

ORDINANCE NO. 2016-01

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HALLSVILLE, TEXAS TO ADOPT NOISE REGULATIONS WITHIN THE CITY OF HALLSVILLE; CONTAINING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.**

**WHEREAS**, the City Council of the City of Hallsville, Texas, a Type A General Law municipality, has the authority to adopt ordinances, acts, laws, and/or regulations, not inconsistent with Texas state law, which are found to be necessary for the government, interest, welfare, and/or good order of the municipality as a body politic pursuant to *Texas Local Government Code* § 51.012 and other applicable provisions of Texas law; and

**WHEREAS**, the City Council of the City of Hallsville, Texas, a Type A General Law municipality, has the authority to adopt ordinances regulating noise pursuant to *Tex. Local Gov't Code* § 217.002 & 217.003; and

**WHEREAS**, excessive sound vibration and inadequately controlled noise are serious hazards to the public health, safety and welfare, and a source of disturbance to the populace; and

**WHEREAS**, it is the policy of the City of Hallsville to protect the health, safety, and welfare of its citizens and to promote an environment free from sound and noise disruptive of peace and good order; and

**WHEREAS**, the City Council of the City of Hallsville has determined that the following restrictions are needed in order to provide citizens with an environment free from such excess sounds or noise as may jeopardize their health, welfare and safety, or degrade the quality of life;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HALLSVILLE, TEXAS, THAT:**

- (a) **Finding of Fact.** All of the above premises are hereby found to be true and correct

legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

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

(1) *Daytime Hours* shall mean the hours from 7:00 a.m. on one day to 10:00 p.m. the same day.

(2) *Emergency* shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.

(3) *Park* shall mean a park, reservation, playground, recreation center or any other area in the city owned, used or designated by the city and devoted to active or passive recreation.

(4) *Emergency work* shall mean any work performed for the purpose of (i) preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, (ii) restoring property to a safe condition following a fire, accident, or natural disaster, (iii) protecting persons or property from exposure to danger, or (iv) restoring public utilities.

(5) *Nighttime hours* shall mean the hours between 10:01 p.m. on one day and 6:59 a.m. the following day.

(6) *Plainly audible* means any sound that can be detected by a person using his or her unaided hearing faculties. For example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the

enforcement officer need not determine the name of the song, specific words or the artist performing it. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

(7) *Unreasonable noise* means (1) with respect to noise the source of which is a commercial or business establishment, any plainly audible sound at a level of 85 dB or greater, or (2) with respect to noise from any other source, sound which endangers or injures the safety or health of humans or animals, or disturbs an ordinary person of normal sensitivities, or endangers or injures personal or real property.

- (c) **General Prohibition.** It shall be unlawful for any person to make, continue, or cause to be made or continued any plainly audible unreasonable noise which (1) offends, disturbs, injures, or endangers the comfort, repose, health, peace or safety of other individuals within the limits of the city or (2) substantially impairs the peaceable enjoyment of public or private property. All plainly audible unreasonable noise as defined herein is declared to be a public nuisance. In determining whether plainly audible noise is unreasonable, the following factors shall be considered: time of day; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof, and any other relevant factors.
- (d) **Specific Prohibitions.** The following noises shall be considered unreasonable and violative of this Ordinance:

- (1) Construction. The producing of plainly audible noise by the operation of construction, demolition, or excavation equipment; performance of any outside construction or repair work on buildings, structure, or projects; or operation of other construction-type device in order to erect, demolish, alter, or repair any buildings, structure, or projects, (a) within a radius of 500' of a residential structure on Sundays; (b) on Texas state or federal legal holidays; or (c) during nighttime hours.
- (2) Radios and loud speakers. The use or operation of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device producing or reproducing sound which is cast upon the public streets from a point of origin located on public or private property, for a non-commercial purpose and operated in such a manner or at such a volume as to disturb the quiet, comfort or repose of persons in any office, hospital, dwelling, hotel, or other type of residence in the vicinity.
- (3) Repair Noise. The repairing, rebuilding, modifying or stationary testing of any motor vehicle, motorcycle, or motorboat in such a manner as to cause plainly audible noise across any property boundary line during nighttime hours.
- (4) Vehicular Sound Amplification Device. The operation of any sound amplification or producing device (such as by way of example a stereo, radio, or speaker) from a moving or stationary motor vehicle, standing or parked, which creates a sound that is plainly audible at least 30 feet from the source of the sound.
- (5) Horns. The continued frequent sounding of any horn or other auditory signaling device on or in any motor vehicle, except as a danger or warning signal.
- (6) Exhaust without Mufflers. The discharge in the open air of the exhaust of any steam engine, internal combustion engine, or motor vehicle or boat engine, except

through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) Spinning or Squealing of Tires. The continued or frequent spinning or squealing of tires coming from any motor vehicle, except in cases of emergency.

(8) Dogs and Livestock. The continued barking of dogs or noise of livestock that is plainly audible at least 30 feet from the source of the sound in the near proximity of a private home.

(e) **Exceptions.** This Ordinance shall not apply to:

(1) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

(2) Any facility, vehicles or equipment of the city, county, state or federal government while engaged upon necessary public business.

(3) The use of bells or chimes in conjunction with places of religious worship, and the use of sound amplification, intercom, or paging devices within the interior of a church, school, auditorium, convention center, government building or similar public meeting place.

(4) The intentional sounding or permitting the sounding of any fire, burglar or civil defense alarm, siren, whistle or similar stationary or emergency signaling device for emergency purposes or for testing, provided such testing uses only the minimum cycle test time.

(5) The use of amplification equipment or sounds created at official municipal or Hallsville Independent School District functions or at functions approved by the City such as parades and those occurring at a park.

(6) Sound (such as traffic or road noise) produced by a vehicle in good working

order while the vehicle is moving on a public-right-of-way, public waterway, or railroad, other than sound as described in sub section (d)(4, 5, 6, and 7) above.

(7) Public parades, block parties, or other similar events.

(8) The use of outdoor sound amplification for outdoor public speeches, ceremonies, political assemblages or paging purposes conducted at a fixed location at least one hundred (100) feet from a residential district and the sound was not audible beyond the property line of the premises on which it was located.

(f) **Enforcement, Violation and Penalty.**

(1) It is unlawful for any person to interfere with, obstruct, resist or oppose any person authorized to enforce the provisions of this Ordinance.

(2) The City of Hallsville shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations.

(3) Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$500.00 plus court costs and administration fees as applicable. Each day that a provision of the Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a Class C misdemeanor.

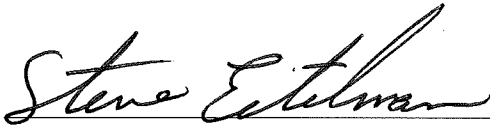
(4) Enforcement of this Ordinance shall be the responsibility of the Code Enforcer, the Chief of Police, or his designee, and such other persons designated by the City.

(g) **General Provisions.** If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance is hereafter determined to be invalid or violative of the

laws of the State of Texas or the Constitution of the United States by a court of appropriate jurisdiction, such finding of invalidity shall affect the continued enforcement only of the provision or provisions so determined to be invalid, it being the intent of the City Council of the City of Hallsville that all other terms and provisions of this Ordinance not affected thereby shall remain in full force and effect.

- (h) **Effective Date.** The provisions of this Ordinance are effective as of the date of adoption of this Ordinance, or upon the date that the publication requirements of Tex. Local Govt. Code § 52.011 are met, whichever is later.

PASSED AND APPROVED by an affirmative vote of the members of the City Council is  
the 19<sup>th</sup> day of January, 2016.

  
STEVE EITELMAM  
MAYOR

ATTEST:

  
KIMBERLY SMITH  
CITY SECRETARY