

ORDINANCE NO. 2016-10-11-28

AN ORDINANCE AMENDING CHAPTER 16, ARTICLE III. NOISE, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, , BY AMENDING CHAPTER 16, SECTION 16-54 AND BY ADDING NEW SECTIONS 16-82, 16-82.1, 16-83, 16-84, 16-84.1, AND 16-85 REGARDING NOISE; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR A SAVINGS CLAUSE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS:

I.

That Chapter 16, Sections 16-54, 16-82, 16-83, 16-84, and 16-85, Revised Code of Ordinances, City of Elgin, Texas, 2013, are hereby deleted in their entirety and replaced with the following:

Sec. 16-54. - Definitions.

For the purpose of this section the following terms have the definitions herein ascribed to them:

Authorized event - An event is deemed to be authorized if the event received an official permit for the event through the City of Elgin, an authorized sporting event at the City of Elgin Parks & Recreation, and events approved by the Elgin Independent School District at their campuses within the City of Elgin.

Chief of Police – The City of Elgin Chief of Police or his designated representative.

City Official with Enforcement Authority – The City of Elgin Chief of Police, his designated representative, or any Code Enforcement Official for the City of Elgin.

Commercial District – Nonresidential property means any real property within the limits of the city which is not zoned as R-1, R-2, R-3 or A.

Construction – Any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

Decibel (dB) – the unit of measurement for sound level at a specific location.

Domestic Power Tool – any mechanically, electrically, or gasoline motor-driven tool, including, but not limited to,

- (1) Chainsaws;
- (2) Lawn Equipment;
- (3) Drills; and

(4) Power sprayers.

Emergency Work – any work or action necessary to deliver essential services including repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees from rights-of-way, or abating life threatening situations.

Impulsive Sound – any sound having a duration of less than one second with an abrupt onset and rapid decay.

Measurement with Sound Level Meter or Decibel Meter – measurement of the level of sound made by any source for the purpose of determining whether or not the sound falls within permissible levels according to this ordinance. All measurements will conform to the following:

- (1) Measurement must be taken so as to provide a proper representation of the sound being measured;
- (2) The microphone of the meter should be positioned so as not to create any unnatural enhancement or diminuation of the measured sound. A windscreen for the microphone should be used whenever possible.
- (3) Except as otherwise provided, measurements will be taken at or near the nearest property line of the property where the sound is being received.

Measuring Instrument – an instrument such as a sound level meter or decibel meter, integrating sound meter, or dosimeter used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the latest version of ANSI standard S1.4-1983.

Motor Vehicle – any vehicle that is propelled or drawn on land by an engine or motor.

Muffler – a sound dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

Noise – any sound of a level and duration that is or can be harmful to human health, or would unreasonably interfere with the enjoyment of life or property in the City.

Noise Control Ordinance – the City of Elgin Noise Control Ordinance.

Noise Disturbance – means any sound which exceeds the sound level limits set forth in this ordinance;

Plainly Audible – any sound or noise from any source that can be clearly heard by a person with normal hearing faculties at a distance of 200 feet or more from the real property line of the source of the sound or noise in a commercial or industrial district at limits specified in the ordinance; or any sound or noise from any source that can be clearly heard by a person with normal hearing faculties at a distance of 50 feet or more from the real property line of the source of the sound or noise in a residential district at limits specified in the ordinance. This is subject to any exceptions and levels listed elsewhere in the ordinance.

Public right-of-way – any street, avenue, boulevard, road, highway, sidewalk, or alley that is leased, owned, or controlled by a government entity.

Public Space – any real property or structure thereon that is leased, owned, or controlled by a governmental entity.

Real Property Line – means either:

- (1) The imaginary line, including its vertical extension, that separates one parcel of real property from another; or
- (2) The vertical and horizontal boundaries of a dwelling unit in a multi-dwelling unit building.

Residential District - Residential property means any property zoned as R-1, R-2, R-3 or A.

Sound Level – means the instantaneous sound pressure level measured in decibels with a sound level meter or decibel meter.

Sec. 16-82. – Noise Disturbances.

The following acts, among others, are declared to be per se violations of this article. The following enumerations shall not be deemed to be exclusive:

- (1) No person will create, operate, or cause to be operated on private property any source of sound in such a manner as to create a noise which exceeds the limits set forth in this Ordinance. Any noise measured in excess of the parameters set forth in this Ordinance is declared to be a nuisance and is prohibited.
- (2) No Live band may continue to play after 10 p.m. in any residential district.
- (3) Motor Vehicles:
 - a. The operation of a motor vehicle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.
 - b. Operating a motor vehicle with a muffler cut out, bypass, or similar device.
 - c. Operating or permitting to be operated any vehicle which, by virtue of disrepair, or manner of operation, or so loaded, alone or in combination with other motor vehicles, creates a grating, grinding, rattling, or any other loud noise that violates use district noise level restrictions.
 - d. Operating any motor vehicle with a dynamic braking device (commonly known as an engine brake, Jacobs Brake, or Jake Brake) engaged, except for the aversion of imminent danger.
 - e. Personal or commercial vehicular music amplification or reproduction equipment operated in such a manner as to cause a noise disturbance.
 - f. The sounding of any horn or signal device on any motor vehicle, except as a danger signal for more than 10 seconds.
- (4) Construction Work:
 - a. Construction work during the hours of 9:00 p.m. and 6:00 a.m. in or adjacent to any residential district.

Sec. 16-85. – Offenses.

- (1) A person commits an offense if the person creates a noise nuisance, as defined in this article, or uses sound generating equipment in violation of a provision of this article.
- (2) Notice:
 - a. *Generally.* Prior to issuance of a court summons or ticket, a violator will be given notice to stop the noise or the source of the noise.
 - b. *No waiting period.* If the violation does not cease after notice, the violator may receive a court summons or ticket on the same date as the original notice.
 - c. *Notice good for a year.* Once a notice is received, the violator will not be entitled to another warning notice for a noise violation at any time in the next 365 days.
 - d. *Notice Requirement Not Applicable to Other Offenses Occurring Contemporaneously.* The requirement for notice does not apply to any other violation found while investigating a noise complaint.
 - e. *Notice Requirement Not Applicable to Vehicles.* Notice is not required for noise violations emanating from vehicles.
- (3) When an offense is believed to have been committed and officers find that the noise levels are below the limits set forth in the ordinance, officers may contact the person causing the noise for a courtesy visit to advise the person that a complaint was received about the noise and that they were not in violation of the ordinance. Officers should advise the person what the acceptable levels are under the ordinance and how close to a violation the person was when the complaint was received. This courtesy visit will not be documented as a noise complaint violation and will not be considered as notice under paragraph 2 of this section.

II.

That Chapter 16, Sections 16-82.1 and 16-84.1 Revised Code of Ordinances, City of Elgin, Texas, 2013, is hereby amended to add the following:

Sec. 16-82.1. – Permissible Sound Levels.

The following maximum sound levels are hereby established for zoning districts as follows:

- (1) Residential districts – 80 dB(A) during the hours of 7:00 a.m. and 9:00 p.m. and 50 dB(A) during the hours of 9:00 p.m. and 7:00 a.m. regardless of the day of the week.
- (2) Commercial and Industrial districts – 80 dB(A) during the hours of 7:00 a.m. to 9:00 p.m. and 65 dB(A) during the hours of 9:00 p.m. and 7:00 a.m. unless otherwise specified in this Ordinance.

Sec. 16-84.1. – Temporary Noise Exemption Permits.


- (1) A person or organization may apply for a permit to engage in any activity that creates a noise that would otherwise constitute a nuisance or be in violation of this ordinance.
- (2) Any application for a noise exemption permit must be made in writing and submitted to the Chief of Police of the City of Elgin at least 10 days prior to the next regularly scheduled meeting of the City Council unless the City Manager determines that unforeseeable circumstances justify a shorter amount of time. The Chief of Police will forward the application with a recommendation to the City Secretary for placement on the agenda of the next regularly scheduled meeting of the City Council.
- (3) The application for a permit must include, at a minimum, the following:
 - a. The name, address and telephone number of the applicant including both daytime and nighttime contact information;
 - b. The description of the type, duration, and location of the noise, specifically including the date and time the noise will occur;
 - c. The name, if different from the applicant, or the owner of the property on which the noise will occur and a written letter of permission from the owner and any tenants or other persons occupying the property from which the noise will occur;
 - d. A statement from the applicant that all property owners within 200 linear feet to the property on which the noise originates will be provided written notification within 24 hours of making the application of their right to respond directly to the City Council to voice support of opposition to the application; and
 - e. A copy of the notification(s) sent to any property owners.
- (4) If the City Council grants a permit for a temporary noise exemption notice shall be given to all City Departments of the date and time the permit begins and ends; the name and contact information of the permit holder and who will be generating the noise; a description of the basic nature of the noise; the specific location of the noise; and any special limitations or restrictions placed on the permit.

III.

- A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.
- B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this ordinance and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meeting Act, Chapter 551, Texas Government Code, as amended.

READ, PASSED, and ADOPTED on first reading this 11th day of October, 2016.



CHRIS CANNON, Mayor
City of Elgin, Texas

ATTEST:



LUCRETIA ALVAREZ, City Secretary