

City of Plano – December 2017 – Ordinances and Resolutions

Resolution No. 2017-12-1(R): To approve the Policy Statement for Tax Abatement of the City of Plano thereby establishing criteria for evaluating incentive applications; establishing procedural guidelines and criteria governing tax abatement agreements; and providing an effective date.

Ordinance No. 2017-12-2: To repeal Ordinance No. 99-12-12 codified as Article V, Noise, of Chapter 14, Offenses - Miscellaneous of the City of Plano Code of Ordinances and adopting a new Article V, Noise, of Chapter 14, Offenses -Miscellaneous of the City of Plano Code of Ordinances; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause, and an effective date.

Ordinance No. 2017-12-3 (Zoning Case 2017-010): To amend Section 24.200 (Noise) of Article 24 (Performance Standards) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as heretofore amended, pertaining to noise regulations; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.

RESOLUTION NO. 2017-12-1(R)

A Resolution of the City of Plano, Texas, approving the Policy Statement for Tax Abatement of the City of Plano thereby establishing criteria for evaluating incentive applications; establishing procedural guidelines and criteria governing tax abatement agreements; and providing an effective date.

WHEREAS, tax abatement guidelines and criteria are effective for two (2) years from the date of adoption; and

WHEREAS, the existing tax abatement guidelines and criteria were adopted on November 14, 2011 and amended on January 23, 2012, January 13, 2014, and December 14, 2015; and

WHEREAS, the City Council wishes to adopt a Policy Statement for Tax Abatement for the City of Plano that is applicable for all tax abatement applications filed after the date of this Resolution, a substantial copy of which is attached as Exhibit "A" and incorporated herein by reference (hereinafter called "Policy"); and

WHEREAS, upon full review and consideration of the Policy and all matters attendant and related thereto, the City Council is of the opinion that the Policy should be approved.

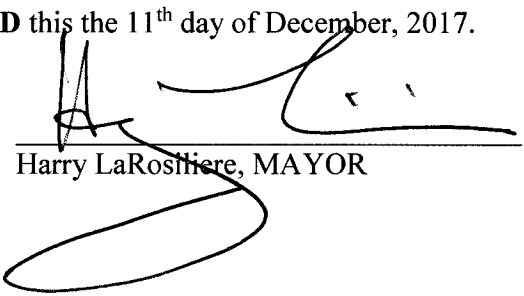
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The terms and conditions of the Policy having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, is hereby in all things approved.

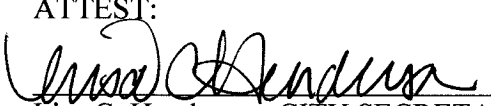
Section II. The City of Plano elects to be eligible to participate in tax abatement agreements.

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 11th day of December, 2017.


Harry LaRosliere, MAYOR

ATTEST:


Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:


Paige Mims, CITY ATTORNEY

CITY OF PLANO, TEXAS

POLICY STATEMENT FOR TAX ABATEMENT

Effective 01-01-2018

I. General Purpose and Objectives

The City of Plano is committed to the promotion and retention of high quality development in all parts of the City and to an ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City of Plano will, on a case-by-case basis, give consideration to providing tax abatement as stimulation for economic development in Plano.

The City of Plano will consider providing incentives in accordance with the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that the City of Plano is under any obligation to provide tax abatement to any applicant. All applicants shall be considered on a case-by-case basis.

II. Criteria

All tax abatements provided by the City of Plano must have as their underlying goal to further economic development in Plano. The goals to be achieved by the granting of the tax abatement should be measurable and be binding upon the recipient of the tax abatement as set forth in an agreement between the City and recipient.

Any person, organization or corporation seeking a tax abatement to foster location, improvement or expansion of operations within the city limits of Plano, must comply with the following procedures. Nothing within these procedures shall imply or suggest that Plano is under any obligation to provide any incentive to an applicant.

III. Value of Tax Abatements

Following an assessment of the Application and narrative response, the City Manager shall determine whether it is in the best interests of the City to recommend that a tax abatement be offered to the applicant. Additional consideration beyond the criteria will include such items as the degree to which the project/applicant furthers the goals and objectives of the community or meets or compliments a special need identified by the community.

Exhibit "A" to Resolution No. 2017-12-1(R)

Tax Abatement shall be offered in two categories: 1) Real Property and/or 2) Business Personal Property. Real Property abatements will be offered to applicants that pursue the construction of new or expanded facilities in which to house the applicable project. The abatement will apply to the assessed value of improvements made. Business Personal Property abatements will be offered to applicants that pursue the purchase or long-term lease of existing facilities. The abatement will apply to the assessed value of new personal property brought into the taxing jurisdiction. Assessed value as used in this Policy Statement shall mean the taxable value of Real Property improvements and Business Personal Property as determined by the county appraisal district in which the property is located.

Once a determination has been made that a tax abatement should be offered, the percentage of abatement and term of the abatement will be determined based upon information provided in the Application and narrative response.

IV. Application

- A. Applicant shall complete the attached "Application for Tax Abatement" ("Application").
- B. Applicant shall prepare a plat showing the precise location of the property to which the tax abatement applies, all roadways within 500 feet of the site, and all existing land uses and zoning within 500 feet of the site, and the address of the property. Twenty-one (21) days prior to the public hearing, the applicant must provide a metes and bounds property description and a general address of the property.
- C. Applicant shall complete all forms and information detailed in items A through B above and submit them to the Plano Economic Development Department, City of Plano, 5601 Granite Parkway, Suite 310, Plano, Texas 75024. Applicant shall also submit a copy of the Application to the Director of Finance, City of Plano, P. O. Box 860358, Plano, Texas 75086-0358 (email: finadmin@plano.gov).
- D. Any information provided by applicant on the Application may be subject to release to the public pursuant to the Texas Public Information Act. It is the responsibility of the applicant to clearly identify information it wishes to protect from release that is considered proprietary or confidential. The City will notify the

Exhibit "A" to Resolution No. 2017-12-1(R)

applicant if a request is made for information indicated as confidential by the applicant so that the applicant may assert to the Texas Attorney General its right to be withheld from release.

- E. Certain information provided to the City in connection with an Application may be confidential and not subject to public disclosure until the incentive agreement is executed. The City of Plano, will respond to requests for disclosure as required by law and will assert exceptions on its behalf to disclosure as it deems relevant. The City will make reasonable attempts to notify the applicant of the request so it may assert its own objections to the Attorney General.

V. Application Review Steps

- A. All information in the Application package detailed above will be reviewed for completeness and accuracy. Additional information may be requested as needed.
- B. The City Manager may use City personnel and third parties to assist in the Application review process.
- C. Upon review, the City Manager will determine whether he/she will recommend proposed tax abatement to the applicant subject to final Council approval. The proposed incentive recommendation by the City Manager does not bind the City Council to grant a tax abatement. It is a conditional recommended offer and subject to the City Council's approval.
- D. Upon receipt of the proposed offer to be recommended to the City Council, the applicant will have ninety (90) days to accept, decline or request an extension of the proposed offer. All responses and requests shall be made in writing to the City Manager. In certain circumstances, the City Manager may alter the time frame.
- E. Upon written acceptance by the applicant of the proposed offer, the recommendation of the City Manager with all relevant materials will be forwarded to the City Council.
- F. The City Council of Plano may consider a resolution calling a public hearing to consider establishment of a Reinvestment Zone.

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- G. The City Council of Plano may hold the public hearing and determine whether the project is "feasible and practical and would be of benefit to the land to be included in the zone and to the municipality after the expiration of the tax abatement agreement."
- H. The City Council of Plano may consider adoption of an ordinance designating the area described in the legal description of the proposed project as a commercial/industrial tax abatement zone.
- I. The City Council of Plano may consider adoption of a resolution approving the terms and conditions of a contract between the City and the applicant governing the provision of the tax abatement.
- J. The governing body of Collin County may independently consider participating in a separate tax abatement agreement between the County and the applicant. Independent School Districts and Collin County Community College are either prohibited by law or have elected not to participate in tax abatement agreements.
- K. If the tax abatement agreement is approved, the City of Plano will send copies of the agreement to the Office of the Governor Economic Development and Tourism, Office of the Comptroller, and to the State Property Tax Board each April.
- L. Property taxes are assessed on January 1 of each year. It is the obligation of the applicant to ensure that all final approvals for the tax abatement agreement have occurred by December 31st of the year prior to the year the improvements are assessed. No tax abatement can be given for improvements that are on the Tax Assessor's Roll before the tax abatement is effective. The applicant should be aware that because of mandatory publication requirements, compliance with the governing body's calendar, and other matters, the process for obtaining approval for a tax abatement with the City of Plano governing body may take as long six weeks. It is the applicant's responsibility to ensure the follow up of these items and approvals.

VI. Tax Abatement Agreement Terms

At a minimum, all tax abatements shall include the following provisions:

Exhibit "A" to Resolution No. 2017-12-1(R)

1. No Business Personalty shall be relocated from any other City of Plano created Reinvestment Zone;
2. Job creation and/or retention shall not be a requirement for tax abatement agreements including any tax abatement agreements in effect at the time of adoption of this policy;
3. Right of inspection to the premises must be provided to ensure compliance with the agreement;
4. The right of recapture of previously abated taxes if applicant fails to pay taxes for the assessed value for the Real Property and/or Business Personalty;
5. The value of all Real Property improvements and Business Personal Property will be the assessed value as determined by the appropriate county appraisal district;
6. The term of a tax abatement agreement may not exceed ten (10) years as required by law;
7. The right to terminate a tax abatement agreement in the event of a material breach of the agreement; and
8. Written annual certification by the Chief Financial Officer, President and/or other City approved designated officer of the entity receiving the incentive that it has complied with the terms and conditions of the incentive agreement.

VII. Modification of Tax Abatement Agreements

Any requests by the applicant to modify the terms of the agreement subsequent to City Council action shall be accompanied by the payment of a non-refundable, modification processing fee in the amount of One Thousand Dollars (\$1,000.00) for associated administrative costs.

CITY OF PLANO, TEXAS

APPLICATION FOR TAX ABATEMENT

NOTE: PLEASE CLEARLY IDENTIFY ANY INFORMATION YOU DEEM TO BE CONFIDENTIAL OR PROPRIETARY. THE CITY WILL ATTEMPT TO PROTECT ANY INFORMATION MARKED CONFIDENTIAL OR PROPRIETARY AND WILL NOTIFY THE APPLICANT OF ANY REQUESTS FOR DISCLOSURE.

Project Information

1. Applicant Company's Name:
Company's Representative:
Title:
Mailing Address:
City, State, Zip:
Telephone Number:
Email Address:
Website Address:

2. Tenant's Representative:
Title:
Company:
Mailing Address:
City, State, Zip:
Telephone Number:
Email Address:

3. Property Owner:
Property Owner's Representative:
Title:
Company:
Mailing Address:
City, State, Zip:
Telephone Number:
Email Address:

4. Property Address and/or location description:

5. Property Legal Description (attach metes and bounds):

Exhibit "A" to Resolution No. 2017-12-1(R)

6. Located within:
 - City of Plano
 - Plano Independent School District
 - Lewisville Independent School District
 - Frisco Independent School District
 - Collin County
 - Denton County

7. Company description and overview (including headquarters location, year founded, products and services, and annual revenue and growth).

8. Applicant business is:
 - Public
 - Private

9. State of Incorporation:

10. Is a recent annual audit available?
 - If yes, please submit a copy with Application.
 - If no, financials to be provided upon request.

11. Applicant company's four digit NAICS Industry Code: (if known)

12. Description of project:

13. Will any zoning changes be necessary to accommodate the project?
 - If yes, please provide additional information:

14. Does the applicant company plan to utilize Plano-based companies in the design, construction and on-going operations of the facility?

15. Date projected for occupancy of project/initiation of operations:

16. Will applicant company occupy:
 - Existing space:
 - Space currently planned or under construction:
 - Proposed new facility:

17. Acreage of proposed site:

18. Square footage of proposed occupied space:

Exhibit "A" to Resolution No. 2017-12-1(R)

19. Proposed type of occupancy:

- Owner Occupied
- Landlord/Tenant

If leasing, what is length of lease?

20. Applicant business is: (Click all that apply)

- Existing** Plano company
- New** company to Plano
- Expanding
- Relocating from another city in Texas
- Relocation from out-of-state or country

21. If company is currently located in Plano:

When does their current lease expire?

What is the square footage of currently occupied space?

22. Type of tax abatement requested:

- Real Property improvements
- Business Personal Property improvements

23. Specify other economic assistance requested:

Employment Impact

1. Number of Full Time Equivalent (FTE)* employed by applicant company at occupancy and to be maintained throughout the term of the agreement (exclusive of contract employees):

*FTE means one or more job positions located at the Property which individually or when combined total 2080 hours (inclusive of holidays, vacation and sick leave) annually.

2. Future FTE employment (if applicable):
Projected FTE employment (milestone) of _____ (indicate number)
by _____ (indicate date)
Projected FTE employment (milestone) of _____ (indicate number)
by _____ (indicate date)
3. Is this an existing business in Plano?
If yes, what is the FTE employment that will be retained in Plano by this project?
4. Does the applicant company anticipate hiring contract employees?
If yes, what is the number of FTE contract employees?
What is the median annual salary of the FTE contract employees?
5. If applicable, what is the number of FTE positions that will be relocated to Plano from applicant company's other locations?
Provide location(s) the positions are being relocated from:
6. Indicate the applicant company's FTE employment (at occupancy) in each category and provide detail on the positions within the category:
Executive
Professional Number and position title(s)
Managerial Number and position title(s)
Technical Number and position title(s)
General Staff Number and position title(s)
Production Workers Number and position title(s)
Other: _____ Number and position title(s)
Total company FTEs
7. What will be the **MEDIAN** annual salary of company's FTEs (at occupancy)?
8. Projected annual payroll at occupancy:

Fiscal Impact

	Initial Year of Occupancy	In Year (If applicable)	In Year (If applicable)
<p>1. What is the estimated fair market value of the Real Property (RP) improvements (<u>exclusive of land</u>) that will be added to the tax base?</p> <p>The RP taxable value shall be determined by the Collin Central Appraisal District.</p>			
<p>2. What is the estimated fair market value of the Business Personal Property (BPP) improvements that will be added to the tax base?</p> <p>The BPP must be owned by Company and will not include inventory or supplies nor be relocated from any other property currently located in the City of Plano. The BPP taxable value shall be determined by the Collin Central Appraisal District.</p>			
<p><u>TOTAL CUMULATIVE IMPROVEMENTS</u></p>	\$	\$	\$

3. If applicable, what is the annual value of inventory eligible for Freeport Exemption?

4. If applicable, what is the annual value of sales that will be subject to sales tax collection by the City of Plano?

5. Will additional infrastructure investment be required from the City of Plano at the proposed site(s)?

If yes, detail required improvements including cost estimates.

Community Impact

1. Please summarize the overall economic impact on the City of Plano (sales, Real Property and Business Personal Property improvements, employment, business sector, etc.).
2. Please estimate the annual number of room-nights* in the City of Plano the applicant company anticipates generating.

*Room-nights are the number of hotel rooms booked x the number of nights, i.e. four rooms booked for five nights equals 20 room-nights.

3. Please describe the necessity in requesting property tax abatement. Describe the competitive, financial or other issues associated with this Application.

Certifications

Certification of No Undocumented Workers

Chapter 2264 of the Texas Government Code requires that each business that submits an application to receive a public subsidy include in the application a statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker. An undocumented worker means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under the law to be employed in that manner in the United States. If after receiving a public subsidy, the business, or a branch, division, or department of the business, is convicted of a violation under 8 U.S.C. Section 1324a(f), the business shall repay the amount of the public subsidy with interest, at the rate and according to the other terms provided by an agreement under Section 2264.053, not later than the 120th day after the date the public agency, state or local taxing jurisdiction, or economic development department notifies the business of the violation.

I hereby certify that _____ is in compliance with Chapter 2264 of the Texas Government Code.

Signature:
Name:
Title:
Company:

Exhibit "A" to Resolution No. 2017-12-1(R)

I hereby certify that I have read the City of Plano Policy Statement for Tax Abatement and the information provided in this Application is, to the best of my knowledge and belief, true and correct.

Date:

Signature:

Name:

Title:

Company:

Note: Insertion of '/s/' above the name is acceptable evidence of an electronic signature by the person so signing.

ORDINANCE NO. 2017-12-2

An Ordinance of the City of Plano, Texas, repealing Ordinance No. 99-12-12 codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances and adopting a new Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause, and an effective date.

WHEREAS, on December 13, 1999, the City Council passed Ordinance No. 99-12-12, codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances; and

WHEREAS, staff recommends adopting a new ordinance to be codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances to combine all noise regulations and create a comprehensive noise ordinance; and

WHEREAS, after consideration of the recommendations of staff and all matters attendant and related thereto, the City Council is of the opinion that it is in the best interest of the City and its citizens that the new noise ordinance be adopted and codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances.

NOW THEREFORE, BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Ordinance No. 99-12-12 codified as Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances is repealed in its entirety.

Section II. A new Article V, Noise, of Chapter 14, Offenses – Miscellaneous of the City of Plano Code of Ordinances is hereby adopted to read as follows:

“ARTICLE V. – NOISE

Sec. 14-85. - Definitions.

Unless otherwise expressly stated, the following words, terms, and phrases shall have the following meanings when used in this article:

Background noise shall mean the all-encompassing sound associated with a given environment without contributions from a specific noise source.

Commercial shall mean, for the purposes of this article, all non-residential zoning districts as outlined in the city’s current zoning ordinance except for Light Industrial – 1 and Light Industrial – 2 districts

Construction shall mean any phase of the on-site erection or removal, including, but not limited to, excavation, demolition, alteration, repair, or maintenance, of any building or structure, or associated landscaping or paving activities conducted on that site.

Day or daytime shall mean from 7:00 AM to 10:00 PM.

ORDINANCE NO. 2017-12-2

Impulsive noise shall mean any specific noise that contains successions of pulses or transients and if the sound level changes at a rate greater than 10 dB per second.

Industrial shall mean, for the purposes of this article, Light Industrial – 1 and Light Industrial – 2 districts as outlined in the city’s zoning ordinance.

Night or nighttime shall mean from 10:01 PM to 6:59 AM.

Noise level shall mean the A-weighted sound pressure level in decibels (dBA).

Noise nuisance shall mean any specific noise that is likely to cause unreasonable discomfort or distress to a reasonable person or to unreasonably interfere with the use or enjoyment of property.

Owner shall mean any person, corporation, association, firm, partnership or other entity with ownership, care, custody, or control over property.

Person shall mean any individual, corporation, association, firm, partnership or other entity with ownership, care, custody, or control over property.

Residential shall mean, for the purposes of this article, residential zoning districts as outlined in the city’s zoning ordinance.

Specific noise shall mean any noise that is clearly distinguishable from the background noise.

Sport shooting range shall have the meaning in Sec. 250.001, Local Government Code.

Sec. 14-86. – Offenses.

- (1) It shall be an offense for any person to intentionally, knowingly, or recklessly make or cause to be made an unreasonable noise
 - (a) in a public place, other than a sport shooting range, or
 - (b) on private property that the person has no right to occupy.
- (2) It shall be an offense for an owner of property to intentionally, knowingly, or recklessly make, cause to be made, or allow a noise nuisance on property owned by him or subject to his care, custody or control.
- (3) The issuance of a certificate of occupancy, land occupancy permit, multiple pet permit, or permit issued by City of Plano shall not be a defense to prosecution under this Article.

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Sec. 14-87. – Presumptions.

(1) A noise is presumed to be unreasonable and declared to be a noise nuisance if it meets any of the following criteria:

(a) The noise directly or indirectly results in a specific noise level exceeding the maximum applicable noise level in the following table:

Table 1: Maximum Specific Noise Levels		
	Timeframe	
	Day	Night
	7:00 AM to 10:00 PM	10:01 PM to 6:59 AM
Residential	65 dB or 10 dB above the background noise level, whichever is lower	55 dB or 5 dB above the background noise level, whichever is lower
Commercial/Mixed Use	70 dB or 10 dB above the background noise level, whichever is lower	60 dB or 5 dB above the background noise level, whichever is lower
Industrial	75 dB or 10 dB above the background noise level, whichever is lower	65 dB or 5 dB above the background noise level, whichever is lower
<ul style="list-style-type: none"> • If the background noise level exceeds the maximum permitted noise level indicated above, the background noise level shall be the maximum noise level. • 5 dB shall be subtracted from the maximum Noise Level where the Noise Level includes impulsive noise. • The most restrictive maximum Noise Level shall apply at the property where the noise is audible. 		

(b) Amplification of sound for commercial advertising.

The noise is from the production or amplified reproduction of sound that is broadcast into a public place or upon a public street or highway for the purpose of commercial advertising or attracting the attention of the public to a building, structure, person, or event.

(c) General amplification of sound.

The noise is from the production or amplified reproduction of the human voice, and the sound is plainly audible on private property or for fifty (50) feet or more onto public property.

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(d) Schools, courts, religious facilities, and hospitals.

The noise is

- (i) created in a public place or on a public street or highway adjacent to a school, institution of learning, religious facility, a court while in use, or adjacent to a hospital, and
 - (ii) is reasonably likely to interfere with the workings of such institution or disturb or annoy a patient in the hospital, and
 - (iii) a sign; indicating that a school, institution of learning, religious facility, court, or hospital is in the vicinity is posted so as to be visible to motorists, passengers, and pedestrians.
- (e) The noise is created by the operation of a motor vehicle that is not equipped with a muffler in good working condition that continuously operates to prevent excessive or unusual noise.
- (f) Animals.

The noise is from an animal that

- (i) is frequent or habitual so that it is disturbing to a reasonable person, whether the animal is contained at any public or private facility, a residence, or in a public place, and
 - (ii) is under the care, custody or control of a person, corporation, association, firm, partnership, or other entity.
- (2) An act is deemed to occur in a public place or on private property if it produces the prohibited noise or vibration in the public place or on private property.

Sec. 14-88. – Vibration.

It shall be an offense for any person or owner to intentionally, knowingly, or recklessly make, cause to be made, or allow any unreasonable ground or structure-borne vibration.

Sec. 14-89. – Defenses.

It shall be an affirmative defense to prosecution under this article that:

- (1) The noise is immediately and reasonably necessary to prevent imminent threat of bodily injury, death, or loss of property.

ORDINANCE NO. 2017-12-2

- (2) The noise is a reasonable result from a lawfully scheduled event in full compliance with all permits issued by the City and all other local, state, and federal laws, including, but not limited to:
 - (a) A stadium or sporting event;
 - (b) School-sponsored event;
 - (c) A parade;
 - (d) An amphitheater event;
 - (e) A musical performance;
 - (f) An event using a real or simulated cannon, firearm, gunfire, explosive, or pyrotechnic item;
 - (g) An event, fun run, race, festival, fiesta, or concert that was sponsored or co-sponsored by the City; or
 - (h) A special event as defined in the City of Plano Code of Ordinances.
- (3) The noise is produced by reasonably necessary construction-related activities on real or personal property, conducted at any point from 7:00 a.m. through 10:00 p.m., and the activity is in compliance with all other State and Federal laws and the City of Plano Code of Ordinances, and the noise does not directly or indirectly result in a specific noise level exceeding 85 dBA.
- (4) The noise is produced by the operation of any heating, refrigeration, ventilation, air conditioning equipment or system, or pool equipment, and the noise does not directly or indirectly result in a specific noise level exceeding 65 dBA on residential property or 75 dBA on commercial or industrial property.
- (5) The noise is produced as part of a religious observance or service, provided the sound does not cumulatively exceed five minutes duration in any one-hour period.
- (6) The noise is produced by reasonable activities conducted in public parks, public playgrounds, or public or private school grounds, at any point from 7:00 a.m. through 10:00 p.m.
- (7) The noise is produced by the lawful operation of a motor vehicle under the Texas Transportation Code.
- (8) The noise is produced by the transportation, placement, filling, collection, or removal of a waste or recycling receptacle or container at any point from 7:00 a.m. through 10:00 p.m. in an area zoned for residential use or within three hundred (300) feet of an area zoned for residential use.

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- (9) The noise is produced by construction-related activity outside of the designated hours set forth in this article, and said activity has received written approval from the City, has been approved by a State or Federal authority, or is reasonably necessary due to an emergency.
- (10) The noise is produced by a property that has received a variance from the City's Board of Adjustment allowing the noise that would otherwise be prohibited.

Sec. 14-90. – Applicability

This article shall not apply to noise created by emergency vehicles or equipment of the State, a political subdivision of the State, or a Federal agency.

Sec. 14-91. - Compliance with other provisions.

A person may request a noise variance by following the process set forth in the zoning ordinance of the City.

Sec. 14-92. - Enforcement.

The City Manager or their designee shall have authority to enforce this article.

Sec. 14-93. - Penalties.

- (1) It shall be an offense to fail to comply with any provision of this article, and, upon conviction thereof, a person shall be punished by a fine in an amount not to exceed Five Hundred Dollars (\$500.00). Each day a violation occurs shall constitute a separate offense.
- (2) Repeat and Habitual Offenders.
 - (a) If it is shown on the trial of an offense under this article that the defendant has previously been finally convicted of an offense under this article, on conviction the person shall be punished by a fine of not less than \$300.00 and not to exceed \$500.00.
 - (b) If it is shown on the trial of an offense under this article that the defendant has previously been finally convicted of two offenses under this article, on conviction the person shall be punished by a fine of not less than \$400 and not to exceed \$500.
 - (c) This subsection applies only to a person finally convicted of a second or subsequent offense within three years of the date on which the most recent preceding offense was committed.
- (3) In addition to the penalties prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits.”

ORDINANCE NO. 2017-12-2

Section III. All provisions of the Code of Ordinances of the City of Plano, codified or uncodified, in conflict with the provision of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncodified, not in conflict with this Ordinance shall remain in full force and effect.

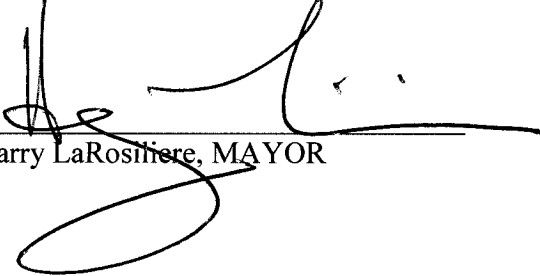
Section IV. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section V. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section VI. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City of Plano Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED this the 11th day of December 2017.


Harry LaRosiere, MAYOR

ATTEST:


Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:


Paige Mims, CITY ATTORNEY

ORDINANCE NO. 2017-12-3

Zoning Case 2017-010

An Ordinance of the City of Plano, Texas, amending Section 24.200 (Noise) of Article 24 (Performance Standards) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2015-5-2, as heretofore amended, pertaining to noise regulations; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 28th June 2017, for the purpose of considering a change in the Zoning Ordinance; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 11th day of December 2017; and

WHEREAS, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Section 24.200 (Noise) of Article 24 (Performance Standards) of the Comprehensive Zoning Ordinance No. 2015-5-2, as the same has been heretofore amended, is hereby further amended, such section to read in its entirety as follows:

The sound pressure level at the bounding property line of any use shall not exceed the decibel scale limits and timeframes adopted in the Code of Ordinances of the City of Plano, with the exceptions set forth in the Code. Staff may require the applicant to provide an analysis projecting anticipated noise arising from proposed use of the property. Such analysis may be required by staff at the time of application or during review of a plan for development.

ORDINANCE NO. 2017-12-3

Section II. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section IV. Any violation of the provisions or terms of this ordinance by any person, firm, or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

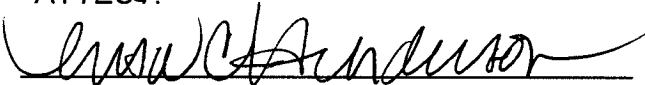
Section VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 11TH DAY OF DECEMBER 2017.



Harry LaRosiliere, MAYOR

ATTEST:



Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:



Paige Mims, CITY ATTORNEY