

ORDINANCE NO. 2023-07-008-09

AN ORDINANCE AMENDING ARTICLE IX "NOISE NUISANCE" OF CHAPTER 30, "OFFENSES AND MISCELLANEOUS PROVISIONS" OF THE CODE OF THE CITY OF WHITE SETTLEMENT TO AMEND THE NOISE ORDINANCE TO ADD DECIBEL LEVELS; TO ADD DEFINITIONS RELATED TO NOISE; TO SET MAXIMUM SOUND LEVELS BASED ON ZONING CATEGORIES; TO REGULATE AMPLIFIERS IN THE RIGHT OF WAY; TO RESTRICT ANIMAL NOISE; TO ALLOW EXCEPTIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of White Settlement, Texas ("City") is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, it is the policy of the City to minimize the exposure of citizens to excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare; and

WHEREAS, it is the intent of the City to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the use, value and enjoyment of property; and preserves the quality of the environment; and

WHEREAS, it is desirable to address common noise complaints caused by excessive noise by adding maximum decibel levels and by adding restrictions on noise from animals and from amplifiers in public right-of-way;

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

SECTION 1.

ARTICLE IX. "NOISE NUISANCE" is amended to repeal the language contained therein and replace with revised language, to read as follows:

ARTICLE IX. – NOISE NUISANCE

Sec. 30-212. - General Provisions

This Section applies to the control of all sound and noise within the City, and is designed to regulate noise by various alternative means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this Section because it is disturbing to a reasonable person of ordinary

sensibilities or because it exceeds the decibel level restrictions provided below. If a noise violates more than one of these provisions, the violation will be enforced under whichever provision is most applicable to the situation as determined by the enforcement officer of the City.

Sec. 30-213. - Definitions

Ambient noise shall mean the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

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

Bounding real property line shall mean an imaginary line at the ground and its vertical extension which separates the real property owned or occupied by one person from that owned or occupied by another person.

Decibel (dBA) shall mean the unit of measurement for sound pressure at a specified location.

Governmental function shall mean work conducted by a governmental entity in the interest of the community.

Sound level shall mean the instantaneous sound pressure level measured in decibels obtained by the use of a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.

Residential shall mean: property zoned for residential use in accordance with the City's zoning ordinance

Unreasonable noise shall mean:

- (1) Any unreasonably loud, disturbing, and unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof; or
- (2) Any noise of such character, intensity and continued duration, which substantially interferes with comfortable enjoyment of private homes by persons of ordinary sensibilities.

Sec. 30-214. – Restrictions on Decibel Levels

Maximum sound levels. During the times and in the zoning districts (except for activities originating in industrial zoning districts) set out below, the activities that create a sound pressure level at the complainant's bounding real property line or abutting public right-of-way that exceeds the maximum allowable sound level (dBA) below are declared to be public nuisances:

All residential (one-, two- and multi-family) zoning districts:

Daytime: 6 a.m. to 10 p.m. = 80 dBA
Nighttime: 10 p.m. to 6 a.m. = 60 dBA

All Commercial districts:

Daytime: 6 a.m. to 10 p.m. = 80 dBA
Nighttime: 10 p.m. to 6 a.m. = 70 dBA

ALL zoning where ambient noise level exceeds the prescribed maximum level:

6 a.m. to 10 p.m. = Existing Ambient (dBA) + 3 dBA
10 p.m. to 6 a.m. = Existing Ambient (dBA) +1 dBA

Method of noise measurement. Noise measurements shall be a minimum of 30 seconds in duration. Decibel levels are measured from the complainant's bounding real property line or a public right-of-way. For residential districts adjacent to other districts (excluding industrial zoning districts), the residential decibel levels apply when measured from a residential complainant's bounding real property line or a public right-of-way. Violations will be determined based on the highest registered reading in that measurement period. All measurement levels will be inclusive of any ambient noise that exists at the time of the measurement.

Sec. 30-215. – Noise Prohibited

In addition to the other noise restrictions in this Section, no person shall make, cause, suffer, allow or permit unreasonable noise in such a manner, or with such volume, intensity or duration, so as to disturb a reasonable person of ordinary sensibilities. A decibel level shall not be required for the enforcement of this subsection.

This subsection is intended to apply to, but is not limited to, unreasonable noises in the form of:

- (1) Amplifiers in Public ROW and on City Property. The use of a bullhorn, loudspeaker, or other amplification is prohibited in the public right-of-way and on City of White Settlement property, unless permitted as an exception below.

Exceptions:

- (a) Public Safety Official while performing their duties.

- (b) Persons with a permit for an outdoor event issued by the City..
- (c) Persons with permission from pertinent City department director or designee.

(2) Construction Work. Noise created by construction work within three hundred (300) feet of an occupied residential structure involving the erection, excavation, demolition, alteration, or repair of any building, structure, or flatwork is prohibited as follows:

Before 7:00 a.m. or after 8:00 p.m. Monday-Friday

Before 9:00 a.m. or after 8:00 p.m. Saturday-Sunday

(4) Solid Waste Collection. Noise created by solid waste haulers within three hundred (300) feet of residential zoning before 6:00 a.m. or after 11:00 p.m. is prohibited, unless a waiver is granted to the waste hauler by the City Manager or his designee in accordance with the Grant of Privilege issued by the City to the waste hauler.

(5) Music. The playing of any music or musical instrument in such manner or with such volume or bass, particularly during the nighttime hours described in Section 30-214, as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.

(6) Horns or other signal devices. The continued or frequent sounding of any horn, air horn, or signal device on any vehicle, except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary and unreasonable period of time.

(7) Operation of motor vehicles. The revving of any engine, the playing of any music with such volume or bass, or the operation of any vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring, rattling, or squealing noise or vibrations.

Sec. 30-216. – Exemptions

The following acts and sounds shall be exempt from the requirements of this Section:

- (1) Noise generated due to normal building conditioning and ventilation and property maintenance.
- (2) Noise generated on public and school property, as permitted by the property owner.
- (3) Noise generated by a parade and spectators and participants on the parade route during a permitted parade.
- (4) Noise generated by a pyrotechnic display that was inspected and approved by the appropriate city officials.

(5) Noise generated by any spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert which was sponsored, cosponsored, or permitted by the city, school district or other governmental authority.

(6) Noise generated by any governmental body and its contractors in the performance of a governmental function.

(7) Noise generated by airport, railway and vehicular transportation.

(8) Noise produced by gas drilling and production, which is regulated by the Gas Drilling Ordinance in Chapter 10 of the City's Code.

Sec. 30-217. – Enforcement

The provisions of this section shall be enforced primarily by the City's Police Department and Code Compliance Department.

Sec. 30-218. – Penalties

A person commits an offense if the person makes noise in violation of this Section.

(1) An offense under this Section is punishable by a fine in the amount detailed in Sec. 1-11 of the City's Code.

(2) Each occurrence of a violation, or, in the case of multiple violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

(3) A violation of this Section is a nuisance. The prosecution of an offense under this Section does not limit the City's right to abate the nuisance, including the use of injunctive or other civil relief.

Secs. 30-219 to 30-238. - Reserved.

SECTION 2.

Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined, upon conviction, not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 3.

That all rights or remedies of the City of White Settlement, Texas, are expressly saved as to any and all violations of the Code of Ordinances, or any amendments thereto that 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, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of White Settlement, Texas, as amended. Where the provisions of this Ordinance are in direct conflict with the provisions of any earlier ordinances and Code provisions, then the conflicting provisions of such earlier ordinances and Code provisions are hereby repealed.

SECTION 5.

It is hereby declared to be the intention to the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unenforceable or invalid by the final judgment or decree of any court of competent jurisdiction, such unenforceability or 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 in this Ordinance of any such phrase, clause, sentence, paragraph or section.

SECTION 6.

The City Secretary of the City of White Settlement is hereby directed to publish in the official newspaper of the City of White Settlement, the caption, publication clause and effective date clause of this Ordinance as may be required by the Charter of the City of White Settlement.

SECTION 7.

This Ordinance shall be in full force and effect from and after its passage and it is so ordained.

PASSED and APPROVED on this 6th day of July, 2023.



Faron Young, Mayor

ATTEST:


Amy Arnold, City Secretary