

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 34 (ENVIRONMENT) ARTICLE II (NOISE CONTROL REGULATIONS), SECTION 34-41 (ENFORCEMENT) TO REVISE THE METHOD OF ENFORCEMENT OF NOISE VIOLATIONS; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND A SEVERABILITY CLAUSE; AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of West Palm Beach is vested with the authority to adopt ordinances to protect the health, safety and welfare of the City's inhabitants and visitors; and

WHEREAS, the City Commission has previously enacted Noise Control Regulations under Article II (Noise Control Regulations), Chapter 34 (Environment) of the City Code of Ordinances to regulate, control and prevent unreasonably loud, excessive, unnecessary or unusual noise, loud and raucous noise or any noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of the City's inhabitants and visitors; and

WHEREAS, the City Commission recognizes the rights of its citizens to free speech at public streets, sidewalks, parks and other public fora; and

WHEREAS, the City Commission desires to regulate sound volume in the Downtown Master Plan (as defined in Section 34-37) according to the needs of both involuntary and voluntary listeners; and

WHEREAS; the City Commission further desires to protect the City's inhabitants and visitors in the Downtown Master Plan from unwelcome noise and unreasonably annoying or disturbing projects of sound from sound devices; and

WHEREAS; the City Commission desires to amend City's Noise Control Regulations under Article II (Noise Control Regulations), Chapter 34 (Environment) of the City Code of Ordinances to provide for noise control regulations that achieve the compelling government interest of protecting the City's inhabitants and visitors in the Downtown District from unwelcome noise by employing narrowly tailored regulations that leave open ample alternative channels of communication.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: Chapter 34 (Environment), Article II (Noise Control Regulations) of the Code of Ordinances of the City of West Palm Beach is hereby amended at Section 34-41 (Enforcement by code enforcement officers; notice of violation) which shall now read as follows:

Sec. 34-41. Enforcement by code enforcement officers; notice of violation

(a) If a code enforcement officer receives a complaint from a complainant regarding a violation of this article, or otherwise observes a suspected violation, he shall investigate the complaint or suspected violation to ~~and~~ determine whether the a violation exists. If the suspected violation occurs within the downtown master plan as defined by section 34-37, the code enforcement officer shall investigate by taking a 30 second measurement of the sound level that is suspected to be in violation of this article, with a sound level meter, at least 20 feet from the person, sound device or establishment generating the sound, with the.~~The~~ average sound level from this 30 second measurement ~~will be~~ being used to determine if a violation exists.

(b) If the code enforcement officer observes a violation of this article, and it is the first violation of the person, sound device or establishment in a 24-hour period, the inspector shall give written warning of the violation and allow 15 minutes for the person or, if a sound device or establishment, the owner, operator, or other person in control of the sound device or establishment, to voluntarily comply with this chapter. A written warning of violation prior to issuing a notice of violation is only required for the first violation in a 24-hour period.

(c) If a person, or in the case of a sound device or establishment, an owner, operator or other person in control of the sound device or establishment fails to bring the sound device or establishment into compliance within 15 minutes after being issued a written warning, the code enforcement officer will issue a notice of violation as provided in chapter 26 of this Code and inform the violator that he must immediately cease the violation and will be subject to additional penalties if the violation continues. The notice of violation shall contain the:

- (1) Name of the violator.
- (2) Date and time of violation.
- (3) Nature of the violation.
- (4) Amount of fine for which the violator may be liable pursuant to section 34-42 of this Code or as otherwise provided by law.
- (5) Instructions and due date for paying the fine.
- (6) Notice that the violation may be appealed by requesting an administrative hearing within ten days after service of the notice of violation, that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing, and that unpaid fines will result in the imposition of liens which may be foreclosed by the city.

(d) The notice shall also inform the violator that repeat violations of this article will result in the imposition of larger fines and may also result in revocation of occupational license and/or certificate of use and/or injunctive proceedings as provided by law.

SECTION 2: Any portions of any prior ordinances in conflict herewith are hereby repealed.

SECTION 3: Should any section or provision of this Ordinance or any portion, paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 4: Authority is hereby granted to codify the text amendments set forth in this Ordinance.

SECTION 5: This Ordinance shall take effect in accordance with law.

FIRST READING THIS 23RD DAY OF NOVEMBER, 2015.

SECOND READING AND PASSAGE THIS 7TH DAY OF DECEMBER, 2015.

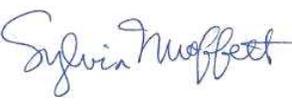


ATTEST:

X 

CITY CLERK
Signed by: Hazeline Carson

**CITY OF WEST PALM BEACH BY
ITS CITY COMMISSION:**

X 

PRESIDING OFFICER
Signed by: Sylvia Moffett

**APPROVED AS TO FORM AND
LEGALITY:**

12/2/2015

X 

CITY ATTORNEY
Signed by: Christopher VanHall