ORDINANCE NO. 23-O-\*\*

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA, AMENDING SECTIONS 12-93, 12-94 AND 12-96 OF THE CODE OF GENERAL ORDINANCES; CONCERNING REGULATION OF EXCESSIVE SOUND; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF TALLAHASSEE, FLORIDA, AS FOLLOWS:

Section 1. Section 12-93 of the Code of General Ordinances is hereby amended and shall read as follows:

Sec. 12-93 – Definitions.

. . .

Plainly audible means sound which is detected by a police officer or code enforcement officer, using the officer's unaided hearing faculties, and measured as provided in section 12-94. ~~at a distance of 100 feet or greater, from the source of the sound, or the property line which is the site of the sound if the property is not otherwise accessible to the officer.~~

. . .

Section 2. Section 12-94 of the Code of General Ordinances is hereby amended and shall read as follows:

Sec. 12-94. – Prohibitions ~~Noise disturbance prohibited~~.

(a) Outside Urban Core - Generally. ~~Except as provided herein, i~~ It shall be unlawful and a violation of this section to make, cause or allow the making of any sound that constitutes a noise disturbance outside the Urban Core at any time. Outside the Urban Core, a noise disturbance shall be such sound which is unreasonably loud, raucous or jarring to a reasonable person of normal sensitivities when plainly audible to an officer at 100 feet or greater.

(b) Within Urban Core - Generally. ~~Except as provided herein, i~~ It shall be unlawful and a violation of this section to make, cause or allow the making of any sound that constitutes a noise disturbance within the Urban Core between the hours of 2:00 a.m. and 7:00 a.m. Within the Urban Core, a noise disturbance shall be such sound which is unreasonably loud, raucous or jarring to a reasonable person of normal sensitivities when plainly audible to an officer at 100 feet or greater.

(c) Within Urban Core – Outdoor Amplified Sound. It shall be unlawful and a violation of this section for an establishment, which offers for sale alcoholic beverages, which is located on a property which is zoned Central Core and which is located within the Urban Core, to create, transmit or produce any outdoor amplified sound which is plainly audible 200 feet from the establishment, any day of the week between 11:00 p.m. and 7:00 a.m. For purposes of this subsection, “amplified” shall mean the use of speakers, loudspeakers, public address system, or mechanical or electronic device to transmit, produce, reproduce, increase, expand or amplify sound. For purposes of this subsection, “outdoor” shall mean the exterior of the establishment, which includes, but is not limited to, courtyards, patios, porches, sidewalks, driveways and any other outdoor space.

(d) Measurement. The distance shall be measured:

(1) from the property line when the person responsible for the sound is the owner or tenant of a property, or the employee, agent, guest or invitee thereof;

(2) from the property line when the property is inaccessible to the officer;

(3) from the source of the sound in all other instances.

Section 3. Section 12-96 of the Code of General Ordinances is hereby amended and shall read as follows:

Sec. 12-96. Enforcement.

(a) Any Tallahassee Police Department Officer or any code enforcement officer, as defined in section 2-148 of this Code, may issue citations for violation(s) of section 12-94.

(b) (1) Upon identifying a violation of ~~noise disturbance as proscribed in~~ section 12-94, the police officer or code enforcement officer shall attempt to notify the owner of the property, or the person responsible for sound, that there is a violation of section 12-94.

(2) Following notice from the responding officer, the owner or person responsible for the sound shall have five minutes to voluntarily reduce the sound to comply with section 12-94. If the sound is reduced within the five-minute voluntary compliance period, no citation shall be issued under this section except as follows.

(3) If an officer has responded to a violation of section 12-94 ~~noise disturbance~~ within the prior six months, concerning the person which is the cause of the sound, or the property which is the site of the sound, a citation may be issued for violation of section 12-94 without notice or opportunity for voluntary compliance pursuant to this subsection. Where an officer responds to a subsequent violation of section 12-94 ~~noise disturbance~~ within a six-month period, the voluntary compliance opportunity shall be eliminated whether or not a citation was issued for the prior ~~noise disturbance~~ incident.

(4) In the event that a police officer or code enforcement officer is refused entrance or access to the property which is the site of sound in violation of section 12-94, a citation may be issued for violation of section 12-94 without notice or opportunity for voluntary compliance pursuant to this subsection.

(c) In the event that a police officer or code enforcement officer is refused entrance or access to the property which is the site of ~~the noise disturbance in~~ a violation of section 12-94, or if a police officer or code enforcement officer is unable to determine the person responsible for the violation ~~noise disturbance~~, there shall be a rebuttable presumption that the property owner was responsible for the violation ~~noise disturbance~~ in violation of section 12-94. In such event, a citation may be issued to the property owner on record with the Leon County Tax Collector, as provided in this section. The property owner may rebut the presumption of responsibility by contesting the citation and establishing that the property owner was not the cause or the source of the violation ~~noise disturbance~~.

(d) If two or more ~~noise disturbance~~ citations for violation of section 12-94 have been issued at a specific location within the prior six months, the property owner shall be presumed to be jointly and severally responsible for any subsequent violation ~~noise disturbance~~. In such event, a citation shall be issued to the property owner on record with the Leon County Tax Collector, as provided in this section. The property owner may rebut the presumption of responsibility by contesting the citation and establishing that the property owner has taken reasonable efforts to prevent any violation ~~noise disturbances~~ at the property.

(e) Any citation for violation of section 12-94 shall contain the information prescribed in subsection 2-154(c) of this Code. Citations shall be provided to any violator, including any property owner, by hand delivery by any police officer or code enforcement officer, or by certified mail, return receipt requested.

(f) Any person cited for violation of section 12-94 may contest the violation within 30 days, and shall be brought before the City Code Magistrate or code enforcement board, or shall be brought before the Leon County Court. The city shall have discretion to determine the venue for adjudication of the violation.

(g) A fine of $250.00 shall be imposed for a first violation; $350.00 for a second violation; and $500.00 for a third and any subsequent violation. It shall be a separate violation if ~~noise disturbance~~ sound in violation of section 12-94 continues or re-occurs, after the passage of 15 minutes, following notice of the violation, issued by a police officer or code enforcement officer, to the property owner, or person responsible for or causing the violation ~~noise disturbance~~.

(h) A certified copy of the order imposing any fine under this division may be recorded as a lien on the property of any violator for collection in accordance with subsection 2-183(e) of this Code.

Section 4. Conflicts. All ordinances and parts of ordinances of the City of Tallahassee, Florida, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 5. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 6. Effective Date. This ordinance shall become effective immediately upon its passage.

INTRODUCED in the City Commission on the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023.

PASSED by the City Commission on the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023

CITY OF TALLAHASSEE

 By:

 John E. Dailey

 Mayor

ATTEST: APPROVED AS TO FORM:

By: By:

 James O. Cooke IV Cassandra K. Jackson

 City Treasurer-Clerk City Attorney