

ORDINANCE NO. CO07.15.10.22.C5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING CHAPTER 8 OFFENSES AND NUISANCES; ARTICLE 8.08 NOISE REGULATIONS OF THE CITY OF CEDAR PARK CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, pursuant to Texas Local Government Code Chapter 217, the City may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the city limits; and

WHEREAS, pursuant to Texas Local Government Code Chapter 51, the City Council may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that is for the good government, peace, and order of the municipality; and

WHEREAS, the City Council acknowledges that excessive noises can be a nuisance and can disturb the peace and order of the City; and

WHEREAS, the City Council desires to implement objective regulations governing noise levels in order to simplify enforcement and encourage compliance with such regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. That Cedar Park Code of Ordinances, Chapter 8 Offenses and Nuisances, Article 8.08 Noise Regulations, is hereby amended as provided in the attached Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

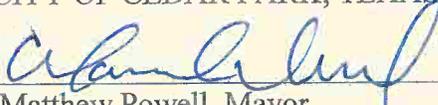
SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 8th day of October, 2015, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 22nd day of October, 2015, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS


Matthew Powell, Mayor

ATTEST:


LeAnn M. Quinn, TRMC
City Secretary

APPROVED AS TO FORM
AND CONTENT:


J.P. LeCompte, City Attorney



ORDINANCE NO. CO07.15.10.22.C5

ARTICLE 8.08 NOISE REGULATIONS

Sec. 8.08.001 General provisions

- (a) **Scope.** This Article applies to the control of all sound and noise existing within the city limits of the City and/or its extraterritorial jurisdiction.
- (b) **Overview.** This Article is designed to regulate sound and noise through the use of objective standards to promote compliance and enforceability, which will enhance the public health, safety, and general welfare of the City.

Sec. 8.08.002 Definitions

A-Weighted. The sound pressure level in Decibels as measured on a Sound Level Meter using the A-weighting network and designated dB(A) or dBA, as defined by International Electrotechnical Commission 61672.2003 or the American National Standards Institute rated Type 2.

Daytime. The continuous time period between 7:00 a.m. and 10:00 p.m.

Decibel (dB). The unit of measurement for sound pressure level at a specified location.

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

Nighttime. The continuous time period from 10:00 p.m. to 7:00 a.m.

Public Right-Of-Way. Any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public, which is owned or controlled by any government entity.

Real Property Line. Either:

- (a) The imaginary line, including its vertical extension, that separates one parcel of real property from another, or
- (b) The vertical and horizontal boundaries of each unit of a multi-unit building which is under separate ownership or tenancy.

Sound Equipment. A loud speaker, public address system, amplification system, musical instrument, radio, CD player, or other sound producing device.

Sound Level. The instantaneous sound pressure level measured in Decibels obtained by the use of a Sound Level meter.

Sound Level Meter. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting network used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the latest version of the American National Standards Institute specifications for Sound Level meters (ANSI Standard S1.4-1983).

Zoning Ordinance. The Zoning Ordinance of the City of Cedar Park, Texas, as set forth in Chapter 11 of the Cedar Park Code of Ordinances, as amended.

Sec. 8.08.003 Restrictions on Decibel levels

(a) Maximum decibel levels. No person shall cause, allow, or permit the making of a noise, in the City Limits or City's extraterritorial jurisdiction, which exceeds 85 dBA during the Daytime or 70 dBA during the Nighttime as measured pursuant to Subsection (b) herein. A violation of this Section is hereby declared a nuisance.

(b) Noise measurement. Measurement of noise pursuant to this Article shall be in accordance with this Section.

(1) Method of Measurement. Noise shall be measured with a Sound Level Meter meeting the standards prescribed by the American Standards Association. The measuring instruments shall be maintained in calibration and good working order. Prior to taking a measurement of the noise in question, the environment shall be observed to determine whether background noise is so close to the level of the sound being measured rendering a proper measurement impossible. Measurements recorded shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be screened from wind and water and otherwise used in accordance with the manufacturer's specifications.

(2) Location of Measurement. Measurement of noise shall be taken from the Real Property Line of the person alleging a violation of this Article closest to the point of origin of the noise.

Sec. 8.08.004 Special Exceptions.

(a) Application. A person seeking a Special Exception under this Section shall complete and file a written application for a Special Exception with the Police Department on the form provided by the Police Department and pay the applicable fee in accordance with the Fee Schedule in Exhibit A of this Code, as amended. An application for Special Exception shall include:

(1) The name, address, and telephone number of the applicant. If the applicant is a business, the application shall be filled out by the owner or duly authorized agent of the business and shall list the name, address, and telephone number of the business, the responsible owner of the business, and the operator of the business, if different;

(2) The nature and location of the noise source for which the application is made;

(3) The time during which the noise will be generated and the level of noise that will occur;

(4) A signed statement that the applicant has obtained a copy of this Article and related rules and agrees to comply with this Article, the related rules provided, and the terms and conditions of a Special Exception issued to the applicant;

(5) The reason for which the Special Exception is requested, including the hardship that will result to the applicant, his/her client, or the public if the Special Exception is not granted; and

(6) A description of noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom and the schedule under which said measures will be implemented.

(b) Restrictions on approval of Special Exception. No Special Exception shall be approved unless the City Council is satisfied based upon the application and other proof provided by the applicant that:

(1) Noise levels occurring during the period of the Special Exception will not constitute a danger to public health;

(2) Compliance with this Article would impose an unreasonable hardship on the applicant or the public without greater benefits to the public; and

(3) The applicant has fully complied with the application procedures.

(c) Considerations in determining whether to approve a Special Exception. In making the determination of whether to grant a Special Exception, the City Council shall consider:

(1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;

(2) The value to the community of the activity for which the Special Exception is sought;

(3) The ability of the applicant to apply the best practical noise control measures; and

(4) Proximity to residences at which reasonable persons would be disturbed by the noise.

(d) Other restrictions.

(1) The City Council shall consider each application on the same basis as that used for other similarly situated applicants and shall make each Special Exception decision free from consideration of race, sex, national origin, religion, the content of speech, or any other factors not provided for in this Article; and

(2) No Special Exception shall be approved for the operation of Sound Equipment at Nighttime from a Motor Vehicle.

(3) No Special Exception shall be approved if the applicant has been convicted of more than two violations under this Article at the location for which the Special Exception is sought in the six months prior to the date on which the application is submitted.

(e) Approval or denial of Special Exception.

(1) The City Council shall grant or deny the Special Exception within sixty (60) business days of receiving the properly completed application. An application for the same applicant or location may not be submitted for a period of sixty (60) business days following the denial of an application.

(2) If the City Council determines a Special Exception should be issued pursuant to the criteria established in this Section, a Special Exception shall be issued which states the type of sound allowed, the location at which the sound will be allowed, the maximum Decibel level to be allowed, the times at which the sound will be allowed to be produced, and the expiration date of the Special Exception.

(f) Time and frequency limits on Special Exceptions. Applicant shall apply for a Special Exception under one or the other, but not both, of the subsections below:

(1) Multiple Events. Applicants applying for a Special Exception for multiple events at the same site within one (1) calendar year shall apply for one (1) Special Exception for all events within the one (1) calendar year. A new Special Exception application shall be required for a new Special Exception to be approved for any subsequent year. Any such Special Exception shall terminate upon change in the owner or operator of the establishment listed on the application and a new Special Exception application by the new owner will be required to obtain a new Special Exception.

(2) Single Event. Special Exceptions for single events shall be issued for the duration of each individual event and no such Special Exception for a single event shall be issued for the same location within thirty (30) business days of the date of expiration of the previous Special Exception.

(g) Revocation of Special Exception. The Special Exception may be revoked by the City Council after a public hearing if the terms of the Special Exception are violated; if it is learned that there were material misrepresentations made in the Special Exception application; or if there is a material change in any of the circumstances relied upon by the City Council in granting the Special Exception.

Sec. 8.08.005 Exemptions

It is a defense to prosecution of a violation under this Article if the violation is based on a sound listed in this Section.

- (a) The emission of sound for the purpose of alerting persons to an emergency.
- (b) Sound produced by emergency vehicles.
- (c) Sound produced by a vehicle motor in good working order while the vehicle is moving on a Public Right-Of-Way, public waterway, airport runway, or railroad.
- (d) Sound produced by any governmental entity in the performance of a governmental function.
- (e) Sound generated at a scheduled stadium event or event at the Cedar Park Center; by parade spectators and participants in the parade route during a permitted parade; by outdoor celebration participants for the general welfare of the public.
- (f) Sound generated at a religious event, during the Daytime, held on premises that are regularly used for worship services.
- (g) The use and operation of bells or an amplified, mechanical bell system in connection with the use and occupancy of a church structure.
- (h) Sound generated from persons of reasonable behavior playing at a park or playground.
- (i) Sound generated by the steam engine from the Austin Steam Train.
- (j) Sound generated by manufacturing or industrial entity that is generated for the purpose of the business.
- (k) Construction work that:
 - (1) is within six hundred feet (600') of any dwelling or dwelling unit occupied as a residence, construction activity of any nature, at any time between the hours of 7:00 a.m. and 8:00 p.m.
 - (2) is located six hundred feet (600') or more from a dwelling, or dwelling unit occupied as a residence.
 - (3) In cases of urgent necessity or in the interest of public safety and convenience, the city manager or his/her designee, may issue a permit allowing construction, exceeding the Decibel limitations under this Article, to take place between the hours of 8:00 p.m. of a given day and 7:00 a.m. of the following morning. The city manager

may at his/her discretion attach one or more of the following conditions to any permit issued.

(i) Specified hours during which construction activities may take place

(ii) Prior written notification of the time, date and estimated duration of the permitted construction activity, said notice to be provided at the permit holder's expense, to persons residing within a given distance of the construction site.

(iii) Any other condition or restriction deemed necessary for protection of the public health, safety and welfare.

(l) Any utility or roadway maintenance or repairs in residential areas during the Daytime and emergency repairs related to public health, safety and welfare of the residents, which are allowed at all hours.

(m) The sounding of any horn or signal device from a Motor Vehicle as a warning device.

(n) The collection of garbage, waste, or refuse in an area zoned for commercial uses or other business uses as defined by the Zoning Ordinance, or between the hours of 7:00 a.m. and 6:00 p.m. in any areas zoned for residential uses as defined by the Zoning Ordinance or within three hundred (300) feet of an area zoned for residential uses as defined by the Zoning Ordinance.

Sec. 8.08.006 Enforcement, violation and penalty

(a) It shall be unlawful for any person to interfere with, obstruct, resist or oppose any person authorized to enforce the provisions of this Article.

(b) Any person who violates the provisions of this Article shall be charged with a class C misdemeanor; and upon conviction shall be fined as provided for in Section 1.01.009 of this Code for each day that a violation exists, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

APPENDIX A

FEE SCHEDULE

ARTICLE 17.000 NOISE RELATED FEES

Sec. 17.100 Special Exception fees

The City shall assess and collect a fee in the amount of \$50 per Special Exception application processed by the City.