

ORDINANCE 2021 - 17

AN ORDINANCE OF THE CITY OF COMMERCE, AMENDING CHAPTER 38, ARTICLE IV OF THE CITY OF COMMERCE CODE OF ORDINANCES BY AMENDING SECTION 38-85 THROUGH SECTION 38-89, TITLED "NOISE", REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR A SAVINGS CLAUSE.

BE IT ORDAINED BY THE CITY OF COMMERCE, TEXAS:

SECTION 1. AMENDMENT.

The Code of Ordinance for the City of Commerce is hereby amended to read as follows:

Sec. 38-85. – Definitions.

- 1) DECIBEL means sound pressure level as measured by a sound level meter using the "A" weighting network and either the slow or fast meter response as specified by the American National Standards Institute. Measurements made with this weighting are designated "dBA".
- 2) NOISE means any sound which:
 - a. is louder than that permitted in this chapter, or
 - b. disturbs a reasonable person of normal sensibilities.

Sec. 38-86. - Unreasonable noise prohibited.

The creation of any unreasonable loud, disturbing and unnecessary noises in the city is hereby prohibited. Noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of any ordinary reasonable person are hereby prohibited and will be considered a nuisance. Any person violating any provision of Article IV shall be deemed guilty of a misdemeanor and upon conviction in the municipal court, shall be fined not more than \$500.00. Each day of such violation shall be deemed a separate offense.

Sec. 38-87. - Enumeration of specific noises.

(15) At no point within the property lines of any lot or parcel in a residential district shall the sound pressure level of any operation or activity exceed the following decibel limits:

1. *Night-time noise level.*
 - a. Noise levels shall not exceed 49 dBA between 10:00 p.m. and 7:00 a.m. unless approved by City officer or employee designated by the city manager with a particular administrative or enforcement responsibility under this chapter
2. *Daytime noise level.*

- a. Noise levels shall not exceed 56 dBA unless approved by City officer or employee designated by the city manager with a particular administrative or enforcement responsibility under this chapter.

Sec. 38-88. -Affirmative Defenses

It shall be an affirmative defense to a prosecution under this subchapter that the noise level generated was approved by the City officer or employee designated by the City Manager with a particular administrative or enforcement responsibility under this chapter.

Sec. 38-89. -Presumptions.

For purposes of enforcement of this ordinance, there shall be a rebuttable presumption that the Noise in question occurred within the property lines of a lot or parcel, and the defendant did not have a superior right to occupy, if the area where the measurement of the sound is taken is:

1. Within a dwelling not owned or leased by the defendant; or
2. Within a yard not occupied by the defendant, and such yard is separated partially or completely from other tracts or parcels by a fence or vegetative screen; or
3. On a lot or parcel which has an address separate from defendant's property.

SECTION 2. All ordinances and parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

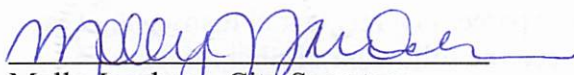
SECTION 3. If any section, subsection, word, sentence, or phrase of this ordinance is declared to be invalid it shall not affect the validity of this Ordinance.

PASSED AND APPROVED on the **FIRST READING** at a regular meeting of the City Council of the City of Commerce, Texas on this the 18th day of May 2021.

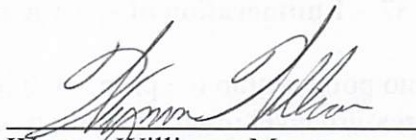
PASSED AND APPROVED on the **SECOND READING** at a regular meeting of the City Council of the City of Commerce, Texas on this the 15th day of June 2021.

ATTEST:

CITY OF COMMERCE:

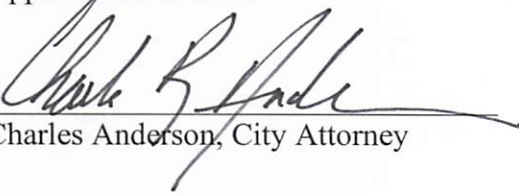


Molly Jacobsen, City Secretary
(seal)

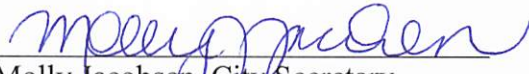


Wyman Williams, Mayor

Approved as to form:


Charles Anderson, City Attorney

I, Molly Jacobsen, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of an ordinance, and that the same has not been repealed and is in full force and effect.


Molly Jacobsen, City Secretary

(seal)