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ORDINANCE NO. 18-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BOYNTON BEACH, FLORIDA, AMENDING PART II. "CODE OF ORDINANCES," CHAPTER 15, "OFFENSES-MISCELLANEOUS," ARTICLE I, "IN GENERAL," SECTIONS 15-8.1 THROUGH 15-8.8; CREATING SECTION 15-8.9 ENTITLED "MEASUREMENT OF NOISE"; PROVIDING FOR DEFINITIONS, CITY COMMISSION AUTHORITY, CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Commission of the City of Boynton Beach has a significant interest in protecting the health, safety and welfare of the residents in the City, and ensuring the residents' enjoyment of life and property; and

**WHEREAS**, the City of Boynton Beach has a substantial and significant public interest in protecting residential areas and land uses from potential adverse impacts of continuous, excessive and unnecessary noise and/or sound; and

**WHEREAS**, such public interest extends to protecting, preserving and maintaining the health, safety and welfare of the residents while also protecting, preserving and maintaining the aesthetic character of areas where the residents reside and do business; and

**WHEREAS**, the City of Boynton Beach desires to avoid potential detrimental impacts to residents of the City from continuous, excessive and unnecessary noise; and

**WHEREAS**, the City finds that this Ordinance will advance the public health, safety, and welfare, and help to preserve the unique and extraordinary aesthetic qualities of the City.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF BOYNTON BEACH, FLORIDA AS FOLLOWS:**

**SECTION 1. Recitals.** The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

**SECTION 2. Amendment of City Code.** Part II, "Code of Ordinances", Chapter 15-8.1 through Chapter 15-8.8, are hereby amended as provided in **Exhibit "A"**, which is attached to this Ordinance, and hereby incorporated by reference (words that are stricken out are deletions; words that are underlined are additions). Part II, "Code of Ordinances", Chapter 15-8.9 entitled "Measurement of Noise" is hereby created as provided in **Exhibit "A"**, which is attached to this Ordinance and hereby incorporated by reference (words that are stricken out are deletions; words that are underlined are additions).

**SECTION 3. Codification and Reservation of Rights.** This Ordinance shall be incorporated into the Boynton Beach City Code. Any section, paragraph number, letter and/or

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any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made. Adoption and codification of this ordinance does not waive the city's right to contest or otherwise challenge the constitutionality validity, enforceability, and effectiveness of the Act or any part thereof and the city hereby reserves the right to contest and otherwise challenge the Act.

**SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

**SECTION 5. Conflicts.** In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

**SECTION 6. Effective date.** This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Boynton Beach, Florida, and shall apply to all existing and future applications for permits.

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**FIRST READING** this \_\_\_\_ day of \_\_\_\_\_, 2018.

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**SECOND, FINAL READING AND PASSAGE** this \_\_\_\_ day of \_\_\_\_\_, 2018.

## CITY OF BOYNTON BEACH, FLORIDA

YES      NO

Mayor – Steven B. Grant

Vice Mayor – Christina L. Romelus

Commissioner – Mack McCray

Commissioner – Justin Katz

Commissioner – Joe Casello

VOTE

ATTEST:

Judith A. Pyle, CMC  
City Clerk

(Corporate Seal)

## EXHIBIT “A”

### PART II. CODE OF ORDINANCES CHAPTER 15. OFFENSES - MISCELLANEOUS, ARTICLE I. IN GENERAL.

#### Section 15-8-.1. Same – Purpose and space.

It is the purpose of sections 15-8 through 15-8.89 to prevent, prohibit and provide for the abatement of excessive, and unnecessary noise which may injure the health or welfare or degrade the quality of life of the citizens and residents of the City of Boynton Beach. This section shall apply to the control of all sound and noise originating within the limits of this jurisdiction. It is further the intent of this chapter to recognize that factors such as the time of day, location (e.g. proximity to residences), necessity of public projects for the public good, and necessity of sound and noise incidental to allowed uses and activities must be considered in balancing the protection of public peace and individual freedoms.

#### Section 15-8.2. Same – Terminology and standards.

All terminology used in this section shall be as defined herein, or if not defined, given plain meaning by reference to common dictionary definition. When interpretation is required by reference to a source more definitive than this code or a dictionary, reference shall first be made to publications of the American National Standards Institute (ANSI):

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

*Apparent property line.* The line along the surface, and its vertical plane extension, which separates one (1) lot or parcel of property from another.

*Construction.* 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, and excluding well pointing.

*Decibel (dB).* A unit for ~~describing~~ measuring the ~~amplitude~~ volume of sound or noise, equal to twenty (20) times the logarithm to the base ten (10) of the ration of the pressure of the sound or noise measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micro-newtons per square meter).

*Demolition.* Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Emergency.* Any occurrence or set of circumstances involving actual or eminent physical trauma or property damage which demands immediate action.

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Emergency vehicle. A motor vehicle used in response to a public emergency or to protect persons or property from imminent danger.

Emergency work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect person or property from an imminent exposure to danger.

Equivalent. The level of a constant sound, which in a given situation and time period, has the same sound energy as does a time varying sound. ~~The Leq is the level of the time averaged, means square, A-weighted sound pressure, the time interval over which measurement is taken as being specified.~~

Holiday. Those annual holidays designated in 5 U.S.C. 6103 to include additional days of a celebratory nature, more specifically; New Year's Eve, Cinco De Mayo and St. Patrick's Day.

Impulse noise. A discrete noise or series of such noises of short duration (generally less than one (1) second) in which the sound pressure level rises very quickly to a high before decaying to the background level. Examples of sources of Impulse noise, includes explosions and the discharge of firearms.

L10 sound level. The sound level exceeded for more than ten (10) percent of a measurement period which for the purposes of sections 15-8 through 15-8.89 shall not be less than ten (10) minutes.

LMAX. The maximum A-weighted sound level for a given event.

Legal holidays. Those recognized by the City include New Year's Day, Martin Luther King, Jr. Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day After Thanksgiving, Christmas Eve, and Christmas Day or any other legally recognized holiday.

~~Loud and Raucous Sound. Factors for determining whether a sound is loud and raucous include, but are not limited to:~~

- ~~a. The proximity of the sound to sleeping facilities, whether residential or commercial;~~
- ~~b. The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;~~
- ~~c. The time of day or night the sound occurs; and~~
- ~~d. Whether the sound is recurrent, intermittent, or constant.~~

Maximum sound level. The greatest A- weighted sound level reading obtained when measuring a source of sound during a designated time interval using the fast meter exponential

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integration time. ~~Alternatively the slow meter exponential integration time may be employed or the C frequency weighting may be employed.~~

*Micropascal.* The international unit for pressure, analogous to pounds per square inch in English units; 1 microPascal is one millionth of a Pascal; the reference pressure used for airborne sound is 20 microPascals.

*Motorboat.* 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, jet skis and hover craft.

*Motorized equipment.* Any self-propelled vehicle, such as, but not limited to, passenger cars, trucks, truck trailers, semi-trailers, campers, motorcycles, mini-bikes, go-carts, gopeds, dune buggies, all-terrain vehicles or racing vehicles which are propelled by mechanical power.

*Multifamily dwelling.* A building or other shelter that has been divided into separate units to house more than one (1) family.

*Noise.* ~~Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.~~ For the purposes of this chapter, Noise is any sound that is in violation of any provision of this Chapter.

*Noise disturbance.* Any ~~loud and raucous~~ sound or noise, in quantities, which ~~are or~~ are plainly audible and may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unnecessarily interfere with the enjoyment of life or property, including outdoor recreation ~~of a reasonable person with normal sensitivities.~~ Any plainly audible noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion discomfort to any persons within the neighborhood and/or adjacent neighborhood(s) from which said noises emanate, or as to interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to ~~detrimentally or adversely~~negatively affect such residences or places of business.

*Noise sensitive zone.* Existing quiet zones until designated otherwise by a competent authority. Noise sensitive ~~activities~~ zones include but are not limited to operations of schools, libraries open to public, churches, synagogues, mosques, hospitals, residential zones (after 11 p.m.), and nursing homes.

*Octave Band Sound Level.* The unweighted sound pressure level in the specified octave band.

*Person.* Any natural person, individual, association, partnership, ~~or~~ corporation, municipality, governmental agency, business trust, estate, trust, two or more persons having a joint or common interest or any other legal entity ~~and includes~~ including any officer, employee, department, agency, or instrumentality of the United States, a state or any political subdivision of a state or any other entity whatsoever or any combination of such, jointly or severally.

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*Plainly audible.* A sound which is capable of being heard by a human being without the assistance of a mechanical or electronic listening or amplifying device.

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

*Private right-of-way.* Any street, avenue, boulevard, highway, sidewalk, bike path, or alley, or similar place, which is not owned or controlled by a governmental entity.

*Public right-of-way.* Any street, avenue, boulevard, highway, sidewalk or alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

*Public space.* Any real property or structures thereon normally accessible to the public.

*Pure tone.* Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purpose of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third octave bands by five (5) dB for center frequencies of 500 Hz and above by eight (8) dB for center frequencies between 160 and 400 Hz and by fifteen (15) dB for center frequencies no less than or equal to 115 Hz.

*Real property line.* 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, excluding intra-building real property divisions.

*Receiving land use.* The land, which is receiving the noise or sound as designated by the City of Boynton Beach Zoning Map (and for recently incorporated areas, the effective zoning category).

*Residential.* A parcel of land whose use is designated to provide only permanent housing and excluding all tourist accommodations which includes but is not limited to hotels, motels, apartment hotels, etc.

*RMS sound pressure.* The square root of the time averaged square of the sound pressure.

*Sound.* An oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound including duration, intensity and frequency.

*Sound disturbance.* Any sound or noise which is:

(1) Plainly audible beyond a distance of twenty-five (25) feet or further from the apparent property line from which the sound emanates, in a single residential zoning district, or

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(2) Plainly audible in a dwelling unit adjacent to the unit from which the sound emanates or is plainly audible twenty-five (25) feet or further from the apparent property line from which the sound emanates in multi-family residential zoning districts.

(3) Plainly audible beyond a distance of one hundred (100) feet or further from the apparent property line from which the sound emanates when the sound emanates in a commercial zoning district and is heard in a residential zoning district.

(4) Plainly audible beyond a distance of one hundred (100) feet or further from the apparent property line from which the sound emanates when the sound emanates in a public use zoning district and is heard in a residential zoning district.

For purpose of enforcement ,it is not necessary to specifically identify the property line as would be depicted on a survey, rather an approximation of the property line may be used taking into consideration physical landmarks such as fences, landscaping, setbacks, driveways, or ground treatment.

*Sound level.* The weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, or C as specified in American National Standards Institute specification for sound level meters, ANSI S1.4-1971, or in successor publications. If the weighing employed is not indicated, the A-weighting shall apply.

*Sound level meter.* An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighing networks used to measure sound pressure levels. The output meter reads sound pressure levels when properly calibrated, and the instrument is of Type 2 or better, as specified in the American National Standards Institute Publication S1.4-1971, or is successor publications.

*Sound pressure.* The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.

*Sound pressure level.* Twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals ( $2 \times 10^6 \text{N/m}^2$ ). The sound pressure level is denoted  $L_p$  or SPL and is expressed in decibels.

Use. Any activity, event, operation or facility which creates noise.

*Weekday.* Any ~~Sunday~~ Monday through ~~Thursday~~ Friday (at 6 p.m.) which is not a Legal holiday as defined herein.

*Weekend.* Any ~~Friday~~ Saturday or ~~Saturday~~ Sunday (until 8 p.m.).

### **Section 15-8.3 – Same – Program Administration.**

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- (a) The noise and sound control program established by sections 15-8 through 15-8.89 shall be administered by the city manager, or his/her designee, of the City of Boynton Beach, Florida.
- (b) For the purposes of section 15-8.89 and its enforcement, municipal employees or officials engaged in the measurement of noise or sound, assessing compliance with such sections, making recommendations for noise and sound abatement, issuing noise and sound violations citations, or giving evidence regarding noise and/or sound violations shall have received formalized training on these subjects from institutions or organizations of recognized ability and experience in environmental acoustics and noise and sound control.

#### **Section 15-8.4. Same – Inspections.**

Upon presentation of proper credentials, the city manager or his/her designee, may enter and/or inspect any private property, place, report or records at any time when granted permission by the owner, or some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of sections 15-8 through 15-8.89 may exist. Such inspection may include administration of any necessary tests.

#### **Section 15-8.5. Sound and noise Noise control – Prohibited acts.**

No person shall make, continue or cause to be made any noise or sound disturbance. The making of noise or sound in violation of this chapter shall constitute prima facie evidence of a noise and/or sound disturbance.

(a) Sound or noise ~~Noise~~ disturbances prohibited. No person shall unnecessarily make, continue or cause to be made or continued any sound or noise disturbances.

(b) *Specific prohibitions.* The following acts, which enumeration shall not be deemed to be exclusive, and the causing or permitting thereof in such a manner as to create a noise or sound disturbance across a residential or commercial real property line, or within a noise sensitive zone, or at any time in violation of the provisions of section 15-8.8, are hereby declared to be a violation:

~~(1) — Radios, television sets, and similar devices. Operating, playing or permitting the operation or playing of any radio, television, or phonograph, which produces or reproduces sound either mechanically or electronically. The playing, using, operating or permitting to be played, used or operated, any radio, phonograph or musical instrument, or other machine or device for the producing or reproducing of sound in such a manner or with such volume, that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and is plainly audible from a public street, the adjacent lot nearest to the source, or at a distance of twenty-five (25) feet or more, particularly during the hours between 11:00 p.m. and 7:00 a.m.~~

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(2) Loudspeakers. Using or operating for any purpose other than those activities specifically exempted in section 15-8.6(4) below, any loudspeaker, loudspeaker system or similar device, including sound emitting devices which may be physically attached to any motor vehicle.

(3) Street sales. Offering for sale, selling or advertising for sale by shouting or outcry, anything within any area of the city.

(4) Animals. Owning, possessing or harboring any animal, ~~or bird or fowl~~ which ~~frequently persistently or for continued duration~~, howls, barks, meows, squawks, bays, cries or otherwise makes noises or sounds which create a noise or sound disturbance or is plainly audible from a public street, and/or from a distance of twenty-five (25) feet and/or from the adjacent lot nearest to the building, structure, or yard in which the animal, bird or fowl is located. A person is responsible for an animal, bird or fowl if the person owns, controls, or otherwise cares for the animal, bird or fowl. It shall be an affirmative defense to any charge hereunder that such animal, bird or fowl was emitting such noise in response to an intrusion upon the premises by any person.

(5) Loading or unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects in such a manner as to cause a noise or sound disturbance.

(6) Construction. Operating or causing the operation of any tools or equipment used in construction, drilling, excavation, clearing, repair, alteration or demolition work on weekdays during the times specified in section 15-8.8, or at any time during Sundays or legal holidays.

(7) Fixed mechanical equipment. Operating or causing the operation of fixed mechanical equipment located on real property including HVAC equipment, motors, engines, pumps, compressors, fans, tools, machinery, and its component parts, or any other similar stationary mechanical devices and their component parts except as otherwise exempted in section 15-8.6(6).

(8) Motorboats. Operating or causing the operation of a motorboat in such a manner as to cause a noise or sound disturbance.

(9) Yelling, shouting, hooting, whistling, singing, and other vocal sounds in excess of a normal conversational level, any of which occurs between the hours of 11:00 p.m. and 7:00 a.m., so as to create a plainly audible sound across a residential real property line or on a public right-of-way or public property, or that is plainly audible to an occupant of a dwelling unit within a building other than an occupant of the unit from which the sound emanates, that can be heard from a distance of twenty-five (25) feet or more from the source, particularly in noise-sensitive zones. 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.

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(10) The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to cause loud grating, grinding, rattling or other noise that is plainly audible from a distance of twenty-five (25) feet or more.

(11) Operating or permitting the operation of powered model vehicles, either airborne, waterborne, or landborne, which are designed not to carry persons or property, such as, but not limited to, model airplanes, boats, cars, rockets, and which are being propelled by mechanical means, within a public recreation area or park other than those areas specifically designated for such purpose by the city commission.

(12) The creation of any sound or noise on any street adjacent to a noise sensitive zone, where those entities defined herein as being part of a noise sensitive zone are in operation, which is plainly audible within the entity, from a distance of twenty-five (25) feet from the noise or sound, and interferes with the operation of the entity, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(13) The sounding of any horn or signaling device, except as a danger warning, for any unnecessary or an excessive period of time or the reasonable use of any horn or signaling device, in such a manner as to cause a noise or sound disturbance.

(14) The creation or permitting of any loud or raucous noise or sound so as to disturb the peace, quiet or comfort of a residence within the immediate or adjacent neighborhood.

(15) Vibration. The creation or permitting of any sound or noise that produces a ground vibration, noticeable, without instruments, at the lot lines of the property from which the sound or noise emanates, provided there shall be excepted from the provisions of this subsection the use of pile drivers, back hoes, tampers, ditch diggers, ~~bobcats~~, road graders, rollers and like equipment used in standard construction between the hours of 7:30 a.m. to 6:00 p.m. of any day.

(c) *Generators – exemption.* Notwithstanding the foregoing prohibited acts, the use of gasoline or propane powered generators is permitted during periods of power outage following natural disasters and during periods of maintenance. Operation for purposes of maintenance of the generator shall only occur during daylight hours on weekdays and only for the minimum amount of time required by the manufacturer. Any person using a generator, except during periods of power outage ~~following natural disasters~~, is subject to the restrictions on noise generation as otherwise set forth in this chapter.

#### **Section 15-8.6. Same – Exemptions**

The following acts and the causing or permitting thereof shall be specifically exempted from the prohibitions of section 15-8.5

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(1) Motor vehicles. Operating motor vehicle noise enforcement procedures shall be as established in Chapter 316, Florida Statutes, and applicable rules and regulations of the Department of Highway Safety and Motor Vehicles, provided however, that this exemption shall not apply to any sound emitting devices which may be attached to any motor vehicle as prohibited by section 15-8.5(b)(2).

(2) Aircraft and interstate railway and locomotives and cars. Noise or sound generated by aircraft and interstate railway locomotives and cars are exempt from these provisions.

(3) Emergency activities. Any noise or sound generated as a result of emergency work or for the purpose of alerting the public to the existence of an emergency situation.

(4) Public speaking and assembly. Any noise or sound generated by any noncommercial public speaking or public assembly activities conducted pursuant to lawful authority on any public space or right-of-way, including sporting events.

(5) Domestic power tools and lawn maintenance equipment. Any noise or sound generated by the operation and use of domestic power tools and lawn maintenance equipment.

(6) Fixed mechanical equipment, noise or sound generated by the operation and use of air conditioning units in residential districts.

(7) Nonamplified solo musical instrument played by an individual within a private residence between the hours of 9:00 a.m. and 8:30 p.m.

(8) Construction. The foregoing provisions of Section 15-8.5(a), (b) and subparagraph (6) of this section shall not apply to any municipal, county or state public works, emergency matters or matters having an effect on the public health, safety and welfare of the city in those zoning districts of mixed-use, commercial and industrial, and where the noise or sound disturbance across a residential property line would not exceed those sound and noise limits set forth in section 15-8.8 of this Article<sup>[152]</sup>.

(9) Any vehicle of the city while engaged in necessary public business.

(10) Noises and sounds of authorized safety signals and warning devices.

(11) Noises and sounds resulting from emergency work, which is to be construed as work made necessary to restore property and/or utilities to a safe condition following a public emergency, or work required to protect persons or property from any imminent exposure to danger. This exemption includes noises from emergency communications and utility work following a public calamity and in connection with restoration of service operations.

(12) Noises and sounds resulting from community events, including but not limited to, fairs, sporting events, school activities, community festivals, etc., ~~provided that the event has been approved by the city commission as a special event.~~

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### Section 15-8.7. Same – Penalty for violation.

Any person, firm or corporation convicted in a court of competent jurisdiction of a violation of sections 15-8 through 15-8.89 shall be guilty of a misdemeanor of the second degree, punishable by a fine and/or incarceration as provided by law. The City of Boynton Beach Code Compliance Board shall have the authority and jurisdiction to prosecute such offenses. Each ~~day~~ complaint of said violation ~~continues~~ shall be a separate offense.

### Section 15-8.8. Same – Sound levels by receiving land use.

- (a) *Sound and noise limits established.* No person shall operate or cause to be operated any source of sound or noise as enumerated in section 15-8.5(b), and unless specifically exempted by section 15-8.6, in such a manner as to create a sound or noise disturbance or an exterior or interior sound level of any origin which exceeds the limits set forth for the receiving land use category in question for than ten (10) percent of any measurement period which shall not be less than ten (10) minutes when measured at or within the boundaries of a property or within the confines of a building within the receiving land use and as a result of a source of sound being located on some other property.
- (b) *L10 noise and sound level limits.* Permissible noise and sound levels for noises or sounds transmitted to receiving land use areas shall not exceed the following limits for L10 sound or noise levels as defined herein. For the purpose of these sound and noise control provisions, such sound or noise levels shall be determined using FAST meter responses:

<u>Receiving Land Use</u>	<u>Emanating Land Use</u>	<u>Category</u>	<u>Time</u>	<u>Level Limit</u>
<u>L10 Sound</u>	<u>Residential</u>	<u>Exterior</u>	<u>Sun. – Thurs.</u> <u>7:00 a.m. – 11:00</u> <u>p.m.</u>	<u>60 (dB)A</u>
<u>L10 Sound</u>	<u>Residential</u>	<u>Exterior</u>	<u>Fri. &amp; Sat. and</u> <u>Holidays 11:00</u> <u>p.m. to 7:00 a.m.</u>	<u>55 (dB)A</u>
<u>L10 Sound</u>	<u>Residential</u>	<u>Exterior</u>	<u>Sun. – Thurs.</u> <u>12:00 a.m. – 7:00</u> <u>a.m.</u>	<u>55 (dB)A</u>
<u>L10 Sound</u>	<u>Commercial</u>	<u>Exterior</u>	<u>At All Times</u>	<u>65 (dB)A</u>
<u>L10 Sound</u>	<u>Residential</u>	<u>Interior</u>	<u>Sun. – Thurs.</u> <u>7:00 a.m to 11:00</u> <u>p.m.</u>	<u>50 (dB)A</u>
<u>L10 Sound</u>	<u>Residential</u>	<u>Interior</u>	<u>Fri. &amp; Sat. and</u> <u>Holidays 7:00</u> <u>a.m. – 12:00 a.m.</u>	<u>50 (dB)A</u>

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<u>L10 Sound</u>	<u>Residential</u>	<u>Interior</u>	<u>Sun. – Thurs.</u> <u>12:00 a.m. to</u> <u>7:00 a.m.</u>	<u>45 (dB)A</u>
<u>L10 Sound</u>	<u>Commercial</u>	<u>Interior</u>	<u>At All Times</u>	<u>55 (dB)A</u>

(c) *Maximum sound and noise level limits.* The maximum sound and noise level from any applicable sound and noise sources shall not exceed the L10 sound and noise level limits by more than the values listed below:

10 (dB) from 7:00 p.m. to 11:00 p.m.

5 (dB) from 11:00 p.m. to 7:00 a.m.

(d) *Pure tone and impulse noise or sound.* For any source of sound or noise which emits a pure tone or an impulse noise or sound, as defined herein, the sound or noise level limits for L10 and maximum sound or noise levels shall be reduced by five (5) (dB)A.

(e) *District Boundaries.* When a noise or sound source can be identified and its noise or sound can be measured in more than one land use designation, the pressure level limits of the most restrictive use district shall apply at that designation boundary.

(f) *The burden shall be on any person contesting the equivalent sound levels to establish the actual equivalent sound or noise level by clear and convincing evidence.*

### **Section 15-8.9 Same – Measurement of Noise and Sound**

In determining whether a violation of this article has occurred, the complaint of noise shall be measured by the code enforcement division or police department according to the following plainly audible standard:

- (1) The primary means of measurement shall be by ordinary, auditory senses of a reasonable person with normal sensitivities, so long as any mechanical device does not enhance their hearing, such as a microphone or hearing aid.
- (2) The measurement shall be taken on, or as near as possible to the real property line of the property upon which the sound or noise source is located, and in any event from a location not less than twenty-five (25) feet from the source measured in a straight line.
- (3) When applicable, sound and noise shall be measured with a sound level meter. The sound or noise level shall be measured at a distance no closer to the point from which the sound or noise in question is emanating than the property line of the parcel or lot from which the sound or noise is emanating or through partitions common to two (2) parties within a building.

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- (4) A measurement period shall not be less than ten (10) minutes in duration. The sound or noise being measured shall be representative of the sound or noise which instigated the complaint.
- (5) A measurement shall be recorded so as to secure and ensure an accurate representation of the sound or noise.
- (6) A measurement should be taken at approximately five (5) feet above the ground or water surface away from any obstruction or reflecting surface.
- (7) When necessary, a microphone windscreen shall be required to avoid wind noise biasing of a measurement.
- (8) All manufacturers' directions on the operation of the sound level meter shall be followed (e.g., proper microphone angle).
- (9) All sound level meters used for measurement shall be in conformance with ANSI section 1.4-1983, as amended.
- (10) All octave and third octave band filter sets of the sound level meter shall be in conformance with ANSI section 1.11-1976, as amended.
- (11) Instrumentation for sound level measurements may be class 1 or class 2 (ANSI section 1.4-1971), as amended.
- (12) Measurements of sound and noise shall be made by individuals trained in a noise or sound measurement program approved by the county or other training facility.

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