

City of Fayetteville Staff Review Form

2020-0262

Legistar File ID

4/7/2020

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Blake Pennington

3/18/2020

CITY ATTORNEY (021)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

AN ORDINANCE TO AMEND § 96.02 UNREASONABLE OR EXCESSIVE NOISE PROHIBITED; EXCEPTIONS TO EXTEND THE CITY'S NOISE REGULATIONS TO ALL VEHICLE-RELATED BUSINESSES

Budget Impact:

_____ Account Number		_____ Fund	
_____ Project Number		_____ Project Title	
Budgeted Item?	<u>NA</u>	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	<u>NA</u>	Item Cost	
Budget Adjustment Attached?	<u>NA</u>	Budget Adjustment	
		Remaining Budget	\$ -

Purchase Order Number: _____
Change Order Number: _____
Original Contract Number: _____

Previous Ordinance or Resolution # _____
Approval Date: _____

V20180321

Comments:



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

FROM: **Blake Pennington**, Assistant City Attorney

A blue ink handwritten signature, appearing to be "BP", written over the printed name of Blake Pennington.

DATE: **March 18, 2020**

RE: **Amendment to Noise Ordinance**

Police Chief Reynolds notified our office that, based on the state's definition of motor vehicle, the City's 30-foot noise ordinance, which is found at § 96.05 of the City Code, would not apply to pedal carriages.

To address this concern, we recommend amending § 96.02 **Unreasonable or Excessive Noise Prohibited; Exceptions** to address noise emanating from other vehicle-related businesses that are governed by Chapter 117 Vehicle-Related Businesses of the City Code. The practical effect of this would be a noise restriction on:

- Article VII - Nonmotorized Passenger Transport Vehicles - horse drawn carriages or similar vehicles pulled by horses or livestock
- Article VIII - Lights of the Ozarks - specifically the horse drawn carriages used at Lights of the Ozarks
- Article IX - Pedicabs
- Article X - Pedal Carriages (if approved by the City Council)



DEPARTMENTAL CORRESPONDENCE

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Kit Williams
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TO: **Mayor Jordan**
City Council

CC: **Susan Norton**, Chief of Staff

FROM: **Kit Williams**, City Attorney

DATE: **May 28, 2020**

RE: **Proposed Amendment to Noise Chapter**

Council Member Sonia Gutierrez asked me to draft a replacement ordinance to reflect the changes that she thought would improve this ordinance. She now has recommended that the Noise Ordinance amendment being reconsidered be amended with the following changes:

1. The title is changed to reflect the new definition of "Sound amplification device" and the regulation of sound amplification device usage on trails;
2. The three original Whereas clauses have been retained, and a fourth Whereas clause for the sound amplification device regulation on the trails' rationale has been added;
3. Section 1 is the new definition of "sound amplification device" which was needed as that term is also found in other parts of this chapter;
4. Section 2 is the original proposal by Blake before it was modified to include bikes; and
5. Section 3 prohibits every person, whether or not riding a bike, skateboard, scooter, etc., walking, running, sitting or standing from operating a sound amplification device on city trail if "the sound is plainly audible at a distance of 30 feet or more from the sound amplification device."

I have attached the revised the ordinance that reflects all these changes that have been approved by Council Member Gutierrez. Council Member Gutierrez will explain these changes or answer your questions when this item comes up on the Agenda. If the Council is agreeable to her recommended changes, a motion to amend and second will need to be made to incorporate these changes so that the amended ordinance would mirror Council Member Gutierrez's proposal.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §96.02 **UNREASONABLE OR EXCESSIVE NOISE PROHIBITED (E)** TO EXTEND ITS COVERAGE TO ADDITIONAL VEHICLES, TO ENACT A NEW (F) TO PROHIBIT SOUND AMPLIFICATION DEVICES ON CITY TRAILS, AND TO ENACT A DEFINITION OF “SOUND AMPLIFICATION DEVICE” IN §96.01 **DEFINITIONS OF CHAPTER 96: NOISE CONTROL**

WHEREAS, § 96.05 of the City Code, which is limited to noise related to motor vehicles and motorcycles, provides that “operating or causing to operate any sound amplification device from within a vehicle so that the sound is plainly audible at a distance of 30 feet or more from the vehicle whether in a street, a highway, an alley, parking lot or driveway, whether public or private property is prohibited and declared to be a noise disturbance in violation of this chapter”; and

WHEREAS, the City Code authorizes other means of conveyance to occupy the City streets, such as pedicabs and horse drawn carriages, which could also emanate noise that could disturb residents and businesses but that are not considered motor vehicles; and

WHEREAS, extending the prohibition on excessive sound amplification to all vehicle-related businesses regulated under Chapter 117 of the Fayetteville City Code will help ensure the peace, health, and safety of Fayetteville residents particularly within the residential districts in which these vehicle-related businesses may operate; and

WHEREAS, to preserve the transportation and recreational value and usefulness of the City’s Trails, many of which traverse residential and natural areas, no person should use a sound amplification device that could disturb the peace and quiet of a City Trail.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends § 96.01 **Definitions** of Chapter 96: **Noise Control** by adding the definition of “Sound amplification device” as follows:

“Sound amplification device. Any device that amplifies or increases the volume of sounds or noises including without limitation: electronic speakers, radios, Bluetooth or other speakers, megaphones, or any other device that increases the volume or noise level from a source of sound.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends § 96.02 by enacting a new subsection (E) as follows:

“(E) Operating or causing to operate any sound amplification device on or from within any means of conveyance that is regulated by Chapter 117 **Vehicle Related Businesses**, whether motorized or not, so that the sound is plainly audible at a distance of 30 feet or more from the vehicle whether in a street, a highway, an alley, parking lot or driveway, whether public or private property, is prohibited and declared to be a noise disturbance in violation of this chapter.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends § 96.02 by enacting a new subsection (F) as follows:

“(F) Notwithstanding any other provision of this Chapter, no person shall operate or cause to be operated any sound amplification device on a City Trail or its right-of-way if the sound is plainly audible at a distance of 30 feet or more from the sound amplification device.”

PASSED and **APPROVED** this _____ day of June, 2020.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer