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4 ORDINANCE NO. 2005- _____
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7 AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA,
8 ABOUT NOISE; AMENDING CITY OF TAMPA CODE OF
9 ORDINANCES, CHAPTER 19, PROPERTY MAINTENANCE
10 AND STRUCTURAL STANDARDS, ARTICLE I, DIVISION I
11 BY DELETING SECTION 19-58, EXCESSIVE NOISE
12 DECLARED A PUBLIC NUSIANCE; AMENDING CHAPTER
13 3, ALCOHOLIC BEVERAGES, ARTICLE II, GENERAL
14 REGULATIONS, AMENDING SECTION 3-100, REVOCATION
15 FOR CAUSE, AMENDING SECTION 3-29.1, CONDITIONS
16 FOR APPROVAL DOWNTOWN TAMPA, YBOR CITY
17 HISTORIC DISTRICT, AND CHANNEL DISTRICT AREA;
18 AMENDING CHAPTER 5, BUILDING CODE, BY AMENDING
19 SECTION 5-301.2, LOUD NOISE GENERATED BY
20 CONSTRUCTION ACTIVITY ON PRIVATE PROPERTY
21 NEAR RESIDENTIAL USES; AMENDING CHAPTER 14,
22 OFFENSES, ARTICLE III, NOISE, DELETING SECTION 14-
23 151 LOUD AND UNREASONABLE NOISES—PROHIBITED;
24 DELETING SECTION 14-152, SAME ENUMERATION;
25 DELETING SECTION 14-153, EXCEPTIONS; ADOPTING A
26 NEW SECTION 14-151, EXCESSIVE NOISE PROHIBITED;
27 ESTABLISHING MAXIMUM NOISE LEVELS; PROVIDING
28 FOR EXEMPTIONS; ESTABLISHING ENFORCEMENT
29 PROCEDURES; PROVIDING FOR SEVERABILITY;
30 PROVIDING FOR REPEAL OF ALL ORDINANCES IN
31 CONFLICT; PROVIDING AN EFFECTIVE DATE.
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37 WHEREAS, the City of Tampa in response to complaints received by the
38 Tampa Police Department, has determined that establishing a dBC exterior
39 maximum sound level for those areas of the city lying outside of the Central
40 Business District, Ybor City Historic District, and Channel District is necessary in
41 order to address the health and safety concerns created by excessive noise in these
42 districts;
43

44 WHEREAS, the City of Tampa desires to adopt the county-wide exterior
45 maximum sound level of 65 dBC which is currently utilized by the Hillsborough
46 County Environmental Protection Commission;
47
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1 WHEREAS, it is the intent of the City of Tampa to replace any city wide
2 noise regulations, previously enacted by the City of Tampa, with the exterior
3 maximum sound levels established by this section;
4

5 WHEREAS, it is the intent of the City of Tampa to make demonstrated
6 compliance with the exterior maximum sound levels established by this section, a
7 condition to approval of any petition for wet zoning of property located in the
8 Downtown Tampa, Ybor City Historic District, or Channel District;
9

10 WHEREAS, the City of Tampa has determined that enforcement of the
11 exterior maximum sound levels established by this ordinance is best accomplished
12 by referring violations of this section, to the county court for prosecution pursuant
13 to section 1-6, City of Tampa Code of Ordinances;
14

15 WHEREAS, the City of Tampa has determined that the proposed
16 amendments promote and protect the general health, safety and welfare of the
17 residents of the City of Tampa; and,
18

19 WHEREAS, duly noticed public hearings as required by law were held by
20 the City Council of the City of Tampa, at which public hearings all residents and
21 interested persons were given an opportunity to be heard.
22

23
24
25 NOW, THEREFORE,

26
27 BE IT ORDAINED BY THE CITY COUNCIL
28 OF THE CITY OF TAMPA, FLORIDA,
29

30 **Section 1.** That the recitals set forth above are hereby incorporated as
31 if fully set forth herein.
32

33
34
35 **Section 2.** That **Section 19-58. Excessive noise declared a public**
36 **nuisance.** is hereby deleted in its entirety:
37

38 ~~“Sec. 19-58. Excessive noise declared a public nuisance.~~

39
40 ~~(a) *Prohibition of excessive noise.* It shall be unlawful for any person,~~
41 ~~firm, corporation or other entity, itself or through any officer, employee,~~
42 ~~agent, representative, independent contractor, manager, contractee,~~
43 ~~licensee, affiliate, shareholder, board member, trustee, parent corporation,~~
44 ~~subsidiary, partner, joint venturer, assignee, successor, patron, guest,~~
45 ~~invitee, tenant, trespasser, lessee, personal representative, heir, devisee or~~
46 ~~other related person or entity, hereinafter collectively referred to as~~
47 ~~"person" or "alleged violator", to permit, cause, allow, amplify, create,~~
48 ~~emit, or sustain excessive noise on property and adjacent right of way,~~
49 ~~including air space thereof, located in the City of Tampa. Excessive noise~~
50

1 shall be that noise which exceeds the limitations set forth in this section.
2 Excessive noise is hereby declared a public nuisance. It shall be the
3 responsibility of all persons who own or lease real property and/or operate
4 a business on real property in the city, as well as their officers, employees,
5 agents, representatives, independent contractors, and managers, to comply
6 with the noise limitations contained in this section.
7

8
9 (b) *Noise limitations.* The exterior maximum sound level on any property
10 with a building or structure, or containing outdoor or open areas,
11 including, but not limited to, outdoor entertainment venues, shall be as
12 follows:
13

14 (1) ~~In the Central Business District, the Ybor City Historic District~~
15 ~~and the Channel District as each is delineated in Chapter 27, City~~
16 ~~of Tampa Code, the average measurement taken between ten~~
17 ~~(10) and twenty (20) seconds from the property line of the~~
18 ~~alleged violator's premises:~~
19

20 a. ~~6:00 p.m. – 3:00 am: 85 dBA and 87 dBC~~

21
22 b. ~~3:00 a.m. – 6:00 pm: 65 dBA~~

23
24
25 (2) ~~In all areas of the City of Tampa other than those areas listed in~~
26 ~~subsection (b)(1) above, measured at a residential property~~
27 ~~receiving property line closest to the noise generating property~~
28 ~~where determinable:~~
29

30 a. ~~7:00 a.m. – 10:00 pm: 60 dBA~~

31
32 b. ~~10:00 p.m. – 7:00 am: 55 dBA~~

33
34
35 (3) ~~Unless otherwise exempted under subsection (c) hereof or unless~~
36 ~~a variance is granted pursuant to subsection (d) hereof, all~~
37 ~~persons who own or operate devices, equipment or machinery~~
38 ~~which generate excessive noise pursuant to section (b)(2)b., shall~~
39 ~~turn off such device, equipment or machinery at the close of~~
40 ~~business; provided, however, if such persons can demonstrate~~
41 ~~that any device, equipment or machinery must remain~~
42 ~~operational at the close of business and further provided if the~~
43 ~~noise generated by the device, equipment or machinery complies~~
44 ~~with the noise restrictions set forth in this section, then the~~
45 ~~device, equipment or machinery may remain in operation after~~
46 ~~the close of business. In the event a person violates this section~~
47 ~~by failing to turn off such device, equipment or machinery or~~
48 ~~failing to demonstrate that the device, equipment or machinery~~
49 ~~must remain operational after the close of business and that the~~
50

1 noise created by the device, equipment or machinery does not
2 exceed any of the noise restrictions contained herein, the city
3 may require the person to install an easily accessible exterior
4 switch or otherwise abate the violation in a manner approved by
5 the city.
6

7
8 ~~(4) Other agencies with jurisdiction over noise in the City of Tampa
9 shall have concurrent jurisdiction and any applicable rules and
10 regulations established by such agencies shall remain in full
11 force and effect. In the event of a conflict between this section
12 and regulations of any other agency, the stricter regulation shall
13 apply. The City of Tampa shall enforce this section in a
14 cooperative effort with such agencies.~~
15

16 ~~(5) The noise limitation standards to obtain alcoholic beverage
17 zoning in the Downtown, Ybor City and Channel Districts as
18 defined in the City of Tampa Code are contained in section 3-
19 29.1, City of Tampa Code.~~
20

21 ~~(6) The noise limitation standards for industrial, manufacturing and
22 processing operations are contained in section 27-136, City of
23 Tampa Code.~~
24

25 ~~(7) The noise limitation standards for construction are contained in
26 section 5-301.2, City of Tampa Code.~~
27

28 ~~(8) The noise limitation standards for material recovery facilities are
29 contained in section 27-272, City of Tampa Code.~~
30

31
32 ~~(c) Exemptions. The provisions of this section shall not apply to:~~
33

34 ~~(1) The use of amplified sound on school or church grounds during
35 school or church sponsored activities;~~
36

37 ~~(2) Common carrier stations, including, but not limited to, bus
38 stations, transit malls, train stations, ship wharves and docks and
39 airports;~~
40

41 ~~(3) The operation of buses, trains, ships, airplanes, helicopters and
42 trucks in good repair;~~
43

44 ~~(4) Activities in the fields, grounds or facilities of any sporting
45 venue to which the public or community has access;~~
46

47 ~~(5) Road festivals, parades, fireworks displays and special events for
48 which an appropriate permit has been obtained from the City of
49
50~~

1 Tampa in compliance with any conditions imposed by that
2 permit and within the permitted area and any privately owned
3 property located contiguous with any public right of way that is
4 closed pursuant to a parade, road festival, or special event
5 permit;
6

7
8 ~~(6) Theme parks and amusement attractions as defined by Florida~~
9 ~~Statutes, water parks, zoos and aquariums and their related~~
10 ~~amenities and service areas;~~

11
12 ~~(7) The reasonable playing of unamplified musical instruments;~~

13
14 ~~(8) Noise which results from the reasonable use, recreational~~
15 ~~enjoyment or maintenance of residential property located in the~~
16 ~~City of Tampa including, but not limited to, noise made by~~
17 ~~children, lawn mowers, chippers, clippers, blowers, tools, power~~
18 ~~tools and tractors;~~

19
20
21 ~~(9) Noise which results from the reasonable maintenance of~~
22 ~~commercial and governmental property including, but not limited~~
23 ~~to, lawn mowers, chippers, clippers, blowers, tools, power tools~~
24 ~~and tractors;~~

25
26 ~~(10) Reasonable noise made at the direction of a governmental entity~~
27 ~~or utility;~~

28
29 ~~(11) Church bells and chimes;~~

30
31 ~~(12) Reasonable noise made at events associated with public or~~
32 ~~private schools or religious institutions, such as fairs, festivals,~~
33 ~~cultural events, carnivals, recreational activities, etc.;~~

34
35
36 ~~(13) The reasonable use of the unamplified human voice;~~

37
38 ~~(14) The emission of sound for the purpose of alerting the public of~~
39 ~~an emergency or the performance of emergency work;~~

40
41
42 ~~(15) Reasonable intermittent or occasional excessive noise that is~~
43 ~~infrequent;~~

44
45 ~~(16) The reasonable and intermittent barking of dogs and sounds~~
46 ~~made by other animals as governed by sections 19 47 and 19 77,~~
47 ~~City of Tampa Code;~~

1 ~~(17) The sounds made by children and adults on school and athletic~~
2 ~~grounds during school curricular and extra curricular activities;~~
3 ~~and~~
4

5 ~~(18) Festivals or events occurring on public parks which are permitted~~
6 ~~or approved by the city's parks department.~~
7

8
9 ~~(d) Variances.~~

10
11 ~~(1) Generally. Any person may apply for a temporary or permanent~~
12 ~~variance of the provisions in this section. A variance may be~~
13 ~~granted upon the petitioner providing evidence of and city~~
14 ~~council finding at a duly noticed public hearing that the variance~~
15 ~~application meets the following criteria:~~
16

17 ~~a. the granting of the variance will not be contrary to the~~
18 ~~public health, safety and general welfare of the residents~~
19 ~~and establishments of the neighborhood and surrounding~~
20 ~~property;~~
21

22 ~~b. the granting of the variance is appropriate and compatible~~
23 ~~to the existing uses of the contiguous and surrounding~~
24 ~~property;~~
25

26 ~~c. the granting of the variance will not establish a precedent of~~
27 ~~or encourage more incompatible uses in the surrounding~~
28 ~~area;~~
29

30 ~~d. the applicant has demonstrated that enforcement of the~~
31 ~~provisions of this section would create an undue hardship~~
32 ~~on the applicant because of unique circumstances peculiar~~
33 ~~to the applicant;~~
34

35 ~~e. the applicant has demonstrated the effectiveness of noise~~
36 ~~attenuation methods and submitted methods that the~~
37 ~~applicant will employ to lessen the potentially adverse~~
38 ~~impact associated with the grant of a variance; and~~
39

40
41
42 ~~(2) The variance application must be submitted at least forty five~~
43 ~~(45) days before the variance is needed and will be evaluated by~~
44 ~~city staff and Hillsborough County Environmental Protection~~
45 ~~Commission staff and their recommendation will be transmitted~~
46 ~~to the city council for city council's consideration at the public~~
47 ~~hearing on the variance application.~~
48
49
50

1 (3) ~~City council may approve, deny or approve with conditions any~~
2 ~~application for a variance. At the public hearing, the city council~~
3 ~~may impose reasonable conditions upon the granting of any~~
4 ~~variance to ensure that the public health, safety and general~~
5 ~~welfare shall be protected and substantial justice done. Any~~
6 ~~violations of such conditions shall be a violation of this chapter.~~

8
9 (4) ~~Administration. Applications for a variance shall be filed with~~
10 ~~the city clerk on forms provided by the city clerk. The applicant~~
11 ~~shall pay an application fee as prescribed by city council~~
12 ~~resolution. The city clerk shall copy all agencies with concurrent~~
13 ~~jurisdiction with the application.~~

14
15 (5) ~~Notice. Notice of public hearing of noise variance cases before~~
16 ~~the city council shall be given by posting for the period~~
17 ~~commencing at least fifteen (15) days before the scheduled~~
18 ~~public hearing a sign, on the property for which the variance is~~
19 ~~sought, of not less than eighteen (18) inches by twenty four (24)~~
20 ~~inches, upon which shall be the following:~~

21
22
23 ~~PUBLIC NOTICE Hearing before the City Council, City of~~
24 ~~Tampa, (insert place, date and time of hearing) involving a noise~~
25 ~~variance for this property.~~

26
27 ~~The applicant shall post the sign in a conspicuous place on or~~
28 ~~near the front of the property.~~

29
30 ~~In addition, the applicant shall send notice of the hearing by~~
31 ~~certificate of mailing, at least fifteen (15) days prior to the public~~
32 ~~hearing, as to the applicant's variance request, setting forth the~~
33 ~~legal description and street address, if any, of the property for~~
34 ~~which the variance is being requested, the name of the applicant,~~
35 ~~the specific nature of the variance (including decibel changes or~~
36 ~~variances) and the place, date and time of the hearing. Said~~
37 ~~notice shall be given to all property owners, according to the~~
38 ~~latest ad valorem tax records, of every parcel of land within one~~
39 ~~hundred fifty (150) feet in every direction of the subject property,~~
40 ~~excluding streets and street rights of way and any registered~~
41 ~~neighborhood or civic associations active in the area where the~~
42 ~~property is located.~~

43
44
45 ~~The applicant shall prepare an affidavit stating that the sign~~
46 ~~required herein was posted, setting forth the lands that lie within~~
47 ~~one hundred fifty (150) feet, excluding streets and street rights-~~
48 ~~of way, in all directions from the subject property, the names of~~
49 ~~the owners of such lands and the date and post office address to~~
50

1 which each copy of the notice was mailed. Applicant shall attach
2 to the affidavit the certificate of mailing. The affidavit and
3 certificate of mailing shall be filed with the staff administrator
4 not less than five (5) days prior to the date of the public hearing.
5

6
7 (6) ~~Decision. Following the public hearing and after city council's~~
8 ~~decision, the city clerk shall forward written notice of the~~
9 ~~decision to the applicant. City council's decision shall include a~~
10 ~~determination of a bond amount required to be posted in the~~
11 ~~event of an appeal by anyone other than the applicant. The~~
12 ~~appropriate department shall issue any permits in accordance~~
13 ~~with the city council decision on the application and the~~
14 ~~appropriate department shall see to the faithful execution of the~~
15 ~~decision, including enforcement of any conditions attached to the~~
16 ~~granting of a variance. The city clerk shall copy all agencies with~~
17 ~~concurrent jurisdiction with the decision.~~
18

19
20 (7) ~~Denial. Denial of an application for a noise variance shall~~
21 ~~preclude consideration of a substantially similar request for a~~
22 ~~period of six (6) months from the date of denial. The city council~~
23 ~~may determine that this preclusion does not apply to a request if~~
24 ~~a substantially different request is submitted which addresses the~~
25 ~~grounds for the previous denial. In the event the applicant can~~
26 ~~demonstrate a hardship as a result of the application of the six (6)~~
27 ~~month application preclusion, city council can waive it.~~
28

29
30 (8) ~~Review. Any substantially affected person who attended and~~
31 ~~participated in the public hearing before city council may seek a~~
32 ~~review of city council's decision by filing a petition for writ of~~
33 ~~certiorari with the circuit court and the bond within fifteen (15)~~
34 ~~days of the date of the oral decision of city council. No action~~
35 ~~shall be taken on a granted variance until the appeal period has~~
36 ~~lapsed, and if a petition for writ of certiorari has been filed, until~~
37 ~~the circuit court has rendered a final decision thereon.~~
38

39 (e) ~~Noise attenuation. Within one hundred twenty (120) days, all~~
40 ~~businesses generating sound via amplified systems which generate~~
41 ~~excessive noise shall utilize best sound management practices to meet the~~
42 ~~requirements of this section, which best sound management practices may~~
43 ~~include, but are not limited to, the following:~~
44

45 (1) ~~increasing wall sound attenuation;~~

46 (2) ~~orienting speakers to the interior of the premises;~~

47 (3) ~~installing or implementing a secondary door system;~~
48
49
50

1
2 (4) ~~installing acoustical partitions to cover glass and windows and~~
3 ~~openings, as approved by any applicable architectural review~~
4 ~~commission; and~~

5
6
7 (5) ~~keeping all speakers inside buildings or structures.~~

8
9 In the event such noise attenuation methods require a certificate of
10 appropriateness, the time for compliance with the specific methods
11 requiring such certificate of compliance shall be one hundred eighty (180)
12 days.

13
14 (f) ~~Prohibition against speakers in rights of way and air space.~~ It shall be
15 unlawful for any person to place, locate or permit the placement of
16 speakers or sound systems within public rights of way, including the air
17 space above such public rights of way, unless otherwise expressly
18 authorized by the city in connection with a sidewalk cafe permit,
19 encroachment ordinance, variance granted pursuant to this section, or
20 other similar city council approval. Any violation of this subsection shall
21 be deemed a noise violation and enforced in the manner set forth in this
22 section.

23
24
25 (g) ~~Abatement.~~ It shall be unlawful for any person to fail to abate a noise
26 violation on the premises.

27
28 (h) (1) ~~Enforcement.~~ Whenever the city becomes aware of a noise
29 violation at any location, the city shall issue a warning in the
30 form of a notice of violation to the alleged violator in
31 conformance with Chapter 23.5, City of Tampa Code, which
32 notice shall provide five minutes to correct the violation. The
33 failure to correct the violation within the timeframe allowed or
34 any violation occurring within a seventy two (72) hour period
35 after the issuance of a warning shall be cited by the city as
36 hereinafter provided. An alleged violator shall only be entitled to
37 one warning in any twenty four (24) hour time period. The city
38 shall remeasure the alleged violator's generated sound at the end
39 of the five minute period to determine if the alleged violation has
40 been abated. Each instance of excessive noise shall constitute a
41 separate violation. The city shall provide a copy of the warning
42 to the property owner of the premises where the alleged violation
43 has occurred by regular mail and posting of the premises within
44 twenty four (24) hours of the issuance of the warning.

45
46
47 (2) ~~Prosecution and penalties.~~ The first violation or failure to correct
48 a violation of this section, after the initial notice within the time
49 frame set forth in the notice, is hereby declared a civil infraction
50

1 and may be enforced pursuant to and in accordance with the
2 provisions of Chapter 23.5, City of Tampa Code whereby a
3 citation is issued to the alleged violator. The alleged violator then
4 has the option of paying the penalty or contesting the citation in
5 County Court pursuant to Chapter 23.5, City of Tampa Code.
6 Such enforcement is supplemental to any other means of
7 enforcement available to the city under this or any other section
8 of the Code. The city, in addition to the recovery of expenses of
9 prosecution and penalties provided for in this section may pursue
10 any other remedies available to the city under the City of Tampa
11 Code as applicable to the violator.
12

13
14 a. ~~Civil penalty.~~ Any person or entity found in violation of
15 this section shall be subject to a civil penalty of no less than
16 two hundred fifty dollars (\$250.00) per violation after the
17 initial notice of violation.
18

19
20 b. ~~Restitution.~~ The courts may order a violator, in addition to a
21 civil penalty, to make restitution to the city for the costs of
22 any abatement action and court costs. Community service
23 hours shall not be substituted for monetary restitution.
24

25 (i) ~~Repeat violations.~~

26
27 (1) ~~After the second notice of violation at the same location in any~~
28 ~~twelve month period, the city may:~~

29
30 a. ~~Issue a citation which carries a monetary penalty (two~~
31 ~~hundred fifty dollars (\$250.00) to five hundred dollars~~
32 ~~(\$500.00)) which citation can be contested in the county~~
33 ~~court within fifteen (15) days after the date of the citation is~~
34 ~~given by the city. If the citation is not contested, the alleged~~
35 ~~violator is deemed guilty of the violation and must pay the~~
36 ~~fine; or~~
37

38
39 b. ~~Issue a notice of hearing before the city's code enforcement~~
40 ~~board if the city wishes to obtain a code enforcement order~~
41 ~~constituting a lien on the property in the amount of any~~
42 ~~unpaid fines for violations of this section.; or~~
43

44
45 c. ~~Prosecute in accordance with Section 1-6, City of Tampa~~
46 ~~Code.~~

47
48 d. ~~In addition to a civil penalty, the courts may order the~~
49 ~~alleged violator to make restitution to the city for the costs~~
50 ~~of any abatement action and court costs. Community~~

1 service hours shall not be substituted for monetary
2 restitution.
3

4 (2) ~~After the third notice of violation at the same location in any~~
5 ~~twelve-month period, the city may:~~
6

7
8 a. ~~Require a public hearing before city council pursuant to~~
9 ~~section 3 29.1 and 3 100, City of Tampa Code, for~~
10 ~~determination as to whether a location which is zoned for~~
11 ~~alcoholic beverages should be reverted to a dry status~~
12 ~~because a public nuisance exists at that location;~~
13

14 b. ~~Seek injunctive relief and/or a declaration that the~~
15 ~~excessive noise caused by the person constitutes a public~~
16 ~~nuisance from the county court, each awarding the city the~~
17 ~~right to impound personal property used to generate~~
18 ~~excessive noise;~~
19

20
21 c. ~~Seek a hearing before the city's code enforcement board to~~
22 ~~determine whether the person is a "repeat violator" under~~
23 ~~Chapter 19, City of Tampa Code, and subject the person or~~
24 ~~business to a fine in excess of five hundred dollars~~
25 ~~(\$500.00);~~
26

27 d. ~~Seek revocation of the occupational license or other~~
28 ~~applicable city licenses or permits issued to the alleged~~
29 ~~violator;~~
30

31 e. ~~Seek to impose a lien on the alcoholic beverage license~~
32 ~~held by an alleged violator;~~
33

34 f. ~~Impose noise attenuation methods to comply with this~~
35 ~~section; or~~
36

37
38 g. ~~Prosecute in accordance with Section 1 6, City of Tampa~~
39 ~~Code.~~
40

41 h. ~~In addition to a civil penalty, the courts may order the~~
42 ~~alleged violator to make restitution to the city for the costs~~
43 ~~of any abatement action and court costs. Community~~
44 ~~service hours shall not be substituted for monetary~~
45 ~~restitution."~~
46

47
48 **Section 3. That Section 3-29.1 Conditions for approval Downtown**
49 **Tampa, Ybor City Historic District, and Channel District area., is hereby**
50

1 amended by adding the underlined language and deleting the stricken language as
2 follows:
3

4 “Sec. 3-29.1. **Conditions for approval in the Downtown Tampa, Ybor**
5 **City Historic District, and Channel District area.**”
6

7 (a) Applicability and conditions. Whenever the subject property of a
8 petition is located within that portion of Downtown Tampa, the Ybor City
9 Historic District or the Channel District as delineated in the City of Tampa Code
10 and it is determined by city council that an alcoholic beverage zoning
11 classification for 1-COP, 2-COP, 4-COP, 1-COP-R, 2-COP-R, 4-COP-R, 1-COP-
12 X, 2-COP-X, and 4-COP-X should be approved, the following conditions shall
13 automatically be imposed on any such approval, and such approval shall also be
14 conditioned upon compliance with said conditions:
15

16 (1) Noise/sound limitations and attenuation. If, at any time, the
17 property for which the alcoholic beverage zoning
18 classification is sought is operated as a bar/lounge, club or
19 restaurant, as said terms are defined in City of Tampa Code
20 section 27-523, the following noise/sound limitations
21 property shall comply with the exterior maximum sound
22 levels contained in section 14-151. shall apply:
23

24 a. ~~The interior maximum sound level limit as~~
25 ~~measured immediately exterior to the premises~~
26 ~~containing the above listed use shall be sixty five~~
27 ~~(65) dBA. If a property line of the premises is~~
28 ~~immediately exterior to the premises and the~~
29 ~~premises are located in the Channel District, Ybor~~
30 ~~City Historic District or Downtown, the interior~~
31 ~~maximum sound level as measured immediately~~
32 ~~exterior to the premises shall be eighty five (85)~~
33 ~~dBA between 6:00 p.m. and 3:00 a.m.~~
34

35 b. ~~The exterior maximum sound level for outdoor~~
36 ~~entertainment venues shall be eighty five (85)~~
37 ~~dBA. The exterior maximum sound level shall be~~
38 ~~the highest measurement taken for thirty (30)~~
39 ~~seconds from the center line of the right-of-way(s)~~
40 ~~immediately adjacent to venue's premises.~~
41

42 c. ~~Variances to the interior maximum sound levels of~~
43 ~~eighty five (85) dBA set forth in subsection a.1.~~
44 ~~above, shall be permitted upon demonstration and~~
45 ~~installation of additional noise attenuation~~
46 ~~construction methods or devices which have the~~
47 ~~effect, regardless of the interior sound level, of~~
48 ~~rendering the sound level immediately exterior to~~
49 ~~the premises to eighty five (85) dBA in the~~
50 ~~Downtown, Ybor City and Channel Districts and~~

1 alcoholic beverages, including but not limited to section
2 14-97, Nudity on premises where alcoholic beverages
3 offered for sale;

- 4
- 5 (3) The maintaining of a nuisance on the property (as said
6 term is defined by this code or common law);
7
- 8 (4) Engaging in or permitting disorderly conduct on or about
9 the property;
10
- 11 (5) Operation of the wet zoned establishment in a manner
12 other than as permitted by the ordinance authorizing same
13 or in a manner that repeatedly, or on an ongoing basis, has
14 negative secondary effects on surrounding property,
15 including but not limited to violations of city code,
16 ordinance or state law related to noise, parking, or trash and
17 debris, after having received reasonable notice to terminate
18 or correct any condition that is in violation of such code,
19 ordinance or law;
20
- 21 (6) Failing to comply with any of the provisions of the fire
22 prevention ordinance after having received reasonable
23 notice to eliminate or correct any condition existing on the
24 property that is in violation of such ordinance;
25
- 26 (7) Failing to comply with any of the provisions of the health
27 and sanitation ordinances of the city, the county or laws of
28 the state after having received reasonable notice to
29 eliminate or correct any condition existing on the property
30 that is in violation of such ordinances or laws;
31
- 32 (8) Conviction or withholding of adjudication for selling,
33 giving, serving or permitting to be served alcoholic
34 beverages to persons under twenty-one (21) years of age or
35 permitting a person under twenty-one (21) years of age to
36 consume alcoholic beverages on such property, in
37 accordance with state law;
38
- 39 (9) Revocation of a license for the sale of alcoholic beverages
40 by the state department of business and professional
41 regulation, division of alcoholic beverages and tobacco;
42
- 43 (10) The inclusion of false information in any application or
44 petition filed under any section of this Chapter 3, or
45 presented by or on behalf of a petitioner or applicant filing
46 same at any public hearing before the city council relating
47 to a consideration of such petition or application by the city
48 council;
49
- 50 (11) Conviction or withholding of adjudication or finding of

1 delinquency of any patron of the wet zoned premises for
2 underage possession of any alcoholic beverage;

- 3
4 (12) Allowing the sale of alcoholic beverages at or from a wet
5 zoned establishment while the license for the sale of
6 alcoholic beverages is suspended by the state department of
7 business and professional regulation, division of alcoholic
8 beverages and tobacco.
9

10 For purposes of this section, the terms "convicted," "conviction,"
11 "violated" or "violation" shall mean being found guilty of, or entering a
12 plea of nolo contendere to, regardless of adjudication, a violation of a
13 municipal or county ordinance or state or federal law, as provided herein.
14 Unless a public record is exempt from disclosure pursuant to F.S. Ch. 119,
15 an owner of property which has been zoned for the sale of any type of
16 alcoholic beverages or from which any type of alcoholic beverages may be
17 lawfully sold shall be provided written notice of a violation hereof by the
18 city."
19

20 **Section 5. That Section 5-301.2. Loud noise generated by**
21 **construction activity on private property near residential uses.,** is hereby
22 amended as follows:
23

24 **“Sec. 5-301.2. Loud noise generated by construction activity on**
25 **private property near residential uses.**
26

27
28 5-301.2.1. The generation of any avoidable or unreasonably loud, disturbing or
29 unnecessary noise by construction activity on private property, other than between
30 the hours of: (1) 7:00 a.m. and 6:00 p.m. Monday through Friday; (2) 8:00 a.m.
31 and 6:00 p.m. on Saturday; or (3) 10:00 a.m. and 6:00 p.m. on Sunday is
32 prohibited if such construction activity is within one thousand five hundred
33 (1,500) feet of any building or portion thereof which is actually occupied and used
34 either a single-family or multi-family residence. For purposes of this article,
35 "avoidable or unreasonably loud, disturbing or unnecessary noise by construction
36 activity on private property" shall mean any noise arising from construction
37 activity on private property which exceeds the noise limitations set forth ~~on~~ in
38 subsection 19-58(b)-14-151 of this Code as measured from the property line of the
39 residential use located closest to the construction activity generating the noise.
40

41 5-301.2.2. No pile drivers or jack hammers shall be operated or used in
42 conjunction with construction activities on private property on Saturday or
43 Sunday except between the hours of 10:00 a.m. and 6:00 p.m.
44

45 5-301.2.3. In case of emergency or urgent necessity, a construction contractor or
46 other builder may apply to the city inspectional services manager for an exception
47 of this section and the inspectional services manager shall grant the exception
48 only if undue hardship would result from a denial. For purposes hereof, such an
49 emergency or urgent necessity must arise from a natural disaster, act of God, or an
50 act or failure to act on the part of a third party not related to or under contract with
the construction contractor or builder requesting the exception.

1
2 5-301.2.4. For purposes of this section only, "construction activity" means site
3 preparation, site excavation, and the erection, demolition, alteration or repair of
4 any building or structure.
5

6 5-301.2.5. This section shall be enforced in accordance with and violations of this
7 section shall be subject to the penalties contained in ~~subsections 19-58(h) and (i)~~
8 section 14-151(e) of this Code."
9

10
11 **Section 6.** That **Section 14-151. Loud and unreasonable noises—**
12 **Prohibited** is hereby repealed in its entirety as follows:
13

14 “~~Sec. 14-151. Loud and unreasonable noises—Prohibited.~~

15
16 ~~The creation of any avoidable and unreasonably loud, disturbing~~
17 ~~and unnecessary noise within the corporate limits of the city is hereby~~
18 ~~prohibited. Noise or disturbances of such character, intensity and duration~~
19 ~~as to be and tending to be detrimental to the life, health or normal comfort~~
20 ~~of any individual is prohibited.”~~
21

22 **Section 7.** That **Section 14-152. Same—Enumeration** is hereby
23 repealed in its entirety as follows:
24

25 “~~Sec. 14-152. Same—Enumeration.~~

26
27 ~~The following acts, among others, are declared to be loud,~~
28 ~~disturbing, avoidable and unnecessary noises and nuisances in violation of~~
29 ~~this article, but such enumeration is not and shall not be deemed to be~~
30 ~~exclusive:~~
31

32 (1) ~~—Horns and warning devices. The sounding of any horn or~~
33 ~~signal device of any automobile, motorcycle, bus, truck or~~
34 ~~other vehicle, whether in motion or not, except as a~~
35 ~~necessary danger signal, or creating by means of any such~~
36 ~~signal device any avoidable or unreasonably loud or harsh~~
37 ~~sound or the sounding of such device for an unnecessary~~
38 ~~and unreasonable period of time is prohibited;~~
39

40 (2) ~~—Noisy vehicles. The use of any automobile, motorcycle or~~
41 ~~other vehicle so loaded or out of repair or operated as to~~
42 ~~create loud, avoidable and unnecessary grating, grinding,~~
43 ~~rattling or other noise is prohibited;~~
44

45 (3) ~~—Amplified sound. Operating or permitting the operation of~~
46 ~~any public address system, loudspeaker or any other device~~
47 ~~which electronically augments or amplifies sound in such a~~
48 ~~manner or with such volume as to annoy or disturb the~~
49 ~~quiet, comfort and repose of a reasonable person in any~~
50 ~~dwelling, hotel or other type of residence between the hours~~
~~of 10:00 p.m. and 8:00 a.m.;~~

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~~(4) — Radios, phonographs and musical instruments. The playing of any radio, phonograph or any musical instrument or device in such manner or with such volume as to annoy or disturb the quiet, comfort and repose of a reasonable person in any dwelling, place of business, hotel or other type of residence is prohibited;~~

~~(5) — Peddlers, hawkers, etc. The shouting and crying of peddlers, hawkers and vendors, and broadcasting from sound wagons and trucks between the hours of 7:00 p.m. and 6:00 a.m. is prohibited.”~~

Section 8. That **Section 14-153. Exceptions** is hereby repealed in its entirety as follows:

~~“Sec. 14-153. Exceptions.~~

~~(a) — The provisions of this article on amplified sound do not apply to its use on school grounds during school sponsored functions or when used as indispensable parts of businesses conducted within enclosed buildings or within the facilities of common carrier stations.~~

~~(b) — The provisions of this article do not apply to noise generated by the following:~~

~~(1) — Vessels operated by the United States Army Corps of Engineers or by a public agency (by independent contractor or otherwise) under the supervision of such Corps of Engineers for the purpose of effecting improvements in or to the harbors and the other navigable waters of the city, if the Corps of Engineers or such public agency or a representative thereof shall have first obtained from the city a permit to operate such vessels for the purpose of effecting such work;~~

~~(2) — Activities at any fields or grounds where sporting events are carried on and to which the public may enter for a consideration or otherwise;~~

~~(3) — Parades, fireworks displays and other special events for which a permit has been obtained from the city, within such hours as may be imposed on the permit.”~~

1 **Section 9.** That a new **Section 14-151. Excessive noise prohibited.**
2 is hereby created as follows:
3

4 **“Sec. 14-151. Excessive noise prohibited.**
5

6 (a) *Prohibition of excessive noise.* It shall be unlawful for any
7 person(s), to permit, cause, allow, amplify, create, emit, or sustain
8 excessive noise on any property, including air space thereof, located in the
9 City of Tampa. Excessive noise shall be that noise which exceeds the
10 limitations set forth in this section.
11

12 (b) *Noise limitations.* The maximum dBA and dBC sound
13 levels permitted on any property within the City of Tampa, shall be as
14 follows:
15

16 (1) In the Central Business District, the Ybor City
17 Historic District and the Channel District as each is delineated in
18 Chapter 27, City of Tampa Code, the average measurement taken
19 between ten (10) and twenty (20) seconds shall be no greater than the
20 maximum levels set out below. The measurement shall be taken from
21 the property line, or individual lease boundary in the case of property
22 which has been subdivided by the execution of individual leases, of the
23 noise generating property:
24

25 a. 85 dBA or 87 dBC between the hours of
26 6:00 p.m and 3:00 a.m.
27

28 b. 65 dBA or 75 dBC between the hours of
29 3:00 a.m. and 6:00 p.m.
30

31 (2) In all areas of the City of Tampa other than those areas listed in
32 subsection (b)(1) above, the average measurement taken between
33 (10) and twenty (20) seconds shall be no greater than the
34 maximum levels set out below. The measurement shall be taken
35 from a receiving property at the property line closest to the noise
36 generating property:
37

38 a. 60 dBA or 65 dBC between the hours of 7:00 a.m. and 10:00
39 p.m.
40

41 b. 55 dBA or 65 dBC between the hours of 10:00 p.m. and 7:00
42 a.m.
43

44 (3) Unless otherwise exempted under subsection (c) hereof, all
45 persons or businesses who own or operate devices, equipment or
46 machinery which generate noise levels in excess of the maximum
47 permitted by this section shall be liable for the cost of the noise
48 abatement measures necessary to reduce the noise levels to the maximum
49 permitted by this section.
50

1 dBA or dBC levels listed in section (b)(2)b above, shall turn off
2 such devices, equipment, or machinery by 10:00 p.m., or at the
3 conclusion of operating hours for the business if such operating
4 hours conclude prior to 10:00 p.m., unless such persons or
5 business can demonstrate that such devices, equipment, or
6 machinery must remain in operation beyond the operating hours
7 of the business in order to avoid ~~harm~~ **personal injury** to
8 persons or **physical** damage to property.
9

10
11 (4) Other agencies with jurisdiction over noise in the City of Tampa
12 shall have concurrent jurisdiction and any applicable rules and
13 regulations established by such agencies shall remain in full
14 force and effect. In the event of a conflict between this section
15 and regulations of any other agency, the stricter regulation shall
16 apply. The City of Tampa shall enforce this section in a
17 cooperative effort with such agencies.
18

19
20
21 (5) The noise limitation standards for industrial, manufacturing and
22 processing operations are contained in section 27-136, City of
23 Tampa Code.
24

25 (6) The noise limitation standards for construction are contained in
26 section 5-301.2, City of Tampa Code.
27

28 (7) The noise limitation standards for material recovery facilities are
29 contained in section 27-272, City of Tampa Code.
30

31 (c) Exemptions. The provisions of this section shall not apply to:
32

33
34 (1) The use of amplified sound on school or church grounds during
35 school or church sponsored activities;
36

37 (2) Common carrier stations, including, but not limited to, bus
38 stations, transit malls, train stations, ship wharves and docks and
39 airports;
40

41 (3) The operation of buses, trains, ships, airplanes, helicopters and
42 trucks in good repair;
43

44 (4) Activities in the fields, grounds or facilities of any sporting
45 arena, stadium, or sports complex to which the public or
46 community has access;
47

48 (5) Road festivals, parades, fireworks displays and special events for
49 which an appropriate permit has been obtained from the City of
50

1 Tampa in compliance with any conditions imposed by that
2 permit and within the permitted area and any privately owned
3 property located contiguous with any public right of way that is
4 closed pursuant to a parade, road festival, or special event
5 permit;
6

7
8 (6) Theme parks and amusement attractions as defined by Florida
9 Statutes, water parks, zoos and aquariums and their related
10 amenities and service areas;
11

12 (7) The reasonable playing of unamplified musical instruments;
13

14 (8) Noise which results from the reasonable use, recreational
15 enjoyment or maintenance of residential property located in the
16 City of Tampa including, but not limited to, noise made by
17 children, lawn mowers, chippers, clippers, blowers, tools, power
18 tools and tractors;
19

20 (9) Noise which results from the reasonable maintenance of
21 commercial and governmental property including, but not limited
22 to, lawn mowers, chippers, clippers, blowers, tools, power tools
23 and tractors;
24

25 (10) Reasonable noise made at the direction of a governmental entity
26 or utility;
27

28 (11) Church bells and chimes;
29

30 (12) Reasonable noise made at events associated with public or
31 private schools or religious institutions, such as fairs, festivals,
32 cultural events, carnivals, recreational activities, etc.;
33

34 (13) The reasonable use of the unamplified human voice;
35

36 (14) The emission of sound for the purpose of alerting the public of
37 an emergency or the performance of emergency work;
38

39 (15) Reasonable intermittent or occasional excessive noise that is
40 infrequent;
41

42 (16) The reasonable and intermittent barking of dogs and sounds
43 made by other animals as governed by sections 19-47 and 19-77,
44 City of Tampa Code;
45

1 (17) The sounds made by children and adults on school and athletic
2 grounds during school curricular and extra-curricular activities;
3 and
4

5 (18) Festivals or events occurring on public parks which are permitted
6 or approved by the Parks & Recreation Department of the city.
7

8
9 (d) Prohibition against speakers in rights-of-way and air space. It shall be
10 unlawful for any person to place, locate or permit the placement of
11 speakers or sound systems within public rights-of-way, including the air
12 space above such public rights-of-way.
13

14
15 (e) (1) Enforcement. Whenever a law enforcement officer observes a
16 violation of this section, the officer shall issue a warning in
17 writing to the individual, or individuals, responsible for the
18 violation. The warning shall state the dBA and/or dBC readings
19 obtained by the officer during measurement, and the maximum
20 dBA and dBC levels established by this section. The warning
21 shall also inform the individual, or individuals, that the generated
22 sound level on the property must be reduced within five minutes.
23 Thereafter, each remeasurement which exceeds the maximum
24 permissible sound levels established by this section shall
25 constitute a separate violation.
26
27

28 (2) Prosecution and penalties. Any violation of this section by an
29 individual, who has received a written warning within the past
30 twelve(12) months of the violation, shall be prosecuted and
31 punished in accordance with section 1-6, City of Tampa Code.
32

33
34 (3) Upon the issuance of a Notice to Appear in court, or arrest,
35 pursuant to subsection (e)(2) above, the city shall provide a
36 letter, to the property owner of the premises where the violation
37 occurred, by certified mail, return receipt requested. The letter
38 shall inform the property owner of the violation which occurred
39 on their property, and inform the property owner that, if the
40 property where the violation occurred is zoned for the sale of
41 alcoholic beverages, a conviction on this, or subsequent
42 violations, could result in the setting of a public hearing before
43 city council for the purpose of determining whether the property
44 should be reverted to a dry status pursuant to section 3-100.
45
46
47

48 **Section 10.** That sections 14-152 – 14-175 are hereby reserved.
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Section 11. That if any part of this ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions of this ordinance shall remain in full force and effect.

Section 12. That all ordinances in conflict herewith are hereby repealed to the extent of any conflict with the terms of this ordinance.

Section 13. That this ordinance shall take effect immediately upon becoming a law.

1
2 PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY
3 OF TAMPA, FLORIDA ON _____.
4

5
6 ATTEST:
7

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10 _____
11 CITY CLERK/DEPUTY CITY CLERK CHAIRMAN/CHAIRMAN PRO-TEM
12 CITY COUNCIL
13

14
15 APPROVED BY ME ON
16

17
18 _____
19 PAM IORIO, MAYOR
20

21 PREPARED BY AND APPROVED
22 AS TO LEGAL SUFFICIENCY:
23

24
25 _____ E/S
26 DAVID C. SHOBE, JR.
27 ASSISTANT CITY ATTORNEY
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