

ORDINANCE NO. 16-03-17-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, AMENDING CHAPTER 8: OFFENSES AND NUISANCES, ARTICLE 8.300, NOISE, SECTION 8.306, MAXIMUM PERMISSIBLE SOUND LEVELS PROHIBITING NOISES DISTURBING TO REASONABLE PERSONS; ESTABLISHING PENALTIES FOR VIOLATIONS; PROVIDING FOR OPEN MEETINGS, SAVINGS, SEVERABILITY AND EFFECTIVE DATE CLAUSES; AND, PROVIDING FOR RELATED MATTERS.

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

WHEREAS, the City of Lago Vista possesses all the rights, powers and authorities possessed by all Home Rule municipalities, including the authority to define and require the abatement of nuisances, as recognized in Section 217.042 of the Texas Local Government Code, within the limits of the municipality and within 5,000 feet outside the limits; and

WHEREAS, the City Council has previously determined that it is in the best interest of the health, safety and general welfare of the public to establish a noise ordinance to prevent noise disturbances as public nuisances within the corporate city limits that disturb the peace and enjoyment of the citizens of the City of Lago Vista; and

WHEREAS, the City Council has reviewed and determined that the City's current ordinance should be enhanced to protect, preserve, and promote the health, safety, welfare, peace and quiet of the citizens of Lago Vista through the reduction, control, and prevention of any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity.

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

SECTION 1. FINDINGS. The above recitals are hereby found to be true and correct legislative findings are incorporated herein for all purposes.

SECTION 2. AMENDMENT OF ARTICLE 8.300, NOISE, SECTION 8.306, MAXIMUM PERMISSIBLE SOUND LEVELS. Article 8.300, Noise, Section 8.306, Maximum Permissible Sound Levels is hereby amended by adding two new subsections, to read as follows:

8.306. Maximum Permissible Sound Levels.

(a) In addition to the violations established by the preceding sections of this article, no person shall conduct, permit, or allow any activity or sound source to produce a sound discernible beyond the property on which the sound is being generated that when measured as provided in Section 8.307 of this code exceeds 80 dB(A) during daytime hours and 70 dB(A) during nighttime hours for the respective areas described above. Any sound that exceeds the dB(A)

levels set forth in this section under the conditions and measurement criteria set forth in this article is a violation of this article. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section shall be prima facie evidence of a sound nuisance that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.

(b) Regardless of the measurable dB(A) level established above, the generator of any sound of such a nature as to cause persons occupying or using any property other than the property upon which the sound is being generated to experience physically detectable sound, vibrations or resonance at a distance of fifty (50') feet from the source of the sound caused by the sound shall also be prima facie evidence of a sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this Article.

(c) This Section is designed to regulate noise by various alternate means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this Article because it is disturbing to a reasonable person of ordinary sensibilities pursuant to Section 8.302 or because it is prohibited. If a noise violates one or more of these provisions, the violation will be enforced **under whichever provision is most applicable to the situation as determined by the enforcement officer of the City.**

SECTION 3. PENALTY CLAUSE. Any person, firm or corporation violating any of the provisions of this Ordinance or of the Code of Ordinances, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Lago Vista, Texas, shall be subject to a fine not to exceed the sum of five hundred dollars (\$500) for each offense; and each and every day said violation is continued shall constitute a separate offense. Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this Ordinance.

SECTION 4. REPEAL OF CONFLICTING ORDINANCES. All provisions of the Code of Ordinances of the City of Lago Vista, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5. SEVERABILITY CLAUSE. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or to the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective upon passage and publication in accordance with law.

SECTION 7. OPEN MEETINGS. It is hereby officially found and determined that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't Code.*

PASSED AND APPROVED this the 17th day of March, 2016.

CITY OF LAGO VISTA, TEXAS



Dale Mitchell

Mayor

ATTEST:



Sandra Barton

City Secretary