

ORDINANCE NO. 312-91

AN ORDINANCE AMENDING CHAPTER 7, OFFENSES AND NUISANCES, OF THE CODE OF THE CITY OF WILLOW PARK, TEXAS, RELATING TO THE ESTABLISHMENT OF NOISE RELATED OFFENSES; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND, PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLOW PARK TEXAS:

I.

Chapter 7, of the Code of Ordinances, City of Willow Park, Texas, is hereby amended by adding the following Section 3 which is to read as follows:

SECTION 3: NOISE RELATED OFFENSES

The following acts, among others, are declared to be nuisances in violation of this section, but such enumeration shall not be deemed to be exclusive. For the purposes of this act, a nuisance is defined as creating or knowingly allowing a condition which the actor knows or should reasonably believe to be a type which annoys or disturbs persons of ordinary sensibilities in the vicinity. Among such acts are:

(a) Musical instruments. the playing of any radio, phonograph or other musical instrument in such manner or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any commercial establishment or private residence.

(b) Loudspeakers and amplifiers. The use of any loudspeaker or amplifier such intensity that annoys and/or disturbs persons of ordinary sensibilities in the immediate vicinity thereof; the use of any loudspeaker or amplifier operated on any weekday or Saturday between the hours of 10:00 p.m. and 7:00 a.m., or at any time on Sunday; provided, however, that it shall be a defense to prosecution under this subsection for operating said loudspeaker and amplifier at such hours on weekdays or on Sunday that the same were operated at a public event on property owned by the city and advance permission for such operation was obtained from the City Administrator.

(c) Animals and Birds. The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.

(d) Horns or other signal devices on vehicles. The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or

other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary and unreasonable period of time.

(e) Operation of vehicles. The running of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring or rattling noise or vibrations.

(f) Steam whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work, or as a warning of danger.

(g) Exhaust without mufflers. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Devices operated by compressed air. The use of any mechanical device operated by compressed air, unless the noise to be created is effectively muffled and reduced.

(i) Commercial construction work. The erection, including excavation, demolition, alteration or repair work on any building other than between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday, except in case of urgent necessity in the interest of public safety and convenience, and then only by permit from the city council, which permit may be renewed by the council during the time the emergency exists.

(j) Near schools and hospitals. The creation of any excessive noise on any street adjacent to any school or institution of learning while the same is in session or adjacent to any hospital which unreasonably interferes with the workings of such institutions, provided conspicuous signs are displayed in such manner indicating that the same is a school or hospital street.

(k) Loading and unloading vehicles, etc. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.

(l) Peddlers, hawkers, etc. The raucous shouting and crying of peddlers, hawkers and vendors, which disturbs the peace and quiet of the neighborhood.

(m) Use of drums, etc., to attract attention. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention, by the creation of excessive or obnoxious noise, to any performance show or sale of merchandise.

(n) Railroads. The blowing or sounding of any steam whistle, horn signal device on any engine, locomotive car or vehicle adapted to the rails of a railroad in the city, except as a warning or danger signal to persons or animals approaching, crossing or using the tracks of the railroads, shall, constitute a violation of this section.

II.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

III.

Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

IV.

Wherever in this Ordinance an act is prohibited or made or declared to be unlawful or an offense or a misdemeanor, or wherever the doing of an act is required or the failure to do an act is declared to be unlawful, the violation of any such provision of this Ordinance shall be punished as provided in Chapter 1, Section 1F of the Code of the City of Willow Park, Texas, for each offense or for each day such offense shall continue if it is one classified as a continuing offense. No penalties shall be greater or less than the penalty provided for the same or similar offense under the laws of the State of Texas.

V.

This ordinance shall be in full force and effect from and after the date of its passage and publication as required by law.

PASSED AND ADOPTED this the 17<sup>th</sup> day of December, 1991

APPROVED:

Sharon Riley Suarez

SHARON SUAREZ, Mayor

ATTEST:

Kathy Mitchell

CITY SECRETARY

Approved as to form:

Walter W. Leonard

CITY ATTORNEY