PROPOSED ORDINANCE NO. 25-07
ORDINANCE NO. # 3119

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE, FLORIDA, CHAPTER 1, GENERAL PROVISIONS, SECTION 22, GENERAL PENALTY; AMENDING CHAPTER 22, ENVIRONMENT, ARTICLE II, NOISE, SECTIONS 22-21 DEFINITIONS; SECTION 22-22 APPLICATION; SECTION 22-23 METHOD OF NOISE MEASUREMENTS; SECTION 22-24, MAXIMUM NOISE LEVELS; SECTION 22-25, SPECIFIC PROHIBITED NOISES; SECTION 22-26, ENFORCEMENT; SECTION 22-27, USE OF MECHANICAL LOUDSPEAKERS OR AMPLIFIERS OUT OF DOORS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kissimmee Commission finds that regulation of excessive noise is necessary to protect the public health and safety of the citizens of the City of Kissimmee; and

WHEREAS, the City of Kissimmee has received persistent complaints from the public regarding noise violations at establishments that sell alcohol within the Downtown Community Redevelopment Area (hereinafter "Downtown CRA") and such complaints often lead to a police response; and

WHEREAS, the City of Kissimmee Commission seeks to address these complaints in two ways; and

WHEREAS, the City of Kissimmee Commission believes that the City's noise ordinance should be simplified and clarified in an effort to gain voluntary compliance; and

WHEREAS, the City of Kissimmee Commission believes penalties for noise violations within the Downtown CRA should be increased in order to achieve further compliance with the City's noise ordinance; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KISSIMMEE, FLORIDA IN LAWFUL SESSION ASSEMBLED AS FOLLOWS:

For purposes of changes to the text of the Code of Ordinances as set forth below, underlined words indicate additions to existing text, and stricken words include deletions from existing text.

SECTION 1. Chapter 1, of the Code of Ordinances of the City of Kissimmee, Florida, titled, General Provisions, is hereby amended to read as follows:

Section 1-22 General Penalty.

(a) Whenever in this Code or in any ordinance of the city an act is prohibited or is made or declared to be an unlawful offense or whenever in such Code or ordinance the doing of any act is required and the failure to do any such act is declared to be unlawful, or where no specific penalty is otherwise provided, the violation of any such provision of this Code or ordinance shall be punished by a fine not exceeding $500.00 or imprisonment. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

(b) The following list of fines shall be imposed for violation of the provisions contained in this Code, to wit:

….

(8) Noise (Chapter 22, Article II): $50.00 to $500.00.

a. For violations of Chapter 22, Article II within the Downtown Community Redevelopment Area:

i. First violation: $400.00.

ii. All subsequent violations: $500.00.

b. For all other violations of Chapter 22, Article II:

i. First violation within one year: $50.00.

ii. Second violation within one year: $100.00.

iii. Third violation within one year: $250.00.

iv. All subsequent violations within one year: $500.00.

SECTION 2. Chapter 22 of the Code of Ordinances of the City of Kissimmee, titled, Environment, Article II, Noise, is hereby amended to read as follows:

Sec. 22-21. - 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:]

*A-weighted scale (dBA)*means the A-weighting filter network in accordance with the requirements of the American National Standards Institute (ANSI) which reduces the measured sound pressure levels as compared to a linear scale or measurement for the lower frequencies, which under defined conditions, approximates the frequency responses of the human ear.

Commercial ~~area~~ means ~~any area where the current use of the land is for office or business.~~ the trafficking of goods or furnishing of services, including, but not limited to, banking and other financial institutions, dining establishments, retail or wholesale establishments, recreation or entertainment establishments, office buildings, transportation facilities, and warehouses. Commercial excludes property which is located in the Downtown Community Redevelopment Area (CRA) as described in Section 22-27.

Construction means any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or on public or private thoroughfares, structures, utilities, or similar property.

Continual use means ~~operation of a device for a period of time extending beyond 15 minutes.~~ the operation of a device which creates sound where the operation of the device remains essentially constant during a period of observation.

Continuous noise means ~~a sound which is present for a period of time extending beyond 15 minutes.~~ a sound which remains essentially constant in level during a period of observation. Examples include outdoor music, power generators, and construction.

Decibel (dB) means a unit for describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

Designated official means the City Manager of Kissimmee or designated staff official by the city manager.

Impact noise means noise created by a construction-related device used for breaking up hard material such as jackhammers, pile drivers, power impact hammers, impact wrenches, riveters, and stud drivers.

Industrial ~~area~~ means ~~any area where the current use of the land is industrial.~~ the fabrication, manufacturing, shipping, or production of durable or nondurable goods. Industrial excludes property which is located in the Downtown Community Redevelopment Area (CRA) as described in Section 22-27.

Intermittent noise shall mean a sound of greater than one second duration and less than 15 minutes. Examples of sources of intermittent noise are air compressors, heating and air conditioning units, and PA speakers.

Linear scale means sound pressure level measurements which are not adjusted for some purpose.

Mixed-use means property that includes a building(s) or structure(s) which contains both commercial (usually on the ground floor) and residential use, where such residential use is located above, behind, below, or adjacent to the commercial use. This category shall also include any area where commercial use abuts residential use or is located immediately or directly across a public right-of-way from residential use. Mixed-use excludes property which is located in the Downtown Community Redevelopment Area (CRA) as described in Section 22-2~~2~~7~~ herein~~. Property used for the public benefit such as outdoor concert events, fairs, festivals, athletic fields, and public assemblies is also included in the definition of "mixed-use."

Party, party responsible means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a state, or any political subdivision of a state.

Plainly audible means ~~any sound that can be detected by a person using his or her unaided hearing faculties who has a direct line of sight and hearing to the source of the noise. The person need not determine particular words or phrases, or the name of any song or artist: the detecting of a rhythmic bass reverberating sound is sufficient.~~ any sound that can be clearly and distinctly heard by a person of normal hearing, including but not limited to the understanding of spoken words, rhythmic bass, or clearly discernible musical tones, as heard unaided by any mechanical device.

Property means any parcel of land or structures thereon which are held under title, deed, or other form of legal documentation by a public or private entity. Use of the term "property" in the Code may refer to the area from which a noise is projecting or the area into which a noise is projecting.

~~*Property line* means a line along the surface and its vertical plane extension, which separates the real property owned, rented, or leased by one person from that owned, rented, or leased by another person, excluding intrabuilding real property divisions.~~

Public space means any real property or structure thereon, normally accessible to the public.

Residential ~~area~~ means ~~any area where the current use of the land is residential.~~residences, including, but not limited to, single-family residences, multi-family residences, condominiums, apartments, hotels, motels, and assisted living facilities. Residential excludes property which is located in the Downtown Community Redevelopment Area (CRA) as described in Section 22-27.

Right-of-way means the strip of land dedicated for pedestrian and vehicular movement, which may also accommodate public utilities. The term right-of-way includes public and private rights-of-way.

Sound means energy which is transmitted by pressure waves in air or other materials and is the objective cause of the sensation of hearing. Commonly called noise, if unwanted.

Sound amplification device means devices used to amplify sound such as radios, stereos, CD players, DVD players, microphones, drums, turn tables, audio or visual equipment, electronic devices, musical instrument, sound equipment, television sets, interior or exterior speakers, loudspeakers, bullhorn, or similar devices.

Sound Impact Boundary means either (a) a line along the surface and its vertical plane extension, which separates the real property owned, rented, or leased by one person from that owned, rented, or leased by another person, excluding intrabuilding real property divisions, (b) in the case of multiple owners or tenants within the same lot, parcel or building, the exterior walls of the structure which is the source of the noise and any walls that the structure shares with other owners or tenants within the same lot, parcel or building, or (c) in the case of property with a permitted side café, the permitted sidewalk café area is added to the property's Sound Impact Boundary. The Sound Impact Boundary is an approximation of the legal property line because identifying the exact legal property line is not reasonably possible while enforcing this Chapter in the field. Visual cues including but not limited to fencing, changes in pavement, landscaping, building placement, the presence of a city right of way, or other physical cues, and mapping tools may be used to establish the Sound Impact Boundary.

Sound level means the level of sound measured with a sound level meter and one of its weighting networks. When A-weighting is used, the sound level is given in dBA.

Sound level Meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighting network used to measure sound pressure levels.

Sound pressure means the dynamic variation in atmospheric pressure at a point in space minus the static pressure at that point.

Sound pressure level is numerically equal to 20 times the logarithm (to the base ten) of the sound pressure to the reference sound pressure (the reference sound pressure shall equal 20 micro pascals). Unless otherwise stated, the level is understood to be that of a root mean-square pressure.

Sound level meter weighting network means an electronic filter in a sound level meter which provides different response characteristics to sound pressure levels as a function of the frequency of the sound being measured or considered.

Vessel means a boat as referenced in Article VII, Constitution of the State of Florida, Section 1(b), and includes every description of watercraft, barge, and air boat, other than a seaplane on the water, used or capable of being used as a means of transportation on water. The term vessel additionally includes, but is not limited to, a commercial vessel, a homemade vessel, a live-aboard vessel, a motorboat, a noncommercial vessel, and a personal watercraft, all as defined in F.S. § 327.02.

Section. 22-22. - Application.

(a) The requirements of this ~~article~~ Chapter shall apply to all noises (except those specifically named herein or by resolution), including continuous and intermittent noise, tones, impact noise, and noise emitted by mechanical speakers or amplifiers ~~boxes~~, pick-up and delivery trucks and any other commercial or industrial activities which are under the control of the occupant of a building site or parcel.

(b) Exceptions.

(1) Gas-powered equipment (8:00 a.m.—8:00 p.m.); and

(2) Noises from motor vehicles such as automobiles, trucks, airplanes, motorcycles, and railroads to the extent that noises from motor vehicles are regulated by state ~~and~~or federal law or that state or federal law preempts the City from regulating noises from motor vehicles; and

(3) Noises from emergency services vehicles, such as fire engines, ambulances, and law enforcement vehicles that are on emergency business.

~~(c) The noise levels listed in Section 22-24, Tables 1 and 2 may not be exceeded by any means within any public or private property when measured 50 feet from the property line of the property generating said noise. In the case of multiple owners or tenants within the same lot, parcel, or building, the measurement distance shall be from the shared wall or boundary.~~

~~(d) The noise levels listed in Section 22-24, Tables 1 and 2 may not be exceeded for a cumulative period of one or more minutes in any 15-minute period. The measurement period shall not be less than 15 minutes.~~

~~(e) Table 1 indicates the maximum noise levels within the City of Kissimmee with exception to the Downtown Community Redevelopment Area (CRA). Table 2 is applicable to the Downtown CRA, as defined in Figure 1.~~

Section 22-23. - Method of Noise Measurement.

(a) For enforcement of Section 22-24, a~~A~~ll measurements shall be made with a sound level meter compliant ~~which satisfies~~ with ~~the requirements pertinent for Class I and II sound level meters in the latest~~ American National Standards Institute (ANSI)/Acoustical Society of America (ASA) standards for sound level meters. ~~Operation of the sound level meter shall be consistent with applicable standards and follow the guidelines established within the "Noise Code Enforcement Reference Sheet".~~ The measurements shall in general be made in accordance with the latest American Society for Testing and Materials (ASTM) standards, entitled "Standard Guide for Measurement of Outdoor A-Weighted Sound Levels."

(b) No sound measuring meter, nor any independent witness, shall be required to enforce or prove a violation pursuant to Sections 22-25 or 22-27.

(c) Where two or more immediately adjacent businesses are producing amplified sound, the dominant source shall be identified based on the higher measured dBA level taken directly in front of each establishment's face of the building or source of sound. However, the determination of violation shall still be based solely on measurements taken at the Sound Impact Boundary.

Section 22-24. - Maximum Noise Levels.

The following tables shall be used to determine the maximum noise level ~~measured in A-weighted decibels~~, which shall be permitted in the defined locations and at the described time periods within each table. No person shall produce, cause to be produced, or allow to be produced, by any means any noise which exceeds the applicable maximum noise levels set forth in Table 1 or 2 within any private property or on public property when measured, in accordance with Section 22-23 Method of Noise Measurement, at or beyond the Sound Impact Boundary of the property generating said noise.

~~(a) *Maximum noise levels by use of land.*~~

~~(1) Table 1 shall be used to determine the maximum noise level permitted at the property line of the closest use of land in each of the categories below. Sound or noises projecting from one use into another use with a different noise level limit shall not exceed the limits of the use of land into which the noise is projected.~~

~~(2)~~ Class B Standards within Table 1 apply to noises originating from heavy manufacturing uses as defined in the Land Development Code, Chapter 14-2. Class A Standard applies to all other uses.

Table 1			
Land Use	Maximum Noise Levels in A-Weighted Decibels		
	Class A Standard 7:00 a.m. to 10:00 p.m.	Class A Standard 10:00 p.m. to 7:00 a.m.	Class B Standard
Residential	60 dBA	55 dBA	65 dBA
Office	70 dBA	65 dBA	75 dBA
Commercial	70 dBA	65 dBA	75 dBA
Industrial	75 dBA	75 dBA	85 dBA

~~(b) *Maximum noise levels in the Downtown Community Redevelopment Area (CRA).*~~

Table 2 establishes the maximum noise levels for the Downtown Community Redevelopment Area (CRA).

	Table 2		
	Maximum Noise Levels in A-Weighted Decibels		
	7:00 a.m. to 10:00 p.m.	10 p.m. to 12 a.m.	~~10:00 p.m.~~ 12:00 a.m. to 7:00 a.m.
Downtown CRA	85 dBA	70 dBA	65~~70~~dBA

a) The maximum noise levels listed in Section 22-24, Tables 1 and 2 shall not be exceeded for a cumulative period of one or more minutes in any 15-minute period. The measurement period must be at least 15 minutes.

b) If noise is emitted from one parcel, space, or site onto another with a different land use classification, such noise shall not exceed the maximum sound limits allowed for the use of land onto which the noise is projected.

c) For properties meeting the definition of mixed use, the commercial and office portions of a mixed-use property are subject to the commercial and office maximum noise levels and the residential portions of a mixed-use property are subject to the residential maximum noise levels except where subsection (b) above applies.

Section. 22-25 Specific Prohibited Noises

The following acts, among others, are declared to be unlawful, loud, disturbing, and unnecessary noises in violation of this section, but said enumeration shall not be exclusive. Where a provision of this section conflicts with other provisions in this Chapter ~~article~~, the more stringent provision shall apply.

a) Yelling, shouting, hooting, whistling, or singing on the public or private streets at any time or place so as to exceed the maximum noise levels established under Section 22-24.

b) ~~(a)~~ On residential and mixed-use property:
   1) The creation of noise between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 15 feet from the Sound Impact Boundary of the building or structure in which the noise is ~~located~~ being emitted shall be a violation of this section. ~~In the case of multiple owners or tenants within the same lot, parcel, or building, the measurement distance shall be from the shared wall or boundary.~~

c) ~~*On mixed-use property.*~~

~~The playing, using or operating, or permitting to be played, used or operated, of any radio receiving set, musical instrument, television, electronic device, sound-amplification device, or other machine or device for the producing or reproducing of sound in such manner as to exceed the maximum noise levels established under section 22-24, Table 1.~~

~~(2)The playing, using or operating, or permitting to be played, used, or operated, of any machine or device for the producing or reproducing of sound which is cast upon the public or private street or directed toward any open entrance or exit, or other similar opening in the building or structure.~~

~~(3)Yelling, shouting, hooting, whistling, or singing on the public or private streets at any time or place so as to exceed the maximum noise levels established under section 22-24, Table 1.~~

~~(4) The creation of noise between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the property line of the building or structure in which it is located shall be prima facie evidence of a violation of this section. In the case of multiple owners or tenants within the same lot, parcel, or building, the measurement distance shall be from the shared wall or boundary.~~

Near Schools, courts of law, churches, hospitals, and governmental meetings.

1) The creation of an excessive noise on any street adjacent to a school, institution of learning, church, court of law, or governmental meeting while the same are in use, or adjacent to any hospital, that unreasonably interferes with the workings of such institution or that unreasonably annoys or disturbs patients in the hospital.

d) *In the Downtown CRA.*

1) ~~The playing, using or operating, or permitting to be played, used or operated, of any radio receiving set, musical instrument, television, electronic device, sound-amplification device, or other machine or device for the producing or reproducing of sound in such manner as to exceed the maximum noise levels established under Section 22-23.~~

Any such machine, instrument, speaker, or device being used inside of a building, structure, room, chamber, or other similarly defined area that is located within 20 feet from any open entrance or exit, or any window or other similar opening in the building, structure, room, chamber, or other similarly defined area shall be oriented toward the interior and pointed opposite and away from such openings.

e) *Construction or repair of buildings <u>or roads, and sitework</u>.*

1) The erection (including excavation), demolition, alteration, or repair of any building or site may occur between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Friday and 8:00 a.m. and 5:00 p.m. on Saturday. Any noise resulting from such activity shall not exceed the maximum noise levels established under Section 22-23.

2) If the designated official should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building, site, or the excavation of streets and highways between the hours specifically prohibited by this section, a permit may be granted for such work to be done.
    a. As a condition of the permit, notice shall be sent of the proposed activity to all property owners adjacent to the site where the work will occur. The notice shall include contact information for the project representative who will be available to respond to questions and complaints throughout the duration of the proposed activity. The designated official may at their discretion place additional conditions on the permit to ensure public health and safety is maintained.
    b. Failure to comply with the requirements of this subsection, including neglecting to respond to questions and complaints from adjacent property owners, may result in the disapproval of future permit requests.

f) *Parking lots, parking garages, public property excluding streets and highways, and private property.*

1) Any person operating or occupying a motor vehicle, as defined in Chapter 316, Florida Statutes, within a parking lot, parking garage, public property excluding a street or highway, as those terms are defined in Chapter 316, Florida Statutes, or private property may not operate or amplify the sound produced by a radio, tape player, compact disc player, portable music or video player, cellular telephone, tablet computer, laptop computer, stereo, television, musical instrument, or other mechanical or electronic soundmaking device or instrument, which sound emanates from the motor vehicle, so that the sound is plainly audible at a distance of 25 feet or more from the motor vehicle. This subsection does not apply to a law enforcement vehicle equipped with a communication device necessary in the performance of law enforcement duties or to an emergency vehicle equipped with a communication device necessary in the performance of emergency procedures. This subsection does not apply to the noise made by a horn or other warning device required or permitted by Section 316.271, Florida Statutes.

Section - 22-26. - Enforcement.

(a) *Joint Responsibility of Enforcement.* The Code Enforcement Division and Kissimmee Police Department (KPD) shall have the joint responsibility of enforcing violations of this Chapter. ~~article in accordance with the "Noise Ordinance Enforcement Policy."~~

(b) *Methods of Enforcement.* Violating a section of this Chapter may result in the issuance of a citation and action through the Code Enforcement process. However, nothing contained in this Chapter shall limit enforcement of noise or alternative methods of enforcement as otherwise allowed by law.

(c) *Joint and Several Responsibility.* Any person(s) responsible for a violation of this Chapter may be held liable for a violation of this Chapter. More than one person may be found to be responsible for the violation.

(d)~~(b)~~*Liability for payment of noise citation.*

(1) Any person issued a citation under this C~~c~~hapter shall be deemed charged with a noncriminal infraction and shall have 30 days from the date of the violation to request a hearing to contest or pay the citation.

(2) If the person cited ~~F~~fail~~sure~~ to request a hearing or pay the citation within 30 days of the date of violation, the person shall have waived any right to contest the

citation, and a judgment shall be entered against the person cited in the amount up to the maximum civil penalty plus court costs. ~~shall result in an additional late penalty and the citation shall be sent to collections.~~

(e)~~(c)~~ *Hearing to contest noise citation.*

(1) If a person elects to contest the noise citation through a hearing, ~~the City shall set a hearing date and time before a hearing officer. In addition to any fine imposed for a violation of this article, a hearing officer may assess court costs not to exceed $100.00 if deemed necessary~~.the person shall request a hearing date from the Osceola County Clerk of Court (hereinafter "Clerk of Court") and shall appear in court before an Osceola County Judge (hereinafter "County Judge") as directed.

(2) ~~If a person fails to appear at the hearing set by the city, a hearing officer shall proceed with the hearing and may assess fines and court costs.~~ A County Judge, after hearing a citation, shall make a determination whether or not a violation of this Chapter has been committed. If a violation is found to have occurred, the County Judge may order the violator to correct the violation and may impose a civil penalty up to the maximum civil penalty plus all applicable costs of prosecution and legislative assessments, plus court costs. In no event, however, shall such civil penalty imposed by the County Judge be less than the civil penalty set forth in Section 1-22.

(3) The County Judge may provide for the civil penalty to be paid, and the violation to be corrected, within such time as the County Judge determines to be appropriate. If the person found to be in violation fails to pay the civil penalty or correct the violation within the time provided, a civil judgment shall be entered against that person in an amount up to the maximum civil penalty.

(4) Should the person cited schedule a hearing as provided for herein and thereafter fail to appear at such hearing, the person shall be deemed to have waived the right to contest the citation, and a civil judgment shall be entered against the person in an amount up to the maximum civil penalty; provided, however, that the Court shall have the discretion to continue or reschedule any hearing when it determines that doing so will further the interest of justice. In such an event, the Clerk of the Court shall notify the officer who issued the citation and the person cited of the date and time of the hearing.

(5) Should the person cited willfully fail to comply with a Court Order to abate or correct the violation, the Court, after due notice and hearing on the matter, may hold the violator in civil contempt and may enter an Order to that effect.

(6) In the event that a civil judgment is entered against the person cited as provided herein, the City may record a certified copy of said judgment in the Official Records of Osceola County and the same shall thereafter constitute a lien against the land

on which the violation exists and upon any other real or personal property owned by the violator.

(7) In the event that an Order is entered finding that a violation of the ordinance cited has been committed, the City may record a certified copy of said Order in the Official Records of Osceola County and the same shall thereafter constitute notice to and be binding upon the violator and any subsequent purchasers, successors in interest or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and any subsequent purchasers, successors in interest or assigns if the violation concerns real property.

(8) At any hearing pursuant to this ordinance, the commission of a violation of a code or ordinance must be proved by a preponderance of the evidence. The Florida Rules of Civil Procedure and the Florida Evidence Code shall be applicable to any such hearing.

(f) *Effect of a Violation of this Article on Sidewalk Cafe and Special Event Permits and City and Downtown CRA grant funding.*

(1) If an establishment that sells alcoholic beverages for consumption on premises in accordance with Chapter 4 (hereinafter "Establishment") is found by a County Judge or the Code Enforcement Special Magistrate to have committed a violation of this Article:

a. And the Establishment possesses a Sidewalk Cafe Permit, then the Sidewalk Cafe Permit shall be suspended for 30 days after the Establishment receives notice of the suspension.

b. Then the Establishment shall not receive a Special Event Permit for a period of 30 days after the Establishment receives notice of the suspension. Additionally, if the Establishment has already received a Special Event Permit for an event to be held within 30 days after the Establishment receives notice of the suspension, such Special Event Permit shall be deemed void.

c. Then the Establishment shall not receive any grant award from the City or Downtown CRA for a period of 30 days after the Establishment receives notice of the suspension. Additionally, if the Establishment has already received a grant award from the City or Downtown CRA and such grant for an event to be held within 30 days after the Establishment receives notice of the suspension, such Special Event Permit shall be deemed void.

(2) For purposes of this subsection, an Establishment is deemed to have committed a violation of this Article if the Code Enforcement Special Magistrate finds a violation of this Article at the physical address of the Establishment or if a County Judge finds an employee, a person exercising control over the operation of the Establishment, or a person with an ownership interest in the Establishment

committed a violation of this Article within the Sound Impact Boundary of the Establishment.

(3) The Establishment shall be noticed of any suspension pursuant to this subsection and afforded an opportunity to appeal any suspension pursuant to this subsection according to the provisions of Section 4-9(i) and (j).

Section 22-27 Use of mechanical loudspeakers or amplifiers out of doors.

(a) *Applicability.*

(1) *Temporary/special event use.* Use of any mechanical loudspeaker or other sound amplification device out of doors on public or private property for temporary use at a special event shall be permitted as part of the special events permit process under Section 14-6-28 of the Land Development Code.

(2) *Continual use.* Use of any mechanical loudspeaker, or other sound amplification device out of doors on public or private property for continual use shall be allowable provided the standards of this section are met.

(3) *Exceptions.* The following are exempt from the requirements of this section:

a. Sound amplification devices for personal use, including but not limited to cellphones, personal computers, televisions, and Bluetooth speakers, provided that the activity otherwise complies with Sections 22-22 through 22-25 of this Chapter ~~article~~.

(b) *General standards.*

(1) Continual use of any mechanical loudspeaker or other sound amplification device out of doors shall not operate between the hours of 10:00 p.m. and 7:00 a.m., except as provided in subsection (b)(2) or (c)(2) below, and shall comply with the following conditions:

a. Will not interfere with any governmental function or with any event previously permitted, or with any event scheduled through the parks and recreation department; and

b. Is not located within 1,000 feet of an activity or another location previously permitted for a temporary/special event under Section 14-6-28 of the Land Development Code.~~; and~~

~~c. Is not for a fully enclosed restaurant, bar, or other similar establishment that does not have a permitted sidewalk café or other approved designated outdoor space for patrons; and~~

c. ~~Will not operate between the hours of 10:00 p.m. and 7:00 a.m., except as provided in subsections (b)(2) and (c)(3) below~~.

(2) *Extended hours.* The City Manager or their designee may approve and authorize extended hours for use of a loudspeaker or other sound amplification device provided that the proposed activity otherwise complies with the provisions of subsections (b)(1) and (c)(1) and the sound levels and standards prescribed in Sections 22-22 through 22-25 herein. However, a Sidewalk Café Permit shall not extend the hours for use of a loudspeaker or other sound amplification device.

(c) *Use specific standards.*

(1) *Schools, courts of law, churches, hospitals, governmental meetings, public transportation facilities.* No person shall use a loudspeaker or other sound amplification device out of doors within 1,000 feet of any school, court of law, hospital, governmental meeting, or public transportation facility as defined in F.S. § 496.425(1)(b), during normal business hours of operation of that entity without the permission from that property owner.

(2) *Downtown Community Redevelopment Area (CRA).* The Downtown CRA, as described in Figure 1, is exempt from the prohibitions contained in subsections (b)(1)(a), (b)(1)(b) and (c)(1). ~~Within said Area, loudspeakers or other sound amplification devices may be used out of doors without regard to the other prohibitions set forth in subsection (c)(1) above.~~ However, Ssections 22-27~~(b)(1)d~~, (c)(3) and (c)(4), and 22-22 through 22-25 ~~set forth herein~~ shall still apply within the Downtown CRA. Section 22-27(b) shall still apply within the Downtown CRA, except for establishments that sell alcoholic beverages for consumption on premises in accordance with Chapter 4 that hold a valid City of Kissimmee Business Tax Receipt (BTR) as of August 5, 2025 so long as the Establishment's BTR remains valid and the Establishment continues to operate at the same physical location that the Establishment operated at on August 5, 2025 (hereinafter "Partially Exempt Establishments"), mechanical loudspeakers or other sound amplification devices owned by the City and used for a City-sponsored use or event, or if authorized pursuant to a Special Event Permit. For Partially Exempt Establishments, continual use of any mechanical loudspeaker or other sound amplification device out of doors shall not operate between the hours of 12:00 a.m. and 7:00 a.m.

g) *Sidewalk cafes.* Except for loudspeakers and sound amplification devices installed by the city, ~~such~~ speakers and devices ~~that are permitted~~ for continual use out of doors that are used for a commercial purpose~~under this section~~, including within the Downtown CRA, shall not be located within the public rights-of-way, including the air space above such

public rights-of-way, unless such use is ~~for a~~within an area subject to a ~~permitted~~ sidewalk cafe permit or within an area~~for space~~ that is part of an encroachment agreement with the city. In that instance, such speakers and devices shall not face or direct the sound upward toward airspace or toward any adjacent businesses, streets, alleys, rights-of-way, or property. Instead, such speakers or devices, whether permanently mounted or affixed to the exterior of the building or structure, shall be set in such a way that the sound is directed downward and inward toward patrons and complies with the sound levels and standards set forth in S~~s~~ections 22-27 (b)(1) and ~~section~~ 22-22 through 22-25 herein.

(4) ~~*Restaurants, bars, and similar e*~~*Establishments that sell alcoholic beverages for consumption on premises*. Any person, business, or property owner that is operating an ~~restaurant, bar, or other similar~~ Establishment at a fixed location, including within the Downtown CRA, that is providing designated outdoor space to its patrons on private property (i.e. patio, rooftop, etc.) may utilize loudspeakers or sound amplification devices for continual use out of doors as long as such speakers and devices comply with the standards herein, however such Establishments are exempt from the prohibitions contained in Sections 22-27(b)(1)(b) and (c)(1). Such speakers and devices may be permanently mounted or affixed to the exterior of the building or structure or free-standing and shall not face or direct the sound upward toward airspace or outward toward any adjacent businesses, streets, alleys, rights-of-way, or property. Instead, such speakers and devices shall be set in such a way that the sound is directed downward and inward toward patrons and complies with the sound levels and standards set forth in Sections 22-27(b)(1), (c)(2) and (c)(3), and ~~sections~~ 22-22 through 22-25 herein. If the speakers or devices are free-standing, they shall not be elevated more than five (5) feet off of the ground.

Figure 1



SECTION 4 SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 5. CONFLICT. All ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6. ADMINISTRATIVE CORRECTION. This Ordinance may be re-numbered or re-lettered, and the correction of typographical and/or scrivener's errors which do not

affect the intent may be authorized by the City Attorney, without the need of a public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 7. CODIFICATION. This ordinance shall be codified as a part of the City of Kissimmee City Code. The codifier is authorized to make editorial changes not affecting the substance of this ordinance by the substitution of "article" for "ordinance", "section" for "paragraph", or otherwise to take such editorial license.

SECTION 8. EFFECTIVE DATE. This Ordinance shall be published as provided by law, and it shall become law and shall take effect on August 5, 2025.

BE IT ORDAINED, by the City Commission of the City of Kissimmee on this 5th day of August, 2025.

Jackie Espinosa

Jackie Espinosa, Mayor-Commissioner

ATTEST:

Tameara Crespo

Tameara Crespo, City Clerk

Approved as to form and legality:

Olga Sanchez de Fuentes

Olga Sanchez de Fuentes, City Attorney

Harbour

AUDIT TRAIL

ORD 3119 Amending Noise Measurement Levels and Enforcement

FILE	ORD 3119 Amending Noise Measurement Levels and Enforcement_Aug-27-2025_completed.pdf (2.08 MB)
DOCUMENT REF ID	HBRREF-25f3ca2b3bc5489cafc8a0996ee73ca5
FILE VERIFICATION ID	1zhAVARcckuZuo8Y101VwQ== (md5hash base64)
STATUS	Completed (August 27th 2025 18:47:27 UTC)

DOCUMENT HISTORY

CREATED
Agreement Created by City Clerk's Office (tcrespo@intra.kissimmee.org)
Agreement Type: EMAILS
August 27th 2025 12:51:42 UTC

SIGNED
Agreement Signed by Jackie Espinosa
August 27th 2025 17:17:41 UTC
US FL • • •
Signer Email: jackie.espinosa@kissimmee.gov

SIGNED
Agreement Signed by Olga Sanchez de Fuentes
August 27th 2025 17:54:52 UTC
US FL • • •
Signer Email: olga.sanchezdefuentes@kissimmee.gov

SIGNED
Agreement Signed by Tameara Crespo
August 27th 2025 18:47:27 UTC
US FL • • •
Signer Email: tameara.crespo@kissimmee.gov

COMPLETED

OSCEOLA
NEWS-GAZETTE
aroundosceola.com

AFFIDAVIT OF PUBLICATION

Osceola News-Gazette
222 Church Street
(407) 846-7600

I, Anjana Bhadoriya, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher of Osceola News-Gazette, a publication that is a "legal newspaper" as that phrase is defined for the city of Kissimmee, for the County of Osceola, in the state of Florida, that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:
Jul. 10, 2025

Notice ID: R2pIcHFvDBqMnEsSbxA7
Notice Name: COK*ORDINANCE 25-07*Noise Measurements

PUBLICATION FEE: $73.59

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true,

Anjana Bhadoriya

Agent

JESSICA GORDON-THOMPSON
Notary Public - State of Florida
Commission # HH301656
Expires on August 17, 2026

VERIFICATION

State of Florida
County of Orange

Signed or attested before me on this: 07/11/2025

Notary Public
Notarized remotely online using communication technology via Proof.

NOTICE OF PUBLIC HEARING

The City Commission of the City of Kissimmee, Florida will meet on **Tuesday, July 15, 2025,** at **6:00 p.m.** in the City Commission Chambers at City Hall, 101 Church Street, Kissimmee, Florida, to hear the ***SECOND*** **FIRST READING** and will meet on **Tuesday, August 5, 2025,** at **6:00 p.m.** to hear the **FINAL READING** and consider the passage of the proposed ordinance as set forth below. The proposed Ordinance may be inspected in the Office of the City Clerk at City Hall,101 Church Street, Kissimmee, Florida. All interested parties may appear and be heard on the above dates.

PROPOSED ORDINANCE #25-07

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KISSIMMEE, FLORIDA, CHAPTER 1, GENERAL PROVISIONS, SECTION 22, GENERAL PENALTY, AMENDING CHAPTER 22, ENVIRONMENT, ARTICLE II, NOISE, SECTION 22-21 DEFINITIONS; SECTION 22-22 APPLICATION; SECTION 22-23 METHOD OF NOISE MEASUREMENTS; SECTION 22-24, MAXIMUM NOISE LEVELS; SECTION 22-25, SPECIFIC PROHIBITED NOISES; SECTION 22-26, ENFORCEMENT; SECTION 22-27, USE OF MECHANICAL LOUDSPEAKERS OR AMPLIFIERS OUT OF DOORS; REPEALING ALL ORDINANCES IN CONFLICT HERE WITH AND PROVIDING AN EFFECTIVE DATE

CITY COMMISSION
KISSIMMEE, FLORIDA

IN ACCORDANCE WITH FLORIDA STATUTE 286.0105: ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE CITY COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSES MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS MADE.

IN ACCORDANCE WITH FLORIDA STATUTE 286.26, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDING SHOULD CONTACT THE OFFICE OF THE CITY CLERK 407-518-2309 AT 101 CHURCH STREET, KISSIMMEE, FL 34741, PRIOR TO THE MEETING (FS 286.26).
July 10, 2025

OSCEOLA
NEWS-GAZETTE
aroundosceola.com

AFFIDAVIT OF PUBLICATION

Osceola News-Gazette
222 Church Street
(407) 846-7600

I, Edmar Corachia, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher of Osceola News-Gazette, a publication that is a "legal newspaper" as that phrase is defined for the city of Kissimmee, for the County of Osceola, in the state of Florida, that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:
Jun. 26, 2025

Notice ID: mPb49D4HbLGyDAxHI6mb
Notice Name: COK*Ordinance 25-07*Noise Update

PUBLICATION FEE: $73.59

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true,

Edmar Corachia

Agent

JESSICA GORDON-THOMPSON
Notary Public - State of Florida
Commission # HH301656
Expires on August 17, 2026

VERIFICATION

State of Florida
County of Orange

Signed or attested before me on this: 06/27/2025

Notary Public
Notarized remotely online using communication technology via Proof.

NOTICE OF PUBLIC HEARING

The City Commission of the City of Kissimmee, Florida will meet on **Tuesday, July 1, 2025**, at **6:00 p.m.** in the City Commission Chambers at City Hall, 101 Church Street, Kissimmee, Florida, to hear the **FIRST READING** and will meet on **Tuesday, July 15, 2025**, at **6:00 p.m.** to hear the **SECOND AND FINAL READING** and consider the passage of the proposed ordinance as set forth below. The proposed Ordinance may be inspected in the Office of the City Clerk at City Hall, 101 Church Street, Kissimmee, Florida. All interested parties may appear and be heard on the above dates.

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June 26, 2025

OSCEOLA
NEWS-GAZETTE
aroundosceola.com

AFFIDAVIT OF PUBLICATION

Osceola News-Gazette
222 Church Street
(407) 846-7600

I, Anjana Bhadoriya, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher of Osceola News-Gazette, a publication that is a "legal newspaper" as that phrase is defined for the city of Kissimmee, for the County of Osceola, in the state of Florida, that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

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Jul. 10, 2025

Notice ID: R2pIcHFvDBqMnEsSbxA7
Notice Name: COK*ORDINANCE 25-07*Noise Measurements

PUBLICATION FEE: $73.59

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true,

Anjana Bhadoriya

Agent

JESSICA GORDON-THOMPSON
Notary Public - State of Florida
Commission # HH301656
Expires on August 17, 2026

VERIFICATION

State of Florida
County of Orange

Signed or attested before me on this: 07/11/2025

Notary Public
Notarized remotely online using communication technology via Proof.

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July 10, 2025