ORDINANCE NO. 369-H

AN ORDINANCE AMENDING CHAPTER 3, SECTION 3-8.; CHAPTER 11, ARTICLE III, SECTIONS 11-47., 11-49., 11-50., 11-53. AND 11-54.; CHAPTER 12, SECTION 12-6.; AND CHAPTER 16, SECTIONS 16.50.310., 16.50.320., 16.50.370.8.19., AND 16.70.030.1.7. OF THE ST. PETERSBURG CITY CODE; PROVIDING FINDINGS; AMENDING PROVISIONS RELATED TO PERMITS FOR EXTENDED HOURS FOR ALCOHOLIC BEVERAGE SERVICE; AMENDING DEFINITIONS; AMENDING EXEMPTIONS RELATED TO THE EMISSION OF SOUND FROM MOTORBOATS; AMENDING PENALTIES FOR NONCOMPLIANCE; PROVIDING FOR SUSPENSION OF PERMITS FOR EXTENDED HOURS FOR ALCOHOLIC BEVERAGE SERVICE AND SIDEWALK CAFÉ PERMITS FOR REPEATED NONCOMPLIANCE; PROVIDING FOR THE CITY'S RIGHT TO SEEK INJUNCTIVE RELIEF; PROVIDING A PROCEDURE FOR APPEALS; ESTABLISHING THE REGULATION OF AMPLIFIED SOUND FROM MOTORBOATS; PROHIBITING OPEN BUILDING DOORS THAT RESULT IN INCREASED EMISSION OF SOUND; AMENDING THE REGULATIONS GOVERNING SIDEWALK CAFÉ SPEAKER ORIENTATION; AMENDING THE OUTDOOR AMPLIFIED SOUND REGULATIONS FOR SIDEWALK CAFÉS; CLARIFYING THE PURPOSE AND APPLICATION OF THE RECEIVING LAND USE TABLE; PROVIDING A FEE AMOUNT FOR THE APPEAL OF A SUSPENSION OF A PERMIT FOR EXTENDED HOURS FOR ALCOHOLIC BEVERAGE SERVICE; AMENDING THE USE SPECIFIC REGULATIONS AND DESIGN STANDARDS RELATED TO PRIVATELY OWNED NON-RESIDENTIAL OUTDOOR SPACES AND ACCESSORY OUTDOOR AREAS BY REQUIRING THE IMPLEMENTATION OF NOISE MITIGATION AND MONITORING PLANS FOR SIDEWALK CAFÉS, RESTAURANTS, BARS AND OTHER NON-
RESIDENTIAL PRIVATELY OWNED OUTDOOR PLACES AND ACCESSORY OUTDOOR AREAS; PROVIDING FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, residents of the City of St. Petersburg have a right to express themselves and enjoy the sounds that enhance the quality of their lives; and

WHEREAS, excessive amplified sound can be a serious hazard to the public health, welfare, safety, and the quality of life for City residents; and

WHEREAS, City residents have a right to be free from harmful and disturbing levels of sound; and

WHEREAS, the City has a substantial interest in protecting its residents from harmful and disturbing levels of sound; and

WHEREAS, it is the policy of the City to prevent harmful and disturbing levels of sound that may jeopardize the health, welfare, or safety of its citizens or degrade the quality of life while protecting the rights of citizens to enjoy sounds that are important to their quality of life and necessary for daily work and leisure activities; and

WHEREAS, the City intends to treat the commercial establishments who have helped the City prosper fairly and recognizes the right to free speech enjoyed by those establishments and their need to utilize amplified sound as a means of continuing their successful commercial endeavors; and

WHEREAS, the City’s enactment and enforcement of the provisions of this ordinance shall be content neutral with regard to the regulated sound.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

SECTION 1. Chapter 3, Section 3-8(h) of the St. Petersburg City Code is hereby amended to read as follows:

Section 3-8. - Permits for extended hours for alcoholic beverage establishments.

(h) Suspension and revocation.

(1) Suspension. The Chief of Police may suspend a permit for 30 days if the Chief determines that a permittee has committed any one or more of the following acts and that the permittee has not taken reasonable actions to prevent future occurrences:
a. Two or more convictions for violating the same provision of the City Code relating to the operation of the establishment within two years which violations negatively impact the safety or security of patrons;

b. Engaged in, or allowed, the use of alcoholic beverages at the establishment after closing hours by any person;

c. Refused to allow an inspection of the establishment as authorized by this section;

d. Knowingly permitted the use of controlled substances at the establishment, or should have known of the use of a controlled substance and has not taken the necessary actions to prevent future occurrences;

e. Knowingly permitted gambling by any person at the establishment;

f. Knowingly permitted, or should have known of, the possession or consumption by a minor of an alcoholic beverage at the establishment, or the sale to a minor of an alcoholic beverage at the establishment, or allowed a minor to enter and remain at the establishment;

g. Convicted of violating any condition of a permit;

h. Provided inadequate security on more than two occasions in a year. The Chief shall notify the establishment in writing, by hand delivery to the establishment and first class mail to the permittee, within ten calendar days of each occasion when there has been inadequate security and how the security was inadequate. Inadequate security means, for the purposes of this section, that a violent crime occurred at the establishment or in the right-of-way abutting the establishment, that could have been avoided with the implementation of one or more security measures including but not limited to: the establishment did not provide at least one security officer per each 150 occupants or any portion thereof (bartenders, barbacks and other employees with duties unrelated to security shall not be counted as a security officer), did not wand patrons on entry, or did not have full video surveillance of all public areas at the establishment with signs posted which warn the public.

i. Failed to comply with any condition of an approved security or noise mitigation or monitoring plan in accordance with Section 16.50.310.3.

j. Failed to comply with the requirements of Chapter 11, Article III, Noise Pollution. In the event of any conflict between this Chapter and Chapter 11, Article III, concerning noise issues, the provisions of Chapter 11, Article III shall govern.

(2) Suspensions will continue for the full 30 days and no permit shall be issued during the suspension for the establishment.
(3) Revocation. The Chief may revoke a permit if the permit is suspended twice (not including suspensions for violations related to noise) within any 12-month period or if the Chief determines that a permittee has committed any one or more of the following acts and that the permittee has not taken reasonable actions to prevent future occurrences:

a. The permittee has given false or misleading information in the material submitted during the application process;

b. The permittee has knowingly allowed the sale of controlled substances or any derivative thereof at the establishment;

c. The permittee allowed a member of the public to enter the establishment, and allowed the person to be served or to consume any alcoholic beverage, during a period of time when the permit was suspended.

(4) A revocation is effective for one year. The permittee shall not be issued a permit for the establishment, or any other establishment, for one year from the date the revocation became final. If, subsequent to revocation, the Chief determines that the basis for the revocation action has been corrected or abated, or determines that the permittee has taken action to ensure that the basis for the revocation will not occur again, which action(s) the Chief reasonably believes will ensure that the basis for the revocation will not occur again, the permittee may be granted a new permit if at least 90 days have elapsed since the date the revocation became final. The permittee shall reapply for a new permit in the same manner as for the initial permit.

(5) Notice of a suspension or revocation shall be made in writing, by hand delivery to the establishment and first class mail to the permittee at the address provided in the application. The notice shall identify the length of the suspension or revocation and the date of the first and last day the suspension or revocation is effective.

(6) For a suspendable offense unrelated to noise, prior to and in lieu of suspension, the permittee may implement a security plan approved by the Chief which the Chief reasonably believes will ensure that the basis for the suspension will not occur again. The security plan shall include specific measures to address any concerns the Chief may have. In addition to the concerns related to the suspendable offense, the Chief may consider any other issues with the establishment in approving a security plan. Other issues may relate to any citizen complaints, city code issues or law enforcement issues or responses to calls. Conditions of the security plan may include, but are not limited to, requirements for the hiring of off duty law enforcement officers, private interior security persons, doormen, wanding of patrons, installation of security cameras, and employee training. Requirements for the hiring of officers or employees may be limited to certain days. The security plan shall be in effect for six months. Payment for the cost of off duty law enforcement officers shall be made in advance or an acceptable plan for payment must be made which must be approved by the Chief. If this option is used by a permittee, it shall still count as a suspension for the purposes of revocation.
(7) The fact that a conviction is being appealed shall have no effect on the suspension or revocation of the permit.

SECTION 2. Chapter 11, Section 11-47 of the St. Petersburg City Code is hereby amended to add a definition of amplification device in the correct alphabetical order and to amend the definition of privately owned outdoor place to read as follows:

Amplification device means any device, whether freestanding or an integrated component of a larger device (such as an integrated speaker), which augments sound by electronic or any other means in a manner that increases the sound level or volume.

Privately owned outdoor place means any real property and the outside of structures thereon, that is owned or controlled by a private person or other private entity, including any publicly owned outdoor place that is leased to a private person or private entity (or for which they have received a long term permit to use, e.g. sidewalk cafes, sidewalk retail areas, pushcart vending locations) but does not include any publicly owned outdoor place that a private person or private entity has received a temporary permit to use (e.g., park or street closure permit)

SECTION 3. Chapter 11, Section 11-49 of the St. Petersburg City Code is hereby amended to read as follows:

Section 11-49. - Exemptions.

The provisions of this article shall not apply to the following:

(1) The emission of sound for the purpose of alerting persons to the existence of an emergency.

(2) The emission of sound in the performance of emergency work.

(3) The emission of sound in the performance of an activity for which, pursuant to this article, the POD has expressly given a temporary, emergency waiver from this chapter when time would not permit the obtaining of a waiver pursuant to section 11-84.

(4) Aircraft and airport operations.

(5) Motorboats engines, and-marina operations and port operations. This exemption does not apply to amplified sound arising from the use of amplification devices on motorboats.

(6) The unamplified human voice. The use of a megaphone or similar device shall be considered to amplify the human voice.

(7) Railroad operations.

(8) Warning devices required on vehicles by any State or federal laws or regulations.

(9) The emission of sound from the lawful operation of motor vehicles on a right-of-way, except as prohibited in section 11-53 and any State or federal laws.
(10) The emission of sound from lawful and proper activities on school grounds, playgrounds, parks (except as specifically prohibited in section 11-53) or places primarily used for athletic contests.

(11) The emission of sound from the operation of essential service vehicles (e.g., police and fire vehicles, sanitation and stormwater management vehicles).

(12) The emission of sound from the operation of power tools and lawn and garden tools between the hours of 8:00 a.m. and 8:00 p.m. Monday through Saturday and between 11:00 a.m. and 7:00 p.m. on Sundays and national holidays.

(13) Impulsive sound.

(14) Noncommercial unamplified public speaking and public assembly activities conducted on any publicly owned place.

(15) The emission of an unamplified sound from sporting activities on private property.

(16) The emission of sound from construction activities pursuant to a valid construction permit which is in compliance with the days and hours of operation section of chapter 8 (currently section 8-7).

SECTION 4. Chapter 11, Section 11-50 of the St. Petersburg City Code is hereby amended to read as follows:

Section 11-50. - Penalty.

(a) Any person or business 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 and section (b) hereof. Fines shall be as provided in subsection (b) hereof.

(b) The first violation of any provision of this division shall result in a written warning. The first second violation of any provision of this division within 365 days after a written warning is issued is punishable by a fine in the amount of $500.00. Class I fine as established by administrative order of the Court. Any Subsequent violations of this division which is issued within a one year of another a violation resulting in a $500.00 fine, 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 $350.00-500.00. Any third violation of this division within a one year period, 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 $500.00. For any additional violation of this division within 365 days of two violations which resulted in a fine of $500.00 as prescribed herein, and which have been disposed of in any way other than a dismissal or finding of not guilty by a court, the City may impose a thirty (30) day suspension of a City issued extended hours permit for establishments serving alcoholic beverages or a sidewalk café permit, or both. Concurrent with or independent of any sidewalk café or extended hours permit suspension imposed by the City following
Section 11-53. – Loud and raucous and unnecessary noises enumerated.

The following acts, among others, and the causing thereof, are declared to be loud, raucous, disturbing, and/or excessive noise, posing a threat to the health, safety and welfare of the residents of the City, and therefore unlawful and in violation of this article:

1. Motor vehicles in the vehicular travel portion of a right-of-way or motorboats moored or operating in waters within the City’s jurisdiction

   a. Operating or amplifying the sound produced by a radio, tape or compact disc player, or other mechanical or electronic sound-making device or instrument or amplification device from within a motor vehicle which is located in the paved or vehicular travel portion of a right-of-way, including parking areas in the right-of-way, or a motorboat moored or operating in waters within the City’s jurisdiction, so that the sound is plainly audible at a distance of 50 or more feet from the motor vehicle or motorboat to any person other than...
the operator and any passengers in the motor vehicle or motorboat between the hours of 8:00 a.m. and 11:00 p.m.

b. Operating or amplifying the sound produced by a radio, tape or compact disc player, or other mechanical or electronic sound making device or instrument or amplification device from within a motor vehicle which is located in the paved or vehicular travel portion of a right-of-way, including parking areas in the right-of-way, or motorboat moored or operating in waters within the City’s jurisdiction, so that the sound is plainly audible at a distance of 25 feet or more from the motor vehicle or motorboat to any person other than the operator and any passengers in the motor vehicle or motorboat between the hours of 11:00 p.m. and 8:00 a.m. the following morning.

c. Operating a motor vehicle not equipped with a muffler, or other sound dissipative device required by any applicable law, in good working condition so as to effectively prevent loud or explosive noise, so that the sound is plainly audible at a distance of 100 feet or more from the motor vehicle to any person other than the operator and any passengers in the motor vehicle between the hours of 11:00 p.m. and 8:00 a.m. the following morning.

d. The provisions of this section shall not apply to any law enforcement vehicle or motorboat equipped with any communications device necessary in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures.

e. The provisions of this section do not apply to the sounds made by a horn or other warning device required or permitted by any applicable law.

f. The restrictions described herein are greater than those set forth in the following subsection (2), Publicly-owned outdoor places including the right-of-way, and in the event of a conflict concerning a motor vehicle in the paved or vehicular travel portion of a right-of-way including parking areas in the right-of-way, the restrictions set forth herein shall govern.

(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. No speaker is allowed in a sidewalk cafe unless such speaker is specifically identified on the approved plan for the sidewalk cafe permit. No sound shall be audible from the speakers when the sidewalk cafe is not open and operating.

(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. Doors may not be propped or locked open if the
result of the open door is an increased emission of sound from the building.

e. All indoor speakers located within 20 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 or over the right-of-way unless the abutting business has
an approved plan in a sidewalk café permit which identifies the speaker locations.

(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, when coupled with an
integrated or separate amplification device, emits 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
da 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 object or device that produces, reproduces or amplifies, when coupled with an integrated or separate amplification device, emits 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.

(5) Sidewalk cafés.
Any speakers placed outside a building in or over the right-of-way in a “sidewalk café” as that term is defined in Chapter 16 of the City Code shall be permanently mounted overhead (preferably under an awning or other overhang feature) and oriented downward at an angle of 45 degrees or less 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. Sound shall not be plainly audible from the sidewalk café speakers at a distance greater than 200 feet between 8:00 a.m. and 11:00 p.m., and at a distance greater than 50 feet between 11:00 p.m. and 8:00 a.m. No sound shall be plainly audible from the speakers when the sidewalk café is not open and operating.

(5) (6) Bullhorns and air horns.
Directing a bullhorn, or other handheld device used for the amplification of the human voice, or air horn at any person within 25 feet of the person using the device at the time it is used. This section shall not prohibit the use of these devices when directed in another direction (e.g., upward or downward) when a person is within 25 feet.

(6)(7) Street sales.
Offering for sale or selling anything by shouting or outcry within any residential zoning district between the hours of 6:00 p.m. and 8:00 a.m. the following morning and at any time within a noise sensitive zone.

(7) (8) Animals and birds.
Owning, possessing, or harboring any animal, including birds, which frequently or for continued duration makes sounds, which are of a character, intensity or duration as to be
detrimental to the life, health or welfare of any individual of ordinary habits and sensitivities.

\( (9) \) (9) **Refuse and recyclable materials collection vehicles.**
Collecting refuse or recyclable materials with a refuse or recyclable materials collection vehicle in a residential zoning district or noise sensitive zone between the hours of 7:00 p.m. and 7:00 a.m. the following morning.

\( (9) \) (10) **Stationary nonemergency signaling devices.**
Sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes, from any place, for more than ten consecutive seconds or for more than six such instances within any hourly period or before 7:30 a.m. or after 6:00 p.m., except that soundings on the hour shall be allowed for up to 30 consecutive seconds. When chimes sound the hour, that portion of the sounding that identifies the hour shall be exempt from this time limitation.

\( (9) \) (11) **Emergency signaling device.**

a. The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling devices, except for emergency purposes or for testing, as provided in this section.

b. Testing of a stationary emergency signaling device shall occur at the same time of day each time a test is performed, but not before 10:00 a.m. or after 4:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds.

c. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. This testing shall not occur before 10:00 a.m. or after 4:00 p.m. There shall be no time limit for a complete system testing.

\( (9) \) (12) **Emergency generators and other emergency equipment.**

a. Generators and other equipment designed to be used during emergency situations shall be exempt from this article during periods of emergency.

b. Testing of generators and other equipment designed to be used during an emergency situation is exempt from this article between the hours of 10:00 a.m. to 4:00 p.m. Any testing shall use the minimum time necessary for the test and shall not occur more than once a week. The time of the testing shall be scheduled to impact the least number of properties possible.

c. Generators and other equipment designed to be used in emergency situations, which are not being tested or being used in a period of emergency, shall comply with section 11-54.
Air conditioning or air-handling equipment.

Operating or permitting the operation of any pool equipment, air conditioning or air-handling equipment which is not in good working condition and creates sound that is plainly audible to a person at a distance of 100 feet or more from the equipment.

SECTION 6. Chapter 11, Section 11-54 of the St. Petersburg City Code is hereby amended to read as follows:

Section 11-54. - Sound levels by receiving land use.

No person shall operate or cause to be operated a source of sound in a manner as to create a sound that is plainly audible to a person at the property boundary of a receiving land use and that violates the time or distance requirements set forth in the following table. The sounds regulated in the preceding section (currently section 11-53) are not subject to the restrictions of this section. The purpose of this table is to regulate sounds which are not otherwise regulated or subject to the provisions of the preceding section (currently section 11-53).

<table>
<thead>
<tr>
<th>Location of the Receiving Land Use</th>
<th>Time</th>
<th>Distance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential zoning district</td>
<td>8:00 a.m. — 6:00 p.m.</td>
<td>500 feet or more</td>
</tr>
<tr>
<td>Residential zoning district</td>
<td>6:00 p.m. — 11:00 p.m.*</td>
<td>200 feet or more</td>
</tr>
<tr>
<td>Residential zoning district</td>
<td>11:00 p.m.* — 8:00 a.m.</td>
<td>50 feet or more</td>
</tr>
<tr>
<td>Nonresidential zoning district</td>
<td>7:00 a.m. — 11:00 p.m.*</td>
<td>500 feet or more</td>
</tr>
<tr>
<td>Nonresidential zoning district</td>
<td>11:00 p.m.* — 7:00 a.m.</td>
<td>200 feet or more</td>
</tr>
</tbody>
</table>

*12:00 (midnight) on Fridays, Saturdays, and the days prior to a national holiday.

In the event that a court of competent jurisdiction determines that any distance requirement in this section is unconstitutional or unenforceable, then that distance shall become 50 feet farther than the distance set forth in this section.

SECTION 7. Chapter 12, Section 12-6(1) of the St. Petersburg City Code is hereby amended to read as follows:
(1) Alcoholic beverage applications.

New locations (base fee): see zoning permits

Transfer application (name only) 35.00

Use of the City alcoholic beverage license by for-profit organizations or groups 1,000.00

Extended hours permit:

New application 100.00

Renewal 50.00

Appeal of Suspension of Extended Hours Permit 250.00

SECTION 8. Chapter 16, Section 16.50.310 of the St. Petersburg City Code is hereby amended to read as follows:

SECTION 16.50.310. - RESTAURANTS AND BARS, INDOOR AND OUTDOOR AND PRIVATELY OWNED OUTDOOR PLACES

16.50.310.1. - Applicability.
This section shall apply to sidewalk cafes, restaurants, and bars, including both indoor and outdoor uses, and other privately owned non-residential outdoor places, as that term is defined in Chapter 11, Article III of the City Code.

16.50.310.2. - Establishment.
Restaurants and bars, indoor and outdoor uses shall be allowed as provided in the Matrix: Use Permissions and Parking Requirements and shall comply with the development standards of the zoning district, the general development standards, and this section.

16.50.310.3. - Special use standards.

16.50.310.3.1. - Design standards.
A. An outdoor eating and drinking area shall be enclosed by any walls or planters in excess of four feet in height, but may have a roof.

AB. Seating for an outdoor eating and drinking area or any other non-residential privately owned outdoor place shall not be located on any side of a between the building/tenant space and an adjacent residential use or across the alley from residential use that abuts or is across an alley from a single-family residential use, unless a noise mitigation and monitoring plan has been approved by the POD.

BC. All outdoor loudspeakers shall be oriented away from abutting residential uses and all noise is subject to the noise ordinance. A noise mitigation and monitoring plan is required for any
outdoor amplified sound system installed, expanded or modified after June 1, 2019 within 1,000 feet of any residential or hotel use, including mixed-use buildings. Any time an outdoor area or sound system is established, expanded or modified or when a new business having operating hours after 11:00 p.m. on weekdays and 12:00 a.m. (midnight) on Fridays, Saturdays, and the days prior to a national holiday is established, a noise mitigation and monitoring plan, properly certified to meet ANSI and ASA standards, shall be provided to the POD to demonstrate how the operation will comply with the noise ordinance and shall, at minimum, include the number and orientation of speakers, noise mitigation methods, operating hours, location of stages and performing areas and monitoring requirements.

CD. Structures associated with an outdoor eating and drinking area shall be compatible with the principal structure for exterior building finishes, colors, roofing, materials and for design and architectural style and theme.

DE. Foundation landscaping shall be provided around the outdoor eating and drinking area as required by the landscaping and irrigation section.

16.50.310.3.2. - Use restrictions.
A. Live outdoor musical performances are allowed and are subject to the noise ordinance.
B. The owner and manager shall be responsible for controlling all sound generated within the outdoor eating and drinking area.

SECTION 9. Chapter 16, Section 16.50.320 of the St. Petersburg City Code is hereby amended to read as follows:

SECTION 16.50.320. RESTAURANTS AND BARS, ACCESSORY OUTDOOR AREA

16.50.320.1. - Applicability.
Outdoor eating areas for eating, drinking and socializing shall be a permitted accessory use for any restaurant or bar, indoor, hotel or other non-residential uses as allowed in the Matrix: Use Permissions and Parking Requirements. This use differs from the principal use of restaurants or bars, indoor and outdoor. They have dimensional restrictions because they are allowed to be partially exempt from certain regulations.

16.50.320.2. - Design standards.
A. The seating capacity of the accessory outdoor area shall not exceed 24 seats or 25 percent of the licensed indoor seating area, whichever is less.
B. The accessory outdoor area shall not exceed 500 square feet in area.
C. The accessory outdoor area shall be unenclosed by any walls or planters in excess of four feet in height, except where it abuts the principal structure, but may have a roof.
D. The accessory outdoor area with amplified sound shall not be located on any side of a building/tenant space that and an adjacent residential use or abuts or is across an alley from a single-family residential use—unless a noise mitigation and monitoring plan has been approved by the POD.
E. The accessory outdoor area may encroach not more than 75 percent into the front yard setback and street side yard setback.

F. All outdoor loudspeakers shall be oriented away from abutting residential uses and shall be subject to the City noise ordinance.

G. Additional parking shall not be required for an accessory outdoor area if, prior to commencement of use of the accessory outdoor area, the site complies with the parking requirements for the zoning district or has received a variance from the required number of parking spaces.

H. An accessory outdoor area proposing to utilize an existing sidewalk on private property shall comply with the dimensional and clearance requirements of the sidewalk café section.

I. Foundation landscaping shall be provided around the accessory outdoor eating area as required in the landscaping and irrigation section.

J. Any structure associated with an accessory outdoor area shall be compatible with the principal structure for exterior building finishes, colors, roofing, materials and for design and architectural theme.

16.50.320.3 - Use restrictions.

A. Food and drink shall not be sold or served to patrons within an accessory outdoor area between 11:00 p.m. and 8:00 a.m. The use of an accessory outdoor eating area for any purpose shall not extend beyond the hours of operation of the principal use and shall cease before 11:15 p.m. and shall not resume before 7:00 a.m. the following day.

B. Live outdoor musical performances are prohibited.

C. The owner and manager shall be responsible for controlling all sound generated within the accessory outdoor area.

SECTION 10. Chapter 16, Section 16.50.370.8.19. (conditions of sidewalk café permit) of the St. Petersburg City Code is hereby amended to read as follows:

19. All outdoor speakers shall be shown on the plan or permit. All speakers shall be permanently mounted overhead (preferably under an awning or other overhang feature) and oriented downward at an angle of 45 degrees or less toward the sidewalk café. Speakers shall meet all requirements of the noise ordinance (chapter 11).

SECTION 11. Chapter 16, Section 16.70.030.1.7. of the St. Petersburg City Code is hereby amended to read as follows:
E. Suspension and revocation. In addition to the grounds for suspension or revocation of a zoning permit generally, a permit issued under this section may be suspended or revoked by the POD for any of the following reasons:

1. Permits issued under this section may be suspended or revoked by the POD for any reason and without penalty upon the giving of 30 days' written notice.

2. The POD may also deny, revoke or suspend a permit if it is found that:
   a. Any required business or health permit or license for the sidewalk café or the abutting business establishment has expired or been suspended, revoked or canceled;
   b. The permittee does not have insurance in effect which complies with the minimum amounts and requirements required;
   c. Conditions of pedestrian and vehicular traffic have changed, causing congestion. Such decision shall be based upon finding of the POD that the minimum required pedestrian path is insufficient under existing circumstances and represents a danger to the health, safety and general welfare of pedestrians or vehicular traffic;
   d. The permittee has failed to correct a violation of the Code or ordinances or conditions of the permit or other applicable laws or regulations within three days of receipt of the City's notice of violation.

3. Upon denial, suspension or revocation of the permit, the POD shall give notice of such action to the permittee in writing. In the event the denial, suspension or revocation is based on subsection a, b or c of this section, the action shall be effective immediately upon receipt of such notice by the permittee. Otherwise, such notice shall become effective 15 days from the date of such notice. If the revocation or suspension of the permit is caused by the permittee, there shall be no refund of the annual permit fee or any other fees paid to the City for operation of a sidewalk café. Any revocation or suspension without cause shall entitle the permittee to a refund of the annual permit fee prorated on a per month basis from the date of notice of such action.

4. In the event the permittee fails to remove any tables, chairs, canopies, awnings or other fixtures or objects related to the sidewalk café before the date set forth in the City's notice of denial, revocation or suspension, the POD may remove such fixtures or objects. The permittee shall be responsible for all expenses incurred by the City for the removal and storage of such fixtures or objects.

5. Violation of the noise provisions of Chapter 11, with suspensions for repeat noise violations being governed as set forth in the Penalty section, currently section 11-50, of that Chapter. Revocation of a sidewalk café permit is not permitted for a violation of the provisions of Chapter 11 described herein.

F. Variances. Requests for variances shall be reviewed by the commission designated in the Decisions and Appeals Table.
SECTION 12. 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. The City intends that the provisions of this ordinance shall be made a part of the St. Petersburg City Code and that sections and subsections of the City Code may be renumbered or relettered in order to accomplish such intentions.

SECTION 13. Severability. The provisions of this ordinance shall be deemed severable. If any provision of this ordinance is determined to be unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provisions of this ordinance.

SECTION 14. Effective Date. In the event 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.

First reading conducted on 2nd day of May 2019.

Adopted by St. Petersburg City Council on second and final reading on the 16th day of May 2019.

[Signature]
Charlie Gerdes, Chair-Councilmember
Presiding Officer of the City Council

ATTEST: Chan Srinivasa, City Clerk

Title Published: Times 1-t 5/13/19

Not vetoed. Effective date May 23, 2019 at 5:00 p.m.