

ORDINANCE NO. 10-02

AN ORDINANCE OF THE CITY OF WILLS POINT, TEXAS ESTABLISHING ARTICLE VII. IN CHAPTER 16, "ENVIRONMENT AND HEALTH," OF THE CODE OF ORDINANCES OF THE CITY OF WILLS POINT, ENTITLED "NOISE CONTROL," RELATING TO THE USE OF UNREASONABLE NOISE WITHIN THE CITY OF WILLS POINT; ESTABLISHING DEFINITIONS; ESTABLISHING EXCEPTIONS; PROVIDING FOR A PENALTY; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Wills Point, Texas (the "City") is responsible for supporting and promoting the health, safety and welfare of its citizens; and

WHEREAS, pursuant to Texas Local Government Code section 51.001, the City Council of the City of Wills Point, Texas ("City Council") may adopt an ordinance, rule or police regulation that is for the good government, peace or order of the City or for the trade and commerce of the City, and is necessary or proper for carrying out a power granted by law to the City or one of the City's offices or departments; and

WHEREAS, pursuant to Texas Local Government Code section 51.012, the City Council may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that the City Council considers necessary for the government, interest, welfare, or good order of the City as a body politic; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLS POINT, TEXAS:

Section 1: That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. That Chapter 16, Article VII., of the Code of Ordinances of the City of Wills Point, Texas is hereby established and adopted to read as follows:

"Secs. 16-210-229. Reserved.

ARTICLE VII. NOISE CONTROL.

Sec. 16-230. Noise Interfering with Enjoyment of Property or Public Peace and Comfort.

It shall be unlawful for any person to make, cause to be made or allow any unreasonably loud, disturbing noise in the City, which is offensive to the ordinary sensibilities of inhabitants of the City, which noise renders the enjoyment of life or property uncomfortable or interferes with the public peace and comfort.

Sec. 16-231. Specific Acts Deemed Loud and Disturbing.

The following acts, among others, are declared to create loud and disturbing noises, and shall be deemed a violation of this article, but such enumeration shall not be deemed to be exclusive:

- A. The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar or other vehicle, except as a danger signal, as required by state law.
- B. The playing, operating or permitting to be operated of any radio receiver set, phonograph, musical instrument, television, stereo or any other device in such a manner, or with such volume as to unreasonably disturb or interfere with the peace, quiet, comfort, or repose of persons of ordinary sensibilities, including neighboring persons, in any dwelling, apartment, hotel or other type of residence.
- C. The owning, keeping, possessing or harboring of any animal or fowl which, by frequent or habitual noise making, emits or makes an unreasonably loud, disturbing noise or interferes with the use, comfort and repose of neighboring persons of ordinary sensibilities. The provisions of this article shall apply to all public and private facilities, including any animal shelter, commercial kennel, or veterinary clinic, which hold or treat animals.
- D. The use of any automobile, motorcycle, streetcar, bus or vehicle so out of repair or so loaded, which emits or creates loud grating, grinding or rattling noise.
- E. The discharge into the open air of the exhaust from any motor vehicle except through a muffler, or other device, which will effectively and efficiently prevent loud and disturbing noises.
- F. The shouting and crying of peddlers, hawkers and vendors, which disturbs the quiet and peace of the neighborhood.
- G. The use of any drum or other instrument or sound amplifying equipment for the purpose of attracting attention by the creation of noise, to any performance, show, sale or display of merchandise as to attract customers to any place of business.
- H. The use of or permitting the use of mechanical loudspeakers or sound amplifiers in a fixed or moveable position mounted on any vehicle in or upon any street, alley, sidewalk, park, place or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any person or persons or assemblages of persons in such a manner as to be offensive to the ordinary sensibilities of inhabitants of the City and so as to interfere with the public peace and comfort or make the enjoyment of life or property uncomfortable.

Sec. 16-232. Use of Bell, Siren, Compression or Exhaust Whistle on Vehicles.

No vehicle shall be equipped with and no person shall use upon a vehicle within the City any bell, siren, compression or exhaust whistle, except that vehicles operated in the performance of duty by law enforcement officers, fire department and ambulances may attach and use a bell, siren, compression or exhaust whistle.

Sec. 16-233. Exception for Emergency, Public Service Work, City-Sponsored Events or Other Permitted Events

Sound caused in the performance of emergency or public service work, including public utility operations, acting to protect the health, safety, or welfare of the community shall not be subject to the provisions of this article. Sound caused during City-sponsored events including but not limited to City parades, City festivals and any other City-sponsored events shall not be subject to the provisions of this article. Nothing in this paragraph, however, shall be construed to permit law enforcement, ambulance, fire or other City personnel to make excessive noise in the performance of their duties when such sound is clearly unnecessary.

Sound caused by the following activities or sources also shall not be subject to the provisions of this article:

- (1) Railway locomotives and/or railway cars;
- (2) Aircraft operations;
- (3) Houses of worship bells or chimes; and
- (4) Occasional outdoor gatherings, public dances, parades, shows, and/or sporting/entertainment events provided that the events are conducted pursuant to a permit or license issued by the City relating to the staging of the events.

Nothing in this paragraph, however, shall be construed to permit the aforementioned activities or sources to make excessive noise in the performance of the activities, events or duties when such sound is clearly unnecessary.

Sec. 16-234. Enforcement Responsibility.

The City police department shall have enforcement responsibility for the provisions of this article.

Sec. 16-235 Penalties.

Any person violating this article shall be subject to the penalties in section 1-12."

Section 3. This ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except where provisions of those ordinances are in direct conflict with the provisions of this ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 4. If any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or its application to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. This ordinance shall become effective from and after the date of its passage by City Council and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WILLS POINT, TEXAS ON THE 12th DAY OF JANUARY, 2010.

CITY OF WILLS POINT


Scott McGriff, Mayor

ATTEST:


Carla Oldacre, City Secretary



APPROVED AS TO FORM:


T. Shaina Primeaux, City Attorney

AFFIDAVIT OF PUBLISHER

The State of Texas
County of Van Zandt.

Before me, the undersigned authority, on this day personally appeared Kelli Baxter known to me, who, being by me duly sworn, on her oath deposes and says she is the publisher's representative of the *Wills Point Chronicle*, a newspaper of general circulation published in Van Zandt County; that said newspaper has been continuously and regularly published in said county for a period of more than one year and that a copy of the attached notice was published in said newspaper on the following dates:

January 27 and
January 29 A.D., 2010
X Kelli Baxter
Publisher's Representative

Subscribed and sworn to before me, this
1st day of February A.D., 2010

Jeanie Barrier
Notary Public, Van Zandt County, Texas

LEGAL NOTICE

An ordinance of the city of Wills Point, Texas establishing article vii. In chapter 16, environment and health", of the code of ordinances of the city of Wills Point, entitled "noise control", relating to the use of unreasonable noise within the city of wills point; establishing definitions; establishing exceptions; providing for a penalty; providing for a severability clause; and providing an effective date - this ordinance can be viewed in its entirety at city hall.

