

ORDINANCE NO. 2023_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, AMENDING CHAPTER 13, MISCELLANEOUS OFFENSES, ARTICLE I. OF THE CODE OF ORDINANCES OF THE CITY OF ANGLETON; PROVIDING NOISE AND SOUND LEVEL REGULATIONS; REPEALING SEC. 13-9, USE OF AMPLIFYING DEVICES, CLAUSE; REPEALING SEC. 13-12, SILLY STRING, STINKBOMBS, SMOKEBOMBS, POPPERS OR NOISEMAKERS, CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR A PENALTY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Texas Local Government Code Chapter 51, the City Council of the City of Angleton, Texas, (“City”) has the general authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality and is necessary or proper for the carrying out a power granted by law to the municipality; and

WHEREAS, pursuant to Texas Local Government Code Chapter 217, the City Council has the general authority to identify, prevent and abate public nuisances; and

WHEREAS, Chapter 13 of Angleton’s Code of Ordinances contains rules and regulations concerning certain miscellaneous offenses, including but not limited to such offenses concerning public nuisances relating to noise and sound levels;

WHEREAS, the City Council finds that such rules and regulations should be amended and certain sections repealed to add an Article regarding noise and sound level regulations; and

WHEREAS, the City Council finds that such rules and regulations should be amended to repeal Chapter 13 Miscellaneous Offenses, Article I In General, Sec. 13-5 – Handbills and Posters—Prohibited on Street Right-of-Way; and

WHEREAS, the City Council finds that such rules and regulations should be amended to repeal Chapter 13 Miscellaneous Offenses, Article I In General, Sec. 13-6 – Same—Exemption; and

WHEREAS, the City Council finds that such rules and regulations should be amended to repeal Chapter 13 Miscellaneous Offenses, Article I In General, Sec. 13-9 – Use of Amplifying Devices; and

WHEREAS, the City Council finds that such rules and regulations should be amended to repeal Chapter 13 Miscellaneous Offenses, Article I In General, Sec. 13-12 - Silly string, stinkbombs, smokebombs, poppers or noisemakers; and

WHEREAS, the City Council finds that such rules and regulations should be amended to update the reference in Article VII – Mass Gatherings, Sec. 13-171 – Noise .

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS:

SECTION 1. The facts recited in the preamble in this Ordinance are hereby found by the City Council of the City of Angleton, Texas to be true and correct and are incorporated by reference herein and expressly made a part thereof, as if copied herein verbatim.

SECTION 2. Chapter 13 – Miscellaneous Offenses be amended and a new Article - “Noise and Sound Level Regulations” be added to provide as follows:

ARTICLE VIII – NOISE AND SOUND LEVEL REGULATIONS

Sec. 13-201. 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:

Daytime hours means the hours between 7:00 a.m. on one day and 10:00 p.m. the same day.

dB(A) means the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the American National Standards Institute.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, or which is otherwise necessary to restore property to a safe condition following a fire, accident or natural disaster, or which is required to protect persons or property from exposure to danger, or which is required to restore public utilities.

Nighttime hours means the hours between 10:00 p.m. on one day and 7:00 a.m. the following day.

Nonresidential property means any real property within the limits of the city which is not included in the definition of "residential property" as defined in this section.

Property line means the line along the ground surface, and its vertical extension, which separates the real property owned, leased or occupied by one person from that owned, leased or occupied by another person and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise occupies an apartment, condominium, hotel or motel room, office or any other type of occupancy.

Public right-of-way means any street, avenue, boulevard, highway, road, thoroughfare, sidewalk, alley or any other property which is owned or controlled by a governmental entity.

Residential property means any real property developed and used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation,

unless such premises are actually occupied and used primarily for purposes other than human habitation.

Sound nuisance means any sound which either exceeds the maximum permitted sound levels specified in section 13-203 or, for the purposes of sections 13-205, 13-206, and 13-207, otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

Sec. 13-202. Loud noise prohibited.

It shall be unlawful for any person within the city to make, permit or continue, or cause to be made, permitted or continued, any loud, unnecessary or unusual noise or any noises reasonably calculated to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others within the limits of the city.

Sec. 13-203. Maximum permissible sound levels.

No person shall conduct, permit or allow any activity or sound source to produce a sound that is discernible beyond the property lines of the property on which the sound is being received that when measured, as provided in section 13-209, exceeds the applicable dB(A) level listed below for the property on which the sound is received:

(1) *Residential property.*

- a. During daytime hours, 65 dB(A).
- b. During nighttime hours, 58 dB(A).

(2) *Nonresidential property.*

- a. During either daytime or nighttime hours, 68 dB(A).
- b. The dB(A) levels set forth in this section apply to the property where the sound is being received. Any sound that when measured at the property where the sound is being received exceeds the dB(A) levels set forth in this section is a violation of this chapter. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section, when measured at the site where the sound is being produced, if available, shall be prima facie evidence of a sound nuisance which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city in violation of this chapter.

Sec. 13-204. General prohibition.

- (a) It shall be unlawful for any person to make, assist in making, permit or continue, cause to be made or continued, or permit the continuance of any sound which either exceeds the maximum permitted sound levels specified in section 13-203 or, for the purposes of sections 13-205, 13-206, 13-207, otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

- (b) The acts enumerated in the following sections of this article, among others, are declared to be sound nuisances which are unreasonably loud, irritating, disturbing, or excessive sounds in violation of this article, but such enumeration shall not be deemed to be exclusive.

Sec. 13-205. Noisy vehicles generally.

The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such a manner so as to create loud and unreasonable grating, grinding, rattling or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

Sec. 13-206. Amplified sound from motor vehicle.

The production or reproduction of sound from amplification equipment contained in or mounted on a motor vehicle which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created is within the permissible levels specified in section 13-203 when measured at or near 15 feet from the nearest external point on the vehicle, except as permitted by section 13-210.

Sec. 13-207. Noisy animals and birds.

The keeping of any animal or bird which causes or makes frequent or long and continued sound which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in section 13-203.

Sec. 13-208. Defenses.

The following defenses shall apply to any offense established in this article:

- (1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger or attempted crime.
- (2) The sound was produced by an authorized emergency vehicle.
- (3) The sound was produced 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 a fire, accident or natural disaster.
- (4) The sound was generated:
 - a. At a lawfully scheduled stadium event;
 - b. By a parade and spectators and participants on the parade route during a permitted parade;
 - c. By spectators and participants at a lawfully scheduled amphitheater event;

- d. By a pyrotechnic display that was inspected and approved by the fire marshal;
 - e. By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert which was sponsored, cosponsored, or permitted by the city; or
 - f. Any other lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution.
- (5) The sound was produced by the erection, excavation, construction, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in any such activity conducted between the hours of 7:00 a.m. and 8:00 p.m. and which activity did not produce a sound exceeding 75 dB(A) when measured from the nearest residential property where the sound is being received.
 - (6) The sound was produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.
 - (7) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 8:00 p.m. and which device did not produce a sound exceeding 85 dB(A) when measured from the nearest residential property where the sound is being received and was used for the maintenance or upkeep of the property on which it was used.
 - (8) The sound was generated as authorized under the terms of a permit issued under section 13-210.
 - (9) The sound was produced by the operation of any air conditioning unit which did not produce a sound exceeding 65 dB(A) on residential property or 75 dB(A) on nonresidential property, when measured at or near 15 feet from the air conditioning unit producing the sound being measured.
 - (10) The sound was produced by church bells or church chimes when used as part of a religious observance or service during daytime hours and which did not exceed five continuous minutes in duration in any one-hour period.

Sec. 13-209. Method of sound measurement.

Whenever portions of this article prohibit sound over a certain decibel limit, measurement of such sound shall be made with a type 1 or type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American National Standards Institute (ANSI S1.4-1984/85A). Noise levels shall be measured in decibels and A-weighted. The unit of measurement shall be designated as dB(A). Meters shall be maintained in calibration and good working order. Except as provided in sections 13-206 and 13-208(9), measurements shall be taken at or near the nearest property line of the property where the sound is being received.

Sec. 13-210. Permit required for use of outdoor sound amplification equipment.

- (a) No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier or any other machine or device which produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner which exceeds the levels specified in section 13-203, when measured from the property where the sound is being received, without first obtaining a permit to do so. Such permit:
 - (1) May be obtained by making an application to the director of the city department so designated by the mayor.
 - (2) Requires payment of a fee as currently established or as hereafter adopted by resolution of the city council from time to time for the administrative costs of issuing the permit.
 - (3) Is valid for one 14-hour period between the hours of 8:00 a.m. and 10:00 p.m.
 - (4) Shall not be issued for the same location more than twice during any 30-day period.
 - (5) Shall not authorize, allow, or otherwise permit the production, reproduction, or amplification of sound which exceeds 75 dB(A) when measured from the nearest receiving property.
- (b) The use of any loudspeaker, loudspeaker system, sound amplifier or any other similar machine or device which is permitted pursuant to this section is subject to the following regulations:
 - (1) The only sound permitted shall be either music or human speech, or both.
 - (2) The volume of the sound amplified pursuant to this section shall not exceed 75 dB(A) when measured from the nearest receiving property.
 - (3) No equipment permitted pursuant to this section shall be operated during the hours between 10:00 p.m. and 8:00 a.m.
- (c) The application for the permit required to be filed pursuant to this section shall contain the following information:
 - (1) The date of the application and the date and hours for which the permit is requested.
 - (2) The name and address of the applicant.
 - (3) The name and address of the person who will have charge of the sound amplifying equipment.
 - (4) The purpose for which the sound equipment will be used.
 - (5) The address and a description of the location where the sound equipment will be used.
 - (6) A description of the type of sound amplifying equipment to be used.

SECTION 3. Chapter 13 – Miscellaneous Offenses be amended to repeal the following provisions:

Sec. 13-5. - Handbills and posters—Prohibited on street right-of-way.

It shall be unlawful for any person to post or place handbills or posters on any public street right-of-way or parkway in the city.

Sec. 13-6. - Same—Exemption.

The provisions of section 13-5 shall not apply to any advertising structure, billboard or sign constructed or maintained outside the improved street portion of such right-of-way, which is limited to:

- (1) The name of the person occupying the building or premises adjacent to such sign, and the type of business conducted by such person;
- (2) A sign advertising the sale or lease of the building or premises on which it is located;
- (3) An official notice posted by a public officer or employee in performance of a public duty by a private person in giving a legal notice.

Sec. 13-9. - Use of amplifying devices.

(a) It shall be unlawful for any person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instrument to intensify or to amplify or to reproduce the human voice, or any other sound, on any public street within the corporate limits of the city.

(b) It shall be unlawful for any person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instrument to intensify or to amplify or to reproduce the human voice, or to produce, reproduce, intensify or amplify any other sound, in any building or on any premises in the city, whereby the sound therefrom is cast directly upon the public streets or places or where such device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public, or which is so placed or operated that the sounds coming therefrom can be heard to the annoyance or inconvenience of travelers upon any street or public place, or of persons on neighboring premises.

(c) The purpose of any section is to prevent any noise in, near or on any public street which is reasonably calculated to disturb the peace and good order of the neighborhood or of persons owning, using or occupying property adjacent to such public streets.

(d) The city and/or an agent, agency or representative of the city shall be exempt from subsections (a) and (b) above when pursuing and/or sponsoring city and community wide functions and activities, including but not limited to, festivals, carnivals, pep rallies and whistle stops.

(e) That the city council may issue a variance to this provision if any person is conducting an outdoor event using amplifying devices.

Sec. 13-12. - Silly string, stinkbombs, smokebombs, poppers or noisemakers.

(a) It shall be unlawful for any person to offer for sale, sell or otherwise dispose of, distribute, discharge, fire or use any silly string, stink bombs, smoke bombs, poppers, other noisemakers or toy pressurized water guns at or during parades within the city limits of Angleton, Texas.

(b) It shall be unlawful for any person observing a parade or participating in a parade to throw any object or item while standing, walking, or riding in a float, vehicle or any other mode of transportation.

(c) Any person, firm, corporation, association, or other entity that violates this section shall be subject to a fine of not more than \$500.00 for each violation, and each day that the violation continues will be considered a separate violation.

SECTION 4. Chapter 13 – Miscellaneous Offenses, Article VII – Mass Gatherings, Sec. 13-171. – Noise shall be amended and revised as follows:

“Sec. 13-171. - Noise.

All other regulations in chapter 13, of the City Code of Ordinances regarding noise and sound level regulations and use of amplifying devices and V.T.C.A., Penal Code § 42.01, regarding unreasonable noise in a public place, and 25 Texas Administrative Code § 265.3 shall apply to mass gatherings.”

SECTION 5. Severability Clause.

That if any provision, word, sentence, paragraph, clause, phrase or section of this Ordinance or its application to any person or circumstances is adjudged or held invalid, void or unconstitutional, the invalid, void or unconstitutional portion shall not affect the validity of the remaining portions of this ordinance which shall remain in full force and effect.

SECTION 6. Repeal.

All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repeals; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

This Ordinance shall be effective on the first day after the date of passage.

SECTION 8. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

SECTION 9. All other Ordinances or parts of Ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

PASSED AND APPROVED THIS THE _____ DAY OF _____, 2023.

CITY OF ANGLETON, TEXAS

Jason Perez
Mayor

ATTEST:

Michelle Perez, TRMC, CMC
City Secretary