

ORDINANCE NO. 16-B

AN ORDINANCE AMENDING CHAPTER 15, MISCELLANEOUS OFFENSES OF THE CODE OF ORDINANCES, SECTION 9.1-NOISE; BY REVISING THE LIST OF SOUND NUISANCES, ESTABLISHING MAXIMUM PERMISSIBLE SOUND LEVELS DEFINED BY DECIBEL, ESTABLISHING EXEMPTIONS, AND PROVIDING REGULATIONS FOR BUSINESS SOUND PERMITS; ALSO PROVIDING FOR A SEVERABILITY CLAUSE; A PENALTY CLAUSE; PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, it is the policy of the City of Alvin to minimize the exposure of citizens to excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare; and

WHEREAS, it is the intent of the City to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the use, value and enjoyment of property; and preserves the quality of the environment; and

WHEREAS, it is desirable to address common noise complaints caused by repetitive and excessive noise by adding maximum decibel levels and by adding restrictions on noise from animals and from amplifiers in public right-of-way;

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

Section 1. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. That Section 15-9.1 "Noise – Unreasonably loud, disturbing noises prohibited; enumeration" is hereby amended to read as follows:

...

Sec. 15-10.1 Noise - Sound nuisances.

It shall be unlawful for any person to make, continue, or cause to be made or continued, any unreasonably loud, disturbing, or unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities. It also 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 exceeds the maximum permitted sound levels specified in section 15-10.2. The acts enumerated in this article, among others, are declared to be sound nuisances which are unreasonably loud, irritating, disturbing or excessive sounds in violation of this article, but such enumeration shall not be deemed to be exclusive:

- (a) Horns or other signaling devices. The sounding of any horn or signaling device on any automobile or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time.
- (b) Animals, birds, etc.
 - (1) The keeping of any animal or bird that causes or makes frequent or long and continued sound, that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits, and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in section 15-10.2.
 - (2) In any prosecution for a violation of this section, the fact that any animal or bird has been allowed or permitted to persistently and chronically violate this section, as demonstrated by the issuance of three (3) or more citations and/or the receipt of three (3) or more complaints from more than one household within a sixty (60) day period creates a rebuttable presumption that such noise was in violation of this article.
- (c) Power and pneumatic equipment. Operate or permit to be operated any power or pneumatic equipment outdoors in a residential area, or within one hundred fifty (150) feet of the boundary line of a residential lot between the hours of 10:00 p.m. and 7:00 a.m. Motorized electric or fuel powered equipment including, but not limited to tractors, lawnmowers and other similar devices or equipment shall be considered power equipment.
- (d) Defect in vehicle or load. The use of any automobile or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (e) Construction or repairing of buildings. The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector which shall be granted for a period of time not to exceed the period in which the emergency continues.
- (f) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, church or court while the same are in use, or adjacent to any hospital, which unlawfully interferes with the workings of such institution or which disturbs or unduly annoys the patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, church, hospital or court street.

(g) Vehicular sound amplification systems.

- (1) A sound amplifier which is part of or connected to a radio, stereo receiver, compact disc player, mp3, cellular devices or other similar device or service operated within a motor vehicle operated at such a volume that is plainly audible.
- (2) If the sound [is] audible at a distance of thirty (30) feet from the source or causes a person to be aware of or feel the vibration accompanying the sound at a distance of thirty (30) feet from the source, a prima facie case shall be established that the radio, stereo receiver, compact disc player, cassette player or other similar device is being operated at a volume that is plainly audible.

For purposes of this subsection, “plainly audible” means any sound produced by a sound amplification system from within a vehicle that clearly can be heard at a distance of thirty (30) feet or more. Measurement standards shall be the auditory senses, based on direct line of sight. Words or phrases need not be discernible, and bass reverberations are included.

- (h) It shall be prima facie unlawful and a violation of this article for any person to operate or cause to be operated any source of vibration or to discharge or allow the escape of any vibration in such a manner as to cause by such operation a vibration that can be detected without the aid of instruments at any point within the receiving real property.

Sec.15-10.2. Maximum permissible sound levels.

(a) No person shall conduct, permit or allow any activity or sound source to produce a sound that is discernible beyond the property line of the property on which the sound is being received that, when measured as provided in section 15-10.3, exceeds the following applicable dB(A) level listed for the property on which the sound is received:

(1) *Residential property.*

- a. Sixty-five dB(A) during daytime hours.
- b. Sixty dB(A) during nighttime hours.

(2) *Non-residential property.* Seventy db(A) during either daytime or nighttime hours.

(b) The dB(A) levels set forth in this section applies 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 prima facie violation of this article.

Sec. 15-10.3. Measures and Standards

Under this article, measurement of sound may be made, as applicable, with a sound level meter meeting the standards prescribed by the American National Standards Institute (ANSI).

Measurements of sound shall be taken so as to provide a proper representation of the sound being measured. The Chief of Police shall develop procedures to be followed in measuring sounds.

Sec. 15-10.4. Exemptions.

Sounds caused by the following are exempt from the prohibitions set out in section 15-10.2 and are in addition to the exemptions specifically set forth in this section:

- (1) Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property;
- (2) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger;
- (3) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work;
- (4) Repairs or excavations of bridges, streets, or highways by or on behalf of the City of Alvin, or other governmental entity, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.;
- (5) Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including, but not limited to, school athletic and school entertainment events; and
- (6) Individuals possessing an authorized permit from the City, such as a special event or parade permit, shall be allowed to engage in activity authorized by the permit.

Sec. 15-11. Noise - Use of amplifying devices and sound trucks.

(a) It shall be unlawful for any person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instrument to intensify, amplify or reproduce the human voice or to produce, reproduce, intensify or amplify any other sound in any building or on any premises of the city or in or on any vehicle in the city for any purpose whereby the sound therefrom is cast directly upon the public streets or places, or which is so placed or operated that the sound coming therefrom can be heard on the streets or on neighboring premises to the annoyance or inconvenience of a reasonable person having normal nervous sensibilities, and being of ordinary tastes, habits and modes of living.

(b) Notwithstanding the above provisions, amplifying devices and sound trucks may be used in the city provided a permit therefor is first obtained from the chief of police and such permit designates the term of the permit as determined by the Chief of Police.

(c) Businesses who during the course of normal operations provide live or pre-recorded music or voice amplification and which have designated areas for live music or pre-recorded music or voice amplification, such as an outside stage, bandstand, or similar designated area where outside events or meals are held may, upon application to the Chief of Police, obtain a permit which is good for one (1) calendar year from date of issuance.

(d) All permits issued under this ordinance are subject to restrictions designated at time of issuance and may be revoked due to violations of restrictions or other cause.

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Section 3. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. Penalty. Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty section 1-5 of the Code of Ordinances. Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

Section 5. Publication. The City Clerk of the City of Alvin is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by *Chapter 52 of the Texas Local Government Code* and the *City of Alvin Charter*.

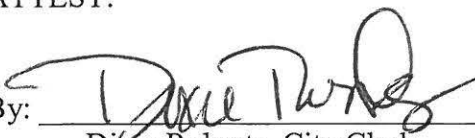
Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code* and the *City of Alvin Charter*.

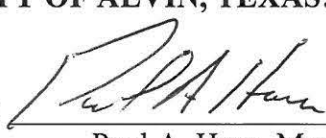
Section 7. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on first and final reading on the 18 day of February 2016.

ATTEST:

CITY OF ALVIN, TEXAS:

By: 
Dixie Roberts, City Clerk

By: 
Paul A. Horn, Mayor