

ORDINANCE NO.: 472

AN ORDINANCE OF THE CITY OF SPRINGFIELD ADOPTING RESTRICTIONS ON NOISES WITHIN THE CITY; PROVIDING RESTRICTIONS FOR THE MAKING, CREATION OR MAINTENANCE OF NOISE OR SOUND EXCEEDING CERTAIN LIMITS; PROVIDING DEFINITIONS AND DESCRIPTIONS OF UNLAWFUL NOISES; PROVIDING FOR PENALTIES AND EXCEPTIONS; REPEALING AND REPLACING SECTION 50-3 OF THE SPRINGFIELD CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the making and creation of excessive, unnecessary, unnatural or unusually loud noises in the City of Springfield is a condition which has existed for some time and the amount and intensity of such noises are increasing; and

WHEREAS, the making, creation or maintenance of such excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use, and effect are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of Springfield; and

WHEREAS, the restriction and prohibition of noise nuisances are in the best interest of the residents of the City of Springfield, and it is further declared that the restrictions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City of Springfield and the persons therein.

NOW, THEREFORE, BE IT ENACTED by the City Commission of the City of Springfield, Florida:

Section 1. Noise.

- a. Noncompliance with chapter declared unlawful; exception.**
It shall be unlawful, except as expressly permitted herein, to make,

cause or allow the making of any noise or sound which exceeds the limits set forth in this chapter.

b. Definitions. For the purposes of this section, the following words and phrases are defined as follows:

Alarm: Any fire, burglary, motor vehicle or civil defense alarm, whistle or similar stationary emergency signaling device.

Construction: Any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or of public or private rights-of-way, structures, vacant lots, utilities or similar property.

Daytime: 7:00 a.m. to 10:00 p.m. the same day.

Emergency: Any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage demanding immediate attention. It shall be the burden of the alleged violator to prove an "emergency".

Emergency Vehicle: A motor vehicle belonging to a fire department or certified vehicle belonging to a volunteer fireman or firefighting association, partnership, or corporation, an ambulance, a motor vehicle belonging to a private security agency or a motor vehicle belonging to a federal, state, county or municipal agency; provided such vehicles are in use as an emergency vehicle by one authorized to use such vehicle for that purpose.

Emergency Work: Any work made necessary to restore property to a safe condition following an emergency, or for the purpose of protecting property and preventing damage threatened by an imminent emergency, to the extent such work is necessary to protect persons or property from exposure to imminent danger or damage.

Impulsive sound: 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 discharge of firearms.

Motor vehicle: Motor vehicle means a vehicle with two or more wheels or a machine propelled or drawn by mechanical power and used on the public roads and highways in the transportation of passengers or property, or any combination thereof, which is required to be licensed, but does not include any vehicle, locomotive or car operated exclusively on rail or rails.

Nighttime: 10:00 p.m. to 7:00 a.m. the following day.

Noise: Any sound which disturbs humans or other animals, or which causes or tends to cause an adverse psychological or physiological effect on humans or other animals.

Noise disturbance: Any sound which disturbs a reasonable person of normal sensitivities or is plainly audible as defined in this section.

Noise sensitive area: An area where a school, hospital, nursing home, church, court or public library is located.

Person: Any individual, association, partnership or corporation, including any officer, employee, department, agency or instrumentality of the United States.

Plainly audible: Any sound or noise produced by any source, or reproduced by a radio, tape player, television, CD player, electronic audio equipment, musical instrument, sound amplifier or any other mechanical or electronic sound making/emitting device, or non-amplified human voice that can be clearly heard by a person using his/her normal hearing faculties, at a distance of 25 feet or more from the real property line of the source of the sound or noise.

Powered model vehicle: Any self propelled airborne, waterborne, or land borne plane, vessel or vehicle which is not

designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

Public Right-of-way: Any street, avenue, boulevard, highway, sidewalk, alley or similar place normally accessible to the public which is owned or controlled by a government entity.

Public Space: Any real property or structures thereon owned by a governmental entity and normally accessible to the public, including but not limited to parks and other public recreational areas, roadways and easements.

Real Property Line: A line along the surface, and its vertical plane extension, which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person, excluding intra-building real property division.

Recreational vehicles: Any scooter, golf cart, or recreational vehicle whether or not such requires a license for the operation thereof.

Section 2. Prohibited acts.

a. Generally. No person, firm, partnership, corporation, or other business entity shall make, continue or cause to be made or continue any loud, raucous, jarring, disturbing or excessive sound which unreasonably interferes with the comfort and repose of others within the jurisdiction of the city.

b. Unlawful to cause noise disturbances. It shall be unlawful, except as expressly permitted herein, to make, cause or allow the making of any noise or sound which causes a noise disturbance as defined herein.

c. Specific prohibitions. In addition to the general prohibitions set out in subsection (a) and unless otherwise exempted by this chapter, the following specific acts, or the causing or permitting thereof, are hereby regulated as follows:

(1) Radios, televisions, electronic audio equipment, musical instruments or similar devices. No person shall operate or permit the operation or playing of any radio, tape player, television, electronic audio equipment, musical instrument, sound amplifier, or other mechanical or electronic sound making/emitting device that produces, reproduces or amplifies sound in such a manner as to create a noise disturbance across a real property boundary, unless such activity is specifically exempted elsewhere in this chapter.

(2) Loudspeakers and public address systems. No person shall operate, or permit the operation of, any loudspeaker, public address system or similar device, for any commercial purpose which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance; or during nighttime hours on a public right-of-way or public space. No person shall operate or permit the operation of any loudspeaker, public address system or similar device, for any noncommercial purpose, during nighttime hours in such a manner as to create a noise disturbance.

(3) Animals. No person shall own, possess or harbor an animal or bird that howls, barks, meows, squawks or makes other sounds during nighttime hours that: (a) create a noise disturbance across a residential property boundary; b) are of frequent or continued duration for ten or more consecutive minutes; or (c) are intermittent for a period of 30 or more minutes; providing however, that an animal shall not be deemed to be acting in violation of this section if, at the time of the making of any noise a person is trespassing or threatening to trespass upon the property in or upon which the animal is situated.

(4) Construction and demolition. No person shall operate or cause the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work between the hours of 9:00 p.m. and

6:00 a.m. the following day on weekdays and 9 p.m. and 7:00 a.m. on weekends and holidays such that the sound there from creates a noise disturbance across a real property boundary, except for emergency work by public service utilities or for other work approved by the City Clerk or designee. This section shall not apply to the use of domestic power tools as provided below.

(5) *Emergency signaling devices.* No person shall intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm, siren or whistle, or similar stationary emergency signaling device, except for emergency purposes or for testing as follows: (a) testing of stationary emergency signaling devices shall not occur between 7:00 p.m. and 7:00 a.m. the following day; (b) testing of stationary emergency signaling devices shall use only the minimum cycle test time, in no case to exceed 60 seconds; and (c) testing of a complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall only occur on weekdays and not during nighttime hours, and shall be exempt from the time limit specified in subsection (b) above. No person shall permit the sounding of any exterior burglar or fire alarm unless such alarm is automatically terminated within 15 minutes of activation.

(6) *Domestic power tools.* No person shall operate or permit the operation of any mechanically, electrically or gasoline motor-driven tool during nighttime hours so as to cause a noise disturbance.

(7) *Street sales.* The offering for sale by shouting or outcry within any residential, commercial or noise-sensitive area, except by permit issued by the city is prohibited.

(8) *Powered model vehicles.* The operating of or permitting the operation of powered model vehicles

between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and/or holidays is prohibited.

Section 3. Violations and penalties.

a. Enforcement. A police officer may arrest an offender under this article. The police department shall be responsible for the enforcement of the provisions of this article, provided however, that the City Commission or Code Enforcement Department shall be responsible for the issuing of special permits and the conditions stated thereon.

b. Penalties. A person arrested for a violation of this chapter and upon conviction shall be subject to the penalties designated in Section 1-12 of the City Code. Each day the violation continues/occurs shall be considered as a separate offense.

c. Responsibility of owner of property. The owner, tenant or lease of property, or a manager, overseer or agent, or any person lawfully entitled to possess the property from which the offending noise is emitted and at which time the offending noise is emitted shall be responsible for compliance with this chapter, and each may be punished for violations of this chapter. It shall not be a lawful defense to assert that some other person caused the noise, but the lawful possessor of the premises shall be responsible for operating or maintaining the premises in compliance with this chapter and shall be punished whether or not the person causing the noise is also punished.

d. Violation may be declared public nuisance. The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this chapter that endangers the comfort, repose, health and peace of residents in the area is declared to be a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

Section 4. Mobile noise.

a. It shall be unlawful for the driver of a vehicle to operate or permit the operation of any sound amplification system which can be heard

outside the vehicle from 25 or more feet while moving or parked on any street, highway, parking lot or other public property within the city.

b. It shall be unlawful for any person to operate any type of portable sound amplification device so as to emit noise that is audible 50 feet or more from the source. Said violation can result in the confiscation of the equipment until such time as the offender can positively demonstrate to the court his/her willingness and ability to operate the device within the limits prescribed in this section.

c. Violations of this section shall not require a warning prior to an arrest being made or citation being issued.

d. No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler in good working order and in constant operation.

e. No person shall remove or render inoperative or cause to be removed or rendered inoperative any muffler or sound-dissipative device on a motor vehicle or motorcycle other than for the purposes of repair, maintenance or replacement.

(F.S. 316.3045(1); F.S. 316.272)

Section 5. Special permits.

a. Any person desiring relief from any provision of this chapter shall apply for a special permit to cause or create noise/sounds which would otherwise be in violation of this chapter. Applications for a special permit shall be made in writing to the Code Enforcement Office. The Code Enforcement Office shall grant such special permit upon showing by the applicant that:

(1) Additional time is necessary for the applicant to alter or modify the activity in order to comply with the provisions of this chapter, or

(2) The activity, operation, or noise source will be of a temporary duration and cannot be done in a manner that would comply with the provisions of this chapter; and

(3) No reasonable alternative is available to the applicant.

b. Any permit granted pursuant to this section shall contain thereon all conditions upon which such permit has been granted, including but not limited to the effective date, time of day, location, sound level limit or equipment limitation; provided however, that no special permit shall be issued for a period in excess of 15 consecutive days. Any special permit granted hereunder may be renewed upon application to the Code Enforcement Office and upon showing that the reasons for which the permit was granted still exist.

Section 6. Repealer.

Section 50-3 of the Code of Ordinances of the City of Springfield, Florida is hereby repealed and is to be replaced by this Ordinance.

Section 7. Effective Date.

This Ordinance shall take effect upon its passage.

PASSED, APPROVED, AND ADOPTED at the regular meeting of the City Commission of the City of Springfield, Bay County, Florida, on this the 7th day of April, 2008.

ATTEST:

CITY OF SPRINGFIELD

Teresa Cox

Robert E. Walker

TERESA COX, CITY CLERK

ROBERT E. WALKER, MAYOR

First Reading: 3 - 3 - 08

Published: 3-25-08

Second Reading & Adoption: 4-7-08

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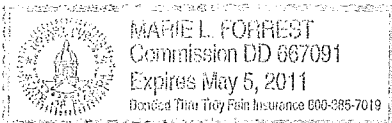
Before the undersigned authority appeared Glenda Sullivan, who on oath says that she is Classified In-Column Manager of The News Herald, a daily newspaper published at Panama City, in Bay County, Florida; that the attached copy of advertisement, being a Legal Advertisement - #6807 in the matter of Notice of Proposed Ordinance - Ordinance No. 472 in the Bay County Court, was published in said newspaper in the issue of March 25, 2008

Affiant further says that The News Herald is a direct successor of the Panama City News and that this publication, together with its direct predecessor, has been continuously published in said Bay County, Florida, each day (except that the predecessor, Panama City News, was not published on Sundays), and that this publication together with its said predecessor, has been entered as periodicals matter at the post office in Panama City, in said Bay County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Glenda C. Sullivan

State of Florida
County of Bay

Sworn and subscribed before me this 25th day of March, A.D., 2008, by Glenda Sullivan, Classified In-Column Manager of The News Herald, who is personally known to me or has produced N/A as identification.



Marie L. Forrest
Notary Public, State of Florida at Large

6807
NOTICE OF
PROPOSED ORDINANCE

CITY OF SPRINGFIELD
Bay County, Florida

ORDINANCE NO. 472

AN ORDINANCE OF THE CITY OF SPRINGFIELD ADOPTING RESTRICTIONS ON NOISES WITHIN THE CITY; PROVIDING RESTRICTIONS FOR THE MAKING, CREATION OR MAINTENANCE OF NOISE OR SOUND EXCEEDING CERTAIN LIMITS; PROVIDING DEFINITIONS AND DESCRIPTIONS OF UNLAWFUL NOISES; PROVIDING FOR PENALTIES AND EXCEPTIONS; REPEALING AND REPLACING SECTION 50-3 OF THE SPRINGFIELD CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

The above titled Ordinance will be considered by the Springfield City Commission for final adoption at its regularly scheduled meeting to be conducted on Monday, April 7, 2008, at 6:30 p.m. in the Commission Room of Springfield City Hall located at 3529 East Third Street. The proposed Ordinance may be inspected during regular business hours in the City Clerk's Office. Interested parties may appear at the meeting and be heard with respect to said proposed Ordinance. If a person decides to appeal any decision made by the City Commission with respect to any matter considered at the meeting, if an appeal is available, such person will need a record of the proceeding and such person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Teresa Cox, City Clerk, at City Hall, 3529 East Third Street, Springfield, Florida 32401 or by telephone at (850) 872-7570 at least five (5) days prior to the meeting.
March 25, 2008