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P. Hrngs. _____
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Filed: 12-06-16

Sponsored by: Ferguson

First Reading: _____

Second Reading: _____

COUNCIL BILL NO. 2016- 297

GENERAL ORDINANCE NO. _____

AN ORDINANCE

1 AMENDING the Springfield City Code, Chapter 78, Offenses and miscellaneous provisions by
2 amending language in Sections 78-111, 78-113, and enacting a new section,
3 Section 78-115 to address noise and peace disturbances in mix use areas of the
4 City.
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7 WHEREAS, Chapter 78, Offenses and miscellaneous provisions , Article IV, Offenses
8 against public peace, Division 2, Noise, of the City Code deals prohibited noises generally and
9 peace disturbances; and
10

11 WHEREAS, the noise ordinances need to be updated to address the growing
12 development of mix use living areas that combine residential units with entertainment.
13

14 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
15 SPRINGFIELD, MISSOURI, as follows, that:
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17 NOTE: Language to be added is underlined. Language to be deleted is ~~stricken~~.
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19 Section 1 – The Springfield City Code, Chapter 78, Offenses and miscellaneous
20 provisions , Article IV, Offenses against public peace, Division 2, Noise, Section 78-111 is
21 hereby amended by revised as follows:
22

23 **Sec. 78-111. - Definitions.**

24 The following words, terms and phrases, when used in this division, shall have
25 the meanings ascribed to them in this section, except where the context clearly indicates
26 a different meaning:
27

28 *Agency* means a political subdivision, governmental agency, public or private
29 school, college or university.
30

31 *Business district* means the area contained within, and bounded by, the streets
32 which comprise both the south side and north side business districts as defined in
33 section 106-5.
34

35 *Plainly audible* means any sound produced by a sound amplification system
36 from either within a vehicle or such sound amplification system not located within a
37 vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement
38 standards shall be by the auditory senses, based upon direct line of sight. Words or

39 phrases need not be discernible, and bass reverberations are included. The motor
40 vehicle may be stopped, standing, parked or moving on a street, highway, alley,
41 parking lot or driveway.

42
43 ~~Residential district means any area not described as being within the area~~
44 ~~contained within, and bounded by, the streets which comprise either the south side or~~
45 ~~the north side business district as defined in section 106-5. listed in Chapter 36 Land~~
46 ~~Development Code of the City of Springfield, Article III Zoning Regulations, Division 4~~
47 ~~District Regulations, Subdivision I Residential Districts, including: Single Family~~
48 ~~Residential Districts, Residential Town House Districts, Low Density Multifamily~~
49 ~~Districts, Medium Density Multifamily Districts, High-Density Multifamily Districts, and~~
50 ~~Manufactured Home Community Districts.~~

51
52 Sound amplification system means any radio, tape player, compact disc player,
53 public address system, amplifier, loudspeaker or other electronic device used for the
54 amplification of sound.

55
56 Sound-producing device means a radio, television, tape recorder, compact disc
57 player or other digital player, phonograph, musical instrument or any other similar sound-
58 producing instrument or device.

59
60 Section 2 – The Springfield City Code, Chapter 78, Offenses and miscellaneous
61 provisions , Article IV, Offenses against public peace, Division 2, Noise, Section 78-113 is
62 hereby amended by revised as follows:

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64 **Sec. 78-113. - Prohibited noises enumerated.**

65 (a) The following acts, among others, are declared to be loud and disturbing noises
66 and constitute violations of this division, but this enumeration shall not be deemed to
67 be exclusive:

68 (1) *Animal and fowl noises.* The keeping of any animal, bird or fowl which, by
69 causing frequent or long continued noise, shall disturb the comfort or repose of any
70 person in the vicinity.

71
72 (2) *Radios, phonographs and musical instruments.*

73 a. *Generally.* No person shall play any ~~radio, phonograph or musical-~~
74 ~~instrument~~ sound producing device in such a manner or with such
75 volume as to annoy or disturb the quiet, comfort or repose of persons in
76 any office, hospital, dwelling, hotel or other type of residence, or of any
77 person in the vicinity.

78
79 b. *Playing at night.* No person shall play or cause to be played any
80 musical instrument or device producing musical sound between the
81 hours of 1:30 a.m. and 6:00 a.m.; provided, however, this subsection
82 shall not apply to musical instruments being played in churches as a
83 part of regular church entertainment, social entertainment in private
84 homes, or entertainment in public buildings where an admission fee is
85 charged therefor, or being played in any enclosed structure located at a
86 greater distance than 200 feet from any dwelling, hotel, tourist court,
87 hospital, rest home or sanitarium.

88
89 c. *Noise emanating from private property in residential district.* No

90 person shall play a sound-producing device in a residential district
91 between the hours of 11:00 p.m. and 7:00 a.m., whether inside or
92 outside of a building, or from a motor vehicle, in a manner or with such
93 volume so as to emit noise which can be heard beyond the property
94 line of the property on which the sound-producing device is located;
95 provided, however, this subsection shall not apply to the playing
96 of a sound-producing device by an agency if the sound-
97 producing device is being played at an event or activity which is
98 authorized or sponsored by such agency on property owned or
99 under the control of such agency.

100
101 d. *Noise emanating from motor vehicle on street in residential district.*

102 1. No person shall permit noise to be emitted from a motor
103 vehicle located on a public street or other public right-of-way by
104 the playing of a sound-producing device between the hours of
105 11:00 p.m. and 7:00 a.m. in a residential district, when the noise
106 from such device can be heard on property other than the street
107 or other public right-of-way; provided, however, this subsection
108 shall not apply to the playing of a radio or other similar sound-
109 producing device when the radio is being used by a
110 governmental agency in the performance of its work.

111
112 2. No person operating or occupying a motor vehicle on a
113 street, highway, alley, parking lot, or driveway shall operate or
114 permit the operation of any sound amplification system from
115 within the vehicle so that the sound is plainly audible at a
116 distance of 50 or more feet from the vehicle.

117
118 ~~(3) Loudspeakers and amplifiers. The use of mechanical loudspeakers or~~
119 ~~amplifiers on either moving or standing vehicles for advertising, singing, public~~
120 ~~speaking or other purposes in the business district of the city; and the use of~~
121 ~~any musical instrument, loudspeaker or other noise-making device for the~~
122 ~~purpose of attracting attention to any performance, show, sale or display of~~
123 ~~merchandise, or for any other purpose, in the business district, or in a~~
124 ~~residential district between the hours of 9:00 p.m. and 7:00 a.m., except~~
125 ~~parades authorized by a permit from the chief of police; provided that all~~
126 ~~conveyances carrying and operating such devices in a residential district in~~
127 ~~accordance with this subsection shall keep moving at a speed of at least eight~~
128 ~~miles per hour. However, this subsection shall not apply to the reasonable use~~
129 ~~of amplifiers in the course of public addresses which are noncommercial in~~
130 ~~character and when such use is outside the public districts, as defined under~~
131 ~~the definitions of business district, south side central business district and~~
132 ~~north side central business district under section 106-5, or any activity for~~
133 ~~which a permit has been issued by the city manager pursuant to section 82-65,~~
134 ~~or to any use authorized by the city council in Park Central Square when the~~
135 ~~use is noncommercial in character.~~

136
137 (43) *Excessive noise in vicinity of schools, churches or hospitals.* The creation
138 of any excessive noise on any street adjacent to any school, institution of
139 learning, church or court while it is in session, which unreasonably interferes
140 with the workings or sessions thereof, or the creation of any excessive noise

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on any street adjacent to any hospital.

(54) *Loading and unloading merchandise.* The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(65) *Construction in residential districts.* The erection (including excavating), demolition, alteration or repair of any building and the excavation of streets and highways in any residential district or section, other than between the hours of 7:00 a.m. and one-half hour before sunset, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed 30 days while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between the hours of one-half hour before sunset and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done between the hours of one-half hour before sunset and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work; provided, however, this subsection shall not apply to excavations or repairs of bridges, streets or highways by or on behalf of the city, the county or the state during the nighttime when the public welfare and convenience renders it impracticable to perform such work during the day.

(76) *Yelling, shouting, whistling, etc.* Yelling, shouting, hooting, whistling or singing on the public streets at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity, ~~both in residence and business districts.~~ No person shall yell, shout, chant, hoot, whistle or sing on private property or on a public street or other right-of-way ~~in a residential district~~ between the hours of 11:00 p.m. and 7:00 a.m. in a manner so as to emit noise which is unreasonably loud and unnecessary; provided, however, this proviso shall not apply if the yelling, hooting, shouting, chanting, whistling or singing occurs on private property under the ownership or control of the person making or permitting such noise, or on a public street or other right-of-way, and provided, further, that such noise does not leave the property or public street or other right-of-way or the noise occurs on property owned or used by an agency at an event or activity which is sponsored or authorized by such agency.

(87) *Horns or signaling devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle for a prolonged, unnecessary and unreasonable period of time.

(98) *Steam whistles.* The unreasonable and unnecessary and prolonged blowing of any steam whistle.

(409) *Noisy vehicles.* The use of any automobile, motorcycle or other vehicle:
a. so out of repair;
b. so loaded; or
c. in such manner

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as to create loud and unnecessary grating, grinding, rattling or other noise.

(140) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

~~(12) Loud sound amplification systems.~~

~~a. No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle.~~

~~b. For purposes of this subsection, the term "sound amplification system" means any radio, tape player, compact disc player, loudspeaker or other electronic device used for the amplification of sound.~~

~~c. For purposes of this subsection, the term "plainly audible" means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible, and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.~~

~~d. It is an affirmative defense to a charge under this subsection that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:~~

~~1. The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition.~~

~~2. The vehicle was an emergency or public safety vehicle.~~

~~3. The vehicle was owned and operated by the city or a gas, electric, communications or refuse company.~~

~~4. The system was used for the purpose of giving instructions, directions, talks, addresses or lectures or transmitting music to any persons or assemblages of persons in compliance with ordinances of the city.~~

~~5. The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the city authorized to grant such approval.~~

(b) Any ambulance, any officer of the law while engaged in necessary public business,

243 or any vehicle of the city while engaged in necessary public business shall be
244 excepted from the terms and prohibitions contained in this section.

245 Section 3 – The Springfield City Code, Chapter 78, Offenses and miscellaneous
246 provisions , Article IV, Offenses against public peace, Division 2, Noise, is hereby amended by
247 adding a new section, Section 78-115, which reads as follows:
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249 Sec. 78-115. - Additional Prohibited Noises

250 The following activities shall be prohibited as described below.

251 (a) No person using a sound amplification system shall operate or permit the operation of the
252 sound amplification system such that the sound is plainly audible and:

253 1. Operate an amplified sound system at a volume that unreasonably disturbs or
254 alarms another person or persons within residential dwellings, businesses, or commercial
255 developments. The term "within" shall include outdoor cafes associated with business
256 or commercial developments; or

257 2. Operate or permit the operation of the said sound amplification system in a manner to
258 unreasonably disturb or interfere with any activity being held, or the enjoyment of such
259 activity by its patrons, for which a special event or other permit has been obtained
260 pursuant to other provisions of the Springfield City Code; or

261 3. Operate the sound amplification system after 11:00 p.m. and before 7:00 a.m. where
262 the sound generated is plainly audible at a distance of 50 or more feet from the speakers
263 of the system.

264 (b) The provisions of this section shall not prohibit any activities specifically permitted or
265 authorized by other provisions of the Springfield City Code.

266 Section 4 – Savings Clause. Nothing in this ordinance shall be construed to affect any suit or
267 proceeding now pending in any court or any rights acquired or liability incurred nor any cause or
268 causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any
269 right or remedy of any character be lost, impaired, or affected by this ordinance.

270 Section 5 – Severability Clause. If any section, subsection, sentence, clause, or phrase of
271 this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the
272 remaining portions of this Ordinance. Council hereby declares that it would have adopted the
273 Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact
274 that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

275 Section 6 – This Ordinance shall be in full force and effect from and after passage.

276 Passed at meeting: _____

277 _____
278 Mayor

279 Attest: _____, City Clerk

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Filed as Ordinance: _____

Approved as to form: Amanda R. Callaway, Assistant City Attorney

Approved for Council action: Greg Burnett, City Manager

EXPLANATION TO COUNCIL BILL NO: 2016 -297

FILED: 12-06-16

ORIGINATING DEPARTMENT: Law

PURPOSE: Amending the Springfield City Code, Chapter 78, Offenses and miscellaneous provisions by amending language in Sections 78-111, 78-113, and enacting a new Section 78-115 to address noise, peace disturbances and use of amplified sound devices within the City.

BACKGROUND INFORMATION: The City's noise ordinances have been developed over many years, making some ordinances difficult to enforce as written and/or confusing. There are several City Code sections that address the issue of peace disturbances and prohibited noises. Some sections contain inconsistent language or duplicate other, earlier-drafted sections. The last revision to the noise ordinance was in 2002. This ordinance proposes to amend Sections 78-111, 78-113 and create a new section, 78-115.

Section 78-111 is amended by adding definitions and consolidating other definitions that were scattered throughout that Division. Placing all defined terms in one location will simplify the ordinance. The definition of "residential property" was amended to specifically list affected zoning classifications for residential property to provide a clear meaning for that term.

Section 78-113 is proposed to be amended in several ways. Section 78-113(a)(2)(6), 'Yelling, shouting, whistling, etc.,' previously only applied in residential districts. These amendments remove that restriction so that it will apply city-wide. Section 78-113(a)(12) included several definitions that were moved to Section 78-111, where all other definitions for the Division are located. This section also included language that duplicated section 78-113(a)(2)(d), so those two sections were combined.

Section 78-113 (a) (~~409~~), as proposed, will clarify noisy vehicles per the discussion by City Council at the City Council lunch on October 4th, so as not to arguably limit vehicle noises to vehicles in disrepair. It should be noted that the existing City Code Section 106-15, Equipment on motor vehicles generally, also addresses noisy vehicles.

Staff is not recommending any changes to the existing peace disturbance standard in 78-114, which requires a complainant.

Section 78-115 is a proposed new section that addresses the use of sound amplification devices. This section prohibits a person from operating a sound amplification device so that the sound is "plainly audible". Plainly audible is generally defined as any sound which can be heard at a distance of 50 feet or more. Subsections (1) and (2) require a complainant who's peace is disturbed by the plainly audible sound, which is defined as a complainant who is disturbed at a distance of 50 feet or more from the sound

amplification device. Subsection (3) prohibits the use of an amplification device that is plainly audible at a distance of 50 feet or more between the hours of 11:00 p.m. and 7 a.m.

The “plainly audible” standard in the proposed ordinance will provide objective, content-neutral criteria for assessing potential violations, beyond the mere receipt of a complaint. Someone cannot simply be alarmed or disturbed to be in violation of this section, unless they also meet the definition of plainly audible. This establishes clear guidance on the use of sound amplified devices, specifically addressing the volume of amplified devices.

The proposed changes to Section 78-115 do not ban the use of amplified devices, nor require the issuance of a permit for their use. These changes clearly define what volume is permissible. The language in Section 78-115 is an attempt to balance the interests of those who wish to use a sound amplification device, and persons who are patrons, residents, or business owners that choose not to have their peace disturbed.

REMARKS: These amendments were drafted collaboratively by the Law Department, Police Department, and the Municipal Prosecutor’s Office. City staff presented this Ordinance to the Downtown CID Board, which represents the interests of businesses and residential users in the downtown area, and the Board supports the proposed revisions. City Council also discussed proposed Noise Ordinance changes at their October 4, 2016 City Council lunch meeting.

Submitted by:

Approved by:



Collin Quigley, Assistant City Manager



Greg Burris, City Manager