

AN ORDINANCE TO AMEND CHAPTER 11 OF THE CITY CODE TO PROHIBIT NOISE DISTURBANCES THAT TARGET A PARTICULAR RESIDENCE

#0439

Sponsor:

Council
Member
N. Field

Co-Sponsors:

Council
Members
B. Fields
Spadola

WHEREAS, in *Carey v. Brown*, 447 U.S. 455, 471 (1980), the Supreme Court of the United States asserted that the “State’s interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society”; and

WHEREAS, in *Frisby v. Schultz*, 487 U.S. 474, 484-85 (1988), the U.S. Supreme Court recognized that protecting an individual’s right to privacy inside their home is a significant government interest, stating “we have repeatedly held that individuals are not required to welcome unwanted speech into their own homes and that the government may protect this freedom”; and

WHEREAS, City residents have expressed concern regarding noise disturbances related to targeted residential picketing; and

WHEREAS, pursuant to § 1-101 of the City Charter, the City is authorized to “enact ordinances and to make rules and regulations necessary and proper for carrying into execution of any of its express or implied powers; and such ordinances, rules and regulations may be made enforceable by the imposition of fines, forfeitures, penalties and imprisonment”; and

WHEREAS, City Council believes this provision appropriately balances the significant government interest of protecting every resident’s right to a peaceful existence inside their residence and the First Amendment right of others to express an opinion or message to their fellow residents or the public through a traditional public forum.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 11 (“Environment”) of the City Code is hereby amended by adding the following underlined language to Article III (“Noise Control and Abatement”):

Sec. 11-60. - Plainly audible sounds and unmeasured noise disturbances prohibited.

(a) *Enforcement.* This section shall be enforced by the police department.

(b) *General prohibitions.* It shall be unlawful for any person to make, continue, or cause to be made, or to create a noise disturbance within the boundaries of the city, except as provided in this article.

(c) *Specific prohibitions.*

(17) Targeted Noise Disturbance Prohibited. No person, or group of persons, shall knowingly make a noise disturbance that is specifically prohibited by this section and that is focused on a residence.

a. A noise disturbance is focused on a residence when the person or group of persons making the noise disturbance are stationary in the front, side or back of a residence, or proceed on a definite course or route around a residence; and the noise is such that it causes a noise disturbance to an occupant of the targeted residence or the occupant of another nearby residence.

c. A residence under this subsection means a dwelling that is not the sole place of business or place of meeting of the intended target of the noise disturbance.

d. A noise disturbance under this subsection does not include noise levels established by section 11-65 but includes the balance of its defined meanings in section 11-56.

e. Targeted noise disturbances are not permitted at any time during any 24-hour day and whether on a weekday or weekend.

Sec. 11-61. - Use and activity exemptions.

The following uses and activities shall be exempt from the noise level requirements of this article:

(7) *Noncommercial events*, parades, public speaking or public assembly activities, including political rallies and promotions, conducted on any public space or right-of-way, provided that such activities are in compliance with all other applicable provisions of the city and state codes, ~~and~~ are conducted only between the hours of 9:00 a.m. and 9:00 p.m., and do not constitute a targeted noise disturbance in violation of section 11-60(c)(17).

SECTION 2. This Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First Reading.....June 6, 2024
Second Reading...June 6, 2024
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this _____ day of _____, 2024

Mayor

SYNOPSIS: This ordinance amends Chapter 11 of the City Code by amending the City's Noise Ordinance to prohibit and fine noise disturbances targeted at a particular residence.