

## MEMORANDUM

**TO:** Mayor Casale and  
Members of the City of Beacon City Council

**FROM:** Keane & Beane, P.C.

**RE:** Noise Ordinance

**DATE:** July 24, 2019

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Based on the City Council's comments at the last workshop meeting and comments raised by City staff and the City's noise consultant, the following changes have been made to the local law amending Chapter 149, Noise:

1. We have removed the following definitions from the proposed local law because they are no longer used in Chapter 149 as a result of the recent changes:
  - a. Continuous Source Sound Level
  - b. Sound Level Meter Calibrator
  - c. Total Sound Level
2. Section 149-6.A(2) was amended to update how impulsive sounds shall be measured. Under the revised language, impulsive sounds are now measured in half hour increments rather than in one hour increments.
3. Section 149-6 was deleted, which stated "sound devices on public transportation: operating, playing or permitting the operation or playing of any radio, phonograph, tape player, compact disc player, cell phone, television receiver or similar device on or in any method of public transportation in such a manner that the sound from such device is audible to any other person." This section is included in the City's existing noise ordinance under Section 149-6H, however, it is very difficult to enforce this provision as drafted. In response to the City's concerns, we replaced this language with the following language: "Self-contained, portable, non-vehicular music or sound production devices shall not be operated in any public space or public right-of-way in such a manner as to be plainly audible at a distance of 25 feet in any direction from the operator."
4. Section 149-7.B. was updated to include the following language: "No commercial facility shall operate, play, or permit the operation or playing of any sound production device outdoors, without first obtaining a permit pursuant to § 149-10. Commercial facilities operating playing or permitting the operation or playing of any sound production device indoors, shall keep their doors and windows

closed at all times, except as necessary for entrance or egress.” All outdoor music is prohibited unless the property owner and/or business operator obtains a permit to allow the operation of outdoor music.

5. Section 149.7.D(2) was updated to prohibit animal noise (i.e. howling, yelping, barking, squawking) occurring intermittently for ten (10) minutes. This Section previously prohibited animal noise occurring intermittently for a period of twenty (20) minutes.
6. The last sentence of Section 149-7.E was amended to delete the phrase “as measured at the property line.” City staff believes it is clearer if this provision prohibits sound from loading and unloading that creates a noise disturbance across a residential real property line of an affected person.
7. At its workshop meeting, the City Council did not believe it was necessary to have two different standards by which to measure vehicular music. In response to the City Council’s comments, Section 149-7.F(4) was deleted in its entirety and Section 149-7.F(3) was amended as follows: “Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 25 feet in any direction from the operator ~~between the hours of 8:00 a.m. and 10:00 p.m.~~”
8. Section 149-9, Sound level measurement procedures and calculation of corrected source sound level, was deleted in its entirety and will instead be incorporated as police policy.
9. Under Section 149-10, applications for noise permits will be made to the Building Department, rather than the City Clerk. The Building Department has a better understanding of the City’s noise permit requirements and can effectively review applications to determine completeness.
10. Section 149-10, was further amended to provide a specific one year permit for commercial facilities playing or operating outdoor sound (149-10.B(1)).
11. The following three additional factors were added Section 149-10.G as factors the City should consider when reviewing an application: (a) the number of permits previously issued to the applicant and (b) the number of permits issued permitted sound source operations at the subject property, and (c) the number of previous noise complaints received in connection with the operation of any sound source at the subject property.
12. Subsection L was also added to Section 149-10, which sets forth a procedure by which the City may revoke, suspend or modify a one year permit issued to a commercial facility. The Building Department must issue written notice to the permit holder and/or property owner and provide the permit holder and/or property owner an opportunity to be heard before revoking, suspending or modifying the permit.