

ORDINANCE NO. 17 -487

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BUNKER HILL VILLAGE, TEXAS BY ADDING ELECTRONIC DEVICES TO THE DEFINITION OF NOISE NUISANCES IN ARTICLE IV, MISCELLANEOUS NUISANCES, OF CHAPTER 10, OFFENSES AND MISCELLANEOUS NUISANCES; ADDING A NEW SECTION 10-74, ADDITIONAL STANDARDS AND REMEDIES RELATING TO NUISANCES FOR SPECIAL EVENTS, TO ARTICLE IV, MISCELLANEOUS NUISANCES, OF CHAPTER 10, OFFENSES AND MISCELLANEOUS NUISANCES, PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR EACH VIOLATION OF THIS ORDINANCE WITH EACH DAY OF VIOLATION CONSTITUTING A SEPARATE VIOLATION; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, the City Council of the city of Bunker Hill Village, Texas has determined that the City's regulations related to noise nuisances needs to be amended;

WHEREAS, the City Council has asked the City's Planning and Zoning Commission to review the ordinance and recommend amendments;

WHEREAS, the Commission has reviewed and is recommending the City Council consider establishing quiet hours and requirements for special events in residential areas;

WHEREAS, the City Council has reviewed these recommendations and concurs that the intent of these recommendations are to set reasonable expectations to be "good, respectful neighbors" and to provide a tool for enforcement; and

WHEREAS, the City Council finds that the amendments to the City's nuisance regulations as set forth in this ordinance are in the best interest of the health, safety and welfare of the citizens; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUNKER HILL VILLAGE, TEXAS:

Section 1. The facts and matters contained in the preamble to this ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Bunker Hill Village, Texas is hereby amended by amending Article IV, Miscellaneous Nuisances, of Chapter 10, Offenses and

Miscellaneous Provisions, to add thereto the language underscored below and deleting there from the language struck through below, such Article IV to read as follows:

“Article IV. Miscellaneous Nuisances

Section 10-71. – Definitions.

Auditory or noise nuisance means but is not limited to any loud, raucous, irritating, jarring, vexing, or disturbing noise which causes distress, annoyance, discomfort, or injury to, or which interferes with the comfort, repose, health, peace or safety of any person of normal nervous sensibilities in the vicinity of audibility thereof. The following acts, among other acts of a similar nature not enumerated in this article, are declared to be noise nuisances when such acts are done or accomplished or carried on in such a manner or with such volume, intensity, or with continued duration so as to annoy, to distress, or to disturb the quiet, comfort, or repose of persons of normal nervous sensibilities within the vicinity of audibility thereof:

- (1) The playing of any radio, ~~phonograph, jukebox, nickelodeon,~~ electronic devices, or any musical instrument, or any loud or vociferous language.
- (2) The keeping of any animal, fowl or bird, which makes frequent or long continued noise.
- (3) The continued or frequent sounding of any horn or other signal device, including such devices on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal.
- (4) The running of any motor of any automobile or vehicle, motorcycle, or other motor vehicle so out of repair, or so loaded, or so operated, as to create loud, grating, grinding, jarring or rattling noise vibrations.
- (5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises there from.
- (6) The erection, including excavation, demolition, alteration or repair work on any building or other structure, repairs for site work, and/or landscaping, maintenance, or repairs other than between the hours of 7:00 a.m. and 6:00 p.m., on weekdays that are not recognized holidays, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays that are not recognized holidays, except in cases of extreme and urgent necessity in the interest of public safety and convenience. The provisions of this subsection shall not apply to work being performed directly by the owner of the property on which the work is being performed.

(7) The crying, calling or shouting in person or by a mechanical device, or the use of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, loudspeaker or ~~phonograph~~ electronic device with or without an amplifier, hand organ or other devices or instruments, musical or otherwise, in a loud, raucous, irritating, jarring or disturbing manner; ~~without a permit from the city council.~~

Harmful nuisance means but is not limited to deposits or accumulations of any materials which are likely to cause harm or physical injury or damage to a person or animal who comes in physical contact therewith, such as glass, nails, barbed wire, explosives, sharp-edged materials and other similar dangerous materials.

Nuisance means that which gives offense to the olfactory, auditory or visual senses of a person of normal nervous sensibilities, or that which interferes with or obstructs the normal, reasonable or comfortable use of property, or which is likely to cause harm or physical injury or damage to a person or animal who may come in physical contact therewith. The following acts, among other acts of a similar nature not enumerated in this article, are declared to be nuisances when the preceding sentence applies to such acts:

- (1) The burning, spraying or spreading of solid, liquid or gaseous materials; or
- (2) The accumulation of piles of materials such as compost, trash, stagnant water or other matter; and
- (3) The burning of trash, refuse, building materials, vegetation and any other type of outdoor burning except as authorized by the Texas Air Control Board. Proof in the form of a copy of the Texas Air Control Board permit must be submitted to the city secretary prior to the burning and must be conducted within the guidelines set forth by the Texas Air Control Board.

Recognized holidays shall include New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Eve and Christmas Day.

Visual nuisance means but is not limited to:

- (1) The use of spotlights, floodlights, flashing lights or lights of varying intensity other than those of an emergency vehicle which unreasonably invade or affect the environment of an adjacent or neighboring residence; or
- (2) The use of outdoor spotlights or floodlights, other than public streetlights, in residential zones after 10:00 p.m.

Section 10-72. – Unlawful acts; penalties.

(a) The following acts are declared to be unlawful and in violation of this article:

- (1) Nuisances;
- (2) Auditory or *noise* nuisances;
- (3) Visual nuisances;
- (4) Harmful nuisances; and
- (5) Olfactory nuisances.

(b) Any person who violates any provision of this section shall be guilty of a separate offense for each day or portion thereof during which any such violation is committed, continued or permitted and each offense shall be punishable by a fine as provided in section 1-5.

Section 10-73. - Additional standards and remedies relating to construction activities.

(a) In the event any person shall cause or permit the maintenance of a nuisance as set forth in paragraph (6) of the definition of "auditory or *noise* nuisance" contained in section 10-71 above, same relating to the hours during which construction activities may occur, the city building official shall immediately issue appropriate stop orders to cause such work to cease and shall revoke the building or other applicable permit authorizing such construction. The fee for reissuance of any permit revoked, pursuant to this section, shall be as established from time to time by city council.

(b) It shall be unlawful for any person receiving a building permit for construction in the city to fail to post notice at the site of such construction notifying all workers and subcontractors of the permitted hours of construction set forth in this article. Such notice shall be posted in a conspicuous location but shall not exceed two (2) square feet in size if visible from a public street.

Section 10-74. – Additional standards and remedies relating to nuisances.

It is the intent of this Article to promote the continued tranquility, enjoyment and respect for all residential neighborhoods while accommodating special circumstances. Reasonable times for quiet hours in residential areas shall include:

- (1) Sunday through Thursday 10:00 p.m. to 7:00 a.m., except on an evening prior to a recognized holiday; and
- (2) Friday through Saturday, and on evenings prior to a recognized holiday, 12:00 a.m. to 8:00 a.m.

Any property owner or person hosting a party, occasion or special event in a residence or on a residential lot for which event the host invited more than 50 persons held on a day other than a recognized holiday or evening before a recognized holiday should coordinate with adjacent neighbors and the Memorial Villages Police Department to discuss the type of event, noise, parking and neighborhood concerns.

Section 3. Any person, corporation, or entity who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day in which any violation occurs, or each occurrence of any violation, shall constitute a separate offense.

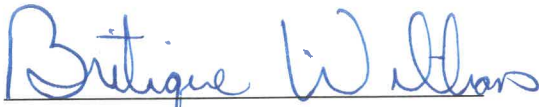
Section 4. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the City Council of the City of Bunker Hill Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED on this 14th day of November, 2017.



Jay Williams, Mayor

ATTEST:



Britique Williams, City Secretary