

ORDINANCE NO. 15-035

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE GALVESTON CITY CODE OF 1982, AS AMENDED, CHAPTER 24 "MISCELLANEOUS OFFENSES" BY LOWERING THE DECIBEL LEVEL IN ALL AREAS OF THE CITY; ESTABLISHING FACTORS FOR UNREASONABLY LOUD NOISE; AND MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Chapter 24 of the Code of the City of Galveston 1982, as amended, regulates excessively loud noise within the City in order to protect the health, safety, welfare, and good order of the City and its inhabitants; and

WHEREAS, it is the intent of the City Council to prevent excessive noise, whenever possible, without substantially burdening the free exercise of speech and in every case within the constraints set by the Texas and United States Constitutions and applicable statutes, and this ordinance is intended to be interpreted as consistent with all such constraints; and

WHEREAS, the City's interest in regulating noise should and does take into account the time, place, and manner of such noise; and

WHEREAS, upon further review and consideration of the language of Chapter 24, the City Council has determined that the noise decibel levels are too high in all areas of the City; and

WHEREAS, the City Council desires to (1) decrease the decibel levels and (2) establish standards for factors for unreasonably loud and disturbing noise.

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Chapter 24, "Offenses–Miscellaneous" is hereby amended to read and provide as follows:

Sec. 24-2. Maximum permissible sound levels.

- (a) After notice or warning by a licensed peace officer, no person shall conduct, permit or allow any activity or sound source to produce a sound that is discernible beyond the property lines of the property on which the sound is being produced that when measured as provided in section 24-1 [defining dB(A)] of this Code exceeds the applicable dB(A) level listed below for the property on which the sound is received:

- (1) Daytime Hours - (7:00 a.m. to 10:00 p.m.):
a. dB(A) shall be 75

(2) Nighttime Hours - (10:00 p.m. to 7:00 a.m.)

- a. dB(A) shall be 70

(1) Residential property:

- a. 85 dB(A) during daytime hours (7:00 a.m. to 10:00 p.m.).
b. 80 dB(A) during nighttime hours (10:00 p.m. to 7:00 a.m.).

(2) Nonresidential property: 85 dB(A) during either daytime or nighttime hours.

- (b) The dB(A) levels set forth in this section apply to the property where the sound is being received. Any sound that when measured at the property where the sound is being received exceeds the dB(A) levels set forth in this section is a violation of this chapter.

Sec. 24-3. Noise generally.

- (a) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued or permit the continuance of any sound which either exceeds the maximum permitted sound levels specified in section 24-2 or otherwise creating any unreasonably loud, disturbing or unnecessary noise, or noise of such kind, intensity or duration as to be detrimental to the life or health of any person is prohibited.
- (b) The acts enumerated in the following sections of this section [chapter], among others are declared to be sound nuisances, which are unreasonably loud, irritating, disturbing or excessive sounds in violation of this section, but such enumeration shall not be deemed to be exclusive.

The following factors incident to the noise shall be considered in determining whether a noise is unreasonably loud and disturbing:

- (1) Time of day;
- (2) Proximity to residential structures;
- (3) Whether the noise is recurrent, intermittent or constant;
- (4) The volume and intensity;
- (5) Whether the noise has been enhanced in volume or range by any type of electronic or mechanical means;
- (6) The character and zoning of the area; and
- (7) Whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 6. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of The Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its Regular Meeting held on May 28, 2015, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this _____ day of _____, 2015.

Secretary for the City Council
of the City of Galveston