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Reply to: Venice

MEMORANDUM

TO: City Council

FROM: Kelly M. Fernandez, Esq., City Attorney

DATE: September 18, 2018

RE: Noise Regulations

At the June 26, 2018 City Council meeting, the City Attorney's Office was directed to review the City's regulations on noise control. As the request did not include a focus on any specific types of noise, I have performed a general review of the City Code provisions contained in Chapter 34, Article II "Noise Control" (attached) for legal sufficiency.

The City's noise control regulations were adopted in 1982 and last revised, in part, in 2012. Noise regulations around the state and country are the frequent subject of lawsuits alleging that they violate First Amendment rights or are vague and overbroad. While the City's regulations do not have any blatant legal deficiencies, the manner of enforcement could be improved including revising the available penalties. For instance, a clearly defined citation process does not currently exist. I have attached the City of Sarasota's Sound Regulations as an example. Unknown to me at this time is the type of equipment and level of training City staff has in assessing alleged violations and whether the current Code's sound measurement requirements pose any challenges to them. The Police Department is the primary enforcement body given the hours during which most complaints occur and the equipment required to prove a violation. Finally, if the City desires to comprehensively modify its noise control regulations, a consultant should be retained to conduct a noise study in order to produce an ordinance that legally establishes decibel levels, including threshold compliant and non-compliant noise levels as well as the proper technique for detecting noise levels.

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