

CITY OF JOHNSON CITY

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOHNSON CITY REVISING AND AMENDING CHAPTER 8 *OFFENSES AND NUISANCES* BY ADDING ARTICLE 8.04 *NOISE* TO THE CITY CODE OF ORDINANCES; ADDING MISDEMEANOR PENALTIES AND FINES; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, the City Council of the City of Johnson City (“City”) enacted Chapter 8 *Offenses and Nuisances* (“Ordinance”) of the City’s Code of Ordinances; and

WHEREAS, the City Council finds that revisions and upgrades to the Ordinance are necessary for conformance with current Texas law and for enforcement; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is necessary or proper for carrying out a power granted by law to the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Johnson City:

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and are incorporated fully herein.

ARTICLE II. AMENDMENT AND ADOPTION OF CHAPTER 8 *OFFENSES AND NUISANCES*, ARTICLE 8.04 *NOISE*

A. Amendment and Adoption. The City Council of the City of Johnson City hereby amends and revises Chapter 8 *Offenses and Nuisances* by adding Article 8.04 *Noise* to the City’s Code of Ordinances, as depicted in "*Attachment A*", attached hereto and incorporated fully herein for all intents and purposes, and to read as contained therein.

ARTICLE III. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or

administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

ARTICLE IV. PUBLICATION AND CODIFICATION

The City Secretary is hereby directed to record and publish the Attachment in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code after publication in the City newspaper.

ARTICLE V. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and approval.

PASSED AND APPROVED this, the 1st day of February, 2022, by a majority vote of the City Council of Johnson City, Texas.

CITY OF JOHNSON CITY, TEXAS

Rhonda Stell, Mayor

Attest:

Whitney Walston
City Secretary

CITY OF JOHNSON CITY CODE OF ORDINANCES

CHAPTER 8 *OFFENSES AND NUISANCES*

ARTICLE 8.04 *NOISE*

Amended and Revised _____, 2022

CITY OF JOHNSON CITY CODE OF ORDINANCES
Chapter 8. Offenses and Nuisances
Art. 8.04 Noise

Sec. 8.04.001 Noise Prohibited

It shall be unlawful for a person to create, allow, make, or cause a noise so as to annoy or disturb the quiet, comfort, or repose of a person of ordinary sensibilities and that is audible to the extent that it is offensive and disturbing to a reasonable and prudent person.

Sec. 8.04.002 Definitions

*dB*A A measurement of sound intensity in decibel units on the A-weighting scale on an approved sound-level meter.

Daytime The hours between 7:00 a.m. and 10:00 p.m. Central Standard Time.

Noise Sound which is louder than the decibel level allowed in this Article, or disturbs a reasonable person of normal sensibilities, and is to the level of a noise nuisance.

Noise device. A device or instrument which can produce loud sounds, such as a radio, television, musical instrument, drum, loudspeaker, amplifier, mechanical or electrical device, machine, apparatus, or instrument, sound equipment or a similar device.

Noise nuisance An excessive or unnecessary noise of a volume, intensity, repetitiveness, or duration within certain feet, as described in this Article, of the source and measures more than 65 dBA.

Nighttime. The hours between 10:01 p.m. and 6:59 a.m. Central Standard Time.

Sound equipment A loud speaker, public address system, amplification system, or other sound producing device.

Sec. 8.04.003 General Restrictions

A person may not create, make, or allow a noise nuisance as follows, including, but not limited to:

- (1) using a noise device for the purpose of attracting attention to any performance, show, sale, or display of merchandise;
- (2) using a noise device mounted on a truck or moving vehicle, including a bell, siren, compression horn, or exhaust whistle, so that the sound is audible 50 feet from its source;
- (3) operating a noise device where the sound is audible at the distance of 50 feet, or that the vibration accompanying the sound from the device can be felt at the distance of 50 feet from its source;

- (4) using or operating a flying model aircraft or other model or rocket vehicle or similar device powered by an internal combustion engine, whether tethered or not, in a residential area during nighttime;
- (5) collecting garbage, waste, refuse, or recycled materials between the hours of 8:30 p.m. and 6:00 a.m. in any area zoned residential or within 500 feet of an area zoned residential;
- (6) using a noise device that creates any vibration which is perceptible without instruments at any point on or beyond the property boundary of the source if on private property, or at 50 feet from the source if on public property; or the creation of vibration or bass reverberations at any time perceptible inside a person's residence;
- (7) using a noise device at an outdoor music festival that exceeds 70 dBA when measured at the established perimeter of the event, unless a City permit has issued;
- (8) using or permitting the use of sound equipment at a business in excess of the decibel limits prescribed by this Article;
- (9) making noise or playing a musical instrument audible to an adjacent business or residence during nighttime hours;
- (10) erecting, excavating, demolishing, altering, or performing repair work on any building at any time other than between the hours of 6:00 a.m. and 8:30 p.m. Monday through Friday; 8:00 a.m. and 8:30 p.m. on Saturday; and 10:00 a.m. and 8:30 p.m. on Sunday, unless a City permit has issued;
- (11) using a power or pneumatic equipment outdoors in a residential zone or within 150 feet of the boundary line of a residence during nighttime. Motorized electric or fuel powered equipment, including, but not limited to, tractors, lawnmowers, and other similar devices or equipment, shall be considered power equipment;
- (12) operating a machine that separates, gathers, grades, loads, or unloads sand, rock, or gravel within 600 feet of a residence, church, hospital, hotel, or motel between 7:00 p.m. and 6:00 a.m., unless a City permit has issued;
- (13) using, authorizing, or allowing the use of a vehicle, equipment, attachment, or device associated with a vehicle, for cold hold, refrigeration, or freezing of any consumable food or beverage product, including water in any form such as consumer ice or ice used to refrigerate food or beverage, between 7:00 p.m. and 6:00 a.m. if noise or sound originating from the vehicle or any associated equipment (such as an engine or generator, equipment, attachment, trailer or device) is audible or causes vibration at a residence;
- (14) operating sound equipment in a vehicle audible or causing a vibration 30 feet from the equipment; or
- (15) operating sound equipment in a watercraft audible or causing a vibration 100 feet from the equipment.

Sec. 8.04.004 Residential and Commercial Restrictions

- (a) For residential: a person may not create a noise nuisance, or use or operate sound equipment that produces sound audible beyond the property line of a residence in a residential area:
 - (1) between 10:00 p.m. and 10:00 a.m.; and
 - (2) in excess of 65 dBA daytime or nighttime.

(b) For commercial: a person may not create a noise nuisance, or use or operate sound equipment at a business that produces sound:

- (1) in excess of 85 dBA between 10:00 a.m. and 2:00 a.m., as measured at the property line of the business; or
- (2) is audible at the property line of the business between 2:00 a.m. and 10:00 a.m.

Sec. 8.04.005 Applicability

The following sounds are not deemed noise nuisances, and the regulations of this Article do not apply:

- (1) Power equipment operated by City employees or utility company employees during normal business hours and in their official performance of duties;
- (2) An emergency or public service alarm, including that from police, fire, emergency medical service or public utility, when the sound is associated with the performance of lawful duties to protect the health, safety or welfare of the community;
- (3) An audible warning device on a vehicle or train, as required by State law;
- (4) A horn or other warning device required by law;
- (5) A bell or music box used on a vehicle of an ice cream vendor or similar vendor and which is not a noise nuisance;
- (6) A bell for a religious activity;
- (7) A sound emanating from a City-operated or City-sponsored event;
- (8) A sound from a loudspeaker at an athletic event conducted by the independent school district; or
- (9) A sound for which a person has obtained a City permit.

Sec. 8.04.006 Permit Required

(a) A person must obtain a sound permit:

- (1) To obtain a waiver from the regulations of this Article to operate sound equipment audible to the public;
- (2) To erect, excavate, demolish, alter, or perform repair work on any building or deliver, finish, place, or pour concrete at any time other than the times allowed under this Article in case of urgent necessity and in the interest of public safety and convenience; or
- (3) For live outdoor music at one-time events that involve the amplification of sound from instruments, vocal and instrument microphones, turntables, and digital or analog devices used as part of a performance requiring human operation from song to song.

(b) A person may apply for a sound permit by completing and submitting to the City a completed permit application to include:

- (1) the name, address, and telephone number of the applicant;
- (2) the address or a description of the location of the property of the sound source;
- (3) the date, times and duration of the sound;

(4) an application fee established in the City's Master Fee Schedule.

(c) Administrative Review.

(1) The Chief Administrative Officer (CAO) is authorized to review and to issue a permit that meets the requirements of this Article.

(2) The CAO may issue waivers from Article requirements provided that such waivers are not unreasonable.

(3) Denial of a permit request is final and not subject to appeal.

Sec. 8.04.007 Offense and Penalty

(a) A violation of this Article is a nuisance. A person commits an offense if the person makes noise or uses a noise device in violation of a provision of this Article.

(b) Each occurrence of a violation of this Article is a separate offense.

(c) An offense under this chapter is a Class C misdemeanor, punishable by a fine of not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00).

(d) The prosecution of an offense under this Article does not limit the City's right to abate the nuisance, including the use of injunctive relief.

(e) The Johnson City Police Department shall have the authority to enter upon property for the purpose of enforcing the provisions of this Article.