

Noise Ordinance and Municipal Court Amendments

PUBLIC SAFETY AND MUNICIPAL COURT COMMITTEE

JUNE 18, 2025



Background

- Mayor Fletcher requested staff to review the noise ordinance and offer any recommended changes.
- Police, Code Compliance, City Secretary and Legal staff worked together to propose changes. In order to adequately address staff's proposed changes, it will require amendments to both Chapter 26, *Courts* and Chapter 34, *Environment*.
- Nuisance noise is created by unreasonable and inappropriate sound that is unreasonably loud, disturbing, or unnecessary and that would prevent other property owners and citizens from enjoying the reasonable use of their property.
- Nuisance noise complaints between neighbors can be challenging to enforce.
- Challenges
 - Many times city staff/ BP officers do not observe the violation
 - Rental property in which the occupants creating nuisance – responsible party (owner or renter?)
 - Willingness of the complainant to write an affidavit or appear in court as witness
 - Repeat Offenders and/or continuous violation consequences

Proposed Amendments Summary

- Purpose: delete the reference to only manmade noises.
- Maximum sound levels: replace “are presumed to be public nuisances,” to, “are prima facie evidence sufficient to establish a public nuisance.”
- Enforcement: revise to state, “The provisions of this article shall be enforced by a city code officer or police officer in the course of employment. A citizen may file a written complaint with the municipal court for prosecution.”
- Continuing violations constituting a public nuisance: Adopt an ordinance to authorize the Municipal Court to have civil jurisdiction over nuisance violations under Texas Gov. Code Sec. 30.00005. This will allow the court to declare a public nuisance and then order an appropriate method for compliance, even using contempt remedies.
- Penalties: revise (4) to state, “A violation of this article is a nuisance. The prosecution of an offense under this article does not limit the city’s right to abate the nuisance, including the use of injunctive or other civil relief.”

Verbiage Changes

Chapter 34 – Environment - ARTICLE V - NOISE

§ 34-191 Noise

(a) General provisions.

(1) Purpose.

The purpose of this article is to establish a set of uniform regulations governing noise and sound ~~generated by human activities~~. These regulations are intended to ensure that a ~~manmade~~ noise does not become a nuisance by its volume, frequency, duration or vibration to such an extent that it becomes a nuisance and negatively impacts other citizens and adjoining property owners.

(c) Presumptive threshold restrictions on maximum decibel levels.

(1) Maximum sound levels.

During the times in the zoning districts set forth below, activities that create a sound pressure level on the complainant's bounding real property line that exceed the maximum allowable sound level (dBA) are ~~presumed to be public nuisances~~ prima facie evidence sufficient to establish a public nuisance.

Verbiage Changes

Chapter 34 – Environment - ARTICLE V - NOISE

§ 34-191 Noise

(f) Enforcement. The provisions of ~~subsection (c)~~ of this section shall may be enforced by the city manager or his or her designee, or any city code officer or police officer in the course of employment. ~~The provision of subsection (d) of this section may be enforced through the municipal court by a written complaint filed by any citizen.~~ A citizen that witnesses a noise violation may submit a sworn statement with supporting documentation of the noise ordinance violation to a code officer or police officer of the city for municipal prosecution.



Verbiage Changes

Chapter 34 – Environment - ARTICLE V - NOISE

§ 34-191 Noise

(g) Continuing violations constituting a public nuisance.

- ~~If an individual or business is convicted of three violations of the noise ordinance within any 60-day period, or if a business or individual are the subject of six complaints made within a 90-day period, a presumption will exist that a public nuisance is being created.~~
- ~~This presumption shall permit the city attorney to file an action in municipal court seeking a determination as to whether a public nuisance exists. The decision as to whether to seek such a determination shall be a discretionary decision of the city attorney based upon a cumulative review of the facts and circumstances of the complaints.~~
- ~~In order to support a finding, based solely upon complaints without conviction, it will be necessary to present evidence that efforts have been made to serve a notice of violation, or citation on the business or individual who is alleged to have violated the noise ordinance. Evidence must be presented that notice of violation was mailed to the last known address of the alleged violator through the United States Postal Service at the last known address of the business or individual alleged to have committed the violations. If no evidence exists that the business or individual accepted service or delivery of the notice of violation, then evidence must be presented that in addition to attempts to achieve contact through the United States Postal Service, affidavits must be provided showing that notice of violation or complaint were posted on the business or residence by a public official in a prominently visible location on the apparent main entrance to the business or residence during normal working hours on at least one occasion for each notice of violation or citation.~~
- ~~If the apparent public nuisance evidence set forth above is in the possession of city officials they are authorized to present a request to the municipal court for a determination that the ongoing evidence of continued violation of the noise ordinance constitutes a public nuisance and requests a hearing for a determination and ruling on such motion. The municipal court will give proper notice to any and all affected parties and schedule a hearing on the motion to determine the existence of a public nuisance at the subject property. If the city presents sufficient evidence that a continuing noise nuisance has occurred and/or if the alleged offending business or individual fails to respond to the notice of hearing and appear before the court to explain their actions, the court may enter an order finding that a public nuisance exists.~~
- ~~Notice of such findings shall be transmitted to the property owner or individual against whom the public nuisance complaint has been lodged by mail and by personal delivery at the business or site where the alleged noise offense is occurring. If the property owner should then fail to take action to abate the nuisance, the city attorney shall so advise the municipal court. The municipal court judge shall then determine the appropriate method to insure compliance utilizing the contempt remedies available to the court.~~

Verbiage Changes

Chapter 34 – Environment - ARTICLE V - NOISE

§ 34-191 Noise

(g) Continuing violations constituting a public nuisance. In addition to the criminal jurisdiction of the municipal court, the municipal court shall have civil jurisdiction over nuisance violations in accordance with V.T.C.A., Government Code § 30.00005.



Verbiage Changes

Chapter 34 – Environment - ARTICLE V - NOISE

§ 34-191 Noise

(h) Penalties.

- (1) A person commits an offense if the person makes noise in violation of this ~~article~~ **section**.
- (2) An offense under this section is punishable by a fine of not more than \$2,000.00, for each event or violation.
- (3) Each occurrence of a violation, or, in the case of multiple violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.
- (4) ~~Any individual violation of this section may constitute a nuisance based upon the specific circumstances~~ **A violation of this section is a nuisance.** The prosecution of an offense under this ~~article~~ **section** does not limit the city's right to abate the nuisance, including the use of injunctive or other civil relief.

Verbiage Changes

Chapter 26 – Courts

§ 26 – 2 Authority of Chapter

(a) In addition to the jurisdiction provided by general law for municipal courts of record in accordance with V.T.C.A., Government Code § 30.00005 and for criminal cases arising under ordinances authorized by V.T.C.A., Local Government Code §§ 215.072, 217.042, 341.903 and 551.002, the municipal court of record in the City shall have concurrent jurisdiction with the justice court in any precinct in which the City is located in criminal cases that arise within the territorial limits of the City and are punishable only by fine.

Verbiage Changes

Chapter 26 – Courts

§ 26 – 2 Authority of Chapter

(b)The court also shall have:

(1)Civil jurisdiction for the purpose of enforcing municipal ordinances enacted under V.T.C.A., Local Government Code, Chapter 214, Subchapter A, or V.T.C.A., Transportation Code, Chapter 683, Subchapter E;

(2)Concurrent jurisdiction with a district court or a county court at law under V.T.C.A., Local Government Code, Chapter 54, Subchapter B, within the City’s territorial limits and property owned by the City located in the City’s extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances;

(3)Concurrent jurisdiction with a district court and a justice court over expunction proceedings relating to the arrest of a person for an offense punishable by fine only; and

Verbiage Changes

Chapter 26 – Courts

§ 26 – 2 Authority of Chapter

(4) Authority to issue:

- a. Search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and
- b. Seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing debris from the premises.

(5) The procedures set forth in V.T.C.A., Local Government Code, Chapter 54, Subchapter B, shall govern actions brought under V.T.C.A., Local Government Code, Chapter 54, Subchapter B.

Exceptions

New language in the ordinance references necessary changes due to SB 1008 which limits the city's prohibition authority, permitting and fee requirements.

Exceptions. Notwithstanding anything in this section to the contrary, the following sound-related activities are not a violation of this section:

(1) A food service establishment, as defined in Texas Health and Safety Code § 437.001, as may be amended from time to time, that accepts delivery of supplies or other items, provided that if the delivery occurs between 10 p.m. and 5 a.m., then:

(a) the delivery lasts for one hour or less;

(b) the delivery is only for food, nonalcoholic beverages, food service supplies, or ice; and

(c) the delivery sound level when measured from the residential property closest in proximity to the establishment does not exceed 65 dBA, excluding traffic and other background noise that can be reasonably excluded.

(2) A restaurant, as defined by Alcoholic Beverage Code § 1.04, as may be amended from time to time, that limits the use of amplified sound for playing music or amplifying human speech within the establishment's indoor or outside property boundaries to ensure:

(a) the amplified sound is not used after 10 p.m. on Sunday through Thursday and 11 p.m. on Friday and Saturday; and

(b) the amplified sound level does not exceed 70 dBA or 75 dBC when measured at the establishment's property perimeter, excluding traffic and other background noise that can be reasonably excluded.

(3) Subsection (i)(2), above, does not apply to a food service establishment on property that is located within 300 feet of a residence that was occupied before any food service establishment was located on the property."

Options / Next Steps

1. Keep the current code.
2. Move forward to full Council for discussion.
3. Move to full council for adoption of the amendments.





Questions / Comments

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