

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 23.8 “NOISE” OF CHAPTER 23, “OFFENSES AND MISCELLANEOUS PROVISIONS” OF THE CODE OF THE CITY OF FORT WORTH (2015), TO AMEND THE REGULATION OF AMPLIFIERS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND NAMING AN EFFECTIVE DATE.

WHEREAS, it is the policy of the City of Fort Worth to minimize the exposure of citizens to excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare; and

WHEREAS, it is the intent of the City to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens, promotes the use, value and enjoyment of property; and preserves the quality of the environment; and

WHEREAS, on May 1, 2012, the City Council adopted Ordinance No. 20191-05-2012 revising Section 23-8 “Noise” (“Noise Ordinance”) in its entirety to add restrictions on noise based on decibel levels, add restrictions on noise from animals and amplifiers on public property or the public right-of-way; and

WHEREAS, since the adoption of the Noise Ordinance concerns related to when the use of amplification on public right-of-ways and public property is permissible, especially with regard to First Amendment activities, have arisen; and

WHEREAS, the City recognizes that parks, sidewalks and streets are traditional public forums in which government entities are limited in their ability to regulate speech; and

WHEREAS, the City has an interest in assuring the orderly movement of traffic and pedestrians on streets and sidewalks and that persons of ordinary sensibility are not unreasonably discomforted living or working while allowing the expression of viewpoints and ideas; and

WHEREAS, it is advisable to amend the Noise Ordinance to provide that amplification may be allowed under certain conditions without regard to the content of the communication. Provided however, that noise from amplifiers may be in violation of the Noise Ordinance if the noise is disturbing to a reasonable person of ordinary sensibilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

Section 23-8 “Noise” to Chapter 23, “Miscellaneous,” of the Code of Ordinances of Fort Worth, Texas (2015), is hereby amended to revise and re-letter subsection (d) to read as follows:
Sec. 23-8. Noise

(d) Noise Prohibited.

- (1) In addition to the other noise restrictions in this Section, no person shall make, cause, suffer, allow or permit unreasonably loud noises in such a manner, or with such volume, intensity or duration, so as to disturb a reasonable person of ordinary sensibilities. A decibel level shall not be required for the enforcement of this subsection.
- (2) This subsection is intended to apply to, but is not limited to, unreasonable noises in the form of:
 - ~~a. Amplifiers in Public ROW and on City Property. The use of a bullhorn, loudspeaker, or other amplification is prohibited in the public right of way and on City of Fort Worth property, unless permitted as an exception below.
Exceptions:
 - ~~i. Public safety official while performing their duties.~~
 - ~~ii. Persons with an Outdoor Event Permit as described in Section 20-405 of the City Code.~~
 - ~~iii. Persons with permission from pertinent City department director or designee.~~~~
 - ab. Animals. It shall be unlawful to keep, or to permit the keeping of, any dog(s) or rooster(s) or any other bird or animal that creates any bark, cry, crow, or other sound on a frequent, repetitive or continuous basis for ten (10) minutes or longer.
 - be. Construction Work. Noise created by construction work within three hundred (300) feet of an occupied residential structure involving the erection, excavation, demolition, alteration, or repair of any building, structure, or flatwork before 7:00 a.m. or after 8:00 p.m. is prohibited as follows:

Before 7:00 a.m. or after 8:00 p.m. Monday-Friday
Before 9:00 a.m. or after 8:00 p.m. Saturday-Sunday
 - cd. Solid Waste Collection. Noise created by solid waste haulers within three hundred (300) feet of residential zoning before 6:00 a.m. or after 11:00 p.m. is prohibited, unless a waiver is granted to the waste hauler by the Director of Code Compliance or his designee in accordance with the Grant of Privilege issued by the City to the waste hauler.
 - de. Musical Instruments. The playing of any radio, phonograph or other musical instrument in such manner or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.

ef. Horns or other signal devices. The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh device for any unnecessary and unreasonable period of time.

fg. Operation of vehicles. The running of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring or rattling noise or vibrations.

SECTION 2.

That this ordinance shall be cumulative of all other ordinances of the City of Fort Worth, Texas, and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3.

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil and criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 6.

That the City Secretary of the City of Fort Worth, Texas, is hereby directed to publish this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by the V.T.C.A. Local Government Code Subsection 52.013.

SECTION 7.

This ordinance shall take effect after adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____
Melinda Ramos, Sr. Assistant City Attorney

Adopted: _____

Effective: _____