

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE V, “NOISE,” OF CHAPTER 34, “ENVIRONMENT,” OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS BY PROVIDING AN UPDATE TO THE NOISE REGULATIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, 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 Texas Local Government Code; and

WHEREAS, the City Council, after due and careful consideration, has determined that it is reasonable and appropriate to protect the citizens of the City from any nuisance impacts created by unreasonable and inappropriate noise that is unreasonably loud, disturbing, or unnecessary and that would prevent other property owners and citizens from enjoying the reasonable use of their property; and

WHEREAS, in order to implement this intent, it is necessary to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the value and enjoyment of property, preserves the quality of the environment, yet provides reasonable notice and guidance to the average citizen of what type of activities may be prohibited; and

WHEREAS, it is reasonable and appropriate to not only identify prohibited activities but also to identify specific areas where a different standard of noise regulation or management may be appropriate due to the character of the area and its role in community life; and

WHEREAS, it is appropriate to establish the identified exemptions to the general application of noise regulations to accommodate compelling public needs.

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

SECTION I.

Subsection (a)(1), “Purpose,” Subsection (c)(1), “Maximum Sound Levels,” Subsection (f), “Enforcement,” Subsection (g), “Continuing Violations Constituting a Public Nuisance,” and Subsection (h), “Penalties,” of Section 34-191, Article V, “Noise,” of Chapter 34, “Environment,” of the Code of Ordinances, City of Burleson, Texas are hereby amended to read as follows:

“§ 34-191 Noise.

(a) General provisions.

- (1) Purpose. The purpose of this article is to establish a set of uniform regulations governing noise and sound. These regulations are intended to ensure that a noise does not become a nuisance by its volume, frequency, duration, or vibration to such an extent that it becomes a nuisance and negatively impacts other citizens and adjoining property owners.

(c) Presumptive threshold restrictions on maximum decibel levels.

- (1) Maximum sound levels. During the times in the zoning districts set forth below, activities that create a sound pressure level on the complainant's bounding real property line that exceed the maximum allowable sound level (dBA) are prima facie evidence sufficient to establish a public nuisance:

Within or directly adjacent to a zoning district zoned (A) agricultural, SFE single-family residential estate, SF16 single-family dwelling district 16, SF10 single-family dwelling district 10, SF7 single-family dwelling district 7, SFA single-family attached dwelling district, 2F two-family dwelling district, MF1 multi-family 1 dwelling district, MF2 multi-family 2 dwelling district, MH manufactured housing dwelling district, or MHP manufactured housing park district:

Daytime: 7:00 a.m. to 10:00 p.m.: equal to or less than 70 dBA

Nighttime: 10:00 p.m. to 7:00 a.m.: equal to or less than 60 dBA

All commercial zoning districts, including the NS neighborhood service district, GR general retail district and C commercial district:

Daytime: 7:00 a.m. to 10:00 p.m.: equal to or less than 80 dBA

Nighttime: 10:00 p.m. to 7:00 a.m.: equal to or less than 70 dBA

The industrial zoning district:

Daytime: 7:00 a.m. to 10:00 p.m.: equal to or less than 85 dBA

Nighttime: 10:00 p.m. to 7:00 a.m.: equal to or less than 75 dBA

Site plan or planned development districts (SP or PD) shall be analyzed to determine the majority percentage of land use within that unique zoning district. The sound decibel levels applicable to the base land use category that constitutes the largest percentage of land area within that special district shall be the controlling decibel limit.

In the Old Town (OT) overlay district the area zoned C.C. (Central Commercial):

Sunday - Thursday

Daytime: 7:00 a.m. to 10:00 p.m.: equal to or less than 80 dBA

Nighttime: 10:00 p.m. to 7:00 a.m.: equal to or less than 70 dBA

Friday – Saturday

Daytime: 7:00 a.m. to 2:00 a.m. the following day: equal to or less than 85 dBA

Nighttime and Sunday: 2:00 a.m. to 7:00 a.m.: equal to or less than 70 dBA

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

7:00 a.m. to 10:00 p.m.: Existing Ambient (dBA) + 3 dBA

10:00 p.m. to 7:00 a.m.: Existing Ambient (dBA)

(f) Enforcement. The provisions of this Section may be enforced by the city manager or his or her designee, or any city code officer or police officer in the course of employment. A citizen that witnesses a noise violation may submit a sworn statement with supporting documentation of the noise ordinance violation to a code officer or police officer of the city for municipal prosecution.

(g) Continuing violations constituting a public nuisance. In addition to the criminal jurisdiction of the municipal court, the municipal court shall have civil jurisdiction over nuisance violations in accordance with V.T.C.A., Government Code § 30.00005.

(h) Penalties.

- (1) A person commits an offense if the person makes noise in violation of this section.
- (2) An offense under this section is punishable by a fine of not more than \$2,000.00 for each event or violation.
- (3) 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.
- (4) 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.

(i) Exceptions. Notwithstanding anything in this section to the contrary, the following sound-related activities are not a violation of this section:

- (1) A food service establishment, as defined in Texas Health and Safety Code § 437.001, as may be amended from time to time, that accepts delivery of supplies or other items, provided that if the delivery occurs between 10 p.m. and 5 a.m., then:
 - (a) the delivery lasts for one hour or less;

- (b) the delivery is only for food, nonalcoholic beverages, food service supplies, or ice; and
 - (c) the delivery sound level when measured from the residential property closest in proximity to the establishment does not exceed 65 dBA, excluding traffic and other background noise that can be reasonably excluded.
- (2) A restaurant, as defined by Alcoholic Beverage Code § 1.04, as may be amended from time to time, that limits the use of amplified sound for playing music or amplifying human speech within the establishment's indoor or outside property boundaries to ensure:
 - (a) the amplified sound is not used after 10 p.m. on Sunday through Thursday and 11 p.m. on Friday and Saturday; and
 - (b) the amplified sound level does not exceed 70 dBA or 75 dBC when measured at the establishment's property perimeter, excluding traffic and other background noise that can be reasonably excluded.
- (3) Subsection (i)(2), above, does not apply to a food service establishment on property that is located within 300 feet of a residence that was occupied before any food service establishment was located on the property.”

SECTION II.

This Ordinance shall be cumulative of all provisions of ordinances of the City, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION III.

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

SECTION IV.

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 not more than \$2,000.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION V.

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of Chapter 34, Article V of the Code of Ordinances, City of Burleson, Texas and or any other ordinances affecting noise which 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,

whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION VI.

The City Secretary is hereby directed to publish the caption and penalty clause of this Ordinance as required by state law.

SECTION VII.

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON FIRST READING ON THIS ____ DAY OF _____, 2025.

PASSED AND APPROVED ON SECOND READING ON THIS ____ DAY OF _____, 2025.

MAYOR

ATTEST:

CITY SECRETARY

EFFECTIVE:_____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY