

ORDINANCE NO. 2021-12-XXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS, AMENDING SECTION 70-120(b)(2) OF THE CODE
OF ORDINANCES TO ADDRESS AMPLIFIED SOUND ON PUBLIC
PROPERTY DOWNTOWN; ESTABLISHING PRESUMPTIONS;
PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS
ORDINANCE; REPEALING ALL CONFLICTING ORDINANCES;
PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN
EFFECTIVE DATE HEREOF**

WHEREAS, the City of McKinney adopted the Code of Ordinances for the protection of the public health and general welfare of the people of the City of McKinney; and

WHEREAS, the City Council has recognized that certain provisions of the Code of Ordinances should be reviewed and updated; and

WHEREAS, amendments to these provisions have been proposed and the City Council of the City of McKinney is of the opinion that this chapter should be amended.

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

Section 1. That the Code of Ordinances, City of McKinney, Texas, Section 70-120(b)(2) is hereby amended and shall read as follows:

“(2) Radios, television sets, musical instruments, loudspeaking amplifiers and similar devices.

- a. The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of sound within a quiet zone in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday, and between the hours of 11:30 p.m. and 7:00 a.m., Friday and Saturday.
- b. The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeaker and sound amplifiers or other machine or device for the producing or reproducing of sound within a nonresidential area in such a manner as to cause a noise disturbance.
- c. The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device that produces or reproduces sound for the purpose of attracting attention to any cause or demonstration, or to any performance, show, sale or display of merchandise so as to attract attention to such cause, demonstration or premises when such use is done in a manner which causes a noise disturbance.
- d. The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device on trucks or other moving vehicles for the purpose of attracting

attention to any cause or demonstration, or for advertising any show, sale or display of merchandise when such use is done in a manner which causes a noise disturbance.

- e. The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of sound outdoors in a portion of Historic Downtown McKinney being the area depicted on illustration one below between the hours of 10:00 p.m. and 7:00 a.m.. Any such activity shall not create a disturbance if acoustic, non-amplified musical instruments are used between the hours of 10:00 p.m. and 11:30 p.m.
- f. The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, phonograph, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of sound outdoors in the area shown in Illustration One if the source of the sound is located indoors. Furthermore, any such activity shall create a noise disturbance per se if the source of the amplified sound is located outdoors and on public property in the area shown on Illustration One, and is not:
 - i. Authorized by a special event permit;
 - ii. Part of a city-sponsored event or otherwise; or
 - iii. Serving a city function or purpose.
- g. The using, operating or permitting to be played, used or operated any amplified sound production or reproduction device, radio, receiving set, phonograph, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of amplified sound outdoors on public property in the area shown in Illustration One. The following types of amplified sound shall be exempt from this provision:
 - i. Sound originating from a city-sponsored event or sound otherwise serving a city function or purpose; and
 - ii. Sound emanating from a device mounted underneath a building's awning or covered patio that extends into the public right-of-way which does not cause a noise disturbance.

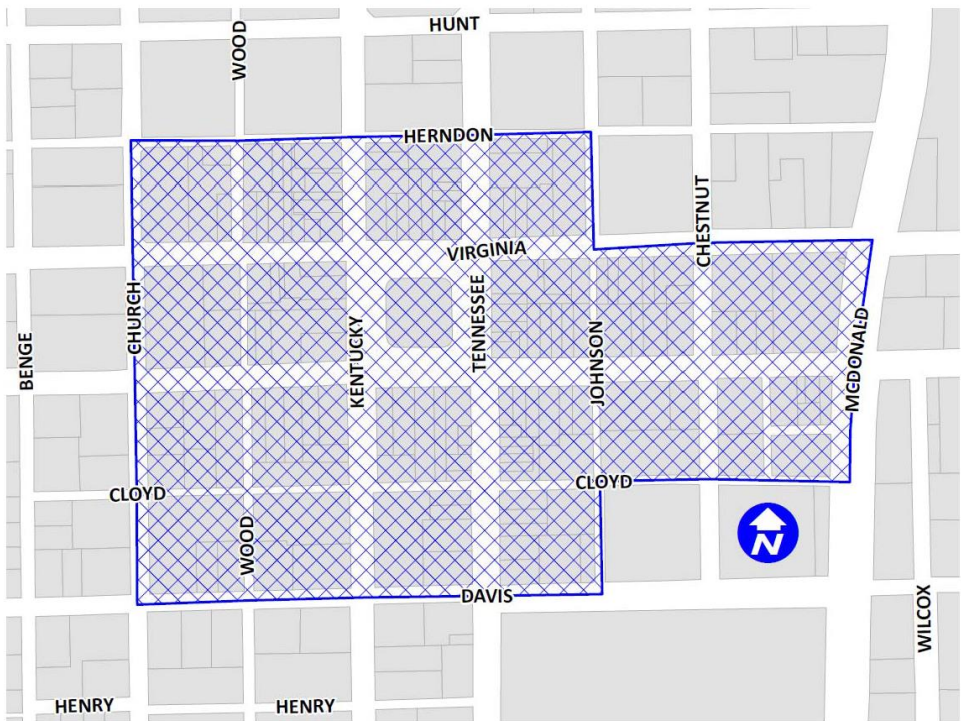


Illustration One”

- Section 2. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.
- Section 3. That this Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.
- Section 4. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 21st DAY OF DECEMBER, 2021.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary
JOSHUA STEVENSON
Deputy City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney