

## AGENDA

City Council Work Session  
Of the City of Saint Charles, Missouri  
200 North Second Street, Council Chambers  
Tuesday, December 12, 2017  
7:00 p.m.

1. Roll Call
2. Invocation and Pledge of Allegiance
3. Discussion Relative to Revising City Policy on Home Improvement Loans made with CDBG Funds (*referred by Community Development*)
4. Discussion Relative to Possible Revision to the City's Noise Ordinance (*referred by Administration and Community Development*)
5. Presentation by St. Charles Police Department, Fire Department and Community Development Department Relative to Report on the Actions Taken and Future Plans as it Relates to Issues on Main Street (*referred by Administration*)
6. Discussion and Consideration of Cancelling the February 13, 2018 Council Work Session (*referred by Council President John Hanneke*)

Closed Session, if requested, relative to:

- A. Legal actions, causes of action, or litigation (RSMo 610.021.1)
- B. Leasing, purchase or sale of real estate where public knowledge of the transaction might adversely affect the legal consideration therefor (RSMo 610.021.2)
- C. Hiring, firing, disciplining or promoting of particular employees when information relating to the performance or merit of individual employees is discussed or recorded (RSMo 610.021.3)
- D. Preparation, including any discussions or work product, on behalf of the Council or its representatives for negotiations with employee groups (RSMo 610.021.9)
- E. Sealed proposals and related documents or any documents related to a negotiated contract (RSMo 610.021.12)

*The City of St. Charles offers all interested citizens the opportunity to attend public meetings and comment on public matters. If you wish to attend this public meeting and require an accommodation due to a disability, please contact the Office of The City Clerk to coordinate an accommodation at least two (2) business days in advance of the scheduled meeting at 636-949-3282 or 636-949-3289 (TTY – for the hearing impaired).*

*The City of St. Charles, Missouri, fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, please call the City Clerk's Office at (636)949-3282 or visit City Hall located at 200 North Second Street, St. Charles, Missouri, 63301.*





## *Memorandum*

**To:** Mayor Sally Faith  
Members of the City Council

**From:** Bruce Evans, Director of Community Development

**Date:** December 7, 2017

**Subject:** Revision to the City CDBG Program Regarding Home Improvement Loans

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The City of St. Charles uses most of its annual CDBG grant for the Home Improvement Loan Program (HILP). The HILP makes loans available to qualifying homeowners to make needed repairs to their homes. To be eligible for a home improvement loan, the homeowner must have an income below the level established by HUD. The loans are made at zero interest and the average loan is between \$5,000 and \$10,000. The City approved 751 loans between 1983 and 2017. This program is successful and has resulted in significant improvements to the housing stock in St. Charles.

One feature of the city's HILP is that the loans are non-forgivable. The homeowner is not required to make payments on a home improvement loan but the loan must be repaid in full whenever the homeowner dies, sells, transfers or conveys the home to anyone else, however far into the future that may occur. When a loan is approved the City places a lien on the property guaranteeing the deed cannot be conveyed to another person without repayment. If/when the homeowner repays the loan, the lien is released and the property may be transferred to the new owner.

Staff has researched how other CDBG-eligible cities in the St. Louis metropolitan area structure their home improvement loans. The cities of St. Louis, St. Peters and O'Fallon and the counties of St. Louis, St. Charles and Jefferson all offer five year forgivable loans to their qualifying residents. If the loan recipient owns the home for five years, the loan is forgiven and need not be repaid. HUD leaves it up to cities that receive CDBG funds whether to make their home improvement loans forgivable or not. HUD considers this a business decision best left up to each community. Staff recommends the City of St. Charles change its home improvement loans to make them five year forgivable loans. Not only will this bring the city in line with the majority of CDBG cities in the St. Louis metro, it will make our program easier to administer. This change makes even more sense considering the City now participates in and administers the CDBG program for the Urban County (St. Charles County and all other CDBG-eligible cities in the county).

Other factors staff believes justify this change are:



- Loans that are due upon sale often create hardships for homeowners who through no fault of their own must sell or transfer their property quickly and do not have the funds available to repay the loan.
- HUD does not allow the city to access its annual CDBG allocation until it first spends the income it receives from repaid loans. Because the portfolio of loans is increasing over time, the income from repaid loans is also growing. This delays the city's ability to access our annual CDBG appropriation, which puts the city at risk of failing to meet HUD deadlines for spending the annual grant. This could result in the city's CDBG grant being cut back in the future.
- The city's Façade Grant Program makes zero interest loans available for exterior improvements to homes in the historic preservation districts. Façade grants are five year forgivable loans; they need not be repaid if the grantee owns the home for five years. This is in direct conflict with our CDBG home improvement loans. Staff believes this arrangement could be subject to a legal challenge. At best it is inconsistent.
- Monitoring non-forgivable home improvement loans creates an administrative burden for the CDBG staff. The paperwork required to create, record and release a lien is considerable. Five year forgivable loans will be easier to administer and monitor.

If home improvement loans are changed to five year forgivable loans, staff also proposes that all existing liens from loans made from 1983 through 2012 be released. Those loans are past the five year mark. If the city makes home improvement loans forgivable after five years, we believe it is only fair to forgive all loans older than five years that are still on the books. The change should benefit all home improvement loan grantees, not just those who receive loans beginning in 2018.

If the City Council agrees to this change in the Home Improvement Loan Program, the following steps will be required to enact the change:

- The CDBG Division will hold a public hearing to receive citizen input on the change.
- Staff will prepare an ordinance for the City Council's approval formally adopting the new loan policy.
- Staff will prepare a policy amendment and submit it to HUD for approval.
- Staff will process the release of all home improvement loan liens from 1983 through 2012.

The City Council is requested to authorize staff to proceed with the adoption of this proposed change to the home improvement loan program. Staff will be prepared to answer any questions Council members may have at the December 12, 2017 work session.





## *Memorandum*

**To:** Mayor Sally Faith  
Members of the City Council

**From:** Bruce Evans, Director of Community Development

**Date:** December 7, 2017

**Subject:** Revisions to the City Noise Control ordinance (Chapter 230)

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Earlier this year the City Council directed staff to undertake a review of the city's current noise control ordinance (Code of Ordinances Chapter 230) and consider possible revisions or amendments to that ordinance. The Council's direction was generated by an incident on North Main Street in which a live band performed songs with lyrics that could be considered offensive to some individuals. The music and lyrics were heard over a wide area. The City Council asked staff to consider how to prevent similar occurrences in the future, not just on Main Street but city-wide. In response to the Council's direction, staff collected and reviewed noise control ordinances from around the country, including several from other cities in Missouri (Wentzville, Springfield, Jefferson City, Kansas City). Staff also consulted with the research division of the American Planning Association for help with drafting an effective noise control ordinance. In addition, input was requested from the Legal Department and the Chief of Police during this process. The results of this review are presented below.

Noise control ordinances are inherently difficult to draft for two primary reasons:

(1) Noise is subjective. Noise that is loud, disturbing, offensive or annoying to one individual may not bother another individual in the least. People have widely varying levels of sensitivity to noise. They also vary greatly in what they consider unacceptable noise and what they accept as the natural background noise of life in today's world, especially in an urban or suburban environment. As one noise study we examined stated, "noise is in the ear of the beholder."

(2) The First Amendment to the US Constitution guarantees freedom of speech. Noise control ordinances cannot infringe on the constitutional right of citizens to express themselves. These ordinances must be drafted carefully so as not to restrict protected speech. According to our research, most noise control ordinances will withstand review by the courts if they are content neutral and they establish an objective standard for measuring and limiting noise.

Staff's research has revealed that most cities use one of two approaches to limit noise: defined decibel limits and subjective standards (sometimes called the reasonable person standard). The pros and cons of these approaches are discussed below.





#### DECIBEL LEVEL LIMIT

The vast majority of municipal noise control ordinances, including St. Charles' ordinance, use decibel limits to control noise. Decibels measure sound. These ordinances establish the maximum permitted decibels of sound. Most often the decibel limits are set at the boundary of the property on which the sound is produced and different decibel limits are set for different zoning districts. Decibel limits are a clear, objective standard that is easily measured by a decibel meter. However, in order to be enforced, an ordinance that relies on decibel limits requires city employees who are trained and qualified to take accurate decibel readings that satisfy the requirements of the ordinance and will withstand review by the court. Code enforcement officers in the Department of Community Development are not trained for this duty.

#### SUBJECTIVE STANDARDS (REASONABLE PERSON STANDARD)

The City of Springfield, Missouri has a noise control ordinance of this type. It does not set decibel limits. Rather than decibel limits, these ordinances use standards such as:

- volume that can be heard beyond the border of the property on which it is generated;
- loud and excessive noise;
- sound that annoys or disturbs the quiet, comfort or repose of persons in the vicinity;
- noise which is unreasonably loud and unnecessary.

This type of ordinance eliminates the need to train employees to use decibel meters and to take readings that meet the specifications of the ordinance. However, they rely on subjective standards that would likely be difficult to define, interpret and enforce. Such an ordinance would also be more likely to be challenged in court. The City Attorney has reservations with this type of ordinance.

If a decision is made to continue to use a decibel-based noise control ordinance in St. Charles, staff believes the current ordinance can be improved. The current ordinance provides for decibel readings to be made at various octave band center frequencies in the various zoning districts. The maximum allowable decibels changes as the octave band center frequency changes. This is a complicating factor that makes determining whether noise violates the ordinance unnecessarily difficult. The current ordinance almost makes it necessary to retain the services of a professional acoustical engineer to interpret and enforce the ordinance. No one on the Community Development staff is an expert in acoustics, decibels and sound measurement. I doubt that any members of the police force are either. This reason alone is justification to at least amend the section of our ordinance that sets decibel limits in different zoning districts. The City of Wentzville eliminated all references to octave band center frequencies several years ago. Their current ordinance would provide a good template to amend the equivalent section in the St. Charles ordinance.

If the City Council's primary concern in this matter is the song lyrics that were plainly audible to the public in the vicinity of the establishment where the band was playing on Main Street, staff suggests this situation might be more appropriately addressed in the city's nuisance or peace disturbance ordinances rather than in the noise ordinance. As noted previously, any restrictions on the public performance of song lyrics cannot infringe on the First Amendment right to free speech. Any new legislation in this regard must be carefully drafted with the review and approval of the City Attorney.



The City of Plano, Texas is near the end of a process to rewrite and revise the city's noise control ordinance. A new noise control ordinance is scheduled to be introduced at the Plano City Council meeting on December 11, 2017. Their process has produced a noise code that is quantitative, objective and simple. The Plano process may be one the City Council wishes to adopt for St. Charles. After concluding their noise ordinance was outdated and ineffective, Plano took the following steps: (1) retained the services of an environmental noise consultant with experience working on environmental noise projects to assist in drafting a new ordinance; (2) held public hearings to receive comments from the public on noise issues in the city; and (3) drafted a new ordinance using input from the public and expert advice from the consultant. Attached to this memorandum is a power point presentation Plano staff used at their public hearings and Plano's new ordinance. If the St. Charles City Council wishes to undertake a complete rewrite of our noise control ordinance, staff recommends the Plano process (or some variation thereof) as a guide.

In summary, staff offers the following options in the matter of the city's noise control ordinance.

- (1) Repeal the city noise control ordinance and replace it with an ordinance similar to the Springfield MO ordinance that relies on subjective standards or a "reasonable person" standard.
- (2) Amend the city noise control ordinance Section 230.050 Maximum Noise Levels in Certain Zoning Districts to simplify it and enact a single decibel limit without regard to octave band center frequencies similar to the Wentzville MO ordinance.
- (3) Address the public performance of song lyrics judged to be vulgar or offensive in another section of the Code of Ordinances, such as the nuisance ordinance (Chapter 220, Article II) or the peace disturbance ordinance (Chapter 215, Article II, Division 1).
- (4) Use a process similar to that used in Plano to produce a new comprehensive noise control ordinance for St. Charles.
- (5) Do nothing.

Staff will be prepared to discuss the information in this memorandum, the options presented above and additional options at the December 12, 2017 work session. Following discussion, staff will request direction from the City Council on how the members wish to proceed in this matter.





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# Comprehensive Noise Ordinance

Public Meeting

October 23, 2017

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# Why Revise Regulations?

- Regulations last amended: 1999
- Noise regulations in three areas of code
- Increasing noise complaints
  - Background noise levels have increased
- Enforcement of noise difficult



## Timeline: Past

- Internal stakeholder group formed (early 2016)
- Review of noise regulations from other jurisdictions
- Draft developed/reviewed by stakeholder group
- External stakeholder review of draft (commercial sector)
- Draft made available online for comment
- Two public meetings held; other outreach
- Presented to council (June 2017)
- Ordinance tabled: 6 months



# Changes

- Added definitions for greater clarity
- Decibel threshold (entire city)
  - Day: Change from 65 to 75 db
  - Night: Change from 58 to 65 db
- Night hours
  - Friday & Saturday: change from 10:00 pm to 11:00 pm

# Changes

- Added specific acts deemed to be unlawful noise:
  - Horns, signaling devices while vehicle not in motion
  - Amplification of sound for commercial advertising
  - Amplification of sound at places selling food, drink
  - Noise adjacent to schools, courts, religious facilities, hospitals
- Vibration



# Changes

- Added exemptions:
  - Sound necessary to prevent bodily injury, death, etc.
  - Sound produced by ordinary construction activities (day time hours)
  - Sound produced by aircraft, railroads
  - Sound produced by air conditioning units
    - › Non-residential: cannot exceed 75 dB
    - › Residential: cannot exceed 65 dB
  - Activities conducted in public parks during daytime hours
  - Lawful operation of a motor vehicle





# Changes

- Enforcement responsibilities defined:
  - Environmental Health & Sustainability
  - Police Department
  - Animal Services
  - Or... other representative(s) as designated by the City Manager
- Added penalties
- Added provisions for repeat/habitual offenders
- Added provision to pursue injunctive relief, abatement, revocation of permits, etc.

# Proposed Amendments

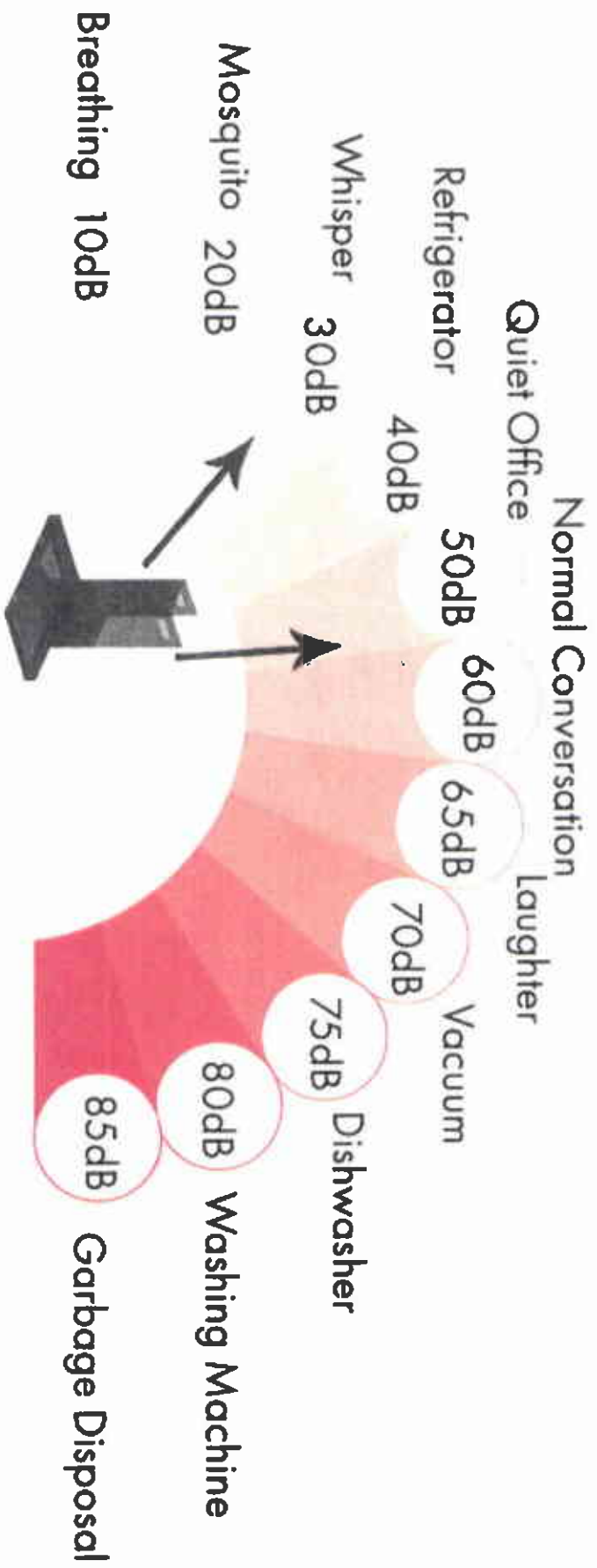
- Added definitions
- Decibel/Hours

Noise-Receiving Property Type	Timeframe	
	Day	Night
Residential	65 dB	55 dB
Non-Residential	75 dB	65 dB

*Propose to add adjustment for background noise*

- Add measurement methods
- Provision for impulsive noise; on/off noise







## **Timeline: Future**

- Two more public meetings
- Review final draft by noise consultant
- Review by Legal Department
- Present to council at December 11 meeting





## Contact Information

Environmental Health & Sustainability

1520 K Avenue, Suite 210

(972) 941-7143

[envhealth@plano.gov](mailto:envhealth@plano.gov)



## PROPOSED Plano Noise Ordinance

### Quick Reference Changes Guide

1. Added definitions: Further clarify terms within the ordinance

2. Decibel Thresholds

	Current	Proposed
<b>Residential Day</b>	65 dB	65 dB or 5 dB above background noise level, whichever is greater
<b>Residential Night</b>	58 dB	55 dB or 5 dB above background noise level, whichever is greater
<b>Non-residential Day</b>	65 dB	75 dB or 5 dB above background noise level, whichever is greater
<b>Non-residential Night</b>	58 dB	65 dB or 5 dB above background noise level, whichever is greater

#### Notes:

- a. Adding a 5 dB fluctuation in order to account for background noise. Background noise within the city has increased to around 65 dB, especially along major thoroughfares. This means any noise made above this level would be in violation of the current ordinance. The 5 dB allows some leeway for these instances.
- b. When residential/non-residential properties abut, the most restrictive threshold will apply.
- c. Day hours: 7:00 am – 10:00 pm; Night hours: 10:00 pm – 7:00 am (no change from current)

3. Added provisions for impulsive noise and noise that turns on and off

4. Added specific acts deemed to be unlawful noise:

- a. Horns, signaling devices *while vehicle is NOT in motion*
- b. Amplification of sound for commercial advertising
- c. Amplification of sound at places selling food/drink (within certain parameters)
- d. Noise adjacent to schools, courts, religious facilities, hospitals

5. Added a section on vibration – to address nuisances that may occur.

6. Added exemptions

- a. Sound necessary to prevent bodily injury, death, etc.
- b. Sound produced by ordinary construction/maintenance activities (day time hours)
- c. Sound produced by aircraft, railroads
- d. Sound produced by air conditioning units (non-residential 75 dB; Residential 65 dB)
- e. Activities conducted in public parks during day time hours
- f. Lawful operation of a motor vehicle

7. Enforcement authority/responsibilities defined

8. Added penalties for violations and provisions for repeat/habitual offenders

9. Added provision to pursue injunctive relief, abatement, revocation of permits (where applicable), etc.

10. Added measurement methods





# MAXIMUM NOISE LEVELS



## DAY

7:00AM - 10:00PM



## NIGHT

10:01PM - 6:59AM

65 dB or 10 dB above the background noise level (whichever is lower)



### Residential

55 dB or 5 dB above the background noise level (whichever is lower)

70 dB or 10 dB above the background noise level (whichever is lower)



### Commercial & Mixed Use

60 dB or 5 dB above the background noise level (whichever is lower)

75 dB or 10 dB above the background noise level (whichever is lower)



### Industrial

65 dB or 5 dB above the background noise level (whichever is lower)

If background noise level is higher than the indicated maximum noise level, the maximum noise level shall be equal to the background noise level.

5 dB shall be subtracted from the maximum noise level where the noise level includes impulsive noise.

The most restrictive maximum noise level shall apply at the property where the noise is audible.

**An Ordinance of the City of Plano, Texas, repealing Ordinance No. 99-12-12 codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances and adopting a new Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date.**

**WHEREAS**, on December 13, 1999, the City Council passed Ordinance No. 99-12-12, codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances; and

**WHEREAS**, staff recommends adopting a new ordinance to be codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances to combine all noise regulations and create a comprehensive noise ordinance; and

**WHEREAS**, after consideration of the recommendations of staff and all matters attendant and related thereto, the City Council is of the opinion that it is in the best interest of the City and its citizens that the new noise ordinance be adopted and codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances.

**NOW THEREFORE, BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Ordinance No. 99-12-12 codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances is repealed in its entirety.

**Section II.** A new Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances is hereby adopted to read as follows:

**“ARTICLE V. – NOISE**

**Sec. 14-85. - Definitions.**

Unless otherwise expressly stated, the following words, terms, and phrases shall have the following meanings when used in this article:

***Background noise*** shall mean the all-encompassing sound associated with a given environment without contributions from a specific noise source.

***Commercial*** shall mean, for the purposes of this article, all non-residential zoning districts as outlined in the city’s current zoning ordinance except for Light Industrial – 1 and Light Industrial – 2 districts

***Construction*** shall mean any phase of the on-site erection or removal, including, but not limited to, excavation, demolition, alteration, repair, or maintenance, of any building or structure, or associated landscaping or paving activities conducted on that site.

***Day or daytime*** shall mean from 7:00 AM to 10:00 PM.

***Impulsive noise*** shall mean any specific noise that contains successions of pulses or transients and if the sound level changes at a rate greater than 10 dB per second.

***Industrial*** shall mean, for the purposes of this article, Light Industrial – 1 and Light Industrial – 2 districts as outlined in the city's zoning ordinance.

***Night or nighttime*** shall mean from 10:01 PM to 6:59 AM.

***Noise nuisance*** shall mean any specific noise that is likely to cause unreasonable discomfort or distress to a reasonable person or to unreasonably interfere with the use or enjoyment of property.

***Owner*** shall mean any person, corporation, association, firm, partnership or other entity with ownership, care, custody, or control over property.

***Person*** shall mean any individual, corporation, association, firm, partnership or other entity with ownership, care, custody, or control over property.

***Residential*** shall mean, for the purposes of this article, residential zoning districts as outlined in the city's zoning ordinance.

***Noise Level*** shall mean the A-weighted sound pressure level in decibels (dBA) including both background and specific noise.

***Specific noise*** shall mean any noise that is clearly distinguishable from the background noise.

***Sport shooting range*** shall have the meaning in Sec. 250.001, Local Government Code.

#### **Sec. 14-86. – Offenses.**

- (1) It shall be an offense for any person to intentionally, knowingly, or recklessly make or cause to be made an unreasonable noise
  - (a) in a public place, other than a sport shooting range, or
  - (b) on private property that the person has no right to occupy.
- (2) It shall be an offense for an owner of property to intentionally, knowingly, or recklessly make, cause to be made, or allow a noise nuisance on property owned by him or subject to his care, custody or control.

(3) The issuance of a certificate of occupancy, land occupancy permit, multiple pet permit, or permit issued by City of Plano shall not be a defense to prosecution under this Article.

**Sec. 14-87. – Presumptions.**

(1) A noise is presumed to be unreasonable and declared to be a noise nuisance if it meets any of the following criteria:

(a) The noise directly or indirectly results in a Noise Level exceeding the maximum applicable Noise Level in the following table:

<b>Table 1: Maximum Noise Levels</b>		
<b>Noise-receiving district, property type, or use</b>	<b>Timeframe</b>	
	<b>Day</b>	<b>Night</b>
	<b>7:00 AM to 10:00 PM</b>	<b>10:01 PM to 6:59 AM</b>
<b>Residential</b>	65 dB or 10 dB above the background noise level, whichever is lower	55 dB or 5 dB above the background noise level, whichever is lower
<b>Commercial/Mixed Use</b>	70 dB or 10 dB above the background noise level, whichever is lower	60 dB or 5 dB above the background noise level, whichever is lower
<b>Industrial</b>	75 dB or 10 dB above the background noise level, whichever is lower	65 dB or 5 dB above the background noise level, whichever is lower
<ul style="list-style-type: none"> <li>• If background noise level is higher than the indicated maximum Noise Level, the maximum Noise Level shall be equal to the background noise level.</li> <li>• 5 dB shall be subtracted from the maximum Noise Level where the Noise Level includes impulsive noise.</li> <li>• The most restrictive maximum Noise Level shall apply at the property where the noise is audible.</li> </ul>		

(b) Amplification of sound for commercial advertising.

The noise is from the production or amplified reproduction of sound that is broadcast into a public place or upon a public street or highway for the purpose of commercial advertising or attracting the attention of the public to a building, structure, person, or event.

(c) General amplification of sound.

The noise is from the production or amplified reproduction of the human voice, and the sound is audible on adjacent private property or for fifty (50) feet or more onto public property.

(d) Schools, courts, religious facilities, and hospitals.

The noise is

- (i) created in a public place or on a public street or highway adjacent to a school, institution of learning, religious facility, a court while in use, or adjacent to a hospital, and
- (ii) is reasonably likely to interfere with the workings of such institution or disturb or annoy a patient in the hospital, and
- (iii) a sign, indicating that a school, institution of learning, religious facility, court, or hospital is in the vicinity is posted so as to be visible to motorists, passengers, and pedestrians.

(e) The noise is created by the operation of a motor vehicle that is not equipped with a muffler in good working condition that continuously operates to prevent excessive or unusual noise.

(f) Animals.

The noise is from an animal that

- (i) is frequent or habitual so that it is disturbing to a reasonable person, whether the animal is contained at any public or private facility, a residence, or in a public place, and
- (ii) is under the care, custody or control of a person, corporation, association, firm, partnership, or other entity.

(2) An act is deemed to occur in a public place or on private property if it produces the prohibited noise or vibration in the public place or on private property.

**Sec. 14-88. – Vibration.**

It shall be an offense for any person or owner to intentionally, knowingly, or recklessly make, cause to be made, or allow any unreasonable ground or structure-borne vibration.

**Sec. 14-89. – Defenses.**

It shall be an affirmative defense to prosecution under this article that:



- (1) The noise is immediately and reasonably necessary to prevent imminent threat of bodily injury, death, or loss of property.
- (2) The noise is a reasonable result from a lawfully scheduled event in full compliance with all permits issued by the City and all other local, state, and federal laws, including, but not limited to:
  - (a) A stadium or sporting event;
  - (b) School-sponsored event;
  - (c) A parade;
  - (d) An amphitheater event;
  - (e) A musical performance;
  - (f) An event using a real or simulated cannon, firearm, gunfire, explosive, or pyrotechnic item;
  - (g) An event, fun run, race, festival, fiesta, or concert that was sponsored or co-sponsored by the City; or
  - (h) A special event as defined in the City of Plano Code of Ordinances.
- (3) The noise is produced by reasonably necessary construction-related activities on real or personal property, conducted at any point from 7:00 a.m. through 10:00 p.m., and the activity is in compliance with all other State and Federal laws and the City of Plano Code of Ordinances, and the noise does not directly or indirectly result in a noise Level exceeding 85 dBA.
- (4) The noise is produced by the operation of any heating, refrigeration, ventilation, air conditioning equipment or system, or pool equipment, and the noise does not directly or indirectly result in a Noise Level exceeding 65 dBA on residential property or 75 dBA on commercial or industrial property.
- (5) The noise is produced as part of a religious observance or service, provided the sound does not cumulatively exceed five minutes duration in any one-hour period.
- (6) The noise is produced by reasonable activities conducted in public parks, public playgrounds, or public or private school grounds, at any point from 7:00 a.m. through 10:00 p.m.



- (7) The noise is produced by the lawful operation of a motor vehicle under the Texas Transportation Code.
- (8) The noise is produced by the transportation, placement, filling, collection, or removal of a waste or recycling receptacle or container at any point from 7:00 a.m. through 10:00 p.m. in an area zoned for residential use or within three hundred (300) feet of an area zoned for residential use.
- (9) The noise is produced by construction-related activity outside of the designated hours set forth in this article, and said activity has received written approval from the City, has been approved by a State or Federal authority, or is reasonably necessary due to an emergency.
- (10) The noise is produced by a property that has received a variance from the City's Board of Adjustment allowing the noise that would otherwise be prohibited.

**Sec. 14-90. – Applicability**

This article shall not apply to noise created by emergency vehicles or equipment of the State, a political subdivision of the State, or a Federal agency.

**Sec. 14-91. - Compliance with other provisions.**

A person may request a noise variance by following the process set forth in the zoning ordinance of the City.

**Sec. 14-92. - Enforcement.**

The City Manager or his designee shall have authority to enforce this article.

**Sec. 14-93. - Penalties.**

- (1) It shall be an offense to fail to comply with any provision of this article, and, upon conviction thereof, a person shall be punished by a fine in an amount not to exceed Two Thousand Dollars (\$2,000.00). Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.
- (2) Repeat and Habitual Offenders.
  - (a) If it is shown on the trial of an offense under this article that the defendant has previously been finally convicted of an offense under this article, on conviction the person shall be punished by a fine of not less than \$500.00 and not to exceed \$2,000.00.
  - (b) If it is shown on the trial of an offense under this article that the defendant has previously been finally convicted of two offenses under this article, on conviction

the person shall be punished by a fine of not less than \$1,000.00 and not to exceed \$2,000.00.

(c) This subsection applies only to a person finally convicted of a second or subsequent offense within three years of the date on which the most recent preceding offense was committed.

(3) In addition to the penalties prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits.”

**Section III.** All provisions of the Code of Ordinances of the City of Plano, codified or uncodified, in conflict with the provision of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncodified, not in conflict with this Ordinance shall remain in full force and effect.

**Section IV.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

**Section V.** The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

**Section VI.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City of Plano Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**DULY PASSED AND APPROVED** this the 11<sup>th</sup> day of December 2017.

\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Paige Mims, CITY ATTORNEY

RCA FORM (OFFICE USE ONLY)  
MEETING/DATE: December 12, 2017  
Regular ( ) Special ( ) Work Session(X)  
ATTACHMENT: YES(X) NO ( )  
Report(X) Resolution ( ) Ordinance ( )

Bill #

**Request for Council Action**

Ward: N/A

Sponsor: N/A

**Description:** St. Charles Police Department, Fire Department and Community Development would like to present to the St. Charles City Council a report on the actions taken and future plans as it relates to issues on Main Street.

\*\*\*\*\*

- **Contract Extension/Renewal:** Yes( ) No(x )
- **Information Paper Attached:** Yes(x) No( )

\*\*\*\*\*

**Board/Committee/Commission:** Approve( ) Disapprove( )

**Summary:** St. Charles Police Department, Fire Department and Community Development would like to present to the St. Charles City Council a report on the actions taken and future plans as it relates to issues on Main Street that negatively impact the citizens and business community of St. Charles City.

**STAFF RECOMMENDATION:** Staff recommends.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

Account #: \_\_\_\_\_ Fiscal Impact: N/A Project #: \_\_\_\_\_

RCA prepared by: J. Kroen Dept. Dir. [Signature] Finance Dir. [Signature] Dir. of Admin. [Signature]  
*for GLJ*

Agenda Item  
**RECEIVED**  
In the City Clerk's Office  
at 5:00 pm  
on THURS - 12/14/17

## **Main Street Bar District Concerns**

### **Changes that have been implemented:**

#### **September 2017**

- Mounted Patrol was reinstated during business and evening hours on Main Street
- Have assigned 4 Special Enforcement Officers to work with patrol and Business Liaison Officer on dealing with underage consumption and fake identification
- Plain clothed patrol implemented September 29, 2017

#### **October 2017**

- Chief McKinley and Officer Cole held Bar Owner's meeting. This opened lines of communication and let the owners know that we are taking enforcement action beginning immediately
- Began closing of Main Street between Jefferson and Monroe from 11 pm until 2 am on Thursday, Friday, and Saturday nights
- Pub Crawls are now staffed with an additional 2-5 officers and 1 supervisor (depending on size of registered event)

#### **November 2017**

- Started regular monthly meetings with the bar owners/managers; held the first Tuesday of every month at 4 PM
- Performed a routine occupancy check at three bars on Wednesday November 22, 2017 with extreme violations of occupancy in all three bars we checked. Working with legal and Community Development to cite those bars.

### **Anticipated changes:**

#### **December 2017**

- Adding 16 new LED lights with High Definition cameras that will cover all of the area where bars are located. The police will have the ability to operate the lights and brighten them at bar closing
- Increased enforcement of Driving Under the Influence violations with use of State grants
- Plan one to two additional occupancy checks

#### **January 2018**

- Recommendation for adding additional officers for certain holidays and festivals
- Noise Ordinance to be reviewed and revised
- Pursue additional grants to enhance enforcement opportunities in addition to our routine patrols

#### **February 2018**

- Pursue funding of an off duty hire back program (officers sign up to work during "off" time) to enhance police presence by adding four officers on Main Street on Thursday, Friday, and Saturday nights between 11 PM and 2 AM

#### **March 2018**

- Bring to council for discussion: Hours taverns can operate, and also hours of operation of the bars during festivals

- **Examine all pertinent city ordinances dealing with bars and alcohol; make recommendations for appropriate changes/additions, such as:**
  - **Requiring all patrons to be off Main St by 30 min after bar closing**
  - **Increased penalties for repeat offenders; bars with multiple violations, etc.**



**After-Action Report**  
**November 22, 2017**  
**Compliance Check on Main Street**

**Prepared by:**  
**Ray Juengst "Jinx"**  
**Captain**

**Date of Deployment:** Wednesday, November 22, 2017

**Deployed Location:** North Main Street Entertainment District

**Duration of Deployment:** 2200 - 0200

**Deployed Agencies:**  
St. Charles City Police Department  
St. Charles City Fire Department  
St. Charles City Community Development

**Affected area:**  
212 Night Club (212 North Main Street)  
Undertow On Main (142 North Main Street)  
Mr. Thirsty's (324 North Main Street)

**Situation:**

The North Main Street Entertainment District, consisting of the 100 block to 400 block of North Main Street has numerous bars/night clubs. As a part of the type of clientele that these bars/night clubs in Entertainment District attract, the bars/night clubs have created an issue with underage drinking and allowing minors into the bars/night clubs.

The bars/night clubs in Entertainment District have an occupancy limit on the number of patrons that can be inside the business during operating hours. The St. Charles City Police Department has been concerned with over occupancy inside these bars/night clubs. Over occupancy presents several safety concerns including safe evacuation in the event of a fire or police incident.

The St. Charles City Police Department have identified Thursday, Friday and Saturday nights as the primary nights that these issues are continually occurring.

**Objective:**

- Determine if the occupancy limit is posted.
- Determine the exact number of patrons inside the business.
- Safeguard the citizens, businesses, property and officers of St. Charles from harm.

**Response:**

Since mid-September the St. Charles City Police Department has taken an innovative approach to addressing the issues created by that the clientele that the current bars/night clubs in Entertainment District attract. In direct reference to the issue of underage drinking and minors in the bar/night clubs,

the St. Charles City Police Department have been deploying "plain clothes officers" in an effort to identify and arrest underage/minors entering the bar/night clubs. The St. Charles City Police Department deploys four (4) to eight (8) officers on various Thursday, Friday or Saturday nights.

The "plain clothes officers" from the St. Charles City Police Department have had the following results during these deployments:

- **51 arrests**
- **29 reports**

Due to the success of this type of deployment of manpower the St. Charles City Police Department plans to continue deploying "plain clothes officers" regularly.

In an effort to address the concern of over occupancy on Wednesday, November 22, 2017, members of St. Charles City Police Department, St. Charles Fire Department and St. Charles City Community Development conducted occupancy compliance checks on the following three (3) North Main Entertainment District bars/Night Clubs;

**212 Night Club (212 North Main Street)**

**Undertow On Main (142 North Main Street)**

**Mr. Thirsty's (324 North Main Street)**

As part of the City of St. Charles Government Code, 205.060, Adoption of Fire Prevention Code, also known as Fire Code of City of St. Charles, Missouri occupancy limits need to be posted inside the business and visible to the public. As part of the Fire Code an occupancy compliance check must be conducted by Fire Department Personnel. The St. Charles Fire Department agreed to assist the St. Charles City Police Department with several occupancy compliance checks.

The following St. Charles City personnel were assigned to this operation:

**Operational Commander**

**Chief McKinley (Police)**

**Chief Dodson (Fire)**

**Operational Assistant Commander(s): Major Mitchell (Police)**

**Captain Akers (Police)**

**Captain Thurman (Police)**



**Report #:** 17-010413  
**Allowed Occupancy:** 140  
**Occupancy upon check:** 298  
**Occupancy count conducted by:** Deputy Fire Chief Grzyb (Fire)  
**Manager on duty:** Derleth, Mark James  
**Owner:** Wyatt, Robert Edward

**Business:** 212 Night Club  
**Location:** 212 North Main Street  
**Report #:** 17-010421  
**Allowed Occupancy:** 136 (inside) 125 (deck)  
**Occupancy upon check:** 385 total 359 (inside) 26 (deck)  
**Occupancy count conducted by:** Deputy Fire Chief Grzyb (Fire)  
**Manager on duty:** Harper, John Edward Jr.  
**Owner:** Frey, David Anthony

**Business:** Undertow On Main  
**Location:** 142 North Main Street  
**Report #:** 17-010413  
**Allowed Occupancy:** 149  
**Occupancy upon check:** 334  
**Occupancy count conducted by:** Deputy Fire Chief Grzyb (Fire)  
**Manager on duty:** Pinkney, Anthony  
**Owner:** English, Dustin

**De-Escalation:**

- Communications with Managers on duty and established guidelines for an accurate count were effective
- Observed officer presence was effective

**Best Practices:**

- Coordination between City Administration, Fire Department and Police Department
- Officer presence in a large scale - Secondary video documentation