



MEMORANDUM

Office of the City Attorney

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Phone: 334-5011/Fax 334-2229
Box 46

TO: Honorable Mayor and City Commissioners **DATE:** June 12, 2000
FROM: City Attorney **CONSENT**
SUBJECT: Technical changes to noise ordinance

Recommendation: The City Commission authorize the City Attorney to draft and the Clerk of the Commission to advertise an ordinance amending the special noise permit provisions to correct a scrivener's error and address possible procedural defects in the special noise permit process.

In April of this year, the city commission adopted an ordinance changing the noise regulations. The ordinance was supposed to set out the entire chapter 15 of the Code of Ordinances (i.e., the entire "noise" chapter). However, a portion of the chapter that allows special noise permits for certain events and locations was inadvertently omitted. We sent a memo about this subject to the commission when the error was discovered. Although technically the provisions still are valid, in an abundance of caution we advise that an ordinance be adopted "reinstating" these provisions. A copy of the previous memo is attached.

In addition, we have been notified by our special counsel that the 11th Circuit Court of Appeals could find that the City's special noise permit procedure is defective. There are two possible defects. First, the ordinance does not say the city manager or designee must make a decision to issue or deny the permit within a certain amount of time. Second, the ordinance does not say that a decision to deny the permit can be appealed to the court. We therefore are recommending that these provisions be added to the ordinance. These changes are only to the process - no changes would be made to the actual restrictions imposed by the noise regulations.

Prepared by:


Patricia M. Carter, Sr. Asst. City Attorney

Reviewed and
approved by:


Marion J. Radson, City Attorney



MEMORANDUM

Office of the City Attorney

Phone: 334-5011/Fax 334-2229
Box 46

TO: Kurt Lannon, Clerk of the Commission

DATE: April 12, 2000

FROM: Patricia Carter, Sr. Asst. City Attorney

SUBJECT: Changes to noise ordinance/legistar # 981314

It was just brought to my attention that a part of the current noise ordinance (concerning extended hours for special events on New Year's Eve, Halloween, and on property more than ½ mile from any residences) was inadvertently omitted from the revised ordinance adopted on April 10. There was no intent to change or delete these provisions. Please inform the codifier that section 15-4(2)(d) should read:

d. ~~The function must be held~~ permit will only be granted for hours between the hours of 9:00 a.m. and 10:00 p.m. 12:00 midnight the same day on all days other than Friday and Saturday; and, on Friday and Saturday, between the hours of 9:00 a.m. and 1:00 a.m. 11:00 p.m. of the following same day, except in the following circumstances:

1. A function may be held between the hours of 9:00 a.m. on New Year's Eve and 1:00 a.m. the following day (New Year's Day).
2. A function may be held between the hours of 9:00 a.m. and 2:00 a.m. the following day if there are no private residences, hospitals or nursing homes within a 0.5 mile radius of the property where the function is taking place.
3. A function may be held between the hours of 9:00 a.m. on October 31 (Halloween) and 1:00 a.m. the following day, only if October 31 is on a Friday or Saturday.

cc: Mayor and City Commissioners
Margery Maines, Events Coordinator
Lt. Rick Zenuch