

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS

ORDINANCE NO. 24-017-00

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, REPEALING CHAPTER 8 – OFFENSES AND NUISANCES, ARTICLE 8.04.001 GENERALLY AND REPLACING WITH NEW ARTICLE 8.04.001 DEFINITIONS AND ADDING NEW ARTICLE 8.04.002 PURPOSE; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City's Noise Ordinance is designed to regulate sound and noise through the use of objective standards to promote compliance and enforceability, which will enhance the public health and safety of the city; and

WHEREAS, the City Council desires to amend the ordinance in order to improve the ability to ensure compliance and enforcement with the ordinance, to reduce noise levels in residential areas resulting from noise created by activities on both nonresidential and residential properties after 10:00 p.m., and to make updates to the ordinance in response to new technology.

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

SECTION 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. Noise Requirements. Article 8.04 of the City of Leander Code of Ordinances shall be amended to read as set forth in Exhibit "A" attached hereto and incorporated herein for all purposes.

SECTION 3. Savings Clause. All rights and remedies of the City of Leander are expressly saved as to any and all violations of the provisions of any ordinances affecting noise within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4. Severability. 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, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid

provision, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. Effective Date. This ordinance shall take effect immediately from and after its passage.

SECTION 7. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED this the 15th day of February, 2024.

ATTEST:

THE CITY OF LEANDER, TEXAS:


Dara Crabtree, City Secretary


Christine DeLisle, Mayor



CHAPTER 8 – OFFENSES & NUISANCES

ARTICLE 8.04. NOISE

Sec. 8.04.001. Definitions.

- (a) Definitions: The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. City means the City of Leander employees or any authorized representative of the city.

Audible. means any sound or noise from any source that can be clearly heard by a person with normal hearing faculties from the real property line of the source of the sound or noise.

Commercial. Shall mean, for the purposes of this article, commercial zoning districts as outlined in the city's zoning ordinance, as amended. This includes, but is not limited to LO, LC, GC, and HC.

Construction. Any site preparation, assembly, erection, substantial repair, alteration, or similar action, excluding demolition of public or private right-of-way surfaces, structures, utilities or similar property.

Day. Shall mean from 7:00 AM to 10:00 PM

Decibel (dB). The unit of measurement for sound pressure level at a specified location.

dBA. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network as designated and defined by the American National Standards Institute.

Demolition. Any dismantling, intentional destruction or removal of public or private right-of-way surfaces, structures, utilities or similar property.

Device. Any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

Emergency work. Means any work or action necessary to deliver essential services including work on water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees from rights-of-way, or abating life threatening conditions. Timing on when the work or action needs to take place to minimize inconvenience such as shutting down roadways may also qualify an activity as emergency work.

Entertainment District. Shall mean any area adopted as entertainment by City Council.

Evidence of violation. It shall be prima facie evidence that the noise is unreasonably loud, disturbing and unlawful if the noise creates a vibration which is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at 50 feet or more from the source if in a public right-of-way.

Industrial District. Shall mean industrial zoning districts as outlined in the city's zoning ordinance. This includes HC and HI.

Measurement of noise. Measurement of noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute. Noise may be measured where the noise is audible on complainant's property or on the right of way outside the complaint's property. Measurement location may be adjusted where line-of-sight or elevation may pose a challenge in determining if a nuisance exists.

Night. Shall mean from 10:01PM to 6:59AM

Noise disturbance. Any sound which annoys or disturbs, or which causes or tends to cause an adverse psychological or physiological effect upon, the sensibilities of a reasonable, prudent adult person; and unreasonably loud or disturbing noise which renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort.

Noise level. The A-weighted sound pressure level in decibels (dBA)

Prima Facie noise disturbance / noise disturbance per se. The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of sound in such a manner as to cause a noise disturbance. Any such activity shall create a noise disturbance per se if conducted above the sound levels permitted on the Sound Level Maximum chart, as measured at the property line, between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday, and between the hours of 11:30 p.m. and 7:00 a.m., Friday and Saturday. Measurement of noise above the levels specified for that district.

Property line. An imaginary line exterior to any enclosed structure, at the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person or entity.

Residential. Shall mean residential zoning districts as outlined in the city 's Composite Zoning Ordinance.

Responsible party. The homeowner or person in charge of the property in absence of homeowner for residential violations. In any construction the person operating the equipment or person performing the construction. The highest-level supervisor present at any commercial or industrial site.

School district events. Shall mean sporting events or other school events on school property. These do not require any city council approval unless they will be outside of the zone levels for more than 5 minutes at any time.

Sound level. The instantaneous sound pressure level measured in decibels obtained by the use of a sound level meter.

Sound level meter. An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighting network used to measure sound

pressure levels conforming to type 1 or type 2 standards as specified in the latest version of the American National Standards Institute specifications for sound level meters (ANSI Standard S1.4-1983).

Vibration perception threshold. means the minimum ground-borne or structure-borne vibration necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

Sec. 8.04.002. Purpose.

(a) Maximum Sound Levels

District	Day	Night
Residential	65 dBA or 10 dBA above background noise, whichever is lower	55 dBA or 5 dBA above background noise, whichever is lower
Commercial/mixed use	70 dBA or 10 dBA above background noise, whichever is lower	60 dBA or 5 dBA above background noise, whichever is lower
Industrial	75 dBA or 10 dBA above background noise, whichever is lower	65 dBA or 5 dBA above background noise, whichever is lower
School district events	10 AM - 12 AM	
	85 dBA	
Entertainment Zone	10 AM - 1 AM	
	85 dBA	
Special Event Permit	10 AM - 12 AM	
	85 dBA	

- (b) Enforcement. The provisions of this chapter may be enforced by police officers, code enforcement and such other persons as are designated by the city. Nothing herein is intended to or shall preempt any statutory duty or authority of any federal, state, or local entity or official charged with enforcement. The responsible party may be cited under this ordinance.
- (c) Radios, television sets, musical instruments, amplifiers and similar devices.
- The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of sound in such a manner as to cause a noise disturbance. Any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday, and between the hours of 11:30 p.m. and 7:00 a.m., Friday and Saturday.
 - The use of any stationary loudspeaker or amplifier, particularly during the hours from 10:00 p.m. until 7:00 a.m., to produce a noise or sound of such intensity that annoys or

disturbs persons of ordinary sensibilities in the immediate vicinity thereof; provided, however, that nothing herein shall be construed to prohibit the infrequent use of a loudspeaker or amplifier for periods of short duration by a religious organization or association in the playing of music where the intensity of same does not annoy or disturb such persons;

(d) Vehicle or Mechanical Equipment Noise

- a. The continued or frequent sounding of any horn or other signal device on any automobile or other vehicle except as a danger or warning signal, or the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary purpose or unreasonable period of time;
- b. The blowing of any steam whistle attached to any stationary boiler, except when giving notice of the time to commence or stop-work, or as a warning of danger;
- c. The discharge into the open air of the exhaust of any fixed and stationary steam engine, stationary internal combustion engine, or motor vehicle or boat engine, except through an exhaust system in good working order and in constant operation to prevent excessive or unusual noise; provided that this subsection shall not apply to trains and locomotives;
- d. The use of any mechanical device operated by compressed air, unless the noise level has been effectively muffled and reduced to be compliant with this ordinance.

(e) Areas where noise should be minimized

- a. The creation of any excessive or unreasonable noise on any street or premises adjacent to any school, place of religious worship, or other institution of learning while the same is in session, or any hospital, which unreasonably interferes with the operation or use of any such institution;

(f) Vendors and Places of Business

- a. The raucous shouting or crying of peddlers, hawkers or vendors which unreasonably disturbs the peace and quiet of any neighborhood;
- b. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show or sale of merchandise;

(g) Construction, Demolition, Maintenance Work

- a. Operating or permitting to be operated any equipment used in construction, maintenance, repair, alteration or demolition work on buildings, structures, streets, alleys, lawns, golf courses or appurtenances thereto and/or the erection, including excavation, demolition, alteration or repair of any building, in such a manner as to cause a noise disturbance, except as specifically exempted. Exemptions apply to the time component only and does not exempt the operating from staying below the noise level allowed for that type of zone. Any such activity shall create a prima facie noise disturbance if conducted between the hours of 9:00 p.m. and 7:00 a.m.
- b. Administrative exemptions: The city engineer may grant an exemption to allow for any emergency work needed, for concrete placements for city projects, and construction or work in a city right of way or city easements between the hours of 9:00 p.m. and 7:00 a.m. if in the engineer's judgment delay will cause an adverse impact to public safety. Also allowed for concrete placement if any of the following conditions apply:

1. The concrete placement or construction will take longer than four hours.
2. The heat index for the requested day is forecast to be above 100 degrees by noon.
3. The work will take place in the public right of way or a public easement.

c. City council exceptions:

1. Approval may be granted with an exemption to allow for concrete placements between the hours of 9:00 p.m. and 7:00 a.m. if all of the following conditions apply:
 - i. The project construction is within six hundred feet (600') of any occupied residential structure, or that generates, produces or results in any noise or sound that may be heard at the property line of any occupied residential structure.
 - ii. The concrete placement will take longer than four hours.
 - iii. The heat index for the requested day is forecast to be above 100 degrees by noon.
 - iv. The concrete placement will not be above the noise limits for the zone, with the exception of occasional vehicle noise.
 - v. The concrete placement outside of the regular hours shall not last more than three (3) consecutive days
 - vi. Public notice in the form of a door hanger is provided by the developer to all residential properties within six hundred (600') feet a minimum of forty-eight (48) hours prior to work.
2. Entertainment districts are adopted by city council.
3. Permits are granted by city council for any special permit event that will be above the noise limits for the special event permit
4. Emergency preparation exceptions: generators may be run above the maximum noise level for the district to charge a generator. Owners should target times that would be least disruptive to neighbors.
5. Power outage: during power outages generators may be run above the maximum noise level for the district to handle the emergency situation.
6. Special event exceptions: See section 4.05 regarding requirements for and process to obtain a special event permit. The event does not need a city council permit if the noise will stay within the specified level.

- (h) Penalty. Any person, firm or corporation violating any provision of this section shall be fined in accordance with the general penalty provision found in section 1.01.009 of this Code.
- (i) Complaint procedure. Citizens who witness violations(s) of this section are authorized to file a complaint with the city municipal court. The municipal court judge shall specify the affidavit to be used by complainants.