

ORDINANCE NO. 66-2016

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 20, OFFENSES, ARTICLE I. IN GENERAL, SECTION 20-3, "AMPLIFIERS, ETC. USE ON PREMISES," OF THE ABILENE MUNICIPAL CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.**

WHEREAS, the City of Abilene ("City") adopted an ordinance in 1965 regulating and prohibiting the use of amplification on premises; and

WHEREAS, the ordinance lacks a measureable standard to determine when and if a person violates the ordinance by his or her use of amplification; and

WHEREAS, such lack of a measurable standard may render the ordinance unconstitutional under current First Amendment jurisprudence; and

WHEREAS, litigation was initiated challenging the constitutionality of Section 20-3, Code of Ordinances, and the litigation has been resolved; and

WHEREAS, the City Council desires that all persons be able to exercise their First Amendment rights under the U.S. Constitution with minimal governmental intrusion; and

WHEREAS, the City has other applicable noise ordinances to regulate and prohibit unreasonable noise with the city limits; and

WHEREAS, Section 20-3, Code of Ordinances, should be removed.

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

**PART 1:** That Chapter 20, Article I, Sections 20-3, of the Code of Ordinances, City of Abilene, Texas, is hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

**PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

**PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance, shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.

Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON FIRST READING this 1<sup>st</sup> day of December, 2016.**

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 11<sup>th</sup> day of December, 2016, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 15<sup>th</sup> day of December, 2016, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON SECOND AND FINAL READING this 15<sup>th</sup> day of December, 2016.**

ATTEST:

  
CITY SECRETARY

  
MAYOR

APPROVED:

  
CITY ATTORNEY

**EXHIBIT A**

**Chapter 20**

**OFFENSES**

**ARTICLE I. IN GENERAL**

**Sec. 20-3. Reserved.**