

**ORDINANCE NO. 2022-22 – AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 15, “OFFENSES--MISCELLANEOUS,” ARTICLE I, “IN GENERAL,” BY AMENDING SECTION 15-24.1 “DEFINITIONS” AND SECTION 15-24.5, “ENFORCEMENT,” WHICH SHALL MODIFY THE ENFORCEMENT PROCESS FOR A NOISE CONTROL VIOLATION AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE**

**WHEREAS**, the City of Lake Worth Beach, Florida (the “City”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, noise has been a topic of concern within the City for a significant period of time, and has recently been the subject of discussion regarding the modification of enforcement and legislative solutions; and

**WHEREAS**, the purpose of the City's Noise Control Ordinance is to obtain compliance of unnecessary and excessive noise violations before imposing fines and other penalties; and

**WHEREAS**, in order to strike a balance between the concerns of the business community and residents, a warning and violation system has been developed which takes into account the diverse character of the City; and

**WHEREAS**, the provisions of this Ordinance are intended to preserve the quality of life in all City neighborhoods, to allow businesses to provide an inviting environment for their patrons, and to strike the proper balance in the enforcement of noise violations; and

**WHEREAS**, the amendments to the Ordinance seek to streamline the enforcement provision through the option for law enforcement to issue a City civil citation and to provide alternatives means of enforcement; and

**WHEREAS**, the City's civil citation procedure, as set forth in Chapter 2, Article 10 of the Code of Ordinances, is also being amended to provide for a graduated fine for subsequent noise violations at the same property; and

**WHEREAS**, the City Commission has reviewed the recommended amendments and has determined that they serve a valid public purpose and are in the best interest of the public health, safety, and general welfare of the City and its residents.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA** that:

Section 1. Recitals. The foregoing recitals are hereby affirmed and ratified.

Section 2. Chapter 15 OFFENSES--MISCELLANEOUS, Article I, “IN GENERAL,” Section 15-24.1 shall be amended to read as follows:

### **Sec. 15-24.1. – Definitions.**

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:

\* \* \*

Person means individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other business entities, groups or combinations.

Section 3. Chapter 15 OFFENSES--MISCELLANEOUS, Article I, "IN GENERAL," Section 15-24.5 shall be amended to read as follows:

### **Sec. 15-24.5. – Enforcement.**

- (a) Whenever a law enforcement officer is notified of and observes a violation of the ordinance from which this section derives or, whenever a law enforcement officer observes, the officer shall issue a warning in writing if there is a violation to the person(s) individual, or individuals, responsible for the violation. The warning shall advise the person(s) individual or individuals of the specific violation of the noise control ordinance and shall specify a reasonable time to reduce the sound level to an appropriate level as set forth within the noise control ordinance. Absent special circumstances, a reasonable time shall not exceed ten (10) minutes.
- (b) If the violation is not eliminated within a reasonable time (ten (10) minutes) after the warning has been issued, or if the violation recurs within ninety (90) days of the issuance of the warning, the individual or individuals so warned and not complying, ~~shall be charged with a violation of the noise control ordinance and shall be subject to enforcement, prosecution and punishment~~ as set forth herein.
- (c) Each re-measurement, after warning, which exceeds the maximum permissible sound levels established by the noise control ordinance, shall constitute a separate violation.
- (d) The city's law enforcement agency is hereby authorized to enforce this subsection through the issuance of a city civil citation as set forth in Chapter 2, Article X of this Code. Law enforcement may, in the alternative, issue a notice to appear. A violation of the noise control ordinance is a criminal offense, for which violators may be subject to a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days or by both such fine and imprisonment. The city may also choose to pursue injunctive relief and/or any other remedy available at law or in equity.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Codification. The sections of the ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section”, “division”, or any other appropriate word.

Section 7. Effective Date. This ordinance shall take effect ten days after its adoption.

The passage of this ordinance on first reading was moved by Commissioner Malega, seconded by Commissioner Diaz, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch	AYE
Vice Mayor Christopher McVoy	AYE
Commissioner Sarah Malega	AYE
Commissioner Kimberly Stokes	AYE
Commissioner Reinaldo Diaz	AYE

The Mayor thereupon declared this ordinance duly passed on first reading on the 18<sup>th</sup> day of October, 2022.

The passage of this ordinance on second reading was moved by Commissioner Stokes, seconded by Vice Mayor McVoy, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch	AYE
Vice Mayor Christopher McVoy	AYE
Commissioner Sarah Malega	AYE
Commissioner Kimberly Stokes	AYE
Commissioner Reinaldo Diaz	AYE

The Mayor thereupon declared this ordinance duly passed on the 1<sup>st</sup> day of November, 2022.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, City Clerk