

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, RELATING TO THE NOISE ORDINANCE; AMENDING THE NOISE ORDINANCE TO CLARIFY DEFINITIONS AND THE METHOD OF MEASURING NOISE; PROVIDING GRAMMATICAL AND STYLISTIC UPDATES; PROVIDING CLARIFICATIONS RELATING TO THE PERMITTING AND USE OF OUTDOOR MECHANICAL LOUD SPEAKERS AND AMPLIFIERS; PROVIDING FOR SEVERABILITY, CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AS FOLLOWS:

SECTION 1. SUBSECTION 42.03(4), AMENDED. Subsection 42.03(4), Code of the City of Orlando, Florida, is hereby amended as follows:

(4) *Definitions.* The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

(a) *Commercial* means property use that is for the trafficking of goods or furnishing of services for sale or profit, including, but not limited to, banking and other financial institutions, dining establishments, retail or wholesale establishments, recreation or entertainment establishments, office buildings, transportation facilities, and warehouses. This category excludes property which is defined as Multi-Use or is located in the Downtown Entertainment Area as described in section 42.07(6) herein.

(b) *Convenient hearing* means the listening comfort of those persons assembled.

(c) *Downtown Entertainment Area* means all property and uses contained within the area described in section 42.07(6) herein.

(d) *Industrial* means property use that is for the fabrication, manufacturing, shipping, or production of durable or nondurable goods. This category excludes property which is located in the Downtown Entertainment Area as described in section 42.07(6) herein.

(e) *Multi-Use* means property that includes a building(s) or structure(s) which contains both commercial (usually on the ground floor) and residential use, where such residential use is located above, behind, below or adjacent to the commercial use. This category shall also include any area where commercial use abuts residential use or is located immediately or directly across a public right-of-way from residential use. Multi-Use excludes property which is located in the Downtown Entertainment Area as described in section 42.07(6) herein. Property used for the public benefit such as outdoor concert events, fairs, festivals, athletic fields, and public assemblies is also included in the definition of "Multi-Use."

(f) *Neighborhood inhabitants* means person or persons who dwell or reside in a place which is immediately adjacent to or within ~~one hundred~~ (100) feet of the property generating the noise.

(g) *Plainly audible* means any sound that can be detected by a person using his or her unaided hearing faculties who has a direct line of sight and hearing to the source of the noise. The person need not determine particular words or phrases, or the name of any song or artist: the detecting of a rhythmic bass reverberating sound is sufficient.

(h) *Public right-of-way* means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

(i) *Real property line* means either (i) the imaginary line including its vertical extension that separates one parcel of real property from another; (ii) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit such as a condominium, townhouse, or apartment building; or (iii) on a multi-use property, the point of interface between the two ~~(2)~~ portions of the property on which different categories of activity are being performed.

(j) *Residential* means property use that is for residences, including, but not limited to, single-family residences, multi-family residences, condominiums, apartments, hotels, motels, and assisted living facilities. This category excludes property which is defined as Multi-Use and property located in the Downtown Entertainment Area as described in section 42.07(6) herein.

(k) *Sound amplification device* includes, but is not limited to, radios, stereos, CD players, DVD players, microphones, drums, turn tables, audio or visual equipment, electronic devices, musical instrument, sound equipment, television sets, interior or exterior speakers, loudspeakers, bullhorn, or any similar device.

(l) *Weekday* means Sunday beginning at 2:00 a.m. through Thursdays ending at 11:59 p.m.

(m) *Weekend* means Friday beginning at 12:00 a.m. through Sunday ending at 1:59 a.m.

SECTION 2. SECTION 42.04, AMENDED. Section 42.04, Code of the City of Orlando, Florida, is hereby amended as follows:

Sec. 42.04. Prohibited Acts.

(1) No person shall produce, cause to be produced, or allow to be produced, by any means, any noise within any private property which, when measured ~~fifty~~ (50) feet from the source of the noise or, at from the real property line of the property generating said noise, exceeds the applicable sound level limits set forth in Chart 1 and as measured as set forth in sSection 42.03(2).

(2) No person shall produce, cause to be produced, or allow to be produced, by any means, any noise within any public property which, when measured ~~fifty (50)~~ feet from the source of the noise or from the real property line of the property generating said noise, exceeds the applicable sound level limits set forth in Chart 1 and as measured as set forth in ~~s~~Section 42.03(2).

SECTION 3. SECTION 42.06, AMENDED. Section 42.06, Code of the City of Orlando, Florida, is hereby amended as follows:

Sec. 42.06. Exempt Noises.

The following types of noise ~~shall be~~ are hereby made exempt from the provisions of this Chapter:

(1) Noises from temporary construction and maintenance activities between 7 AM and 9 PM except Sundays and federal holidays.

(2) Noises from safety signals, emergency equipment and vehicles, warning devices and emergency pressure release valves and law enforcement activities, including training.

(3) Noises from motor vehicles such as automobiles, trucks, airplanes, motorcycles, and railroads which are regulated by state and federal law.

(4) Ordinary domestic noises provided such noises comply with the requirements of Chart 1.

(5) Noises such as those from show and ride attractions, fireworks, show pyrotechnics, aerial displays, sound effects, theatrical sound systems, music and human voices that are created within that part of the MA Overlay Zoning District that is not within the Downtown Entertainment Area.

SECTION 4. SECTION 42.07, AMENDED. Section 42.07, Code of the City of Orlando, Florida, is hereby amended as follows:

Sec. 42.07. Use of Mechanical Loud Speakers or Amplifiers Out of Doors.

(1) Unless exempt pursuant to subsection 42.07(6), it is hereby made ~~shall be~~ unlawful to use any mechanical loud speaker or other sound amplification device on a truck or other moving vehicle or out of doors on a public or private property except under a permit issued by the Chief of Police or the City's Permitting Services Division. For purposes of this section, "out of doors" shall mean the loud speaker or other sound amplification device is located ~~on or about, or is affixed to, the exterior of a building, structure or other enclosed or dedicated space that is either covered or uncovered~~ outside and not wholly enclosed within a building or structure. Radios located wholly within automobiles and handheld mobile electronic devices are hereby made exempt from this subsection, except that it is hereby made unlawful for any person to make, maintain, create, or allow to be created any unreasonably annoying and disturbing noise from any car radio (whether wholly or partially contained within the automobile or not) or

handheld mobile electronic device that is of such character, intensity, or duration as to be detrimental to the life, health, comfort, or repose of any individual of ordinary sensibilities residing in or occupying the area.

(3) No person shall use a loud speaker or other sound amplification device out of doors within ~~one thousand (1,000)~~ feet of any school, physical place of worship at which a religious organization regularly conducts religious services, church, hospital, court of law, or public transportation facility as defined in s. 496.425(1)(b), Florida Statutes, during normal business hours of operation of that entity without the permission from that property owner.

(4) Each permit application shall include the name, address, and telephone number of the permit applicant. The applicant shall submit a plan showing the proposed location and orientation of the loud speaker(s) or sound amplification device(s) to be used, the street address and specific location at that address for the proposed use, the hours of operation of the loud speaker(s) or sound amplification device(s), and a description of the loud speaker(s) or sound amplification device(s) including its decibel level. The applicant shall certify that such speaker(s) and device(s) will be monitored to ensure that it is operated within the decibel levels prescribed in Chart 1 set forth in sSection 42.03 herein.

If the loud speaker(s) or sound amplification device(s) is being used out of doors temporarily for a particular event, the application must be submitted to the Chief of Police at least three ~~(3)~~ business days, excluding holidays, in advance of the installation of the equipment ~~excluding holidays~~ and must be accompanied by a ~~twenty dollar (\$20.00)~~ processing fee. If the use of such speaker or device out of doors will be ~~continuous~~ continual, the application must be submitted to the Permitting Services Division prior to the installation of the equipment and must be accompanied by a fee which shall be set forth by resolution of City Council.

(5) The Chief of Police or the Permitting Services Division shall issue a permit provided the proposed use and speaker or device:

(a) Complies with subsections (2) through and including (10) of this section as applicable; and

(b) Will not interfere with any governmental function or with any event previously permitted pursuant to Chapter 18A, Orlando City Code, ~~the City Code Chapter 18A~~, or with any event scheduled through the Families, Parks and Recreation Department if the proposed use of the speaker or device is temporary for a particular event; and

(c) Is not for a location within ~~one thousand (1,000)~~ feet of an activity or another location previously permitted under this section for the same date and time if the proposed use of the speaker or device is temporary for a particular event; and

(d) Is not for a fully enclosed restaurant, bar, or other similar establishment that does not have a permitted sidewalk café or other approved designated outdoor space for patrons.

If the ~~use of the~~ loud speaker sound amplification device is not ~~being used~~ temporarily temporary for a particular event, but instead is ~~being used continuously on a daily basis~~ continual, the permit shall be valid for a period of ~~twelve (12)~~ months from the date of issuance, at which time the City may renew the permit for the next 12-month period under the same conditions provided the renewal fee is paid and the number, type, and location of the speaker(s) or device(s) has not changed. The City may also consider the number of citations that had been issued, if any, to the applicant for violations under this Chapter during the prior 12-month period when determining renewal of the permit. If, at the time of renewal, the number of speakers or devices has increased or the type or location of the speakers or devices has changed, the permit application process shall begin anew. ~~The time for renewal of the permit shall begin July 1st of each year and the fee shall be due and payable no later than October 1st of each year. The permit shall expire on September 30th of the succeeding year.~~ Annual renewal of the permit is the responsibility of each permit holder.

If the loud speaker or sound amplification device is being used ~~continually~~continuously at a fixed location on a daily basis, the permit must be posted in a conspicuous place upon the premises at which the speaker or device is being used.

(6) For the purpose of providing an exemption from the prohibitions contained in subsections (2), and (3) above, there is hereby created a Downtown Entertainment Area which is described in Figure 1. Within said Area, loud speakers or other sound amplification devices for non-continual use ~~that are permitted under subsection (4)~~ may be used out of doors between 7:00 p.m. and 12:00 a.m. on weekdays and 7:00 p.m. and 2:00 a.m. on weekends and without regard to the other prohibitions set forth in subsections (2) and (3) above. However, sections 42.02 through 42.05 set forth herein shall still apply.

(8) Except for loud speakers and sound amplification devices installed by the City, such speakers and devices that are permitted for ~~continuous~~ continual use out of doors under subsection (1) shall not be located within the public rights-of-way, including the air space above such public rights-of-way, unless such use is for a permitted sidewalk café or for space that is part of an encroachment agreement with the City. In that instance, such speakers and devices shall not face or direct the sound upward toward airspace or toward any adjacent businesses, streets, alleys, rights-of-way, or property. Instead, such speakers and devices, ~~shall be~~ whether permanently mounted or affixed to the exterior of the building or structure ~~and or freestanding~~, shall be set in such a way that the sound is directed downward and inward toward patrons and complies with the sound levels and standards set forth in sections 42.02 through 42.05 herein. If the speakers or devices are free-standing, they shall not be elevated more than five feet off of the ground.

(9) Any person, business, or property owner that is operating a restaurant, bar, or other similar establishment at a fixed location that is providing designated outdoor space to its patrons on private property (i.e. patio, rooftop, etc...) may utilize loud speakers or sound amplification devices for temporary or continuous continual use out of doors as long as such speakers and devices are permitted under subsection (1). Such speakers and devices may be permanently mounted or affixed to the exterior of the

building or structure or free-standing and shall not face or direct the sound upward toward airspace or outward toward any adjacent businesses, streets, alleys, rights-of-way, or property. Instead, such speakers and devices shall be set in such a way that the sound is directed downward and inward toward patrons and complies with the sound levels and standards set forth in sections 42.02 through 42.05 herein. If the speakers or devices are free-standing, they shall not be elevated ~~on a pole or stand~~ more than five feet off of the ground.

SECTION 5. CODIFICATION. The city clerk and the city attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 6. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 7. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 8. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2017.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the _____ day of _____, 2017.

DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2017.

BY THE MAYOR OF THE CITY OF
ORLANDO, FLORIDA:

Mayor

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

ORDINANCE NO. 2017-38

City Clerk

Print Name

THIS ORDINANCE DRAFTED BY AND
APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

City Attorney

Print Name

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