

ORDINANCE NO. 2139

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING CHAPTER 8, OFFENSES AND NUISANCES, SECTION 17: NOISE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS THAT:

SECTION I.

That Chapter 8, Offenses and Nuisances, Section 17: Noise, shall be amended as follows:

Section 17: Noise.

1. Any unreasonably loud, disturbing, unnecessary noise in excess of 85 decibels at distance of fifty feet from the property line which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is hereby prohibited.

2. Any noise of such character, intensity and continued duration in excess of 85 decibels at a distance of fifty feet from the property line which substantially interferes with the comfortable enjoyment of a dwelling, hotel or other type of residence by persons of ordinary sensibilities is hereby declared to be a nuisance and is hereby prohibited.

3. 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:

1. *Musical instruments.* The playing of any radio, phonograph or other musical instrument at a level in excess of 85 decibels at a distance of fifty feet from the property line particularly between the hours of 10:00 p.m. and 6:00 a.m. so as to annoy or disturb the quiet comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.

2. *Loudspeakers and amplifiers.* The use of any stationary loudspeaker or amplifier at a level in excess of 85 decibels at a distance of fifty feet from the property line that annoys and disturbs persons of ordinary sensibilities in the immediate vicinity thereof; it is a defense to prosecution under this section if such loudspeakers and amplifiers were operated during a parade on a public street within the city or at a public event on property owned by the City and advance permission for such operation was obtained from the City Manager or the Chief of Police.

3. *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.

4. *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 noise for any unnecessary and unreasonable period of time.

5. *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 grinding, grinding, jarring or rattling noise or vibrations.

6. *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.

7. *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. on weekdays, exception 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 City Council during the time the emergency exists.

8. *Near churches, schools and hospitals.* The creation of any excessive noise on any street adjacent to any church, 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 on any such street indicating that the street is a church, school or hospital street.

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

10. *Yelling, shouting, etc.* Loud and raucous yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place which injures, endangers or disturbs the comfort, repose, health, peace or safety of persons of ordinary sensibilities in any office dwelling, hotel or other type of residence, or of any such persons in the vicinity.

11. *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 noise to any performance show or sale of merchandise.

12. *Railroads.* The blowing or sounding of any steam whistle, horn or 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 railroad shall constitute a violation of this section.

SECTION II.

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

SECTION III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION IV.

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

PASSED AND APPROVED ON THIS THE 15th DAY OF OCTOBER, 2002
PASSED AND ADOPTED ON THIS THE 5th DAY OF NOVEMBER, 2002

APPROVED:

FRANCES ANDERSON, MAYOR

ATTEST:

JOHN ROUNSAVALL, CITY SECRETARY

APPROVED AS TO FORM:

MARY GAYLE RAMSEY, CITY ATTORNEY