

ORDINANCE 10-2012-13

AN ORDINANCE AMENDING THE OFFICIAL CODE, TITLE 10 OFFENSES MISCELLANEOUS, CHAPTER 2-ENUMERATED, SECTION 10-224-ANTI NOISE REGULATIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Official Code of the City of Clarksville, Tennessee, Title 10, "Offenses-Miscellaneous," Chapter 2, "Enumerated," Section 10-224, "Anti-noise regulations," is hereby amended by deleting the existing language and substituting instead the following:

Sec. 10-224(1). - Preamble.

The council of the city finds that excessive noise is detrimental to the physical, mental and social well being of the citizens of the city as well as to their comfort, living conditions, general welfare and safety and hereby declares it necessary to provide for more effective regulation of excessive noise. It is the intent of Section 10-224 to establish standards that will eliminate or reduce unnecessary and excessive noise, which is physically harmful and otherwise detrimental to individuals and the community in the enjoyment of life, property and conduct of business.

Sec. 10-224(2) - Definitions.

As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.

Ambient noise means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.

A-weighted sound pressure level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network, as defined in American National Standard SI.4-1983 (R 1997). The level so read is designated dB(A).

City means the City of Clarksville.

Commercial use means activity within or upon a premise where offices, clinics, kennels, shopping and service establishments exist and none of the gross floor area meets the definition of residential use, as set forth below.

dB(A) means decibels shown in a reading made on the dB(A) scale.

Decibel (dB) means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty (20) micronewtons per square meter).

Impulsive sound means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

Industrial use means any activity within or upon a premise where manufacturing, processing or fabrication of goods or products takes place.

***Motor vehicle* means any motor vehicle required to be registered by the department of safety for the state, pursuant to Title 55 of the Tennessee Code.**

Person means any individual, association, partnership, or corporation, and includes any officer or employee thereof.

Public premise means all real property, including appurtenances thereon, which is owned or controlled by any public governmental entity and shall include streets, alleys, public sidewalks, parks and navigable waterways, but shall not include real property leased to any nongovernmental entity for residential, commercial or industrial use, as defined herein.

Real property boundary means a line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person or entity from that owned by another person or entity, but not including intrabuilding real property divisions.

Residential use means any premises lawfully used for human habitation under the ordinances of the city and the laws of the state and shall include schools, churches, hospitals, nursing homes, and similar institutional facilities. For purposes of this section only, premises adjoining, adjacent to or opposite hospitals or nursing homes shall also be deemed residential use.

Sound pressure means the average rate at which sound energy is transmitted through a unit area in a specific direction.

Sound pressure level meter means an instrument used for measurement of the intensity of sound and accurately calibrated in decibels. Readings shall be made on a dB(A) scale.

Sec. 10-224(3) - Standards.

(a) No person shall cause, suffer, allow or permit sound from any source which is in excess of the following standards when measured from, at, or within the real property boundary, leased premises, or otherwise lawfully occupied premises of any complainant, (excluding any public premise as defined above), and outside the real property boundary or leased premises from which the noise emanates:

(1) Residential use.

a. When the offending sound emanates from a residential use between the hours of 6:00 a.m. and 11:00 p.m., sound which has an A-weighted sound pressure level of 70 dB(A), or impulsive sound which has an A-weighted sound pressure level of 80 dB(A).

b. When the offending sound emanates from a residential use between the hours of 11:00 p.m. and 6:00 a.m., sound which has an A-weighted sound pressure level of 65 dB(A), or impulsive sound which has an A-weighted sound pressure level of 80 dB(A).

(2) *Commercial use.*

a. When the offending sound emanates from a commercial use between the hours of 6:00 a.m. and 11:00 p.m., sound which has an A-weighted sound pressure level of 80 dB(A), or impulsive sound which has an A-weighted sound pressure level of 80 dB(A).

b. When the offending sound emanates from a commercial use between the hours of 11:00 p.m. and 6:00 a.m., sound which has an A-weighted sound pressure level of 75 dB(A), or impulsive sound which has an A-weighted sound pressure level of 80 dB(A).

(3) *Industrial use.*

a. When the offending sound emanates from an industrial use between the hours of 6:00 a.m. and 11:00 p.m. sound which has an A-weighted sound pressure level of 80 dB(A), or impulsive sound which has an A-weighted sound pressure level of 80 dB(A).

b. When the offending sound emanates from an industrial use between the hours of 11:00 p.m. and 6:00 a.m., sound which has an A-weighted sound pressure level of 75 dB(A), or impulsive sound which has an A-weighted sound pressure level of 80 dB(A).

(b) No person shall cause, suffer, allow or permit from any source, from, at, or within any public premise, any airborne sound which, when measured from the source of the sound, has an A-weighted sound pressure level in excess of 65 dB(A), or any impulsive sound which has an A-weighted sound pressure level of 80 dB(A). This subsection shall not apply to legitimate government operations, to include construction, demolition, or repairing of public buildings or facilities, and concerts, festivals, parades that are City sponsored or which are permitted by the City.

(c) Sound, whether continuous or impulsive, shall be measured at approximately five (5) feet above grade, using a slow meter response setting and using a wind screen when appropriate.

(d) If a person, business, or other entity is in compliance with the provisions described

in Section 10-224(3), that person, business, or other entity shall not be liable for any violation or be deemed to have violated any provisions as detailed in Section 10-224(4), below.

Sec. 10-224(4) - Loud, unusual or unnecessary noises prohibited; criteria; other prohibited noises.

(a) Consistent with other provisions of this Chapter, and in addition thereto, it shall be unlawful for any person within the limits of the city to make, produce, cause, suffer, continue or allow to be produced or continued by human voice, machine, animal, or device, or any combination of same, any unreasonably loud, unusual or unnecessary noise which disturbs the peace and quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area, or which otherwise injures or endangers the comfort, repose, health, peace, safety or welfare of others.

(b) The standards which shall be considered in determining whether a violation of this section exists shall include, but shall not be limited to the following:

- (1) The frequency of the noise;
- (2) The intensity of the noise;
- (3) Whether the nature of the noise is usual or unusual;
- (4) Whether the origin of the noise is natural or unnatural;
- (5) The frequency and intensity of the ambient noise, if any;
- (6) The proximity of the noise to residential sleeping facilities;
- (7) The nature and land use of the area within which the noise emanates;
- (8) The population density of the inhabitation of the area within which the noise emanates;
- (9) The time of the day the noise occurs;
- (10) The duration of the noise; and
- (11) Whether the noise is recurrent, intermittent, or constant.

(c) The following acts, among others, are declared to be unreasonably loud, unusual or unnecessary noises in violation of this section, as such violations would disturb, cause discomfort, or annoy a reasonable person of normal hearing sensitivity.

(1) *Horns and signaling devices on vehicles.* The sounding of any horn or signaling device on any automobile, motorcycle, bus, truck, or any other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control; or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended, or as may be required by general law.

(2) *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper city authorities.

(3) *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.

(4) *Drums and other attention-attracting devices.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(5) *Animals and birds.* The keeping of any animal or bird which, by frequent barking, howling, crying, singing or causing any other frequent or long-continued noise, disturbs the comfort and repose of any person in the vicinity.

(6) *Sound trucks.* The use or operation on or upon the public streets in the city or on driveways or throughways of any device known as a sound truck, or any loudspeaker, sound amplifier or other instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operated or standing upon the city streets or on driveways or throughways.

(7) *Defect in vehicle or noisy load.* The use of any automobile, motorcycle, or other vehicle so out of repair or loaded in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise.

(8) *Pneumatic devices.* The use of any mechanical devices operated by compressed air unless the noise created thereby is effectively muffled and reduced.

Sec. 10-224(5) - Noise from motor vehicle audio equipment.

(a) Consistent with other provisions of this section, and in addition thereto, no person shall use or operate any radio, tape player, record player, compact disc player or any similar device in or on a motor vehicle located on the public streets of the city, or within a public park, within a public parking lot or on any other public premise within the city, which is audible to a person of normal hearing sensitivity more than fifty (50) feet from such vehicle,

(b) Consistent with other provisions of this section, and in addition thereto, no person use or operate any radio, tape player, record player, compact disc player or any similar device in or on a motor vehicle located on private property which is audible to a person of normal hearing sensitivity more than fifty (50) feet outside the real property boundary of said property. Words and phrases need not be discernible for said sound to be "audible," and said sound shall include bass reverberation.

Sec. 10-224(6) - Continuing violations.

Each violation of this section shall be considered a separate offense, and any violation

continuing more than one-half (½) hour or reoccurring within one-half (½) hour shall be considered a separate offense for each half hour of violation.

Sec. 10-224(7) - No warning required.

Nothing contained in this section shall be construed as requiring any warning to any person before the enforcement of the provisions of this section.

Sec. 10-224(8) - Exceptions.

(a) None of the terms or prohibitions contained in this Chapter shall apply to or be enforced against:

- (1) Any vehicle of the city or a public utility while engaged in necessary public business.
- (2) Excavations or repairs of bridges, streets or highways by or on behalf of the city, the county or the state during the night, when the public welfare and convenience renders it impossible to perform such work during the day.
- (3) Emergency activities of the city, the county, the state, or the federal government; or emergency activities of public utilities when they are seeking to provide electricity, water or other public utility services, in furtherance of the public health, safety or welfare; or any military activities of the federal or state government.
- (4) Any special event or sponsoring organization that is properly authorized by the city or appropriate city department pursuant to the law, rules and regulations of the city to host a special event. The sponsoring organization will be issued a permit by the appropriate city department if the special event is to successfully fall within the said exemption.
- (5) Excavation, construction, demolition, repair, paving or alteration of buildings or streets. This exception shall not apply to such excavation, construction, demolition, repair, paving or alteration of buildings or streets in a residential use area between the hours of 7:00 p.m. and 7:00 a.m. on Mondays through Fridays, and 6:00 p.m. and 9:00 a.m. on Saturdays and Sundays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector. 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 7:00 p.m. 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 7:00 p.m. 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.

(6) Use of domestic power equipment (including but not limited to power lawn mowers, leaf blowers, trimmers, snowblowers, tillers, saws, sanders, drills, chainsaws, power washers, edgers, generators, or similar devices) between 6:00 a.m. and 9:00 p.m.

(7) Attendant on-site noise connected with the actual performance of organized sporting events on school campuses and in publicly owned parks or facilities.

(8) Warning devices on authorized emergency vehicles and on motor vehicles used for traffic safety purposes.

(9) Any City law enforcement or public safety training facility, or in the event any law enforcement or public safety training occurs at a location outside of any city designated training facility, that particular training event and any sounds emanating therefrom will be exempted.

(10) Amplified and unamplified bells and chimes on schools, public buildings and other places of assembly.

(11) Use of motor vehicles for the collection and/or compacting of refuse, except that such vehicles shall not operate between 10:00 p.m. and 6:00 a.m. in a residential area.

(12) Cleaning and maintenance of parking lots and access roadways held open to the public, but only when such activities are not feasible between 7:00 a.m. and 10:00 p.m.

(13) Any aircraft in flight subject to federal law regarding noise control and any helicopter in the act of landing or taking off as otherwise lawful.

(14) Air conditioning and refrigeration units appurtenant to a permanent structure, so long as the unit or any of its component parts is not so out of repair as to create loud or unnecessary grating, grinding, rattling or other noise.

(15) Human sounds emanating from children twelve (12) years of age or under, including but not limited to speech and utterances of laughter, cries, and sounds associated with play.

(16) Security alarms on structures or motor vehicles, except that such alarms must terminate operation within ten (10) minutes after activation for continuous airborne sound and within fifteen (15) minutes for impulsive sound unless otherwise provided in this Code. In the event that there are more than eight "false alarms" requiring police notification and response per month, such incidences can be cited as separate and distinct infractions of the noise ordinance code, and can be subject to a fine of up to \$25 per occurrence as permitted by T.C.A. § 62-32-321(e).

(17) All race tracks properly operating in the Clarksville who conduct recreational or competitive motor vehicle racing shall not conduct said racing on more than three

(3) days a week. If racing is conducted for three (3) days a week at any course or track, one (1) of the days shall be Sunday. On any day except Sundays, no motor vehicle racing shall be conducted after one hour beyond midnight of that day (1:00 a.m.). At the conclusion of a racing event on such days, the track owner(s) or management shall encourage all participants and patrons to vacate the premises by not later than one-thirty a.m. (1:30 a.m.). No racing shall be conducted on a Sunday except between twelve o'clock noon (12:00 p.m.) and six o'clock p.m. (6:00 p.m.). At the conclusion of a Sunday racing event, the track owner(s) or management shall encourage all participants and patrons to vacate the premises by not later than six-thirty p.m. (6:30 p.m.).

Sec. 10-224(9) - Special noise permits.

(a) Notwithstanding all other provisions in this Chapter, the Parks and Recreation Department shall, upon proper application, grant special permits for limited exceptions from the provisions of this Chapter.

(b) Special noise permits shall be issued only for events occurring on Friday, Saturday or a federally recognized holiday, and shall be effective only between the hours of 7:00 a.m. and 10:00 p.m. Special noise permits shall be limited to a single day, and no more than two (2) permits shall be issued to any premises in any twelve-month period, regardless of any change in ownership of the premises.

(c) Any person seeking a special noise permit pursuant to this section shall file an application with the Parks and Recreation Department which application shall contain specific information regarding the nature of the event for which the permit is sought, including the anticipated duration of the event, the address of the premises for which the permit is sought, the name (and address, if different from the premises for which the permit is sought) of the person seeking the permit, an acknowledgment of responsibility of the applicant for any violations of this section resulting from noncompliance with the terms of the permit, and the signature of the applicant. The department of Parks and Recreation shall approve any timely submitted application, accompanied by the required processing fee, if applicable, unless the proposed and expected noise that would result from the Special Noise Permit will be likely to interfere with the use and enjoyment of city owned public property by other patrons of the public property, or will likely be a detriment to public health, welfare, or safety. In making the determination whether to approve the application, the department of parks and recreation shall confer with the chief of police, or his authorized designee, regarding the likely impact the proposed permitted use will have on traffic, crowd control, crowd ingress or crowd egress, emergency services, public safety, and the advisability of issuance of the permit. Said application shall be filed no less than seven (7) business days prior to the effective date of the permit.

(d) After the Parks and Recreation Department evaluates the request in accordance to and under the considerations detailed in Sec. 10-224(9)(c), and if the conditions and considerations detailed in Sec. 10-224(9)(c) are properly met, the Parks and

Recreation Department shall issue a special noise permit to the applicant, in which the special noise permit shall exempt the premises specified in the permit from the provisions of Sec. 10-224(3), Sec. 10-224(4), and Sec. 10-224(5) of this section for the date specified in the permit, except that sound emitted from the premises shall in no way exceed the standards set forth in section 10-224(3) by more than 10 dB(A).

(e) Noncompliance with any conditions of the permit or any of the provisions of this Chapter and Section shall invalidate the permit and subject the applicant and any other person on the premises to all provisions of this section.

(f) The permit shall be displayed prominently on the premises covered by the permit.

Sec. 10-224(10) – Sound Amplification Devices on Public Property

(a) The use of loudspeakers or other sound amplification devices by private individuals, groups, businesses, organizations, associations, or non-governmental entities are prohibited on city owned property, except as provided for herein.

(1) Private persons, groups, businesses, organizations, associations, or non-governmental entities renting public parks or facilities may use loudspeakers or sound amplification devices on such city owned property upon receipt of a valid permit for such use issued by the city department of parks and recreation. An applicant desiring to use a loudspeaker or other sound amplification device on city owned property shall make application for a permit for such use at least ten (10) calendar days prior to the day of use, excluding the day of application, with the department of parks and recreation, using a form adopted for such purpose by the department, along with an application processing fee in an amount to be set by the department, but in no event greater than twenty-five dollars (\$25.00). The department of parks and recreation shall approve any timely submitted application, accompanied by the required processing fee, unless the proposed use of the loudspeaker or other sound amplification device will be likely to interfere with the use and enjoyment of city owned public property by other patrons of the public property, or will likely be a detriment to public health, welfare, or safety. In making the determination whether to approve the application, the department of parks and recreation shall confer with the chief of police, or his authorized designee, regarding the likely impact the proposed permitted use will have on traffic, crowd control, crowd ingress or crowd egress, emergency services, public safety, and the advisability of issuance of the permit. As a condition precedent to approval of a permit, the department of parks and recreation may impose limits on, or require use of loudspeakers or sound amplification devices that do not exceed certain prescribed sound or decibel, power, or wattage levels established by the department, and may restrict the use of such loudspeakers or sound amplification devices to particular hours or to particular areas so as to prevent interference with concerts and other activities or areas being used by other patrons of the city owned public property.

- (2) Nothing herein shall absolve any permittee from meeting the requirements of any other law, to include any laws relating to disturbing the peace. Any permit issued can be immediately revoked if the permittee's action(s) constitute violations of existing disorderly conduct laws as stated in T.C.A. §§ 39-17-301, et. al.
- (3) The provisions of this subdivision shall not apply to the use of public address systems installed at ball-fields, ball-parks, or other sporting venues on land owned or leased by the city and used by private leagues or tournament organizations whose use is governed by contracts or leases between the city and any such league or tournament organization.

Sec. 10-224(11) - Severability; application of other ordinances.

- (a) The provisions of this section are severable. If any provision of this section or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provisions or application.
- (b) Nothing in this Section shall be construed as negating or superseding any other ordinance of the city, unless otherwise specifically noted.

FIRST READING:

SECOND READING:

EFFECTIVED DATE: