

ORDINANCE NO. 2082

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE X OF THE CODE OF ORDINANCES OF THE CITY OF PORTLAND BY CHANGING THE DEFINITION OF DAYTIME AND NIGHTTIME, AND CREATING AN EXCEPTION UNDER SPECIAL CIRCUMSTANCES; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERANCE; AND PROVIDING FOR PUBLICATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, TEXAS:

SECTION 1. That Chapter 11, Article X of the Code of Ordinances is hereby amended to read as follows:

Sec. 11-181. Definitions.

The following terms, as used herein, shall be defined as:

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network.

Daytime shall mean the hours between 7:00 a.m. and 8:00 p.m.

Impulsive sound means sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

LEQ shall mean an average measure of continuous noise that has the equivalent acoustic energy of the fluctuating signal over the same time period. The time period of monitoring will be continuous over any two (2) hours and will use the A-weighting network reported in decibel units.

Nighttime shall mean the hours between 8:00 p.m. and 7:00 a.m.

Noise nuisance means any loud, irritating, vexing or disturbing sound originating from a nearby property, real or personal, mobile or stationary, under separate ownership which causes injury, discomfort, or distress of a person of reasonable nervous sensibilities.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971 or S1.4-1983). For the purposes of this section, A-weighting shall apply.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averages, output meter, and weighting network used to measure sound pressure levels.

Sec. 11-182. Noise nuisance enumeration.

- a) The following acts, among others not hereinafter enumerated, are declared to be "noise nuisance," in violation of the provisions of this article when done in such a manner, or with such volume, intensity, or with continued duration, so as to annoy, distress, or disturb the comfort of other persons on any property under separate ownership who are of reasonable nervous sensibilities, or so as to endanger or injure the health of another person.
- (1) The playing or permitting or causing the playing of instruments that include, but are not limited to any radio, television, phonograph, drum, junk box, nickelodeon, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound.
 - (2) Any loud or vociferous language or any soliciting for, or description of, any amusement house, moving picture theater, or other like place of amusement, or for the performance therein, in the entrance thereto, the foyer or lobby thereof, or on the sidewalks adjoining the same.
 - (3) The keeping of any dog, cat, other animal, fowl, or bird, which makes frequent or long, continued noise.
 - (4) The continued or frequent sounding of any horn or other signal device on any vehicle, including but not limited to automobiles, motorcycles, and buses, except as a danger signal.
 - (5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, or other motor vehicle or boat, except through a muffler or other device which adequately prevents loud or explosive noises.
 - (6) The erection, including construction, excavation, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in construction, excavation, drilling, demolition, alteration or repair work:
 - a. Other than during the daytime on weekdays; or
 - b. At any time such that the sound level at or across a real property boundary exceeds eighty (80) dBA.

- c. This section shall not apply in cases of extreme and urgent necessity in the interest of public safety and convenience, and then only with specific approval obtained from the director of public works, or any duly appointed representatives.
 - d. The city manager may permit operations otherwise prohibited by this section to proceed during nighttime when, in his/her opinion, there is technical necessity for performing such operations during nighttime.
- (7) The crying, calling, or shouting, in person or by any mechanical device, or the use of any whistle, rattle, or bell, gong, clapper, hammer, drum, horn, loudspeaker or phonograph with or without an amplifier, hand organ, or other devices or instruments, musical or otherwise, for the purpose of advertising any goods, wares, or merchandise, or for the purpose of attracting attention to or inviting persons to any rally, meeting or gathering, to any place of amusement, to any performance or show, or to any business or activity whatsoever.
- (8) The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors or any other persons.
- (b) The following defined acts shall be prima facie evidence of unreasonable conduct:
 - (1) The making of noise which exceeds sixty-three (63) decibels in any residentially zoned area (as defined by the city zoning ordinance) when measured from property under separate ownership.
 - (2) The making of noise which exceeds seventy (70) decibels in any commercially zoned area as defined by the city zoning ordinance, when measured from property under separate ownership.
 - (3) The making of noise which exceeds seventy-two (72) decibels in any industrially zoned area as defined by the city zoning ordinance, when measured from property under separate ownership.
 - (4) The making of noise which exceeds eighty-five (85) decibels using the LEQ method of noise measure for noise emanating from entertainment zoned property as defined by the city zoning ordinance, when measured from property under separate ownership. Any adjacent property owned, leased, controlled or managed by any person or entity or any affiliate that directly or indirectly controls, is controlled by, or shares common control with the other entity that has an ownership interest or lease interest in the monitored property shall not be considered property under separate

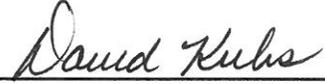
ownership for purposes of determining the boundaries of the noise source property in an entertainment district.

- (c) This section shall not apply to any city approved cases of urgent necessity in the interest of public safety, or in cases of city sponsored or approved fiestas, parades, or other public events.

SECTION 2. 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 separable and if any section, paragraph, sentence, clause or phrase of this ordinance shall be declared unconstitutional by the valid judgment or decree of an Court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 3. This ordinance shall be in full force and effect after passage and publication as required by law.

PASSED AND APPROVED this the 21st day of January, 2014.



Mayor, City of Portland

ATTEST:


City Secretary

