

MEMORANDUM

TO: Mayor Casale and Members of the City Council

FROM: Keane & Beane, P.C.
Eric Zwerling, M.S., INCE, ASA

RE: Noise Ordinance

DATE: November 15 2019

The City Council opened the public hearing on the proposed Noise Ordinance on October 21, 2019 and adjourned the public hearing to November 18, 2019. On October 28, 2019, the City Council workshopped the proposed Noise Ordinance to review and discuss the public's comments. The City Council raised several questions and concerns on the proposed Noise Ordinance at its workshop meeting. In response to the City Council's comments, the proposed Noise Ordinance has been revised as summarized below. The revised local law was reviewed by the Planning Board at its November 13, 2019 meeting. Please note, this memorandum refers to section numbers set forth in the revised local law dated November 12, 2019.

1. Section 149-7.C was added to the draft local law to address concerns by the City Council regarding music from portable devices in public parks. This provision prohibits the operation of any self-contained, portable, non-vehicular music or sound production device in a 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. This language mimics the language used in Section 149-7.E(3) regulating personal or commercial vehicular stereo noise.
2. Section 149-8.A was amended to exempt sounds from power tools used for landscaping when operated during daytime hours. All motorized equipment used for landscaping must be operated with a muffler. This revision limits the scope of the exemption and sets forth a further restriction by adding the muffler requirement.

The Council discussed regulating leaf blowers, as a separate noise source category. Regulation of leaf blowers by sound level measurement is very difficult as the source is mobile, transient and can be immediately terminated upon awareness of enforcement presence.

3. Section 149-8.B was amended to exempt from the restrictions of the Noise Ordinance any sound produced in conjunction with religious services. This Section previously only exempted sounds from bells or chimes used in conjunction with religious services. This language did not include other religious sounds, such as calls to prayer.

4. The City Council previously considered prohibiting all outdoor amplified sounds. However, at the October 28, 2019 workshop, the City Council discussed adopting a permitting process to regulate certain outdoor amplified and non-amplified sounds. We have revised Section 149-10 to create such a permitting process.

The Council expressed the desire that there should be more stringent regulation for volitional noise sources, such as commercial music, than for simple mechanical operational noise. This section now reduces the permissible limit for all music emitted by a commercial establishment by 5 decibels. The maximum permissible sound level for a commercial establishment shall be 55 dBA during daytime hours from any sound production device, including but not limited to, amplified or non-amplified sound, indoors or outdoors, when measured at or within the property line of an affected person. At night time the limit is plain audibility within the residence of an affected person with their windows and doors closed.

The Council expressed the desire to also regulate the sound of human voices coming from the commercial establishment. This has been included in the version of the Noise Ordinance submitted with this memo, such that all sound emitted from the commercial establishment, music and patron noise, is subject to the 55 dBA limit daytime and plain audibility at night time.

It is important to understand that there are certain consequences to regulating patron voices in this manner. Facilities which have more than a few patrons outdoors within 20 feet of a property line may not be able to meet these standards, even without any music playing. Certainly, some facilities allow or even encourage their patrons to become boisterous, however, these limits can be exceeded by even a relatively well-behaved crowd or a restaurant deck full of patrons engaged in lively discussion (or laughing or singing “Happy Birthday”).

5. The City Council discussed increasing the penalties for violations of the provisions of Chapter 149. Section 149-13 has been updated to address this request.

ecc: Anthony Ruggiero, City Administrator
Nicholas Ward-Willis, Esq.