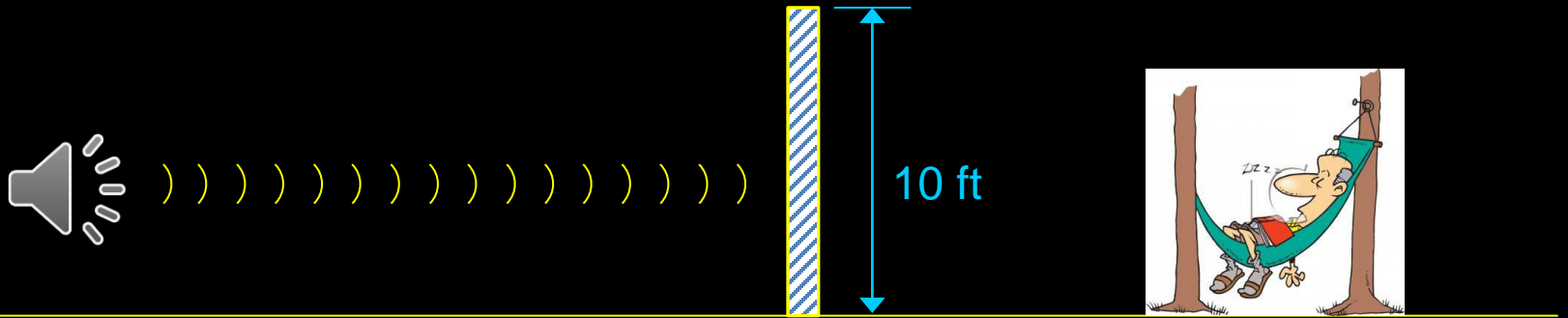
Frequency	Wavelength
1000 Hz	1.1 ft
2000 Hz	7 inches
4000 Hz	3.4 inches
8000 Hz	1.7 inches

SO WHAT'S THE BIG IDEA?

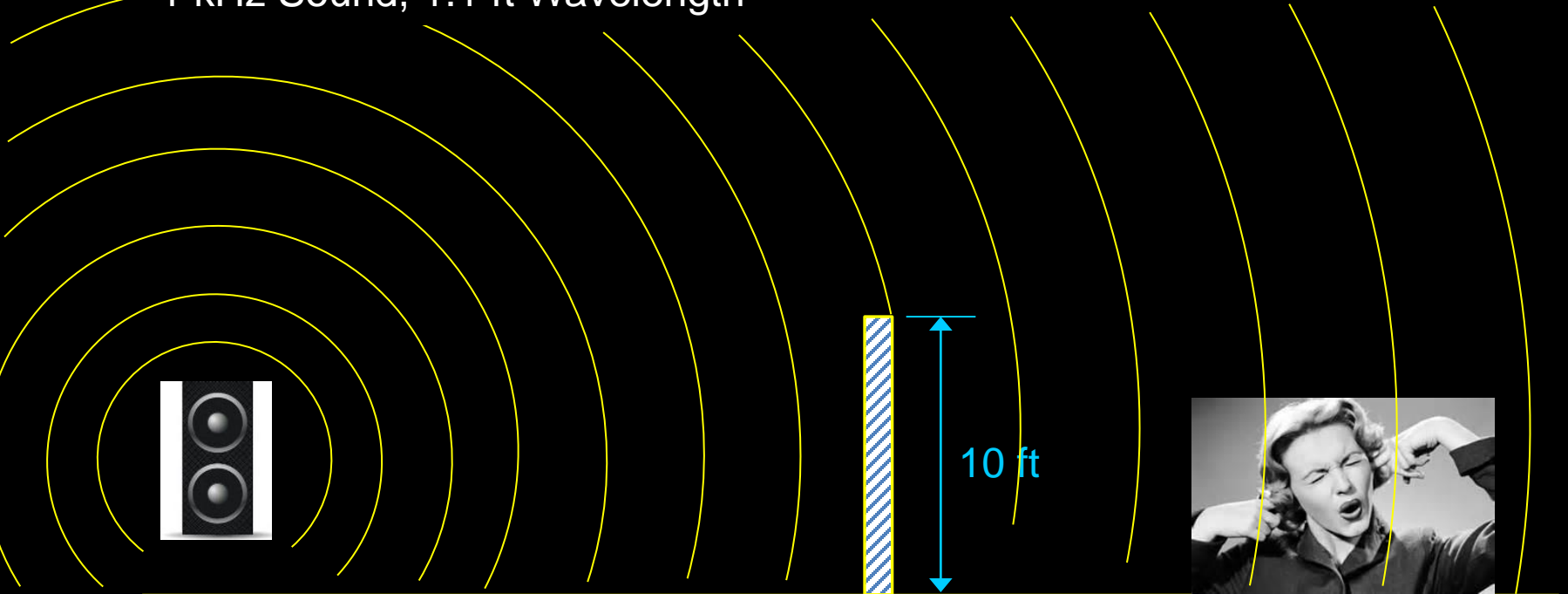


1 kHz Sound, 1.1 ft Wavelength

SO WHAT'S THE BIG IDEA?



1 kHz Sound, 1.1 ft Wavelength



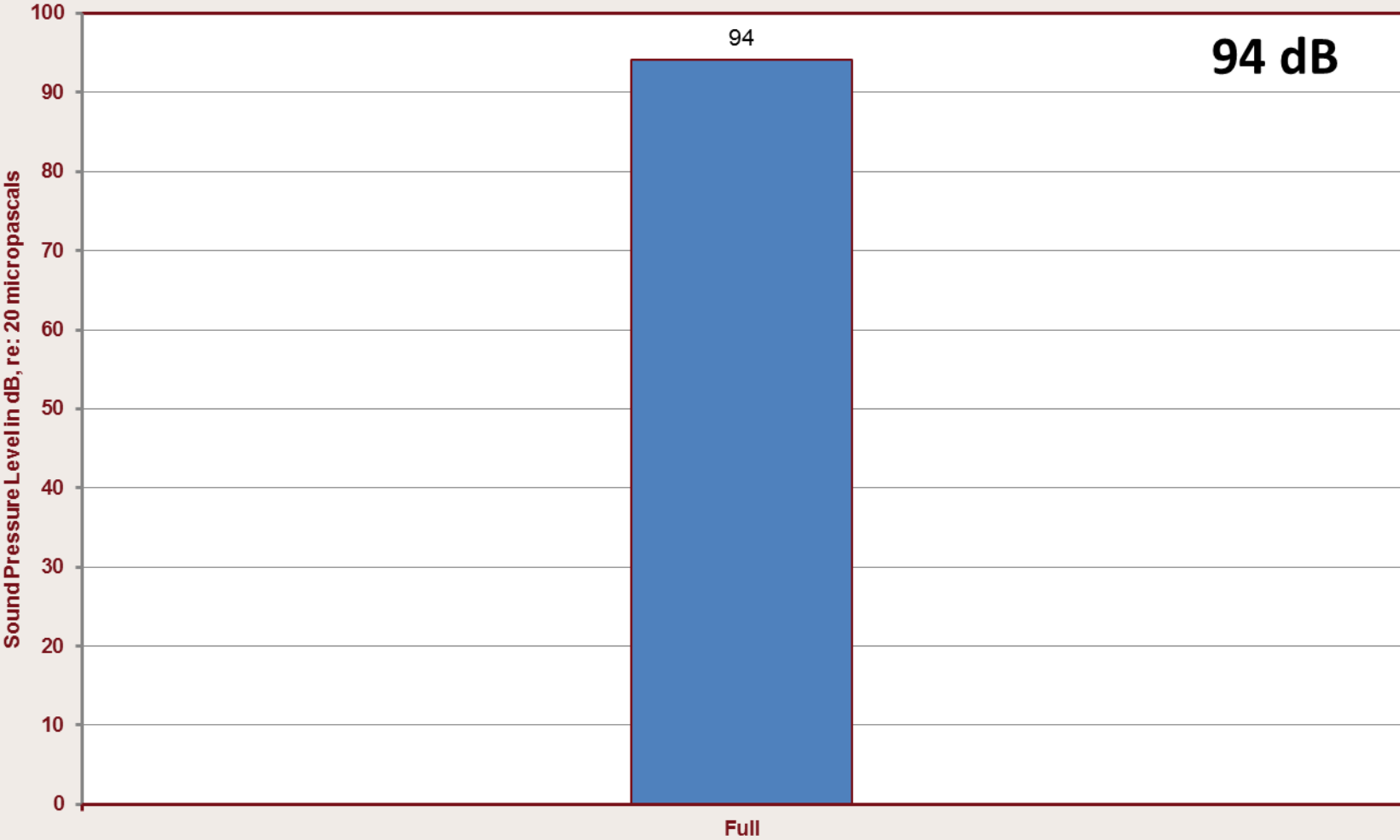
63 Hz Sound, 18 ft Wavelength

OCTAVE BANDS

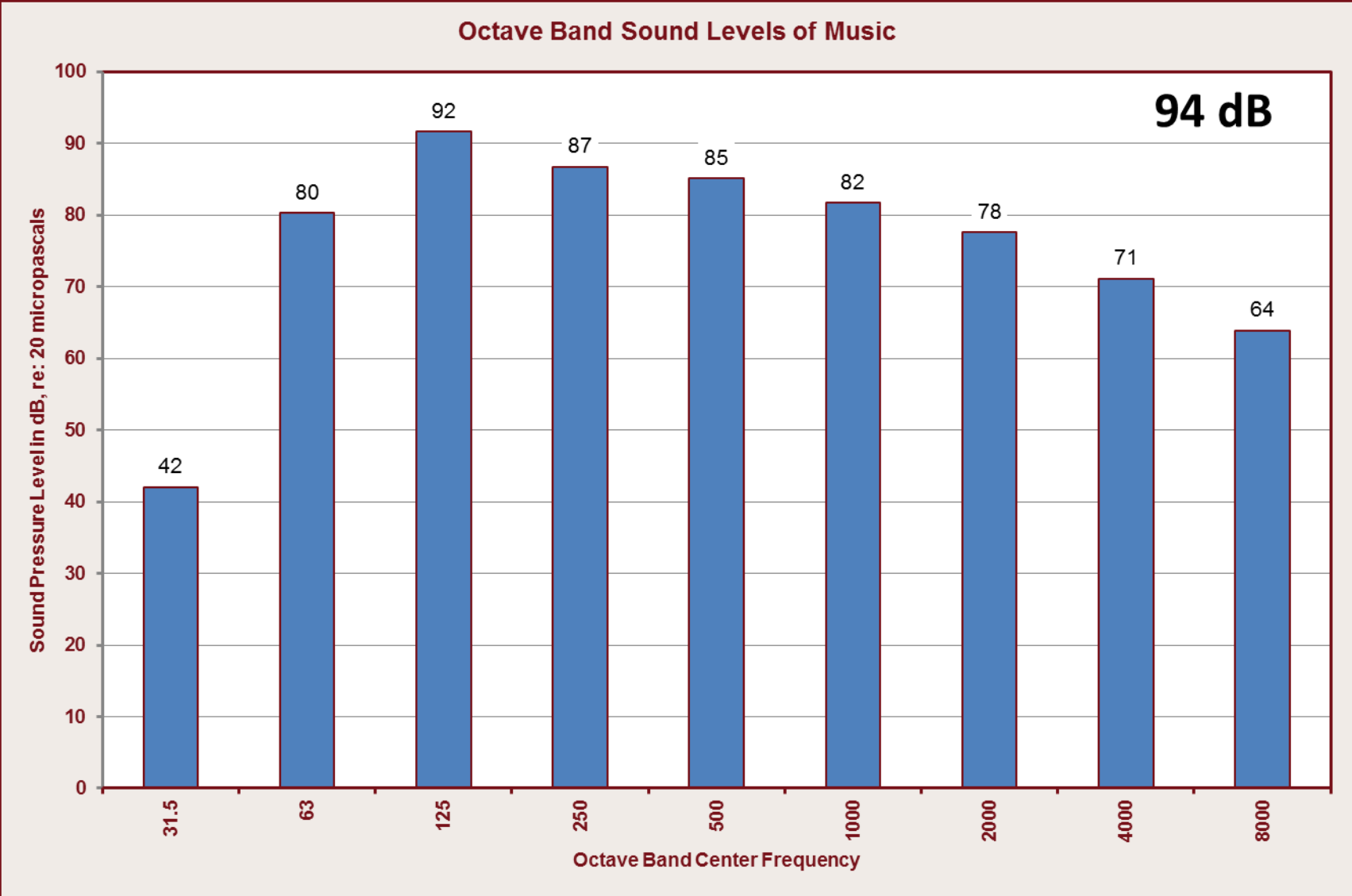
- Individual frequencies provide more information than we need.
- Overall sound level may not provide sufficient information about the character of the sound.
- Individual frequencies are grouped into bands in which the center frequency of the octave band is double the center frequency of the preceding octave band.
- The sum of the octave band sound levels will equal the overall (full spectrum) sound level.

OCTAVE BANDS

Overall Sound Level of Music



OCTAVE BANDS

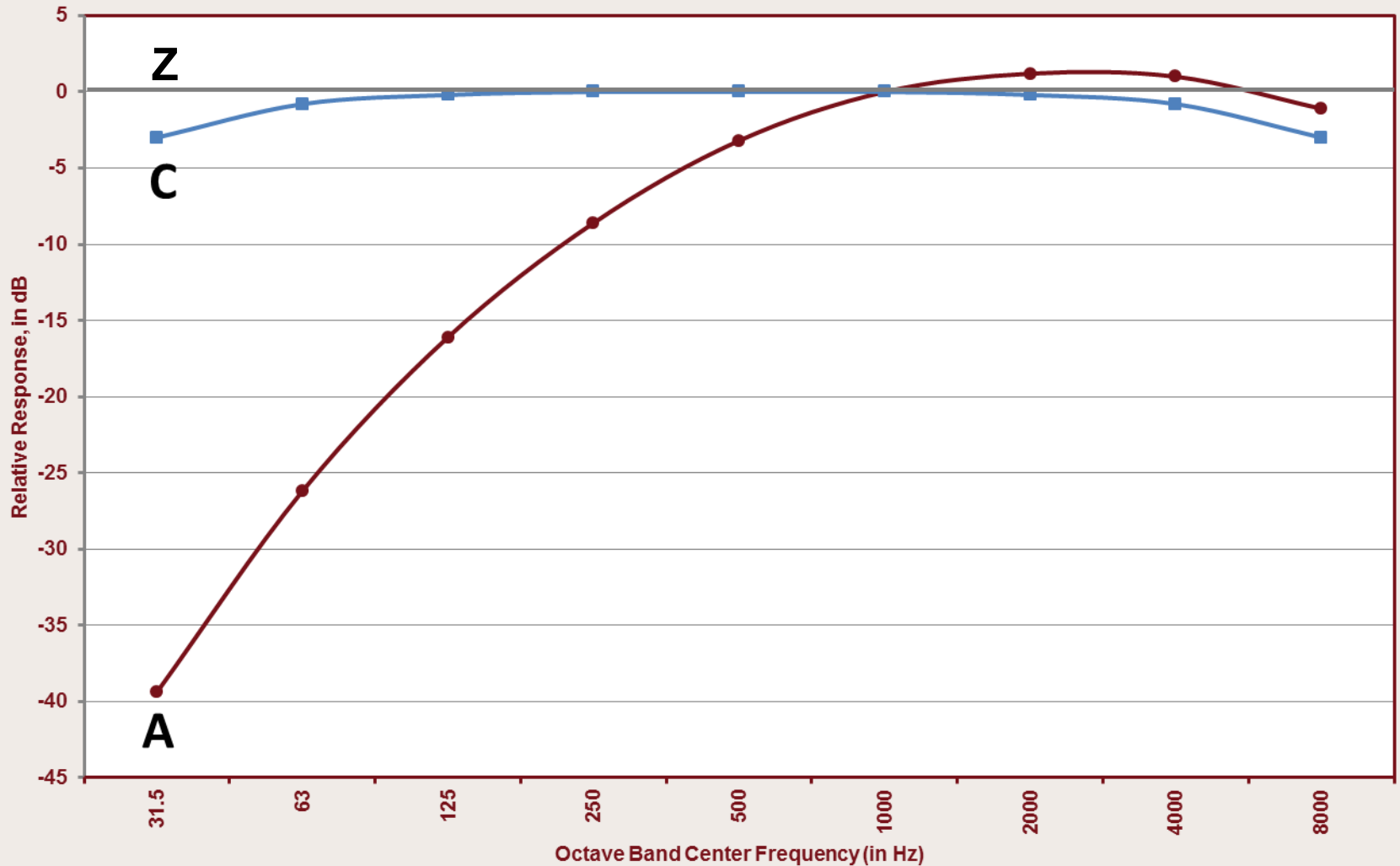


FREQUENCY WEIGHTINGS

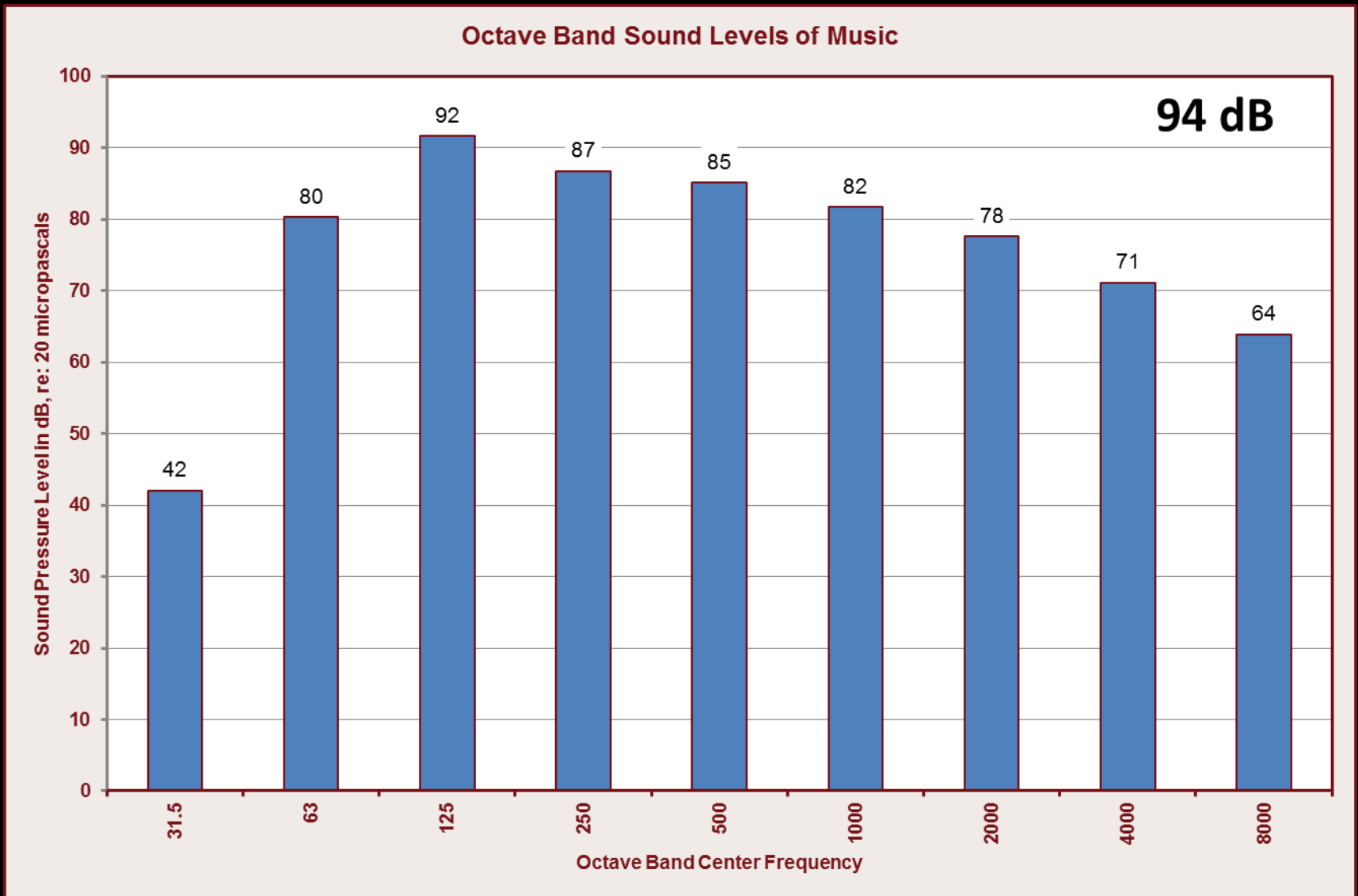
- The human ear does not perceive equal sound levels at all frequencies as equally loud.
- Electronic filters or “weighting networks” are incorporated into sound level meters to adjust (mostly down) the octave band sound levels to approximate the way the human ear judges the relative loudness of sounds.
- The two most common are the A-weighting and the C-weighting networks.

FREQUENCY WEIGHTINGS

A-Weighting (Red) and C-Weighting (Blue) Networks

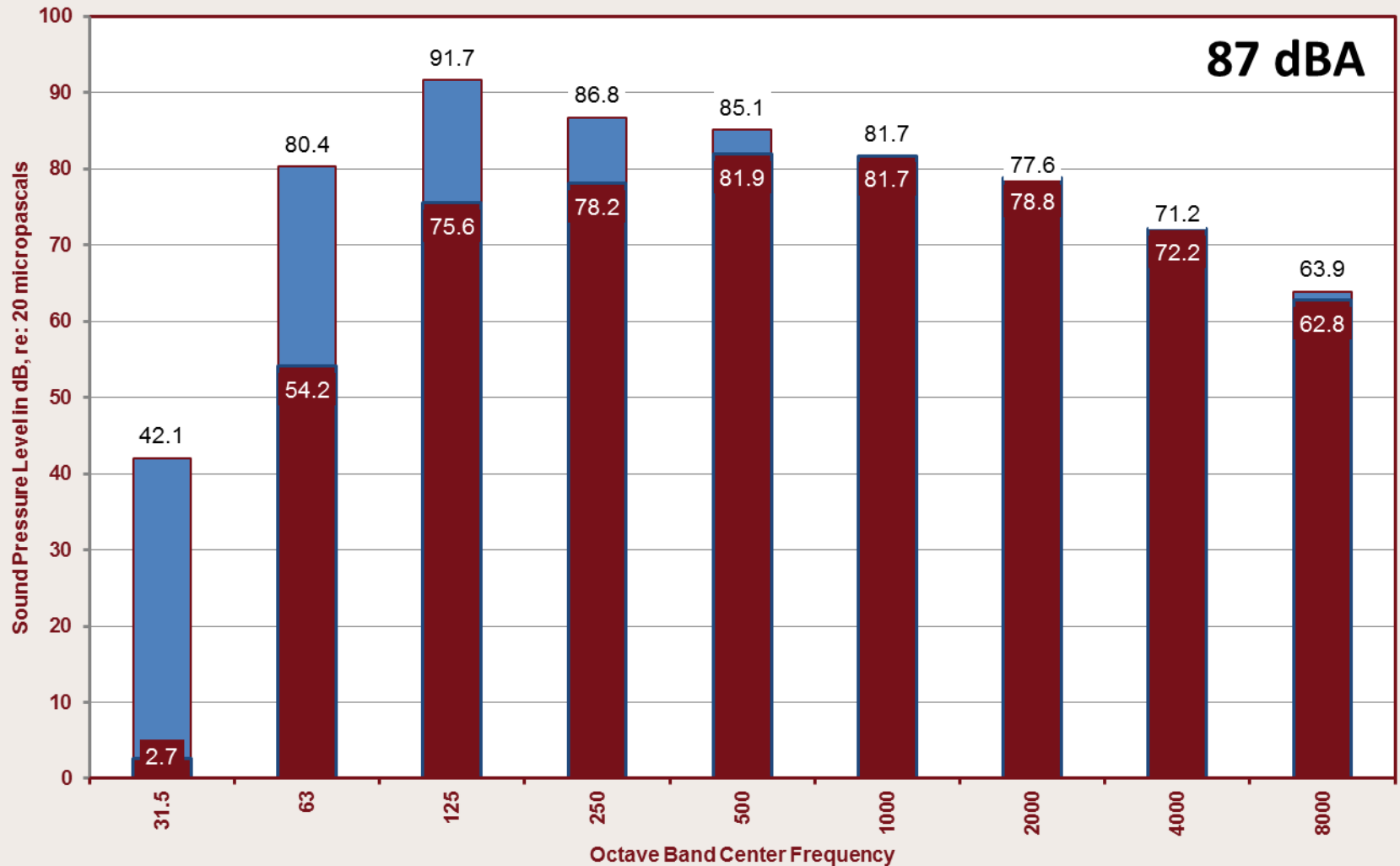


FREQUENCY WEIGHTINGS



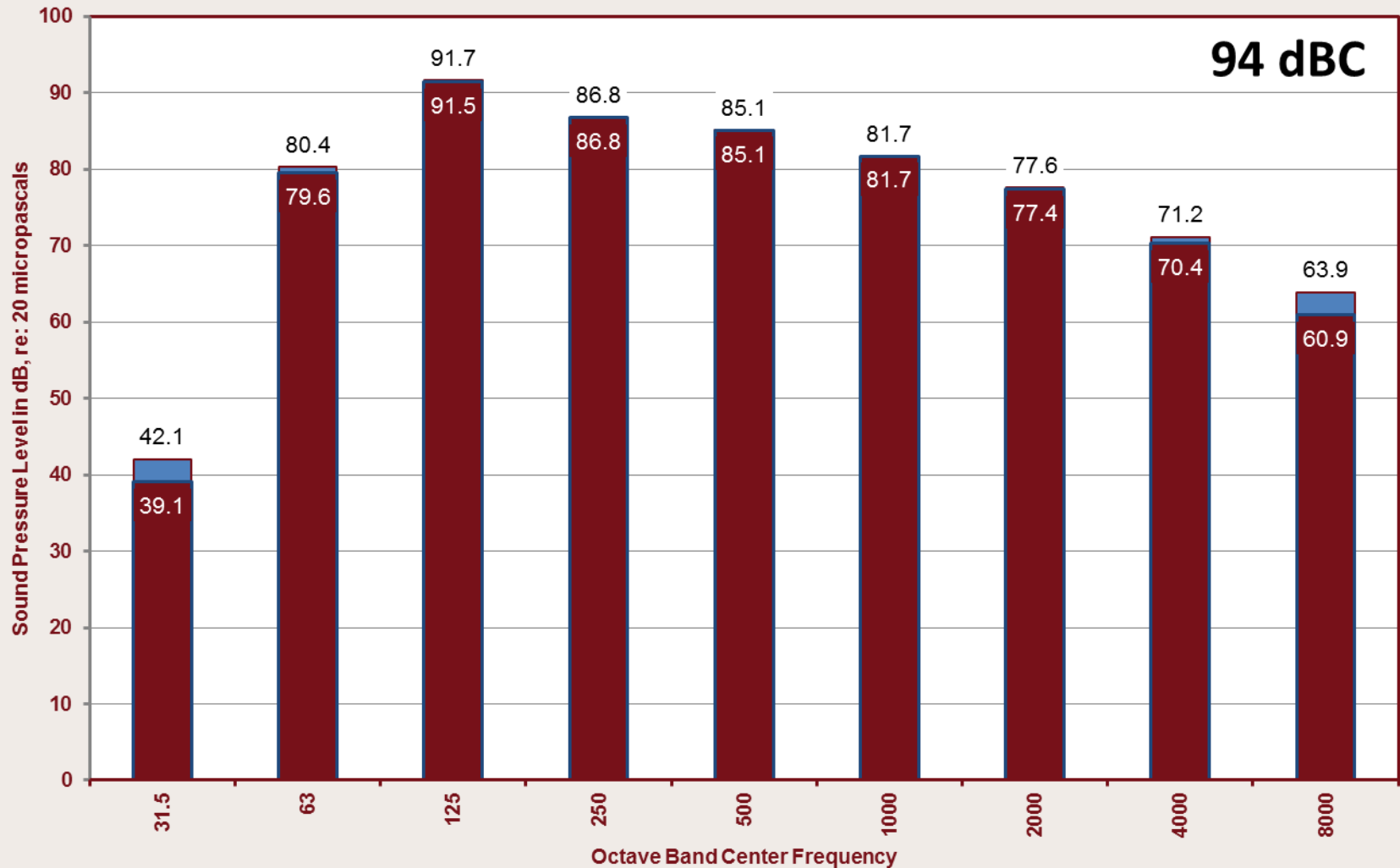
FREQUENCY WEIGHTINGS

A-Weighted Octave Band Sound Levels of Music



FREQUENCY WEIGHTINGS

C-Weighted Octave Band Sound Levels of Music



SO WHAT'S THE BIG IDEA?

- A-weighted sound levels are very commonly used in Noise Ordinances. C-weighted sound levels are becoming more common.
- A large difference in the A-Weighted and C-Weighted levels of the same sound means the sound has a strong low frequency, or “bass”, component.
- C-weighted sound level limits or low frequency octave band sound level limits are used to limit excessive bass sounds that are otherwise difficult to control with just the A-weighting.

AUDIO DEMONSTRATION

Examples of Difference between dBA and dBC:

- Music Clip #1A – Island music with low bass, set to just meet 60 dBA limit

60 dBA/63 dBC 


- Music Clip #1B – Island music with low bass, set to just meet 60 dBC limit

57 dBA/60 dBC 

AUDIO DEMONSTRATION

Examples of Difference between dBA and dBC:

- Music Clip #2A – Mellow rock music with moderate bass, set to just meet 60 dBA limit

60 dBA/70 dBC 

- Music Clip #2B – Mellow rock music with moderate bass, set to just meet 60 dBC limit

50 dBA/60 dBC 

AUDIO DEMONSTRATION

Examples of Difference between dBA and dBC:

- Music Clip #3A – Bass heavy music set to just meet 60 dBA limit

60 dBA/78 dBC 

- Music Clip #3B – Bass heavy music set to just meet 60 dBC limit

42 dBA/60 dBC 

SOUND PATHS BETWEEN A SOURCE AND RECEIVER

Receiver

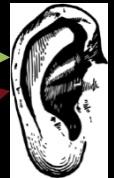


Direct Path



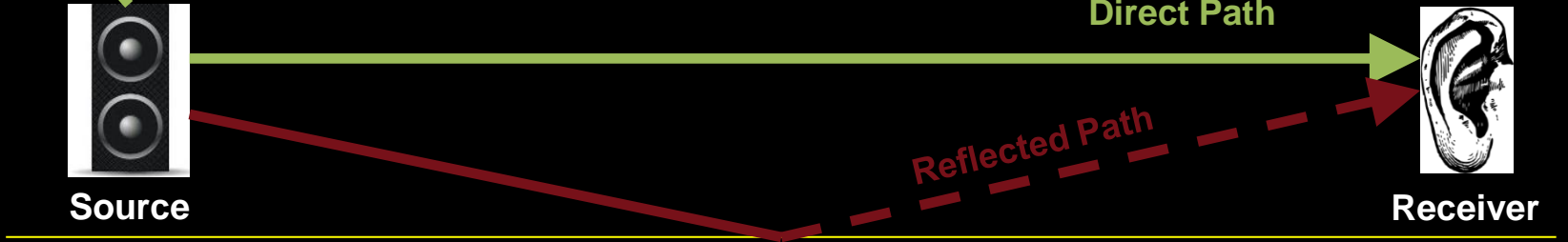
Source

Direct Path

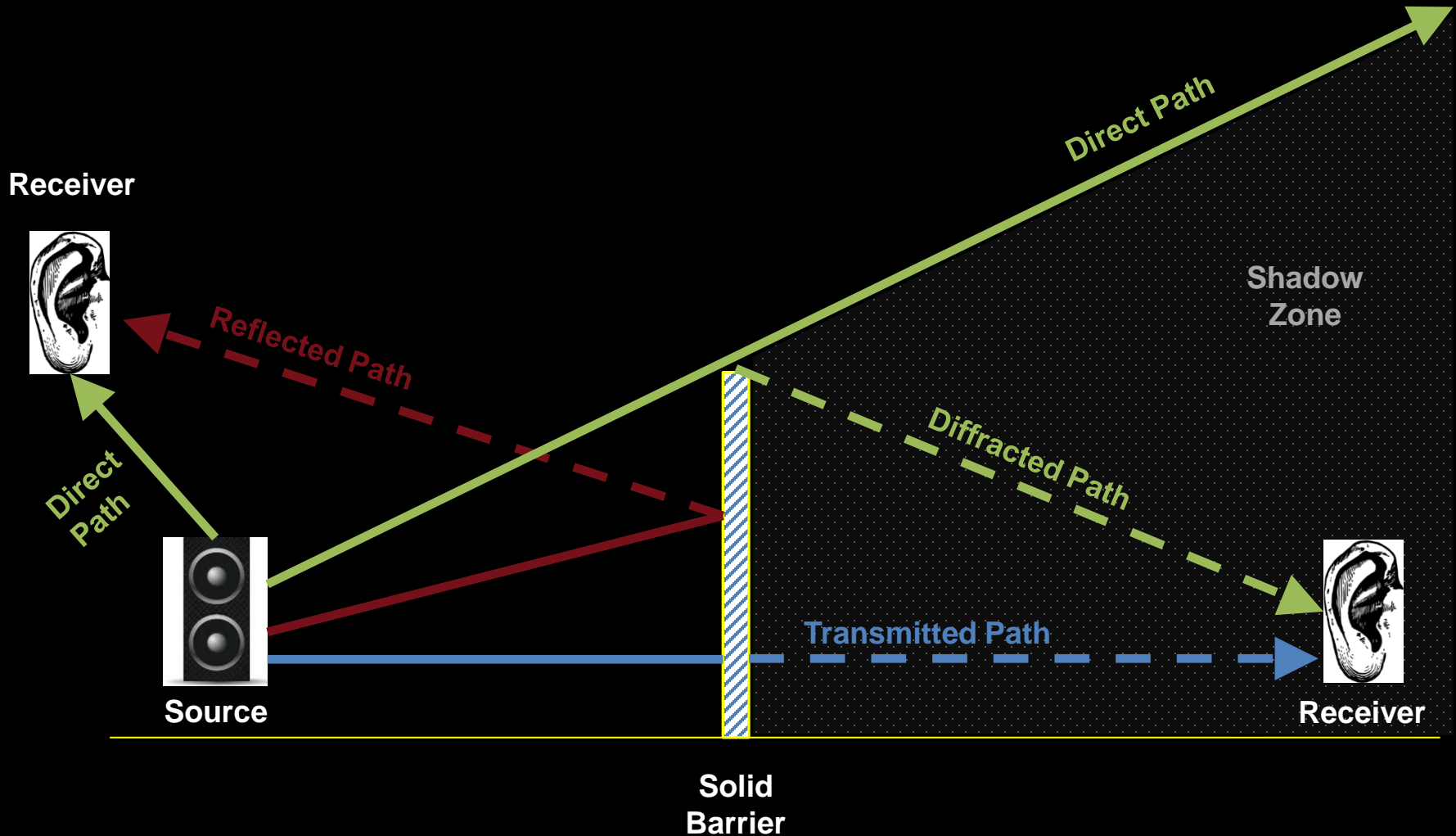


Receiver

Reflected Path



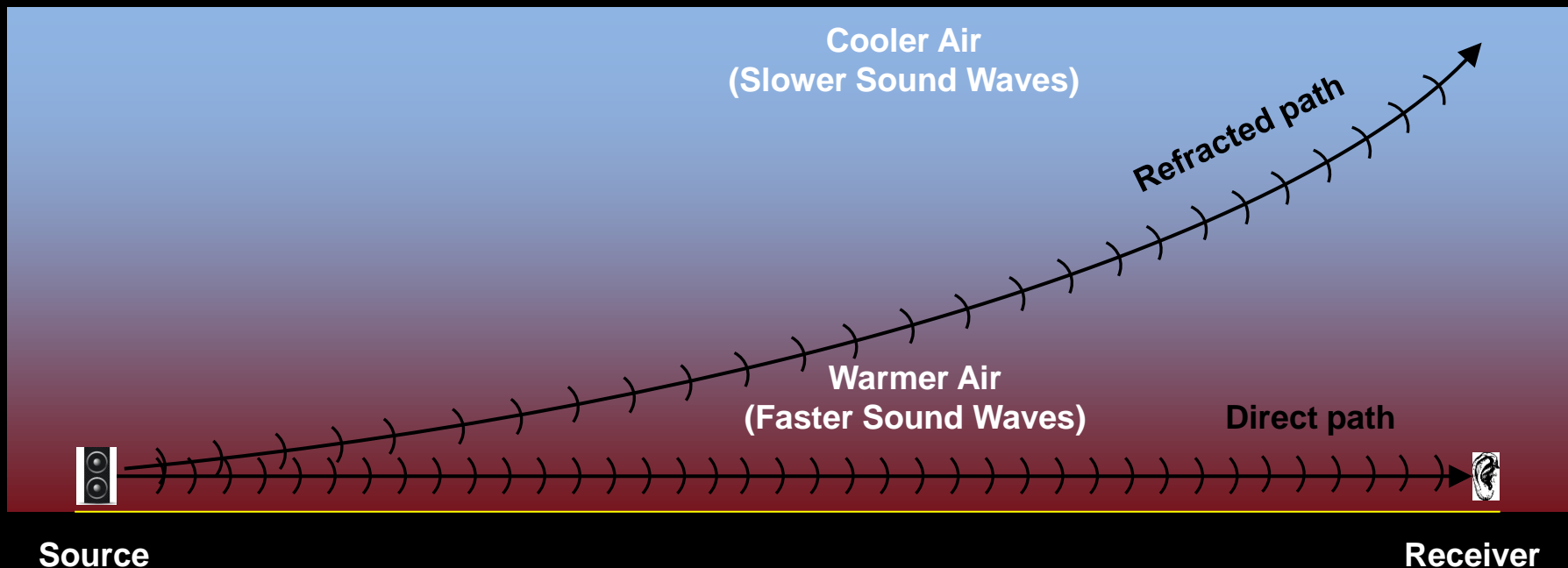
SOUND PATHS BETWEEN A SOURCE AND RECEIVER



SOUND PATHS BETWEEN A SOURCE AND RECEIVER

- Sound travels slower through cooler air and will always bend in the direction of slower sound speed.

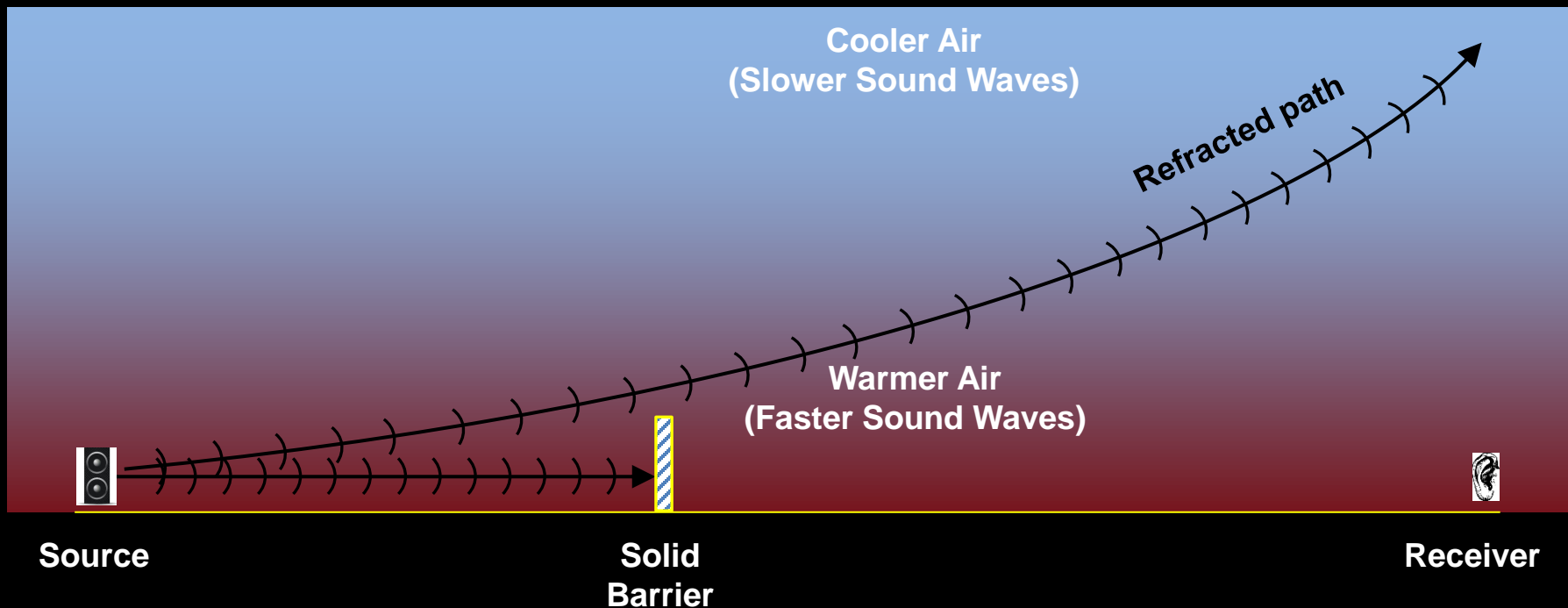
**Temperature Lapse – Warmer Air below Cooler Air
Sound Bends Up, Away from Earth**



SOUND PATHS BETWEEN A SOURCE AND RECEIVER

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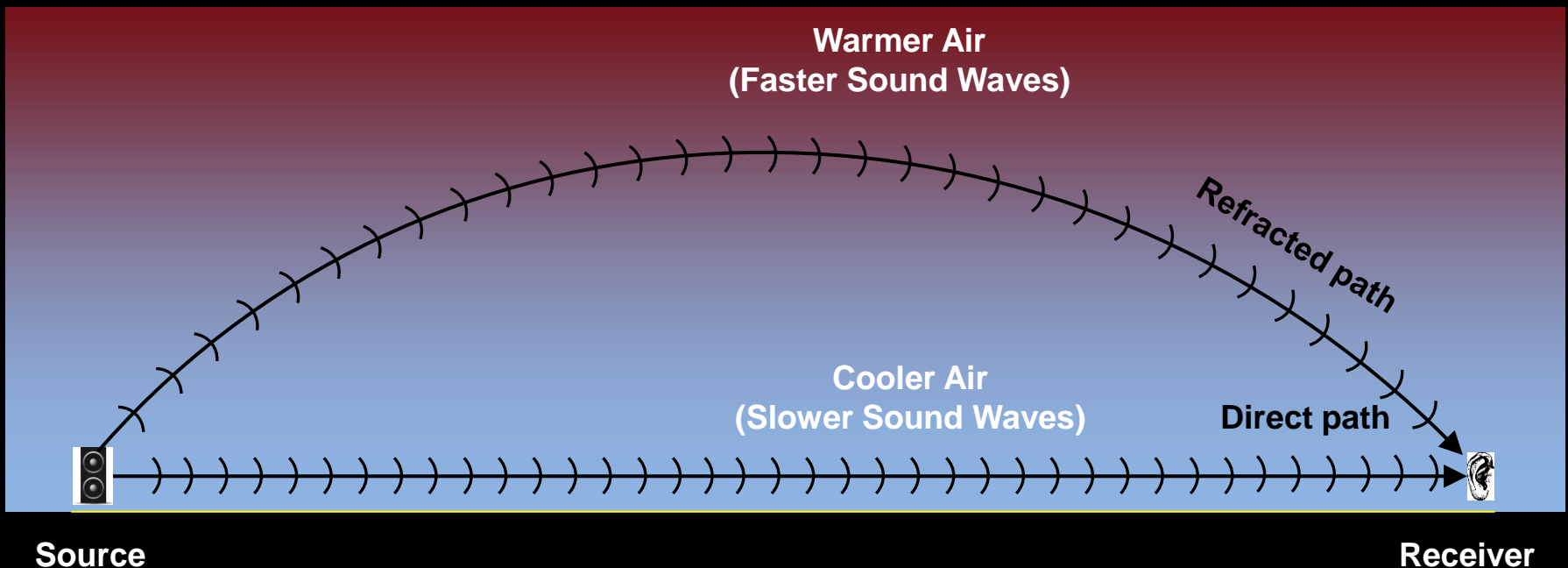
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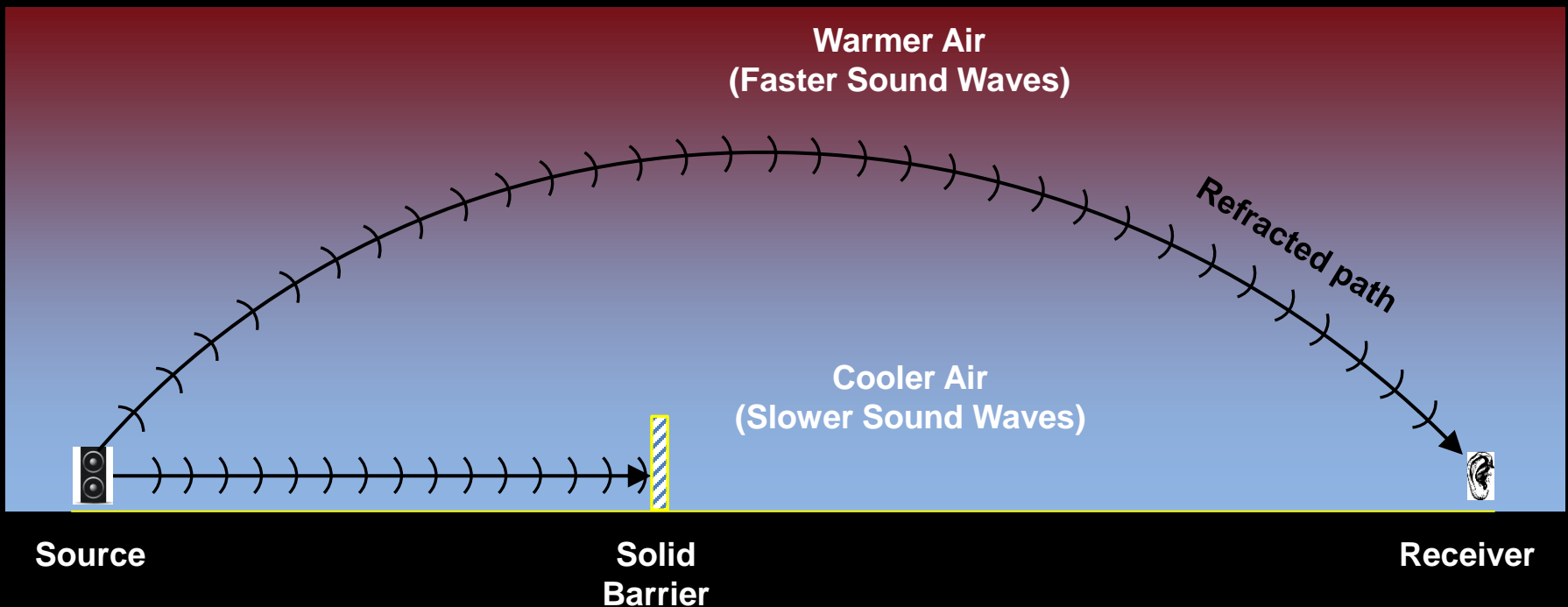
**Temperature Inversion – Warmer Air above Cooler Air
Sound Bends Down/Travels Farther**



SOUND PATHS BETWEEN A SOURCE AND RECEIVER

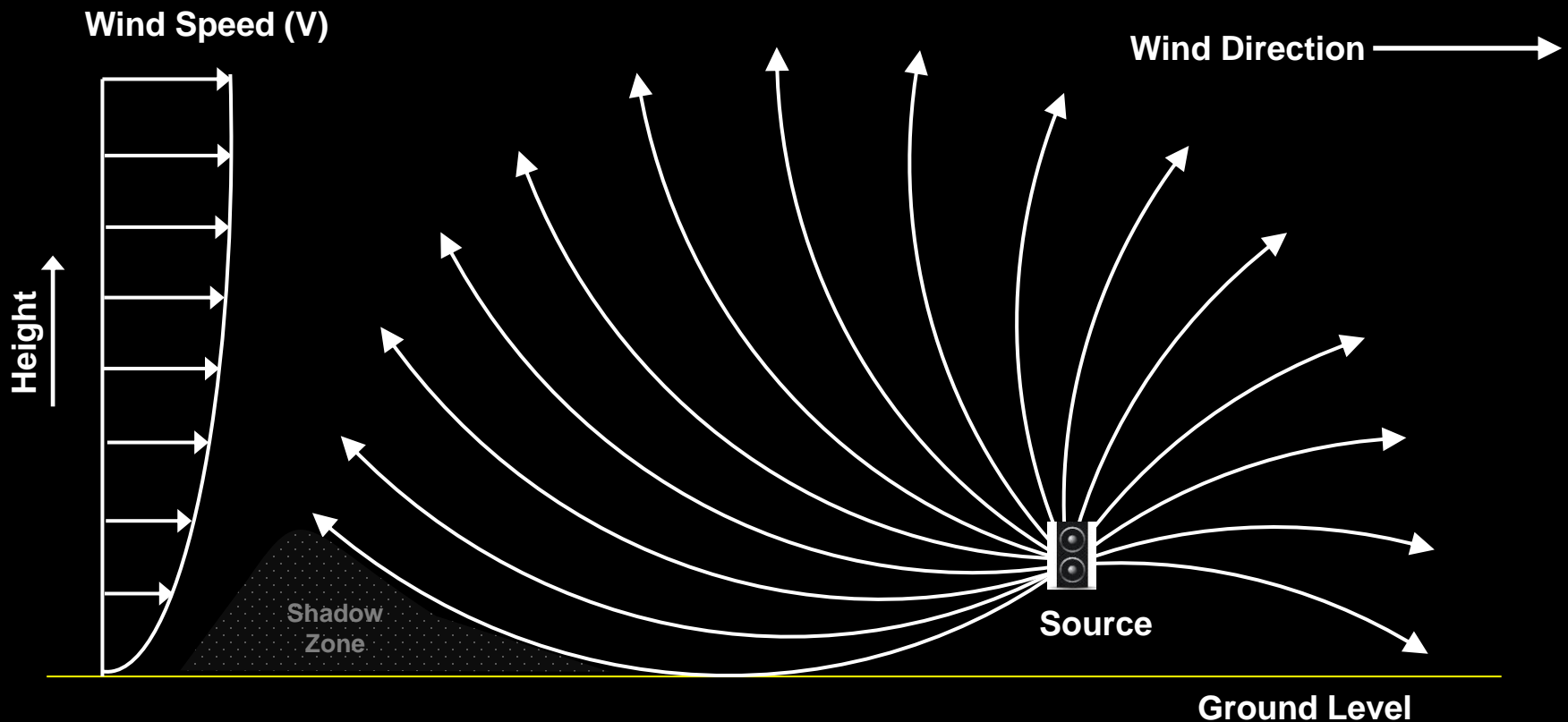
- Sound travels slower through cooler air and will always bend in the direction of slower sound speed.

**Temperature Inversion – Warmer Air above Cooler Air
Sound Bends Down/Travels Farther**



SOUND PATHS BETWEEN A SOURCE AND RECEIVER

- Sound bends/refracts in the direction of slower sound speed
- Higher wind speeds at higher elevations
- Upwind - Sound bends (refracts) up/creates shadow zone
- Downwind - Sound bends (refracts) down/travels farther



SO WHAT'S THE BIG IDEA?

- Outdoor sound field can be complex
 - Multiple sources of sound
 - Multiple sound paths
 - direct
 - reflected
 - transmitted
 - refracted (temperature, wind)
 - Multiple receivers
- Important to understand all the possible sound paths when enforcing sound level limits as the same sound source can result in very different levels at different times of day and under different conditions.

FACTORS INFLUENCING OUTDOOR SOUND PROPAGATION

- Distance (i.e., Geometrical Divergence): 5 to 6 dB per doubling of distance
- Ground effects
- Foliage – minimum 100 ft depth, limit of approx. 20 dB
- Physical Barriers: 5 to 20 dB reduction, varies with frequency
 - Walls
 - Berms
 - Buildings
- Air attenuation
 - Temperature and humidity dependent
 - Negligible at low frequencies
 - Negligible at short distances (<500 ft)
- Temperature and Wind Gradients – Refraction effects
- Reflections off buildings, walls

TOOLS FOR REDUCING OUTDOOR SOUND PROPAGATION

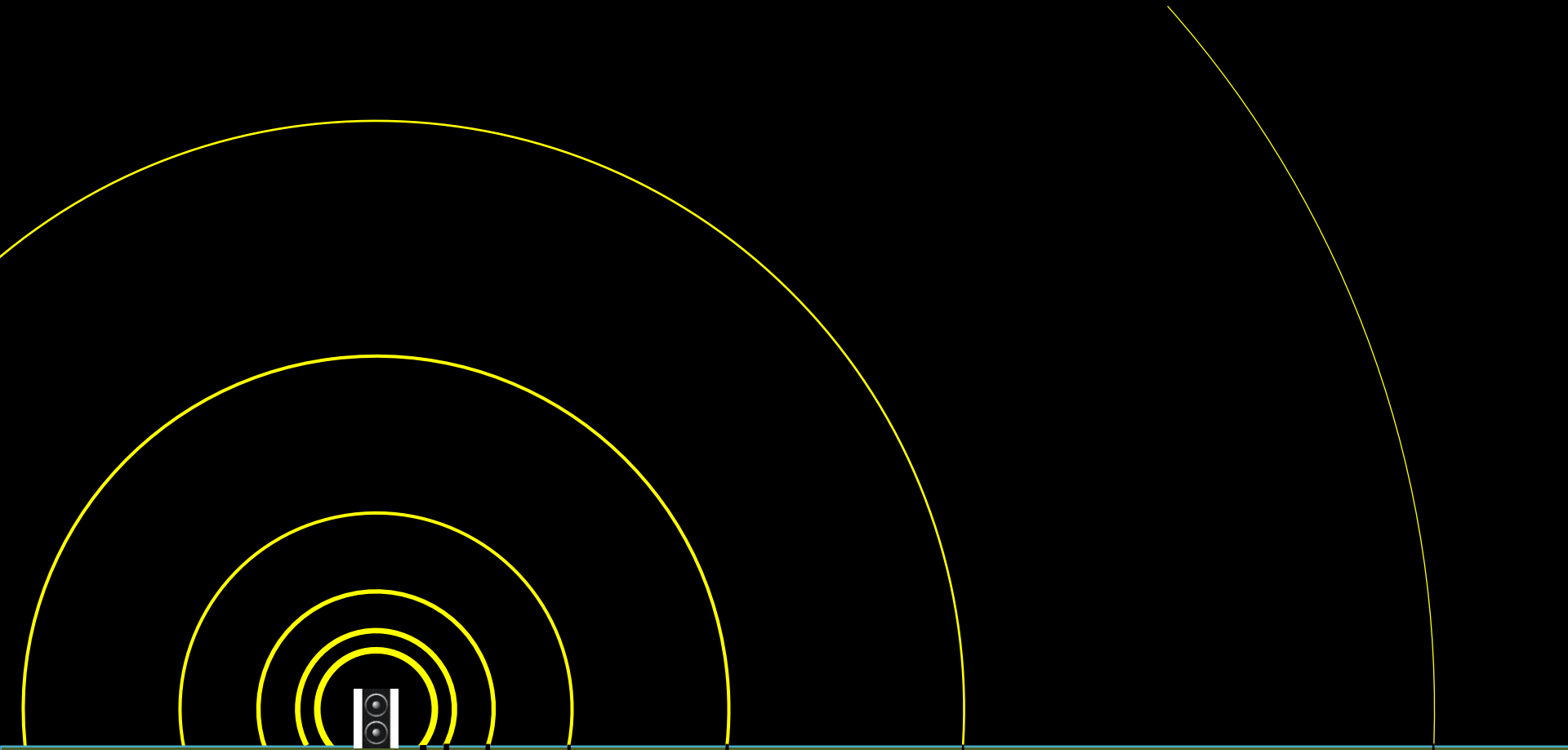
At the source:

- Reduce source sound level
 - Use quieter equipment
 - Provide noise mitigation for equipment
 - Reduce the volume of loudspeakers
- Restrict day/time of use
- Provide full or partial enclosures around the source
- Change the orientation or location of the source

Along the path:

- Distance – 5 to 6 dB reduction per doubling of distance

SOUND DECAY WITH DISTANCE



Distance from source	50 ft	100 ft	200 ft	400 ft	800 ft	1,600 ft	3,200 ft
Sound level reduction	0 dB	-6 dB	-12 dB	-18 dB	-24 dB	-30 dB	-36 dB

TOOLS FOR REDUCING OUTDOOR SOUND PROPAGATION

At the source:

- Reduce source sound level
 - Use quieter equipment
 - Provide noise mitigation for equipment
 - Reduce the volume of loudspeakers
- Restrict day/time of use
- Provide full or partial enclosures around the source
- Change the orientation or location of the source

Along the path:

- Distance – 5 to 6 dB reduction per doubling of distance
- Barriers – 5 to 20 dB reduction

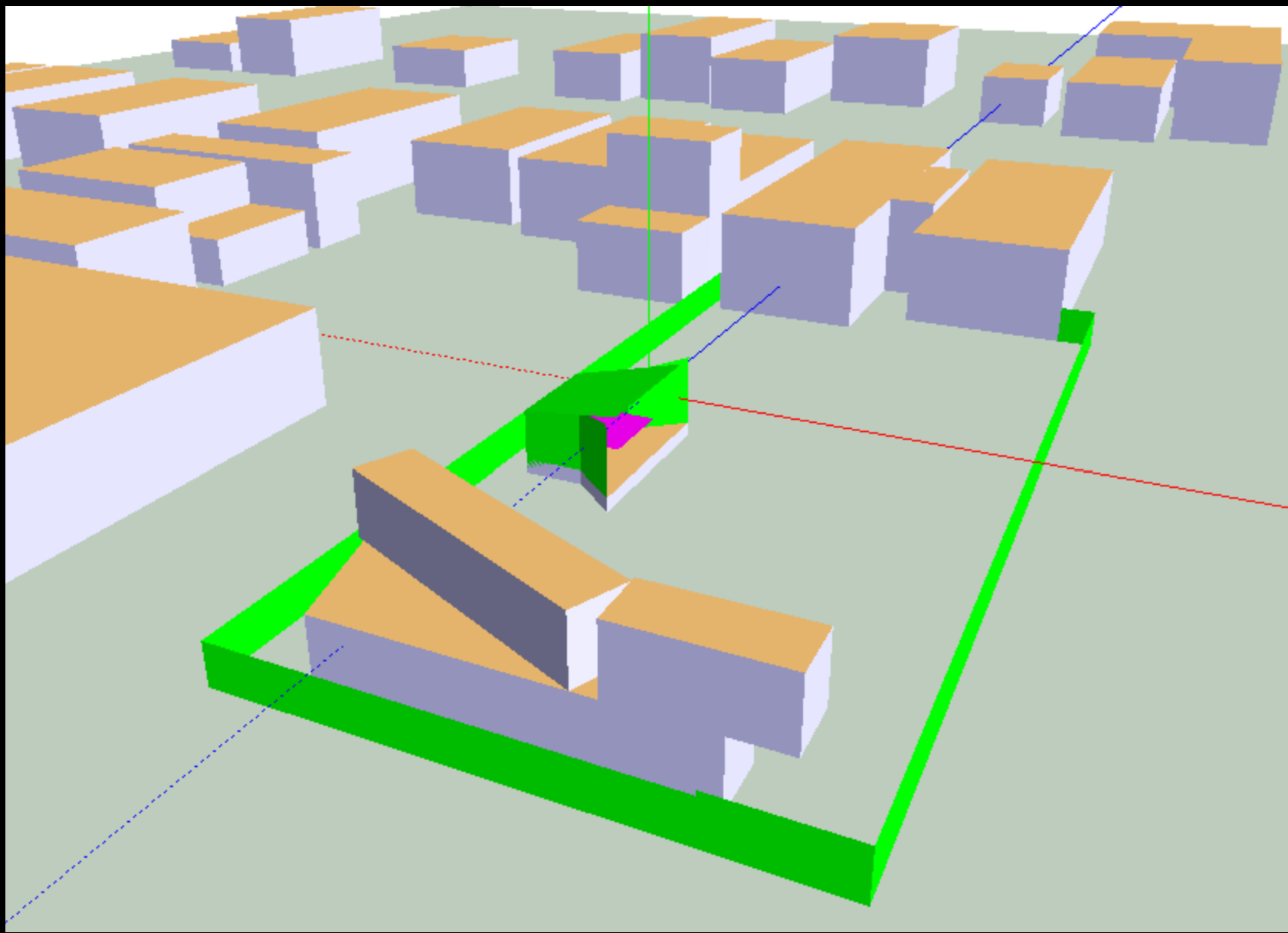
At the receiver:

- Enclosure upgrades

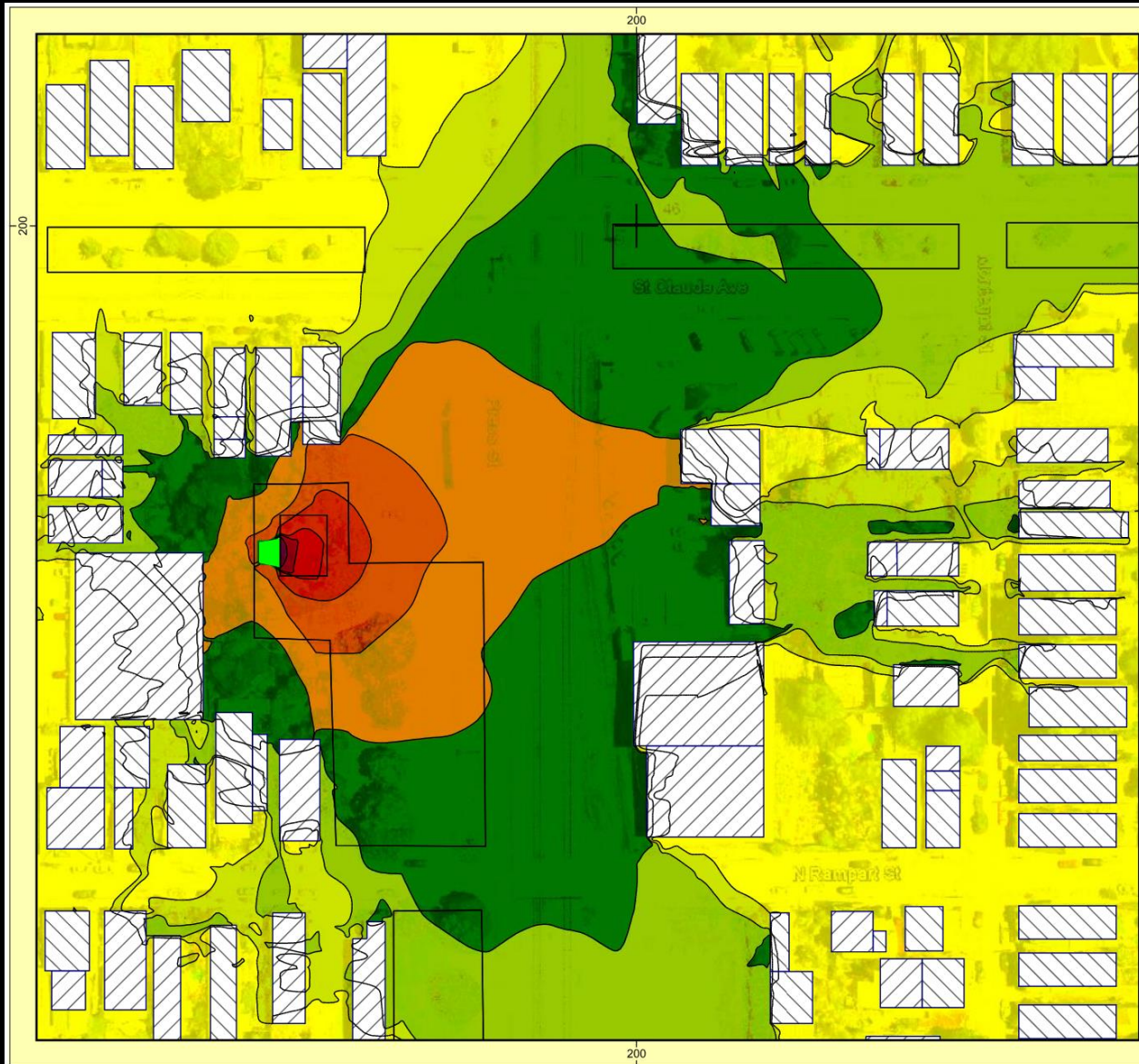
Event Venue with Outdoor Stage Shell



Event Venue with Outdoor Stage Shell



Jazz Band – Existing Stage Platform

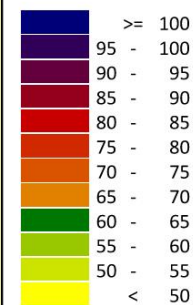


Amplified Jazz Band - Run 0

Source: Amplified Jazz Band
 Bandshell: Low Dowstage Walls
 Fence: Existing
 Containers: None
 Result number: 26
 Calculation height: 1.6 meters

Project engineer: RML
 Created: July 7, 2016
 Processed with SoundPLAN 7.4, Update 6/21/2016

L10 Levels in dB(A)

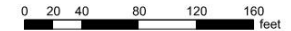


Legend:

- Main building
- Base line
- Wall
- Area source
- Ground absorption
- Elevation point
- Noise calculation area
- Roof area



Length scale 1:106



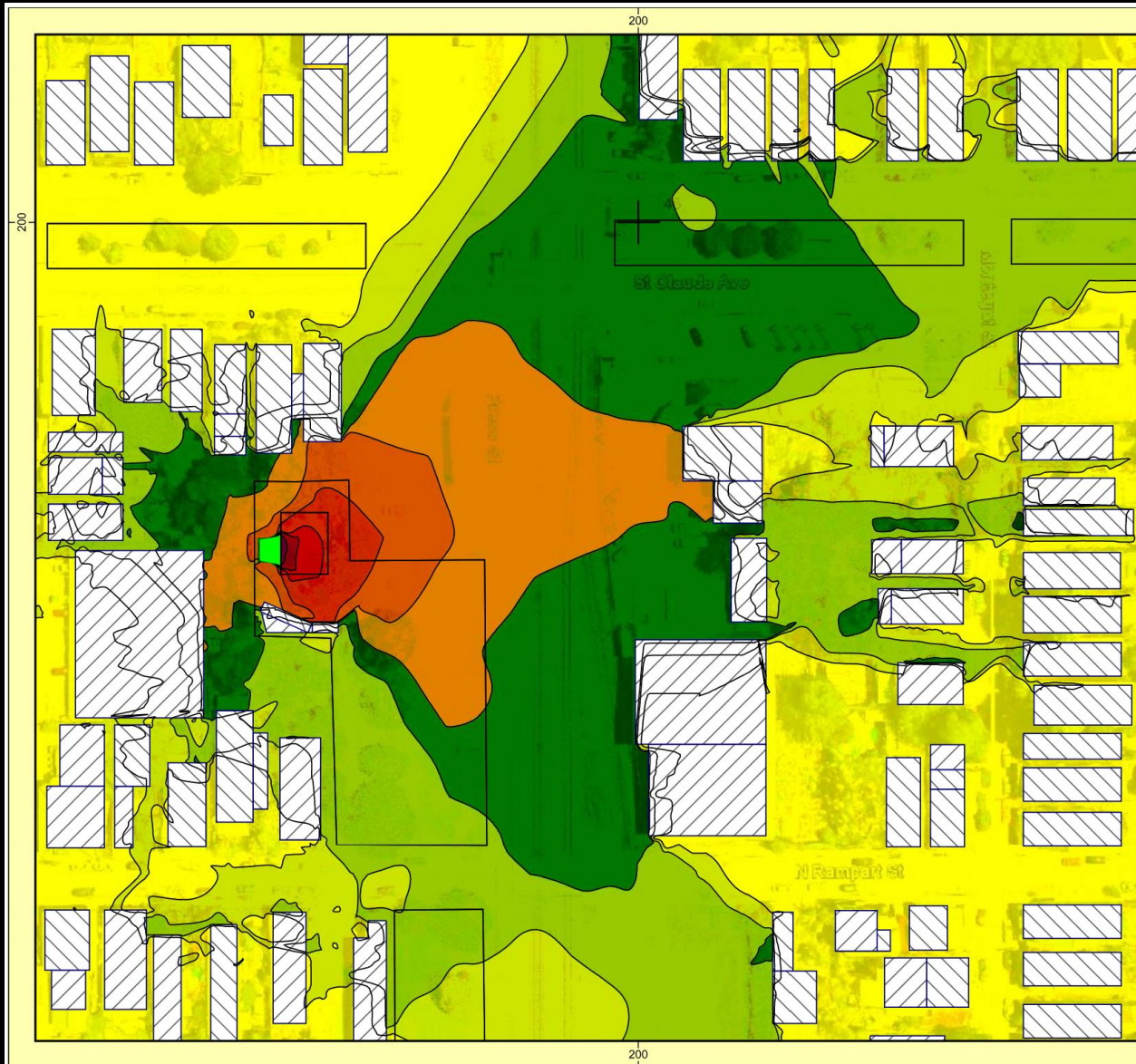
RML Acoustics ARCHITECTURAL ENVIRONMENTAL
 Sound Designs...Noise Solutions

Customer:

Map

1

Jazz Band – Barrier on South Side



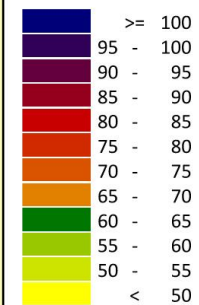
Amplified Jazz Band - Run 1

Source: Amplified Jazz Band
 Bandshell: Low Dowstage Walls
 Fence: Existing
 Containers: As Designed
 Result number: 27
 Calculation height: 1.6 meters

Project engineer: RML
 Created: July 7, 2016
 Processed with SoundPLAN 7.4, Update 6/21/2016

L10 Levels

in dB(A)

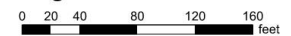


Legend:

- Main building
- Base line
- Wall
- Area source
- Ground absorption
- Elevation point
- Noise calculation area
- Roof area



Length scale 1:106



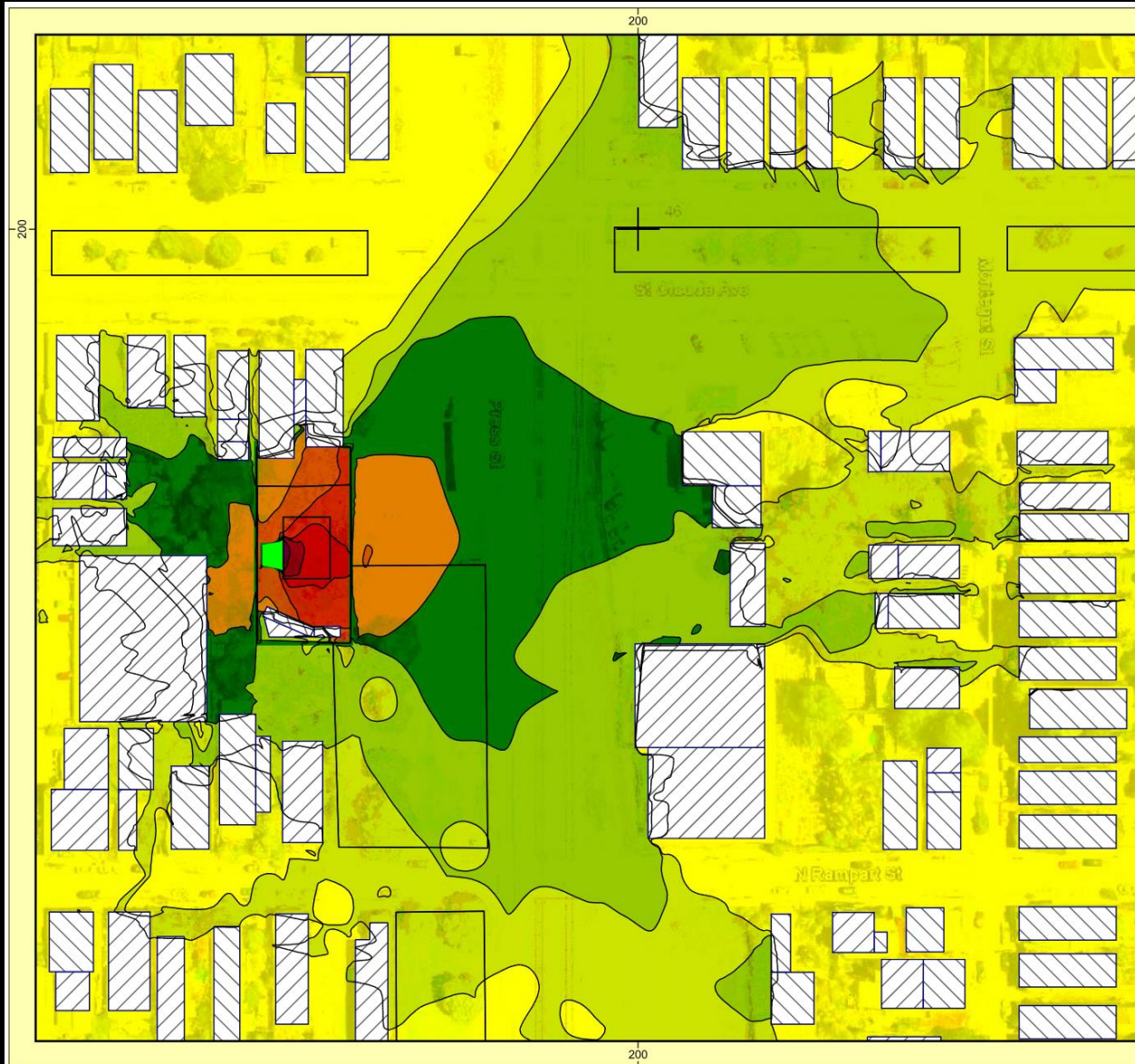
RML Acoustics ARCHITECTURAL
 Sound designs...Noise Solutions

Customer:

Map

1A

Jazz Band – Barrier on South, 7 ft wall

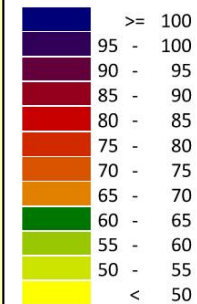


Amplified Jazz Band - Run 2

Source: Amplified Jazz Band
 Bandshell: Low Dowstage Walls
 Fence: 7 ft Solid
 Containers: As Designed
 Result number: 28
 Calculation height: 1.6 meters

Project engineer: RML
 Created: July 7, 2016
 Processed with SoundPLAN 7.4, Update 6/21/2016

L10 Levels in dB(A)

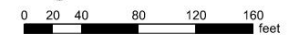


Legend:

- Main building
- Base line
- Wall
- Area source
- Ground absorption
- Elevation point
- Noise calculation area
- Roof area



Length scale 1:106

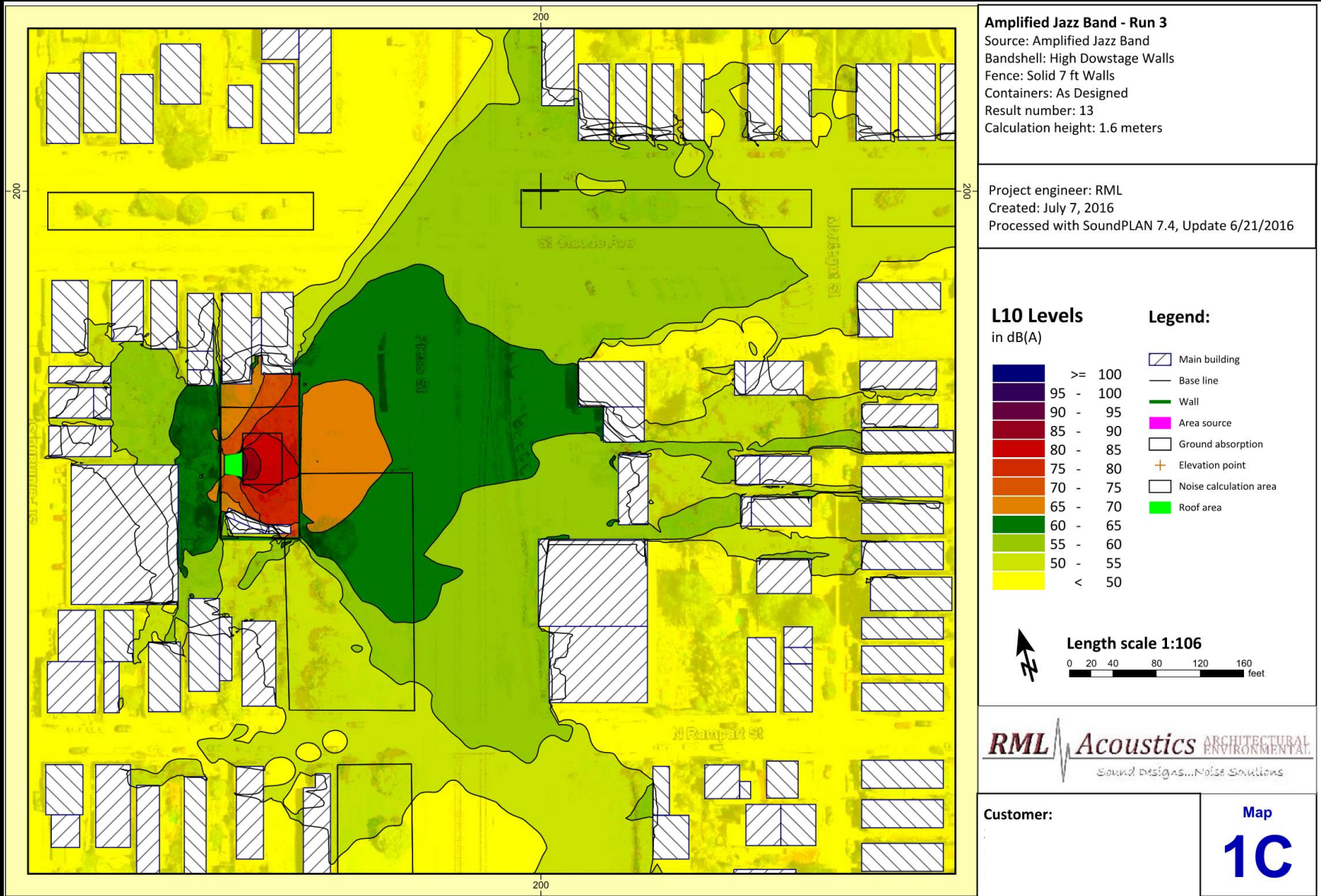


RML Acoustics ARCHITECTURAL
 Sound Designs...Noise Solutions

Customer:

Map
1B

Jazz Band – Barrier on South, 7 ft wall High Walls on Band Shell



Questions?

1. Introduction
2. What is sound?
3. Sound Pressure, Sound Pressure Level, and Decibels
4. Decibel Addition and Subtraction
5. Loudness and Human Perception of Changes in Sound Level
6. Frequency (perception of frequency), wavelength, speed of sound
7. Octave Bands, Frequency Weightings (A-weighting and C-weighting)
8. Outdoor Sound Propagation Paths
9. Measurement of Sound
10. Factors influencing outdoor sound propagation/attenuation
11. Tools for reducing outdoor sound propagation

City Commission Conference Agenda

4. c.

Meeting Date: 01/09/2023

Re: Year-Round Irrigation Ordinance

Submitted For: Peggy Arraiz, Code Compliance Manager, Code Enforcement

SUBJECT:

Discussion and presentation with the South Florida Water Management District regarding a proposed year-round irrigation ordinance. The District is requesting local governments to review their existing irrigation ordinance and codes for consistency with the District's Year-Round Landscaping Irrigation Conservation Measures Rule, Chapter 40E-24, Florida Administrative Code.

Attachments

Irrigation Ordinance - Proposed
Presentation
Chapter 40E-24

Form Review

Inbox	Reviewed By	Date
City Manager	Nick Mimms	01/04/2023 08:20 AM
Form Started By: Peggy Arraiz		Started On: 12/27/2022 11:43 AM
Final Approval Date: 01/04/2023		

ORDINANCE NO. 22-032

AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; CREATING CHAPTER 36 - UTILITIES, ARTICLE VIII – IRRIGATION CONSERVATION MEASURES, PROVIDING FOR LOCAL IMPLEMENTATION OF THE MANDATORY **YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES** RULE OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (40E-24, F.A.C.); PROVIDING DEFINITIONS; PROVIDING FOR THE APPLICABILITY OF THE ORDINANCE; PROVIDING THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING FOR A REQUIREMENT TO OPERATE TECHNOLOGY THAT INHIBITS OR INTERRUPTS AN IRRIGATION SYSTEM DURING PERIODS OF SUFFICIENT MOISTURE; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR CODIFICATION OF THE ORDINANCE; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the South Florida Water Management District (District) has the responsibility and exclusive authority under Chapter 373, Florida Statutes (F.S.), for regulating the consumptive use of water; and

WHEREAS, the District has promulgated Chapter 40E-2, Florida Administrative Code (F.A.C), for the consumptive use of water which includes Rule 40E-2.061, F.A.C., General Permits by Rule, regulating landscape irrigation at a single-family dwelling or duplex, and Rule 40E-2.071, F.A.C., Noticed General Permits and Individual Permits, regulating larger landscape irrigation users; and

WHEREAS, the District promulgated and amended Chapter 40E-24, F.A.C., requiring year-round landscape irrigation conservation measures; and

WHEREAS, Chapter 40E-24, F.A.C., applies to all users as defined in subsection 40E-24.101(14), F.A.C., including permitted and exempt users under Chapter 40E-2, F.A.C.; and

WHEREAS, Chapter 40E-24, F.A.C., calls for year-round and permanent landscape irrigation restrictions, separate and independent from water shortage declarations, in accordance with Chapter 40E-21, F.A.C.; and

WHEREAS, Chapter 40E-24, F.A.C., applies to all landscape irrigation regardless of whether the water comes from ground or surface water, from a private well or pump, or from a public or private utility; and

WHEREAS, Rule 40E-24.301, F.A.C., provides that local governments may adopt a landscape irrigation ordinance that achieves water conservation consistent with Rule 40E-24.201, F.A.C., including variance and enforcement procedures; and

WHEREAS, the District strongly encourages local governments to adopt an ordinance in accordance with Chapter 40E-24, F.A.C.; and

WHEREAS, it is the desire of the City Commission of the City of Fort Pierce to adopt an ordinance in accordance with Chapter 40E-24, F.A.C.; and

WHEREAS, The City Commission of the City of Fort Pierce finds and declares that the adoption of this Ordinance is appropriate, and in the public interest of this community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FORT PIECE OF ST. LUCIE COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 36, Article VIII – Irrigation Conservation Measures, Sections 36-500-36-515 is of the Code of Ordinances of the City of Fort Pierce, Florida, are hereby created and the same shall read as follows:

ARTICLE VIII. – WATER CONSERVATION FOR LANDSCAPE IRRIGATION

Sec. 36-500 – Intent and Purpose.

It is the intent and purpose of this section to implement procedures that promote water conservation through the efficient use of landscape irrigation.

Sec. 36-501 – Definitions.

For the purpose of this section, the following terms, phrases, words, and their derivatives shall have the meaning listed below. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

- a) Address means the “house number” (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific property. This includes “rural route” numbers, but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property’s address. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community’s address), then the community’s main address shall be the property’s address. If a property has no address, it shall be considered “even-numbered.”
- b) Athletic Play Area means all golf course fairways, tees, roughs, greens, and other athletic play surfaces; including, football, baseball, soccer, polo, tennis, and lawn bowling fields, and rodeo, equestrian, and livestock arenas.
- c) Consumptive Use Permit (CUP) means a permit issued pursuant to Chapter 40E-2, F.A.C., authorizing the consumptive use of water.
- d) District means the South Florida Water Management District, a government entity created under Chapter 373, Florida Statutes.
- e) Even Numbered Address means an address ending in the numbers 0, 2, 4, 6, 8, or rights-of-way or other locations with no address, or the letters A-M.
- f) Existing Landscaping means any landscaping which has been planted and in the ground for more than ninety (90) days.
- g) Landscape Irrigation means the outside watering of shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale, which are planted and situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way, except athletic play areas.
- h) Landscaping means shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora not intended for resale, which are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way, except athletic play areas.
- i) Low Volume Hand Watering means the watering of landscape by one (1) person, with one (1) hose, fitted with a self-canceling or automatic shutoff nozzle.

- j) Low Volume Irrigation means the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated, and to allow that water to be placed with a high degree of efficiency in the root zone of the plant. The term also includes water used in mist houses and similar establishments for plant propagation. Overhead irrigation and flood irrigation are not included.
- k) Micro-Irrigation means the application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitter or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or concepts, such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.
- l) New Landscaping means any landscaping which has been planted in the ground for ninety (90) days or less.
- m) Odd Numbered Address means an address ending in the numbers 1, 3, 5, 7, 9, or the letters N-Z.
- n) Reclaimed Water means wastewater that has received at least secondary treatment and basic disinfection, and is reused after flowing out of a wastewater treatment facility as defined by Rule 62-40.210, F.A.C.
- o) User means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee, or other legal entity whether natural or artificial, the United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells or pumps.
- p) Wasteful and Unnecessary Water Use means allowing water to be dispersed without any practical purpose to the water use; for example, excessive landscape irrigation, leaving an unattended hose on a driveway with water flowing, allowing water to be dispersed in a grossly inefficient manner regardless of the type of water use; for example, allowing landscape irrigation water to unnecessarily fall onto pavement, sidewalks, and other impervious surfaces; or allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.
- q) Water Resource means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.
- r) Water Shortage means when the District determines there is the possibility that insufficient water will be available to meet the present and anticipated needs of the users, or when conditions are such as to require a temporary reduction in total use within a particular area to protect water resources from serious harm. A water shortage usually occurs due to drought.
- s) Water Shortage Emergency means when the District determines the provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or commercial, industrial, agricultural, recreational, or other reasonable-beneficial uses.

Sec. 36-502 – Applicability.

The provisions of this Ordinance shall apply to each user providing landscape irrigation from all water resources within the boundaries of the City of Fort Pierce with the following exceptions:

- (1) The use of reclaimed water, which may or may not be supplemented from another source;
- (2) Irrigation at agricultural and nursery operations; and

(3) Irrigation of athletic play areas.

Sec. 36-503 - Year-Round Landscape Irrigation Conservation Measures.

The City of Fort Pierce adopts the rules of the South Florida Water Management District, listed in subsection 40E-24.201 (1)-(6), F.A.C., including subsequent additions or corrections which are set out as follows:

- (1) The year-round landscape irrigation conservation measures contained in this Ordinance are applicable to all users including permitted and exempt users under Chapter 40E-2, F.A.C., unless otherwise indicated. These conservation measures apply to all water sources, except that the use of reclaimed water, which may or may not be supplemented from another source, is allowed anytime. In addition to the requirements of this section, all permitted users under Chapter 40E-2, F.A.C., are required to maintain compliance with all CUP conditions and terms, including those designed to require the implementation of water conservation practices.
- (2) Any restrictions or other measures declared pursuant to Chapter 40E-21, F.A.C., or related Board or Executive Director orders which are more restrictive than a measure contained within this chapter, shall supersede this rule for the duration of the applicable water shortage declaration.
- (3) It shall be the duty of each water user to keep informed as to the landscape irrigation conservation measures presented within this chapter, which affect each particular water use.
- (4) In addition to the specific conservation measures enumerated below, all wasteful and unnecessary water use is prohibited.
- (5) The following requirements shall apply to all users, unless specified otherwise herein:
 - (a) Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.
 - (b) Irrigation of new landscaping shall comply with the following provisions:
 - i. On the day the new landscaping is installed, the new landscaping may be irrigated once without regard to the normally allowable watering days and times. Irrigation of the soil immediately prior to the installation of the new landscaping is allowed without regard to the normal allowable watering days and times.
 - ii. The ninety (90) day period begins on the day the new landscaping is installed. The new landscaping shall be installed within a reasonable time from the date of purchase, which may be demonstrated with a dated receipt or invoice.
 - iii. Irrigation of new landscaping which has been in place for thirty (30) days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday, and Sunday.
 - iv. Irrigation of new landscaping which has been in place for thirty-one (31) to ninety (90) days may be accomplished on Monday, Wednesday, Thursday, and Saturday.
 - v. Irrigation of new landscaping is limited to areas containing the new landscaping only. An entire zone of an irrigation system shall only be utilized for landscape irrigation under

this paragraph if the zone in question is for an area that contains at least 50% new landscaping. If a zone contains less than 50% new landscaping, or if the new landscaping is in an area that will not typically be irrigated by an irrigation system, only the individual new plantings are eligible for additional irrigation under this paragraph. Targeted watering may be accomplished by low volume hand watering, or any appropriate method which isolates and waters only the new landscaping.

- (c) Landscape irrigation systems may be operated during restricted days and/or times for cleaning, maintenance, and repair purposes with an attendant on site in the area being tested. Landscape irrigation systems may routinely be operated for such purposes no more than once per week, and the run time for any one test should not exceed 10 minutes per zone.
- (d) Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides, fungicides and herbicides, where such watering-in is recommended by the manufacturer, or by federal, state or local law, or best management practices, shall be allowed under the following conditions:
 - i. Such watering-in shall be limited to one application unless the need for more than one application is stated in the directions for application specified by the manufacturer; and
 - ii. Such watering-in shall be accomplished during normally allowable watering days and times set forth in subsections (5)(a) and (6), unless a professional licensed applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity.
- (e) Any plant material may be watered using low volume irrigation, micro-irrigation, low-volume hand watering methods, and rain barrels, cisterns, or other similar rain-harvesting devices without regard to the watering days or times allowed pursuant to this section.
- (6) Irrigation of existing landscaping shall comply with the following provisions:
 - (a) Even addresses, installations with irrigation systems that irrigate both even and odd addresses within the same zones, such as multi-family units and homeowners' associations, and rights-of-way or other locations with no address shall have the opportunity to accomplish necessary landscape irrigation only on Thursday and Sunday.
 - (b) Odd addresses shall have the opportunity to accomplish necessary landscape irrigation only on Wednesday and Saturday.

Sec. 36-504 - Additional Requirements.

Any user who purchases and installs an automatic landscape irrigation system shall properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture in accordance with section 373.62, Florida Statutes.

Sec. 36-505 - Variances.

- (1) Users may request relief from the provisions of this chapter by filing a petition for variance or waiver pursuant to section 120.542, Florida Statutes and Chapter 28-104, F.A.C.
- (2) A variance or waiver from the specific day or days identified herein may be granted by the City if the applicant demonstrates with particularity that compliance with the schedule of days for landscape irrigation will result in a substantial hardship on the applicant requesting the variance or those served by the applicant.
- (3) The City recognizes all irrigation variances or waivers issued by the District under Rule 40E-24.501, F.A.C.
- (4) If granted, the applicant shall post a notice at each parcel to which the variance pertains.
- (5) A variance or waiver is invalid if it has expired or if the user or its agent violates the terms of the variance or waiver.

Sec. 36-506 -- Declaration of Water Shortage or Water Shortage Emergency.

Declaration of a water shortage and/or water shortage emergency within all or parts of the City by the District's Governing Board or Executive Director shall supersede this Ordinance for the duration of the applicable water shortage declaration in accordance with the City of Fort Pierce Code of Ordinances Section 36-52. A water shortage usually occurs due to drought.

Sec. 36-507 - Enforcement.

- (1) In the absence of a declaration of water shortage or water shortage emergency within all or any parts of the City by the District's Governing Board or Executive Director, the listed landscape irrigation restrictions shall be subject to enforcement action.
- (2) The City authorizes the Fort Pierce Police Department's officers, the City's code enforcement officers, and any other City employees designated by the city manager to enforce this section.
- (3) Each day and/or incident in violation of this section shall constitute a separate offense. Violators may be provided with no more than one (1) written warning within a six (6) month period. In addition to the civil penalties provided, the City may take any other appropriate legal action, including, but not limited to, injunctive action to enforce the provisions of this article.

Sec. 36-508 - Penalties.

- (1) Violations of any provision of this section shall be enforced pursuant to Chapter 1, Article II of the City of Fort Pierce Code of Ordinances.

Sec. 36-509 – 36-515. Reserved.

SECTION 2. In the event a court of competent jurisdiction should determine hereafter that any part of this ordinance is invalid, for any reason, then, in such event, the invalid portion shall be severed, with the remainder of such ordinance to be given full force and effect.

SECTION 3. All ordinances or parts of ordinances in conflict herewith shall and the same be repealed as of the effective date hereof and shall be of no further force or effect whatsoever.

SECTION 4. This ordinance is and the same shall become effective immediately upon final passage hereof.

APPROVED AS TO FORM
AND CORRECTNESS:

Tanya M. Earley, Esq.
City Attorney

STATE OF FLORIDA
COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. _____ was duly advertised by title only in the St. Lucie News Tribune on _____; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on Monday, _____; and was duly introduced, read by title only, and passed on second and final reading on Monday, _____, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida.

Linda Hudson
MAYOR COMMISSIONER

ATTEST

Linda W. Cox
CITY CLERK

Local Adoption of Year-Round Irrigation Ordinances

Ft. Pierce, FL
January 9th, 2023

Rosinés Colón Ortega
Water Conservation Analyst
South Florida Water Management District

Chapter 40E-24, F.A.C. – “Year-Round Rule”

- The Mandatory Year-Round Landscape Irrigation Rule (YRR) was implemented to safeguard our regional water resources (drinking water & environmental)
- Targets the largest area of urban water use (upwards of 50% of all utility-supplied residential water is used for landscape irrigation)
- Limits irrigation (to supplement rainfall) to an amount that will sustain healthy lawns in normal rainfall years
- St. Johns River and Southwest Florida Water Management Districts have similar rules in place

"Year-Round Rule" History

- 2003 40E-24 Florida Administrative Code codified year-round irrigation restrictions for Lee, Collier, and Charlotte Counties
- 2010 Rule amended to apply District-Wide (16 Counties 2 or 3 days/week)
- 2014 Rule amended to reflect reference to amended District permitting rules; no substantive changes to rule itself

**Rules of the
South Florida Water Management District**

**Mandatory Year-Round Landscape
Irrigation Conservation Measures
CHAPTER 40E-24, F.A.C.**







Effective: July 14, 2014

"Year-Round Rule" 101



No watering from 10am to 4pm

	IF YOUR ADDRESS ENDS IN...	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
ODD	1, 3, 5, 7, 9							
EVEN	0, 2, 4, 6, 8							

Properties with no address number follow Even schedule

"Year-Round Rule" 101

- Local governments in some southern counties have a three-day option
 - Broward
 - Collier
 - Glades
 - Hendry
 - Lee
 - Martin
 - Miami-Dade
 - Monroe
 - Palm Beach
 - St. Lucie
- Contains exceptions for low-volume irrigation, watering in of lawn chemicals, and irrigation system maintenance
- Reclaimed water is exempt



Governing Board Initiative - 2020

- Rule 40E-24 encourages local governments to adopt an ordinance in support.
- By 2020 few local ordinances had been adopted.
- The District's Governing Board directed staff to engage with local governments to promote the adoption of the local government option.
- Effective implementation of this irrigation conservation measure cannot be done by District staff alone.



Governing Board initiative - 2020

District Staff created model ordinances to help local governments with the adoption of the rule.

A properly constructed year-round irrigation ordinance has three elements:

1. Days and times (hours) irrigation is allowed or not allowed based on address, **and** exceptions/exemptions
2. Compliance and enforcement provisions (may contain actual penalties)
3. A variance procedure for users who cannot meet the prescribed days and allowable times

Local Government Model Ordinances and Codes

To assist local governments educate their residents and businesses on their allowable irrigation times, the District has created the following items. Download these assets for free:

- [SFWMD Fact Sheet](#)
- [Template Door Hanger for Two Day A Week Watering](#)
- [Template Door Hanger for Three Day A Week Watering](#)
- [Template Local Government Fact Sheet for Two Day a Week Watering](#)
- [Template Local Government Fact Sheet for Three Day a Week Watering](#)



Model Ordinance and Model Code Language for the District's Mandatory Year-Round Landscape Irrigation Conservation Measures

The Year-Round Landscape Irrigation Rule (YRR) is a component of the South Florida Water Management District's Comprehensive Water Conservation Program, which was established to encourage more responsible use of water resources throughout South Florida. Local governments are encouraged to adopt an ordinance in accordance with [Rule 40E-24.301, F.A.C.](#)

Although the District sees utilities as having a role in supporting the YRR, the District strongly encourages local governments, not utilities, to take the *lead* role in adopting ordinances or codes supporting YRR measures. Any local ordinance or code applies to all users within the municipalities boundaries, not just those users served with potable water by a utility.

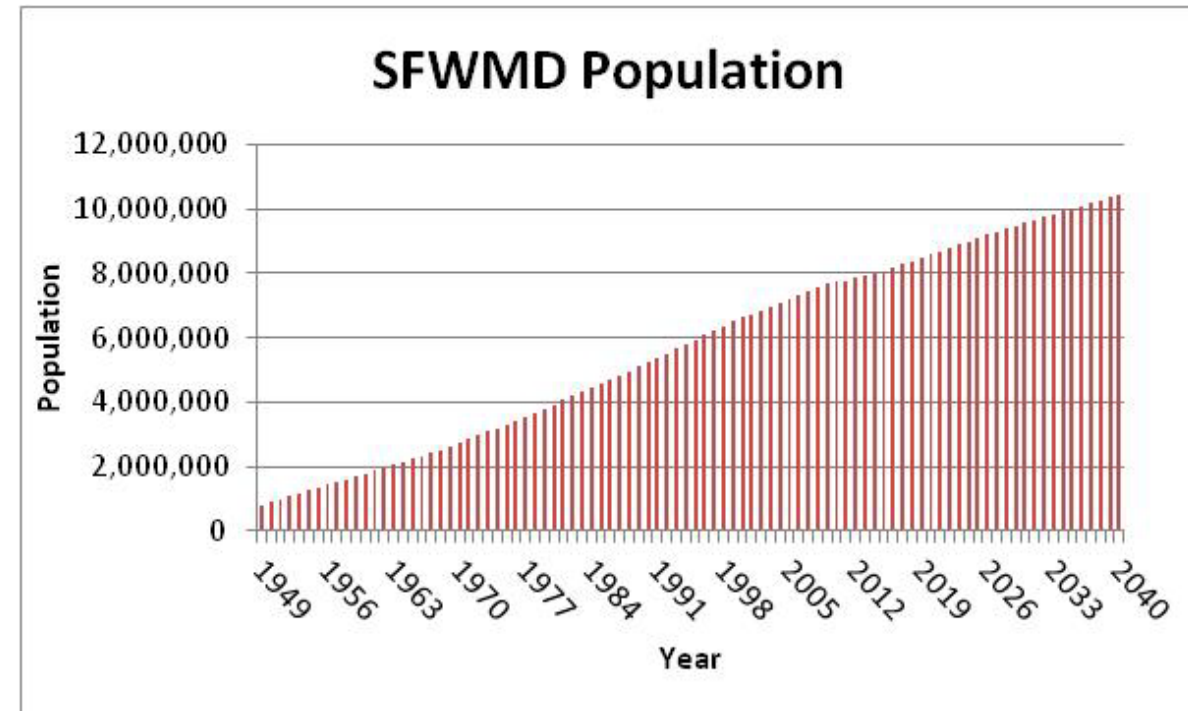
To assist local governments in adopting a year-round irrigation ordinance, the District has drafted 1) a model ordinance; and 2) a model for code language. Among other elements, local ordinances should include sections describing the locality's provisions for variances, enforcement, and penalties for infractions. The model ordinance and code language documents contain guidance for these provisions. In addition, the District reviewed and compiled penalty rates from 55 localities and present the findings in a separate document called *YRR Penalty Rate Review*.

These documents can be accessed via the links below.

- [YRR Model Ordinance 2-Day/Week](#)
- [YRR Model Code Language 2-Day/Week](#)
- [YRR Penalty Rate Review](#)

Why should local governments join this initiative?

- More than half of the Public Water Supply is used for landscape irrigation.
- Florida receives an average of 52 inches of rain per year. However, about 70% is lost due to runoff and limited storage.
- South Florida's population is expected to keep increasing and so are the water demands



Questions

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Kathryn LaMartina, PMP
Regional Representative
Martin and St. Lucie Counties
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CHAPTER 40E-24
MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION MEASURES CONSERVATION MEASURES

40E-24.011	Policy and Purpose
40E-24.101	Definitions
40E-24.201	Year-Round Landscape Irrigation Conservation Measures
40E-24.301	Local Government Option
40E-24.401	Enforcement
40E-24.501	Variances and Waivers

40E-24.011 Policy and Purpose.

(1) This chapter comprises the Mandatory Year-Round Landscape Irrigation Conservation Measures within the boundaries of the South Florida Water Management District (District). These mandatory conservation measures are intended to provide a framework for consistent implementation to ensure the long-term sustainability of the water resources of the region, increase water use efficiency and prevent and curtail wasteful water use practices through regulatory means for landscape irrigation by all users. Water savings achieved by public and private water supply utilities through conservation may be used to extend the availability of all water sources to meet future demands and defer the need for additional capital investment in alternative water supplies, subject to compliance with Chapter 40E-2, F.A.C. Local governments are encouraged to implement these conservation measures through the adoption of ordinances that would include these measures, variance and enforcement provisions. These measures are in addition to the Chapter 40E-2, F.A.C., provisions and non-regulatory measures, such as education and incentive programs, which are also utilized by the District to promote water conservation. These conservation measures prohibit landscape irrigation during those periods of the day when irrigation efficiency significantly decreases, and limit landscape irrigation water use to two days per week except as specified herein. Users are encouraged to apply no more than 3/4-inch to 1-inch of water per week on their lawns and landscapes and only as needed to supplement rainfall. However, provisions have been made in this chapter to allow landscape irrigation three days per week in designated counties to address utility operational, health, and safety and landscape concerns.

(2) This chapter applies to all water users unless specified otherwise herein.

(3) This chapter only applies to landscape irrigation as defined herein. This chapter does not apply to agricultural irrigation.

(4) In concert with the establishment of the year round landscape irrigation conservation measures of this chapter, the District commits to the following activities:

(a) Coordinate with stakeholders to develop and implement a water conservation partnership plan to further promote conservation and efficient use of water;

(b) On at least an annual basis, evaluate the implementation and effectiveness of the District's water conservation partnership plan; and,

(c) No later than five years from the effective date of this chapter, District staff shall provide the Governing Board with recommendations based on a comprehensive evaluation of this chapter and its implementation. The Governing Board may revise this chapter at any time, as it deems appropriate.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.171, 373.219, 373.223, 373.227 FS. History—New 6-12-03, Amended 3-15-10, 7-14-14.

40E-24.101 Definitions.

When used in this chapter:

(1) "Address" means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific property. This includes "rural route" numbers but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property's address. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community's address), then the community's main address shall be the property's address. If a property has no address it shall be considered "even-numbered".

(2) "Athletic play area" means all golf course fairways, tees, roughs, and greens, and other athletic play surfaces; including, football, baseball, soccer, polo, tennis and lawn bowling fields, and rodeo, equestrian and livestock arenas.

(3) “Consumptive Use Permit (CUP)” means a permit issued pursuant to Chapter 40E-2, F.A.C., authorizing the consumptive use of water.

(4) “Even Numbered Address” means an address, ending in the numbers 0, 2, 4, 6, 8 or rights-of-way or other locations with no address, or the letters A-M.

(5) “Existing landscaping” means any landscaping which has been planted and in the ground for more than ninety (90) days.

(6) “Landscaping” means shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora, not intended for resale, which are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way except athletic play areas as defined in subsection 40E-24.101(2), F.A.C.

(7) “Low Volume Hand Watering” means the watering of landscape by one person, with one hose fitted with a self-canceling or automatic shutoff nozzle.

(8) “Low Volume Irrigation” means the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated and to allow that water to be placed with a high degree of efficiency in the root zone of the plant. The term also includes water used in mist houses and similar establishments for plant propagation. Overhead irrigation and flood irrigation are not included.

(9) “Landscape Irrigation” means the outside watering of shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora, not intended for resale, which are planted and are situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way except athletic play areas as defined in subsection 40E-24.101(2), F.A.C.

(10) “Micro-irrigation” means the application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitter or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or concepts such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.

(11) “New landscaping” means any landscaping which has been planted and in the ground for ninety (90) days or less.

(12) “Odd Numbered Address” means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

(13) “Reclaimed Water” means wastewater that has received at least secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility as defined by Rule 62-40.210, F.A.C.

(14) “User” means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity whether natural or artificial, the United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells or pumps.

(15) “Wasteful and unnecessary” means allowing water to be dispersed without any practical purpose to the water use; for example, excessive landscape irrigation, leaving an unattended hose on a driveway with water flowing, allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use; for example, allowing landscape irrigation water to unnecessarily fall onto pavement, sidewalks and other impervious surfaces; allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.171, 373.219, 373.223, 373.227 FS. History—New 6-12-03, Amended 3-15-10, 7-14-14.

40E-24.201 Year-Round Landscape Irrigation Conservation Measures.

(1) The year-round landscape irrigation conservation measures contained in this chapter are applicable to all users as defined in subsection 40E-24.101(14), F.A.C., including permitted and exempt users under Chapter 40E-2, F.A.C., unless indicated otherwise herein. These conservation measures apply to all water sources, except that the use of reclaimed water, which may or may not be supplemented from another source, is allowed anytime. In addition to the requirements of this section, all permitted users under Chapter 40E-2, F.A.C., are required to maintain compliance with all CUP conditions and terms, including those designed to require the implementation of water conservation practices.

(2) Any restrictions or other measures declared pursuant to Chapter 40E-21, F.A.C., or related Board or Executive Director orders which are more restrictive than a measure contained within this chapter, shall supersede this rule for the duration of the applicable water shortage declaration.

(3) It shall be the duty of each water user to keep informed as to the landscape irrigation conservation measures presented within this chapter, which affect each particular water use.

(4) In addition to the specific conservation measures enumerated below, all wasteful and unnecessary water use as defined in subsection 40E-24.101(15), F.A.C., is prohibited.

(5) The following requirements or exceptions shall apply to all users unless specified otherwise herein:

(a) Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.

(b) Irrigation of new landscaping shall comply with the following provisions:

1. On the day the new landscaping is installed, the new landscaping may be irrigated once without regard to the normally allowable watering days and times. Irrigation of the soil immediately prior to the installation of the new landscaping is also allowable without regard to the normal allowable watering days and times.

2. The ninety (90) day period begins the day the new landscaping is installed. The new landscaping shall be installed within a reasonable time from the date of purchase, which may be demonstrated with a dated receipt or invoice.

3. Irrigation of new landscaping which has been in place for thirty (30) days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday and Sunday.

4. Irrigation of new landscaping which has been in place for thirty-one (31) to ninety (90) days may be accomplished on Monday, Wednesday, Thursday and Saturday.

5. Irrigation of the new landscaping is limited to areas containing the new landscaping only. An entire zone of an irrigation system shall only be utilized for landscape irrigation under this paragraph if the zone in question is for an area that contains at least 50% new landscaping. If a zone contains less than 50% new landscaping, or if the new landscaping is in an area that will not typically be irrigated by an irrigation system, only the individual new plantings are eligible for additional irrigation under this paragraph. Targeted watering may be accomplished by low volume hand watering, or any appropriate method which isolates and waters only the new landscaping.

(c) Landscape irrigation systems may be operated during restricted days and/or times for cleaning, maintenance, and repair purposes with an attendant on site in the area being tested. Landscape irrigation systems may routinely be operated for such purposes no more than once per week, and the run time for any one test should not exceed 10 minutes per zone.

(d) Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides, fungicides and herbicides, where such watering-in is recommended by the manufacturer, or by federal, state or local law, or best management practices, shall be allowed under the following conditions:

1. Such watering-in shall be limited to one application unless the need for more than one application is stated in the directions for application specified by the manufacturer; and

2. Such watering-in shall be accomplished during normally allowable watering days and times set forth in paragraph (5)(a), subsections (6) and (7) unless a professional licensed applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity.

(e) Any plant material may be watered using low volume irrigation, micro-irrigation, low-volume hand watering methods, and rain barrels, cisterns, or other similar rain-harvesting devices without regard to the watering days or times allowed pursuant to this section.

(6) Except as authorized in subsection (7), below, irrigation of existing landscaping shall comply with the following provisions:

(a) Even addresses, installations with irrigation systems that irrigate both even and odd addresses within the same zones, such as multi-family units and homeowners' associations, and rights-of-way or other locations with no address as defined in subsection 40E-24.101(4), F.A.C., shall have the opportunity to accomplish necessary landscape irrigation only on Thursday and Sunday.

(b) Odd addresses as defined in subsection 40E-24.101(12), F.A.C., shall have the opportunity to accomplish necessary landscape irrigation only on Wednesday and Saturday.

(7) Users located in Broward, Collier, Glades, Hendry, Lee, Martin, Miami-Dade, Monroe, Palm Beach, and St. Lucie counties shall irrigate existing landscaping in accordance with the provisions set forth in subsection (6), above, or as provided below.

(a) Even addresses, installations with irrigation systems that irrigate both even and odd addresses within the same zones, such as multi-family units and homeowners' associations, and rights-of-way or other locations with no address as defined in subsection 40E-24.101(4), F.A.C., shall have the opportunity to accomplish necessary landscape irrigation only on Tuesday, Thursday and Sunday.

(b) Odd addresses as defined in subsection 40E-24.101(12), F.A.C., shall have the opportunity to accomplish necessary

landscape irrigation only on Monday, Wednesday and Saturday.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.171, 373.219, 373.223, 373.227 FS. History—New 6-12-03, Amended 3-15-10, 7-14-14.

40E-24.301 Local Government Option.

(1) Local governments that wish to enforce alternative landscape irrigation conservation measures, shall be considered to be in substantial compliance with this rule upon the enactment of an ordinance establishing landscape irrigation measures which achieve water conservation consistent with the number of days and times for landscape irrigation set forth in subsections 40E-24.201(5)-(7), F.A.C. Such ordinance shall provide for variance and enforcement procedures that do not diminish the effectiveness of the measures.

(2) Local governments with a jurisdiction divided between the South Florida Water Management District and another water management district may enact an ordinance providing for alternative landscape irrigation conservation measures as necessary for the local government to achieve a uniform schedule within its jurisdiction that is in accordance with at least one of the involved water management district rules.

(3) At least thirty (30) days prior to the adoption of an ordinance for alternative landscape irrigation conservation measures, the local government shall submit the proposed ordinance to the District.

(4) In order to evaluate the effectiveness of the alternative conservation measures, such local governments shall provide an annual report to the District which includes any variances granted or denied, enforcement actions taken and any measures proposed to be amended in the next reporting period. Each annual report shall be submitted to the District no later than September 30th of each year following the adoption of this chapter.

(5) Users within the jurisdiction or customers of such local governments shall comply with the alternative landscape irrigation conservation measures contained within the ordinance implementing that program and are not subject to the measures contained in subsections 40E-24.201(5)-(7), F.A.C.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.171, 373.219, 373.223, 373.227, 373.609 FS. History—New 6-12-03, Amended 3-15-10.

40E-24.401 Enforcement.

(1) As required by Section 373.609, F.S., each county and city commission, state and county attorney, sheriff, police officer and other appropriate local government official in the region covered by this chapter which is not implementing alternative landscape irrigation conservation measures pursuant to a local government ordinance, shall respond to address-specific or location-specific violations of this chapter upon request from the District.

(2) A local government is strongly encouraged to enforce Rule 40E-24.201, F.A.C., within its jurisdiction by adopting an ordinance that incorporates the provisions set forth in Rule 40E-24.201, F.A.C. At least thirty (30) days prior to the adoption of an ordinance to enforce Rule 40E-24.201, F.A.C., the local government shall submit the proposed ordinance to the District.

(3) In enforcing the provisions of this chapter the District will utilize any of the enforcement remedies available pursuant to Chapter 120 or 373, F.S., or applicable District rule. The Executive Director may take appropriate action pursuant to Sections 373.119, 373.175(4), 373.246(7) and 120.69, F.S., to enforce the provisions of this chapter.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.119, 373.171, 373.175(4), 373.219, 373.227, 373.246(7), 373.603, 373.609 FS. History—New 6-12-03, Amended 3-15-10.

40E-24.501 Variances and Waivers.

(1) Users may request relief from the provisions of this chapter by filing a petition for variance or waiver pursuant to Section 120.542, F.S. and Chapter 28-104, F.A.C. Examples of circumstances, which, subject to the above-referenced statute and rule and the provisions below, may be candidates for the issuance of a variance, include but are not limited to:

(a) Two or more properties which share a common source of water;

(b) A public or private water system experiencing, or anticipating distribution problems that cannot be addressed through Rule 40E-24.301, F.A.C.;

(c) User maintains an irrigation system that uses soil moisture sensors with remote monitoring and adjustment capabilities that satisfies the requirements set forth in Section 373.62(7), F.S.

(2) A variance or waiver is invalid if it has expired or if the user or its agent violates the terms of the variance or waiver.

(3) Where a local government has adopted an ordinance incorporating the provisions set forth in Rule 40E-24.201, F.A.C., or alternative landscape irrigation measures pursuant to Rule 40E-24.301, F.A.C., the local government may grant a variance from the specific day or days for landscape irrigation identified in the ordinance, or the specific day or days for landscape irrigation identified in the ordinance adopting the alternative landscape irrigation measures, provided that the applicant demonstrates with particularity that compliance with the schedule of days for landscape irrigation will result in a substantial hardship on the applicant requesting the variance or those served by the applicant. If granted, the applicant shall be required to post a notice at each parcel to which the variance pertains.

Rulemaking Authority 120.542, 373.044, 373.113, 373.171 FS. Law Implemented 120.542, 373.119, 373.171, 373.175(4), 373.219, 373.227, 373.246(7), 373.603, 373.609 FS. History--New 3-15-10.

City Commission Conference Agenda

4. d.

Meeting Date: 01/09/2023

Re: Dog Friendly Beach

Submitted For: Nick Mimms, City Manager, City Manager

SUBJECT:

Discussion of creating a dog friendly beach in Fort Pierce

Attachments

SLC Ordinance No. 03-28

SLC July 2003 Agenda Item

SLC August 2003 Agenda Item

Parks Advisory Committee Recommendations

Form Review

Inbox	Reviewed By	Date
City Manager	Nick Mimms	12/30/2022 12:56 PM
City Manager	Nick Mimms	01/04/2023 08:19 AM
Form Started By: Jennifer Robinson		Started On: 12/09/2022 02:52 PM
Final Approval Date: 01/04/2023		

Copy to: Finance
OMB
File
PARKS-12/16/03

ORDINANCE NO. 03-28

AN ORDINANCE AMENDING SECTION 1-15, ARTICLE II OF THE CODE OF ORDINANCES AND COMPILED LAWS OF ST. LUCIE COUNTY, FLORIDA, TO PROVIDE FOR DOGS ON THE BEACH UNDER THE CONDITIONS CREATED IN SECTION 1-15-25(a)(3); PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR AN EFFECTIVE DATE; ADOPTION; AND CODIFICATION.

1. WHEREAS, on November 9, 1982, the St. Lucie County Board of County Commissioners adopted Ordinance No. 82-10, which created Section 1-5-25(a) of the Code of Ordinances and Compiled Laws of St. Lucie County, Florida, adopted November 9, 1982, prohibiting dogs and other animals on the beach.

2. WHEREAS, on March 8, 1988, the St. Lucie County Board of County Commissioners adopted Ordinance 88-14, which provided that Section 1-15-25(a) was amended and that horseback riding was allowed on the beach.

3. WHEREAS, it is appropriate to further amend Chapter 1-5-25 to permit leashed dogs on Walton Rocks Beach via the two southernmost Beach Access points .

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of St. Lucie County, Florida:

PART A. AMENDMENT OF SECTION 1-15, ARTICLE II (PARKS AND RECREATION) OF THE ST. LUCIE COUNTY CODE OF ORDINANCES AND COMPILED LAWS

Section 1-15, ARTICLE II (Parks and Recreation) of the Code of Ordinances and Compiled Laws of St. Lucie County, Florida, is hereby amended to read as follows:

Struck through words are deleted.
Underlined words are added.

for: County atty

Sec. 1-15-25. Beaches.

(a) No dog or other animal will be permitted on the beach areas regulated by this article except as set out below:

1. Authorized law enforcement dogs being used for emergency purposes and patrol.
2. Horses engaged in horseback riding activities if authorized by permit from the Director of Recreation and Parks of St. Lucie County and subject to Section 1-7.6-55(2) setting forth further restrictions during turtle nesting season (May 1 - October 31).
3. A maximum of three (3) dogs per person may be permitted on Walton Rocks Beach provided the following:

(a) Any person having a dog on the beach must keep the dog under control. If the dog annoys or bothers other people, dogs or animals the dog must be fastened to a suitable leash of dependable strength not to exceed eight (8) feet in length and leash must be held or controlled.

(b) Any person having a dog on the beach must carry with and on such person suitable materials and utensils with which to remove from the beach any fecal matter deposited by such dog and must remove any fecal matter immediately upon its deposit by the dog under the person's supervision and control.

(c) Each such dog must have affixed to its collar a current rabies inoculation tag evidencing the dog has been properly inoculated against rabies within the past year.

PART B. CONFLICTING PROVISIONS.

Special acts of the Florida legislature applicable only to unincorporated areas of St. Lucie County, and adopted prior to January 1, 1969, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

~~Struck through~~ words are deleted.

Underlined words are added.

PART C. SEVERABILITY AND APPLICABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property, or circumstance, such holding shall not affect its applicability to any other person, property, or circumstance.

PART D. FILING WITH THE DEPARTMENT OF STATE.

The Clerk is hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code and Laws, Department of State, The Capitol, Tallahassee, Florida 32304.

PART E. EFFECTIVE DATE.

A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners of St. Lucie County within ten days after enactment by the Board, and this ordinance shall take effect on October 15, 2003.

PART F. ADOPTION.

After motion and second, the vote on this ordinance was as follows:



Chairman Cliff Barnes	AYE
Vice Chairman Paula A. Lewis	AYE
Commissioner Frannie Hutchinson	AYE
Commissioner John D. Bruhn	AYE
Commissioner Doug Coward	AYE

PART G. CODIFICATION.


Provisions of this ordinance shall be incorporated in the Code of Ordinances of St. Lucie County, Florida, and the word "ordinance" may be changed to "section", "article", or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that Parts B through G shall not be codified.

PASSED AND DULY ADOPTED this 19th day of August, 2003.

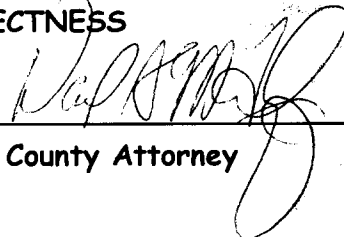
ATTEST:

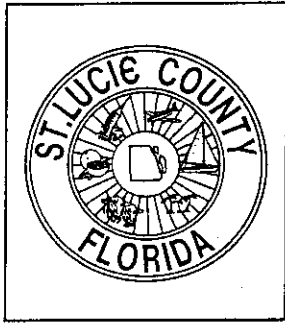

Deputy Clerk


BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA

BY: 
Chairman

APPROVED AS TO FORM AND
CORRECTNESS


County Attorney



AGENDA REQUEST

ITEM NO. 5A

DATE: July 15, 2003

REGULAR []

PUBLIC HEARING [x]

CONSENT []

TO: BOARD OF COUNTY COMMISSIONERS

PRESENTED BY:

SUBMITTED BY(DEPT): County Attorney

Katherine Mackenzie-Smith
Assistant County Attorney

SUBJECT: Ordinance No. 03-028 - Amending Section 1-15 Article II (Parks & Recreation) of the Code of Ordinances and Compiled Laws by providing for dogs on Walton Rocks Beach under certain conditions

BACKGROUND: See attached memorandum

FUNDS AVAILABLE: N/A

RECOMMENDATION

CONCLUSION: Staff recommends that the Board of County Commissioners approve Ordinance No. 03-028 and authorize the signing of the Ordinance.

COMMISSION ACTION:

CONCURRENCE:

[] APPROVED [] DENIED
[] OTHER:

Douglas M. Anderson
County Administrator

Review and Approvals

[X] County Attorney: *[Signature]* [x] Management & Budget: _____ [x] Purchasing: _____

[] Comm. Development: _____ [] Public Works Director _____ [] Solid Waste Mgr _____

[] Finance:(check for copy only, if applicable) _____

INTER-OFFICE MEMORANDUM
COUNTY ATTORNEY'S OFFICE
ST. LUCIE COUNTY, FLORIDA

TO: Board of County Commissioners

FROM: Katherine Mackenzie-Smith, Assistant County Attorney *KMS*

C.A. NO: 03-822

DATE: June 17, 2003

SUBJECT: Dogs on the Beach Ordinance No. 03-028 - Amending Section 1-15, Article II (Parks & Recreation) of the St. Lucie County Code of Ordinances and Compiled Laws

BACKGROUND:

Attached to this memorandum is a copy of proposed Ordinance No. 03-028, which would amend Section 1-15, Article II (Parks & Recreation) of the St. Lucie County Code of Ordinances and Compiled Laws.

On November, 9, 1982, the St. Lucie County Board of County Commissioners adopted Ordinance 82-10, which created Section 1-5-25(a) of the Code of Ordinances and Compiled Laws of St. Lucie County prohibiting dogs and other animals on the beach. On March 8, 1988, Ordinance 88-14 was adopted, which provided that Section 1-15-25(a) was amended and that horseback riding was allowed on the beach. It is appropriate to further amend Chapter 1-5-25 to permit leashed dogs on Walton rocks Beach via the two southernmost Beach Access points with certain restrictions:

- Maximum of three dogs per person
- Each dog must be fastened to a suitable leash not to exceed eight (8) feet in length and the leash must be held at all times
- Any person with a dog on the beach must carry utensils with which to remove fecal matter deposited by such dog immediately upon its deposit by the dog.
- Each such dog must have affixed to its collar a current rabies inoculation tag evidencing the dog has been properly inoculated against rabies within the past year.

Permission to advertise Ordinance 03-28 for public hearing was granted by the Board of County Commissioners on May 20, 2003.

RECOMMENDATION/CONCLUSION:

Staff recommends that the Board of County Commissioners approve Ordinance No. 03-028 and authorize the signing of the Ordinance.

KMS/cb

ORDINANCE NO. 03-28

AN ORDINANCE AMENDING SECTION 1-15, ARTICLE II OF THE CODE OF ORDINANCES AND COMPILED LAWS OF ST. LUCIE COUNTY, FLORIDA, TO PROVIDE FOR DOGS ON THE BEACH UNDER THE CONDITIONS CREATED IN SECTION 1-15-25(a)(3); PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR AN EFFECTIVE DATE; ADOPTION; AND CODIFICATION.

1. WHEREAS, on November 9, 1982, the St. Lucie County Board of County Commissioners adopted Ordinance No. 82-10, which created Section 1-5-25(a) of the Code of Ordinances and Compiled Laws of St. Lucie County, Florida, adopted November 9, 1982, prohibiting dogs and other animals on the beach.

2. WHEREAS, on March 8, 1988, the St. Lucie County Board of County Commissioners adopted Ordinance 88-14, which provided that Section 1-15-25(a) was amended and that horseback riding was allowed on the beach.

3. WHEREAS, it is appropriate to further amend Chapter 1-5-25 to permit leashed dogs on Walton Rocks Beach via the two southernmost Beach Access points .

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of St. Lucie County, Florida:

PART A. AMENDMENT OF SECTION 1-15, ARTICLE II (PARKS AND RECREATION) OF THE ST. LUCIE COUNTY CODE OF ORDINANCES AND COMPILED LAWS

Section 1-15, ARTICLE II (Parks and Recreation) of the Code of Ordinances and Compiled Laws of St. Lucie County, Florida, is hereby amended to read as follows:

~~Struck through~~ words are deleted.

Underlined words are added.

Sec. 1-15-25. Beaches.

(a) No dog or other animal will be permitted on the beach areas regulated by this article except as set out below:

1. Authorized law enforcement dogs being used for emergency purposes and patrol.
2. Horses engaged in horseback riding activities if authorized by permit from the Director of Recreation and Parks of St. Lucie County and subject to Section 1-7.6-55(2) setting forth further restrictions during turtle nesting season (May 1 - October 31).
3. A maximum of three (3) dogs per person may be permitted on Walton Rocks Beach via the two southernmost beach access points provided the following:

(a) Each such dog must be fastened to a suitable leash of dependable strength not to exceed eight (8) feet in length and the leash must be held or controlled by that person at all times.

(b) Any person having a dog on the beach must carry with and on such person suitable materials and utensils with which to remove from the beach any fecal matter deposited by such dog and must remove any fecal matter immediately upon its deposit by the dog under the person's supervision and control.

(c) Each such dog must have affixed to its collar a current rabies inoculation tag evidencing the dog has been properly inoculated against rabies within the past year.

PART B. CONFLICTING PROVISIONS.

Special acts of the Florida legislature applicable only to unincorporated areas of St. Lucie County, and adopted prior to January 1, 1969, County ordinances and County

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Underlined words are added.

resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

PART C. SEVERABILITY AND APPLICABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property, or circumstance, such holding shall not affect its applicability to any other person, property, or circumstance.

PART D. FILING WITH THE DEPARTMENT OF STATE.

The Clerk is hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code and Laws, Department of State, The Capitol, Tallahassee, Florida 32304.

PART E. EFFECTIVE DATE.

This ordinance shall take effect upon adoption.

PART F. ADOPTION.

After motion and second, the vote on this ordinance was as follows:

Chairman Cliff Barnes	XXX
Vice Chairman Paula A. Lewis	XXX
Commissioner Frannie Hutchinson	XXX
Commissioner John D. Bruhn	XXX
Commissioner Doug Coward	XXX

PART G. CODIFICATION.

Provisions of this ordinance shall be incorporated in the Code of Ordinances of St. Lucie County, Florida, and the word "ordinance" may be changed to "section", "article", or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that Parts B through G shall not be codified.

~~Struck through~~ words are deleted.

Underlined words are added.

PASSED AND DULY ADOPTED this XX day of XX, 2003.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA

Deputy Clerk

BY: _____
Chairman

APPROVED AS TO FORM AND
CORRECTNESS

County Attorney

G:\ATTY\ORDNANCE\2003\03-28.wpd

BEFORE THE BOARD
OF COUNTY
COMMISSIONERS
ST. LUCIE COUNTY,
FLORIDA

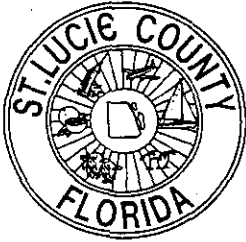
NOTICE OF INTENT

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Lucie County, Florida, will consider adopting County Ordinance No. 03-28 which amends Section 1-15, Article II of the St. Lucie County Code of Ordinances and Compiled Laws to provide for dogs on the beach under the conditions created in Section 1-15-25(a)(3). The Board will consider Ordinance No. 03-28 at its regular meeting on Tuesday, the 15th day of July, 2003 at 7:00 p.m. or as soon thereafter as the matter may be heard in the St. Lucie County Commission Chambers at the St. Lucie County Administration Building Annex, Third Floor, 2300 Virginia Avenue, Fort Pierce, Florida. Matters affecting your personal and property rights may be heard and acted upon. All interested persons are invited to attend and be heard. Written comments received in advance of the public hearing will also be heard. Copies of the proposed ordinance may be obtained from the County Attorney's Office, St. Lucie County Administration Building Annex, 2300 Virginia Avenue, Fort Pierce, Florida. Ordinance may be made at the public hearing. If any person decides to appeal any decision made with respect to any matter considered at the meetings or hearings of any board, committee, commission, agency, council or advisory group, that person will need a record of the proceedings and that, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record should include the testimony and evidence upon which the appeal is to be based. Upon the request of any party to the proceedings, individuals testifying during a hearing will be sworn in. Any party to the proceeding will be granted an opportunity to cross-examine any individual testifying during a hearing upon request.

ORDINANCE NO. 03-28
AN ORDINANCE AMENDING SECTION 1-15 OF THE CODE OF ORDINANCES AND COMPILED LAWS OF ST. LUCIE COUNTY, FLORIDA, TO PROVIDE FOR DOGS ON THE BEACH UNDER THE CONDITIONS CREATED IN SECTION 1-15-25(a)(3) PROVIDING FOR CONFLICTING PROVISIONS, PROVIDING FOR SEVERABILITY AND APPLICABILITY, PROVIDING FOR FINING WITH THE DEPARTMENT OF STATE PROVIDING FOR AN EFFECTIVE DATE AND A CODIFICATION.

THIS NOTICE EXECUTED and dated this 20th day of June, 2003.

Submitted by:
Daniel S. McMyre
County Attorney
Publish: June 20, 2003
2726351



AGENDA REQUEST

ITEM NO. 5A

DATE: August 19, 2003

REGULAR []

PUBLIC HEARING [x]

CONSENT []

TO: BOARD OF COUNTY COMMISSIONERS

PRESENTED BY:

SUBMITTED BY(DEPT): County Attorney

Katherine Mackenzie-Smith
Assistant County Attorney

SUBJECT: Ordinance No. 03-028 - Amending Section 1-15 Article II (Parks & Recreation) of the Code of Ordinances and Compiled Laws by providing for dogs on Walton Rocks Beach under certain conditions

BACKGROUND: See attached memorandum

FUNDS AVAILABLE: N/A

RECOMMENDATION

CONCLUSION: Staff recommends that the Board of County Commissioners approve Ordinance No. 03-028 and authorize the signing of the Ordinance.

COMMISSION ACTION

CONCURRENCE:

[] APPROVED [] DENIED
[] OTHER:

Douglas M. Anderson
County Administrator

Review and Approvals

[X] County Attorney: _____ [x] Management & Budget:

[x] Purchasing: _____

[] Comm. Development: _____ [] Public Works Director

[] Solid Waste Mgr

[] Finance:(check for copy only, if applicable)_____

INTER-OFFICE MEMORANDUM
COUNTY ATTORNEY'S OFFICE
ST. LUCIE COUNTY, FLORIDA

TO: Board of County Commissioners

FROM: Katherine Mackenzie-Smith, Assistant County Attorney *KMS*

C.A. NO: 03-822

DATE: June 17, 2003

SUBJECT: Dogs on the Beach Ordinance No. 03-028 - Amending Section 1-15, Article II (Parks & Recreation) of the St. Lucie County Code of Ordinances and Compiled Laws

BACKGROUND:

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- Any person with a dog on the beach must carry utensils with which to remove fecal matter deposited by such dog immediately upon its deposit by the dog.
- Each such dog must have affixed to its collar a current rabies inoculation tag evidencing the dog has been properly inoculated against rabies within the past year.

Permission to advertise Ordinance 03-28 for public hearing was granted by the Board of County Commissioners on May 20, 2003.

RECOMMENDATION/CONCLUSION:

Staff recommends that the Board of County Commissioners approve Ordinance No. 03-028 and authorize the signing of the Ordinance.

KMS/cb

ORDINANCE NO. 03-28

AN ORDINANCE AMENDING SECTION 1-15, ARTICLE II OF THE CODE OF ORDINANCES AND COMPILED LAWS OF ST. LUCIE COUNTY, FLORIDA, TO PROVIDE FOR DOGS ON THE BEACH UNDER THE CONDITIONS CREATED IN SECTION 1-15-25(a)(3); PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR AN EFFECTIVE DATE; ADOPTION; AND CODIFICATION.

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2. WHEREAS, on March 8, 1988, the St. Lucie County Board of County Commissioners adopted Ordinance 88-14, which provided that Section 1-15-25(a) was amended and that horseback riding was allowed on the beach.

3. WHEREAS, it is appropriate to further amend Chapter 1-5-25 to permit leashed dogs on Walton Rocks Beach via the two southernmost Beach Access points .

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of St. Lucie County, Florida:

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Underlined words are added.

Sec. 1-15-25. Beaches.

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1. Authorized law enforcement dogs being used for emergency purposes and patrol.
2. Horses engaged in horseback riding activities if authorized by permit from the Director of Recreation and Parks of St. Lucie County and subject to Section 1-7.6-55(2) setting forth further restrictions during turtle nesting season (May 1 - October 31).
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(b) Any person having a dog on the beach must carry with and on such person suitable materials and utensils with which to remove from the beach any fecal matter deposited by such dog and must remove any fecal matter immediately upon its deposit by the dog under the person's supervision and control.

(c) Each such dog must have affixed to its collar a current rabies inoculation tag evidencing the dog has been properly inoculated against rabies within the past year.

PART B. CONFLICTING PROVISIONS.

Special acts of the Florida legislature applicable only to unincorporated areas of St. Lucie County, and adopted prior to January 1, 1969, County ordinances and County

Struck through words are deleted.

Underlined words are added.

resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

PART C. SEVERABILITY AND APPLICABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property, or circumstance, such holding shall not affect its applicability to any other person, property, or circumstance.

PART D. FILING WITH THE DEPARTMENT OF STATE.

The Clerk is hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code and Laws, Department of State, The Capitol, Tallahassee, Florida 32304.

PART E. EFFECTIVE DATE.

This ordinance shall take effect upon adoption.

PART F. ADOPTION.

After motion and second, the vote on this ordinance was as follows:

Chairman Cliff Barnes	XXX
Vice Chairman Paula A. Lewis	XXX
Commissioner Frannie Hutchinson	XXX
Commissioner John D. Bruhn	XXX
Commissioner Doug Coward	XXX

PART G. CODIFICATION.

Provisions of this ordinance shall be incorporated in the Code of Ordinances of St. Lucie County, Florida, and the word "ordinance" may be changed to "section", "article", or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that Parts B through G shall not be codified.

Struck through words are deleted.

Underlined words are added.

PASSED AND DULY ADOPTED this XX day of XX, 2003.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA

Deputy Clerk

BY:

Chairman

APPROVED AS TO FORM AND
CORRECTNESS

County Attorney

G:\ATTY\ORDNANCE\2003\03-28.wpd

**0110 ORDINANCES
AND PETITIONS**

BEFORE THE BOARD
OF COUNTY
COMMISSIONERS
ST. LUCIE COUNTY,
FLORIDA

AMENDED NOTICE OF
INTENT

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Lucie County, Florida, will consider adopting County Ordinance No. 03-28 which amends Section 1-15, Article II of the St. Lucie County Code of Ordinances and Compiled Laws to provide for dogs on the beach under the conditions created in Section 1-15-25(a)(3). The Board will consider Ordinance No. 03-28 at its regular meeting on Tuesday, the 19th day of August, 2003 at 6:00 p.m., in-

stead of the previously advertised date of August 19, 2003 at 7:00 pm, or as soon thereafter as the matter may be heard in the St. Lucie County Commission Chambers at the St. Lucie County Administration Building Annex, Third Floor, 2300 Virginia Avenue, Fort Pierce, Florida. Matters affecting your personal and property rights may be heard and acted upon. All interested persons are invited to attend and be heard. Written comments received in advance of the public hearing will also be heard. Copies of the proposed ordinance may be obtained from the County Attorney's Office, St. Lucie County Administration Building Annex, 2300 Virginia Avenue, Fort Pierce, Florida, 34982. Amendments to the Ordinance may be made at the public hearing.

If any person decides to appeal any decision made with respect to any matter considered at the meetings or hearings of any board, committee, commission, agency, council or advisory group, that person will need a record of the proceedings and that, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record should include the testimony and evidence upon which the appeal is to be based. Upon the request of any party to the proceedings, individuals testifying during a hearing will be sworn in. Any party to the proceeding will be granted an opportunity to cross-examine any individual testifying during a hearing upon request. The title of this Ordinance is:

ORDINANCE NO. 03-28

AN ORDINANCE AMENDING SECTION 1-15, ARTICLE II OF THE CODE OF ORDINANCES AND COMPILED LAWS OF ST. LUCIE COUNTY, FLORIDA, TO PROVIDE FOR DOGS ON THE BEACH UNDER THE CONDITIONS CREATED IN SECTION 1-15-25(a)(3); PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR AN EFFECTIVE DATE; ADOPTION; AND CODIFICATION.

THIS NOTICE EXECUTED
and dated this 5th day of
August, 2003...

Submitted by:
Daniel S. McIntyre
County Attorney

Publish August 5, 2003

**0110 ORDINANCES
AND PETITIONS**

BEFORE THE BOARD
OF COUNTY
COMMISSIONERS
ST. LUCIE COUNTY,
FLORIDA

**AMENDED NOTICE OF
INTENT**

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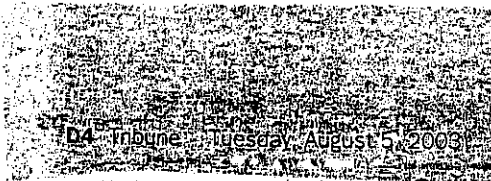
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FLORIDA, TO PROVIDE
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AND CODIFICATION.

THIS NOTICE EXECUTED
and dated this 5th day of
August, 2003.

Submitted by:
Daniel S. McIntyre
County Attorney



04 Tribune Tuesday August 5, 2003

CITY OF FORT PIERCE

PARKS ADVISORY COMMITTEE

**REPORT TO THE MAYOR
AND
CITY COMMISSION**



Should the City of Fort Pierce provide a dog-friendly beach?

Presented by Committee Members:

Annette Brown

Charlene Adair

Patty Reconco

Joe Hayek

John Smith

Jim Podsedly

Martha Wright

Mike Reals, Public Works Director

Kay Czarnecki, Support

City of Fort Pierce Parks Advisory Committee Report to the Mayor and City Commission

- **Current Overview**
- **Actions Taken**
- **Information Gathered**
- **Recommendations**

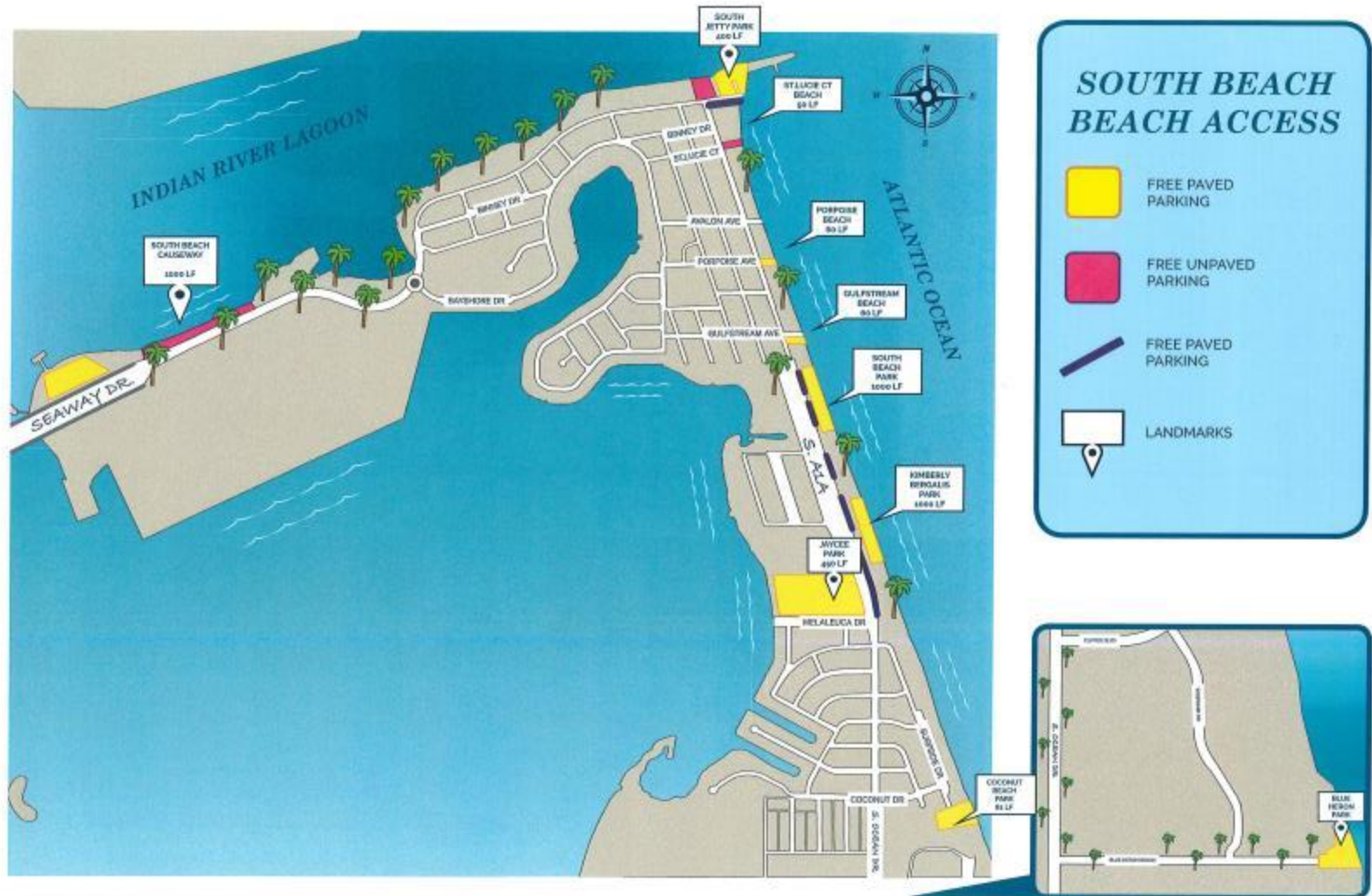
Current Overview

Fort Pierce does not have any dog-friendly beaches or beach parks (Ordinance 12-202) and owns/maintains 9 waterfront parks that total 15.77 acres and have approximately 5100 linear feet of beach frontage.

Enforcement of this ordinance is inconsistent and ineffective, causing concern from citizens on both sides of the issue of whether to allow dogs on our beaches and in our parks. Several dog attacks have occurred.

St. Lucie County has one dog-friendly beach and park: Walton Rocks, which is self-policed, very successful, and provides restrooms, showers, picnic areas, parking, and space (about 24 acres) for non-aggressive dogs to run off-leash.

SOUTH BEACH ACCESS

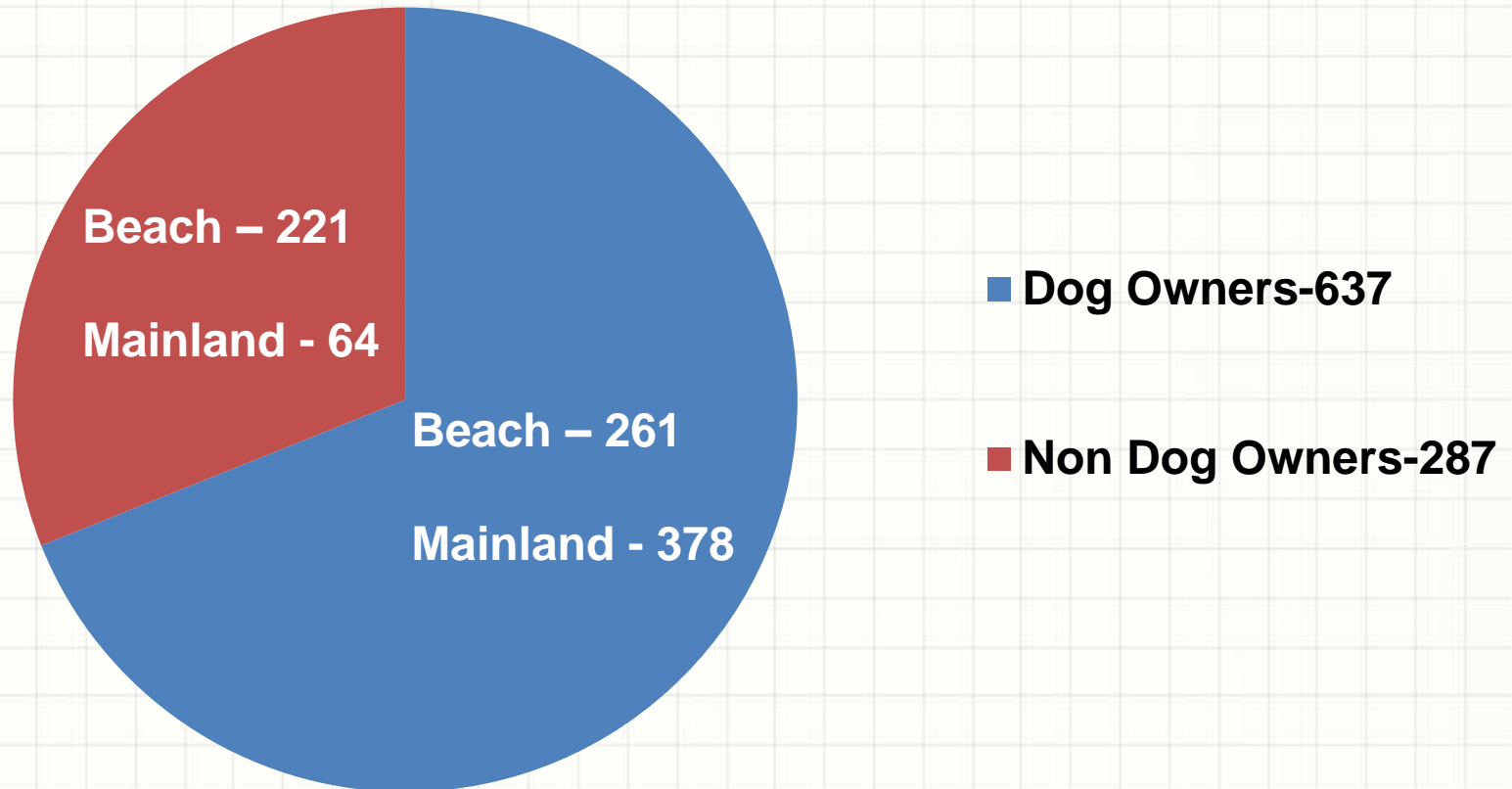


Actions Taken

- **Developed a Dog-Friendly Beach Survey in order to collect information from the citizens on this issue, resulting in a very successful response of 924 citizens**
- **Promoted the Survey to ensure a maximum number of citizens participated through the City website and social media, such as the SBA newsletter, Nextdoor, and Facebook**
- **Analyzed and discussed the results of this survey**
- **Formulated recommendations based on this data**

Information Gathered

Respondents



People on the beach responded whether they had dogs or not whereas people on the mainland responded much more strongly if they own a dog. This makes sense since people on the beach would be impacted whether they own a dog or not.

Information Gathered

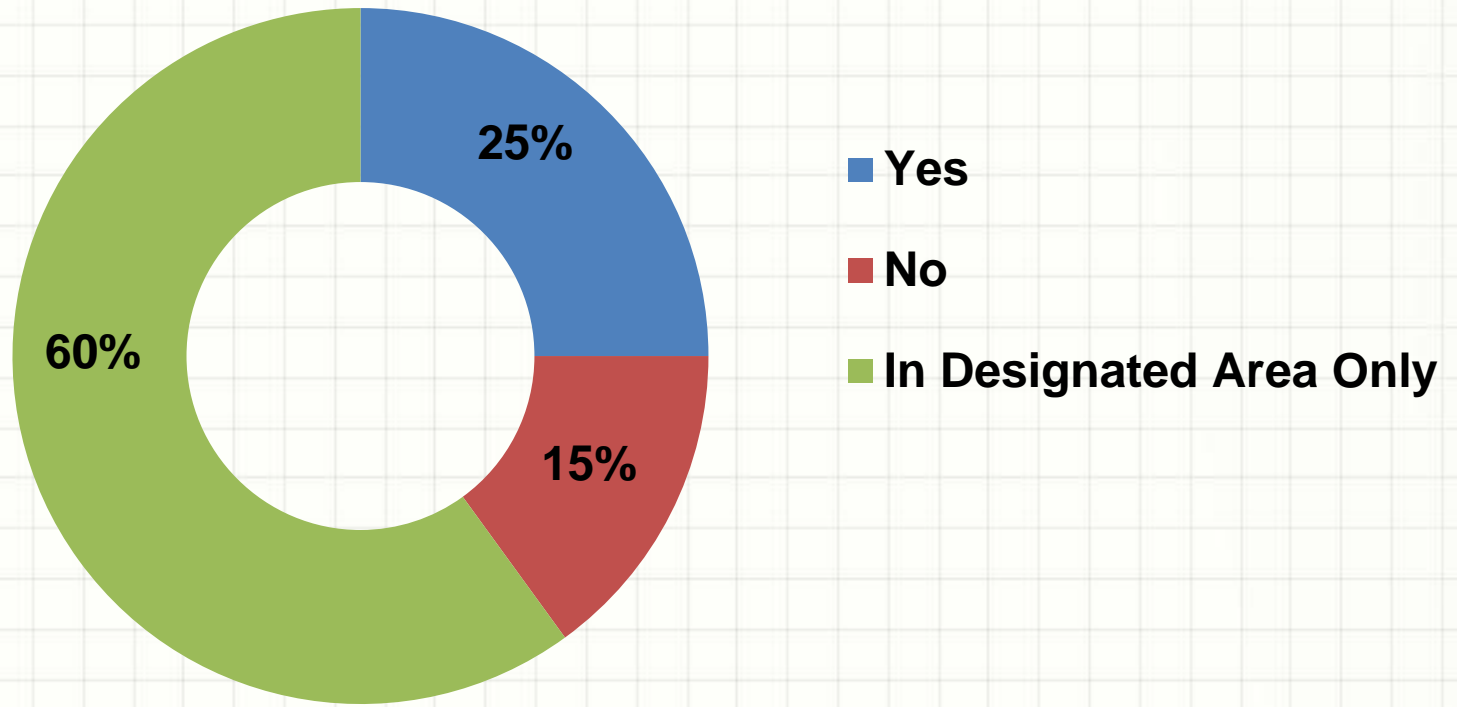
- Respondents were equally divided between those who frequent a dog beach and those who do not.
- Most of those who frequent a dog beach are dog owners.
- *45% of dog owners do not frequent a dog-friendly beach.*

Information Gathered

- **37% of dog owners said they frequent a beach where leashes are required – this indicates misunderstanding, since there are no dog-friendly beaches requiring leashes within the City of Fort Pierce.**
- **29% of dog owners would not take their dog to the beach if leashes were required.**

Information Gathered

Should Dogs Be Allowed on any Beach?



Information Gathered

**The top 3 things Important to a successful dog-friendly beach:
(All Respondents)**

- 1. Parking**
- 2. Location (walkable)**
- 3. Restrooms**

Information Gathered

**The top 3 things Important to a
successful dog-friendly beach:
(Dog Owners)**

- 1. Parking**
- 2. Dogs off leash**
- 3. Restrooms**

(location was 7th out of 8)

Information Gathered

The issues that related to dog-friendly beaches that concerned all respondents were:

- 1. Cleanliness**
- 2. Dog Conflicts**
- 3. Safety**

Recommendations

- **This Committee concludes that the City does not have adequate space and facilities to recommend having a dog-friendly beach.**
- **The data from the citizens does not support an urgency to have a dog-friendly beach within the City.**
- **We recommend increased promotion of Walton Rocks in City marketing literature, websites, social media, etc.**
- **Consistent enforcement of the City Ordinance will eliminate much of the confusion and misinformation surrounding this issue. This includes additional signage, law enforcement, and code enforcement.**



Discussion and Questions