

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HOLLYWOOD,
FLORIDA, AMENDING CHAPTER 100 OF THE CODE OF
ORDINANCES; CREATING AN ADDITIONAL METHOD OF
MEASURING NOISE VOLUME AND ENFORCING NOISE
VIOLATIONS WITH THE USE OF A SOUND LEVEL METER.

WHEREAS, excessively loud noise can have a devastating impact on neighborhoods; and

WHEREAS, the City has an existing noise ordinance but wishes to create an additional method of measuring noise volume and enforcing noise violations.

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are incorporated in this Ordinance.

Section 2: That Section 100.01 of the Code of Ordinances is amended to read as follows¹:

TITLE IX: GENERAL REGULATIONS

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CHAPTER 100: NOISE

§ 100.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMPLIFIED SOUND. Sound augmented by any electronic means which increases the sound level or volume.

ANSI. The American National Standards Institute.

¹ Coding: Underlined text are additions to existing text; ~~struck through~~ text is removed from existing text; **highlighted** text are changes between first and second readings.

~~**BUSINESS ESTABLISHMENT.** Any commercial establishment, including but not limited to any establishment required to obtain an entertainment permit and/or license, food and/or beverage license, service of alcoholic beverages in conjunction with amplified sound permit or license and/or an extended hours license.~~

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COMPLAINANT. Any owner, lessee, manager or person with a legal interest in a receiving property who reports being disturbed by sound heard inside of a residence or place of business upon the receiving property and not originating therefrom.

CONTINUOUS SOURCE OF SOUND. A source of sound, whether constant, variable, intermittent, or impulsive, that continues for a period of time without stopping or interruption.

dBA. The abbreviation designating the unit of sound level as measured by a sound level meter using the A-weighting, also known as "DBA."

dBC. The abbreviation designating the unit of sound level as measured by a sound level meter using the C-weighting, also known as "DBC."

ENFORCEMENT OFFICER. Any Code Enforcement Officer or law enforcement officer.

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RESIDENCE. Any occupied room or rooms connected together containing sleeping facilities, including but not limited to single and multiple family homes, townhomes, apartments, condominium units, hotel and motel rooms.

SOUND LEVEL. The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C, as specified in ANSI specifications for sound level meters.

SOUND LEVEL METER. Any instrument, including a microphone, amplifier, output meter, and frequency weighting network, for the measurement of noise and sound levels in a specific manner and that complies with standards established by the ANSI specifications for sound level meters.

SOUND SOURCE. The place from which sound emanates, including without limitation, a speaker, loud speaker, or other sound producing instrument or person.

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Section 3: That Section 100.02 of the Code of Ordinances is amended to read as follows:

TITLE IX: GENERAL REGULATIONS

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CHAPTER 100: NOISE

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§ 100.02 UNREASONABLY LOUD NOISE PROHIBITED; NOISE IN EXCESS OF MAXIMUM SPECIFIED SOUND LEVELS PROHIBITED.

(A) An owner of real property and/or property representative, as defined in Chapter 119, shall be responsible for any violation of this section, whether or not the owner and/or property representative ~~he or she~~ is the source of the violation.

(B) It shall be unlawful for any person or business to cause or permit to originate from the real property the person or business ~~he, she or it~~ controls, any sound which crosses a property line at a volume which is unreasonably loud. Any property owner and/or property representative, as defined in Chapter 119, may be cited for any violation of this section.

(C) Given the nature of noise violations, including the harmful and detrimental effects of such violations on neighboring properties, the city waives the requirement that a warning notice be provided prior to the issuance of a violation, and any law enforcement or code officer who believes that a violation of this chapter is or has occurred may forego providing a written warning and issue a notice to appear or a notice of violation.

(D) No person shall make, continue or cause to be made or continued any sound disturbances that violate the noise limitations as defined in this section.

(E) For the purpose of measuring the volume of sound, the measurement of sound shall be made with a sound level meter operating on the "A" and "C" weighting scale of any standard design and quality meeting the standards prescribed by the ANSI. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source.

The measurement shall be made at or beyond the real property line of the property on which the sound is generated, or perceived, as appropriate, approximately five feet above ground.

In the case of an elevated or directional sound source, compliance with the sound limits is to be maintained at any elevation at or beyond the real property line.

(F) On nonresidential property between the hours of 7:00 a.m. and 10:00 p.m., Sunday through Thursday, and between the hours of 7:00 a.m. and 11:00 p.m., Friday

and Saturday, no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line of the property from which the sound emanates, a sound level that exceeds 80 85 dBA or 80 85 dBC.

On nonresidential property between the hours of 10:00 p.m. and 7:00 a.m., Sunday night/Monday morning through Thursday night/Friday morning, and between the hours of 11:00 p.m. and 7:00 a.m., Friday night/Saturday morning and Saturday night/Sunday morning, no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line of the property from which the sound emanates, a sound level that exceeds 75 dBA or 75 dBC.

On residential property between the hours of 7:00 a.m. and 10:00 p.m., no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line of the property from which the sound emanates, a sound level that exceeds 65 dBA or 65 dBC.

On residential property between the hours of 10:00 p.m. and 7:00 a.m., no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line of the property from which the sound emanates, a sound level that exceeds 55 60 dBA or 55 60 dBC. (See Section 100.03 below regarding quiet hours). Any property owner and/or property representative, as defined in Chapter 119, may be cited for any violation of this section.

Section 4: That Section 100.03 of the Code of Ordinances is amended to read as follows:

TITLE IX: GENERAL REGULATIONS

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CHAPTER 100: NOISE

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§ 100.03 ESTABLISHMENT OF QUIET HOURS.

On residential property between the hours of 10:00 p.m. and 7:00 a.m., no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond the real property line of the property from which the sound emanates, a sound level that exceeds 55 60 dBA or 55 60 dBC. It shall be unlawful for any person or business to cause or permit any plainly audible noise to cross the property line between 11:00 p.m. and 6:00 a.m. in areas zoned

~~residential, as defined in Zoning and Land Development Regulations §§ 4.1, 4.2, and 4.6, except DH-2 and ND-2, § 4.19 and single and multiple family residential buildings within Planned Development (PD) and Planned Unit Development (PUD) Districts. Any property owner and/or property representative, as defined in Chapter 119, may be cited for any violation of this section.~~

Section 5: That Section 100.04 of the Code of Ordinances is amended to read as follows:

TITLE IX: GENERAL REGULATIONS

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CHAPTER 100: NOISE

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§ 100.04 ADDITIONAL SOUND LIMITATION FOR PUBLIC PROPERTY.

No person shall on any public street or sidewalk, park, beach or other public property, or in any motor vehicle located on any public street or property, use, operate or play any radio, phonograph, stereo set, tape or CD player, television, sound amplifier, musical instrument, or other audio device which produces or reproduces amplified sound, at a level which interferes with a person's peaceful enjoyment or the peace and tranquility of the surrounding area at a distance more than 30 feet from the sound source.

Section 6: That Section 100.06 of the Code of Ordinances is amended to read as follows:

TITLE IX: GENERAL REGULATIONS

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CHAPTER 100: NOISE

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§ 100.06 TEMPORARY PERMITS AND SPECIAL EVENTS.

In connection with a permitted special event, no person shall make, cause, allow, or permit the operation of any continuous source of sound in such a manner as to create, when measured at or beyond 100 feet from the source from which the sound emanates if the source is located on public property, or at or beyond the real property line if the source is on private property, a sound level that exceeds the dBA or dBC standard in this chapter applicable to the point of measurement and the time of measurement, unless a different standard is established in the special event permit.

The Director of Development Services Administration or his/her designee is hereby authorized to issue a temporary permit to allow noise prohibited by §§ 100.02 and 100.04 when produced by temporary use or activity which does not significantly endanger the health, safety and domestic tranquility of the surrounding neighborhood. The Director of Development Services Administration or his/her designee may prescribe any conditions reasonably necessary to minimize any adverse impact upon the affected neighborhood. A permit granted hereunder shall contain all conditions upon which the permit has been granted including the period of time for which the permit has been granted. Such departures may be granted in the following situations:

(A) Compliance in progress. When an applicant is making best efforts to comply ~~comely~~ with the noise restriction in this chapter, but additional time is required for the applicant to modify the activity to comply and no reasonable alternative is available to the applicant. Such temporary permits may be granted for a period of time not to exceed ten days.

(B) Construction. When construction activities pursuant to a valid building permit cannot be accomplished in a manner which would comply with §§ 100.02 and 100.04; provided that all equipment shall be operated in accordance with manufacturer's specifications, the equipment shall be in good repair and the permittee shall utilize all available noise baffling methods as specified by the manufacturer. Such permits may be granted for a period of time not to exceed three days unless otherwise authorized by the Director of Development Services Administration or his/her designee.

(C) Special events. When the applicant seeks to hold an activity or special event and has previously met all of the City's ~~city's~~ requirements for obtaining such permit as set forth in the City of Hollywood Municipal Code and the activity or special event cannot be performed or accomplished in a manner which would comply with §§ 100.02 and 100.04 of this chapter. Such permits may be issued for a period of time not to exceed three days. ~~No more than three temporary permits for the conduct of special events which violate the prohibitions in §§ 100.02 and 100.04 of this chapter shall be issued for a particular location on private property within any 12 month period. This section shall also apply to private entities leasing City-owned property within the City of Hollywood.~~

(D) Failure to comply. Failure to comply with any condition of a temporary permit issued pursuant to § 100.06 shall constitute a violation and shall result in enforcement procedures and penalties as set forth in §§ 100.09 and 100.10 herein.

(E) Permit denied. A temporary permit application may be denied if the Director of Development Administration or his/her designee finds that the proposed activity or special event will result in a private or public nuisance on any adjoining or receiving property. A permit may not be denied on the basis of the content of the proposed sound. The Director of Development Services Administration or his/her designee may also establish temporary permit conditions for a particular time and location as an alternative to the request contained in a temporary permit application, considering factors such as the

location of the event, the compatibility of the amplified noise levels generated, and the compatibility of the hours of operation with the surrounding neighborhood and the operation's impact upon the domestic tranquility of the surrounding neighborhood.

(F) Permit appeal. A decision by the Director of Development ~~Services Administration~~ or his/her designee to deny a temporary permit application shall immediately authorize the aggrieved party to a right of appeal to the City Manager or Assistant City Manager no later than three business days following the denial of the temporary permit application by submitting a written request for appeal to the Office of the City Manager or Assistant City Manager. The City Manager or Assistant City Manager shall confer with the City Attorney and respond to the written request for appeal of the permit denial in a reasonable and timely manner.

Section 7: That Section 100.07 of the Code of Ordinances is amended to read as follows:

TITLE IX: GENERAL REGULATIONS

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CHAPTER 100: NOISE

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§ 100.07 EXEMPTIONS.

The following activities shall be exempt from the requirements of §§ 100.02 and 100.04 and from the enforcement provisions in this chapter:

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(E) Noise generated by motor vehicles as defined in F.S. § 320.01, ~~(1995)~~, as may be amended, when operated in compliance with the limitations set forth in F.S. § 316.293 and noise resulting from the operation of vessels when operated in compliance with the limitations set forth in F.S. § 327.65, ~~(1995)~~.

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(G) Fire alarms and burglar alarms, bells and chimes of churches or other religious institutions; however ~~However~~, false burglary alarms shall be subject to enforcement procedures and penalties as set for in Chapter 93 of the City Hollywood Municipal Code.

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~~(K) Noise emanating from a business establishment which is providing musical entertainment within permitted hours of operation and is located within a music district designated by City Commission ordinance.~~

Section 8: That Section 100.08 of the Code of Ordinances is created to read as follows:

TITLE IX: GENERAL REGULATIONS

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CHAPTER 100: NOISE

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§ 100.08 NOISE LEVEL DETECTION DEVICE REQUIRED.

(A) Any nonresidential establishment from which amplified musical entertainment, whether live or recorded, emanates shall be equipped with a noise level detection device alerting the occupants of the property to the noise.

(B) Any vacation rental, as defined in Chapter 119, shall comply with the requirements of Chapter 119 regarding noise level detection devices.

Section 9: That Section 100.09 of the Code of Ordinances is amended to read as follows:

TITLE IX: GENERAL REGULATIONS

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CHAPTER 100: NOISE

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§ 100.09 ENFORCEMENT AND PENALTIES.

(A) Any person found to have violated any provision of this chapter may be subject to the penalties specified in the ~~Hollywood~~ City Code.

(B) The first violation of this chapter may be subject to a fine of \$100; a second violation occurring within six months may be subject to a fine of \$500; and a third and any subsequent violations within a six month period may be subject to a fine of \$1,000 per occurrence.

(C) As an alternative or additional means of enforcement, in order to maintain the peace and domestic tranquility of the surrounding neighborhood, the City ~~city~~ may deny any applicable extended hours license pursuant to § 113.26, ~~City of Hollywood Code of Ordinances~~, or seek injunctive relief as set forth by law in cases of recurring violations of this chapter. A violation shall be considered “recurring” when a person or entity has received three notices of violation within any 60 day period.

(D) Any additional violations will be cited and set for a special magistrate hearing.

(E) Each calendar day on which a violation exists shall constitute a separate violation for the purpose of determining the fine.

(F) Any nonresidential property that is adjudicated for violating the provisions of the second paragraph of Section 100.02(F) two or more times within a 30-day period shall be required to change its closing hours to 10:00 p.m. for a period of 30 days.

(G) Violations of this chapter may be enforced by arrest.

Section 10: That it is the intention of the City Commission and it is ordained that the provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the sections of this Code may be renumbered to accomplish such intention.

Section 11: That if any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid, such invalidity shall not affect the validity of any remaining portions of this Ordinance.

Section 12: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict are repealed to the extent of such conflict.

Section 13: That Section 100.08 shall be in full force and effect June 1, 2021 and the remainder of this Ordinance shall be in full force and effect May 1, 2021.

Advertised _____, 2021.

PASSED on first reading this _____ day of _____, 2021.

ORDINANCE AMENDING CHAPTER 100 ("NOISE"); CREATING AN ADDITIONAL METHOD OF MEASURING NOISE VOLUME AND ENFORCING NOISE VIOLATIONS WITH THE USE OF A SOUND LEVEL METER.

PASSED AND ADOPTED on second reading this _____ day of _____, 2021.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY for the use and reliance of
the City of Hollywood, Florida, only.

DOUGLAS R. GONZALES
CITY ATTORNEY