

# **City of Bellaire**

## **PROPOSED NOISE REGULATIONS**

### **OPTION A**

# City of Bellaire

## ORDINANCE NO. 23-\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, AMENDING CHAPTER 22, OFFENSE - MISCELLANEOUS, ARTICLE I, IN GENERAL, OF THE CODE OF ORDINANCES OF THE CITY OF BELLAIRE, TEXAS, BY REPEALING THE EXISTING SECTION 22-4, NOISE, AND ADOPTING A NEW SECTION 22-4, NOISE FOR THE PURPOSE OF REGULATING NOISE WITHIN THE CITY.

[WHEREAS CLAUSES TO BE ADDED]

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

**Section 1.** That *Chapter 22, Offenses - Miscellaneous, Article I, In General*, of the *Code of Ordinances of the City of Bellaire, Texas ("Code")*, is hereby amended by repealing the existing *Section 22-4, Noise*, and adopting a new *Section 22-4, Noise*, for the purpose of regulating noise within the City. The amended Code shall read as set out in Appendix A, attached hereto. All other portions of *Chapter 22* of the City's Code not specifically amended hereby shall remain in full force and effect.

**Section 2.** That all ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only, in particular, to the extent of any conflict with any provision currently contained in Chapter 24 of the Code, this Ordinance shall control.

**Section 3.** That if any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

**Section 4.** That the City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

**Section 5.** That this Ordinance shall be effective immediately upon its passage and adoption.

**PASSED** and **ADOPTED** this, the \_\_\_\_ day of \_\_\_\_\_, 2023.

**SIGNED:**

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Andrew S. Friedberg  
Mayor

**ATTEST:**

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Tracy L. Dutton, TRMC  
City Clerk

**APPROVED AS TO FORM:**

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Alan P. Petrov  
City Attorney

Appendix A

(Language to be added shown by underline, language to be deleted shown by strike-out).

~~Sec. 22-4. Noise~~

- (a) ~~It shall be unlawful for any person within the City, to make, continue, or cause to be made, permitted or continued any loud noise or any noises reasonably calculated to disturb injure or endanger the comfort, repose, health, peace or safety of others within the limits of the city.~~
- (b) ~~Any person who shall violate any of the provisions of this section, or who shall fail to comply therewith, shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code; provided, however, that any fine shall not be less than \$25.00.~~

Sec. 22-4. - Noise.

- (a) Purpose. The making, creation or maintenance of loud, unreasonable, unnatural or unusual noises affects and is a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the city. The necessity, in the public interest, for the provisions and prohibitions contained in this section is hereby declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained in this section are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.
- (b) Quiet Hours and Non-Quiet Hours Established. The term *Quiet Hours* shall mean the following timeframe:

<u>Weekday, except City Holiday</u>	<u>Before 7:00 am or after 10:00 pm</u>
<u>Saturday, Sunday and City Holiday</u>	<u>Before 8:00 am or after 10:00 pm</u>

The term *Non-Quiet Hours* shall mean the following timeframe:

<u>Weekday, except City Holiday</u>	<u>7:00 am to 10:00 pm</u>
<u>Saturday, Sunday and City Holiday</u>	<u>8:00 am to 10:00 pm</u>

- (c) General prohibition. It shall be unlawful for any person to make, continue, permit or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.
- (d) Specific noises prohibited. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:
  - (1) Horns, signaling devices, radios and similar devices on vehicles. The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the city, except as a danger warning, any unreasonably loud or harsh sound, and the sounding of any such device for an

unnecessary and unreasonable period of time are prohibited. The use of any signaling device except one operated by hand or electricity, the use of any horn, whistle or other device operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up is also prohibited. The using, operating or permitting to be played, used or operated any radio receiving set, speaker system, or other machine or device from any automobile, motorcycle, streetcar or other vehicle on any street or public place of the city for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the vehicle in which such machine or device is operated and who are voluntary listeners thereto is prohibited. The operation of any such set, system, machine, or device during Quiet Hours in such a manner as to be plainly audible at a distance of fifty feet (50') from the vehicle in which it is located shall be prima facie evidence of a violation of this section.

- (2) Radios, phonographs and similar devices. The using, operating or permitting to be played, used or operated any radio receiving set, speaker system, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle on private property, or chamber in which such machine or device is operated and who are voluntary listeners thereto is prohibited. The operation of any such set, system, instrument, phonograph, machine, or device during Quiet Hours in such a manner as to be plainly audible at the property line from the building, structure, vehicle or location in which it is located shall be prima facie evidence of a violation of this section.
- (3) Loudspeakers or amplifiers used for advertising. The using, operating or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure is prohibited.
- (4) Yelling, shouting, etc., on streets. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly during Quiet Hours, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity, is prohibited.
- (5) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom is prohibited.
- (6) Defect in vehicle or load. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise is prohibited.

- (7) Hawkers and peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood is prohibited.
- (8) Blowers and fans. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise, is prohibited.
- (9) Noise near school, church, court, or hospital. The creation of any excessive noise on any portion of a street adjacent to any school, institution of learning, church/religious institution, or court while the same is in use, or adjacent to any hospital, which is reasonably likely to interfere with the workings of such institution or which disturbs patients in the hospital, is prohibited, provided conspicuous signs are posted so as to be visible to motorists, passengers, and pedestrians indicating that a school, church, religious institution, court, or hospital is in the vicinity.
- (10) Noise to attract attention to performance, show or sale. The use of any drum or other instrument or device creating noise for the purpose of attracting attention to any performance, show or sale is prohibited.
- (11) Generators. The use or operation of a generator unit to exceed 70 dB(A) at the property line from which the generator unit is located is prohibited.
- (12) Air conditioner units and mechanical equipment. The use or operation of an air conditioner unit or mechanical equipment to exceed 70 dB(A) at the property line from which the air conditioner unit or equipment is located is prohibited.
- (13) Animals. It is prohibited for any owner or person in control of an animal to allow the animal to bark, growl, howl, whine or make any other sound loud and long enough to unreasonably disturb the peace of other people on the same, adjoining or nearby property.
- (14) Lawn equipment. The sound made by leaf blowers, lawnmowers, and other lawn and garden equipment during Quiet Hours is prohibited. The operation of any such leaf blower, lawnmower, or other lawn and garden equipment during Non-Quiet Hours that exceeds the allowable maximum noise decibel level at a distance of fifty feet (50') from the equipment is prohibited.
- (15) High decibel noise. Any noise directly or indirectly results in a specific noise decibel level exceeding the maximum applicable noise level in the following table is prohibited:

<u>Maximum Noise Decibel Level</u>		
	<u>Non-Quiet Hours</u>	<u>Quiet Hours</u>
<u>Residential Zoned</u>	<u>65 dB(A)</u>	<u>60 dB(A)</u>

<u>Non-Residential Zoned</u>	<u>72 dB(A)</u>	<u>67 dB(A)</u>
<ul style="list-style-type: none"> <li>• <u>The most restrictive maximum noise decibel level shall apply at the property where the noise is audible.</u></li> <li>• <u>This does not permit noise that is otherwise prohibited or unlawful under this section but below the maximum noise decibel level.</u></li> <li>• <u>This shall not apply to noise produced by properly maintained generators, air conditioner units, mechanical equipment, or lawn equipment.</u></li> </ul>		

(e) Exceptions. For purposes of determining compliance with this section, the following noise sources shall be excepted:

- (1) Emergency and repair activities of any public entity or a utility.
- (2) Noises of safety signals, warning devices and emergency pressure relief valves.
- (3) Noises emanating from properly permitted construction, grading, repair, remodeling, or demolition/building activities during Non-Quiet Hours or additional hours the City’s building official specifically authorizes in writing.
- (4) Emergency generators at any time when normal power is not available or during Non-Quiet Hours for a weekly exercise cycle or testing.
- (5) Emergency service vehicles, including but not limited to EMS, fire department, police department, or noise emanating from activities immediately and reasonably necessary to prevent imminent threat of bodily injury, death, or loss of property.
- (6) Noise produced by city approved functions or allowed activities in city parks, playgrounds, or a city approved race, parade or event in the city’s rights-of-way.
- (7) Noise produced by the transportation, placement, filling, collection, servicing or removal of a waste or recycling receptacle or container at any point between the hours permitted by of this Code.
- (8) City public works facilities and operations, including, but not limited to, lift stations, water wells, water treatment facilities, wastewater treatment facilities, mosquito sprayers, solid waste operations, and street sweepers.
- (9) City construction projects.
- (10) Noise produced by typical activities at public or private school grounds or religious institutions, at any point during Non-Quiet Hours, provided that such institutions comply with applicable zoning regulations.

(f) Sound Level Measurements. Sound level measurements under this section shall be made in accordance with the following criteria:

- (1) Noise levels shall be measured in decibels and A-weighted. The unit of

measurements shall be designated as "dB(A)". The sound level meter shall be set to 'A' weighting, which filters the frequencies to model the human ear's sensitivity.

- (2) Measurements recorded shall be taken to provide a proper representation of the sound being measured. Set meter to take an average measurement over a period of 180 seconds (three minutes). Record the average sound value and the time of day. Repeat for a total of five three-minute periods. Calculate the average of the recorded measurements.
  - (3) The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used.
  - (4) Measurement shall be taken at the property line of the site where the noise is audible, unless as otherwise stipulated in this section.
- (g) *Nuisance Declared.* Any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city, in violation of any provision of this Section is hereby declared to be detrimental to the public health, comfort, convenience, safety, welfare and prosperity of the general public, and such noises are hereby declared to constitute a public nuisance.
- (h) *Penalty.* Any person, corporation, or property owner responsible for violating any of the provisions of this Section, or who shall fail to comply therewith, shall be guilty of a misdemeanor and shall be punished as provided in Section 1-10 of this Code; provided, however, that any fine shall not be less than \$150.00 for the first offense of a violation of or failure to comply with this Section, and not less than \$500.00 for any subsequent offense of violation of or failure to comply with this Section. Each hour or portion thereof in which any violation shall occur shall constitute a separate offense.