

City of Cottonwood Shores

ORDINANCE 8005

AN ORDINANCE OF THE CITY OF COTTONWOOD SHORES, TEXAS, PROVIDING FOR: COMMUNITY NOISE STANDARDS; PENALTIES FOR VIOLATIONS; A SAVINGS CLAUSE; A SEVERABILITY CLAUSE; AN EFFECTIVE DATE; AN OPEN MEETINGS CLAUSE; AND, REPEALING CONFLICTING ORDINANCES

WHEREAS, the City of Cottonwood Shores, Texas (the "City") is authorized to regulate nuisances within the City pursuant to Chapter 217, Tex. Loc. Gov't Code and Texas Penal Code, § 42.01, to protect the health, safety and general welfare of its residents, and

WHEREAS, excessive sound and vibration are a serious hazard to the public health and welfare, safety, and the quality of life;

WHEREAS, a substantial body of science and technology exists by which excessive sound and vibration may be substantially abated; and,

WHEREAS, the people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or welfare or safety or degrade the quality of life.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS THAT IT HAS ESTABLISHED THE FOLLOWING ORDINANCE TO PREVENT EXCESSIVE SOUND AND VIBRATION WHICH MAY JEOPARDIZE THE HEALTH AND WELFARE OR SAFETY OF ITS CITIZENS OR DEGRADE THE QUALITY OF LIFE.

SECTION 1. GENERAL PROVISIONS

1.1 Policy Regarding Levels

This ordinance includes values for sound pressure levels that if exceeded are considered a violation of the ordinance. Sound levels have been chosen to be practical and economically reasonable. However, in this ordinance for regulation of noise pollution, the protection of public health and welfare is the major legal basis for control and must be carefully considered in the determination of performance standard noise levels and hours of limits. As such, some disturbances do not lend themselves to measurements. In these cases, control of noise is implemented by insuring the source and noise abatement equipment is being used as designed and/or manufactured.

1.2 Pre-Emption

Under the Noise Control Act of 1972 and the Quiet Communities Act of 1978, certain areas of local authority are pre-empted on by the U.S. Environmental Protection Agency. The purposes of including such provision are to facilitate the coordination of the local noise control efforts with the Federal noise program and to reduce the possibility of defendants raising Federal pre-emption as a defense to charges of local law violations. The preemptive provisions are very broad pre-empting local noise laws which affect the operation of interstate motor and rail carrier vehicles or prescribing noise emission levels for these sources. Local governments may regulate the product noise impact through regulations enforceable against the owner or operator of the product by providing, for example, altering factory installed noise control equipment during operation, curfews on operation, and prohibition of specific uses in a residential neighborhood or hospital zone.

1.3 Scope

This ordinance shall apply to the control of all sound and vibration originating within the limits of the City of Cottonwood Shores, in Burnet County, Texas.

SECTION 2. DEFINITIONS Any terminology used in this ordinance, not defined in this section, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

2.1 "A-Weighted Sound Level" is the sound pressure level in decibels (dB) as measured on a sound level meter using the A-weighting network. The A-weighted sound level is designated dB(A) or L_A and approximates the sound as the normal human ear perceives it based on frequency adaptation.

2.2 "Commercial or Commercial Area" is defined to mean areas designated as Zone C in Ordinance 14000 of the City of Cottonwood Shores.

2.3 "Construction" is location preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, of structures, utilities or similar property.

2.4 "Day-Night Average Sound Level (Ldn)" is the 24-hour energy average of the A-weighted sound pressure level, with the levels during the period 10:00 P.M. to 7:00 A.M. the following day increased by 10 dB(A) before averaging.

2.5 "Decibel (dB)" is a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micro-Newtons per square meter). Decibels may also be abbreviated by L.

$$\text{dB or } L = 10 \log_{10} (p^2 / p_0^2)$$

Where:

p = pressure fluctuation of concern

p_0 = reference pressure (20 micro-pascals per square meter)

2.6 "Demolition" is defined as any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

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

2.8 "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.

2.9 "Equivalent Continuous A-Weighted Sound Level (L_{eq})" is the constant sound level that, in any given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. [For the purposes of this ordinance, a time period of 1 hour shall be used, unless otherwise specified.]

$$L_{eq} = 10 \log \left[\frac{1}{t_2 - t_1} \int_{t_1}^{t_2} \frac{p^2(t)}{p_0^2} dt \right]$$

Where:

t_1 = start time for measurement

t_2 = end time for measurement

$p(t)$ is the time varying sound pressure of concern

[See definition of dB for full nomenclature.]

2.10 "ETJ" means Extraterritorial Jurisdiction of the City.

2.11 "Existing Noise Levels" is the noise resulting from the combination of natural and mechanical sources and human activity usually present in a particular area.

2.12 "Heavy Construction Equipment" is defined as heavy-duty vehicles, specially designed for executing construction tasks, most frequently ones involving earthwork operations. This equipment is also known as heavy machines, heavy trucks, large construction equipment, engineering equipment, or heavy hydraulics.

2.13 "Immediate Vicinity" is defined in this Ordinance is at the nearest point on the offending property line to the objectionable noise source or in the case of complaints, at a point on the nearest property line of the complainant to the objectionable source.

2.14 "Impulsive Sound" is defined as 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.

ORIGINAL

2.15 "Industrial Area" is defined to mean areas designated as Zone I in Ordinance 14000 of the City of Cottonwood Shores.

2.16 "Motorized Vehicle" means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snow-mobiles, amphibious craft on land, dune buggies, racing vehicles, or motorcycles.

2.17 "Motorboat or Watercraft" means any vessel which operates on water and which is propelled by a motor, including, but not limited to, boats, barges, amphibious craft, water ski towing devices and hover craft.

2.18 "Muffler or Sound Dissipative Device" is defined as a device for abating the sound of escaping gases of an internal combustion engine.

2.19 "Noise" is any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. It may be described as unwanted sound.

2.20 "Nighttime" is represented by the hours of 10:00 P.M. to 7:00 A.M, Sunday through Thursday and 12:00 A.M. (midnight) to 7:00 A.M. Friday and Saturday.

2.21 "Noise Disturbance" is any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property.

2.22 "Noise Sensitive Zone" is defined as an area designated pursuant to this ordinance for the purpose of ensuring exceptional quiet. Noise sensitive zones will be designated by zoning code and specifically defined noise sensitive receptors.

2.23 "Noise Sensitive Receptors" are specific land uses where low background noise levels are required to prevent interference with normal activities. These include residences, cemeteries, day care centers, libraries, hotels, motels, locations of worship, parks, designated nature preserves, schools, public meeting rooms, medical facilities, businesses with private work areas, or other areas where extreme quiet is of importance.

2.24 "Official Vehicle" A motor vehicle that is owned and operated by the City of Cottonwood Shores or a public utility company, police vehicle, fire truck, ambulance, or other emergency vehicles operating being used in an official capacity.

2.25 "Person" means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a State or any political subdivision of a State.

2.26 "Powered Model Vehicle" is defined as any self-propelled airborne, waterborne, or land-borne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to any model airplane, boat, car, drone, or rocket.

2.27 "Public Right-of-Way" is any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

2.28 "Public Space" means any real property or structures thereon which are owned or controlled by a governmental entity.

2.29 "Pure Tone" is defined as any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this ordinance, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

2.30 "Real Property Boundary" is an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

2.31 "Residential Area" is defined to mean areas designated as Zone R or M, in Ordinance 14000 of the City of Cottonwood Shores.

2.32 "RMS Sound Pressure" is defined as the square root of the time averaged square of the sound pressure, denoted as P_{RMS} .

2.33 "Sound" is an oscillation in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency. The medium of concern in this ordinance is air.

2.34 "Sound Level" is defined as the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in the American National Standards Institute specifications for sound level meters. If the frequency weighting employed is not indicated, the A-weighting shall apply.

2.35 "Sound Level Meter" is an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

2.36 "Sound Pressure" is defined as the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

2.37 "Sound Pressure Level" is defined as 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micro-pascals ($20 \times 10^{-6} \text{ N/m}^2$). The sound pressure level is denoted L_p or SPL and is expressed in decibels. L_A is often used to denote the A-weighted sound pressure level.

2.38 "Vibration" is defined as an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

2.39 "Weekday" Means any day, Monday through Friday, which is not a legal holiday.

2.40 "Weekend" Means Saturday and Sunday. Official City Holidays shall be treated as a Saturday.

SECTION 3. POWERS AND DUTIES OF THE CITY OF COTTONWOOD SHORES

3.1 Noise Control Program. The noise control program established by this ordinance shall be administered by City of Cottonwood Shores. Upon discovery of a possible violation by City Officials, City Police Officers, or complaints by citizens, the City of Cottonwood Shores Police Department or designated trained official will determine if non-compliance occurs and enforce this ordinance and for the general purpose of sound and vibration control. Determination of non-compliance will be determined by monitoring as described in this ordinance or by other directly stated prohibited acts. All departments and agencies shall, to the fullest extent consistent with other law, carry out their programs in such a manner as to further the policy of this ordinance.

3.2 Special Studies. Studies, research, determinations of areas that qualify for noise sensitive zones, planning (e.g., truck routes and transportation planning), and public education will be accomplished by the City Environmental Officer, City Engineer, City Building Inspector, City Staff, or Consultants dependent upon need to enforce this ordinance..

3.3 Review of Public and Private Projects. To determine compliance with this ordinance, will occur during the building permit process. If non-compliance is anticipated, staff will present details to the City Council for action. Use of noise control planning will be a priority during plan reviews.

3.4 State and Federal Laws/Regulations. State and Federal Laws/Regulations take precedence over this ordinance and will be enforced.

SECTION 4. PROHIBITED ACTS

4.1 Noise Disturbances Prohibited

4.1.1 Violation by Sound Level. No person or entity shall unreasonably make, continue, or cause to be made or continued, any noise disturbance that exceeds the standards presented in Table 1 and/or Table 2. Examples, not all inclusive, of these disturbances are:

- **4.1.1.1** Radios, television sets, musical instruments and similar devices operating, 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. This section shall not apply to non-commercial spoken language.
- **4.1.1.2** Loudspeakers/public address systems, or similar device that are used or operating for any noncommercial purpose.
- **4.1.1.3** The keeping or maintenance or the permitting to be kept or maintained of animals or birds upon any premises owned, occupied or controlled by any person causing a frequent, habitual or continued noise.

ORIGINAL

- **4.1.1.4** Places of public entertainment where 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.
- **4.1.1.5** Powered model vehicles operating or permitting the operation of so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of 7:00 P.M. and 7:00 A.M.
- **4.1.1.6** Operating or permitting the operation of any motorboat in any lake, river, stream, or other waterway in such manner as to exceed sound level of dB(A) at the nearest shoreline.
- **4.1.1.7** Operating or permitting the operation of any mechanically powered saw, sander, drill, tool, snow-blower, or similar device grinder, lawn or garden used outdoors in residential areas between the hours of 7:00 A.M. and 7:00 P.M. as to cause a noise disturbance across a residential real property boundary.

4.1.2 Specific Violations Not Based on Table 1 and/or Table 2.

- **4.1.2.1 Public Facilities.** The creation of any excessive noise on any street or sidewalk adjacent to any public facility which unreasonably interferes with the workings of such institutions, or which disturbs or unduly annoys the occupants of such institutions.
- **4.1.2.2 Vehicles.** The inappropriate operation or testing of any automobile, commercial vehicle, motorcycle, ATV, or other vehicle as to create loud, grating, jarring or rattling noise or vibrations.

4.1.2.2.1 Adequate Mufflers or Sound Dissipative Devices

(i) The operation of any motorized vehicle with a removed, altered or defective muffler which produces any noise in addition to the normal operating noise within the City is prohibited.

(ii) The operation of any motorized vehicle with any original sound dissipative device removed, rendered inoperative, or caused to be removed or rendered inoperative which produces any noise in addition to the normal operation of a motorized vehicle within the City is prohibited

(iii) The maintenance, repair, or replacement, of a muffler or sound dissipative device on a motorized vehicle is permitted while the vehicle is at rest and the engine is not in operation.

4.1.2.2.2 Motor Vehicle Horns and Signaling Devices

The continued or frequent sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle except when necessary to ensure safe operation.

4.1.2.2.3 Standing Motor Vehicles

No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than one hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within 150 feet (46 meters) of a residential area or designated noise sensitive zone, between the hours of 7:00 P.M. and 7:00 A.M. the following day.

4.1.2.2.4 Recreation Motorized Vehicles Operating Off Public Rights-of-way

(i) Except as permitted in subsection (ii) no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted there from exceeds the limits set forth in Section 6 of this Ordinance. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go carts, snowmobiles, amphibious craft, campers, dune buggies, and motorboats.

(ii) Special variances shall be required for scheduled, short-term events.

4.1.2.2.5 Engine Brakes.

The use of compression engine brakes ("Jake breaks) on a City street is prohibited. This provision shall not be construed to prohibit the use of braking mechanisms by emergency vehicles while in the performance of their official or normal duties.

- **4.1.2.3 Loading, Unloading.** The creation of a loud or objectionable noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers during the hours of 7:00 P.M. to 7:00 A.M.
- **4.1.2.4 Refuse compacting and collection.** Operating or permitting to be operated any refuse compacting, processing or collection vehicles near any noise sensitive receptor in such a manner during the hours of 7:00 P.M. to 7:00 A.M.
- **4.1.2.5 Construction and Demolition.** The construction, excavation, demolition, alteration, repair, delivery and or pouring of cement of any building or other structure in or adjacent to a residential area other than between the hours of 7:00 a.m. and 7:00 p.m. daily is prohibited. No heavy construction equipment shall be used on Sundays within the residential areas of the City. In the case of an urgent necessity or in the interest of public safety, written permission must be obtained from the City Administrator, or the designee, prior to any deviation from these days or hours.

- **4.1.2.6** Vehicle or Motorboat Repairs and Testing, Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise within a noise sensitive zone.
- **4.1.2.7** Explosives, Firearms, and Similar Devices. The use or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way, without first obtaining a special variance. Exceptions to this provision includes construction equipment that is normally used during daily tasks (e.g., ram sets, nail guns).
- **4.1.2.8** Vibration. Operating or permuting the operation of any device that creates ground- or structure-borne vibration which is above the vibration which exceeds the levels as included in Ordinance 14000, Zoning.
- **4.1.2.9** Stationary Non-Emergency Signaling Devices

4.1.2.9.1 Sounding or permitting the sounding of any [electronically-amplified] signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes, from any place, for more than five (5) minutes in any hourly period.

4.1.2.9.2 Sound sources covered by this provision may be exempted by variances granted by the City of Cottonwood Shores.

- **4.1.2.10** Emergency Signaling Devices

4.1.2.10.1 The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in Subsection 4

4.1.2.10.2

(i) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 7:00 A.M. or after 7:00 P.M. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes.

(ii) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 7:00 A.M. or after 7:00

P.M. Time limit specified in subsection (i) shall not apply to such complete system testing.

4.1.2.10.3 Sounding or permitting the sounding of any exterior burglar [or fire] alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within fifteen (15) minutes of activation.

- **4.1.2.11** Noise Sensitive Zones/Receptors

4.1.2.11.1 Creating or causing the creation of any sound within any designated noise sensitive zone, so as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone; or

4.1.2.11.2 Creating or causing the creation of any sound within any noise sensitive zone, containing a noise sensitive receptor, so as to interfere with the functions of such activity or disturb users of the activity, provided that this area has been predesignated and conspicuous signs are displayed indicating the presence of the noise sensitive receptor.

- **4.1.2.12** Tampering

4.1.2.12.1 The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any noise control device or element of design or noise label of any product.

4.1.2.12.2 The use of a product which has had a noise control device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

SECTION 5. EXCEPTIONS AND VARIANCES

The following sources of potential noise nuisance violations shall be exempt from the regulations of this article.

5.1 Speaking and Public Assembly. Non-commercial public speaking and public assembly activities conducted by permit on any public space or public right-of-way shall be exempt from the operation of this Section.

5.2 Emergency, Danger. The emission or testing of any sound for the purpose of alerting persons to the existence of an emergency, danger or attempted crime.

5.3 Emergency Personnel and Vehicles. The sound produced by police, fire personnel, or an authorized emergency vehicle during official duties.

ORIGINAL

5.4 Utilities and Protection. The sound produced by emergency work necessary to restore public utilities, to restore property to a safe condition, or to protect persons or property from imminent danger following a fire, accident or natural disaster.

5.5 Events and First Amendment. A sound generated at a lawfully scheduled event or any lawful activity that constitutes protected expression pursuant to the First Amendment to the United States Constitution.

5.6 Bells and Chimes.

5.6.1 Church, School and Clocks. The sound produced by bells or chimes or any device used for the production or reproduction of the sounds of bells or chimes from any church when used as part of a religious observance or service, or from any clock or school, which is used during daytime hours, and which does not exceed one (1) continuous minute in duration in any one-hour period or occur more than four times in any one hour time-period.

5.6.2 Ice Cream Vending Vehicles. The sound produced as bells or chimes from any ice cream vending vehicles during daytime hours.

5.7 Natural Phenomenon. Sounds caused by natural phenomena.

5.8 Short Duration Amplification. Infrequent use of a loudspeaker or amplifier for periods of short duration by an organization or association in the playing of music where the intensity of same does not annoy or disturb persons or other noise sensitive receptors in the immediate vicinity.

5.9 Emergency Exception.

The provisions of this ordinance shall not apply to:

5.9.1 Emergency Alerts. The emission of sound for the purpose of alerting persons to the existence of an emergency, or

5.9.2 Emergency Work. The emission of sound in the performance of emergency work.

5.10 Special Variances.

5.10.1 Construction, Demolition, Impulsive Noise. The City of Cottonwood Shores shall have the authority, consistent with this section, to grant special variances which may be requested pursuant to Sections 4.1.2.5 (Construction/Demolition) and 4.1.2.7 (Explosives, Firearms, and Similar Devices).

5.10.2 Application. Any person seeking a special variance pursuant to this section shall file an application with the City of Cottonwood Shores. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this ordinance would constitute an unreasonable hardship on the

applicant, on the community, or on other persons. Notice of an application for a special variance shall be published according to (jurisdictional procedure). Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the City of Cottonwood Shores containing any information to support his claim. If sufficient controversy exists regarding an application, a public hearing may be held.

5.10.3 Time Limits. Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under subsection (5.10.2).

SECTION 6. MAXIMUM SOUND LEVELS BY RECEIVING LAND USE

6.1 Maximum Sound Levels

No person shall operate or cause to be operated any source of sound in the limits set forth for the receiving land use category in Table 1 when measured at the property boundary of the receiving land use. The required sound level metric is L_{Aeq} although in specific requested variances the day-night level (L_{dn}) may also be additionally included for supporting documentation purposes. In cases of large land areas, the limit may be applied to the location of complaint.

TABLE 1. Sound Levels by Receiving Land Use

Receiving Land Use Zoning	Time	Sound Level Limit (L_{Aeq})
Residential	7:00 A.M. to 10:00 P.M.*	65
	10:00 P.M.* to 7:00 A.M.	55
Commercial	At All Times	70
Industrial	At All Times	80

*Hours extended on Friday and Saturday to 12:00 A.M. (midnight)

6.2 Octave Bands

Low frequency sounds can cause disturbance even though the A-weighted level is within compliance. To avoid this situation, the octave band levels presented in Table 2 shall not be exceeded in residential areas.

TABLE 2. Maximum Octave Band Sound Levels in Residential Zoning (unweighted)

Octave Band Center Frequency* (Hz)	Sound Level Limit (L _{eq})
31.5	79
63	75
125	72
250	65
500	61

***Octave Bands As Defined**

Lower Band Limit	Center Frequency	Upper Band Limit
22	31.5	44
44	63	88
88	125	177
177	250	355
355	500	710

6.3 Correction for Character of Sound

6.3.1 Pure Tone. For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in Section 6.1 shall be reduced by 5 dB(A) for residential areas.

6.3.2 Impulsive Sound. For any impulsive noise, the maximum sound level limits set forth in Section 6.1 shall be reduced by 5 dB(A) for residential areas.

SECTION 7. SOUND MEASUREMENTS TO DETERMINE COMPLIANCE

7.1 City of Cottonwood Shores

The City of Cottonwood Shores designated individuals will carefully follow a Standard Operating Procedure (SOP) to determine compliance. Mandatory in this SOP will be:

7.1.1 Location. Measurements will be conducted at the receiving land property line or in the cases of large areas, near the area of complaint. Measurements will be made at 5 feet above the ground plane.

7.1.2 Time. Measurements will occur over a minimum of a 15 minute period without unusual sound oc

7.1.3 Metric. Measurements metrics will be L_{Aeq} and 1/3 octave band levels based on slow response.

7.1.4 Sound Level Meter. A Type 1 sound level analyzer (as defined by S1.4-1983, "Specifications for Sound Level Meters") will be used and placed on a tripod.

7.1.5 Calibration. Calibration will occur before measurements and verified after measurements are completed.

7.1.6 Wind Screens. Wind screens will be used.

7.1.7 Data. Measurements will be downloaded and including in reporting.

7.1.8 Other. Other standard practices as defined in the SOP will be followed.

7.2 Measurements by Others

Measurements conducted by others will comply with this ordinance and as minimum repeat requirements stated in Section 7.1. Measurement by others will not eliminate the need for measurements by the City of Cottonwood Shores in situations where complaints have been filed and complete documentation as noted in Section 7.1 must be included. This includes the original download from the equipment showing calibration and measurement results:

SECTION 8. IMMEDIATE THREATS TO HEALTH AND WELFARE

Any noise determined to be immediately harmful to health and/or the welfare of the public shall be ordered to an immediate halt by the responding police officer.

SECTION 9. PERSON IN VIOLATION OF ORDINANCE

The individual cited will be the property owner, primary occupant, or person in general control of the property or event.

SECTION 10. CIVIL AND CRIMINAL PENALTIES

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation is hereby declared to be a nuisance.

10.1 Criminal Prosecution. Any person or entity violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this article is violated shall constitute a separate offense. An offense is a Class C misdemeanor. Repeat violations by the same individual, property or establishment may be increased up to one thousand dollars (\$1,000).

10.2 Proof of Mental State. Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this chapter.

10.3 Civil Remedies. Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

10.3.1 Injunctive Relief. Injunctive relief is required to prevent specific conduct that violates this Ordinance or to require specific conduct that is necessary for compliance.

10.3.2 Civil Penalty. A civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions and after receiving notice committed acts in violation of, or failed to take action necessary for compliance with this Ordinance. Repeat violations by the same individual, property or establishment may be increased up to two hundred dollars (\$200).

10.3.3 Other. Other available relief may be required to eliminate a specific problem.

SECTION 11. SEVERABILITY

Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect impair or invalidate the remaining portions thereof but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

SECTION 12. REPEAL OF CONFLICTING

All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 13. SAVINGS CLAUSE

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting noise or the regulation of noise as a nuisance within the City which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

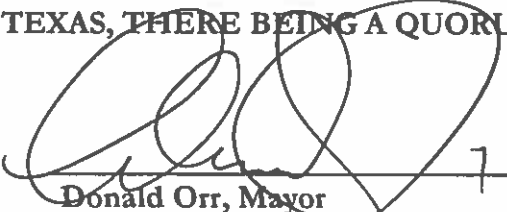
SECTION 14. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage.

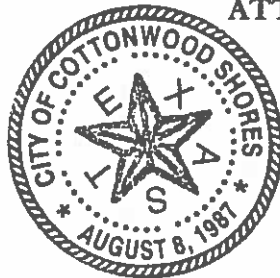
SECTION 15. OPEN MEETINGS

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 Meetings Act, Chapter 551, of the Texas Local Government Code.

AMENDED ORDINANCE PASSED AND ADOPTED THIS MARCH 17, 2016, AT A MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, THERE BEING A QUORUM PRESENT, BY 5 YEAS, 0 NAYS AND 0 ABSTAINS.


Donald Orr, Mayor

ATTEST:





Sheila C. Moore
City Administrator/City Secretary

ORIGINAL