

ORDINANCE _____

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2 AN ORDINANCE relating to conduct in public places; establishing nighttime disturbance as a
3 civil infraction, creating a new section 15.48.050 of the Seattle Municipal Code and
amending section 15.48.900 relating to penalties for nighttime disturbance.

4 WHEREAS, in December 2007 the City Council passed Resolution 31003 to create a Nightlife
5 Advisory Board to advise the Council in 2008 and 2009 regarding nightlife issues; and

6 WHEREAS, Resolution 31003 noted the City Council seeks to support, maintain and promote an
7 active and safe environment that fosters a successful music and nightlife industry, and
8 that increasing density in the City's urban centers and villages has created the demand for
balancing neighborhood livability with vibrant nightlife activity; and

9 WHEREAS, the Nightlife Advisory Board consisted of representatives from neighborhoods and
10 the music and nightlife industry, a noise expert, a Liquor Control Board member, and a
representative with public safety experience; and

11 WHEREAS, the Nightlife Advisory Board's duties included advising the City Council regarding
12 policy issues related to the City's promotion, development and sustainability of the
13 nightlife industry in Seattle, including the effectiveness of the City's enforcement of
14 nightlife related regulations; and emerging nightlife issues related to increasing density in
15 urban villages and centers; and developing possible recommendations for improvements
to the rules and processes associated with regulating nightlife activities; and

16 WHEREAS, in December 2009 the Nightlife Advisory Board issued its Final Report, and
17 recommended the City Council "Revise City Ordinances to allow Seattle Police greater
18 ability to enforce public nuisances and disturbances violations, specifically fighting and
drunk and disorderly conduct...and for officers to issue a citation in the form of a ticket
to those who do not correct or cease the behavior;" and

19 WHEREAS, the Nightlife Advisory Board has issued a statement stating that it "agrees that this
20 recommendation provides the greatest opportunity to address undesirable behavior and
thus address one of the biggest problems often associated with nightlife," and

21 WHEREAS, this ordinance is a critical component of the broader Seattle Nightlife Initiative,
22 which envisions a full suite of actions that together provide a comprehensive, balanced
23 approach to managing the city's nighttime economy.

24 NOW, THEREFORE,

25 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

26 **Section 1.** A new Section 15.48.050 of the Seattle Municipal Code is added as follows:
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SMC 15.48.050 Nighttime disturbance

A. The following definitions apply in this section:

1. "Nighttime zone" means the Downtown and Commercial Zones as defined by Seattle Municipal Code 23.84A.048.

2. "Public place" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public and the doorways and entrances to buildings or dwellings and the grounds enclosing them. "Public place" does not include areas of private property where tables and chairs are placed for the use of patrons consuming food and/or beverages.

3. "Threaten" means to communicate, directly or indirectly, the intent to assault, fight with or cause bodily injury to another.

4. "Unreasonable noise" means loud and raucous, and frequent, repetitive, or continuous sounds that are audible to a person of normal hearing at a distance of seventy-five (75) feet or more from the source of the noise. Unreasonable noise may be created by:

a. The amplified or unamplified human voice;

b. Any horn or siren attached to a motor vehicle, except such sounds that are made to warn of danger or that are specifically permitted or required by law;

c. The starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine.

B. It is unlawful for any person in a public place located in a nighttime zone between the hours of twelve o'clock (12:00) a.m. and five o'clock (5:00) a.m. to:

a. Cause or make unreasonable noise; or

b. Threaten another person or persons; or

1 c. Fight with another person or persons.

2 **Section 2.** Seattle Municipal Code 15.48.900, last amended by Ordinance 122789, is
3 amended as follows:

4 **SMC 15.48.900 Civil penalty.**

5 A. Each violation of Section 15.48.040 shall be a civil infraction as contemplated by
6 RCW Chapter 7.80 and deemed to be a Class 3 civil infraction under RCW 7.80.120(c), and shall
7 subject to the violator to a maximum penalty and a default amount of Fifty Dollars (\$50) plus
8 statutory assessments. If the person is unable to pay the monetary penalty, the court may order
9 performance of a number of hours of community service in lieu of a monetary penalty.

10 B. Each violation of Section 15.48.050 shall be a civil infraction as contemplated by
11 RCW Chapter 7.80 and deemed to be a Class 2 civil infraction under RCW 7.80.120(1)(b), and
12 shall subject the violator to a maximum penalty and default amount of One Hundred Twenty-
13 Five Dollars (\$125) plus statutory assessments.

14 ~~((B-))~~ C. Each violation of Section 15.48.105 shall be a civil infraction as contemplated
15 by RCW Chapter 7.80 and deemed to be a Class 1 civil infraction under RCW 7.80.120(a), and
16 shall subject the violator to a maximum penalty and default amount of Two Hundred Fifty
17 Dollars (\$250) plus statutory assessments. The penalty for a civil infraction is in addition to the
18 civil liability of the person responsible for the posting to the City for the cost of removal under
19 Sections 15.48.120 and 15.48.130.

20 ~~((C-))~~ D. As contemplated by RCW 7.80.160, a person who, after receiving a notice of
21 civil infraction that includes a statement of the options provided in RCW Chapter 7.80 for
22 responding to the notice and the procedures necessary for exercising these options, knowingly
23 fails to exercise one of the options within fifteen (15) days of the date of the notice is guilty of a
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1 misdemeanor regardless of the disposition of the notice of civil infraction. A person who
2 willfully fails to pay a monetary penalty or perform community service as ordered by a court
3 may be found in contempt of court as provided in chapter 7.21 RCW

4 ~~((D-))~~ E. An action for a civil infraction shall be initiated and process in the manner
5 contemplated by RCW Chapter 7.80 and the Infraction Rules for Courts of Limited Jurisdiction.
6 For purposes of RCW 7.80.040, the "enforcement officer" authorized to enforce the provisions of
7 this title are: (1) as to park drives and boulevards, the Superintendent of Parks and Recreation,
8 and as to other public places, the Director of the Seattle Department of Transportation; (2)
9 authorized representatives or assistants of either of them; and (3) a commissioned officer of the
10 Seattle Police Department and a person issued a Special Police Officer Commission by the Chief
11 of Police with authority to enforce this title.
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13 **Section 3.** The Chief of Police and City Attorney shall provide a report to the City
14 Council on the implementation of this ordinance by the second quarter of 2011. The report shall
15 describe the number of citations written by police officers for nighttime disturbance, the
16 disposition of those citations and the general locations where the citations were issued. The
17 report shall also include a review by the Chief of Police and City Attorney on the use of the
18 ordinance in reducing nighttime disturbances.
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20 **Section 4.** The provisions of this ordinance are declared to be separate and severable. If
21 one or more of the provisions of this ordinance shall be declared by any court of competent
22 jurisdictions to be contrary to law, the provision shall be severed from the rest of the ordinance
23 and all other provisions shall remain valid.
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