

ORDINANCE _____

ORDINANCE AMENDING THE CITY CODE OF ORDINANCES RELATING SECTIONS OF CHAPTER 38 ARTICLE V, NOISE INCLUDING SEC. 38.171 UNREASONABLE NOISE PROHIBITED AND SEC. 38.172 SPECIFIC NOISES, ACTS DECLARED LOUD AND DISTURBING; CREATING NEW SECTION 38.173 TESTS AND STANDARDS FOR NOISES; PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS that the following amendment(s) are adopted as Amendments to Chapter 38 Article V, Section 38.171, Section 38.172, and creation of Section 38.173 in its Code of Ordinances.

Section 1. The following amendments are to be made to Sections as indicated of the Code of Ordinances. All insertions are made with red colored letters and all deletions are shown as such.

Sec. 38-171. - Unreasonable noise prohibited.

~~The creation of any unreasonable loud, disturbing and unnecessary noises in the city is hereby prohibited. Noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of any ordinary reasonable person are hereby prohibited.~~

It shall be unlawful for any person to make, permit or allow to be made, or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of others within the limits of the city, unless the making and continuing of such noise is necessary for the improvement, protection or preservation of property or the health, safety, life or limb of some person.

Sec. 38-172 Specific noises, acts declared loud and disturbing.

(2)The playing of any radio, phonograph or any musical instrument in such manner, or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. as to create a noise such as is reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity. No stationary loudspeaker or amplifier shall be operated on any weekday between the hours of 11:00 p.m. and 7:00 a.m. In residential areas, noise shall not exceed sixty (80) dB(a) from 7 a.m. to 11 p.m. Noise shall not exceed fifty (80) dB(a) after 11 p.m. to 7 a.m. In and around non-residential property, noise shall not exceed sixty (80) dB(a) after 11 p.m. on a Sunday, Monday, Tuesday, Wednesday, or Thursday and before 7 a.m. on the following morning or after 12 a.m. and before 7 a.m. on a Saturday or Sunday.

(15) *Mufflers.* No person shall operate a gasoline engine or any similar engine of any kind unless the engine shall be equipped with an exhaust muffler in effective working condition, which muffler shall be used whenever the engine is in operation so that there will be no excessive or unusual noise, or the engine shall be so constructed or designed that the noise is deadened as if such engine were equipped with a muffler. No person shall operate a motor

vehicle upon any street unless such motor vehicle is equipped with a muffler at all times in good working order sufficient to prevent excessive or unusual noise.

(b)

(3) It is an affirmative defense that the person producing, permitting, or allowing the sound is an event sponsored by the City of Bay City, is acting pursuant to a valid parade permit or has otherwise received permission from the City of Bay City to have an event with a variance from this Section.

Sec. 38.173 Tests and standards for noises.

Factors to consider: The standards which shall be considered in determining whether a violation of Sec. 38-172 exists shall include but shall not be limited to the following:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or artificial.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to residential sleeping facilities.
- (7) The nature of the area within which the noise emanates.
- (8) The density of inhabitation of the area within which the noise emanates.
- (9) The time of the day or night the noise occurs.
- (10) The duration of the noise.
- (11) Whether the noise is recurrent, intermittent or constant.
- (12) Whether the noise is produced by a commercial or noncommercial activity.

Section 2: Other than as amended herein, all remaining sections of Chapter 38 Article V, remain in full force and effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED AND APPROVED on this 16th day of November, 2021.

Robert K. Nelson, Mayor
City of Bay City, Texas

ATTEST:

APPROVED AS TO FORM:

Jeanna Thompson,
City Secretary
City of Bay City, Texas

Anne Marie Odefey, City Attorney

| Council Member: | Voted Aye | Voted No | Absent |
|-------------------------|-----------|----------|--------|
| Robert K. Nelson, Mayor | _____ | _____ | _____ |
| Floyce Brown | _____ | _____ | _____ |
| James Folse | _____ | _____ | _____ |
| Jason Childers | _____ | _____ | _____ |
| Becca Sitz | _____ | _____ | _____ |
| Brad Westmoreland | _____ | _____ | _____ |