

ORDINANCE NO. 4082-5-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 10, “OFFENSES—MISCELLANEOUS” BY ADDING A NEW ARTICLE VIII, “NOISE”; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Allen, Texas finds it to be in the public interest to amend the Code of Ordinances relating to the regulation of noise.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the City of Allen, Collin County, Texas, be and the same is hereby amended by amending Chapter 10, “Offenses—Miscellaneous” by adding a new Article VIII, “Noise” to read as follows:

“ARTICLE VIII. – NOISE

Sec. 10-67. - Definitions.

When used in the context of this article, the following definitions shall apply:

A-weighted sound level: shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. This level is designated dB(A) or dBA.

Boundary 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.

Commercial: shall mean any premises where offices, clinics, kennels, shopping and service establishments or similar retail establishments exist and where the use of less than twenty-five percent of the gross floor area meets the definition of residential premises.

Construction: shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action.

Daytime: shall mean the hours between 7:00 a.m. and 10:00 p.m.

Decibel: shall mean a logarithmic unit of measure often used in measuring magnitudes of sound. Represented by the symbol dB or dB(A).

Director: shall mean the director or manager of the departments or divisions designated by the City Manager to enforce and administer this Article.

Extraneous sound: shall mean a short-duration or intermittent sound that is neither part of the background sound, nor comes from the source under investigation.

Engine compression brake: shall mean a vehicle retarding device that converts a power producing engine into a power absorbing air compressor in order to reduce motor vehicle speed without the use of the vehicle's foundation brakes.

Impulsive sound: shall mean sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

Leq: shall mean an average measure of continuous noise that has the equivalent acoustic energy of the fluctuating signal over the same period. The time period of monitoring will be continuous over a minimum of fifteen minutes and will use the A-weighting network reported in decibel units.

Noise nuisance: shall mean any unreasonably loud, irritating, vexing or disturbing sound originating from a nearby property under separate ownership, which causes injury, discomfort, or distress of a person of reasonable nervous sensibilities.

Non-Residential: shall mean the following zoning districts as defined in the Allen Land Development Code A-O, GO, O, LR, SC, LC, GB, CC, IT, LI, HI, CF, and DD. It shall also include Planned Developments with a Mixed Use base zoning district designation.

Person: shall mean any individual, firm, association, partnership, corporation, or any other entity, public or private.

Pure tone: shall mean any sound that can be distinctly heard as a single pitch or a set of single pitches.

Residential: shall mean any premise where single or multiple dwelling units exist and shall include the following zoning districts as defined in the Allen Land Development Code: R-1, R-1.5, R-2, R-3, R-4, R-5, R-6, R-7, 2F, TH, MF-12, MF-18. , and MH zoning districts.

Sound: shall mean an oscillation in pressure, stress, particle displacement and particle velocity which induce auditory sensation.

Sound pressure level: shall mean 20 times the logarithm to the base ten of the ratio of the pressure of a sound to the reference pressure of twenty micronewtons per square meter (20×10^6 Newtons/meter²), and is expressed in decibels.

Sec. 10-68. – Method of noise measurement.

- (a) *Sound level meter.* Whenever portions of this article prohibit sound levels over a certain decibel limit, measurement of said sound levels shall be made with standardized sound meters, using the A-weighting network meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. Calibration corrections shall be employed in meeting the response specifications prior to every sampling event. Measurements recorded shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. Windscreens shall be used whenever appropriate.
- (b) *Background sound level measurement.* When the sound under investigation can be discontinued, the background sound shall be measured at the same location where the total sound was measured. When the sound under investigation cannot be reasonably discontinued, the background sound may be measured at an alternative location. The alternative location should be as close as feasible to the location of the total sound measurement, but so located that the source under investigation has no effect on the

background sound level measurement. The size and distribution of buildings in the vicinity, the local topography, and the traffic at the alternate location should be reasonably similar to the conditions at the location of the total sound level measurements.

Sec. 10-69. – Presumptions.

- (a) The following acts are presumed to be "noise nuisances", and are unlawful and in violation of the provisions of this article when such acts are done or accomplished or carried on in such a manner, or with such volume, intensity, or with continued duration, so as to unreasonably: annoy, distress, or disturb the quiet, comfort, or repose of any person of reasonable nervous sensibilities within the vicinity or hearing thereof; endanger or injure the safety or health of humans; interfere with the physical well-being of humans; or endanger or injure personal or real property:
- (1) *Advertising or attracting attention.* The crying, calling, or shouting, in person or by mechanical device, or the use of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, loudspeaker, with or without amplifier, hand organ, or other devices or instruments, musical or otherwise, for the purpose of advertising any candidates for elective office, any goods, wares, or merchandise, or for the purpose of attracting attention to or inviting persons to any place of amusement, to any performance or show, or to any business or similar activity.
 - (2) *Animals.* Owning, keeping, possessing or harboring any animal or animals (including fowl) which, by frequent or habitual noisemaking, unreasonably disturb or interfere with the use, comfort, and repose of neighboring persons. The provisions of this subsection shall apply to all public and private facilities, including any animal shelter, commercial kennel, or veterinary clinic, which holds or treats animals.
 - (3) *Motor vehicle exhaust system.* Discharging, or permitting to be discharged into the open air, the exhaust of a motor vehicle or other vehicle except through a muffler, or similar device, which will effectively and efficiently prevent loud and unreasonable noises.
 - (4) *Motor vehicle signal device.* The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger or warning signal.
 - (5) *Motor vehicles out of repair.* Operating or permitting to be operated any motor vehicle or other vehicle so out of repair or overloaded in such a manner, which emits or creates a loud and unreasonable noise.
 - (6) *Motor vehicle stereo systems.* The playing of any stereo system, whether stationary or located within a motor vehicle, in such a manner or with such volume as to disturb persons within 30 feet of the stereo system or motor vehicle containing the stereo system or as to unreasonably impair the use or enjoyment of public or private property.
 - (7) *Loudspeakers used on vehicles.* The use of mechanical loudspeakers or amplifiers on trucks or other moving vehicles for the purpose of advertising any show, sale or display of merchandise, or any other purpose.
 - (8) *Yelling, shouting, etc.* The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors or any other persons.
 - (9) *Radios, musical instruments, and similar devices.* The playing or permitting or causing the playing of any radio, television, phonograph, stereo system, drum, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound in a manner that

unreasonably disturbs or interferes with the peace, comfort, and repose of persons on bounding property, or in any dwelling, apartment, hotel, motel, or other type of residence.

- (10) *Air horns and whistles.* The sounding of an air horn or whistle by a train or other vehicle on a train track within the city while approaching an area of such tracks that has a road, street or highway that allows vehicular traffic to cross such tracks, at a time when such crossing is marked by lights, bells, or other audible signals, as well as arms that drop across and block the entire portion of the roadway that crosses such tracks.
- (11) *Restricted hours of operation.*
- a. *Building construction.* The erection including excavation, demolition, alteration or repair of any building, structure or appurtenance thereto, within any residential district or within 500 feet of any residential structure, shall be limited to daytime hours, except in the case of urgent necessity in the interest of public safety, or otherwise approved by the building official. This restriction shall also apply to the clearing of land prior to future development.
 - b. *Street construction.* The erection including excavation, demolition, alteration or repair of any street, alley or appurtenance thereto, within any residential district or within 500 feet of any residential structure, shall be limited to daytime hours, except in the case of urgent necessity in the interest of public safety, for which approval shall be obtained from the Director.
 - c. *Refuse Compacting Vehicles.* Operating or permitting to be operate any refuse compacting, processing, or collection vehicle within any residential district or within 300 feet of any residential structure shall be established to limit noise disturbances to said residential districts and structures. The time of collection shall be established by the Director of Community Services.
 - d. *Loading and unloading operations.* The generation of noise from the loading or unloading of trucks or similar large type vehicles (one ton and over); including the opening, closing, or other handling of boxes, crates, containers, building material, or similar operations connected with loading or unloading of such vehicles, within any residential district or within 500 feet of any residential structure, shall be limited to daytime hours, except in the case of urgent necessity in the interest of public safety, for which approval shall be obtained from the Director.
 - e. *Truck idling.* The operation of any engine of any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds manufacturer's Gross Vehicle Weight (GVW), within any residential district or within 500 feet of any residential structure, shall be limited to a period not to exceed 15 minutes, provided however, that vehicles confined and operated within an enclosed structure shall not be subject to the provisions of this section.
 - f. *Vehicle repairs or testing.* The repairing, rebuilding, modifying or testing of any motor vehicle (including off-road vehicles) or watercraft in such a manner as to cause a noise nuisance, within any residential district or within 500 feet of any residential structure, shall be limited to daytime hours.

Sec. 10-70. – Offenses.

- (a) *Noise Nuisance.* A person commits an unlawful noise nuisance in violation of this article, unless otherwise provided, if the person makes, causes to be made, or allows any noise:

- (1) Such that it is a nuisance that causes injury, discomfort or distresses, or disturbs the quiet, comfort, or repose of any reasonable person with ordinary sensibilities:
 - a. located on the receiving property or at the curb line or boundary line of the receiving property, or
 - b. located on the boundary line closest to the source of the sound; or
 - (2) Such Noise Nuisance is plainly audible by any peace officer or other enforcement agent:
 - a. located on the receiving property or at the curb line or boundary line of the receiving property, or
 - b. located on the boundary line closest to the source of the sound, or
 - c. located at thirty (30) feet, or more, from where the source of the sound is generated, if in a space accessible to the public or a public right-of-way; or
 - (3) Which exceeds the maximum permissible sound levels identified in the *Designated Noise Zones* section.
- (b) *Engine compression brake.* A person commits an offense if he or she uses an engine compression brake to slow or stop a motor vehicle within the corporate limits of the City of Allen.
- (1) It is a defense to prosecution under this section that:
 - a. the motor vehicle was a fire apparatus owned or operated by a governmental entity; or
 - b. the engine compression brake was used in an emergency situation to prevent or reduce an imminent danger of death or bodily injury to a person or damage or destruction to property.

Sec. 10-71. – Exemptions.

- (a) The provisions of this article shall not apply to:
 - (1) The emission of sound for the purpose of alerting persons to an emergency.
 - (2) The sound was produced by an authorized emergency vehicle.
 - (3) The sound was produced by emergency work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger following fire, accident, or natural disaster.
 - (4) The sound generated by a parade and spectators and participants on the parade route during a city-approved special event.
 - (5) The use of noise-making devices, including sound amplification such as speakers, used solely for the purpose of deterring birds.
 - (6) The sound generated from normal activities conducted on public playgrounds and public or private school grounds, included but not limited to school athletic and school entertainment events.

- (7) The sound generated by any activity regulation thereof that has been preempted by state or federal law, including, but not limited to, sound produced by aircraft in flight.
- (8) The sound generated by any church or clock carillons, bells, or chimes.
- (9) The sound generated by any vehicle of the city while engaged in necessary public business.
- (10) The sound generated by spectators and participants of any outdoor event, race, festival, or concert that was sponsored, or co-sponsored by the city.
- (11) The sound generated in the discharge of weapons from a historical reenactment or a fireworks display permitted by the city.
- (12) The sound generated by any governmental body in the performance of a governmental function.
- (13) The sound generated by the normal maintenance of property provided the activities take place during daytime hours.
- (14) The sound was produced by the operation of properly maintained residential-type air conditioning, ventilating, heating devices, or pool equipment (if within sound levels specified by the manufacturer or similar to sound levels produced by equivalent, adjacent devices).
- (16) The sound generated by any other lawful activity that constitutes protected expression pursuant to the First Amendment of the United States Constitution. By this exception, it is not intended to restrict or extend the rights of citizens to the valid expression of their rights and beliefs. Any protected expression retains with it the responsibility to exercise such expression with regard to the rights and sensibilities of others, and within reasonable time and place limitations imposed by other legal standards.

Sec. 10-72. Noise sensitive/quiet zones.

- (a) It is unlawful for any person to create any noise which causes the noise level at any school, hospital or similar health care institution, religious facility, or library while the same in use, to exceed the noise standards specified in the *Noise Zone 1* as set forth in Section 10-74 in which a school, hospital or similar health care institution, church or library is located, or which noise level unreasonably interferes with the usage of such institutions, or which unreasonably disturbs or annoys patients in a hospital, convalescent home or similar health care institution.

Sec. 10-73. –Designated noise zones.

- (a) *Noise Zone 1:* All Residential structures or properties.
- (b) *Noise Zone 2:* All non-residential structures or properties.

Sec. 10-74. – Maximum permissible sound levels.

- (a) In addition to the provisions contained in this Article VIII, the following noise standards, unless otherwise specifically indicated, shall apply to all property within a designated noise zone and when such noise levels exceed the Average Equivalent Sound Levels during the time specified, such noise levels shall be presumed unreasonable:

Noise Standards

Noise Zones	Time of Day	Average Equivalent Sound Levels (Leq)
Noise Zone 1	7:00 a.m. to 10:00 p.m.	65 dB(A)
	10:00 p.m. to 7:00 a.m.	58 dB(A)
Noise Zone 2	7:00 a.m. to 1:00 a.m.	80 dB(A)
	1:00 a.m. to 7:00 a.m.	60 dB(A)

- (b) When noise contains strong pure tone components or is impulsive, 5 dB(A) shall be subtracted from the appropriate limitation.
- (c) If the background sound level exceeds the applicable standard, the background level shall be the standard.
- (d) Measurements may be taken at a point on adjacent private property or on either side of an adjacent public right-of-way at or near the boundary line of the property where the noise is generated.
- (e) When the noise zone of the property on which the source of sound originates differs from the designation of the property on which the sound is measured, the more restrictive noise standard shall apply.
- (f) At any time in a measurement period, no noise may exceed the maximum sound level standard plus 20 dB(A).

Sec. 10-75. – Noise abatement studies.

- (a) An existing facility which exceeds the noise limitation levels in this Article may be required by the Director to submit a noise abatement study to the city that details the steps that will be taken to bring the facility into compliance. The study must be conducted by a qualified person approved by the Director. The study must contain at a minimum the following:
 - (1) A description of the facility.
 - (2) An analysis of the source of the noise.
 - (3) An analysis of the abatement measures necessary to bring the facility into compliance.
 - (4) A noise abatement measures implementation schedule not to exceed a time frame of six months without the written permission of the Director.
 - (5) Any other items required by the Director.
- (b) A new or proposed facility that has the potential to exceed the noise limitation levels contained in this article may be required by the Director to submit a noise abatement study to the city, prior to the issuance of any building permits, that details the steps that will be taken to ensure the facility will be in compliance. The study must be conducted by a qualified person approved by the Director. The study must contain at a minimum the following:
 - (1) A description of the facility.
 - (2) An analysis of the source of the noise.

- (3) An analysis of the abatement measures necessary to bring the facility into compliance.
- (4) A noise abatement measures implementation schedule not to exceed the facility's construction schedule without the written permission of the Director.
- (5) Any other items required by the Director.

Sec. 10-76. – Penalty for violations.

- (a) Any person, firm, or corporation who violates any provision of this article is guilty of a misdemeanor and upon conviction is punishable by a fine as provided for in Chapter 1, Section 1-4 of this Code of Ordinances, or any amendment thereto or renumbering thereof, for violations of public health, for each act of violation and for each day of violation.

SECTION 2. All provisions of the ordinances of the City of Allen in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Allen not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance, as amended hereby, be adjudged, or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 4. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand and No/100 Dollars (\$2000.00) for each offense.

SECTION 5. This ordinance shall take effect immediately from and after its passage, as the law and charter in such cases provide.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 28TH DAY OF MAY 2024.

APPROVED:

Baine L. Brooks, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY

Shelley B. George, TRMC, CITY SECRETARY

(05-22-2024: 4869-1348-8063, v. 1)