



20-0011M

TITLE: Conduct a Public Hearing to Consider/Discuss/Act on a Request by the City of McKinney to Amend Chapter 146 (Zoning Regulations), Section 146-134 (Performance Standards - Noise) of the Code of Ordinances

COUNCIL GOAL: Operational Excellence
(2E: Continuously provide a high level of customer service to our citizens)

MEETING DATE: January 12, 2021

DEPARTMENT: Development Services - Planning Department

CONTACT: Mark Doty, Assistant Director of Planning
Jennifer Arnold, AICP, Director of Planning

RECOMMENDED CITY COUNCIL ACTION:

- The recommendation of the Planning and Zoning Commission will be forwarded to the City Council for consideration at the January 19, 2021 meeting.

STAFF RECOMMENDATION:

- Staff recommends approval of the proposed amendment.

ITEM SUMMARY: Staff is proposing to amend Section 146-134 (Performance Standards) of the Zoning Ordinance remove an exemption from the performance standards for "a musical performance."

When the noise provisions of the City's performance standards were amended in August of 2019 (Ordinance no. 2019-08-061), additional exemptions were added to address uses and events that have become more prevalent within the community. After applying these new regulations for the last year or so, we have found that the exemptions from Section 146-134(a) of the Zoning Ordinance granted for "a musical performance" essentially exempts said musical performances from all noise regulations contained within the City's Code of Ordinances.

The City currently addresses noise in two sections of the Code of Ordinances; Chapter 70, Article V (Noise) and Section 146-134 (Performance Standards). Generally

speaking, Chapter 70 addresses noise for specific uses and Section 146-134 addresses allowable decibel ranges for various noises. Section 70-121 offers exemptions from all of the noise regulations contained within Chapter 70 and one of these exemptions is “*any activity, noise or sound exempted under Section 146-134.*”

Section 146-134 offers an exemption for “a musical performance” and thereby exempts “a musical performance” from all of the City’s noise regulations. This is an unintended consequence of the ordinance amendment which was approved in August of 2019.

This exemption is particularly problematic as Chapter 70 contains a number of regulations addressing musical instruments, amplifiers, and similar devices throughout the City including and especially in downtown (see Section 70-120(b)(2)). The current status of the City’s regulations essentially prohibit Staff from enforcing these regulations until the proposed amendment is approved. As such, Staff recommends approval of the proposed amendments to Section 146-134(1)(e)(6) to remove the exemption for “a musical performance.”

PROPOSED AMENDMENT

Staff proposes the following modification to Section 146-134 (Performance Standards - Noise):

- e. *Exemptions. The following uses and activities shall be exempt from the noise level regulations herein specified:*
 - 1. *Noises not directly under control of the property user;*
 - 2. *Noises emanating from construction and maintenance activities during daytime hours;*
 - 3. *Noises of safety signals, warning devices, and emergency pressure relief valves;*
 - 4. *Transient noise of moving sources such as automobiles, trucks, airplanes, and railroads;*
 - 5. *Noises necessary to immediately and reasonably prevent the threat of bodily injury, death, or loss of property;*
 - 6. *Noises produced by lawfully scheduled events in full compliance with all issued permits including, but not limited to:*
 - (i) *A stadium or sporting event;*
 - (ii) *A school-sponsored event;*
 - (iii) *An amphitheater event;*
 - (iv) *A musical performance;*
 - (v) *An event, fun run, race, festival, fiesta, or concert that was sponsored or co-sponsored by the city; and*
 - (vi) *A special event as defined by the Code of Ordinances.*

BACKGROUND INFORMATION:

- In order to maintain a high level of customer service to our citizens, Staff recognizes the importance of reviewing the city's Zoning Ordinance from time to time to ensure that it is still performing optimally.

BOARD OR COMMISSION RECOMMENDATION:

- N/A

OPPOSITION TO OR SUPPORT OF REQUEST:

- Staff has received no emails or phone calls in support of or opposition to the proposed amendment.

SUPPORTING MATERIALS:

[Section 146-134 \(Redline\)](#)

[Section 146-134 \(Clean\)](#)

[Chapter 70 - Article V. Noise](#)

[Presentation](#)