

**ORDINANCE 3164-20**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 62, "OFFENSES AND MISCELLANEOUS PROVISIONS" WITHIN DIVISION 2, "NOISE AND DISTURBANCE CONTROL", SECTION 62-97, PROVIDING FOR NOISE CONTROLS RELATED TO OUDOOR LIVE MUSIC TO APPLY CITYWIDE; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Winter Park (the "City") recognizes that the hours of outdoor live music and other amplified sounds from residential house parties or from other venues located nearby residential homes and apartments can affect the livability and peaceful enjoyment of those residential neighbors; and

**WHEREAS**, the City recognizes that providing for uniform hours for certain types of audible live music and other noise and sounds for the control of noise in an equitable manner for the entire City as exists for both the Central Business District and the Hannibal Square Neighborhood Commercial District is in the best interests of the public and residents in order to protect the public health, safety and general welfare.

**NOW THEREFORE, BE IT ENACTED BY THE CITY OF WINTER PARK:**

**SECTION 1: Recitals.** The above recitals are true and correct, are adopted and incorporated herein, and constitute the legislative findings of the City Commission of the City of Winter Park.

**SECTION 2: Amendment.** That Chapter 62 "Offenses and Miscellaneous Provisions", Division 2 "Noise and Disturbance Control, Section 62-97, Subsection (2) of the City of Winter Park Code of Ordinances is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; provisions not shown are not being amended):

**Chapter 62. Offenses and miscellaneous provisions.**

**DIVISION 2. - NOISE AND DISTURBANCE CONTROL**

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**Sec. 62-97. - Specific prohibitions.**

The following acts, among others (this enumeration shall not be deemed to be exclusive), are declared to be noise disturbances in violation of this division:

(2) *Radios, phonographs, television sets, musical instruments, etc.*

a. Using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner:

1. As to disturb the peace, quiet and comfort of neighboring inhabitants;
2. At any time with louder volume than is necessary for convenient hearing for the persons who are in the same dwelling unit of any multiple dwelling in which such machine or device is operated and who are voluntarily listeners thereto; or
3. As to create a noise disturbance.

b. It shall be a violation to commit any one of the enumerated acts listed in this section.

c. The operation of any ~~such~~ sound system, speakers, radio, television, turntable, amplifier, musical set, instrument, phonograph, machine or device between the hours of 10:00 pm and 8:00 am from outside any residential, office or commercial building or between from 11:00 p.m. and 8:00 a.m. from inside any residential, office or commercial building in such manner as to create a plainly audible sound either at a distance of 50 feet from the building, structure or vehicle in which it is located or so that a person inside a building which is across a residential property line from the source of the sound is able to hear the plainly audible sound or vibrations shall be prima facie evidence and create a presumption that a noise disturbance exists in violation of this division. In addition, it shall also be prima facie evidence and create a presumption that a noise disturbance exists in violation of this division when any non-commercially zoned property has outdoor or indoor parties, gatherings, music rehearsals or any other activity where music or other entertainment by sound system, amplifier, musical instruments, or other device is produced on more occasions that once every two (2) months, in such manner as to create a plainly audible sound or vibrations either at a distance of 50 feet from the building or property so that a person inside a building which is across a residential property line from the source of the sound is able to hear the plainly audible sound or vibrations, occurs after 8:00 pm, unless specifically approved by a special event permit issued by the City.

**SECTION 3. INCONSISTENCY.** If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

**SECTION 4: SEVERABILITY.** If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

**SECTION 5: CODIFICATION.** Section 2 of this Ordinance shall be codified and made a part of the City of Winter Code or Ordinances, and the sections of this

Ordinance may be renumbered or re-lettered to accomplish this intention. The word "Ordinance" may be changed to "Section," "Article," or other appropriate word. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

**SECTION 6: EFFECTIVE DATE.** This Ordinance shall become effective immediately following approval by the City Commission at its second reading.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 24th day of February 2020.

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Mayor Steve Leary

ATTEST:

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Rene Cranis, City Clerk