

Motion made by ROBERT MOORE, seconded by Bill OLiphant,
that the following Ordinance be passed:

NO. 666

AN ORDINANCE BY THE TOWN COUNCIL OF THE TOWN OF CUT AND SHOOT, TEXAS REGULATING NOISE WITHIN THE TOWN BY PROVIDING DEFINITIONS; PROHIBITING SOUND NUISANCES; ESTABLISHING PRIMA FACIE EVIDENCE OF SOUND NUISANCES BY DECIBEL [dB(A)] LEVELS; PROHIBITING NOISY VEHICLES; PROHIBITING LOUD NOISE FROM MOTOR VEHICLE RADIO OR TAPE PLAYER; PROHIBITING NOISY ANIMALS AND BIRDS; ESTABLISHING DEFENSES; REQUIRING PERMITS FOR OUTDOOR AMPLIFICATION SYSTEMS AND DEVICES; MAKING ANY VIOLATION OF THE ORDINANCE A MISDEMEANOR; ESTABLISHING A CRIMINAL PENALTY OF NOT MORE THAN \$500 FINE FOR EACH DAY THE VIOLATION CONTINUES; PROVIDING A SAVINGS CLAUSE, A REPEALING CLAUSE; AND AN EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, the Town Council of the Town of Cut and Shoot, Texas finds that it is in the best interest of the residents of the Town for their peace and tranquility to regulate loud noises within the Town.

NOW BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUT AND SHOOT, TEXAS:

SECTION I
DEFINITIONS

1. **Commercial property** means real property which is not within the definition of residential property as defined by this section.
2. **dB(A)** means the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighing scale and the slow meter response, as specified by the American National Standards Institute.

3. **Residential property** means real property which is dedicated or restricted to use for single family or multifamily residential purposes and which is not actually used for another purpose, or real property upon which there exists a single family residence or multifamily residential purposes and which is not actually used for another purpose, or real property upon which there exists a single family residence or multifamily residence. In the case of an apartment building or other multifamily residential structure, each unit of occupancy may be considered a separate residential property. The term residential property does not include a hotel, motel or other similar accommodations not intended or generally utilized for long term occupancy.

4. **Sound nuisance** means any sound which unreasonably annoys, disturbs, injures or endangers the peace, comfort, repose, health or safety of a reasonable person of ordinary tastes and sensitivities.

SECTION V

NOISE FROM MOTOR VEHICLE RADIO OR TAPE PLAYER

SECTION II

GENERAL PROHIBITION

1. It shall be unlawful to make, cause, allow or permit a sound nuisance through operation of any radio, tape player or other device for production of sound in a motor vehicle.

1. It shall be unlawful for any person to make, cause, allow, or permit a sound nuisance.

2. The acts enumerated in the following sections of this chapter, among others, are declared to be sound nuisances in violation of this chapter, but such enumeration shall not be deemed to be exclusive.

SECTION III

PRIMA FACIE EVIDENCE OF SOUND NUISANCE

NOISY ANIMALS AND BIRDS

1. Nothing herein shall be deemed to require the use of noise decibel [dB(A)] levels when measured upon a receiving property shall be prima facie evidence of a sound nuisance:

- a. Upon a receiving residential property:
- (1) 65 dB(A) between 7:00 a.m. and 10:00 p.m. of the same day; and
 - (2) 58 dB(A) between 10:00 p.m. of one (1) day and 7:00 a.m. of the next.

b. 68 dB(A) upon a receiving commercial property.

2. The sound was produced by an authorized emergency vehicle.

2. Unless a differing point of reception is specified, all measurements shall be taken at or near the nearest property line of the property where the sound is being received.

4. The sound was produced by a street sweeper or other equipment used for public street maintenance.

SECTION IV NOISY VEHICLES

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

SECTION V NOISE FROM MOTOR VEHICLE RADIO OR TAPE PLAYER

1. It shall be unlawful for any person to make, cause, allow or permit a sound nuisance through operation of any radio, tape player or other device for producing, reproducing, amplifying or broadcasting sound, which is mounted or contained in or on motor vehicle.

2. Evidence that a motor vehicle sound source produces a sound that exceeds the dB(A) levels established by Section III when measured at or near fifteen (15) feet from the nearest external point on the vehicle shall be prima facie evidence of a sound nuisance.

7. The sound was produced between 7:00 a.m. and 9:00 p.m. of the same day by the operation of any mechanical saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or other power tool used for the maintenance or upkeep of the property on which it was used.

SECTION VI NOISY ANIMALS AND BIRDS

The keeping of any animal or bird which causes or makes frequent or long and continued sound which unreasonably annoys, disturbs, injures or endangers the peace, comfort, repose, health or safety of a reasonable person of ordinary tastes and sensitivities is hereby prohibited and declared to be unlawful.

9. The sound was generated as authorized under the terms of a permit issued under this chapter for operation of an outdoor sound amplification system.

SECTION VII

10. The sound was produced by an authorized emergency vehicle.

DEFENSES

1. The emission of any sound was for the purposes 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, arising out of fire, accident or natural disaster.
4. The sound was produced by a street sweeper or other equipment used for public street maintenance.
5. 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 of any outdoor event, fun run, race, festival, fiesta, or concert permitted by the town; or
 - d. Any other lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution.
6. The sound was produced between 7:00 a.m. and 9:00 p.m. of the same day by the erection, excavation, construction, demolition, alteration or repair of a building or other structure, or the operation of tools and equipment used in any such activity.
7. The sound was produced between 7:00 a.m. and 9:00 p.m. of the same day by the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used for the maintenance or upkeep of the property on which it was used.
8. The sound was produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.
9. The sound was generated as authorized under the terms of a permit issued under this chapter for operation of an outdoor sound amplification system.
10. The sound was produced by operation of an air conditioning unit.
11. The sound was produced by church bells or church chimes when used as part of a religious observances or service.

SECTION VIII
OUTDOOR SOUND AMPLIFICATION PERMIT

1. No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier or other machine or device which produces, reproduces, or amplifies sound outside a building or other enclosed structures without first obtaining a permit to do so. Such permit.

a. May be obtained by making application to the town secretary.

b. Requires payment of a ten dollar (\$10.00) fee for the administrative costs of issuing the permit.

c. Is valid for one (1) fourteen-hour period between the hours of 8:00 a.m. and 10:00 p.m.

d. Shall not be issued for the same location more than three (3) times during any thirty-day period.

2. 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:

a. The only sound permitted shall be either music or human speech or both.

b. No equipment permitted pursuant to this section shall be operated during the hours between 10:00 p.m. and 8:00 a.m.

3. The application for the permit required to be filed pursuant to this section shall contain the following information:

a. The date of the application and the date and hours for which the permit is requested.

b. The name and address of the applicant.

c. The name and address of the person who will have charge of the sound amplifying equipment.

d. The purpose for which the sound equipment will be used.

Ordinances and motions in conflict with the provisions of this Ordinance are hereby expressly repealed.

- e. The address and a description of the location where the sound equipment will be used.
 - f. A description of the type of sound amplifying equipment which will be used.
4. It is an exception to the application of the provisions of this section that the outdoor sound amplification system:
- a. Is installed or operated upon premises under the ownership or control of the owner or operator of the system;
 - b. Is intended primarily for the purpose of making the sound of music or human speech audible to persons upon the premises on which the system is located; and
 - c. Does not produce a sound that exceeds the dB(A) levels established in this chapter as prima facie evidence of a sound nuisance.

ATTEST:

**SECTION IX
PENALTY**

Any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than five hundred dollars (\$500.00). Each day that any violation continues shall constitute a separate offense.

**SECTION X
SAVINGS CLAUSE**

If any section, or any part of any section of this Ordinance shall be held unconstitutional or invalid for any reason, such invalidity of any section hereof, or any part of any section hereof, shall not affect the validity of the remaining sections or portions of sections of this Ordinance.

**SECTION XI
REPEALING CLAUSE**

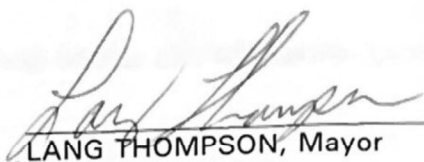
Ordinances and motions in conflict with the provisions of this Ordinance are hereby expressly repealed.

SECTION XII
PUBLICATION AND PASSAGE


The importance of this Ordinance and its intent and purpose is declared to be for the benefit of the citizens and property owners in the Town of Cut and Shoot, Texas, and shall take effect immediately from and after its passage and notice by publication is given as provided by law.

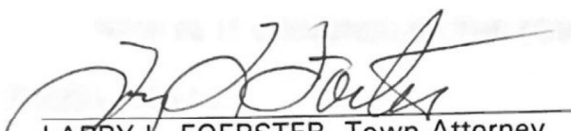
PASSED AND APPROVED this the 10th day of July, 1997.




LANG THOMPSON, Mayor

ATTEST:


AMY WADE, Secretary


LARRY L. FOERSTER, Town Attorney

SECTION I
DEFINITIONS