

ORDINANCE NO. 2013-41

AN ORDINANCE AMENDING THE CITY OF HUNTSVILLE, TEXAS CODE OF ORDINANCES, SPECIFICALLY CHAPTER 32 "OFFENSES AND MISCELLANEOUS PROVISIONS"; PROVIDING FOR A PENALTY; MAKING OTHER PROVISIONS AND FINDINGS THERETO; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Huntsville Code of Ordinances, Chapter 32 "OFFENSES AND MISCELLANEOUS PROVISIONS" provides for the regulation of certain activities such as unreasonably loud noise for the health, safety and public welfare of the City's residents;

WHEREAS, the City of Huntsville, as a home rule city may regulate this activity pursuant to its broad powers of self-government; and

WHEREAS, City Council finds it necessary to amend its existing regulations of these activities to protect the health and public safety; now therefore

WHEREAS, the City Council of the City of Huntsville, Texas now wishes to amend Chapter 32 to help promote the health, safety and welfare of its residents;

WHEREAS, notice of the agenda for this meeting, was given in accordance with law by posting the same at the place reserved and designated for notices of public meetings and public activities and prior to the adoption of this ordinance.

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:

SECTION 1: The facts and matters set forth in the preamble of this Ordinance are found to be true and correct and are hereby adopted, ratified, and confirmed.

SECTION 2: Huntsville Code of Ordinances Chapter 32 "OFFENSES AND MISCELLANEOUS PROVISIONS" is hereby amended by replacing Section 32-23 "Unreasonably loud noises prohibited." of Article II, Division I with the Section 32-23 "Unreasonably loud noises prohibited." that is attached hereto as Exhibit "A".

SECTION 3: All ordinances or parts of Ordinances that are in conflict or inconsistent with the provisions of this Ordinance shall be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 4: Should any paragraph, sentence, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 5: This Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Article 4.14 of the Charter of the City of Huntsville, Texas.

First Reading Date: August 20, 2013

PASSED AND APPROVED on the Second Reading on this, the 17th day of September, 2013.

THE CITY OF HUNTSVILLE



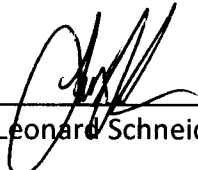
Mac Woodward, Mayor

ATTEST:



Lee Woodward, City Secretary

APPROVED AS TO FORM:



Leonard Schneider, City Attorney

EXHIBIT "A"

Chapter 32

Article I. – PUBLIC SAFETY AND PROTECTION

DIVISION 1. – GENERALLY

Sec. 32-23. - Unreasonably loud noises prohibited.

- (a) General regulation. It shall hereafter be unlawful for any person to make, continue or cause to be made or continued any excessive or unusually loud noise or any noise which either disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the corporate limits of the city.
- (b) *dB(A)* shall mean the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the American National Standards Institute (ANSI).
- (c) *Person* shall mean any individual, association, organization, partnership, entity or corporation.
- (d) Prohibited noise standard, acts. The following acts, among others, are declared to be loud, disturbing noises in violation of this section, but said enumeration shall not be deemed to be exclusive:
 - (1) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the city, except as a danger warning, the use of any horn, whistle or other device operated by engine exhaust.
 - (2) Radios, phonographs, etc. The using, operating, or permitting to be played, used or operated any radio, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are voluntary listeners thereto or in such manner or with such volume, so that the sound is plainly audible anywhere on private property of another without their consent. The operation of any such instrument or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or place in which it is located shall be prima facie evidence of a violation of this section. The operation of any such instrument or device that exceeds the maximum permitted sound level of 65 dB(A) as measured from the closer of:
 - a. 50 feet from the building, structure or place in which it is located or
 - b. the property line of the property on which the sound is being generated.
 - (3) Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

- (4) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway, whether public or private property, shall operate or permit the operation of any sound amplification system from within or upon the vehicle so that the sound is plainly audible at a distance of 30 feet from the vehicle at any time. For purposes of this section, any sound that can be detected by a person using his or her unaided hearing faculties constitutes a plainly audible noise. The person need not be able to identify the song, specific words or the artist performing it. The detection of rhythmic bass reverberation is sufficient to constitute a plainly audible sound.
 - (5) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons.
 - (6) Steam whistles. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of a particular time, to give notice to begin or stop work, or as a warning of fire or danger, or upon request of proper city authorities.
 - (7) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle, including motorcycles or motor bicycles, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (8) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, or other persons located within such places.
 - (9) Hawkers, peddlers and vendors. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
 - (10) Carnivals and tent shows. To operate or allow to operate any carnival, tent show, skating rink, or shows of like character at a time or in a place where the sounds emanating from such operation of such business are such that unreasonably destroy the peace and quiet of the neighborhood.
- (e) Violation. Any person violating any of the provisions of this section, upon conviction, shall be deemed guilty of a misdemeanor and shall be fined in accordance with Chapter 1, section 1-11
 - (f) Additional remedy. As an additional remedy, the continued violation which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, as declared to be, a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction. Any such action to restrain or enjoin the violation of said section may be brought by the said city under the direction of the city council or by any person who desires to assert the provisions of this section in connection with the abatement of any private nuisance.
 - (g) Severability of section. Should any provision of this section be declared to be invalid or unenforceable, such provisions are hereby declared to be severable, and such findings shall not affect the validity of the remainder of this section.