

**ORDINANCE NO. 0-1-16**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA; AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, "NUISANCES," ARTICLE 2, "NOISE," TO CLARIFY EXISTING NOISE REGULATIONS, AND TO ADOPT NEW REGULATIONS FOR THE PREVENTION OF NOISE DISTURBANCES GENERALLY; PROVIDING THAT ALL OTHER SECTIONS AND SUBSECTIONS OF CHAPTER 42 WILL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, article 2, "noise," of chapter 42, "nuisances," of the Town's code of ordinances regulates noise that originates within the jurisdictional limits of the Town; and

**WHEREAS**, the Town Commission desires to amend the Town's noise regulations to clarify existing noise regulations, and to adopt new regulations for the prevention of noise disturbances generally within the jurisdictional limits of the Town; and

**WHEREAS**, the Town Commission believes the amendments set forth in this ordinance will allow the Town to regulate, control, and prevent noise that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, and safety of Town residents and visitors; and

**WHEREAS**, it is not the intent of the Town Commission to interfere unduly with freedoms of speech, expression, or religion by enacting this ordinance, and

**WHEREAS**, the Town Commission believes the following amendments to the code of ordinances are in the best interests of the health, safety, and welfare of the citizens of Palm Beach Shores, Florida.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PALM BEACH SHORES, FLORIDA:**

**Section 1.** The facts and recitations contained in the preamble of this ordinance are adopted and incorporated by reference as if set forth in this section.

**Section 2:** Chapter 42, Article II of the Code of Ordinances of the Town of Palm Beach Shores, Florida, is hereby amended to clarify existing noise regulations, and to adopt new regulations for the prevention of noise disturbances generally within the jurisdictional limits of the Town; providing that Chapter 42, Article II of the Code of Ordinances of the Town of Palm Beach Shores shall hereafter read as follows:

## Chapter 42

### Article II. Noise

#### DIVISION 1. GENERALLY

##### Sec. 42-31. 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:

*Acoustical terminology.* All acoustical terminology and all definitions thereof shall be that contained in ASA S1.1-1960, as amended, American Standard Acoustical Terminology of the American National Standards Institute.

*Ambient noise* means the all-encompassing noise associated with a given environment, being a composite of sounds from many sources, near and far. ~~For the purposes of this Code, ambient noise level is that level which is exceeded only 50 percent of the time during an observation period of not less than seven minutes, excluding random or intermittent noises and the alleged offensive noise at the location and the time of day at which a comparison with an alleged offensive noise is to be made. The evaluation of the ambient noise level may be done in accordance with American National Standard S1.13-1971, as amended, or may be done manually as follows:~~

- ~~(1) Observe a sound level meter and at either five second or ten second intervals and record the A weighted level indicated by the meter needle with the meter on FAST response.~~
- ~~(2) Repeat the observations and measurements over a period of not less than seven minutes and of a sufficient time period so as to make at least 50 readings.~~
- ~~(3) Calculate the A weighted sound pressure level that is exceeded 50 percent of the observation period. This level shall also be referred to as the L50.~~

*Authorized emergency vehicle* shall mean vehicles of the fire department (fire patrol), police department, ~~and such ambulances, and emergency vehicles of municipal departments, public service corporations operated by private corporations, and the state department of transportation as are designated or authorized by the department or the chief of police of an incorporated city or any sheriff of any of the various counties~~ any other governmental entity or private emergency service provider.

*A-weighted sound level* shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dBA.



*Construction* shall mean any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or on public or private right-of-way, structures, utilities or similar property.

*Decibel (dBA)* shall mean a unit for measuring the intensity of a sound, the mathematical formula for which is expressed as the volume of a sound, ~~which is equal to ten times the logarithm of the ratio of the intensity of the sound to the intensity of a specified standard sound;~~ abbreviated dBA.

*Discrete tone* means a pure tone or a single-frequency sound. This is expressed technically as a sound wave whose instantaneous sound pressure varies essentially as a single sinusoidal function of time.

*Emergency work* shall mean work made necessary to restore property to a safe condition following a natural disaster or public calamity; work required to protect persons or property from imminent danger caused by hurricanes, tornados, floods or other natural disasters or public calamity, the use of emergency electrical generators during a period of time when electrical service to the property has been lost, so long as such use is in conformance with the requirements of Pf. 12.8 of the town's zoning ordinance, or work by private or public utilities when installing or restoring utility service.

*Fixed mechanical equipment* means a machine or device capable of creating a noise level at the property line upon which it is located, including, but not limited to, industrial and commercial process machinery and equipment, pumps, fans, air conditioning apparatus, refrigeration machines or pool heaters.

~~*Fluctuating noise* means a noise in which the loudness varies with time. This is expressed technically as a noise whose sound pressure level varies significantly and exceeds the ambient noise level.~~

~~*Impulsive noise* means a very short duration noise. It is a noise characterized by brief exertions of sound pressure which significantly exceed the ambient sound pressure.~~

~~*Intermittent noise* means an interrupted noise which reoccurs at either regular or irregular intervals, excluding an impulsive noise. The sound pressure level of an intermittent noise will equal the ambient environmental level two or more times during the period of observation.~~

*Loud and raucous noise* shall mean sound which, because of its volume level, duration and character, or based on attending circumstances such as time of day or location, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons ~~or~~ of ordinary sensibilities. There is a rebuttable presumption that noise measured from a location of 150 feet from the property line of the noise source, with a decibel reading of 50 decibels, or noise that is plainly audible across property lines of adjacent residential properties is loud and raucous.

*Motorboat* shall mean any boat or vessel propelled or powered by machinery whether or not such machinery is the principal source of propulsion; including but not limited to boats, barges, amphibious craft, water-ski-towing devices, personal watercraft and hover craft.

*Motorcycle* shall mean any motor vehicle having a seat or saddle for the use of the rider designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

*Motor vehicle* shall mean any vehicle which is self-propelled.

*Noise disturbance* shall mean any loud and raucous noise, as well as any sound or noise, though not actually loud and raucous, that exceeds the maximum permitted decibel level as set forth in this article.

~~*Nonsteady noise* is the same as a fluctuating noise.~~

~~*Period of observation* means the time interval during which acoustical data and facts are obtained.~~

*Powered model vehicle* shall mean any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

*Plainly audible means any sound that can be detected by a reasonable person of ordinary sensitivities using his or her unaided hearing facilities.*

*Property line* shall mean an imaginary 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.

*Public Space* means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.



*Sound* shall mean a temporal and spatial oscillation in pressure, or other physical quantity in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at finite speed to distant points.

*Sound level meter* shall mean an instrument used to measure sound ~~in decibels~~ using the A scale (dBA).

~~*Sound pressure level*, in decibels, of a sound is 20 times the logarithm to the base ten of the ratio of the pressure of the sound to the reference sound pressure. The reference is 0.0002 microbar. The sound pressure level may be evaluated using FLAT, A, B, or C scales as defined by the American National Standards Institute and shall be labeled dB, dBA, dBB or dBC respectively. The A weighted sound pressure level measured with fast response on an instrument meeting American National Standards Institute specifications or its successor bodies, except that only the A weighting and fast dynamic response need be provided, shall be called the "sound level."~~

~~*Steady noise* means a nonfluctuating noise or a noise whose level remains essentially constant during the period of observation.~~

*Zoning district* means any of the several designated categories in the zoning code of the town.

#### **Sec. 42-32. Purpose and Scope.**

It is the purpose of this article to prevent, prohibit, and provide for the abatement of noise disturbances, which may injure the health or welfare or degrade the quality of life of the citizens and residents of the town and adjoining neighbors in the surrounding municipalities, or other reasonable persons of ordinary sensibilities. This article shall apply to the control of all sounds originating within the limits of the Town of Palm Beach Shores. It is not the intent of this legislation to interfere unduly with freedom of speech or religion.

**Findings:** The Town Commission of the Town of Palm Beach Shores finds:

- (1) Loud and raucous noise degrades the environment of the Town to a degree that:
  - a. is harmful to the health, safety, and welfare of its inhabitants and visitors;
  - b. interferes with the comfortable enjoyment of life and property;
  - c. interferes with the wellbeing, tranquility, and privacy of the home; and
  - d. both causes and aggravates health problems.

- (2) Both the effective control of noise through decibel-based restrictions and the elimination of loud and raucous noise are essential to the health and welfare of the Town's inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work, and communication.
- (3) The use of sound amplification equipment can cause loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of inhabitants of, and visitors to, the Town.
- (4) Certain short-term easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the Town.
- (5) The obligation to draft noise regulations is a government interest as set-out in Article II, section 7, of the Florida Constitution.
- (6) The obligation to draft speech regulations in a content-neutral fashion is of paramount importance to protect the freedom of expression guaranteed by Article I, section 4 of the Florida Constitution and the First Amendment of the United States Constitution. This ordinance enacts narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights.

**Sec. 42-33 – 42-40. Reserved.**

## **DIVISION 2. STANDARDS**

### **Sec. 42-41. Noise disturbances prohibited generally.**

It shall be unlawful for any person to make, continue or cause to be made or continued any loud and raucous noise; or make, continue or cause to be made or continued any noise which exceeds the maximum decibel levels as set forth in this article.

### **Sec. 42-42. Specific prohibitions.**

The following acts, and the causing or permitting thereof, are declared to be in violation of this article:



(1) Stereo/audio equipment ~~Radios, television sets, musical instruments, and~~ similar devices ~~and on-site amplified music~~. Operating, playing or permitting the operation or playing of any stereo/audio equipment, television set, phonograph, drum, musical instrument or similar device which produces or reproduces sound, ~~or permitting on-site amplified music~~, between the hours of 8:00 p.m. and 8:00 a.m. the following day in such a manner as to exceed maximum decibel levels as set forth in this article; or at any time in such a manner as to create a loud and raucous noise, except for activities for which prior permission has been given in writing by the town clerk or designee, and the police chief or designee.

(2) Loudspeakers and on-site live or recorded amplified music.

a. Using or operating for any purpose any loudspeaker, loudspeaker system or similar device, or permitting / providing on-site amplified music, whether such music is performed live by vocal singers and/or musicians with musical or percussion instruments; or is performed by pre-recorded audio media, between the hours of 8:00 p.m. and 8:00 a.m. the following day, and at any time on Sundays and during federal holidays, in such a manner as to exceed maximum decibel levels as set forth in this article; or at any time in such a manner as to create a loud and raucous noise in the following areas:

1. Within or adjacent to residential uses;

2. Within a Public Space when the sound is plainly audible across the real property line of the Public Space from which the sound emanates, except for activities for which prior permission has been given in writing by the town clerk or designee, and the police chief or designee.

b. This provision shall not apply to any public performance, gathering, parade, or special event, which has obtained a special event permit from the Town.

c. Any and all loudspeaker and / or on-site live or recorded amplified music activity as described in this paragraph shall be conducted at any and all times such that the sound from all loudspeakers and / or amplified music speakers is directed away from any and all adjacent residential property in the Town.

- (3) Animals. Owning, possessing or harboring any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds between the hours of 8:00 p.m. and 8:00 a.m. the following day in such a manner as to exceed maximum decibel levels as set forth in this article; or at any time create a loud and raucous noise.
- (4) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects at a place of business or residence between the hours of 8:00 p.m. and 8:00 a.m. the following day in such a manner as to exceed maximum decibel levels as set forth in this article; or at any time in such a manner as to create a loud and raucous noise.
- (5) Construction. Operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work or related construction activity, between the hours of 5:00 p.m. and 8:00 a.m. the following day Monday through Saturday (October 1 through April 30), or between the hours of 6:00 p.m. and 8:00 a.m. the following day Monday through Saturday (May 1 through September 30), or at any time and, New Year's Day, Thanksgiving Day and Christmas Day during federal holidays, such that the sound therefrom exceed maximum decibel levels as set forth in this article; or at any time in such a manner as to create a loud and raucous noise. Emergency Work noises are exempt from this provision. In non-emergency situations, the Town Manager may issue a permit, upon application, if the Town Manager determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours between the hours of 5:00 p.m. and 8:00 a.m. the following day Monday through Saturday (October 1 through April 30), or between the hours of 6:00 p.m. and 8:00 a.m. the following day Monday through Saturday (May 1 through September 30) will not be impaired, and if the Town Manager further determines that loss or inconvenience would otherwise result. The permit shall grant permission in non-emergency cases for a period of not more than three days. The permit may be renewed once for a period of three days or less.
- (6) Vehicle, motorboat or aircraft repairs and testing.



- a. Repairing, rebuilding, modifying or testing any motor vehicle, motorboat or aircraft between the hours of 8:00 p.m. and 8:00 a.m. the following day in such a manner as to exceed maximum decibel levels as set forth in this article; or at any time in such a manner as to create a loud and raucous noise.
  - b. Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with or pursuant to applicable federal laws or regulations.
- (7) Explosives, firearms and similar devices. Using or firing explosives, firearms or similar devices such that the sound therefrom creates a loud and raucous noise, or a noise disturbance across a real property line, or within a noise sensitive zone, public space or public right-of-way, without first obtaining permission in writing by the town clerk or designee, and the police chief or designee.
- (8) Powered model vehicles. Operating or permitting the operation of powered model vehicles between the hours of 8:00 p.m. and 8:00 a.m. the following day so as to exceed maximum decibel levels as set forth in this article; or at any time in such a manner as to create a loud and raucous noise.
- (9) Stationary nonemergency signal devices. Sounding or permitting the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes, from any place, for more than ten seconds in any hourly period.
- (10) Emergency signaling devices.
- a. The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil alarm, siren, whistle or similar stationary emergency signaling device except for emergency purposes or for testing, as provided in subsection b. below.
  - b. Testing:
    - 1. Testing of a stationary emergency signaling device shall not occur before 8:00 a.m. or after 8:00 p.m. Any such testing shall only use the minimum cycle test time. In no case shall such test time exceed 60 seconds.

2. Testing of the complete emergency signaling system, including the function of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 8:00 a.m. or after 8:00 p.m.
- c. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within 15 minutes of activation.
- (11) Motorboats. Operating or permitting the operation of any motorboat in any lake or waterway between the hours of 8:00 p.m. and 8:00 a.m. the following day in such manner as to cause a noise disturbance.
- (12) Power tools (operated by homeowner or resident only).
  - a. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool so as to exceed maximum decibel levels as set forth in this article between 8:00 p.m. and 8:00 a.m. Monday through Saturday or all day on Sundays, ~~New Year's Day, Thanksgiving Day and Christmas Day~~ and during federal holidays; or at any time in such a manner as to create a loud and raucous noise.
  - b. Operating or permitting the operation of any mechanically powered tool of any kind, whatsoever, not properly muffled and maintained in good working order.
- (13) Emergency electrical generators. Operating or permitting the operation of any emergency electrical generator within the town so as to create a noise disturbance except when in conformance with the "maintenance and "exercise" requirements provided in Pf. 12.8 of the town's zoning ordinance.
- (14) Commercial uses adjacent to residential uses.



a. Causing or permitting any noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the commercial establishment, between the hours of 4:00 p.m. and 8:00 a.m. the following day, and at any time on Sundays and during federal holidays, in such a manner as to exceed maximum decibel levels as set forth in this article; or at any time in such a manner as to create a loud and raucous noise, which is plainly audible at a distance of five (5) feet from any residential property or public space, except for activities for which prior permission has been given in writing by the town clerk or designee, and the police chief or designee.

b. Any and all sound generating activity as described in this paragraph shall be conducted at any and all times such that the sound is directed away from any and all residential areas in the Town.

Reserved.

(15) ~~General prohibitions. Any sound that is not otherwise regulated or prohibited elsewhere in this article which is a noise disturbance, as defined in this article shall be considered a violation of this article.~~

(16) ~~The town commission, police chief, or town clerk~~ may also grant temporary exemptions from the prohibited acts listed above to allow latitude in such instances and under such circumstances where good cause can be shown.

**Sec. 42-43. Decibel measurement standards for noise other than operating motor vehicles.**

~~The n~~Noise from any activity ~~or and from~~ any permissible use of property within the meaning of the applicable zoning district classifications of the town shall be deemed to be a noise disturbance if the noise constitutes a loud and raucous disturbance or exceeds the decibel levels set-out below; ~~or if the total noise level as measured on the A scale due to both ambient noise and the alleged source of the noise disturbance exceeds the decibel levels which are herein prescribed below or if the noise constitutes a loud and raucous~~

(1) ~~Fixed mechanical equipment, day and night: 50 dBA.~~

(2) ~~All others:~~

~~Day: 55 dBA~~

~~Night: 50 dBA~~

Zoning District	Time	Sound Level Limit (dBA)
A, B, C and D	8 a.m. EST until 8 p.m. EST	55 Decibels
	8:01 pm EST until 7:59 a.m. EST	50 Decibels
ROS	At all times	50 Decibels

The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute (ANSI), S1.4 American National Standard Specifications for Sound Level Meters. The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create an unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used at all times.

(1) The slow meter response of the sound level meter shall be used in order to best determine the average amplitude. An average measurement between ten and twenty seconds shall be recorded.

(2) All sound measurements shall be documented on a form, which is approved by the Town.

(3) Where the measurement taken is dependent on the source of the noise complaint:

a. In case of measurements where the sound source is a private residence or property that has not obtained a special permit pursuant to this chapter, the measurement shall be made at the property line of the source. If measurement is not possible at the property line of the source, measurement shall be taken as close thereto as possible. All measurements shall be made at least three feet away from any ground, wall, floor, ceiling, roof and other plane surface. No measurement shall be taken outdoors while it is raining. Indoor measurements may be taken only if the sound or source is on or within the same property as receiving property as in the case of multi-use or multi-dwelling unit building or property as described below.



b. In case of measurements where the sound source is from a multi-use or multi-dwelling unit property, or when there is a common wall between the receiving property and the source property, the measurement may be made at any point inside the premises to which any complainant has a legal right of private occupancy; provided that the measurement is made within three feet of any ground, wall, floor, ceiling, roof or other plane surface.

c. In case of measurements where the sound source is from a source that holds a Town permit or is an outdoor source to which the public has access (decks, pools, outdoor parties and festivals, outdoor concerts, etc.), the enforcement officer will take a decibel sound measurement at the property line closest to the source of the noise (speakers, amplifiers, etc.).

(4) All measurements of sound provided for in this chapter will be performed by Town police officers, code compliance officers, or the Town Manager or designee.

~~Decibel levels shall be measured at the boundary of the property from which the alleged noise disturbance emanates, except as provided in section~~ The provisions of this section shall not apply to motor vehicle noise, which is regulated at section 42-45(d); or to for motor vehicle noise.

~~The provisions of this section shall not apply to the operation of mechanically powered tools during the hours specifically allowed under~~ which is regulated at subsection 42-42(12) hereinabove, provide any motor associated with these tools is properly maintained and properly muffled.

**Sec. 42-44. Amplified noise upon public streets prohibited.**

It shall be unlawful for any person, either as an individual, principal, agent or employee, to play, use or operate on or upon the public streets of the town any device known as a sound truck, loudspeaker or sound amplifier or radio or phonograph equipped with a loudspeaker or sound amplifier or any instrument of any kind or character which broadcasts any noise and is attached to or upon any vehicle operated or standing upon any street of the town, unless prior permission has been given in writing by the town clerk or designee, and the police chief or designee. This shall not apply to any public performance, gathering, parade, or special event for which a special event permit has been obtained from the Town. This section is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing or other factors not based on content.

**Sec. 42-45. - Motor vehicle noise prohibited.**

(a) Applicability. This section applies to the total noise from a vehicle and shall not be construed as limiting or precluding the enforcement of any other provisions of this article relating to motor vehicle mufflers for noise control.

(b) Operating motor vehicle noise limits. No person shall operate or be permitted to operate a vehicle at any time or under any condition of roadway grade, load, acceleration or deceleration in such a manner as to generate a loud and raucous noise as defined in this article or in such a manner as to generate a sound level in excess of 86 dBA at 35 miles per hour or less; or at a sound level in excess of 90 dBA at 36 miles per hour or more, at a distance of 50 feet from the center of the lane of travel, pursuant to F.S. § 316.293.

(c) Reserved.

(d) Measurement procedures. The measurement procedures for determining compliance with motor vehicle noise limits as set forth at F.S. § 316.293 shall be established by regulation of the department of environmental regulation as provided in F.S. § 403.415. Such regulations shall include the selection of measurement sites and measurement procedures and shall take into consideration accepted scientific and professional methods for the measurement of vehicular sound levels. The measurement procedures may include adjustment factors to be applied to the noise limit for measurement distances of other than 50 feet from the center of the lane of travel.



(e) Noise abatement equipment modifications.

(1) No person shall modify the exhaust system of a motor vehicle or any other noise abatement device of a motor vehicle operated or to be operated upon the streets of the town in such a manner that the noise emitted by the motor vehicle is above that emitted by the vehicle as originally manufactured.

(2) No person shall operate a motor vehicle upon the street with an exhaust system or noise abatement device so modified.

**Sec. 42-46. Exemptions from article.**

The following are exempt from this article:

(1) All equipment tests required by law;

(2) All procedures or processes required by law;

(3) All accidental sounding of equipment making noise prohibited in this article;

(4) Noises of safety signals, warning devices and emergency pressure relief valves;

(5) Noises resulting from emergency work;

(6) Any other noise resulting from activities of a temporary duration and for which permission has been granted by the town clerk or designee and the police chief or designee, or the town commission, as provided for in section 18-27 of the Town Code of Ordinances;

(7) Authorized emergency vehicles;

(8) Construction equipment legally on the job site or traveling on streets during hours allowed by the Town Code of Ordinances;

(9) Any motor vehicle, which is not required to be licensed under the provisions of F.S. ch. 320;

(10) The use of emergency electrical generators during a state of emergency declared pursuant to section 26-~~26~~-5 of the Town Code of Ordinances, or when electrical service to the property has been lost.

(11) Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events that have obtained a special event permit from the Town.

**DIVISION 3. ADMINISTRATION AND ENFORCEMENT**

**Sec. 42-51. Enforcement authority.**

~~The provisions of this article involving sound and noise control occurring on the streets or pedestrian ways or other public areas including, but not limited to, parks and public recreation areas, public buildings and other public property and any complaints of noise on private property within the town shall be investigated and enforced by the police department and/or the code compliance enforcement department. Nothing in this article shall prevent the Town from obtaining voluntary compliance by way of warning, notice or education.~~

**Sec. 42-52. Enforcement procedure.**

(a) The procedure for enforcing operating motor vehicle noise standards shall be as established in F.S. ch. 316 and applicable rules and regulations of the state department of pollution control with the cooperation of the state department of highway safety and motor vehicles.

(b) In all other cases, the procedure for enforcing the provisions of this article shall be as follows:



(1) ~~The enforcement authority police department and/or the code compliance department~~ shall investigate and determine if the sound or noise is in violation of this article. (2) If the sound or noise is found to be in violation of this article, ~~the enforcement authority police department and/or the code compliance department may~~ shall give a warning to the person or persons responsible for the loud and raucous noise or the noise disturbance, or in the alternative, may issue the person or persons responsible for the loud and raucous noise or the noise disturbance a notice of violation and hearing for an irreparable/irreversible violation of this Article in accordance with the notice requirements of section 2-70 and 2-75 of the Town Code of Ordinances. (3) In determining whether to issue a warning or a notice of violation and hearing, (i) the severity of the noise violation, (ii) any previously issued warnings to the same offender, (iii) any previously issued notices of violation and hearing to the same offender, and (iv) any neighbor complaints shall all be taken into consideration. The Chief of Police and the Code Compliance Department Head are authorized to establish policies regarding use and application of the above factors. ~~If the loud and raucous noise or the noise disturbance is not abated within a reasonable time after warning, a notice of violation shall be issued by a police or code enforcement officer in accordance with the notice requirements of section 2-70 and/or 2-75 of the Town Code of Ordinances, as applicable. If the loud and raucous noise or the noise disturbance rises to the level of a criminal violation of state law, the person in possession or control of the cause of the loud and raucous noise or the noise disturbance may be arrested by the police department and charged accordingly.~~

(4) When issuing a warning under this section, the offender shall be given a A reasonable time for compliance ~~as set forth in subparagraph (3) above is~~ which should be such length of time as may fairly, properly and reasonably be allowed or required having regard to the nature of the loud and raucous noise or the noise disturbance, and the attending circumstances.

(5) An aggrieved party may appeal a decision of the special magistrate via the process described at section 2-74 of the Town code.

**Section 3:** Each and every other section and subsection of Chapter 42 – Nuisances, shall remain in full force and effect as previously adopted.

**Section 4:** All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 5:** Should any section or provision of this ordinance, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this ordinance.


**Section 6:** Specific authority is granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Palm Beach Shores, Florida.

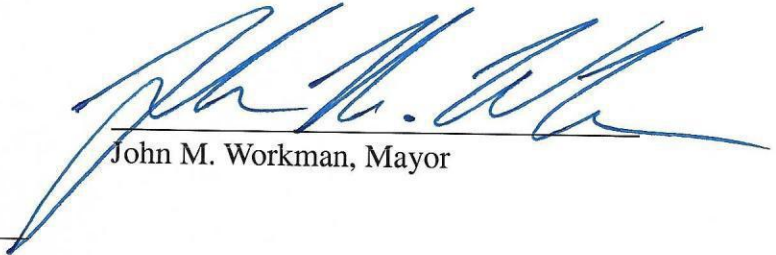
**Section 7:** This ordinance shall take effect immediately upon adoption.

FIRST READING this 25<sup>th</sup> day of January, 2016.

SECOND & FINAL READING this 22<sup>nd</sup> day of February, 2016.  
Approved this 22<sup>nd</sup> day of February, 2016,

Attest:

  
Evyonne Browning, Town Clerk

  
John M. Workman, Mayor

Approved as to form and legal sufficiency.

  
Keith Davis, Town Attorney

