

ORDINANCE No. 227

July 21, 2005

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AN ORDINANCE OF THE CITY OF SUNRISE BEACH VILLAGE, TEXAS, PROVIDING FOR THE ABATEMENT OF NOISE NUISANCES; PROVIDING PENALTIES FOR VIOLATIONS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the city of Sunrise Beach Village, Texas (the "City") is authorized to regulate nuisances within the City pursuant to Chapter 217, Tex. Loc. Gov't Code to protect the health, safety and general welfare of its residents; and

WHEREAS, this City seeks to abate and otherwise control noise nuisances within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF SUNRISE BEACH VILLAGE, TEXAS:

Section 1. Findings.

That the above premises and findings of fact are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Section 2. Loud Noises Deemed Public Nuisances Prohibited.

It shall be unlawful for any person, firm, or corporation to make, continue or cause to be made or continued any loud, disturbing or unnecessary noise or unusual noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof. Any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities is prohibited after the effective date hereof, and is hereby declared to be a nuisance. The following acts, and the acts set forth in Section 3 among others, are declared to come within the purview of this ordinance and to be nuisances within the meaning hereof, but said enumeration's shall not be deemed to be exclusive, such acts being as follows:

1. The playing of any television, radio, phonograph, tape player, compact disc player, musical instrument or any electrical or mechanical device in such manner or with such volume, at anytime, as to annoy or disturb the quiet, comfort, or repose of persons of ordinary sensibilities in any dwelling, hotel, or other type of residence. This provision shall not apply to church bells or chimes when tolled or played at the normal times for such instruments.
2. The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar, or other vehicle, except as a danger signal as required by state law; the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary and unreasonable period of time.
3. The running of any motorized vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary noise such as spinning or squealing tires, grating, grinding, jarring, or rattling noise or vibrations.

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4. The running of any motorized vehicle without a muffler, or with an altered muffler, or with a defective muffler, sufficient to contain the sound so that a person of ordinary sensibilities nearby would not be annoyed or materially distressed.
5. The construction, including excavation, demolition, alteration, delivery and or pouring of cement or repair of any building in or adjacent to a residential area other than between the hours of 7:00 a.m. and 7:00 p.m. daily is prohibited. No heavy equipment shall be used on Sundays. In the case of an urgent necessity or in the interest of public safety, written permission must be obtained from the Mayor/Mayor Pro Tem, or their designee, prior to any deviation from these hours.
6. The creation of loud and raucous noise on any street adjacent to any church or court which is in session, or adjacent to any city offices or city buildings, which unreasonably interferes with the working of such institution, provided that conspicuous signs are located in such streets indicating that churches or city offices and buildings are adjacent thereto.
7. The creation of a 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.
8. Any loud or vociferous language, yelling, shouting, crying, hooting, whistling or singing of peddlers, hawkers or any other person in such a manner to cause a noise disturbance which annoys or disturbs the quiet, comfort or repose of ordinary persons of ordinary sensibilities in any dwelling, hotel or other type residence.
9. The use of any drum or other instrument or sound amplifying equipment to produce a noise or sound of such intensity that annoys or disturbs persons of ordinary sensibilities in the immediate vicinity thereof; provided, however, that nothing herein shall be construed to prohibit the infrequent use of a loudspeaker or amplifier for periods of short duration by a religious organization or association in the playing of music where the intensity of same does not annoy or disturb such persons.
10. The keeping of any animal or fowl which emits or makes a loud and raucous noise, disturbs the comfort or repose of persons of ordinary sensibilities in the immediate vicinity thereof.
11. The use of any mechanical device operated by compressed air, unless the noise to be created is effectively muffled and reduced.
12. The sounding of any bell or gong attached to any building or premise, which is reasonably calculated to disturb a person of ordinary disposition if such person were in the vicinity thereof.
13. Operating or permitting to be operated any refuse compacting, processing or collection vehicles in any residential district or quiet zone, or within five hundred feet (500) of any residence or quiet zone in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 6:00 a.m. No noise disturbance shall be deemed to occur when the noise is created in the regular course of the

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activity for which the equipment is designed and the noise occurs for no longer than reasonably necessary to conduct the activity and the hours of operation occur between 6:00 a.m. and 10:00 p.m.

Section 3. Sound system in boats/watercraft and other vehicles.

No person owning, operating, occupying or in control of boat/watercraft within the city limits whether on public or private property or a motor vehicle on a street, highway, alley, park, playground, parking lot, driveway, garage, carport, yard, or carwash facility, whether public or private property, shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of thirty feet (30) or more from the vehicle.

"Sound amplification system" means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.

"Plainly audible" means any sound produced by a sound amplification system from within the boat/watercraft/ vehicle, which clearly can be heard at a distance of thirty feet (30) or more. Measurement standards shall be by the auditory senses, based on direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The boat/watercraft may be stopped, adrift, anchored or underway in public or private water, sandbar, or docks within the city limits. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, park, playground, parking lot, driveway, garage, carport, yard, or carwash facility, on either public or private property.

Section 4. Exemptions.

The following sources of potential noise disturbance shall be exempt from the regulations of this article:

The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

The vehicle was an emergency or public safety vehicle acting in the performance of lawful duties to protect the health, safety and welfare of the community;

The vehicle was owned and operated by a public utility company including the City of Sunrise Beach Village; or

The activity, system or vehicle was used in an authorized public activity, such as parade, fireworks, sporting event, musical production, or other activity which has the approval of the City or is sponsored or sanctioned by the City or a department of the City authorized to grant such approval.

The activities conducted on private grounds including, but not limited to, school athletic and school entertainment events which are approved, sponsored or sanctioned by the city.

Sounds caused by natural phenomena.

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Safety signals, storm warning sirens or horns and the testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency, and emergency pressure relief valves.

Section 5. Speech.

If conduct that would otherwise violate this Ordinance consists of speech or other communication or of gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political or religious questions the person or persons must be ordered to move, disperse, or otherwise remedy the violation prior to arrest or citation.

Section 6. Person in Control of Property.

It shall be unlawful for any person to permit or fail to control the nuisances described in Section 2 and 3 of this Ordinance that occur upon property that the person owns, leases or operates manages or supervises or is otherwise under the person's control at the time the nuisance occurs.

Section 7. Penalty.

Any person, firm or corporation violating any provision of this ordinance shall be fined not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues

Section 8. Severability.

Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 9. Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 10. Savings Clause.

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting noise or the regulation of noise as a nuisance within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

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Section 11. Effective Date.

That this ordinance shall take effect immediately from and after its passage and publication in the manner required by the Tex. Loc. Gov't. Code

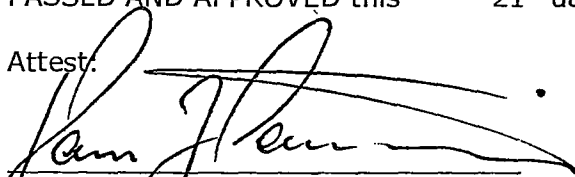
Section 12. Open Meetings.

It is hereby officially found and determined that the meeting at which this ordinance is passed 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, Chapter 551, Texas Government Code.

PASSED AND APPROVED this 21st day of July, 2005

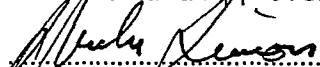
Attest:

City of Sunrise Beach Village, Texas


Hans Schneider, City Secretary


Pat Frain, Mayor

Reviewed and Approved by:


Sheila Limon, City Attorney