

ORDINANCE NO. 2321

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING PROVISIONS IN CHAPTER 3 RELATED TO NUISANCES AND VEGETATION; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF SUGAR LAND, TEXAS:**

Section 1. That Section 3-101 of Chapter 3, Article IV (Nuisances) is amended to read as follows:

Sec. 3-101. - Noise regulations.

(a) Definitions. In this section:

Dwelling has the meaning as defined by the Development Code.

Outdoor playground means an area that is not entirely enclosed within a building that contains play equipment for younger children, such as slides, swings, climbing bars, chutes, tunnels, or similar recreational equipment.

Public facility means any park, playground, stadium, entertainment arena, athletic facility, Town Square Plaza, or other real property, other than a public street, highway or right-of-way, which is owned by a city, county, public school, or other governmental entity.

Public service utility means an entity that provides water, wastewater, electric, telephone, telecommunications, or natural gas service to customers from facilities located within a public right-of-way.

(b) It is unlawful for any person to intentionally or knowingly make, assist in making, permit or allow to be made, or cause to be made or continued, or permit the continuance of any noise of such volume, intensity, or duration as to disturb or annoy a reasonable person of normal sensitivity in the usual and expected enjoyment or the use of a dwelling. In determining whether a violation of this paragraph occurs, the following may be considered:

- (1) The level, frequency, or duration of the noise;
- (2) The proximity of the noise to the dwelling;
- (3) The nature and zoning of the area within which the noise occurs; and
- (4) The time of the day or night the noise occurs.

(c) The operation of any radio, speaker, musical instrument, sound amplifier, or other device used for producing or reproducing sound so as to be plainly audible within a dwelling, other than the dwelling where the sound-producing device is located, is prima facie evidence of a violation of paragraph (a).

(d) It is unlawful for a person to operate any radio, speaker, sound amplifier or similar device located within or upon a motor vehicle at a volume that is audible at a distance of more than 50 feet from the vehicle. The fact that the sound is audible at a distance of 50 feet from the vehicle is prima facie evidence of a violation of this subsection.

(e) It is unlawful for any person operating a business that operates an outdoor playground as an accessory use if the playground is located within 500 feet of a dwelling, to intentionally or knowingly allow any person to make use of the playground between 10:00 p.m. and 6:00 a.m. of the following day.

(f) It is unlawful for a person to engage in construction work involving the erection, demolition, alteration or repair of any building or the excavation of streets or highways between the hours of 7:00 p.m. and 7:00 a.m. of the following day, at a volume that is loud and long enough to unreasonably disturb the peace of other people on the same, adjoining or nearby property, unless expressly permitted by the terms of the construction permit.

(h) Defenses.

(1) It is a defense to prosecution under paragraph (b) or (f) of this section that the noise was caused by an employee, contractor, or agent of any city, county, public school, or other governmental entity or of a public service utility in the performance of his or her duties.

(2) It is a defense to prosecution under paragraph (b) or (c) of this section that the noise or sound was created by persons lawfully using a public facility.

(3) It is a defense to prosecution under paragraph (b), (c) or (d) of this section that the noise was caused by persons participating in a parade conducted on a public street pursuant to a parade permit.

Section 2. That Sections 3-113 and 3-114 of Chapter 3, Article IV (Solid Waste, Recyclable Materials and Vegetation) are amended to read as follows:

Sec. 3-113. Notice to abate or remove.

When a public nuisance defined by this division exists within the city, the city will notify the owner or occupant of the private premises on which the public nuisance exists or the owner or occupant of the public premises on which the public nuisance exists or the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists, to abate or remove same. Such notifications will:

(1) Be in writing and include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site.

(2) Be mailed by certified mail with a five-day return receipt requested to the last known registered owner of the junked motor vehicle, any lien holder of record and to the owner or occupant of the private premises, public premises or premises adjacent to the public right-of-way on which the public nuisance exists, as applicable. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the

notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance will be continued to a date not less than ten days after the date of the return.

(3) State the nature of the public nuisance and the corrective measures required.

(4) Require removal or abatement of the public nuisance within ten days or require that a request for a public hearing be submitted before expiration of such ten-day period.

Sec. 3-114. Hearing by council at request of owner or occupant of premises.

When a request for a public hearing is made by the owner or occupant of the premises on which a junked vehicle or part of a junked vehicle is located, to determine whether or not he is in violation of this article, the hearing will be held before a hearing officer designated by the city manager. If, after the notice is provided, the junked vehicle is relocated to a different property in the city but continues to constitute a public nuisance, no additional notice is required, and the hearing may proceed as scheduled. If the decision of hearing officer is that the vehicle is deemed a public nuisance and a disposition agreement with the owner or occupant cannot be reached, the hearing officer will cause a complaint concerning the public nuisance to be filed in the municipal court with request to issue an order for removal of the vehicle.

Section 3. That Sections 3-164 and 3-165 of Chapter 3, Article IX are amended to read as follows:

Sec. 3-164. - Trees and objects in the visibility triangle or right-of-way.

(a) Findings. Before the city may provide landscaping services, including tree-trimming, tree disposal, remediation, cleanup and recycling services on private property to protect the public health, safety, or welfare, the city council must make certain findings pursuant to Chapter 756 Subchapter G of the Health and Safety Code. Therefore, the city council makes the following findings:

(1) That trees and other vegetation on private property, including drive aisles within parking lots, and within street rights-of-way, if not properly trimmed, may obstruct the view of traffic-control devices and the view of approaching traffic and pedestrians' use of sidewalks;

(2) That the obstructions constitute a safety concern;

(3) That the city's ordinance requires that trees and other vegetation be kept trimmed to address these safety concerns; and

(4) That property owners are required to correct the obstruction within 30 days of the date the city notifies the owner of the obstruction.

(b) Definitions. In this section:

Visibility triangle is an imaginary triangle located on property located at the corner of intersecting streets. The first two sides of a visibility triangle are drawn by measuring a distance of 25 feet from the street corner intersection of the curb line parallel to the curb line. The third side is established by drawing a diagonal line intersecting the two curb points. If there is no curb, the measurements are made along the edge of the street pavement.

(c) Objects in the visibility triangle or right-of-way. It is unlawful for a person to knowingly place or maintain in a visibility triangle or right-of-way any object permanently affixed to the ground and having a height greater than three feet above the pavement surface of the nearest abutting street.

(d) Trees and branches in the visibility triangle, right-of-way, or drive aisles within parking lots. It is unlawful for a person to knowingly place or maintain a tree or allow branches of a tree to extend into a visibility triangle, or right-of-way, or drive aisles within parking lots, unless the branches are pruned so that:

(1) They do not substantially obstruct a motorist's view of traffic control devices or approaching traffic;

(2) There is a clear space from the street surface to 12 feet above the street surface on a residential street, (a residential street means any street not shown as a freeway, highway, arterial or major collector on the city's thoroughfare plan);

(3) There is a clear space from the street surface to 14 feet above the street surface on a non-residential street, (a non-residential street means any street shown as a freeway, highway, arterial or major collector on the city's thoroughfare plan); and

(4) There is a clear space from the public sidewalk surface to eight feet above the sidewalk surface.

(e) Trees and objects near fire hydrants. It is unlawful for a person to knowingly plant or maintain any tree or maintain any object permanently affixed to the ground within three feet of a fire hydrant.

Sec. 3-165. - Weeds and offensive conditions.

(a) Limitation on height of grass, weeds, and other vegetation. The owner of any real property of two acres or less will keep weeds, grass, and other vegetation trimmed to a height of nine inches or less.

(b) The owner of any real property of more than two acres will keep weeds or grass trimmed to a height of nine inches or less on any portion of the property:

(1) That is within 30 feet of any building or structure on the property;

(2) That is within 30 feet of any adjacent developed property; or

(3) That is within 30 feet of a public roadway or sidewalk.

(c) The requirements of this section also apply to any public right-of-way or easement or portion thereof located on the real property or portion thereof required to be cut, including specifically the areas of any real property that extend to or abut upon any curb or paved portion of a public street, the area between a public sidewalk and a public street or highway, and ditches and drainage channels located thereon.

(d) It is a defense to prosecution under this section that the vegetation is:

(1) Located on real property that is naturally heavily wooded or that is a dedicated landscape reserve;

(2) An agricultural crop, cultivated shrub, flowers or other decorative ornamental plant under cultivation; or

(3) Wildflowers, but only until the time as seeds have matured following the final blooming of the majority of the plants.

Section 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 5. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

APPROVED on first consideration on _____, 2023.

ADOPTED on second consideration on _____, 2023.

Joe R. Zimmerman, Mayor

ATTEST:

Robin Lenio, City Secretary

APPROVED AS TO FORM:

