## City of Fayetteville Staff Review Form

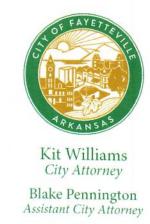
2020-0262 Legistar File ID 4/7/2020

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 UNR THE CITY'S NOISE REGULATIONS TO ALL	EASONABLE OR EXCESSIVE NOISE F VEHICLE-RELATED BUSINESSES	PROHIBITED; EXCEPTIONS TO EXTEND
	Budget Impact:	
Account Number		Fund
Project Number		Project Title
Budgeted Item? NA	Current Budget	\$
	Funds Obligated Current Balance	\$ -
Does item have a cost? NA	Item Cost	
Budget Adjustment Attached? NA	Budget Adjustment	
	Remaining Budget	\$
Purchase Order Number:	Previous Ordinanc	e or Resolution #
Change Order Number:	Approval Date:	
Original Contract Number:		
Comments:		



## DEPARTMENTAL CORRESPONDENCE



Jodi Batker Paralegal

TO: Mayor Jordan City Council

FROM: Blake Pennington, Assistant City Attorney

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



Kit Williams
City Attorney
Blake Pennington

Jodi Batker Paralegal

Assistant City Attorney

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:

<u>Section 1</u>: 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."

<u>Section 2</u>: 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) Not withstanding 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:	By:KARA PAXTON, City Clerk/Treasurer