



ORDINANCE NO. 23-0718-H3

AN ORDINANCE OF THE CITY OF ENNIS, TEXAS, AMENDING CHAPTER 13, “NUISANCES” IN THE ENNIS CITY CODE BY REPEALING ARTICLE V, “NOISE” AND ADOPTING NEW ARTICLE V FOR THE REGULATION OF NOISE IN THE CITY; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR SCOPE AND OVERVIEW; PROVIDING DEFINITIONS; PROVIDING RESTRICTIONS ON DECIBEL LEVELS AND METHODS OF NOISE MEASUREMENT; ENUMERATING NOISES PROHIBITED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY NOT TO EXCEED \$500.00; PROVIDING A SAVINGS CLAUSE; PROVIDING A CUMULATIVE/REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Ennis, Texas (the “City”) is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Commission has determined that Chapter 13, “Nuisances,” Article V, “Noise” of the Ennis City Code, containing the noise ordinance, should be repealed in its entirety and updated to minimize exposure to the physiological and psychological harm of excessive noise and to protect, promote, and preserve the public health, comfort, convenience, safety, and welfare; and

WHEREAS, it is the express intent of the City Commission to control the level of noise in a manner which promotes commerce, protects the sleep and repose of citizens, and preserves the quality of life and the environment; and

WHEREAS, the City Commission finds it to be in the best interest of the public health, safety, and welfare of the citizens of Ennis to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ENNIS, TX:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated as if fully set forth herein.

SECTION 2: Amendment. The Ennis City Code is hereby amended to repeal Article V, “Noise” in Chapter 13, “Nuisances” in its entirety and adopt new Article V, “Noise” to read as follows:

ARTICLE V. – NOISE

Sec. 13-156. - General provisions.

- (a) *Scope.* This article applies to the control of all sound and noise within the city.
- (b) *Overview.* This article is designed to regulate noise by various alternative means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this article because it is disturbing to a reasonable person of ordinary sensibilities or because it exceeds the decibel level restrictions provided below. If a noise violates more than one of these provisions, the violation will be enforced under whichever provision is most applicable to the situation as determined by the enforcement officer of the city.

Sec. 13-157. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighting (dBA) The sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

Ambient noise. The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

Bounding real property line. An imaginary line at the ground and its vertical extension which separates the real property owned or occupied by one person from that owned or occupied by another person.

Commercial property. Property with commercial land use.

Decibel(dBA). The unit of measurement for sound pressure at a specified location.

Entertainment property. Property with an entertainment use in the downtown.

Governmental function. Work conducted by a governmental entity in the interest of the community.

Industrial property. Property with an industrial land use.

Multifamily property. Property with a multifamily land use.

Residential property. Property with a single-family or two-family residential land use.

Sound level. The instantaneous sound pressure level measured in decibels obtained by the use of a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.

Unreasonable noise.

- (a) Any unreasonably loud, disturbing, and unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof; or
- (b) Any noise of such character, intensity, and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities.

Sec. 13-158. - Restrictions on decibel levels.

- (a) *Maximum sound levels.* During the times and on the property set out below, the activities that create a sound pressure level on the complainant's bounding real property line that exceeds the maximum allowable sound level (dBA) below are declared to be public nuisances:

(1) *Residential property.*

Maximum dBA	Days	Distance
60	Sunday - Saturday	Curb or property line

(2) *Multifamily property.*

Maximum dBA	Days	Distance
50	Sunday - Saturday	Front door to unit

(3) *Commercial property.*

Maximum dBA	Days	Distance
70	Sunday - Saturday	Curb or property line

(4) *Industrial property.*

Maximum dBA	Days	Distance
75	Sunday - Saturday	Curb or property line

(5) *Entertainment property.*

Maximum dBA	Days	Distance
65	Sunday – Thursday	Curb or property line
75	Friday and Saturday	Curb or property line

- (b) *Method of noise measurement.* Noise measurements shall be a minimum of 30 seconds in duration. Decibel levels are measured from the complainant's property line. For residential property adjacent to other types of property, the residential decibel levels apply when measured from a residential complainant's property line. Violations will be determined based on the highest registered reading in that measurement period. All measurement levels will be inclusive of any ambient noise that exists at the time of the measurement.

Sec. 13-159. - Noise prohibited.

- (a) In addition to the other noise restrictions in this article, no person shall make, cause, suffer, allow or permit unreasonably loud noises in such a manner, or with such volume, intensity or duration, so as to disturb a reasonable person of ordinary sensibilities. A decibel level shall not be required for the enforcement of this section.
- (b) This section is intended to apply to, but is not limited to, unreasonable noises in the form of:

- (1) *Construction work.* Noise created by construction work within 300 feet of an occupied residential structure involving the erection, excavation, demolition, alteration, or repair of any building, structure, or flatwork is prohibited as follows:

Before 7:00 a.m. or after 8:00 p.m.	Monday—Friday
Before 9:00 a.m. or after 8:00 p.m.	Saturday—Sunday

The city manager or designee may grant a permit to exceed the times above for a period not to exceed three (3) days in the case of urgent necessity and in the interest of public safety and convenience.

(2)*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 dwelling, hotel or other type of residence.

(3)*Horns or other signal devices.* 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 device for any unnecessary and unreasonable period of time.

(4)*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.

(5)*Maintenance equipment.* Noise created by the operation of tools and domestic maintenance equipment powered by external air compressors or internal combustion engines including, but not limited to, use of lawn mowers, hedge clippers, chain saws, or similar domestic power maintenance equipment, during the hours between 6:00 a.m. and 9:00 p.m.

Sec. 13-160. - Exemptions. The following acts and sounds shall be exempt from the requirements of this article:

- (a) Noise generated due to normal building conditioning and ventilation and property maintenance.
- (b) Noise generated on public and school property, as permitted by the property owner.
- (c) Noise generated by an outdoor event that is permitted or authorized by the city.
- (d) Noise generated by any governmental body and its contractors in the performance of a governmental function.
- (e) Noise generated by airport, railway and vehicular transportation.
- (f) Noise generated by emergency work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger following fire, accident or natural disaster.

Sec. 13-161. - Penalties.

- (a) A person commits an offense if the person makes noise in violation of this article.
- (b) An offense under this article is punishable by a fine of not more than \$500.
- (c) Each occurrence of a violation, or, in the case of multiple violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

Secs. 13-162 – 13-180. – Reserved.

SECTION 3: Savings Clause. All rights and remedies of the City of Ennis, Texas, are expressly saved as to any and all violations of the provisions of the Ordinance or any other ordinance 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.

SECTION 4: Cumulative/Repealer Clause. This Ordinance shall be cumulative of all provisions of state or federal law and other ordinances of the City of Ennis, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5: Severability Clause. It is hereby declared to be the intention of the City Commission that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment 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 Commission without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 6. Effective Date. This Ordinance shall take effect from its passage and publication as required by Texas law and the City Charter.

PASSED AND APPROVED by the City Commission of the City of Ennis, Texas on this 18th day of July, 2023.

A handwritten signature in dark ink, appearing to read "Angelina Juennemann", with a long horizontal line extending to the right.

ANGELINE JUENEMANN, Mayor

ATTEST:

Angie Wade



ANGIE WADE, City Secretary