

CITY OF LAVON, TEXAS
ORDINANCE NO: 2024-05-02

Amend Noise Regulations

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS, AMENDING CHAPTER 8 "OFFENSES AND ADDITIONAL PROVISIONS", ARTICLE 8.03 "NOISE", OF THE CODE OF ORDINANCES OF THE CITY OF LAVON, AS AMENDED, SECTION 8.03.001 "DEFINITIONS AND TERRITORIAL APPLICATION" TO AMEND THE TERRITORIAL APPLICATION; SECTION 8.03.005 "TIMES FOR OPERATION OF EQUIPMENT RESTRICTED"; SECTION 8.03.006 "TIMES FOR PERFORMING CONSTRUCTION ACTIVITIES RESTRICTED" TO RESTRICT NOISE ON SUNDAY; SECTION 8.03.007 "SPECIAL PERMIT FOR AFTER-HOURS CONSTRUCTION OR OPERATION OF EQUIPMENT" TO REVISE THE PERMIT PROCESS; AND SECTION 8.03.010 "AFFIRMATIVE DEFENSE FOR BOYD FARM; PENALTY"; PROVIDING A PENALTY CLAUSE; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Lavon (hereinafter referred to as "City") is a Home Rule municipality organized under the Constitution and laws of the State of Texas; and

WHEREAS, the City Council of the City of Lavon ("City Council") seeks to protect the public safety, preserve the quality of life, promote health, welfare, convenience, and enjoyment of the public in the City; and

WHEREAS, pursuant to the Texas Local Government Code, the City Council has authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality and is necessary or proper for the carrying out a power granted by law to the municipality; and

WHEREAS, pursuant to Texas Local Government Code Section 217.042, a municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the limits; and

WHEREAS, the City Council believes it is in the best interest of the citizens and visitors to the City, to amend the regulations pertaining to noise.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, COLLIN COUNTY, 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 interests of the City, and of the public health, safety, and welfare of its citizens.

SECTION 3. AMENDMENTS. Chapter 8 “Offenses and Additional Provisions”, Article 8.03 “Noise” of the City’s Code of Ordinance, is hereby amended to read as follows:

A. Section 8.03.001(b) “Territorial Application” is hereby amended to read as follows:

“8.03.001. Definitions and Territorial Application.

...

(b) 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 500 feet; provided, however, that this article shall not apply within any portion of said 500-foot area which is contained within the incorporated territory of any other municipal corporation. Any reference to the “city” within this article shall apply to the area described herein.”

B. Section 8.03.005 “Times for operation of equipment restricted” is hereby amended to read as follows:

“Except as provided in section 8.03.007, it shall be unlawful for any person or business to operate, cause to be operated, or allow to be operated equipment or heavy equipment within five hundred feet (500') of an inhabited residential structure between the hours of eight (8) p.m. and seven (7) a.m. Monday-Saturday, or any time on Sunday.”

C. Section 8.03.006 “Times for performing construction activities restricted”, subsection (a) is hereby amended to read as follows:

“(a) Except as provided in section 8.03.007, it shall be unlawful for any person or business to perform, cause to be performed, or allow to be performed any construction activity that causes loud noise within five hundred feet (500') of an inhabited residential structure between the hours of eight (8) p.m. and seven (7) a.m. Monday-Saturday, or any time on Sunday.”

D. Section 8.03.007 “Special permit for after-hours construction or operation of equipment” shall be replaced in its entirety to read as follows:

“(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 or different hours are 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.

(c) 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.”

E. Section 8.03.010 (b) "Penalty" is hereby deleted, and "; penalty" is hereby deleted from the title of the Section.

SECTION 4: SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

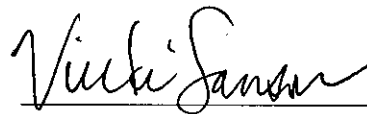
SECTION 5: SEVERABILITY. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 6: PENALTY. Any person, firm, corporation, or entity violating this Ordinance, as it exists or may be amended, shall be subject to the penalty as described in Section 8.03.002. The penal 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 available to it pursuant to local, state, and federal law.

SECTION 7: PUBLICATION AND EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 8. OPEN MEETING. That it is hereby 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 Chapter 551, Texas Government Code.

DULY PASSED AND APPROVED by the City Council of the City of Lavon, Collin County, Texas, on this the 21st day of May 2024.



Vicki Sanson, Mayor

ATTEST:



Kim Dobbs, City Manager

