



The City of West University Place

A Neighborhood City

ZPC Meeting Agenda

Notice is hereby given of a **regular meeting of the Zoning and Planning Commission** of West University Place to be held on **Thursday, February 13, 2020 at 6:15 pm** in the **Municipal Building**, 3800 University Boulevard, West University Place, Texas, for the purpose of considering the following agenda items:

Note: The Commission reserves the right to convene in a closed session for any agenda item if the need arises pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code

Call to Order

1. **Notices, Rules, Etc.** Matters relating to notices, introductions, rules, meeting procedures and updates.
2. **Public Comments.**
This is an opportunity for citizens to speak relating to agenda items. The speaker can either speak at this time or defer his/her comments until such time the item is discussed. Speakers are advised that comments cannot be received on matters which are the subject of a public hearing. Public comments must be kept relevant to the subject before the Board. The presiding officer shall rule on the relevance of comments. Persons making irrelevant, personal, impertinent, or slanderous remarks may be barred by the presiding officer from further comment before the Board during the meeting. Speakers must limit their presentations to three minutes each.
3. **Lighting Regulations.** Matters related to lighting regulations for properties in the City.
4. **Noise Regulations.** Matters related to the general noise regulations regarding equipment, loudspeakers, construction activities, quiet hours, etc.
5. **Minutes.** Matters regarding approval of minutes from January 9, 2020.

ADJOURN

In compliance with the Americans with Disabilities Act, if you plan to attend this public meeting and you have a disability that requires special arrangements, please contact the person that signs this below at least 24 hours prior to the meeting so that reasonable accommodations can be made to assist in your participation in the meeting. The Municipal Building is wheel chair accessible from the west entrance and specially marked parking spaces are available in the southwest parking area. Special seating will be provided in the Meeting Chambers.

I certify that the attached notice and agenda of items to be considered by the West University Place Zoning and Planning Commission on February 13, 2020 was posted on the Municipal Building bulletin board on or before February 10, 2020 at 6:15 o'clock p.m.

Clay Chew

Clay Chew, Building Official, cchew@westutx.gov, 713-662-5830



Agenda Item #3

Chapter 54 - OFFENSES AND MISCELLANEOUS PROVISIONS

Article VIII. Outdoor Lighting Regulations

Sec. 54-215 – Purpose of Outdoor Lighting.

The purpose of this article is to provide regulations for outdoor lighting that will:

- (1) Minimize adverse offsite impacts of outdoor lighting such as light glare, and obtrusive light.

Sec. 54-216 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings

Existing lighting means any lighting existing and installed on or before the effective date of the ordinance from which this article is derived.

Foot-candle means the unit measure expressing the quality of light received on a surface. One foot-candle is the illuminance produced by a candle on a surface of one square foot from a distance of one foot.

Glare. Emitted light or brightness when measured at the property line which exceeds:

- a. Adjoining residential property: One-half foot-candles measured in the vertical plane at five feet or higher above ground.
- b. Adjoining commercial property, public right-of-way, or power or drainage easements: Five (5) foot-candles measured in the vertical plane, five feet or higher above the ground.

Outdoor Lighting means Any light located or mounted outdoors, or any light source, that directly or indirectly casts or projects glare outdoors, including, but not limited to, spotlights, floodlights, mercury vapor lamps, security lights, outdoor light fixtures, or similar illuminating devices.

Sec. 54-217. – Glare Prohibited.

- (a) It shall be unlawful for any person to cause or permit to be energized, on property owned or under his or her possession or control, any outdoor lighting which projects a glare, directly or indirectly, upon any lot, tract, parcel or land, or other public or private property, including streets, other than that property upon which such outdoor lighting is situated.
- (b) All outdoor lighting shall be installed, oriented, regulated, operated, and maintained by the owner or person in control thereof in such a manner that the direct beam of any such light shall be aimed within the property boundaries, so that such outdoor lighting will not create a glare upon any lot, tract, or parcel of land other than that upon which it is situated, or create glare in, on, or over any point beyond the boundary of the lot, parcel, or tract of land from which said outdoor lighting emanates.

(c) The use of laser source light, searchlights, flashing and/or rotating lights or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.

Sec. 54-217. – Enforcement.

(a) Upon receipt of a complaint from any citizen, or upon the initiative of any employee of the City of West University Place, Texas, a compliance inspection shall be conducted by the city administrator, the city building official, or other representatives designated by the city council.

Sec. 54-218. – Exceptions

(a) The provisions of this article shall not apply to outdoor lighting operated by or under the direction of the city (for example street lighting), or emergency lighting used by police, firefighting, or medical personnel, or at their direction.

(b) Seasonal decorations using typical unshielded low-wattage incandescent lamps shall be permitted from November 10 through January 30, but if such seasonal decorative lighting exceeds foot candle limits as defined in Section 54-216 *Glare* above, such lights shall be extinguished no later than 11:00 p.m. each night, and remain extinguished until at least sunrise of the following day.

(c) Flags lighted. United States, and State of Texas flags are exempt from the provisions of this article. All other outdoor lighted flags, such as, but not limited to, decorative and commercial flags, shall conform to the provisions of this article.

(d) Nonresidential recreational facilities, such as outdoor athletic fields, courts or tracks, shall be exempt from the foot candle limits of this article, except that all events shall be scheduled so as to complete all activity no later than 10:30 p.m. Illumination of the outdoor athletic field, court or track shall be permitted after the curfew only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances. Field lighting for these facilities shall be turned off within 30 minutes after the last event of the night.

Sec. 54-219. – Penalty

Any person, corporation, or association violating any provision of this article shall be charged with a misdemeanor and if convicted shall be punished by a fine of not more than \$500.00. Each occurrence of any such violation of this article shall constitute a separate offense. Each day on which any such violation of this article occurs shall constitute a separate offense.

Agenda Item #4

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS; AMENDING CHAPTER 54, NOISE, OF THE CODE OF ORDINANCES OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, TO REVISE IN ITS ENTIRETY THE CRITERIA FOR NOISE AS A NUISANCE WITHIN THE CITY AND CONTAINING FINDINGS AND PROVISIONS RELATING TO THE SUBJECT.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, THAT:

Section 1. Chapter 54, Article III of the Code of Ordinances, of the City of West University Place, Texas is amended by the repeal of the existing Article III, and the adoption of a new Article III, to read as set out in Appendix A, attached hereto. All other portions of Chapter 54 of the Code of Ordinances not specifically amended hereby remain in full force and effect.

Section 2. All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

Section 3. If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

Section 4. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

Section 5. This Ordinance takes effect immediately upon its passage and adoption on second reading.

PASSED, APPROVED AND ADOPTED ON FIRST READING on the ____
day of _____, 2020.

Councilmembers Voting Aye:
Councilmembers Voting No:
Councilmembers Absent:

**PASSED, APPROVED AND ADOPTED ON SECOND READING, AND
SIGNED**, on the ____ day of _____, 2020.

Councilmembers Voting Aye:
Councilmembers Voting No:
Councilmembers Absent:

Attest: _____
City Secretary (Seal)

Signed: _____
Mayor

Recommended: _____
City Manager

Approved as to legal form: _____
City Attorney

Appendix "A"

November 14, 2019

Amend Chapter 54, Article II-Noise in its entirety by substituting the following provisions:

ARTICLE II. - NOISE

Sec. 54-39. - Unreasonable noise prohibited.

Notwithstanding anything else in this Article it ~~is~~ is unlawful for any person to intentionally or knowingly make or create 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.

Sec. 54-40.- General noise level limit.

Except as provided in Section 54-41, it is unlawful for any person to make, assist in making, permit, or continue making, cause to be made or continued, or permit the continuance of any sound at any location ~~beyond the property lines of the property on which the sound is being generated~~ that when measured exceeds the applicable dB(A) level listed below. ~~for the property on which the sound is received. The sound level shall be measured at the property line of the property on which the sound is generated.~~

The general maximum limits for any noise, except for noises specifically listed in Section 54-41 of this chapter, are as follows:

- (1) *Residential property:*
 - a. 58 dB(A) during residential quiet hours.
 - b. 65 dB(A) during all other times..

(2) *Nonresidential property:* 68 dB(A) at all times.

(3) All sound level measurements shall be made as provided in Section 54-44 of this article.

Sec. 54-41. - Enumeration of specific noises.

(a.) The following noises, among others, are declared to be loud, disturbing noises in violation of this article (this enumeration is neither exhaustive nor exclusive of other noises):

- (1) The noise of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control; the same noise made while in motion, except as a danger signal after, or as, brakes are being applied and deceleration of the vehicle is intended; any unreasonably loud or harsh sound created by means of any such signal device; and the sound of such device made for any unreasonable period of time.

- (2) The sound of:
- a. Any vehicular or portable radio, phonograph, disc player, tape player or any musical instrument that is plainly audible outdoors from a distance of 100 feet or more (or 50 feet or more during residential quiet hours); or
 - b. Any loudspeaker or amplifier operated outdoors during residential quiet hours that is plainly audible from a distance of 50 feet or more.

"Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. Example: If the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

- (3) The sound of any automobile, motorcycle or other vehicle so out of repair, so loaded or operated in such manner that it creates loud noises such as spinning or squealing tires, grating, grinding, rattling or other noise exceeding 85 decibels.
- (4) The sound of any mechanical equipment installed at a fixed location (Examples: fans, compressors, condensers, pumps, generators, etc.), if:
 - a. When the equipment is operating, noise from the equipment is discernable at a point outside the boundaries of the site where it is installed, and noise at that point is measured at a level of 70dB(A) or higher; and
 - b. Immediately before or after operation of the equipment, noise at the same point is measured at a level of 65dB(A) or lower.

~~All sound level measurements shall be made as provided in Section 54-443 of this article.~~

- (5) The sound of a discharge into the open air of the exhaust of any internal combustion motor or engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (6) The sound of any mechanical device operated by compressed air, except pneumatic drills, unless the noise thereby created is effectively muffled and reduced.
- (7) The sound produced by the erection, excavation, construction, or demolition of any building or structure, including the use of any necessary tools or equipment, conducted at any time other than during residential quiet hours, which activity produces a sound exceeding 85 dB(A) when measured from the property line of the residential property where the sound is being received. This decibel limit is not applicable when a current, valid permit has been obtained for the activities named and the sounds are being produced outside of residential quiet hours.
- (8) Any excessive noise made on any street adjacent to any school, institution of learning or court while the same is in session, or adjacent to any hospital at any time, which noise unreasonably interferes with the working of any such institution, provided conspicuous signs are displayed in such street indicating that the same is a school, hospital or court street.
- (9) Any loud and excessive noise resulting from the loading or unloading of any vehicle or container, or the opening or destruction of bales, boxes, crates or containers.

- (10) The sound of any bell, gong, whistle, siren, or other alarm or signaling device installed at a fixed location which is reasonably calculated to disturb a person of ordinary disposition if such person were in the vicinity thereof. Exceptions: This does not apply to:
 - a. An emergency alarm operated by the fire department or other governmental agency; or
 - b. An alarm system permitted and operated in compliance with applicable regulations, including automatic shutoff rules; see, e.g. chapter 26.
 - c. Any gong, bell or chime used in a religious observance or prayer.
 - (11) The sound of any drum, loudspeaker or other instrument or device used to attract attention to any performance, show or sale of merchandise.
 - (12) The sound made by loudspeakers or amplifiers on trucks or other vehicles.
 - (13) Any sound exceeding 85 dB(A) when measured from the property line of the nearest residential property where the sound is being received that is produced by operating or permitting the operation of any lawn or garden tool, leaf blower, lawnmower, or any other similar device used for the maintenance or upkeep of the property on which it is operated at any time other than during residential quiet hours.
- (b.) In the event of any conflict between this section and Section 54-40 the provisions of this section shall control.

Sec. 54-42. - Affirmative defenses.

- (a) *Request to cease.* It shall be an affirmative defense in any prosecution under this article that a request to cease causing the noise in question was given neither to the person charged nor to any officer, agent, employee or representative of the person charged. All peace officers and other city enforcement personnel are hereby authorized to request that persons cease causing noises that are apparently in violation of this article. Nothing herein limits the right of others to make such requests.
- (b) *Urgent public projects.* It shall be an affirmative defense, in any prosecution under this article that the offending noise was:
 - (1) Necessary for a public project for which the public works director has certified, in writing, that expedited completion is urgently needed and in the public interest; and
 - (2) Made after 7:00 a.m. and before 9:00 p.m.
- (c) *Measured noise levels.* It shall be an affirmative defense, in any prosecution under this article, that a measured noise level was actually produced by some person or thing other than that alleged to have caused the noise.
- (d) *Registered outdoor events.* It shall be an affirmative defense, in any prosecution under this article, that the offending noise resulted from an outdoor concert or similar event that:
 - (1) Was registered at least 48 hours in advance with the chief of police;
 - (2) Did not last more than four hours, of which no more than two hours were during residential quiet hours; and
 - (3) Was otherwise conducted to avoid disturbance of persons within nearby dwellings.

- (e) *Speech or expression.* The affirmative defenses for speech or expression enumerated in V.T.C.A., Penal Code § 42.04 (prior order to move, disperse or remedy) shall also be available in any prosecutions for violations of this article.

Sec. 54-43. - Injunction as additional remedy.

As an additional remedy, the noise made by any activity, device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitivity, or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed, and is declared to be, a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

Sec. 54-44. - Sound level measurements.

Sound level measurements under this article shall be made in accordance with the following criteria:

- (1) Measurements must be made with a type 1 or type 2 calibrated sound level meters using the A-weighting scale and the slow meter response as specified by the American National Standards Institute (ANSI S1.4-1984/85A).
- (2) Noise levels shall be measured in decibels and A-weighted. The unit of measurement shall be designated a "dB(A)."
- (3) Meters shall be maintained in calibration and good working order.
- (4) Calibrations shall be employed which meet ANSI S1.40-1984 prior to and immediately after every sampling of sound.
- (5) Measurements recorded shall be taken so as to provide a proper representation of the sound being measured.
- (6) The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used.

(7) At the property line of the building site where the noise is being generated.

Agenda Item #5



Zoning & Planning Commission

Municipal Building 3800 University Blvd

Meeting Minutes

January 9, 2020

MEMBERS PRESENT: Richard Wilson, John Cutrer, Sylvette Bobb, David Kuykendall and Bob Powell

MEMBERS ABSENT: Winfield Campbell and Brian Brantley

STAFF PRESENT: City Attorney, Alan Petrov, Gerardo Barrera, Public Works Director, Clay Chew, Building Official, and Josie M. Hayes, Administrator Coordinator

1. **Notices, Rules, Etc.** Richard Wilson; Presiding Officer, called the meeting to order at 6:15 p.m. and asked commission members and staff to introduce themselves. Richard Wilson asked staff to confirm that appropriate notices were given. Josie Hayes stated notices were posted per state and local laws.
2. **Subdivision Ordinance (Chapter 74) Regulations.** The commission discussed the minor changes that had been discussed at the previous meeting. John Cutrer made a motion to approve the final proposed ordinance with the recommended changes and asked staff to forward to City Council for approval. Second by David Kuykendall. **AYES:** Richard Wilson, John Cutrer, Sylvette Bobb, David Kuykendall and Bob Powell. **NOES:** None. **ABSTAIN:** None. **Motion carried.**
3. **Lighting Regulations.** Kevin Taylor and Evan Duvall with BBG Consultants gave a presentation of other surrounding cities lighting regulations. Clay Chew stated the majority of the complaints the City gets are light trespass from one property to the next; mostly from new residential construction at the end of the projects. There was general discussion regarding this issue and what could be done rectify the issues. The ZPC asked BBG Consultants to bring revised draft regulations back at next month's meeting.
4. **Minutes.** The commission reviewed the minutes of the meetings held on November 14, 2019. Richard Wilson a motion to approve the minutes. Second by John Cutrer. **AYES:** Richard Wilson, John Cutrer, Winfield Campbell, Sylvette Bob, David Kuykendall, Bob Powell and Brian Brantley. **NOES:** None. **ABSTAIN:** None. **Motion carried.**

[Adjournment]

Richard Wilson made a motion to adjourn. Second by John Cutrer. **Motion carried.** Meeting adjourned at 7:08 p.m.





The City of West University Place

A Neighborhood City

PASSED THIS _____ DAY OF _____, 2020.

Presiding Officer

ATTEST: _____
Ms. Josie M. Hayes, Administrative Coordinator

