

CITY OF LAVON, TEXAS
ORDINANCE NO. 2022-06-06

Adding Section 8.03.010 of the Code of Ordinances – Noise Ordinance Affirmative Defense for Boyd Farm

AN ORDINANCE OF THE CITY OF LAVON, TEXAS, AMENDING CHAPTER 8 “OFFENSES AND ADDITIONAL PROVISIONS”, ARTICLE 8.03 “NOISE” TO ADD SECTION 8.03.010 “AFFIRMATIVE DEFENSE FOR BOYD FARM”; PROVIDING CERTAIN DEFENSES TO THE CITY’S NOISE ORDINANCE FOR BOYD FARM; PROVIDING EXTENDED HOURS FOR THE AFFIRMATIVE DEFENSE FOR CERTAIN DATES; PROVIDING A PENALTY; PROVIDING SAVINGS AND SEVERABILITY CLAUSES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lavon (“City”) has authority pursuant to Texas Local Government Code, Section 51.001, to adopt an ordinance that is for the good government, peace, or order of the City; and

WHEREAS, it is in the interest of the public health, safety, and welfare of the citizens of the City to regulate noise within the City; and

WHEREAS, the City has recently annexed Boyd Farm into the City and desires to provide certain affirmative defenses to violations of the City’s noise ordinance in order to allow the continued operation of Boyd Farm at designated hours without violation of the City’s noise ordinance; and

WHEREAS, the City Council of the City (the “City Council”) has investigated and determined it is in the best interest of the citizens of the City to amend Chapter 8 “Offenses and Additional Provisions”, Article 8.03 “Noise” of the City Code of Ordinances to provide certain affirmative defenses to the City’s noise ordinance for Boyd Farm; and

WHEREAS, the City Council finds that the adoption of this Ordinance will promote and provide for the health, safety, and welfare of the City.

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

SECTION 1. Recitals

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

SECTION 2. Amendment to Chapter 8.

Chapter 8 “Offenses and Additional Provisions”, Article 8.03 “Noise” of the City’s Code of Ordinances is hereby amended to add Sec. 8.03.010 “Affirmative Defense for Boyd Farm” to read entirely as follows:

“Sec. 8.03.010 Affirmative Defense for Boyd Farm

It shall be an affirmative defense to a violation of Section 8.03.003 or 8.03.004(2) of this article if the noise is created within Boyd Farm by an owner of Boyd Farm (located at 10350 State Hwy 205, Lavon, TX 75166), or a vendor thereof, so long as the noise is not louder than 85 d~~B~~ measured at an adjacent owner's property boundary line, and is limited to occur during the following hours:

- a. 7:00am to 10:30pm from Sunday through Thursday;
- b. 7:00am to midnight from Friday through Saturday; and
- c. 7:00am to 1:00am (of the following day) on New Year's Eve, Christmas Eve, and the Fourth of July.”

SECTION 3. Exception.

The City Council hereby authorizes, until December 31, 2022, or any date listed on Exhibit “A”, attached hereto and incorporated herein, an exception to Section 2 of this Ordinance as follows:

- a. The hours described in Section 8.03.010(a) shall be until 11:00pm; and
- b. The hours described in Section 8.03.010(b) shall be until 1:00am.

SECTION 4. Penalty

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum in accordance with the general penalty provided in section 1.01.009 of the City's Code of Ordinances. Each time that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this division is a misdemeanor. The penalty provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies to it pursuant to local, state and federal law.

SECTION 5. Savings

This Ordinance shall be cumulative of all other ordinance of Lavon and shall not repeal any of the provisions of such ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance; whether such ordinances are codified or uncodified, and all other provisions of the ordinances of Lavon, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect. Any repeal occurring due to this provision shall not abate any pending prosecution or lawsuit and/or prevent any prosecution or lawsuit from being commenced for any violation occurring before the effective date of this Ordinance.

SECTION 6. Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, 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 or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 7. Open Meeting

That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Section 551.042, Texas Government Code.

SECTION 8. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

PASSED AND APPROVED by the City Council of the City of Lavon, Texas this 21st day of June 2022.


Vicki Sanson, Mayor

ATTEST:


Rae Norton, City Secretary



Exhibit A
Additional Exception Dates

January 1, 2023	January 7, 2023	January 18, 2023	January 25, 2023	February 4, 2023
February 12, 2023	February 14, 2023	February 17, 2023	February 18, 2023	February 19, 2023
February 25, 2023	February 26, 2023	March 4, 2023	March 5, 2023	March 11, 2023
March 18, 2023	March 20, 2023	March 25, 2023	March 26, 2023	April 13, 2023
April 22, 2023	May 6, 2023	May 11, 2023	May 20, 2023	May 21, 2023
May 27, 2023	May 28, 2023	June 3, 2023	June 9, 2023	June 10, 2023
June 11, 2023	June 29, 2023	July 7, 2023	August 12, 2023	August 13, 2023
October 14, 2023	November 4, 2023	November 5, 2023	November 11, 2023	November 12, 2023
November 18, 2023	November 19, 2023	January 16, 2024	February 16, 2024	March 9, 2024
March 10, 2024	September 17, 2025			