

ORDINANCE NO. 35-07-23

AN ORDINANCE AMENDING ALL PROVISIONS OF TITLE 4 '*PUBLIC HEALTH AND SAFETY*', CHAPTER 5 '*NOISE CONTROL*' TO PROVIDE REASONABLE UPDATES AND ENHANCED PROTECTIVE MEASURES TO BETTER MEET THE REASONABLE INTERESTS OF THE CITY'S NEIGHBORHOODS; AMENDING TITLE 10 '*ZONING REGULATIONS*', CHAPTER 13 '*CONDITIONAL USE PERMITS*', SECTION 10-13-5 '*REQUIREMENTS FOR APPROVAL*' TO FIRMLY DECLARE THE CITY OF ALAMO'S INTENTION TO FIRMLY IMPOSE AND ENFORCE NOISE COMPLIANCE PROVISIONS, ON AWARDED CONDITIONAL USE PERMITS; PROVIDING FOR A CUMULATIVE PROVISION; PROVIDING FOR A SEVERABILITY PROVISION; PROVIDING FOR AN ENABLING DATE OF EFFECTIVENESS; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE'S CAPTION IN A NEWSPAPER OF LOCAL CIRCULATION; AND PROVIDING FOR THIS ORDINANCE TO BE INCLUDED IN ALAMO'S CODE OF ORDINANCES

**WHEREAS**, The City of Alamo, Texas, is a Home Rule City whose stewardship is to serve its property owners, residents, and others by adopting and enforcing regulations that will protect and preserve the reasonable repose and comfort of all its populace, i.e., protecting the city's health, safety, and general welfare; and,

**WHEREAS**, The City of Alamo, Texas recognizes that its current Noise Control regulations, adopted in 1992 – over 31 years ago - will have to occasionally update such regulations to better meet the city's stewardship of its citizens, residents, and all others; and,

**WHEREAS**, The City of Alamo, Texas has extensively examined its Noise Control regulations and measures have been added, enhanced, and/or deleted in order to better protect the reasonable repose of its citizens, residents, and all others; and,

**WHEREAS**, The City of Alamo, Texas has also determined that a Conditional Use Permit zoning provision in Title 10, Chapter 13 should also be enhanced to better monitor and enforce said Noise Control regulations to awarded CUPs.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, COUNTY OF HIDALGO, STATE OF TEXAS, THAT:**

(NOTE: to the codifier, deleted verbiage is shown in bold & with a ~~strike-through~~ line; new verbiage is shown in **bold & underlined**; this is provided for comprehensiveness; the final Code should remove these features, of course.)

1. Section 4-5-1 ~~LOUD OR UNUSUAL NOISES PROHIBITED~~ shall be amended as follows:

It shall be unlawful ~~and prohibited by this Chapter~~ for any person ~~or persons, business operator/manager, or similar other~~ to make, continue, ~~allow to continue~~ or cause to be made ~~or continued~~ any excessive or unnecessary or unusually loud noise; or any noise which either ~~continuously~~ annoys, disturbs, injures ~~and/or endangers~~ ~~unreasonably infringes~~ the comfort, repose, health, peace or safety of others within the limits of the City; ~~especially as such affects nearby residential areas.~~

2. Section 4-5-2 ~~NOISE STANDARDS~~ shall be amended as follows:

The following acts, among ~~similar~~ others, are declared to be loud, disturbing and unnecessary noises in violation of this Chapter, but said enumeration shall not be deemed to be ~~exclusive~~ ~~all-inclusive~~, namely:

- A. Horns, Signaling Devices: The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any ~~street or~~ public ~~or private~~ place ~~of~~ in the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling ~~or horn~~ device, except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine electricity; the use of any horn, whistle or other device operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up.
- B. ~~Radios, Phonographs~~ **Sound Systems**: The using, operating or permitting to be played/~~operated, used or operated~~ of any radio receiving set, musical instrument, ~~compact disc player, electronic or digital sound system, any internet-assisted sound system,~~ phonograph or ~~any other machine or~~ device for the producing or reproducing of sound (~~music or otherwise~~) in such manner as to disturb the peace, quiet and ~~reasonable~~ comfort of the neighboring inhabitants ~~of ordinary sensibilities, especially in residential areas;~~ or at any time with louder volume than is necessary for convenient hearing for the persons who are ~~voluntary listeners~~ in the room, ~~assembly area, restaurant,~~ vehicle or ~~other such places~~ ~~chamber~~ in which such ~~machine or~~ device is operated. ~~and who are voluntary listeners thereto. The phrase 'permitting to be played/operated' shall include, but is not limited to a person or persons causing the device to function or keeping it in (violative)~~



operation; or a person or persons supervising or managing other persons who cause the device to function in violation to these noise regulations; or a person or persons who, after being alerted by local authorities or others to lower the volume due to an apparent violation and disruption to others, cause the same or another device to be re-activated in intentional breach of these noise regulations. The operation of any such ~~set~~ system described herein, instrument, phonograph, machine or device between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. in such a manner as to be plainly audible at a distance of ~~fifty feet (50')~~ one-hundred feet (100') from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section. This provision shall also be applicable and binding to and between all residentially used properties, whether they adjoin or not.

- C. Loud Speakers and Amplifiers for Advertising: The using, operating or permitting to be played, ~~used or operated~~ of any radio receiving set, musical instrument, compact disc player, electronic or digital sound system, any internet-assisted sound system, phonograph, loudspeaker, sound amplifier or any other ~~machine or~~ device for the producing or reproducing of sound which is cast upon the public and/or private streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- D. Yelling, Shouting: Yelling, shouting, hooting, whistling, ~~or singing~~ or some other type of (loud) vocal exertion on the public and/or private streets, sidewalks, or other public or semi-public places, particularly between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M., or at any time or place so as to annoy or disturb the quiet, comfort or reasonable repose of persons of ordinary sensibilities in any office or in any dwelling, hotel or other type of residence or any persons in the vicinity. This prohibition includes the general raucous shouting and yelling of peddlers and vendors which may disturb the peace and quiet repose of area residents.
- E. ~~Exhausts~~ Non-muffled Engines: The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motorcycle or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- F. Defect in Vehicle or Load: The use of any automobile, motorcycle or vehicle so out of repair, so loaded/customized ~~or~~ in such a manner as to create loud and unnecessary grating, grinding, rattling or ~~other noise~~ vibrating that annoys or disturbs the quiet, comfort or reasonable repose of persons of ordinary sensibilities in residency settings.

- G. Loading, Unloading and ~~Opening~~ Flattening Boxes: The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle; or the opening and ~~destruction~~ flattening of bales, boxes, crates and/or containers.
- H. Construction, ~~or~~ Repairing or Demolition of Buildings: The ~~erection~~ construction (including excavation), demolition, alteration or repair of any building other than between the hours of seven o'clock (7:00) A.M. and six o'clock (6:00) P.M. in residential zoning districts. Commercial and industrial zones where no residentially used properties adjoin said commercial/industrial site may commence at 3:00 A.M. and end at 7:00 p.m. or shortly thereafter. NOTE: should there be unique land use and/or weather conditions coupled with a legitimate sense of urgency, the Planning Director may deviate from these time constraints but only if there is a justified on-weekdays, except in case of urgent necessity in the interest of public health and safety. ~~and then only with a permit from the City Inspector, which permit may be renewed for periods of three (3) days or less while the emergency continues. If the City Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of six o'clock (6:00) P.M. and seven o'clock (7:00) A.M. and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of six o'clock (6:00) P.M. and seven o'clock (7:00) A.M. upon application being made at the time the permit for the work is awarded or during the progress of the work.~~
- I. Schools, ~~Courts~~, Churches and Hospitals: The creation of any excessive noise on any property or street or paved driveway or parking lot adjacent to any school, institution of learning, church, ~~or court while the same are in sue or adjacent to~~ any hospital or bona fide medical service center which unreasonably interferes with the workings of such institutions or which disturbs or unduly annoys patients in the hospital or medical facility.
- J. ~~Drums~~ Musical Instruments: The use of any drum or any other type of musical instrument or device for the purpose of attracting attention by creation of noise/music to any performance, show or sale. This prohibition does not include the sound generated from a school's jamboree, half-time performances at a school's sporting events, or other similar events by similar entities.
- K. Pile Drivers, Hammers: The operation between the hours of ten o'clock (10:00) P.M. and seven (7:00) o'clock A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance operated by compressed air, the



continuous use of which is attended by generates a loud or unusual noise that annoys or disturbs the reasonable repose of persons of ordinary sensibilities.

- L. Blowers: Between the hours of 10 P.M. and 7 A.M., the operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes generates loud noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is significantly muffled and such engine is equipped with a reliable muffler device sufficient to deaden such noise and does not annoy or disturb the reasonable comfort and repose of nearby residents with ordinary sensibilities.
- M. Funeral Home and Cemetery Services: The creation of any excessive and continuous noise from any property, street, sidewalk, or place that may reflect irreverence to persons that are attending sensitive memorial or religious services in respect to the loss of human life while at a funeral home or cemetery.

3. Section 4-5-3 EXEMPTIONS FORM PROVISIONS shall be amended as follows:

The following uses and activities shall be exempt from noise level regulations:

- A. Noises of safety signals, warning devices and emergency pressure relief valves.
- B. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.
- C. Noise from public or private vehicles or equipment resulting from emergency work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.
- D. Any other noise or sound resulting from activities of a temporary duration permitted by Federal, State and/or Local law and for which a license or permit therefor permission has been granted by the City in accordance with Section ~~4-5-4~~ 4-5-2 (H) of this Chapter.
- E. Any aircraft operated in conformity with or pursuant to Federal law, Federal air regulations and air traffic control instruction used pursuant to and within the duly adopted Federal air regulations.
- F. Any sound or noise generated by railway trains or similar railroad locomotives.
- G. Any needful noise from a horn or other warning device may be legitimately used and shall be exempted from being a violation of these regulations should a bona fide dangerous situation be discerned or suspected.
- H. All sounds produced by bells or chimes from any church.
- I. Any incidental noise from parade spectators and participants in the parade route; or similar outdoor memorial or celebration services conducted by city organizations or other legitimate groups.

4. Section 4-5-4 SPECIAL PERMIT shall be amended as follows:

Except for the provision of Section 4-5-2 (H) as it relates to special construction activity, applications for a permit for relief from the noise level designated in this Chapter on the basis of undue hardship may be made to the City Manager or his duly authorized representative. An application seeking relief shall include the following:

- Name, address, cell phone number(s) of the applicant and the responsible person in charge of the activity;
- The nature and specific location of the noise source;
- The specific time during which the noise will be generated (start-end), and the expected level of noise that will occur;
- The reason for the application which may be a needful hardship, specific nature of the hardship, and what will be the expected result if the special permit is not awarded;
- A description of noise control measures to be taken in order to minimize/muffle the noise impact, and who will be specifically responsible (name/cell #) for undertaking said measures; and,
- Specifically agreeing and understanding that if they (the applicant or his/her agent) do not comply with the terms of conditional approval and/or there was an issue of discrepancy of the applicants' proposal that was not accurately described/conveyed to the City of Alamo, then the special permit may be immediately revoked and the activity must cease; thus subjecting the applicant's proposal to the full measure of the city's noise regulations.

Any special noise permit granted by the City Manager hereunder, and after consulting with the Police Chief on the proposal, shall contain all conditions upon which said permit has been granted, and shall specify a reasonable time that the permit shall be effective; and when such permission will be granted, the members of the City Commission shall be alerted of such special consideration given and the discerned justification factored-in. The City Manager or his/her duly authorized representative may grant the relief as applied for if he/she finds considers the following logistics:

- A. That additional time is necessary for the applicant to alter or modify his their activity or operation to comply with this Chapter; or
- B. The activity, operation of noise source will be of temporary duration and cannot be done in a manner that would not reasonably comply with ~~other subsections of this Section~~ the provisions of this Chapter and will not constitute a danger to the public's health and safety; and/or



- C. That no other reasonable alternative is available to the applicant; and/or
- D. The value to the community of the proposed activity for which the special noise permit is sought; and/or
- E. The distant proximity to residences at which reasonable persons would be disturbed by the proposed noise; and/or
- F. The City Manager may prescribe any conditions or requirements he/she deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

5. Section 4-5-5 VIOLATION AND PENALTIES shall be amended as follows:

- A. Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in Section 1-4-1 of this Code of Ordinances. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.
- B. As an additional remedy to secure compliance, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof may be enjoined by a court of competent jurisdiction upon petition filed by the City Attorney upon the official direction of the City Commissioners.
- C. The Alamo Police Department shall be the lead department to enforce the provisions and regulations of this Noise Code; though other city departments may be assigned to assist, though to a more limited degree.

6. Title 10 'Zoning Regulations', Chapter 13 'Conditional Use Permits', Section 10-13-5 (2) 'Requirements for Approval' be amended as follows:

In particular regard to continuous loud noise that may violate the city's noise regulations of Title 4, Chapter 5, and/or because of seemingly un-controlled CUP induced parking that consistently spills over onto residential areas, it is declared that any approved conditional ~~That the proposed~~ use permit will not be detrimental to the reasonable repose and comfort of area residents; nor will any awarded CUP injure or compromise the health, welfare and safety of the surrounding neighborhood or its occupants; nor shall the awarded CUP be substantially or permanently injurious to neighboring property. Reiterating a special regard to the noise regulations of Title 4, Chapter 5, it is hereby decreed that any confirmed and verified violation(s) to these noise provisions will induce immediate code enforcement processes to be activated


and, depending on prompt compliance or the lack thereof, the city may determine to commence the public hearing process to revoke the CUP.

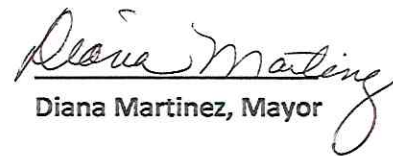
7. Should any provision, regulation, or section of this ordinance conflict with any current measure, then the terms of this ordinance shall supersede any such conflict.
8. Should a provision or section of this ordinance be declared invalid by a court of competent jurisdiction, then all other portions shall retain their full force and effect.
9. This ordinance shall become effective and enabling upon the signature of the Mayor of the City of Alamo, Texas.
10. The City Secretary is instructed to have the caption of this ordinance published in a newspaper of local circulation according to regulatory protocol.
11. The City Secretary is further instructed to promptly forward an official copy of this signed ordinance to the City of Alamo's codifying agency so as to be properly assimilated into Alamo's Code of Ordinances.


READ, DISCUSSED, AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, TEXAS, in accordance with the provisions of Chapter 551 of the Texas Government Code, at a Regular Meeting called and publicly held at the City of Alamo's City Hall, on this the 11 day of July, In The Year of Our Lord, 2023.

CITY OF ALAMO, TEXAS

ATTEST:

  
\_\_\_\_\_  
Alexandra Rangel, Asst. City Mngr.

  
\_\_\_\_\_  
Diana Martinez, Mayor

APPROVED AS TO FORM  
PALACIOS, GARZA & THOMPSON  
  
\_\_\_\_\_  
CITY ATTORNEY

