

ORDINANCE NO. 008-09

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS REPEALING AND REPLACING CITY ORDINANCE NO. 006-07, ESTABLISHING REGULATIONS TO CONTROL NOISE WITHIN THE CITY; DECLARING LOUD NOISE A NUISANCE AND PROHIBITING SAME WITHIN THE CITY; REGULATING THE USE OF ENGINE BRAKES; ESTABLISHING A PERMIT REQUIREMENT AND FEE; ESTABLISHING A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is in the best interest of the citizens of the City of De Leon, Texas (the “City”) and their health and welfare to establish on Ordinance regulating and prohibiting necessary and offensive noise in the City limits; and

WHEREAS, the City has a legitimate governmental interest in protecting its citizens from unnecessary and offensive noise that endanger the comfort, repose, health, peace or safety of its citizens within the City limits; and

WHEREAS, it is the desire of the City Council and the citizens of the City to create and maintain a healthy and peaceful environment for the citizens of the City, and specifically to regulate those activities which might cause objectionable levels of noise; and

WHEREAS, the City Council recognizes that certain activities as described herein should be exempt from the restrictions established by this ordinance;

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

I. Repeal. That the following Ordinance of the City of De Leon is hereby repealed:

<u>Ordinance No.</u> 006-07	<u>Adoption Date</u> 07-12-2007
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II. Enactment. That the Following provisions are hereby enacted and adopted as the Noise Ordinance for the City of De Leon, replacing City Ordinance No. 006-07 in its entirety.

Section 1 - Loud Noise Declared Nuisance and Prohibited

Any unreasonably loud, disturbing or unnecessary noise which causes disturbance, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity of the noise is hereby declared a nuisance and is prohibited within the City limits. Acts which shall be considered

unreasonably, loud, disturbing or unnecessary noises in violation of this section shall include, but shall not be limited to the following.

- (A) The sounding of any horn or signal device, emanating from a motor vehicle, except as a danger signal, so as to create any loud or harsh sound plainly audible within any dwelling unit or residence. A motor vehicle as used in this subsection means every vehicle that is self-propelled.
- (B) The use of “engine brakes” or similar mechanical/vehicular devices in such a manner or resulting in noise of a volume that a person of ordinary sensibilities is disturbed or annoyed or so as to create a loud or harsh sound plainly audible within any dwelling unit or residence within the City boundaries.
- (C) The playing or operation of any device designed for sound reproduction including, but not limited to, any radio, television set, musical instrument, audio system, including cassette tape players, compact disc players, and speakers, or loud speaker, in such a manner or with such volume as to be plainly audible in any dwelling unit or residence which is not the source of the sound, or to operate any such device out of doors or on public property or a public right-of-way so as to be plainly audible fifty (50) feet or more from such device and or causes a person to be aware of the vibration accompanying the sound at a distance of fifty (50) feet or more from the source.
- (D) This section does not apply to motor vehicles, equipment or sound devices being used for business or political purposes, properly permitted, operating in the normal course of business or for purposes of public health and safety, or events permitted under Section 2, below.

Section 2 - Permit and Fee

Any person wanting to hold an outdoor event that will include the playing of music or the operation of any device designed for sound reproduction including, but not limited to, any radio, television set, musical instrument, audio system, including cassette tape players, compact disc players, and speakers, loud speaker, or public address system in violation of limits established Section 1(C), above, must apply for and be granted a permit from the City of De Leon. Application for a permit shall be filed with the City Administrator/City Secretary at City Hall and shall include the date, time, and location of the event and the name, address and telephone number of the person designated as in charge of the event, as well as any other information requested by the City Administrator/City Secretary about the event. The event shall be approved by the Mayor or submitted to the City Council for approval, at the discretion of the Mayor. If

approved, the permit will be issued upon payment of a permit fee of \$25.00.

Section 3 - Penalty

Any person violating any of the provisions of this Ordinance shall be found guilty of a Class C misdemeanor, and, upon conviction, shall be subject to a fine of not more than five hundred dollars (\$500.00). Each act or event in violation of any of the provisions hereof shall constitute a separate offense.

III. Severability. It is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses, and phrases are severable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs of this Ordinance, since the same would have been enacted by the City Council without the incorporation In the Ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections.

IV. Notice and Publication. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the *Open Meeting Act, Chapter 551, Loc. Gov't. Code.*

V. Effective Date. This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code.

PASSED AND APPROVED on this 28th day of May 2009.

PASSED, APPROVED AND ADOPTED on this 11th day of June 2009.

Danny Owen, Mayor

ATTEST:

Karen Wilkerson,
City Administrator/Secretary