

Memorandum



CITY OF DALLAS

DATE May 27, 2005

TO Health, Environment and Human Services Committee

SUBJECT Noise Ordinance Changes

Environmental and Health Services Department staff met with representatives from Dallas Police, Water Utilities, and the City Attorney's Office to discuss issues with the proposed changes to Chapter 30 of the City Code. The Department of Development Services also provided input.

After detailed discussion, the following changes are recommended to the following sections of Chapter 30:

Section 30-1:

Add vibrations to loud and disturbing noise. This inclusion will enable enforcement against sources of bass sounds that cannot be measured under Chapter 51A of the Development Code.

Section 30-2 (8):

Construction start times for Monday-Saturday to remain at 7:00 a.m. Stop work times changed to 7:00 p.m. for all days. Holiday start times would remain at 7:00 a.m. unless they fall on Sunday when construction is prohibited.

For clarity and consistency in Section 30-2 (8) "residential area" will be changed to "residential use" as defined by the Dallas Development Code. This use includes, "college dormitory, fraternity or sorority house, duplex, group residential facility, handicapped group dwelling unit, mobile home park, campground, multifamily, residential hotel, retirement housing, and single family."

Section 30-2 (13):

Regulating sound equipment in a vehicle, lines (A) and (B) were deleted because of difficulty in prosecution. The standard was reestablished to be consistent with the remainder of the chapter as "to unreasonably disturb the peace, quiet, and comfort of another person."

Section 30-3.1:

Modification to this section concerning idling includes addition of motor vehicle before engine in 30-3.1(a)(2) to better define the term engine. This allowed deletion of the defense to prosecution in 30-3.1(d)(9) which references refrigerated trucks since the refrigeration unit has a separate engine independent from the motor vehicle engine. An added defense was the inclusion of utility vehicles while providing power for performance of utility work. The 300 feet applicability standard, measured from residential use, was retained.

All of the above changes have been incorporated in the draft ordinance except modifications to Section 30-2(8) for construction start/stop times. It is not recommended to include daylight savings time or additional parameters because of concerns of difficulty in enforcement and prosecution.

Please contact me if you have questions or need additional information.

Jill A. Jordan, P.E.
Assistant City Manager

Attachment

c: Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Ryan Evans, Assistant City Manager
Ramon Miguez, P.E., Assistant City Manager
Charles W. Daniels, Assistant City Manager
David Cook, Interim Assistant City Manager
Shirley Acy, City Secretary
Tom Perkins, Interim City Attorney
Paul Garner, Assistant City Auditor
Judge Jay Robinson
Chandra Marshall-Henson, Assistant to the City Manager/Mayor & Council Office

ORDINANCE NO. _____

An ordinance amending Sections 30-1 and 30-2 of and adding Section 30-3.1 to CHAPTER 30, "NOISE," of the Dallas City Code, as amended; defining terms; clarifying that violations of the noise ordinance include disturbing and offensive vibrations; revising the hours during which building construction activities may be conducted on or adjacent to a residential use; prohibiting the operation of sound equipment in a motor vehicle in a manner that unreasonably disturbs the peace, quiet, or comfort of another person; prohibiting the idling of commercial motor vehicles within 300 feet of a residential use, with certain defenses; making certain semantic, grammatical, and structural changes; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 30-1, "Loud and Disturbing Noises," of CHAPTER 30, "NOISE," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 30-1. LOUD AND DISTURBING NOISES AND VIBRATIONS.

A person commits an offense if he makes or causes to be made any loud and disturbing noise or vibration in the city that is offensive to the ordinary sensibilities of the inhabitants of the city."

SECTION 2. That Section 30-2, "Loud and Disturbing Noises Presumed Offensive," of CHAPTER 30, "NOISE," of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 30-2. LOUD AND DISTURBING NOISES AND VIBRATIONS PRESUMED OFFENSIVE.

The following loud and disturbing noises and vibrations are presumed to be offensive to the ordinary sensibilities of the inhabitants of the city:

(1) The 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.

(2) The playing of any radio, phonograph, television, or musical instrument with such volume as to disturb the peace, quiet, comfort, or repose of persons in any dwelling, apartment, hotel, or other type of residence.

(3) The continuous barking, howling, crowing, or making of other loud noises by an animal for more than 15 minutes near a private residence that the animal’s owner or person in control of the animal has no right to occupy.

(4) The loud grating, grinding, or rattling noise caused by the use of any automobile, motorcycle, bus, streetcar, or vehicle that is out of repair or poorly or improperly loaded.

(5) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.

(6) The discharge into the open air of the exhaust of any stationary steam engine, stationary internal combustion engine, or motor boat engine, except through a muffler or other device that will effectively and efficiently prevent loud and disturbing noises or vibrations.

(7) The discharge into the open air of the exhaust from any motor vehicle, except through a muffler or other device that will effectively and efficiently prevent loud and disturbing noises or vibrations.

(8) Any construction activity related to the [The] erection, [including] excavation, demolition, alteration, or repair of any building on [in] or adjacent to a residential use, as defined in the Dallas Development Code, [area] other than between the hours of 7:00 a.m. and 7:00 [8:00] p.m., Monday through Friday, and between the hours of 9:00 a.m. and 7:00 p.m. on Saturdays and legal holidays, except that the director of public works and transportation may issue a written permit to exceed these hours in the case of urgent necessity in the interest of public safety or for other reasons determined by [for which a permit must be obtained from] the director of public works and transportation to be necessary for the public health, safety, or welfare [of the city]. For purposes of this paragraph, "legal holidays" include New Year's Day (January 1), Memorial Day (observed date), Fourth of July (July 4), Labor Day (observed date), Thanksgiving Day (observed date), and Christmas Day (December 25).

(9) The shouting and crying of peddlers, hawkers, and vendors that disturb the quiet and peace of the neighborhood.

(10) The use of any drum or other instrument or sound amplifying equipment for the purpose of attracting attention by the creation of noise, to any performance, show, sale, or display of merchandise as to attract customers to any place of business.

(11) The use of mechanical loudspeakers or sound amplifiers on trucks or other moving vehicles for the purpose of advertising any show, sale, or display of merchandise.

(12) The collection of garbage, waste, or refuse between the hours of 10:00 p.m. and 7:00 a.m. on or within 300 feet of any ~~[premises zoned for]~~ residential use, as defined in [by] the Dallas Development Code.

(13) The operation of sound equipment, including a car stereo, in a motor vehicle in such a manner that the noise is so audible or causes such a vibration as to unreasonably disturb the peace, quiet, or comfort of another person.”

SECTION 3. That CHAPTER 30, “NOISE,” of the Dallas City Code, as amended, is amended by adding Section 30-3.1, “Noise from the Idling of Commercial Motor Vehicles,” to read as follows:

“SEC. 30-3.1. NOISE FROM THE IDLING OF COMMERCIAL MOTOR VEHICLES.

(a) In this section:

(1) COMMERCIAL MOTOR VEHICLE means any motor vehicle with a gross vehicle weight rating (GVWR) over 14,000 pounds.

(2) IDLE means the operation of a motor vehicle engine in operating mode where the engine is not engaged in gear.

(b) A person commits an offense if he idles a commercial motor vehicle for more than 10 consecutive minutes at a location on or within 300 feet of any residential use, as defined in the Dallas Development Code.

(c) A person commits an offense if, on any premises that he owns or controls, he permits the idling of a commercial motor vehicle for more than 10 consecutive minutes at a location on or within 300 feet of any residential use, as defined by the Dallas Development Code.

(d) It is a defense to prosecution under Subsections (b) and (c) of this section that the commercial motor vehicle was:

(1) idling in obedience to an official traffic control device;

(2) idling while stopped in traffic;

(3) idling in obedience to a peace officer;

(4) idling while being repaired in an enclosed structure;

(5) idling in order to defrost a windshield;

(6) a school bus;

(7) intended for commercial passenger transportation and was not idling on a public street, highway, or alley;

(8) a concrete mixer truck that was only idling while actually pouring concrete or staging to pour concrete; or

(9) a utility truck that was only idling while providing power as needed to perform utility work.”

SECTION 4. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 5. That CHAPTER 30 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., Interim City Attorney

By _____
Assistant City Attorney

Passed _____

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