



TOWN ATTORNEY

To: Mayor and Town Council

From: Terrence S. Welch, Town Attorney

Through: Mario Canizares, Town Manager

Re: Noise and Nuisance Ordinance Amendments

Town Council Meeting – March 10, 2026

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Consider and act upon an ordinance amending Section 8.02.002, “Prohibited,” of Chapter 8, “Offenses and Nuisances,” by extending nuisance control areas 5,000 feet into the Town’s Extraterritorial Jurisdiction, pursuant to state law; and repealing existing Article 8.06, “Noise Control,” of Chapter 8, “Offenses and Nuisances,” and replacing it with a new Article 8.06, “Noise Control.”

Description of Agenda Item:

Pursuant to Section 217.022 of the Texas Local Government Code, the governing body of a municipality may undertake measures to address any nuisance within the limits of the municipality. Additionally, pursuant to Section 217.042 of the Texas Local Government Code, the Town, as a home-rule municipality, may define and prohibit any nuisance within the limits of the Town and within five thousand feet (5,000’) outside the corporate limits of the municipality and further, may enforce all ordinances necessary to prevent and summarily abate and remove a declared nuisance. The amendment to Section 8.02.002 accomplishes this by including the foregoing 5,000-foot area as an area where the Town may regulate nuisances.

The second amendment in effect is a rewrite of the Noise Control provisions contained in Article 8.06, “Noise Control.” These revisions are necessary due to recent judicial interpretations of noise regulations. The terminology contained in Article 8.06 has been updated to remove the term “Town Administrator.” A section-by-section review of the minor revisions to Article 8.06 follows:

- § 8.06.004 **Definitions.** – *Quiet zone* – Amendment is made to clarify that certain quiet zones within Town limits are to be designated by the Town Council via ordinance, so as to ensure that the prohibitions related to “quiet zones” are not vague. This updates the noise ordinance to be in accord with recent judicial interpretations.
- § 8.06.005(a) **Specific noise disturbance prohibited.** Amendment is made to the Town’s noise ordinance to define violations of the noise ordinance as public nuisances. This authority is provided for in Tex. Loc. Gov’t Code § 217.022 for the Town to define and enforce nuisances. Furthermore, providing that the violation constitutes a nuisance, in conjunction with the amendment to Section 8.02.002 above, allows for enforcement within 5,000 feet of Town limits.

- § 8.06.005(b) – removes a reference to activities which are defined as noise disturbances *per se*. This updates the noise ordinance to be in accord with recent judicial interpretations.
- § 8.06.005(b)(2)(A) – removes a reference to use of radios, instruments and amplifiers as activities which are defined as noise disturbances *per se* within certain hours. This updates the noise ordinance to be in accord with recent judicial interpretations. Such action is still prohibited if it meets the definition of a “noise disturbance.”
- § 8.06.005(b)(6)(A) – removes a reference to operation of construction equipment as noise disturbances *per se* within certain hours. This updates the noise ordinance to be in accord with recent judicial interpretations. Such action is still prohibited if it meets the definition of a “noise disturbance.”
- § 8.06.005(b)(7)(A) – removes a reference to operation of batch plants within certain hours as a nuisance *per se*. This updates the noise ordinance to be in accord with recent judicial interpretations. Such actions may still be prohibited if they meet the definition of a “noise disturbance.”
- § 8.06.005(b)(8)(A) – removes a reference to operation of power equipment within certain hours as a nuisance *per se*. This updates the noise ordinance to be in accord with recent judicial interpretations. Such actions may still be prohibited if they meet the definition of a “noise disturbance.”
- § 8.06.005(b)(9)(A) – removes a reference to repairing and testing of motor vehicles within certain hours to be a nuisance *per se*. This updates the noise ordinance to be in accord with recent judicial interpretations. Such actions may still be prohibited if they meet the definition of a “noise disturbance.”
- § 8.06.005(b)(10)(A) – removes a reference to running of motor vehicles and motorcycles within certain hours to be a nuisance *per se*. This updates the noise ordinance to be in accord with recent judicial interpretations. Such actions may still be prohibited if they meet the definition of a “noise disturbance.”
- § 8.06.005(b)(10) – removes this section as superfluous to § 8.06.005(a) and to avoid any potential conflict with state law limitations on the Town’s regulation of fireworks extending within 5,000 feet of Town limits. Furthermore, fireworks are regulated elsewhere in the Code of Ordinances and removal adds to clarity and prevents potential internal conflict within the Code of Ordinances. See Art. 5.04 Code of Ordinances.
- § 8.06.005(b)(13)(A) – removes a reference to flying of motor aircraft by internal combustion engine to be a nuisance *per se* within certain hours. This updates the noise ordinance to be in accord with recent judicial interpretations. Such actions may still be prohibited if they meet the definition of a “noise disturbance.”

Budget Impact:

There is no budgetary impact affiliated with this item.

Legal Obligations and Review:

Ordinance has been approved by the Town Attorney.

Attached Documents:

1. Draft Ordinance

Town Staff Recommendation:

Town staff recommend the Town Council approve an ordinance amending Section 8.02.002, "Prohibited," of Chapter 8, "Offenses and Nuisances," by extending nuisance control areas 5,000 feet into the Town's Extraterritorial Jurisdiction, pursuant to state law; and repealing existing Article 8.06, "Noise Control," of Chapter 8, "Offenses and Nuisances," and replacing it with a new Article 8.06, "Noise Control."

Proposed Motion:

I move to approve an ordinance amending Section 8.02.002, "Prohibited," of Chapter 8, "Offenses and Nuisances," by extending nuisance control areas 5,000 feet into the Town's Extraterritorial Jurisdiction, pursuant to state law; and repealing existing Article 8.06, "Noise Control," of Chapter 8, "Offenses and Nuisances," and replacing it with a new Article 8.06, "Noise Control."