

TOWN OF JUPITER



DATE:	July 7, 2020
TO:	Honorable Mayor and Members of Town Council
THRU:	Matt Benoit, Town Manager <i>MB</i>
FROM:	Thomas J. Baird, Town Attorney
SUBJECT:	Ordinance 14-20, Second Reading, Amending Chapter 13 of the Town Code to change all references from the term "Noise" to "Sound", to separate outdoor sound amplification from outdoor venues, and to ensure regulations are content neutral and constitutional.

EXECUTIVE SUMMARY:

This ordinance revises the text in Chapter 13 so that all references to "noise" are changed to "sound" and some other "housekeeping" items. It also revises and separates the text in section 13-107 to separate outdoor sound amplification from outdoor venues. The amendments are intended to clean up the text so as to address the comments made in the opinion of the 11th Circuit Court of appeal regarding the constitutionality of Town's existing sound regulations. The amendments are intended to further ensure that the town's regulations in Chapter 13 are content neutral and constitutional.

RECOMMENDATION:

Approval of Ordinance 14-20, Second Reading.

Strategic Priority:

Small Town Feel

Attachments:

- Ordinance 14-20

Funding Source:

Approved in Budget	\$ N/A	Sources:
Additional Funding Required	\$ N/A	Sources:

***Funding is not necessary for this request**

For more information or to request attachments, please contact Laura Cahill at Laurac@jupiter.fl.us or 561-741-2352.

ORDINANCE NO. 14-20

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF JUPITER, FLORIDA, AMENDING CHAPTER 13, DIVISIONS 1 AND 2 OF THE TOWN CODE TO CHANGE ALL REFERENCES THEREIN FROM THE TERM NOISE TO SOUND; PROVIDING FOR THE AMENDMENT OF SECTION 13-107 PERTAINING TO THE OPERATION OF OUTDOOR SOUND AMPLIFICATION DEVICES AND REPEALING THE PROVISIONS THEREIN RELATED TO OUTDOOR VENUES; PROVIDING FOR THE RELOCATION OF THE PROVISIONS OF OUTDOOR VENUES AND AMENDMENTS THERETO TO SECTION 13-108; PROVIDING FOR THE RENUMBERING OF SECTIONS 13-108 THROUGH 13-120; PROVIDING FOR THE INCLUSION OF THE DEFINITION OF CERTIFIED OUTDOOR VENUE AND SOUND AMPLIFICATION DEVICE IN SECTION 13-137; PROVIDING FOR THE REPEAL OF SECTION 13-140 RELATED TO STANDARDS FOR ENFORCEMENT AND SECTION 13-141 RELATED TO APPLICATIONS FOR SOUND PERMIT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Jupiter ("Town") has adopted regulations in Chapter 13 of the Jupiter Code of Ordinances (Code) pertaining to sound; and

WHEREAS, the Town Council hereby determines that the regulation of sound including these amendments are necessary and appropriate to further the public's health, safety and general welfare; and

WHEREAS, the Council finds that the regulations of Chapter 13 pertaining to sound are intended to be and are content neutral in their application throughout the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JUPITER, FLORIDA AS FOLLOWS:

Section 1. The whereas clauses are incorporated herein as true and correct and as the legislative findings of the Town Council.

Section 2. Chapter 13, Article IV, Division 1, Sections 13-102 through 107 of the Town Code, are hereby amended to read as follows:

Sec. 13-102 – Noise Sound disturbances prohibited.

It shall be unlawful for persons to make, continue or cause to be made, any excessive, unnecessary or unusually loud ~~noise~~ sound, which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of normal sensibilities, within the town limits, as prohibited in this article, ~~unless the noise is exempted under this article.~~

Sec. 13-103. - Loud and unnecessary ~~noises~~ sounds.

The acts enumerated in this article, among others, are declared to be loud, disturbing and unnecessary ~~noises~~ sounds which create a public nuisance, and which constitute a violation of this article. Such enumeration shall not be deemed to be exclusive.

Sec. 13-104. - Horns, signaling devices, etc.

It is unlawful to sound any horn or signaling device on any automobile, motorcycle, truck, or other vehicle on any street or public place of the town, or on private property, if the ~~noise~~ sound exceeds the standards established herein as measured from any private property or public place which is adjacent thereto, except as a danger warning, which creates any unreasonably loud or harsh sound for an unnecessary and unreasonable period of time, including the use of any signaling device, except one operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up.

Sec. 13-105 – Railroad train whistle and horn ~~noise~~ sound pollution

(a) It shall be unlawful and a public nuisance for any person operating a railroad train to blow or activate or permit to be blown or activated any horn or whistle from the railroad train in advance of signalized public grade crossings after 10:00 p.m. and before 6:00 a.m. on any day, when the railroad train is within the town.

(b) The provisions of this section shall be applicable only to public at-grade railroad crossings which are equipped with operating train-activated automatic traffic control devices, which shall include flashing lights, bells and crossing gates on both sides of the railroad train track.

(c) Each day or portion thereof of continuing violation shall be deemed a separate violation of this section.

(d) As a prerequisite to the enforcement of this section, signs shall be erected at the crossings involved announcing that the railroad train horns and whistles will not be sounded during the aforesaid hours.

Sec. 13-106 – Operation of Indoor sound amplification devices.

It is unlawful to use, operate or permit to be played, used or operated any indoor or in-vehicle sound amplification device ~~including, but not limited to, a radio receiving set, musical instrument, compact disc, tape, phonograph or other machine or device~~ for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, pedestrians, or operators of vehicles with ~~noise~~ sound emanating therefrom which is louder in volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated. The operation of any such ~~radio receiving set, musical instrument, compact disc, tape, phonograph, or other machine or~~ sound amplification device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be

plainly audible at a distance of 50 feet from a pedestrian, room, building, structure or vehicle in which said machine or device is being operated shall be prima facie evidence of a violation of this section.

**Sec. 13-107. - ~~Operation of outdoor sound amplification devices; outdoor venues~~
Outdoor sound.**

~~(a) — Outdoor sound amplification.~~

~~(a) It is unlawful to create outdoor sound or to use, operate or permit to be played, used, or operated any outdoor sound amplification machine or device including, but not limited to, a radio receiving set, musical instrument, compact disc, tape, phonograph, loudspeaker, sound amplifier or other machine or device for the production or reproduction reproducing of sound between the hours of 11:00 p.m. and 7:00 a.m. which exceed the levels established in Table 1, or for ~~except if an approved and certified as an outdoor venue, the levels established in Table 2 as provided for in subsection (b) of this section.~~~~

~~(b) All outdoor sounds including those emanating from an outdoor amplification machine or device in any sound zone or on-within the public right-of-way shall be limited in volume and tone so as not to exceed the regulations established herein.~~

~~(c) Outside live musical performances Outdoor sound amplification devices associated with a nonresidential establishment properties which have been approved and certified as an outdoor venue shall meet not exceed the sound volumes or the hours of operation as established in Table 2 - the regulations of subsection (b) of this section or unless they have obtained an special permits pursuant to chapter 27, article IV entitled "Special Permits."~~

~~(b) — Outdoor venue. An outdoor venue may be approved to operate outdoor sound amplification devices with extended hours up to 12:00 a.m., if all of the following requirements are met:~~

~~(1) — Exterior sound standards of section 13-144, Table 2.~~

~~(2) — A site plan identifying the location and details of all speakers, sound attenuation and outdoor stages which demonstrates that the stage, sound attenuation and speakers are located on the property to minimize the projection of sound amplification beyond the surrounding upland property lines of a proposed outdoor venue.~~

~~(3) — Details and specifications of the proposed professional sound system which demonstrates that the sound being amplified is transmitted only through the professional sound system.~~

~~(4) — Details and specifications that the proposed professional sound system includes a sound limiter. The professional sound system shall have a sound limiter with a tamper-resistant volume control limiter. The volume is to be set and locked at or below the maximum allowable sound level, and the sound levels from the outdoor venue shall not exceed the exterior decibel levels established for the zoning district in which the outdoor venue is located. The sound level from the outdoor venue shall meet the sound levels established for properties in the zoning districts of surrounding properties. An inspection of the sound data report from the sound limiter and access to the sound system shall be permitted at any time upon the request of a town police or code compliance officer. The failure to provide the town with the sound data report, or the~~

~~refusal to provide the town with access to the sound limiter shall be an irreparable violation of this section.~~

- ~~(5) Sound attenuation of adequate height, length and density such as perimeter walls, berming or other adequate soundproofing barriers around the outdoor stage and/or perimeter of the property are a requirement for outdoor venues to ensure that the standards of section 13-144 are met at the upland property line of a property approved as an outdoor venue and the sound levels established for the zoning districts of surrounding properties.~~
- ~~(6) A property owner who has established a use with outdoor live music on his property prior to November 16, 2010, and who proposes to establish an outdoor venue on that property shall submit an administrative site plan amendment. All other proposed outdoor venues shall submit a site plan application with an event program to the town which shall be subject to the review and approval of the town council. The purpose of the event program is to define the hours and frequency of events to demonstrate conformance with section 27-96.~~

Section 3. Chapter 13, Division 1, is hereby amended to add a new Section 13-108 of the Town Code, to read as follows:

Sec. 13-108. Outdoor venue.

Outdoor venue. An outdoor venue may be approved to have the standards in Table 2 applied for the ~~as an exception to the standards otherwise applied to the~~ use of sound amplification devices used as part of an outdoor venue and may be operated an additional hour until 12:00 a.m., provided all of the following are met:

- (1) Exterior sound standards of section 13-144, Table 2.
- (2) The Town Council has approved a site plan which identifies the location and details of all sound amplification devices within a property intended to be an outdoor venue. The plan shall illustrate the means and methods the property owner will implement to minimize the projection of sound beyond the outdoor venue's upland property lines to the upland property line of adjacent properties.
- (3) Details and specifications of any proposed sound amplification device which demonstrates that the sound is being transmitted through a professional sound system.
- (4) The use of a professional sound system to control sound amplification with an automatic sound limiter and tamper-resistant volume control limiter. The volume shall be set and locked at or below the maximum permitted decibel level for the property at its upland property line. The sound levels from the outdoor venue shall not exceed the decibel levels established for the zoning district in which the outdoor venue is located, or the decibel levels established at the property line for properties located in adjacent zoning districts. The Town shall be provided with the sound data report from the automatic sound limiter and access to the sound system upon request. The failure to provide the town with the sound data, or the refusal to provide the town with access to the data from the automatic sound limiter shall be an irreparable violation of this section.
- (5) The installation of such sound attenuation at an adequate height, length and density such as perimeter walls, berming or other barriers around the perimeter of the outdoor venue as necessary to ensure that the sound standards herein are met.

(6) Property owners who have an approved and certified outdoor venue shall submit an annual event program schedule to the town by October 1 of each year identifying the events for the following calendar year, and designate which events, if any are recurring events and those which require a separate special permit. The annual event program schedule shall be subject to the Town Council's review and approval regarding the frequency of the events proposed and to ensure the public's safety at the outdoor venue.

Section 4. Chapter 13, Sections 13-108 through 13-120 of the Town Code are hereby amended as follows:

Sec. 13-~~109~~ ~~108~~. - Yelling, shouting, etc.

It is unlawful to yell, shout, hoot, whistle, or sing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence or of any persons in the vicinity.

Sec. 13-~~110~~ ~~109~~. - Animals and birds.

It is unlawful for any person to own, possess or harbor any animal or bird which creates frequent or sustained sounds, such as howling, barking, meowing, or squawking so as to disturb neighboring residents.

Sec. 13-~~111~~ ~~110~~. - Tire screeching.

The intentional and/or repeated creation of a noise disturbance through the acceleration, turning, or stopping of any motor vehicle is prohibited.

Sec. 13-~~112~~ ~~111~~. - Exhausts.

The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is prohibited.

Sec. 13-~~113~~ ~~112~~. - Defect in vehicle or load.

The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in any other such manner as to create loud and unnecessary grating, grinding, rattling or other noise or noise disturbance is prohibited.

Sec. 13-~~114~~ ~~113~~. - Loading, unloading, and unpacking.

No person shall load, unload, pack or unpack or open crates, boxes or containers on any vehicle as to create a noise disturbance across a residential noise zone between the hours of 10:00 p.m. and 7:00 a.m. This section shall not apply to holders of solid waste franchises or to any solid waste collection.

Sec. 13-115444. - Construction or repairing of buildings.

The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays (Monday through Friday), and on Saturdays between the hours of 8:00 a.m. and 4:00 p.m., except in case of urgent necessity in the interest of public health and safety, is prohibited without specific permission from the town manager or his designee. Permission may be granted for a period not to exceed three days while the emergency continues and may be renewed for periods of three days or less while the emergency continues. If the town manager determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 8:00 p.m. and 7:00 a.m., and if he determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 8:00 p.m. and 7:00 a.m. Application for such permission shall be made to the town manager at the time the permit for the work is awarded or during the progress of the work.

Sec. 13-116445. - Schools, courts, churches, and hospitals.

The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, is prohibited. Conspicuous signs shall be displayed in such streets indicating that it is a street in which there is a school, church, hospital or court.

Sec. 13-117446. - Hawkers; peddlers.

- (a) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood is prohibited.
- (b) The use of any drum or other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale is prohibited.
- (c) However, the selling by shouting or outcry of merchandise, food, and beverages at licensed sporting events, stadiums, parades, fairs, circuses, approved special events, and other similar public entertainment events is permitted.

Sec. 13-118447. - Lawn maintenance equipment.

The operation of lawn mowers, edgers, trimmers, chainsaws, and power-driven hedge shears in a residential noise zone, or within 500 feet thereof, is prohibited between the hours of 10:00 p.m. and 7:00 a.m.

Sec. 13-119448. - Power tools.

No person shall operate within a residential noise zone, or within 500 feet thereof, any power equipment, excluding construction equipment used for construction activities, such as, but not limited to, chain saws, pavement breakers, log chippers, riding tractors, and power hand tools, between the hours of 10:00 p.m. and 7:00 a.m. This section shall not apply if the sound produced by such power equipment cannot be heard outside that person's residence.

Sec. 13-120449. - Blowers, fans, or internal combustion engines.

The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, is prohibited unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to reduce such noise to meet the applicable noise zone standards as set forth in section 13-144.

Section 5. Chapter 13, Division 2. Decibel Levels, Section 13-137 of the Town Code entitled "Definitions" is hereby amended as follows:

Sec. 13-137. - Definitions.

(a) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted sound level means the total sound level of all ~~sound-noise~~ measured with a sound level meter with reference to a pressure of 20 micropascals using the A-weighting network (scale) and slow time response. The unit of measurement is the A-weighted dBA.

Ambient noise means the all-encompassing ~~sound-noise~~ associated with a given environment, being usually a composite of sounds from all sources, excluding the alleged offensive ~~sound-noise~~, at the location and approximate time at which a comparison with the alleged offensive ~~sound-noise~~ is to be made.

Bel means a unit of sound power level when the base of the logarithm is ten. Use of the bel is restricted to levels of quantities proportional to power.

Certified outdoor venue means a property that has been approved by the Town Council for an exception to the sound regulations regarding hours of operation and frequency of events and has met all of the requirements of Section 13-108, and, if applicable, the conditions of a development approval

Decibel (dB) means one-tenth of a bel and is a unit of sound level when the base of the logarithm is the ten root of tenth, and the quantities concerned are proportional to pressure.

Emergency work means work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

Fixed ~~noise~~ sound source means a stationary device which creates sounds while fixed or motionless, including, but not limited to, residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

Mechanical equipment means implements and tools produced or operated by a machine, that are used to provide energy, light, heat, air or broadcast telecommunication services to a building, structure and/or property. This includes, but is not limited to, air-conditioning units, pool equipment, satellite dishes, gas tanks (aboveground only), solar panels, antennas and generators.

Microbar means a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

Mobile ~~noise~~ sound source means any ~~sound~~ ~~noise~~ source other than a fixed ~~sound~~ ~~noise~~ source.

Noise Sound zone means that area designated as residential, commercial, mixed use or industrial on the official town zoning map. For the purpose of sound noise zones, public institutional and quasi-public institutional properties are designated as residential sound noise zones.

Period of a periodic quantity means the smallest increment of time for which the function repeats itself.

Periodic quantity means an oscillating quantity, the values of which recur for equal increments of time.

Sound amplification device means a machine, equipment or device used to expand, or make sound greater or louder.

Sound level meter means an instrument including a microphone, an amplifier, an output display and frequency weighting and time averaging networks for the measurement of sound noise and sound levels in a specified manner.

Sound pressure level, in decibels of sound, means 20 times the logarithm to the base ten of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.

~~(b) The above acoustical and/or other terminology shall be that contained in the American National Standards Institute (ANSI) s1.1, Acoustical Terminology.~~

Section 6. Chapter 13, Division 2, Section 13-140 entitled “Standards for enforcement” is hereby repealed:

Sec. 13-140. - Standards for enforcement.

~~The standards which shall be considered in determining whether a violation of section 13-102 exists shall include the following:~~

- ~~(1) The volume of the noise.~~
- ~~(2) The nature and zoning of the area and use affected by the noise.~~
- ~~(3) Whether the nature of the noise is usual or unusual.~~
- ~~(4) The volume and temporal pattern of the background noise, if any.~~
- ~~(5) The proximity of the noise to sleeping and other noise-sensitive facilities and activities.~~
- ~~(6) The nature and zoning of the area within which the noise emanates.~~
- ~~(7) The time of the day or night the noise occurs.~~
- ~~(8) The duration of the noise.~~
- ~~(9) Whether the noise is recurrent, intermittent or constant.~~
- ~~(10) Whether the noise is produced by a commercial or non-commercial activity.~~

Section 7. Chapter 13, Division 2, Section 13-141 entitled “Application for noise permit” is hereby repealed:

~~Sec. 13-141. -- Application for noise permit.~~

~~Application for a permit for relief from the noise level designated in this division on the basis of undue hardship may be made to the town manager. It shall be considered by the town council, and any permit granted by the town council under this division shall contain all conditions upon which such permit has been granted, and shall specify a reasonable time that the permit shall be effective. The town council or its duly authorized representative may grant the relief as applied for if it finds:~~

- ~~(1) That additional time is necessary for the applicant to alter his activity or operation to comply with this division; or~~
- ~~(2) The activity or operation of the noise source will be of temporary duration, and cannot be done in a manner that would comply with other sections of this division; and~~
- ~~(3) The town council may prescribe any conditions or requirements it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.~~

Section 8. Chapter 13, Division 2, Section 13-143 entitled “Enclosed places of public entertainment” is hereby amended as follows:

Sec. 13-143. - Enclosed places of public entertainment.

- (a) It shall be unlawful to sustain in any enclosed place of public entertainment including, but not limited to, a restaurant, bar, cafe, club, nightclub, discotheque, or dance hall, a sound decibel any sound amplitude equal to or in excess of 95 dBA sustained for more than 30 seconds.
- (b) Such sound ~~or noise~~ is shall be measured by a sound level meter approved by the American National Standards Institute from any area to which the public is invited within any enclosed place of public entertainment.

Section 9. Chapter 13, Division 2, Section 13-144 entitled “Exterior sound standards” is hereby amended as follows:

Sec. 13-144. - Exterior sound standards.

- (a) The following sound standards, as measured at a three-minute equivalent continuous sound level (Leq), shall apply to all property with a designated sound zone:

Table 1. Allowable Exterior Sound Levels per Sound Zone
(Measured at a Three-Minute Leq)

<i>Zone</i>	<i>Daytime Leq (7:00 a.m. to 10:00 p.m.)</i>	<i>Nighttime Leq (10:00 p.m. to 7:00 a.m.)</i>
Residential sound zone	55 dBA	45 dBA
Mixed use sound zone	60 dBA	50 dBA
Commercial sound zone	65 dBA	55 dBA
Industrial sound zone	70 dBA	60 dBA

Table 2. Allowable Exterior Sound Levels per Sound Zone for Outdoor Venues Approved With Extended Hours
(Measured at a Three-Minute Leq)

Zone	Daytime Leq (7:00 a.m. to 11:00 p.m.)	Transitional Nighttime Leq (11:00 p.m. to 12:00 a.m.)	Nighttime Leq (12:00 a.m. to 7:00 a.m.)
Residential sound zone	55 dBA	45 dBA	45 dBA
Mixed use sound zone (properties with residential)	60 dBA	50 dBA	50 dBA
Mixed use sound zone (properties without residential)	65 dBA	55 dBA	50 dBA
Commercial sound zone	65 dBA	55 dBA	50 dBA
Industrial sound zone	70 dBA	60 dBA	55 dBA

(b) It is unlawful for any person at any location within the incorporated area of the town to create any sound, or to allow the creation of any sound, on property owned, leased, occupied or otherwise controlled by such person or business, which causes the sound level when measured on any other property line to exceed either of the following:

(1) The sound levels listed in Table 1 or Table 2, based on the property's designated sound zone, based on a three-minute, A-weighted Leq.

(2) A maximum A-weighted instantaneous sound level or peak measurement value which is greater than or equal to the relevant sound standard by ten dBA for any time period except for sounds from mechanical equipment ~~as a result of a musical or theatrical performance.~~

~~(c) If the ambient sound level exceeds the standard, as noted in Table 1 and 2 above of the designated sound zones, the ambient sound level shall be considered the standard.~~

(d) ~~(c)~~ If the sound measurement location is on a boundary between two different abutting sound zones, the standard to be applied shall be the logarithmic dBA average of the standards from the respective sound zones (see Table 3). The sound levels shall not be averaged if the two sound zones are separated by another property, public or private right-of-way or a waterway. If an acoustically effective intervening wall or barrier exists between the sound source of concern and the sound-sensitive receiver, the effects of the wall shall be considered. Otherwise, the sound measurements may be conducted along the vertical plane of the property boundary or anywhere else on the receiving property.

Table 3. Logarithmic Averages [Leq dBA]

	Sound Standard Value (Receiving Property)						
Sound Standard Value (Generating Property)	45	50	55	60	65	70	75
45	45	48	52	57	62	67	72
50	48	50	53	57	62	67	72
55	52	53	55	58	62	67	72
60	57	57	58	60	63	67	72
65	62	62	62	63	65	68	72
70	67	67	67	67	68	70	73
75	72	72	72	72	72	73	75

(e-d) The operation of ~~an~~ any such outdoor sound amplification machine or device in such a manner as to be plainly audible by a town police officer or code compliance officer who has been given permission by the property owner or tenant to enter in any residential dwelling unit (~~that has closed~~ measured with the windows and doors closed) which is located 150 feet or more from the property line where said sound amplification machine or device is being operated shall be prima facie evidence of a violation of this section.

Section 10. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 11. Repeal of laws in conflict. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 12. Codification. The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "Section", "Article", or any other appropriate word.

Section 13. Effective Date. This Ordinance shall take effect upon execution.