

ORDINANCE 2008-O-7B

AN ORDINANCE AMENDING CHAPTER 25, "TRAFFIC AND MOTOR VEHICLES", OF THE CODE OF ORDINANCES OF THE CITY OF ANGLETON, TEXAS BY ADDING SECTION 25-9, DESIGNATION OF QUIET ZONES WITHIN THE CITY LIMITS, PROVIDING A PENALTY CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 471.006 of the Texas Transportation Code permits the governing body of a municipality having a population of at least 5,000 to regulate by ordinance the ringing of bells and blowing of whistles and sirens within the city limits; and

WHEREAS, the City Council of the City of Angleton, Texas, in compliance with the laws of the State of Texas, desires to regulate the sounding of locomotive horns, ringing of bells and blowing of whistles and sirens by engineers in charge of railroad locomotives within the city limits;

NOW THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS:

SECTION I. That Chapter 25 of the Code of Ordinances of the City of Angleton, Texas, is hereby amended by adding Section 25-9, Railroad Quiet Zones to read as follows:

"Section 25-9, Railroad Quiet Zones"

(a) Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Director means the director of the department of public works and transportation, or his/her duly authorized representative.

Highway-rail or grade crossing means any street or highway crossing over a line of railroad at grade.

Locomotive horn means a train-borne audio warning device including a horn, bell, whistle or siren meeting standards specified by the United States Secretary of Transportation.

Supplemental safety measure (SSM) means a safety system or procedure at a highway rail or grade crossing that is determined by the Federal Railroad Administration and/or the United States Secretary of Transportation to be an effective substitute for the locomotive horn in prevention of highway-rail casualties that fully compensates for the absence of the warning provided by the locomotive horn. A traffic control arrangement that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel), and that conforms to the standards prescribed

by the United States Secretary of Transportation under the Swift Rail Development Act of 1994, Public Law 103-440, as amended, shall be deemed to constitute supplemental safety measures. The following do not, individually or in combination, constitute supplemental safety measures within the meaning of this definition: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights with gates that do not completely block travel with the line of railroad or traffic signals.

(b) Locomotive horn ban designation.

(1) Unless preempted by federal or state law the city council may designate selected highway grade crossings within the city at which the engineer or person in charge of a railroad locomotive shall not sound the railroad locomotive horn within one thousand three hundred twenty (1,320) feet of the grade crossing at which approved supplementary safety measures are installed.

(2) Any person or property owner requesting the approval and installation of supplemental safety measures at a railway grade or crossing shall submit plans and specifications to the director for supplemental safety measures. Such person or property owner shall obtain approval of and contract with the railroad and/or the operating companies which own and/or control the railway grade crossing for the construction and maintenance of such supplemental safety measures and shall provide copies of such executed contracts and agreements to the director. The person or property owner requesting the approval and installation of the supplemental safety measure shall pay or cause to be paid all cost of construction, installation and maintenance of the supplemental safety measure, unless otherwise agreed by the city.

(3) The director shall review all plans and contracts submitted in connection with the implementation of a supplemental safety measure and provide recommendations to the city council. If the city council finds the proposed supplemental safety measure to be an effective substitute for the railroad locomotive horn and that all approvals, construction and maintenance agreements have been executed then the city council shall authorize an agreement be made and designate such railway grade crossing at which a ban of the sounding of a railroad locomotive horn be in effect in accordance with this article.

(c) Whistle ban at selected locations.

(1) It shall be unlawful for the engineer or person operating in charge of a railroad locomotive to sound the horn or cause the same to be done within one thousand three hundred twenty (1,320) feet of the following designated at grade crossings in the city:

- (A) Buchta Road;
- (B) Cedar Street;
- (C) Downing Road;
- (E) Orange Street;
- (F) Anderson Street; and
- (G) Velasco Street also known as SH 288B

(2) It shall be an affirmative defense to prosecution under this section when in the sole judgment of the engineer, there is imminent danger of an accident; to announce

the approach of the train to roadway workers; or when active warning devices have malfunctioned.

(d) Sponsor of the Quiet Zone.

The City of Angleton, Texas is the sponsor of the above described quiet zones. Therefore the City of Angleton will maintain the “Quick Curb”, “arcs” and “Reflectorized Delineators” for all installations required by the above described “Quiet Zone”, including those required at the crossing of State Highway 288B.

(e) Penalty Provision.

Any person or corporation found guilty of violating this Ordinance shall be subject to a fine in the Angleton Municipal Court of not less than \$250.00 and not more than \$2,000.00 for each violation.

SECTION II. PROVIDING FOR SEVERABILITY. If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this Ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Angleton in adopting, and of the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation.

SECTION III. EFFECTIVE DATE. This Ordinance shall be in full force and effect on _____, 2008.

READ, PASSED, AND APPROVED ON THIS THE 22nd DAY OF July 2008.

J. PATRICK HENRY, Mayor

ATTEST:

APPROVED AS TO FORM:

Amanda Davenport, City Secretary

Keith Vaughan, City Attorney