

City of St. Petersburg  
**Public Services & Infrastructure Committee**  
Meeting of January 28, 2016 - 9:15 a.m.  
City Hall, Room 100

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Members: Chair Steve Kornell, Vice-Chair Ed Montanari, Council Members Jim Kennedy, Jr., Charlie Gerdes

Alternate(s): Council Chair Amy Foster

Support Staff: Mike Vineyard, primary support staff; John Norris, backup support staff

- 1) Call to Order
- 2) Approval of Agenda
- 3) Approval of Minutes
  - a) January 14, 2016
- 4) New Business
  - a) Noise Ordinance presentation - Mark Winn, Legal
  - b) Marijuana Civil Citation Program update – Mark Winn, Legal
- 5) Upcoming Meetings
  - a) February 11, 2016  
TBD
  - b) February 25, 2016  
Draft Civil Citation Ordinance – Legal
  - c) March 10, 2016  
Canceled
- 6) Adjournment

Attachments: Minutes of January 14, 2016 Committee Meeting  
Noise Ordinance  
Pending and Continuing Referral List

CITY OF ST. PETERSBURG  
Public Services and Infrastructure Committee Meeting  
January 14, 2016 @ 9:15 a.m.

**PRESENT:** Committee Vice-Chair Steve Kornell, Councilmembers Charlie Gerdes, James Kennedy, Jr., and Ed Montanari

**Absent:** Amy Foster (alternate)

**Others Present:** Councilmembers Karl Nurse, Lisa Wheeler-Brown; Jacqueline Kovilaritch, City Attorney; Support Staff: Mike Vineyard, Park Operations Manager and primary; John Norris, Stormwater & Traffic Operations Director and backup; Patricia Beneby, Deputy City Clerk

The meeting was called to order by Vice-Chair Steve Kornell. Councilmember Gerdes moved for approval of the Agenda. All were in favor of the motion. Councilmember Gerdes moved for approval with the second of Councilmember Montanari of the minutes from the December 10 and December 17, 2015 PSI meetings. All were in favor of the motion.

The first order of business was election of Chair and Vice-Chair. Councilmember Kornell was nominated and elected as Chair. All were in favor of the motion. Councilmember Montanari was nominated and elected as Vice-Chair. All were in favor of the motion.

Committee Chair Kornell reviewed the items for future meetings as follows:

- 1) January 28, 2016 – Noise Ordinance and Marijuana Civil Citation presentation
- 2) February 25, 2016 – Draft Civil Citation Ordinance

There being no further business, the meeting was adjourned at 9:19 a.m.

AN ORDINANCE AMENDING THE ST. PETERSBURG CITY CODE; PROHIBITING OUTDOOR SPEAKERS IN THE RIGHT OF WAY AT BUILDINGS WITHOUT A SIDEWALK CAFÉ PERMIT; REQUIRING OUTDOOR SPEAKERS TO BE PERMANENTLY MOUNTED; REQUIRING OUTDOOR SPEAKERS TO BE TURNED OFF AT CERTAIN TIMES; GENERALLY REQUIRING SPEAKERS TO BE ORIENTED AWAY FROM DOORWAYS, RESIDENCES AND RIGHTS OF WAY; CORRECTING NUMBERING INCONSISTENCIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has a compelling interest in protecting the public from excessively loud noise, as recognized by the Florida Supreme Court in *State v. Catalano*, 104 So.3d 1069 (Fla. 2013); and,

WHEREAS, the Florida Supreme Court has held that the "plainly audible" standard is not an unconstitutionally vague standard; and,

WHEREAS, excessive noise can be detrimental to the public health, welfare, safety, and tranquility; and,

WHEREAS, the City may regulate excessive noise, even in a public forum, to protect its significant and compelling interest in prohibiting excessive noise; and,

WHEREAS, this issue is also more acute in the downtown area where there has been an increase in the number of bars, nightclubs, restaurants and other establishments with outdoor use areas and an increase in the number and concentration of residential units in condominium and apartment complexes; and

WHEREAS, this issue is more acute in the later night and early morning hours because there are lower levels of ambient noise; and

WHEREAS, the City has received numerous noise complaints in the late night and early morning hours in the downtown core area where a greater density of late night businesses and residential uses exist; and

WHEREAS, for many years the City has worked to find a balance between these two competing interests; and

WHEREAS, due to the greater amount of pedestrian activity, some businesses use outdoor music to help attract patrons to the business by raising the volume of the outdoor music; and

WHEREAS, most businesses have conducted their operations in a reasonable manner and have taken into consideration the concerns of their residential neighbors in the late night hours; and

WHEREAS, the City finds that these regulations serve a substantial government interest and are the least restrictive means to address this problem.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

Section 1. Section 11-53(2) of the St. Petersburg City Code is hereby amended to read as follows:

(2) Publicly-owned outdoor places including right-of-way.

a. Playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier or other machine or device that produces, reproduces or amplifies sound in any parks, playgrounds, beaches, recreation areas or any other outdoor publicly owned outdoor place or right-of-way so that the sound is plainly audible to any person at a distance of 50 feet or more from the source of the sound between 11:00 p.m. and 8:00 a.m. the following morning.

b. For activities which have not received a park or street closure permit from the City, playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier or other machine or device that produces, reproduces or amplifies sound in any parks, playgrounds, beaches, recreation areas or any other outdoor publicly owned outdoor place or right-of-way so that the sound is plainly audible to any person at a distance of 200 feet or more from the source of the sound between 8:00 a.m. and 11:00 p.m.

c. For activities which have received a park or street closure permit from the City, playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier or other machine or device that produces, reproduces or amplifies sound in any parks, playgrounds, beaches, recreation areas or any other outdoor publicly owned outdoor place or right-of-way so that the sound is plainly audible to any person at a distance of 5,000 feet or more from the source of the sound between the hours of 8:00 a.m. and 11:00 p.m. This distance is primarily intended to be utilized for permitted outdoor concerts and other large gatherings, it being understood that because of the unique location of the parks along the waterfront that sound may travel greater distances over the water so that at times some of the sound may be briefly audible at a distance greater than those set forth herein.

In any park or street closure permit, the POD may reduce the maximum distance from the distance set forth herein, based on the number of the expected participants of the permitted event and the area reserved for the event. The reduced distance shall be specifically identified in the permit.

d. For activities which are sponsored or cosponsored by the City, playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier or other machine or device that produces, reproduces or amplifies sound in any park or right-of-way shall comply with any conditions of the sponsorship or cosponsorship which place a specific, lesser distance limitation on any amplified sound than is otherwise set forth in subsection c.

e. Sidewalk cafes. Any speakers placed outside a building in or over the right of way in a sidewalk cafe, shall be permanently mounted overhead and shall be oriented downward toward the sidewalk café. No speaker is allowed in a sidewalk café unless such speaker is specifically identified on the approved plan for the sidewalk café permit. No sound shall be audible from the speakers when the sidewalk café is not open and operating. Sidewalk cafes with speakers which have a current valid sidewalk café permit on the date this section is approved, shall have until March 31, 2016 to comply with this section and at their next renewal, add the speaker locations to their permit.

Section 2. Section 11-53(3) of the St. Petersburg City Code is hereby amended to read as follows:

(3) Buildings.

a. Playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier or other machine or device that produces, reproduces or amplifies sound in any building in a nonresidential zoning district so that the sound is plainly audible to any person at a distance of 100 feet or more from the building between 11:00 p.m. and 8:00 a.m. the following morning.

b. Playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier or other machine or device that produces, reproduces or amplifies sound in any building in a residential zoning district so that the sound is plainly audible to any person at a distance of 25 feet or more from the building between 11:00 p.m. and 8:00 a.m. the following morning.

c. Playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier or other machine or device that produces, reproduces or amplifies sound in any building in a residential zoning district so that the sound is plainly audible to any person at a distance of 500 feet or more from the building between 8:00 a.m. and 11:00 p.m.

d. Sound which may escape a building during the normal use of doors for ingress and egress shall not be a violation of this section.

e. All indoor speakers located within twenty feet of a doorway which opens onto a right of way shall be oriented away from the doorway. Such distance shall be measured from the closest part of the door to the closest part of the speaker.

f. No speakers may be placed in the right of way unless the abutting business has an approved plan in a sidewalk café permit which identifies the speaker locations.

Section 3. Section 11-53(4) of the St. Petersburg City Code is hereby amended to read as follows:

(4) Privately-owned outdoor places.

a. Playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier, or other machine or device that produces, reproduces or amplifies sound in any privately-owned outdoor place in a nonresidential zoning district so that the sound is plainly audible to any person at a distance of 100 feet or more from the source of the sound between the hours of 11:00 p.m. and 8:00 a.m. the following morning.

b. Playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier, or other machine or device that produces, reproduces or amplifies sound in any privately-owned outdoor place at a nonresidential use, when making sound is not the principal use of the property (e.g., the outdoor deck of a restaurant), so that the sound is plainly audible to any person at a distance of 1,000 feet or more from the source of the sound between the hours of 8:00 a.m. and 11:00 p.m. (12:00 midnight on Fridays, Saturdays and the days before a national holiday, this is an exception to subsection (4)a of this section). Wherever possible, outdoor speakers shall be oriented away from residential properties or in the direction that reduces the amount of sound directed at the closest residential properties.

c. Playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier, or other machine or device that produces, reproduces or amplifies sound in any privately-owned outdoor place, when making sound is the primary, lawful permitted use of that portion of the property (e.g., a performance venue), so that the sound is plainly audible to any person at a distance of 3,000 feet or more from the source of the sound between the hours of 8:00 a.m. and 11:00 p.m. (12:00 midnight on Fridays, Saturdays and the days before a national holiday, this is an exception to subsection (4)a of this section).

d. Playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier, or other machine or device that produces, reproduces or amplifies sound in any privately-owned outdoor place at a residential use, so that the sound is plainly audible to any person at a distance of 500 feet or more from the source of the sound between the hours of 8:00 a.m. and 11:00 p.m.

e. Playing, using, operating or permitting to be played, used, or operated any radio, compact disc or tape player, musical instrument, drum, phonograph, sound amplifier or other machine or device that produces, reproduces or amplifies sound in any privately owned outdoor place in a residential zoning district so that the sound is plainly audible to any person at a distance of 25 feet or more from the source of the sound between 11:00 p.m. and 8:00 a.m. the following morning.

f. For the purposes of this section, the operation or playing of the above enumerated machines or devices shall be deemed to be outdoors if the musical instrument or speakers are not located within a building or other structure which is fully enclosed by walls and a roof and all doors and windows are closed.

Section 4. Section 11-50 and Section 11-56 of the St. Petersburg City Code are hereby merged into Section 11-50 and amended to read as follows:

Sec. 11-50. - Penalty.

a. Any person violating any of the provisions of this article, or any person at a business allowing a violation of this article shall be prosecuted and upon conviction thereof be punished as provided in section 1-7. Fines shall be as provided in subsection b hereof.

~~Sec. 11-53~~ b. The first violation of any provision of this division is punishable by a Class I fine as established by Administrative Order of the Court. Any violation of this division which is issued within a year of another violation, which has been disposed of in any way other than a dismissal or finding of not guilty by a court, shall be punishable by a fine of \$350. Any third violation of this division, and any additional violations, issued within a calendar year of two previous violations, which have been disposed of in any way other than a dismissal or finding of not guilty by a court, shall be punishable by a fine of \$500.

Section 5. Coding: As used in this ordinance, language appearing in ~~struck through~~ type is language to be deleted from the City Code, and underlined language is language to be added to the City Code, in the section, subsection, or other location where indicated. Language in the City Code not appearing in this ordinance continues in full force and effect unless the context clearly indicates otherwise. Sections of this ordinance that amend the City Code to add new sections or subsections are generally not underlined.

Section 6. The provisions of this ordinance shall be deemed to be severable. If any provision of this ordinance is determined unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provisions of this ordinance.

Section 7. In the event that this ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective after the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto the ordinance, in which case the ordinance shall take effect immediately upon filing such written notice with the City

Clerk. In the event this ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

Approved as to form and content:

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City Attorney (designee)



PENDING / CONTINUING REFERRALS							
	TOPIC	DATE REFERRED	REFERRED BY	MEETING DATE(S)	RETURN DATE	STAFF	SPECIAL NOTES
1	Code Change	12/4/2014	Kennedy	12/11/2014	TBD	City Legal	Councilmember Kennedy to reach out to Edge District to gauge level of interest and bring back to committee at an unspecified time.
2	Policy or Program Change	10/1/2015	Kornell	12/10/2015	01/28/2016 02/25/2016	Legal, Mark Winn	<b>**Update on Ordinance**</b> Referring to the Public Services & Infrastructure Committee, a discussion regarding creation of a Marijuana Civil Citation Program.
3	Policy or Program Change	12/03/2015	Kennedy	12/17/2015	April/May 2016	Real Estate, Bruce Grimes	Referring to Public Services & Infrastructure Committee a report on the PAL Building condition, repairs and costs.
4	Code Change	12/17/15	Nurse	01/29/2016	TBD	City Legal	Mark Winn presenting ordinance and discussion.

**PENDING / CONTINUING REFERRALS**

	TOPIC	DATE REFERRED	REFERRED BY	MEETING DATE(S)	RETURN DATE	STAFF	SPECIAL NOTES
5	Policy or Program Change <b>Airbnb Discussion</b>	01/14/2016	Kennedy	TBD	TBD	Robert Gerdes, Codes	Referring to Public Services & Infrastructure Committee a policy discussion regarding regulation of vacation rentals.