

**VILLAGE OF SAN LEANNA**

**ORDINANCE NO. 01-00 3**

**AN ORDINANCE OF THE VILLAGE OF SAN LEANNA DECLARING CERTAIN NOISES TO BE A NUISANCE AND ENACTING REGULATIONS ON SUCH NOISES; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; A POPULAR NAME; INTENT AND PURPOSE; SPECIFIC PROHIBITIONS; REPEAL; A SEVERABILITY CLAUSE; EFFECTIVE DATE; ENFORCEMENT INCLUDING CRIMINAL FINES NOT TO EXCEED \$500 AND CIVIL PENALTIES NOT TO EXCEED \$100 PER OFFENSE AND INJUNCTIVE RELIEF; AND PROPER NOTICE AND OPEN MEETING**

**WHEREAS**, the Board of Aldermen of the Village of San Leanna finds that certain unreasonably loud noises cause material distress, discomfort and injury to person of ordinary sensibilities in the immediate vicinity thereof, and that these noises substantially interfere with the comfortable enjoyment of private homes by persons of ordinary sensibilities; and

**WHEREAS**, the Board of Aldermen find that excessive noise and excessive vibration degrade the environment of the Village to a degree which is harmful and detrimental to the health, welfare and safety of its inhabitants, and interferes with the comfortable enjoyment of life, property and recreation and with the conduct and operation of business and industry; and causes nuisances; and

**WHEREAS**, the Board of Aldermen find that no one has any right to create excessive noise or excessive vibration; and

**WHEREAS**, effective control and elimination of excessive noise and excessive vibration is essential to the furtherance of the health and welfare of the city's inhabitants and to the conduct of the normal pursuits of life, recreation, commerce and industrial activity; and

**WHEREAS**, the Board of Aldermen seeks to protect the public welfare and safety of its residents within the Village through the reasonable regulation of certain noises; and

**WHEREAS**, the Board of Aldermen has the general statutory authority, pursuant to Texas Local Government Code Chapter 54, to adopt an ordinance, rule or police regulation that is for the good government, peace, and order of the Village; and

**WHEREAS**, the Board of Aldermen has the specific statutory authority, pursuant to Texas Local Government Code Chapter 217, to prevent and punish a person engaging in a breach of the peace and to suppress and prevent any noise or disturbance in any public or private place in the Village; and

**WHEREAS**, the Board of Aldermen finds it to be in the best interest of the public safety, health and general welfare to regulate certain noises within the Village.

**NOW THEREFORE**, be it ordained by the Board of Aldermen of the Village of San Leanna, County of Travis, State of Texas:

### **I. FINDINGS OF FACT**

That the foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if set forth herein at length.

### **II. POPULAR NAME**

This Ordinance shall hereinafter be referenced as the "Noise Ordinance."

### **III. INTENT AND PURPOSE**

It is the intent and purpose of this Ordinance to prevent excessive noise and excessive vibration and to limit, control and eliminate excessive noise and excessive vibration in general from whatever source.

### **IV. GENERAL PROHIBITIONS**

It shall be unlawful for any person within the Village of San Leanna to make, continue or cause to be made or continued, any loud, unnecessary or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, convenience, health, peace or safety of others, within the limits of the Village between 10:00 p.m. and 6:00 a.m.

### **V. SPECIFIC PROHIBITIONS**

**Animals and Birds.** It shall be unlawful for any person within the Village of San Leanna to keep any animal or bird within the Village which, by frequently repeated barking, howling, crying, or singing causes frequent or long continued noise. Such acts are declared to be loud, disturbing and unnecessary noises in violation of this Ordinance.

### **VI. NUISANCE**

Any unreasonably loud, disturbing noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is hereby prohibited. Any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities, is hereby declared to be a nuisance and is hereby prohibited.

## **VII. REPEAL**

This Ordinance, upon its enactment and effective date, shall repeal all conflicting provisions that may be contained in other Village ordinances or regulations.

## **VIII. SEVERABILITY**

If any word, article, phrase, paragraph, sentence, clause or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

## **IX. EFFECTIVE DATE**

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

## **X. ENFORCEMENT**

### **A. Civil and Criminal Penalties**

The Village 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 Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations.

### **B. Criminal Prosecution**

Any person 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 Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

### **C. Civil Remedies**

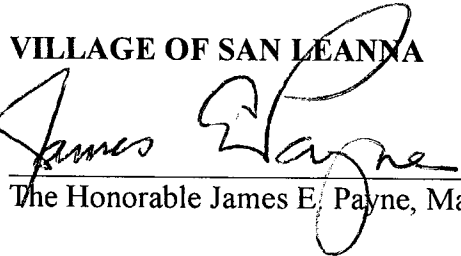
Nothing in this Ordinance shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

1. injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
2. a civil penalty up to One Hundred Dollars (\$100) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
3. other available relief.

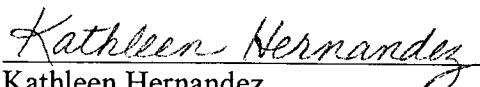
**VIII. PROPER NOTICE AND OPEN MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was 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 Government Code.

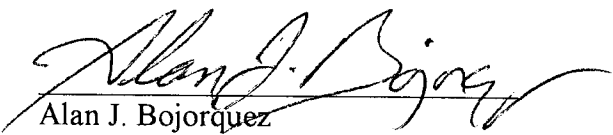
**PASSED AND APPROVED** this 17<sup>th</sup> day of May, 2001, by a 4 to 0 vote of the Board of Aldermen of the Village of San Leanna, Texas.

**VILLAGE OF SAN LEANNA**  
  
The Honorable James E. Payne, Mayor

**ATTEST:**

  
Kathleen Hernandez  
Village Secretary

**APPROVED AS TO FORM:**

  
Alan J. Bojorquez  
Village Attorney

**Attachments upon passage:**

- meeting agenda
- meeting minutes
- publisher's affidavit