

CITY OF LAGO VISTA, TEXAS

ORDINANCE NO. 25-08-21-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, REPEALING THE CITY'S CODE OF ORDINANCES, CHAPTER 6, PROPERTY MAINTENANCE AND NUISANCES; ARTICLE 6.300 NOISE; AND PROVIDING A NEW ORDINANCE FOR THE REGULATION OF NOISE DISTURBANCE; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR A REPEAL; PROVIDING A PURPOSE; PROVIDING FOR ENFORCEMENT; PROVIDING FOR TERRITORIAL APPLICATION; PROVIDING FOR COMPLIANCE BY CONTRACTORS AND PROPOSED DEVELOPMENTS; PROVIDING FOR CITY CONTRACTS TO BE CONDITIONED UPON COMPLIANCE; PROVIDING DEFINITIONS; PROVIDING FOR SPECIFIC NOISE DISTURBANCE PROHIBITED; PROVIDING FOR AFFIRMATIVE DEFENSES; PROVIDING FOR PERMITS OF VARIANCE; PROVIDING FOR APPEALS; PROVIDING FOR PENALTY NOT TO EXCEED \$2,000 PER OFFENSE PER DAY; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING CUMULATIVE REPEALER, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION, ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lago Vista is a Home Rule City; and

WHEREAS, the City Council has determined that Chapter 6, Property Maintenance and Nuisance, Article 6.300 of the City's Code of Ordinances, containing the noise ordinance, should be repealed in its entirety to be updated to minimize exposure to the physiological and psychological harm of excessive noise and to protect, promote, and preserve the public health, comfort, convenience, safety, and welfare; and

WHEREAS, it is the express intent of the City Council to control the level of noise in a manner which promotes commerce, protects the sleep and repose of citizens, and preserves the quality of life and the environment; and

WHEREAS, after due deliberation and consideration, the City Council has determined that the Ordinance set forth herein should be adopted, and that such Ordinance is in the best interest of the public health, safety, and welfare of the citizens of the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS:

SECTION 1
INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2
FINDINGS

After due deliberations, the City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Lago Vista, Texas and of the public health, safety, and welfare.

SECTION 3
REPEAL AND ADOPTION OF NEW SECTION 8.04

Chapter 6, Property Maintenance and Nuisance, Article 6.300, Noise, is repealed in its entirety and the following Article 6.300 is hereby enacted:

ARTICLE 6.300 NOISE

Sec. 6.301 Territorial Application

This article shall be applicable within the corporate limits of the city and further within the area immediately contiguous and adjacent to the city limits, extended for a total distance of 5,000 feet; provided, however, that this article shall not apply within any portion of said 5,000-feet area which is contained within the territory of any other municipal corporation. Any reference to the "city" within this article shall apply to the area described herein.

Sec. 6.302 Compliance By Contractors and Proposed Developments

It is the policy of the city that all contractors and subcontractors be required to comply with the provisions and intent of this article in their operations.

Sec. 6.303 City Contracts To Be Conditioned Upon Compliance

Any written agreement, purchase order, or instrument committing an expenditure of city funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing, shall be subject to the provisions of this article, and the person or entity entering into

the contract must operate, construct, conduct, or manufacture its business without violating this article including current contracts entered into prior to the adoption of this section.

Sec. 6.304 Definitions

(a) The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City. For purposes of this article 6.300 city shall include the corporate limits and the area described by Section 6.301 and above.

Construction. Any site preparation, assembly, erection, substantial repair, alteration, or similar action (excluding demolition) of, to or on structures, improvements, utilities, property, public or private right-of-way surfaces, or similar property.

Demolition. Any dismantling, intentional destruction, or removal of structures, improvements, utilities, property, public or private right-of-way surfaces, or similar property.

Device. Any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

Emergency vehicle. A motor vehicle used in response to a public calamity or to protect persons or property from imminent exposure to danger.

Motor vehicle. Any vehicle propelled by mechanical power, such as, but not limited to, any passenger car, truck, truck-trailer, semi-trailer, camper, motorcycle, mini-bike, go-cart, dune buggy, or racing vehicle.

Noise disturbance. Any sound which disturbs, or which causes or tends to cause an adverse psychological or physiological effect upon, the sensibilities of a reasonable, prudent, adult person; any unreasonably loud or disturbing noise which is offensive to the sensibilities of a reasonable, prudent, adult person; and any unreasonably loud or disturbing noise which renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort.

Noise disturbance per se. Not requiring extraneous evidence or support to establish the existence of a noise disturbance.

Nonresidential district. Any district not classified by the city's zoning ordinance as containing residential homes, apartments, townhomes, condominiums, or similar property.

Person. Any individual, firm, association, partnership, corporation, or any other entity, public or private.

Power equipment. Any motorized electric or fuel powered equipment, including but not limited to, tractors, lawnmowers, and other similar devices or equipment.

Powered model vehicle. Any self-propelled airborne, waterborne, or land borne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane,

boat, car, or rocket, including but not limited to those powered by internal combustion engines, whether tethered or not.

Property boundary. An imaginary line exterior to any enclosed structure, at the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person.

Quiet zone. Property on which a school, hospital, clinic, library, or other noise disturbance sensitive facility is operated.

Residential district. Any district classified by the city's zoning ordinance as containing residential homes, apartments, townhomes, condominiums, mixed-use development, or similar property.

(b) All terminology used in this article and not specifically defined above shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body and/or the latest volume of Webster's Collegiate Dictionary.

Sec. 6.305 Specific Noise Disturbance Prohibited

(a) No person shall allow, make, or cause to be made any unreasonably loud or disturbing noise in the city, which is offensive to the sensibilities of a reasonable, prudent, adult person, renders the enjoyment of life or property uncomfortable, interferes with public peace and comfort, or causes a noise disturbance as defined herein.

(b) The following list includes, but is not limited to, activities which can create unreasonably loud or disturbing noises in violation of this article, including activities which are noise disturbances *per se*, unless an exemption exists pursuant to section 6.306 or a permit of variance was first obtained as provided in section 6.307.

(1) Animals. Owning, keeping, possessing, or harboring any animal or animals which, by frequent or habitual noise making, unreasonably disturbs or interferes with the peace, comfort, or repose of the citizens of the city, or causes a noise disturbance as defined herein. The provisions of this article shall apply to all private or public facilities including any animal shelter or commercial kennel, which hold or treat animals.

(2) Radios, television sets, musical instruments, loud speaking amplifiers, and similar devices.

a. The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device for the producing or reproducing of sound, in such manner as to cause a noise disturbance.

Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m.

- b. The using, operating, or permitting to be played, used, or operated any sound production or reproduction device, radio, receiving set, musical instrument, drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device that produces or reproduces sound for the purpose of attracting attention to any cause or demonstration, or to any performance, show, sale or display of merchandise so as to attract attention to such cause, demonstration or premises when such use is done in a manner which causes a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m.
- c. The using, operating or permitting to be played, used or operated any sound production or reproduction device, radio, receiving set, musical instrument drums, phonograph, television set, loudspeakers and sound amplifiers or other machine or device on trucks or other moving vehicles for the purpose of attracting attention to any cause or demonstration, or for advertising any show, sale or display of merchandise when such use is done in a manner which causes a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m.

(3) Outdoor Music Venue.

- a. For purposes of this subsection(b)(3), the term outdoor music venue means a property in a non-residential district allowing outdoor music venue as a use and where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof. Prior to construction of an outdoor music venue, the owner must submit to the city of its approval a sound impact plan which must include sound mitigating design features, prescribed decibel levels and hours of operation, and any other elements required by the city manager or designee.
- b. For outdoor music venues receiving a permit prior to the adoption of this subsection (b)(3), a second violation of this article by the owner or its agent shall entitle the city to require a sound impact plan and the construction of sound mitigation design features as determined by the city manager or designee.

(4) Vehicular sound amplification systems. Operating or controlling a motor vehicle in either a public or private place within the city and operating any sound device which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette tape player, or

other similar device in the motor vehicle, in such a manner that, when operated, it is audible at a distance of 30 feet, or when operated, causes a person to be aware of the vibration accompanying the sound at a distance of 30 feet from the source when such operation is done in a manner which causes a noise disturbance.

(5) Yelling, shouting, etc. The yelling, shouting, crying, hooting, whistling, or singing of peddlers, hawkers, or any other person within the city in such a manner as to cause a noise disturbance.

(6) Loading operations. The loading or unloading of any vehicle within the city in such a manner as to cause a noise disturbance.

(7) Construction/maintenance/industrial work.

a. Operating or permitting to be operated any motorized or non-motorized equipment used in construction, maintenance, repair, alteration, erection or demolition of buildings, structures, improvements, streets, alleys, lawns, golf courses, or appurtenances thereto within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 7:00 p.m. and 7:00 a.m.

b. Operating or permitting to be operated any motorized or non-motorized equipment used in construction, maintenance, repair, alteration, or demolition work on buildings, structures, streets, alleys, lawns, golf courses, or appurtenances thereto within a nonresidential district in such a manner as to cause a noise disturbance.

c. Operating or permitting to be operated any gravel pit, rock crusher, or other machinery for the separation, gathering, grading, loading, or unloading of sand, rock, or gravel, within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 7:00 p.m. and 7:00 a.m.

d. Operating or permitting to be operated any gravel pit, rock crusher, or other machinery, equipment, and/or motor vehicle used for the separation, gathering, grading, loading or unloading of sand, rock, or gravel, and/or any other machinery, equipment, and/or motor vehicle used in the production of concrete or asphalt within a nonresidential district in such a manner as to cause a noise disturbance.

e. Operating or permitting the maintenance, servicing, and fueling of construction equipment, and the delivery of construction-related materials and/or equipment within a

residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 7:00 p.m. and 7:00 a.m.

f. It is the responsibility of the developer/contractor to use good judgment when scheduling work in construction zones located in close proximity to residences, schools, churches, businesses, etc. This is to ensure that citizens are not subjected to undesirable or excessive construction noise. In addition to any other penalties provided by city ordinance, at locations where compliance is not being observed the city may issue written stop-work orders or may issue citations if it is determined that a violation of the ordinance exists.

g. For batch plants established prior to the adoption of this subsection (b)(7), a second violation of this article by the owner or its agent shall entitle the city to require a sound impact plan and the construction of sound mitigation design features as determined by the city manager or designee. To the extent the hours of operation in a planned development zoning ordinance, adopted by the city council prior to June 14, 2022, allowing a batch plant use conflict with the hours of operation in this article, the hours of operation in the planned development ordinance shall control.

(8) Power equipment.

a. Operating or permitting to be operated any power equipment (as defined herein and excluding construction equipment which is specifically regulated by subsection (b)(7) above) within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m.

b. Operating or permitting to be operated any power equipment (as defined herein and excluding construction equipment which is specifically regulated by subsection (b)(7) above) within a non-residential district in such a manner as to cause a noise disturbance.

(9) Motor vehicles – repairs or testing.

a. The repairing, rebuilding, modifying, or testing of any motor vehicle (including off-road vehicles) or watercraft within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m.

b. The repairing, rebuilding, modifying, or testing of any motor vehicle (including off-road vehicles) or watercraft within a non-residential district in such a manner as to cause a noise disturbance.

(10) Motor vehicles – running loud or out of repair.

a. The use of any motor vehicle or other vehicle so out of repair, so modified, or so loaded, which emits or creates loud or unnecessary grading, grinding, or rasping noise, the excessive spinning of the tires, or the racing of a motor vehicle engine unnecessarily within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m.

b. The use of any motor vehicle or other vehicle so out of repair, so modified, or so loaded, which emits or creates loud or unnecessary grading, grinding, or rasping noise, the excessive spinning of the tires, or the racing of a motor vehicle engine unnecessarily within a nonresidential district in such a manner as to cause a noise disturbance.

(11) Motor vehicles – Exhaust. The discharge into the open air of the exhaust of any motor vehicle in such a manner as to cause a noise disturbance, except as discharged through a muffler or other device which effectively and efficiently prevents loud and unusual noises and annoying smoke.

(12) Impulsive sources. Causing impulsive sound sources including, but not limited to, the use of fireworks, explosives, the firing of guns, or other explosive devices within the city in such a manner as to cause a noise disturbance. This is not intended to preclude, repeal or amend any existing ordinances prohibiting such acts.

(13) Powered model mechanical devices.

a. The flying of powered model vehicles, the firing or operating of model vehicles, or other similar noise producing devices, within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m.

b. The flying of powered model vehicles, the firing or operating of model vehicles, or other similar noise-producing devices within a nonresidential district in such a manner as to cause a noise disturbance.

(14) Refuse compacting vehicles. Operating or permitting to be operated any refuse compacting, processing, or collection vehicle or parking lot sweeper in any residential district or quiet zone, or within 500 feet of any residence or quiet zone in such a manner as to cause a noise disturbance between the hours of 10:00 p.m. and 7:00 a.m.

(15) Quiet zone. Creating a noise disturbance within or on any street adjacent to any quiet zone.

(16) Vibration. Using or causing the use of any device that creates any ground vibration which is perceptible without instruments at any point on or beyond the property boundary of the source.

(17) Stationary nonemergency signaling devices. Sounding or permitting the sounding of any electronically activated or amplified signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place for more than five minutes during any consecutive 60-minute period which causes a noise disturbance. Except such signaling device is allowed if used as a danger signal, and/or as required by law if vehicle is backing, starting, or turning in such a way as to likely cause a collision, unless conducted between the hours of 10:00 p.m. and 7:00 a.m.

Sec. 6.306 Affirmative Defenses

The following shall be an affirmative defense to prosecution for a violation of this article:

- (a) The sound was produced by safety signals, storm warning sirens or horns, and the testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency, and emergency pressure relief valves;
- (b) The emission of any sound was caused in the performance of emergency or public service work, including police, fire, and public utility operations, acting in the performance of lawful duties to protect the health, safety, or welfare of the community;
- (c) The sound was generated by natural phenomena;
- (d) Activities conducted in or upon public parks or public property that are approved, sponsored, and/or sanctioned by the city in writing; and/or
- (e) The sound was generated as authorized under the terms of a permit issued under section 6.307 below.

Sec. 6.307 Permits of Variance

(a) The city manager, or his or her designated representative, is authorized to grant permits for relief of any provision in this article on the basis of undue hardship in cases where:

- (1) The sound source will be of short duration, and the activity cannot be conducted in a manner as to comply with this article;
- (2) Additional time is necessary for the applicant to alter or modify their activity or operation to comply with this article; or
- (3) No reasonable alternative is available to the applicant.

(b) The city manager, or his or her designated representative, may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects and may suspend any permit issued for violating any provisions prescribed in the permit of variance.

(d) The fee to be charged to each applicant for processing permit applications shall be established by the city manager or adopted into the fee schedule.

Sec. 6.308 Appeals

(a) Any applicant who has been denied a permit of variance or any permittee whose permit has been suspended, shall have the right to a hearing before the City Council.

(b) Requests for a hearing shall be made in writing and received by the city manager, or his or her designated representative, within ten days of the date of the denial or the date of the notice of the suspension. The City Manager may review the appeal at a staff level and has the authority to reject the action of his or her designated representative and order that a permit be granted or to reinstate a suspended permit. However, should the City Manager uphold the denial or suspension of a permit, he or she shall, or his or her designated representative shall, schedule a hearing before the City Council within 30 days of receipt of the request.

(c) The City Council shall have the authority to review all pertinent files and information regarding the applicant/permittee which are in the custody of the city manager or his or her designated representative. Additionally, the City Council shall have the authority to accept written and verbal testimony from the city manager, his or her designated representative, any appropriate city staff member, applicant/permittee, and interested citizens. The City Council shall also have the authority to place time restrictions on the testimony to be given at the hearing.

(d) The City Council shall have the authority to assess whether the City Manager, or his or her designated representative, acted properly within the powers granted under this article in the denial or suspension of a permit. A majority vote of a quorum of the City Council shall determine whether to uphold or reject the city manager's or his or her designated representative's action. Upholding the action of the city manager, or his or her designated representative, shall affirm the denial or suspension. Rejection of the City Manager's or his or her designated representative's action shall automatically grant a permit or reinstate a suspended permit. The decision of the City Council shall be final.

(e) No person whose permit has been denied or suspended, shall create or allow the creation of the noise disturbance in dispute prior to final determination by the City Council.

Sec. 6.309 Penalty

A violation of this ordinance shall be a Class C misdemeanor and the penalty for any person violating any of the provisions of this article for which no specific penalty is prescribed shall be subject to section 1.109 of the Code of Ordinances of the City of Lago Vista Code of Ordinance, which shall be a fine of not less than one dollar (\$1.00) and no more than five hundred dollars (\$500), and each day a violation exists shall be a separate offense.

Sec. 6.310 Injunctive Relief

In addition to and accumulative of all other penalties, the city shall have the right to seek injunctive relief for any and all violations of this article.

Sec. 6.311 Purpose

The purpose of this article is to make it unlawful for any person or entity to make, cause to be made, or allow any unreasonably loud and disturbing noise of such a character, intensity, and duration as to be detrimental or offensive to the ordinary sensibilities of the citizens of the city, and/or which renders the enjoyment of life, health, or property uncomfortable, or interferes with the public peace and comfort.

Sec. 6.312 Enforcement

The City Council authorizes all law enforcement officers and code enforcement officers of the city to enforce this article and authorizes all actions allowed by law to be taken to ensure compliance. The city manager and chief of police shall have the authority and responsibility to oversee that proper enforcement actions are taken by authorized city personnel.

SECTION 4
CUMULATIVE REPEALER

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 5
SAVINGS

All rights and remedies of the City of Lago Vista, Texas are expressly saved as to any and all violations of this provision of any other ordinance affecting the City's Code of Ordinances, "Article 6.300, Noise" which have secured 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 maybe prosecuted until final disposition by the court.

SECTION 6
SEVERABILITY

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative, or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal, or otherwise inapplicable, in while in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

SECTION 7
ENGROSSMENT AND ENROLLMENT

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the descriptive caption in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

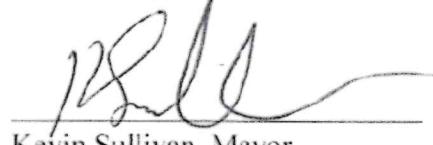
SECTION 9
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage and publication as required by law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Lago Vista, Texas this the 21st day of August 2025.

City of Lago Vista



Kevin Sullivan, Mayor



ATTEST:



Susie Quinn, Interim City Secretary

On a motion by Councilor Benefield, seconded by Councilor Durbin, the foregoing document was passed and approved.