



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

15e

TO: Honorable Mayor and Members of City Council
FROM: Shannon Lavrin, City Manager

Ordinance/First Reading Ordinance/Second & Final Reading Resolution/First & Final Reading Information Only

AGENDA DATE REQUESTED: September 11, 2023

ORDINANCE/RESOLUTION CAPTION:

ORDINANCE AMENDING CHAPTER 16, ARTICLE II, DIVISION 3, OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE REGARDING NOISE

SUMMARY BACKGROUND:

Extensive growth within the city of Greenville (the "City") and increased complaints regarding loud noise resulted in an evaluation of the existing Noise Ordinance and a study of the noise generated in the Central Business District and other locations within the City. In response, the Noise Ordinance is being amended to modify the method of measuring sound, to allow law enforcement officers to issue citations for an ordinance violation without the requirement of a complainant and to establish minimum fines for violation of the Ordinance.

IMPACT IF DENIED:

The Noise Ordinance will not be amended to reflect the changes referenced above.

FINANCIAL IMPACT:

None.

REQUIRED SIGNATURES

Department Director _____

OMB Director _____

City Attorney _____

City Manager _____

DocuSigned by:

Leigh Paolletti

56BFADF322241F0...

DocuSigned by:

Shannon Lavrin

B6D12FA1F89A405...

A N O R D I N A N C E

AMENDING CHAPTER 16, ARTICLE II, DIVISION 3, OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE REGARDING NOISE

WHEREAS, the city of Greenville's (the "City") Noise Ordinance is set forth in Chapter 16, Article II, Division 3, of the Code of Ordinances of the City of Greenville and sets permissible standards for noise in the City (the "Noise Ordinance"); and

WHEREAS, the City has enjoyed unprecedented levels of growth in recent years, significantly increasing commercial and retail activity in the Central Business District; and

WHEREAS, the growth enjoyed by the City has likewise resulted in an increase in the number of homes and residents in the City's Central Business District and neighborhoods, with less distance between them; and

WHEREAS, the growth enjoyed by the City has also resulted in increased instances of commercial activity abutting residential districts; and

WHEREAS, City Council seeks to strike a reasonable balance between preserving the peaceable enjoyment of private and public property and the noise inevitably generated by a thriving, inclusive and vibrant community; and

WHEREAS, City Council wishes to employ the most recent and advanced methods of monitoring noise within the City, coupled with common sense notions of acceptable noise in certain urban environments; and

WHEREAS, an analysis of the method for measuring the level of sound in decibels set forth in the Noise Ordinance demonstrated a need to reduce the distance at which sound levels are measured in order to accomplish the purpose of the Noise Ordinance, i.e., to preserve the peaceable enjoyment of property in the City; and

WHEREAS, the current Noise Ordinance requires a complainant in order for a citation for a violation of certain sections of the Ordinance to be issued, requiring the continued participation of the complainant to successfully prosecute the violation; and

WHEREAS, City Council wishes to allow law enforcement to issue citations in their discretion for violation of the Ordinance when observed by officers and supported by evidence, without the requirement of a complaint; and

WHEREAS, to effectively deter noise in violation of the Noise Ordinance, City Council wishes to require reasonable minimum fines for violations of the Ordinance; and

WHEREAS, in light of the foregoing, City Council believes it is prudent and reasonable to adjust the distance at which sound levels are measured in order to determine whether prima facie evidence of a violation of the Noise Ordinance is present, to allow law enforcement to issue citations in their discretion where there is evidence of a violation, without the requirement for a complaint, and to impose minimum fines for violations of the Noise Ordinance; and

WHEREAS, to that end, City Council desires to amend Sections 16-100 and 16-101 of the Code of Ordinances to accomplish the foregoing objectives;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA:

Section 1. City Code Sections 16-100 and 16-101 is hereby amended to include the following language as underlined and remove the following language as struck through:

Sec. 16-100. Measurement of noise level; establishment of prima facie violation.

(a) A prima facie violation of section 16-92 shall be established whenever a measurement of the offending noise shall be taken in accordance with this division and shown to produce a level of noise in excess of the guidelines of the chart contained in this section. The inference established by the chart shall be subject to rebuttal based on the time, place and circumstances of the occurrence.

(b) Noise levels identified in the chart of guidelines shall be measured in decibels and A-weighted, with the unit of measurement being designated as dB(A). For the purpose of determining dB(A)s, the noise shall be measured on the A-weighting scale and the slow meter response on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute (ANSI).

(c) Measurements recorded shall be taken so as to provide a reasonable representation of the sound being measured with due regard to the location on the premises where the noise is heard by any person making a complaint. Precise positioning of the meter is not required.

(d) Guideline measurements establishing a prima facie violation are as follows:

Noise Limit	General, City-Wide	Central Business District
Day-time definition	7:00 a.m.— 10:00 p.m.	7:00 a.m.— 10:00 p.m.
Day-time noise limit	60	80
Night-time noise limit	55	75
NOTES: (1) dB(A) readings on streets, sidewalks and public property in the central business district will be made at least <u>3</u> 25 feet away from the privately owned premises from which the noise is generated, or <u>3</u> 25 feet from the source if generated on public property. (2) dB(A)* readings in parks and recreational areas outside the central business district will be made at least <u>10</u> 100 feet away from the location from which the noise is generated.		

Sec. 16-101. Enforcement procedures; penalty; additional remedies.

(a) With respect to suspected ordinance violations resulting from vehicle noise under Section 16-94(a)(6), law enforcement officers shall have the authority to charge persons under the provisions of this division without having received a complaint from a member of the public or first requesting compliance with those divisions of this section. Persons violating that section shall be guilty of a violation of this division and shall be subject to a fine of not less than \$100.00 and not more than the maximum fine allowed by state law for violations of municipal ordinances, or imprisonment for not more than 30 days. The minimum fine may not be suspended. The city attorney may also seek injunctive relief, or any other appropriate remedy available at law or in equity, in a court of competent jurisdiction, to ensure compliance.

(b) ~~All~~ With respect to all other violations resulting from violations of this division, law enforcement officers in the ordinary course of their duties shall have the ~~authority~~ discretion but are

~~not required to request compliance with all requirements of this division, prior to initiating enforcement of the division. without having received a complaint from a member of the public. However, no charge shall be made against any person, unless a complaint is made to an officer and the person has first been provided an opportunity to abate the offending noise immediately without penalty. However, if the violation continues or reoccurs within a 24-hr period, or if the same person has been provided the opportunity two or more times within the preceding 30 days to abate a noise at the same location and the person continues to make the noise or continues to allow it to be made, then such person- Persons violating sections other than Section 16-94(a)(6) of the division shall be guilty of a violation of this division and shall be subject to a fine of not less than \$50.00 100.00 and not more than the maximum fine allowed by state law for violations of municipal ordinances, or imprisonment for not more than 30 days. The minimum fine may not be suspended.~~ The city attorney may also seek injunctive relief, or any other appropriate remedy available at law or in equity, in a court of competent jurisdiction, to ensure compliance.

Section 2. All other parts and provisions of the City Code not amended hereby, either by explicitly or by implication, remain in full force and effect.

Section 3. Should any part or provision of this Ordinance be deemed unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

Section 4. This Ordinance shall become effective thirty (30) days after second reading and final reading.

DONE, RATIFIED AND PASSED THIS THE ____ DAY OF _____, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER