

ORDINANCE NO. 2241

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALAMO HEIGHTS, TEXAS AMENDING MUNICIPAL CODE OF ORDINANCES CHAPTER 10, *MISCELLANEOUS PROVISIONS AND OFFENSES*, ARTICLE I *IN GENERAL* BY REPEALING SECTION 10-8 *NOISE ORDINANCE* AND ADDING SECTIONS 10-11 THROUGH 10-18 *NOISE AND SOUND LEVEL REGULATION* TO SET FORTH PERMISSIBLE SOUND LEVELS AND ESTABLISH THE ENFORCEMENT THEREOF IN ORDER TO PROTECT THE CITIZENS AGAINST UNREASONABLE NOISE WITHIN THE CORPORATE LIMITS OF THE CITY OF ALAMO HEIGHTS; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; REPEALING ANY OTHER CODE PROVISIONS, ORDINANCES, OR PARTS OF ORDINANCES, AND OTHER PROVISIONS IN CONFLICT HERewith; INCORPORATING RECITALS; AND ADOPTING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Alamo Heights is a home rule city authorized by state law to adopt and enforce the provisions of this Ordinance; and

WHEREAS, the City Council of the City of Alamo Heights has determined that there is a need for strengthening the regulations for the emission of noise and sound levels, to help in protecting the users of property who are in close proximity to others who are creating noise or an excessive level of sound from the harmful effects and inconvenience of such sounds and to help promote a peaceful community within the City; and

WHEREAS, the City Council of the City of Alamo Heights, Texas desires to amend Municipal Code of Ordinances Chapter 10, *Miscellaneous Provisions and Offenses*, Article I, *In General* by repealing Section 10-8 and adding Sections 10-11 through 10-18, *Noise and Sound Level Regulation* in order to preserve, protect, and promote public health and safety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALAMO HEIGHTS, TEXAS THAT:

SECTION ONE. AMENDMENT. Municipal Code of Ordinance Chapter 34 *Environment* is hereby amended by adding Article VII *Noise and Sound Level Regulation* and shall read as follows:

**“Chapter 10 *Miscellaneous Provisions and Offenses*
Section 10-8 *[RESERVED]***

Section 10-11 through 10-18 *Noise and Sound Level Regulation*

Section 10-11. Purpose.

The ordinance from which this article is derived is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the City through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity

Section 10-12. Definitions and standards.

[As used in this division the following words and terms shall have the meanings respectively ascribed:]

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

dB(A) shall mean the intensity of a sound expressed in decibels.

Daytime/evening shall mean the hours between 8:00 AM and 6:00 PM, Sunday through Thursday and 7:00 PM. and 11:00 PM Friday and Saturday.

Director shall mean Community Development Director.

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

Nighttime shall mean the hours between 10:00 PM to 6:00 AM, Sunday through Thursday and 11:00 PM to 6:00 AM Friday and Saturday.

Noise nuisance shall mean any loud, irritating, vexing or disturbing sound originating from a nearby property under separate ownership which exceeds the maximum permitted sound levels specified in this section.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

Residential area means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the City's zoning ordinance.

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

Sound level meter shall mean an instrument which includes a microphone, amplifier, RMS detector, integrator or time averages, output meter, and weighting network used to measure sound pressure levels.

(a) The following acts, among others not hereinafter enumerated, are declared to be "noise nuisances," and are unlawful and in violation of the provisions of this division 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 annoy, to distress, or to disturb the quiet, comfort, or repose of a person of reasonable nervous sensibilities, within the vicinity or hearing thereof, or so as to endanger or injure the safety or health of humans or animals, or so as to interfere with the physical well-being of humans or animals, or so as to endanger or injure personal or real property:

- (1) The playing or permitting or causing the playing of any radio, phonograph, drum, juke box, nickelodeon, any musical instrument, with or without a sound amplifier or similar device which produces, reproduces, or amplifies sound.
- (2) Any loud or vociferous language or any soliciting for, or description of, any amusement house, moving picture theater, or other like place of amusement, or for the performance therein, in the entrance thereto, the foyer or lobby thereof, or on the sidewalks adjoining the same.
- (3) The keeping of any animal, fowl or bird, which makes frequent or long continued noise.
- (4) 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 signal.
- (5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises therefrom.
- (6) The erection, including excavation, demolition, alteration, or repair work, or the causing or permitting thereof, on any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in construction, excavation, drilling, demolition, alteration or repair work:
 - a. Other than 8:00 AM and 5:00 PM (8:00 AM to 5:00 PM) on weekdays, except City holidays; or
 - b. Except in cases of urgent necessity in the interest of public safety and, then only by permit obtained from, and issued by the Community Development Director of the city or any of its duly appointed and acting assistants and employees, which permit may be renewed during the time the emergency exists.

- (7) The raucous shouting, whistling, yelling, singing, hooting or crying of peddlers, hawkers, vendors, or any other person or persons.
- (8) The making of noise which exceeds sixty-three (63) decibels on residential zoned property when measured from property under separate
- (9) The making of noise which exceeds seventy (70) decibels on business zoned property when measured from property under separate ownership.
- (10) The making of noise which exceeds (85) decibels from any event having a Special Event Permit issued by the Department of Community Development that is required by the City and not otherwise exempted in Section 10-15.
- (11) *Prohibited* The use of gasoline powered equipment such as, but not limited to, lawn mowers, edgers, weed eaters, blowers and chain saws is only allowed:
 - Residential zoned districts – Any day and city recognized holidays between the hours of 7:30 AM and 8:30 PM; or
 - Multi-family, commercial, and parking zoned districts - Monday thru Saturday and city recognized holidays between the hours of 8:00 AM and 6:00 PM (no Sunday work); or
 - By lawn service and tree service companies defined as those companies having more than two (2) employees inclusive of the owner – Monday thru Friday and city recognized holidays between 8:00 AM and 6:00 PM and on Saturday only between the hours of 10:00 AM and 4:00 PM (no Sunday work).
 - Exception: The remediation of downed trees or large limbs is allowable at any time in cases of urgent necessity in the best interest of a homeowner's personal safety or property.
- (b) *Not limiting.* The above list is only a number of examples of "noise nuisances" and is not intended to limit the definition of that term or the prohibitive application of this chapter in abating "noise nuisances."

Section 10-14. Vehicular mounted sound amplification systems.

It shall be unlawful for any person operating or controlling a motor vehicle in either a public or private place within the city to operate any sound amplifier which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette player, or other similar device in the motor vehicle, in such a manner that, when operated, is audible at a distance of thirty (30) or more feet from the source or, when operated causes a person to be aware of the vibration accompanying the sound in any location outside the confines of the vehicle emitting the

sound, noise, or vibration. A culpable mental state is not necessary to constitute a violation of this section.

Section 10-15. Exceptions.

The provisions of this division shall not apply to:

- (1) The emission of sound for the purpose of alerting persons to an emergency; or
- (2) Sound produced by emergency vehicles; or
- (3) Sound produced by a vehicle motor while the vehicle is moving on a public right-of-way, public waterway, airport runway, or railway; or
- (4) Sound produced by any governmental body in the performance of a governmental function; or
- (5) City sponsored or co-sponsored or approved parades and public events; or
- (6) Sound generated at a scheduled stadium event, little league activities during regulation hours, public parks and the public swimming pool; by parade spectators and participants on the parade route during a permitted parade; by outdoor celebration participants sponsored or co-sponsored by the city for the general welfare of the public; by patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit has been obtained and the explosives have been inspected and approved by the fire marshal; includes pyrotechnic displays that are inspected and approved by the city fire marshal; or
- (7) Sound produced by the operation of any air-conditioning unit, heat pump, or swimming pool machinery which does not produce a sound exceeding sixty-three (63) dBA on residential property or seventy (70) dBA on non-residential property, when measured at a distance of either fifteen (15) feet from the equipment producing the sound, or to the nearest exterior wall of a residential or commercial building under separate ownership, whichever distance is shorter; or
- (8) Amplifiers used on vehicles to attract patrons that are operated by ice cream and snow cone vendors that produce jingles or music from 10:00 AM and 8:00 PM. However, such amplified music or jingles shall not be used or operated in a manner so as to be offensive to the ordinance; or
- (9) The use and operation of an amplified, mechanical bell system in connection with the use and occupancy of a church structure, school structure or educational structure. However, such system shall not be used or operated in a manner so as to be offensive to the ordinance; or

- (10) Sound produced solely for the purpose of encouraging citizen participation in elections.

Section 10-16. Method of noise measurement.

Whenever portions of this chapter prohibit noise over a certain decibel limit, measurement of said noise shall be made with a decibel meter 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 of noise. 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. A windscreen for the microphone shall be used. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Measurements shall be taken at a point on adjacent private property or on the opposite side of an adjacent public right-of-way where the noise is generated.

Section 10-17. Penalties.

- (a) It shall be unlawful for a person to do or perform any act prohibited by this article, and it shall be unlawful for a person to fail to do or perform any act required by this article. A violation of this article is a class C misdemeanor offense, no culpable mental state or criminal intent is required, and upon conviction, a person shall be fined an amount not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00).
- (b) Unless otherwise specifically provided for in this article, if it is found that a person intentionally, knowingly or recklessly violated any provision of this article, then upon conviction a person shall be fined an amount not less than one hundred dollars (\$100.00) and not more than two thousand dollars (\$2,000.00) except that, in the event a person has once previously been convicted under this article, the person shall be fined an amount not less than two hundred dollars (\$200.00) and shall be fined not less than three hundred dollars (\$300.00) for a third conviction and for each conviction thereafter.
- (c) Nothing in this section shall limit the remedies available to the city in seeking to enforce the provisions of this chapter. Each day's violation thereof shall constitute a separate offense.

Section 10-18. Identification of violator.

The persons responsible for violations of this division are identified as follows:

- (1) *At private residences.* Any adult resident present at the time of the offense, and any adult guest or adult trespasser with the ability to control the level of noise at the time of the offense when no adult resident is present at the time of the offense.
- (2) *At business locations.* Any business owner, operator, manager, employee in charge, and all persons in control or in possession of the noise nuisance generating instrument or property at the time of the offense.
- (3) *At any location with an unattended noise nuisance producing machine, device, instrument, child, animal or combination of same.* Any person who leaves unattended any machine, instrument, device, child, animal, or any combination of same, which thereafter commences producing noise in violation of this article.

The ordinance from which this article is derived is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the City through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

Secs. 10-19. – 10-30. – Reserved.

SECTION TWO. AUTHORIZATION. The City Council of the City of Alamo Heights authorizes the City Manager or designee to take all necessary steps to implement the provisions of this Ordinance.

SECTION THREE. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared void.

SECTION FOUR. REPEALER. All other Code provisions, ordinances or parts of ordinances, and other provisions in conflict herewith are repealed to the extent of said conflict.

SECTION FIVE. FINDINGS. The City Council finds all of the above recitals to be true and correct and incorporates the same in this Ordinance as findings of fact.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

PASSED AND APPROVED this 23rd day of **JUNE, 2025**.

CITY OF ALAMO HEIGHTS, TEXAS:



ALBERT HONIGBLUM, MAYOR

ATTEST:



ELSA T. ROBLES, CITY SECRETARY

APPROVE AS TO FORM:



JESSIE LOPEZ, CITY ATTORNEY

