

CITY OF SEGUIN  
STATE OF TEXAS

ORDINANCE NO:

AN ORDINANCE OF THE CITY COUNCIL OF SEGUIN, TEXAS AMENDING Chapter 46, Article VIII, TO AMEND THE CITY OF SEGUIN NOISE ORDINANCE; AUTHORIZING CITY STAFF TO PREPARE THIS ORDINANCE AS A SUPPLEMENT TO THE CITY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, Chapter 46, Article VIII,, should be amended in order to better protect the health, safety, and welfare of the citizens and to provide clearer thresholds for violations, promoting ease of enforcement.

BE IT ORDAINED BY THE CITY COUNCIL OF SEGUIN, TEXAS

SECTION ONE. The Seguin Code of Ordinances, Chapter 46, Article VIII, is amended to read as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

- **ARTICLE VIII. - NOISE**<sup>[8]</sup>

*Footnotes: --- (8) ---*

*Editor's note—* Ord. No. 93-21, adopted June 15, 1993 *and amended on March* \_\_\_\_, 2024, *has been codified herein at the discretion of the editor as Art. VIII, §§ 46-251—46-257.*

*Editor's note—* Animal noises, § 14-1; livestock noises, § 14-168.

- **Sec. 46-251. - Short title.**

This article [Ordinance No. 93-21] shall be known, cited and referred to as the City of Seguin Noise Ordinance.

- **Sec. 46-252. - Definitions and standards.**

The following words and terms shall have the meanings respectively ascribed:

“A-weighted sound level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network.

“Daytime” means any time between 8 a.m. and 10 p.m. the same day, except on Fridays and Saturdays, which shall mean any time between 8 a.m. and 11 p.m from 30 minutes before sunrise to 30 minutes after sunset.

~~Group I zoned property means all properties in the City of Seguin having a zoning registration other than Group II or Group III.~~

~~Group II zoned property means all properties in the City of Seguin having a zoning designation of Public Use, Office Professional, Mixed Use, Commercial, or Downtown Historic District.~~

~~Group III zoned property means all properties in the City of Seguin having a zoning designation of Light Industrial or Industrial.~~

~~“Impulsive sound” means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.~~

~~“Nighttime” means any time between 10 p.m. and 8 a.m. the following morning, except beginning on Fridays and Saturdays, which shall mean any time between 11 p.m. and 8 a.m. the following morning. from 30 minutes after sunset to 30 minutes before sunrise.~~

~~“Noise Nuisance” means any loud, irritating, vexing or disturbing sound which causes distress, annoyance, discomfort or injury to or which interferes with the comfort or repose of any person of reasonable nervous sensibilities in the vicinity of hearing thereof, or any sound which endangers or injures the safety or health of humans or animals, or any sound which interferes with the physical well-being of humans or animals, or any sound which endangers or injures person or real property, and which exceeds the A-weighted sound levels identified in Section 46-253, below.~~

~~“Permit the Operation of” means to allow to operate, when one has the authority to control the creation of the sound, either directly or indirectly, including the authority to eject a person creating sound from the property. A person or other legal entity shall be considered to permit the operation of a sound amplifying device if the person or entity is:~~

- ~~(1) An owner in possession of real property upon which the sound amplifying device is located;~~
- ~~(2) An operator of an establishment in which the sound amplifying device is located;~~
- ~~(3) A lessee of the real property on which the sound amplifying device is located;~~
- ~~(4) A member of a musical group creating the amplified sound; or~~
- ~~(5) An operator of an electronic device through which the amplified sound is emanating.~~

~~“Residential Property” means a property with an existing dwelling unit in an apartment, townhouse, duplex or other multi-family residential structure, or a single-family residence.~~

~~“Plainly audible” means capable of being heard by a human being. For music to be plainly audible, the words of a song need not be discernable. Music is plainly audible if the sound, rhythm, beat, or vibration of the music is discernable.~~

~~“Sound Level” means the weighted sound pressure level referenced to 0.0002 micro-bar obtained by the use of a sound level meter and frequency weighting network such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971). If the frequency weighting employed is not indicated, the A-weighting shall apply.~~

"Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averages, output meter, and weighting network used to measure sound pressure levels.

## **Sec. 46-253. - Noise Nuisance Regulation-~~enumeration.~~**

(a) ~~The following activities, among others not hereinafter enumerated, are declared to be "Noise Nuisances," and are unlawful and in violation of the provisions for within this article: 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 any person of reasonable nervous sensibilities within the vicinity or hearing thereof, or so as to endanger or injure the safety or health of humans or animals, or so as to interfere with the physical well being of humans or animals, or so as to endanger or injure personal or real property:~~

(1) any activity or sound source to produce a Sound Level that exceeds the maximum applicable dB(A) level listed below, when measured by a police officer after a complaint has been received by the Seguin Police Department:

(i) Residential Property.

a. Up to 85 decibels during Daytime.

b. Up to 75 decibels at Nighttime.

A police officer taking a noise measurement for a complaint related to a Residential Property may take the measurement from within either the closest public right-of-way to the offending residence or with the consent of a complainant, the officer may take the measurement from the property line of the complainant.

(ii) NonResidential Property.

a. If the property is not a Residential Property and is not located within 100 feet of a Residential Property, the maximum permissible decibel level for any type of sound emitted from that property is: Up to 85 decibels at all times.

b. If any property is located within 100 feet of a Residential Property, the maximum permissible decibel level for any type of sound emitted from that property is:

1. Up to 85 decibels during Daytime.

2. Up to 75 decibels at Nighttime.

(2) any activity that Permits the Operation of any radio, tape recorder, cassette player, compact disc player, DVD player, MP3 player or other machine or device for reproducing sound, if the sound generated is audible at a distance of 50 feet or more from the device producing the sound and the device is located in or on any of the following:

(i) Any public property, including any public street, highway, sidewalk, or thoroughfare;

(ii) Any motor vehicle upon a public street, highway or public space.

~~The playing or permitting or causing the playing of any radio, television, phonograph, drum, juke box, nickelodeon, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound.~~

~~(2) Any loud or vociferous language or any soliciting for, of description of, any amusement house, moving picture theater, or other like place of amusement, or for the performance therein, in the entrance thereto, the foyer or lobby thereof, or on the sidewalks adjoining the same.~~

~~(3) The keeping of any animal, fowl, or bird, which makes frequent or long, continued noise.~~

~~(4) The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal.~~

~~(5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, or other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises therefrom.~~

~~(6) The erection, including construction, excavation, 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 construction, excavation, drilling, demolition, alteration or repair work:~~

~~a. Other than during the daytime on week days; or~~

~~b. At any time such that the sound level at or across a real property boundary exceeds 80dBA.~~

~~c. This section shall not apply in cases of extreme and urgent necessity in the interest of public safety and convenience, and then only by permit obtained from, and issued by, the city's health inspector, or any of his duly appointed and acting assistants and employees, which permit may be renewed during the time the emergency exists.~~

~~(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 with or without an amplifier, hand organ, or other devices or instruments, musical or otherwise, for the purpose of advertising any candidates for elective office, any goods, wares, or merchandise, or for the purpose of attracting attention to or inviting persons to any political rally, meeting or gathering, to any place of amusement, to any performance or show, or to any business or activity whatsoever.~~

~~(8) The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors or any other persons.~~

~~(9) The operation, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than 80dBA as read by the slow response on a sound level meter at any point that is customarily occupied by a customer or patrol, unless a sign, legible and conspicuous to~~

ordinary public view, and at least 225 square inches in area, is located outside such place, near each public entrance, stating in letters at least two inches high, "WARNING: SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT."

~~(10) The making of noise on Group I zoned property which exceeds 63 decibels when measured from property under separate ownership.~~

~~(11) The making of noise on Group II zoned property which exceeds 70 decibels when measured from property under separate ownership.~~

~~(12) The making of noise on Group III zoned property which exceeds 72 decibels when measured from property under separate ownership.~~

(b) Distance limits. Method of sound measurement. When this Article prohibits noise over a certain Sound Level, measurement of said noise shall be made with a decibel meter chosen by the Chief of Police which meets the standards prescribed by the American National Standards Institute at the time the device was purchased. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken to provide an accurate representation of the noise being measured. Noise measurements shall be a minimum of 30 seconds in duration. The microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used. Violations will be determined based on the highest registered reading in the measurement period. All measurement levels will be inclusive of any ambient noise that exists at the time of the measurement.

~~(1) It shall be unlawful between the hours of 10:00 p.m. and 7:00 a.m. to operate or permit the operation of any sound amplifying device at a commercial establishment or residence so that the sound is plainly audible at a distance of 100 or more feet outside the property line of the property on which the establishment or residence is located.~~

~~(2) It shall be unlawful for any person operating or occupying a motor vehicle on a street, highway, alley, parking lot, driveway, whether public or private property, to operate or permit the operation of any sound amplifying device from within the vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle.~~

~~(3)~~

(c) The exceptions set forth in [section 46-255](#) of this chapter apply to the provisions of this section.

~~(4)~~

(d) An offense under this section is a strict liability offense, and does not require proof of any culpable mental state.

Cross reference— Animal noise, [§ 14-1](#); livestock noise, [§ 14-168](#).

- **Sec. 46-254. - Vibration. Reserved**

~~It shall be unlawful to operate, or to permit or to cause the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at 50 feet from the source if in a public place or public right-of-way. For the purpose of this section, "vibration perception threshold" means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration motion by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.~~

~~(Ord. No. 93-21, 6-15-93)~~

• **Sec. 46-255. - Exceptions.**

(a) The provisions of this article shall not apply to:

(1) The emission of sound for the purpose of alerting persons to the existence of any emergency; or

(2) The emission of sound in the performance of emergency work; or

(3) Any noise made by any aircraft in flight or at an airport, or railroad equipment in operation on railroad rights of way vehicle, whether designed for land, air or rail transportation; or

(4) Noises produced by any governmental entity, as defined by Texas Local Government Code, Sec.271.021, as may be amended from time to time. ~~or public body.~~

(5) Sound generated at a scheduled stadium event; by parade spectators and participants on the parade route during a permitted parade; by outdoor celebration participants sponsored or co-sponsored by the city for the general welfare of the public; by pyrotechnic displays that are inspected and approved by the City of Seguin Fire Marshal.

(6) Sound generated by church bells.

(b) ~~For non-construction-related activities,~~ applications for a "Sound Permit" for relief from the Noise Nuisance and Vibration restrictions designated in this article on the basis of undue hardship may be made to the ~~city health inspector~~ Director of Planning and Codes for the City of Seguin or ~~his~~ her duly authorized representative. Each application must be accompanied by a \$50.00 fee. The Director of Planning and Codes shall place the permit application on the next regular agenda of Seguin City Council for its consideration. The relief requested may be granted by the City Council upon a good and sufficient showing:

(1) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with the provisions of this article; or

(2) That the activity, operation, noise or vibration source will be of temporary duration and cannot reasonably be done in a manner that would comply with this division; or

(3) That no reasonable alternative is available to the applicant.

(c) If granted, the Sound Permit shall be in writing and contain all conditions, upon which said Sound Permit is granted, including but not limited to the effective dates, any time of day, location, sound pressure level, or equipment limitation. The City of Seguin health inspector or his duly authorized representative may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding area.

(d) If not granted, the applicant for a Sound Permit shall have a right to modify or cure defects in applicant's permit application and request reconsideration by City Council by filing an appeal request with the City Secretary within ten (10) days of the denial. The City Secretary shall schedule an agenda item before City Council within thirty (30) days of the applicant's request. A majority vote of the City Council shall determine whether to uphold or reject its original action. Upholding the action shall affirm the denial. Rejection of the action shall automatically approve the Sound Permit for the period it was requested, unless that period has passed during pendency of the appeal. No person whose permit has been denied or suspended shall create or allow the creation of the noise in dispute prior to final determination by the City Council.

(e) Construction-related activities seeking relief from the Noise Nuisance and Vibration restrictions designated in this article on the basis of undue hardship shall seek a "Construction Sound Permit" from the Chief Building Official for the City of Seguin. The fees for a Construction Sound Permit shall be considered part of the permit and inspection fees already paid for that construction activity. The Chief Building Official shall have the authority to issue a Construction Sound Permit, if no reasonable alternative is available to the applicant. Such permit may place restrictions on the time, place, and manner of the activity producing sound. Denials by the Chief Building Official may be appealed to the City Council on its next regular agenda. A majority vote of the City Council shall determine whether to uphold or reject the Chief Building Official's action under this Section. Upholding the action shall affirm the denial. Rejection of the action shall automatically approve the Sound Permit for the period it was requested, unless that period has passed during pendency of the appeal.

(Ord. No. 93-21, 6-15-93)

• **Sec. 46-256. - Method of measurement. Reserved.**

~~Whenever portions of this article prohibit noise over a certain decibel, measurement of said noise shall be made with a decibel meter meeting the standards prescribed by the American Standards Association. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Measurements may be taken at a point on adjacent private property or on either side of an adjacent public right-of-way at or near the boundary line of the property where the noise is generated.~~

(Ord. No. 93-21, 6-15-93)



• **Sec. 46-257. - Enforcement.**

- (a) Any person, firm, or corporation who violates any provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine as proscribed below:
1. A fine not to exceed \$150.00 for the first offense, plus court costs;
  2. A fine not to exceed \$250.00 for the second offense, plus court costs;
  3. A fine not to exceed \$500.00 for the third and any subsequent offenses, plus court costs.
- (b) Any person, firm, or corporation who obstructs, impedes, or interferes with a representative of the city, with a representative of a city department, with monitoring equipment, or with a person who has been ordered to abate a situation pursuant to this chapter and who is lawfully engaged in such abatement is guilty of a misdemeanor and upon conviction is punishable by a fine not to exceed \$500.00. Each act of violation and each day of violation is considered a separate violation.
- (c) In addition to proceeding under authority of subsections (a) and (b) of this section, the City is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person, firm, or corporation that remains in violation of this chapter.
- (d) From the Effective Date of the ordinance from which this section derives through July 1, 2024, the City shall institute a policy of providing warnings the first offense listed in subsection (a)(1), above, so that an educational effort by the city may be conducted to inform the public about the importance and requirements of this section. *Immediate threats to health and welfare.*
- ~~(1) The director of police services or his duly authorized representative shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subsection (2), to continuous or impulsive sound levels in excess of those [set out in this article.] Within five days following issuance of such an order, the director of police services, or his duly authorized representative shall apply to the appropriate court for an injunction to replace the order.~~
- ~~(2) No order pursuant to subsection (1) shall be issued if the only persons exposed to sound levels in excess of those listed are exposed as a result of:~~
- ~~a. Trespass; or~~
- ~~b. Invitation upon private property by the person causing or permitting the sound.~~
- ~~(3) Any person subject to an order issued pursuant to subsection (1) shall comply with such order until:~~
- ~~a. The sound is brought into compliance with the order, as determined by the director of police services or his duly authorized representative; or~~
- ~~b. A judicial order has superseded the order by the director of police services or his representative.~~



~~(b) Penalty for violations of article, habitual violations. Any person who violates any portion of this article is guilty of a misdemeanor and shall on conviction be subject to a fine of not less than \$35.00 nor more than \$1,000.00. For the second or subsequent offense within a 12-month period, the person shall be subject to a fine of not less than \$70.00 nor more than \$1,000.00.~~

(Ord. No. 93-21, 6-15-93)

**SECTION THREE.** This Ordinance shall become effective beginning ten days after its publication.

**SECTION FOUR.** If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portions of the Ordinance, which shall continue to have full force and effect.

**SECTION FIVE.** City Staff is hereby authorized to submit this Ordinance as a supplement to the Seguin Code of Ordinances.

**PASSED UPON FIRST READING** on February \_\_\_, 2024.

**PASSED UPON SECOND READING** on March \_\_\_, 2024.

\_\_\_\_\_  
Donna Dodgen, Mayor

ATTEST:

\_\_\_\_\_  
Kristin Mueller, City Secretary