

ORDINANCE NO. 67

AN ORDINANCE OF THE CITY OF ANNETTA SOUTH, TEXAS;  
DEFINING AND PROHIBITING NOISE NUISANCES; PROVIDING A  
SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR  
VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR  
PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING  
AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that noise which offends the  
sensibilities of persons within the city constitutes a public nuisance and  
that the regulations herein established are in the best interest of the  
health, safety and general welfare of the citizens of the City of Annetta  
South;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ANNETTA  
SOUTH, TEXAS:

SECTION 1. Without repealing any prior regulation concerning public nuisances or  
limiting the power of the city council to hereafter declare as public nuisances any other  
act, condition, or thing, by ordinance, the following specific acts, conditions, and  
things regarding sound are each and all of them hereby declared to be and constitute  
public nuisances and are hereby prohibited:

Any unreasonably loud, disturbing, and unnecessary noise, including but not  
limited to noises from loudspeakers and amplifiers, horns or other signal  
devices on vehicles, the operation of licensed or unlicensed vehicles such as  
autos, trucks, or motorcycles or other recreational vehicles without adequate  
mufflers, the use of expansion chambers on vehicles, steam whistles or devices  
operated by compressed air, which cause material distress, discomfort or injury  
to persons of ordinary sensibilities in the vicinity thereof.

SECTION 2. Whenever it is alleged that a violation of this ordinance exists, the owner  
of the property where such nuisance occurs or the person in charge of such property  
shall be notified by the City Secretary or her designee by mail addressed to such person  
at their residence address and mailed or personally delivered to such person notifying  
such person of the violation and notifying such person that such condition is prohibited  
and any future violation shall be punishable as hereinafter provided.

SECTION 3. Any person who owns or is in charge of premises on which a condition  
prohibited by or a public nuisance is defined by this ordinance shall be deemed guilty  
of a misdemeanor if such nuisance or condition occurs after the notice to such owner or  
person in charge of such premises.

SECTION 4. In addition to the fine imposed for violation of this ordinance, suit may  
be filed to enforce the requirements of this ordinance and to enjoin further violations.

**SECTION 5.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and section of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section. Nothing within this ordinance shall be deemed to prohibit the operation of gasoline or diesel engines normally used in farming and ranching operation, or in mowing and weed-eating, or the safe and responsible discharge of personal firearms, nor to repeal any other ordinance except as to directly conflicting provisions, in which case the remainder of such conflicting ordinances are hereby saved, except to the extent of such conflict.

**SECTION 6.** Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of Section 1 of this ordinance shall be fined not more than Five hundred dollars (\$500.00) Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 7.** All rights and remedies of the City of Annetta South are expressly saved as to any and all violations of the provision of any other ordinances defining and prohibiting nuisances that 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 8.** The City Secretary is hereby directed to publish the caption and penalty of this ordinance in the official City newspaper.

**AND IT IS SO ORDAINED.**

Passed on this 10th day of December, 2009.

## Town of Annetta South

Gerhard Kleinschmidt, Mayor

ATTEST:

Daina Lawler, Town Secretary

APPROVED AS TO FORM AND LEGALITY: