

ORDINANCE NO. F- 1730

**AN ORDINANCE AMENDING THE TEXT
OF THE WHEATON CITY CODE AND THE WHEATON ZONING ORDINANCE – NOISE
DISTURBANCES AND CONTROL**

WHEREAS, pursuant to notice as required by the Illinois Municipal Code and the City Zoning Ordinance, a public hearing was conducted by the Wheaton Planning and Zoning Board on August 13, 2013, amending certain provisions of the Zoning Ordinance pertaining to the Noise Disturbances and Control; and

WHEREAS, the Corporate Authorities of the City have determined that it is appropriate to amend both the City Code and Zoning Ordinance pertaining to Noise Disturbances and Control.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, Du Page County, Illinois, pursuant to its home rule powers, as follows:

Section 1: Section 42-30 of the Wheaton City Code is hereby repealed and rescinded in its entirety and replaced with the following:

“Sec. 42-30 Noise disturbances

- (a) Purpose
- (b) Definitions
- (c) Noise disturbances
- (d) Violation – Penalty
- (e) Administration and authority
- (f) Construction – Severability

(a) Purpose.

The purpose of this chapter is to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise and to declare certain noise-producing activities to be noise disturbances.

(b) Definitions.

“Noise disturbance” means any sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities; or any sound which unreasonably injures or endangers the comfort, repose, health, hearing, peace, or safety of persons or animals.

(c) Noise Disturbances

1) All noise disturbances, defined herein and not exempt under WZO 25.4.3, are prohibited at all times. The content of the sound will not be considered in determining a violation. The following acts are considered to be noise disturbances, if the noise is clearly audible across a real property boundary, or at least 75 feet from the source:

a) Operating or playing, or permitting the operating or playing of, any audio

equipment, television set, musical instrument and similar device, whether portable or stationary or mounted on or within a motor vehicle;

- b) Creating loud and raucous, and frequent, repetitive, or continuous sounds with the human voice;
 - c) Intentional sounding or permitting the sounding outdoors of any emergency warning device where an actual emergency does not exist; provided, that sounds created during maintenance or testing of such emergency warning devices does not constitute a noise disturbance;
 - d) Operating sound amplification equipment not in compliance with an approved Sound Amplification Permit.
- (d) Violation – Penalty.
- 1) Violations – Unlawful. The violation or failure to comply with any of the provisions of this chapter is declared to be unlawful.
 - 2) Civil Noise Infraction. Penalties for violation of any provision or provisions of this Chapter shall be imposed in conformance with Sec. 1-8(a-d) of Chapter 1 of the Wheaton City Code.
- (e) Administration and Authority.
- 1) Administration.

The Police Department shall be responsible for the administration of this chapter.
 - 2) Enforcement.

Civil Noise Infractions. The Police Department shall be responsible for the enforcement of provisions of this chapter relating to noise disturbances (including associated exemptions), and is authorized to issue, serve and file notices of civil noise infractions for violations thereof.
- (f) Severability.
- 1) This chapter shall be liberally construed to carry out its broad purposes.
 - 2) If any provision of this chapter is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the chapter shall not be invalidated.”

Section 2: Pursuant to the Findings of Fact made and determined by the City of Wheaton Planning and Zoning Board, Article 25.4 of the Wheaton Zoning Ordinance is hereby repealed and rescinded in its entirety and replaced with the following:

“ARTICLE 25.4

NOISE CONTROL

- 25.4.1 Purpose
- 25.4.2 Definitions
- 25.4.3 Exemptions
- 25.4.4 Identification of environments.
- 25.4.5 Maximum permissible environmental noise levels
- 25.4.6 Sound amplification permits

25.4.1 Purpose.

The purpose of this chapter is to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. The intent of the city council is to control the level of noise pollution in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment by establishing maximum environmental noise levels applicable within designated areas or zones of the city; to adopt appropriate exemptions to the provisions of this chapter to allow for the functioning of commercial business, recreational and institutional uses, and the operation of construction and emergency equipment.

25.4.2 Definitions.

All terminology used in this chapter which is not defined below shall be interpreted in conformance with the most recent definitions used by the American National Standards Institute (ANSI) or its successor body.

"Construction" means any site preparation, assembly, erection, demolition, substantial repair, alteration, or similar action for or of public or private rights-of-way, structures, utilities or similar property.

“Decibel (dB)” means a unit for measuring the volume of sound.

“Emergency equipment and work” means equipment and work required to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities to provide or restore immediately necessary utility service.

“Generator, portable” means an electricity-generating device that is not permanently mounted and uses temporary wiring to supply electrical service.

”Generator, stationary” means an electricity-generating device with noise attenuation that is permanently mounted and uses permanent wiring to supply electrical service.

“Receiving property” means real property within which sound originating from outside the property is received.

“Sound amplification equipment” means any machine or device for the amplification of the human voice, music or any other noise or sound associated with an outdoor live performance and not the playing of a radio or similar device.

“Sound level” means a weighted sound pressure level measured by the use of a sound level meter using an A-weighted network and reported as decibels, dBA.

“Sound level meter” means a device which measures sound pressure levels and conforms to Type I, S1A, Type II or S2A, as specified in the American National Standards Institute Specification as now exists or as hereafter amended or modified.

“Warning device” means any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including but not limited to a burglar alarm or vehicle backup signal.

25.4.3 Exemptions.

A. The following sounds are exempt from the provisions of this chapter:

1. Sounds caused by natural phenomena or wildlife; and
2. Sounds created by domestic animals as regulated by the City Code; and
3. Sounds created by emergency equipment and work necessary for law enforcement, fire prevention, or for the health, welfare and safety of the community; and
4. Sounds created by portable generators during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage; and
5. Sounds created by stationary generators during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage and during weekly testing periods; and
6. Sounds originating from aircraft in flight; and
7. Sounds created by motor vehicles regulated by the City Code; and
8. Sounds created by surface carriers engaged in interstate commerce by railroad; and
9. Sounds created by safety and protective warning devices where noise suppression would render the device ineffective; and

10. Sounds created by existing electrical substations and stationary equipment used to convey water, wastewater or natural gas by a utility; and
11. Sounds, including sounds created by sound amplification equipment, emanating from any event or activity, for which a special event permit pursuant to Section 10-241 of the Wheaton City Code has been issued.
12. Sounds created by bells, chimes and carillons, operating for not more than five minutes in any one hour, from 7AM to sunset.
13. Sounds created by commercial business activity, including but not limited to the loading and unloading of goods and materials, snowplowing, and refuse collection.
14. Sounds customarily resulting from construction and from the maintenance of grounds are exempt from the requirements of this chapter from 7AM to sunset.
15. Sounds originating from the normal and intended use of the recreational facilities of schools, colleges and public parks; between the hours of 9AM and 11PM.

25.4.4 Identification of Environments.

- A. The land use districts listed in the City of Wheaton's Zoning Ordinance, are classified for the purposes of this chapter as follows:
 1. Class A: Residential land use districts; zoned R-1, R-2, R-3, R-4, R-5, R-6 and R-7
 2. Class B: Non-residential land use districts; zoned I-1, O-R, C-1, C-2, C-3, C-4 and C-5
 3. Class C: Manufacturing land use district; zoned M-1

24.5.5 Maximum Permissible Environmental Noise Levels.

- A. No person shall cause or permit sound to intrude onto the real property of another person which exceeds the maximum permissible sound levels established by this chapter. The point of measurement shall be at the property boundary of the receiving property or anywhere within.
- B. For sound sources located within the city, the maximum permissible sound sources are as follows:

	Class A	Class B & C
7AM to 7PM	55 dB(A)	62 dB(A)
7PM to 7AM	50 dB(A)	55 dB(A)

- C. Modifications to maximum permissible sound levels are as follows:
1. Increase for short duration for any receiving property at any time:
 - a. Increase by 15 dBA for 15 continuous minutes in any one-hour period; or
 - b. Increase by 20 dBA for five continuous minutes in any one-hour period; or
 - c. Increase by 25 dBA for 1.5 continuous minutes in any one-hour period; and
 2. Increase by 50 dBA for the operation of sound amplification equipment pursuant to the issuance of a sound amplification permit.
- D. If the measurements of sound are made with a sound level meter, the instrument shall be in good operating condition and shall meet the requirements for a Type I or Type II instrument, as described in American National Standards Institute Specifications as now exist or as hereafter amended or modified. If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such manner that the overall accuracy shall be at least that called for in the National Standards Institute Specifications.
- E. Where a receiving property lies within more than one property class, the maximum permissible sound level shall be determined by the most noise-sensitive property class.

25.4.6 Sound Amplification Permits.

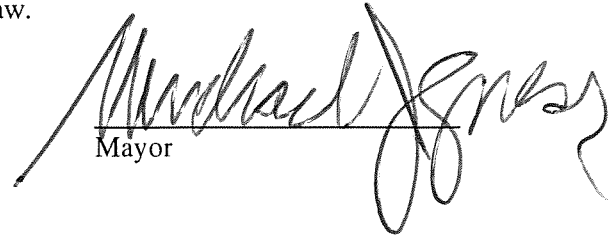
- A. Any person desiring to operate sound amplification equipment and the owner of property on which such equipment is proposed to be operated shall jointly file with the Director of the Department of Planning and Economic Development an application for a permit at least one week in advance of the date on which sound amplification equipment is proposed to be operated and shall provide the following information:
1. The name and address of the sound amplification equipment operator, and a phone number where the operator can be reached during the time when the sound amplification equipment is proposed to be in use;

2. The name and address of the property owner for the location described in subsection (A)(3) of this section if different from the operator, and a phone number where the property owner can be reached during the time when the sound amplification equipment is proposed to be in use;
 3. A statement describing the address and location at which the sound amplification equipment will be in operation;
 4. A general description of the sound amplification equipment and the purposes for which it is to be used; and
 5. A statement designating the proposed time during which the sound amplification equipment will be in operation.
- B. Use of sound amplification equipment may be authorized by the Director of the Department of Planning and Economic Development subject to the following criteria:
1. The use of amplified sound equipment shall not be allowed at the same location on more than four days in any calendar week;
 2. Amplified sound shall be subject to the maximum permissible noise levels for amplified sound set forth in WZO 31.5C2; and
 3. No person shall operate or cause to be operated within the city any sound amplification equipment, the sound from which is plainly audible to occupants of a school during school hours at any time; provided, that this section does not apply to the operation of sound amplification equipment on school grounds.
 4. The operation of sound amplification equipment shall cease at 11 PM.”

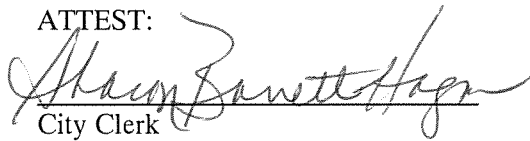
Section 3: In all other respects, the Wheaton City Code and Zoning Ordinance are ratified and remain in full force and effect.

Section 4: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 5: This ordinance shall become effective form and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Mayor

ATTEST:


City Clerk

Roll Call Vote

Ayes:	Councilman Prediville Councilman Rutledge Councilman Saline Mayor Gresk Councilwoman Pacino Sanguinetti Councilman Scalzo Councilman Suess
Nays:	None
Absent:	None

Passed: September 16, 2013
Published: September 17, 2013