



Public Safety Committee

10:00 a.m., Tuesday, June 6, 2023

1207 Palm Boulevard

City Hall Council Chambers

Public Comment:

All citizens who wish to speak during the meeting must email their first and last name, address and topic to Nicole DeNeane, City Clerk, at nicoled@iop.net no later than **3:00 p.m. the day before the meeting**. Citizens may also provide written public comment here:

<https://www.iop.net/public-comment-form>

Agenda

- 1. Call to order** and acknowledgment that the press and the public have been duly notified of the meeting in accordance with the Freedom of Information Act.
- 2. Approval of previous meeting's minutes** – May 2, 2023
- 3. Citizens' Comments** – All comments have a time limit of three (3) minutes.
- 4. Old Business**
 - a. Discussion and consideration of Ordinance 2023-08 to adopt a new noise ordinance
 - b. Discussion and consideration of Ordinance 2023-02 to regulate e-bikes and other motorized devices on the beach between 10:00 a.m. and 5:00 p.m. from May 15 through Labor Day
 - c. Update on the acquisition of surveillance and safety equipment approved by Council on April 25, 2023
- 5. New Business**
 - a. Discussion of traffic congestion at the intersection of Palm Boulevard & 14th Avenue
 - b. Discussion of golf carts on Palm Boulevard
- 6. Miscellaneous Business**

Next meeting: 10:00 a.m., Tuesday, July 11, 2023
- 7. Executive Session** – If needed
- 8. Adjournment**



**Public Safety Committee Meeting
10:00am, Tuesday, May 2, 2023
1207 Palm Boulevard, Isle of Palms, SC and
broadcasted live on YouTube: <https://www.youtube.com/user/cityofisleofpalms>**

MINUTES

1. Call to Order

Present: Council members Hahn, Ward, and Anderson

Staff Present: Administrator Fragoso, Director Kerr, Chief Cornett, Chief Oliverius

2. Approval of Previous Meetings Minutes – April 4, 2023 and April 18, 2023

Council Member Anderson made a motion to approve the minutes of the April 4, 2023 meeting, and Council Member Hahn seconded the motion. The motion passed unanimously.

Council Member Anderson made a motion to approve the minutes of the April 18, 2023 Special Public Safety meeting, and Council Member Hahn seconded the motion. The motion passed unanimously.

3. Citizen's Comments

Al Clouse's comments are attached to these minutes.

4. Old Business

A. Discussion and consideration of changes to the noise ordinance

Administrator Fragoso asked the Committee to go through the noise ordinance draft section by section to receive their feedback before the draft is returned to Council. She added, "I do want to take an opportunity to address some comments that have been made that are not accurate regarding enforcement and regarding the resort drafting the ordinance. The ordinance has been drafted by the City's attorney. We have made changes to the noise ordinance based on discussions that we have had with this Committee and with City Council, and the changes that have been made have been voted on by this Committee. The resort has not drafted. Their representative has attended meetings in the past and has made recommendations about language. But any changes that have been made have been voted on by this Committee. The staff has not inserted any changes to the ordinance based on their advice or their direction other than the direction from this Committee. I also want to have an opportunity to ask Chief Cornett to speak on the enforcement piece. Every time a call is made to dispatch or the Police Department regarding a noise complaint, the Police Department dispatches an officer to address the situation. Obviously, there are times when citations have been issued. There are other times when warnings have been issued, but all violations have been documented as either founded or unfounded. So I

just want to clarify that the enforcement is happening by the Police Department. It may be that not every time a citation, every time an officer responds a citation is issued. Just like with any other complaint.”

Chief Cornett stated, “The Police Department tracks all of our responses for livability concerning short-term rental or businesses in general or just residential. And so I will say in the past that was not tracked in the best manner, but we have definitely increased on that and done a better job. Every time a police officer is dispatched to a livability concern whether the officer issues a ticket or not, they complete a form that says the violation was either founded or unfounded, and then that gets turned over to our Livability Officer. We are tracking complaints on this specific location that we are talking about and have more than one violation where it’s been founded and then the steps would follow the City policy pertaining to a business license. When they reach a certain point, we turn it over to the Business License Official for suspension or revocation, and then it would go to a hearing with City Council.”

Chief Cornett indicated that the Sweetgrass Inn has four founded complaints against it this year. Mr. Clouse acknowledged he is the only person calling to make complaints.

Council Member Hahn asked Chief Cornett how he would deal with noise as prescribed in paragraphs 8 and 11 of the proposed noise ordinance. To which Chief Cornett responded, “The way we would address that would be in that first definition part of it. Unusually loud. So it would be something that you are not used to hearing would be how we would use that specific paragraph of the ordinance. Something that is absolutely abnormal that takes place, then we would use that. Other than that, we would divert back to the decibels.”

Council Member Hahn then read paragraphs 8 and 11 into the record. He said, “Excessive noise. Any unnecessary or unusually loud sound or any sound which disrupts the peace and quiet of any neighborhood and which does annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety or any reasonable persons of ordinary sensibilities. The problem, I think, is that the chief is saying that’s a vague definition because we are talking about this interfering with a reasonable person of ordinary sensibilities, and he doesn’t have a way to define that. That is why we have got the decibels. Paragraph 11, Plainly audible. Able to be clearly heard by a person of normal sensibilities using only unaided auditory senses. Plainly audible shall refer to a sound heard at a volume level above that of normal conversation... and shall not include sounds which are just barely audible. With response to music and amplified sounds, the detection of rhythmic base reverberating type sound, beat, or cadence shall be deemed plainly audible.”

Chief Cornett said paragraph 11 picks up the sounds created by bass not picked up by a decibel reader.

Council Member Ward said he would like feedback on what Ms. Haack sent regarding the sound engineer. Administrator Fragoso said that it is very technical information, and she would need more time and assistance from a noise consultant to help translate the recommendations. She said, “The only thing they have provided us is a two-page recommendation for language on the ordinance. I have shared that with all of Council.” She agreed it would be helpful if someone could attend a meeting and explain what they have received in plainer language.

Council Member Anderson agreed a conversation with the resort is needed for clarification. She reminded the Committee that the resort will also have noise measurements taken during the season. Council Member Ward said the issue needs to be dealt with now. Council Member Hahn said Council should move forward with the noise ordinance and adjust as needed in the fall.

Administrator Fragoso pointed out, “I agree with that and the noise ordinance is going to apply city-wide. So I think we need to think about implications of the changes, not necessarily just between the residences that are adjacent to the commercial area, the resort, but also island-wide. And there are a few levers I think that the Committee can and City Council can change and make adjustments to. It is easier to regulate amplified noise prohibited during certain hours of the day.”

Council Member Ward would like a carve out for the Sweetgrass Inn and the surrounding neighborhoods in the ordinance. He believes the proposed decibel level limits are too high. Administrator Fragoso reviewed decibel level limits in the proposed ordinance as well as those limits found in ordinances of Kiawah Island, Surfside Beach, and Mt. Pleasant. Council Member Hahn suggested grouping all the maximum decibel levels together in subsection C.

Council Member Anderson suggested moving forward with the ordinance and putting together a separate noise agreement for the Sweetgrass Inn, similar to the one created for Islander 71.

MOTION: Council Member Anderson made a motion to accept 75 decibels as maximum limit for commercial establishments. Council Member Hahn seconded the motion. A vote was taken as follows:

Ayes: Anderson, Hahn

Nays: Ward

The motion passed 2-1.

MOTION: Council Member Anderson made a motion to approve 85 decibels as the limit in the GC2 district during daytime hours. Council Member Hahn seconded the motion. The motion passed unanimously.

Discussion ensued about the hours of enforcement and whether they should be shifted for daytime and nighttime distinctions.

MOTION: Council Member Hahn made a motion to accept the enforcement hours as presented. Council Member Anderson seconded the motion. A vote was taken as follows:

Ayes: Anderson, Hahn

Nays: Ward

The motion passed 2-1.

Discussion ensued as to whether to include “amplified sound that is plainly audible from inside a residence or place of business of a receiving property and not originating from the receiving property” as a specific prohibition in the ordinance. Council Member Hahn asked how something like that could be enforced.

Chief Cornett responded, “I would basically make it more absolute. If I am inside and I can hear it, it’s a violation. That is easy for us to define and easy for us to enforce. You may have unintended circumstances from that as a result, but I think making it clear like that would take away the subjectiveness of it.”

Council Member Anderson said the age of a house and its windows could be a factor in how much noise is heard inside a home.

MOTION: Council Member Ward made a motion to approve the addition of “amplified sound that is plainly audible from inside a residence or place of business of a receiving property and not originating from the receiving property” as a specific prohibition in the ordinance. Council Member Hahn seconded the motion.

Council Member Hahn said, “This whole thing troubles me because we are getting right back in the same box we were in before, and if it’s just that you can hear it, then we basically put the decibel level at zero inside a house. I don’t know how to deal with that, and I don’t want to create a situation that is unmanageable for our police department or for our residents.”

Director Kerr suggested language needed to be added clarifying the sound is heard inside a home with all windows and doors closed.

VOTE: A vote was taken as follows:

Ayes: Ward
Nays: Anderson, Hahn

The motion failed 1-2.

MOTION: Council Member Hahn made a motion to remove paragraphs 8 and 11 from the draft ordinance. Council Member Anderson seconded the motion.

Administrator Fragoso said, “For the record, the Town of Mt. Pleasant and the Town of Kiawah and Charlotte ordinance that we reviewed all included decibel thresholds and also include this as a part of the definition, but I can have a conversation with our legal team to determine what their recommendation are. They included it in the draft that they presented to us, so I would suppose that there is a reason why.”

VOTE: A vote was taken as follows:

Ayes: Hahn, Anderson
Nays: Ward

The motion passed 2-1.

MOTION: Council Member Ward made a motion to recommend to City Council the hiring of a sound engineer and or noise ordinance consultant. Council Member Hahn seconded the motion. The motion passed unanimously.

The Committee then discussed the section of the ordinance dealing with the granting of exceptions to the decibel limit. Administrator Fragoso said, “I would like to confirm that the

application process to receive an exception to the decibel reading would only apply to commercial establishments...and just allow an exception to commercial establishments for you all to consider whether a specific event could be exempted during daytime hours. It would work very similar to the City-sponsored event.”

VOTE: A vote was taken with all in favor.

MOTION: Council Member Hahn made a motion to approve exceptions to the noise ordinance for commercial establishments only. Council Member Anderson seconded the motion.

Discussion ensued as to limiting the number of days per year a commercial establishment can ask for an exception to five days. Council Member Ward said he is not in favor of any exceptions.

VOTE: A vote was taken on the motion as follows:

Ayes: Hahn, Anderson

Nays: Ward

The motion passed 2-1.

MOTION: Council Member Anderson made a motion to include language that would give City Council discretion and flexibility to approve events past the five-day limit in a calendar year. Council Member Hahn seconded the motion. A vote was taken as follows:

Ayes: Anderson

Nays: Hahn, Ward

The motion failed.

Administrator Fragoso recommended that the City Council receive legal advice “on the legality and process by which the City Council could revoke or suspend a business license. Right now, the way that it’s drafted our current noise ordinance, it says repeated violations of any unlawful or conductive unlawful activity within an establishment could result in City Council revoking that business license. It is not specific to noise complaints, but any unlawful activity. And I think that Council needs to have a conversation about that.” The City Attorney will be at the City Council Workshop to discuss this matter.

B. Discussion of changes ordinance to prohibit e-bikes on the beach

Chief Cornett proposed an ordinance similar to one enforced in North Myrtle Beach. He said, “What I like about this is it clearly defines the bike. It clearly defines the ability to ride the bike during the off season but takes away the risk that most of our residents are concerned about during that peak season when the beach is full. That would be the benefit to this one. And it is much like the leash laws. It is very articulable on the date that the ordinance changes. So I like that it is enforceable.”

Administrator Fragoso agreed that this is a good compromise to protect public safety on the beach and still allow flexibility for bike users. If approved, the ordinance would prohibit the use of e-bikes on the beach from 10am-4pm between May 15 and Labor Day.

Council Member Hahn made a motion to change the time to 5pm. There being no second the motion failed.

5. **New Business**

MOTION: Council Member Ward made a motion to suspend the rules of order to reorder the agenda to hear the update about the acquisition of surveillance and safety equipment first. Council Member Hahn seconded the motion. The motion passed unanimously.

A. Update on the acquisition of surveillance and safety equipment approved by City Council on April 25, 2023

Chief Cornett said they are researching grants for the purchase of the surveillance tower and are getting quotes for the cameras. They are also making sure they place the cameras in the best locations.

He added, “The drone helipad, we have talked with them. They are actually already having a meeting today just to make sure that we understand the FAA guidelines on that and that they are all going to be met with this agreement should we move forward.”

The PO for the transport van has been submitted, and he anticipates picking it up Wednesday or Thursday.

Of the plans for May 6, Chief Cornett stated, “We met after this incident, the April 7th incident, as a county. We met and discussed how we can prepare for a summer where these types of events are probably going to happen on the different beach barrier islands. And we have got a plan with Charleston County Sheriff’s Office, and all of us that met to address that specifically for May 6th. We have State agencies, several I think, three or four different State agencies off the top of my head that will be here with us on May 6th. We have three local municipalities that will have additional personnel here, and then we will have, our intent is to have the command bus from Emergency Management, that same thing they brought down for managing the incident, it will be here, I believe. We will have EMS, I hope, on standby with us for May 6. But I can tell you I feel very confident that we have a large number of law enforcement offices that will be present here on May 6, and we will have the transport van and a booking station ready to go for anybody who decides to commit crimes on May 6.”

Chief Cornett agreed that these pop-up parties are happening on numerous beaches on both coasts of the country. He said, “There are a lot of things that we need our legislators to step up and support us and give us the tools and the ammunition to not only enforce laws, but to make sure that individuals who break the law are held accountable for breaking those laws. We have got a lot of work to do there, and something that I would certainly take any help from our Council in accomplishing those goals.”

B. Discussion of partnership with Law Enforcement Neighborhood Supper (LENS) to establish internship program in the Police Department

Administrator Fragoso reported that LENS has offered to pay an hourly stipend for an intern for the Police Department. The intern would be selected by the Police Department, but the stipend would be fully funded by LENS.

Both Council Member Ward and Council Member Hahn expressed concern about the LENS program's use of ATAX monies and questioned some of the donations made by LENS. Administrator Fragoso said that LENS is funded through private donations and not ATAX money. Committee members would like to see an accounting of the money they received from ATAX.

Administrator Fragoso reported that both LENS and the Isle of Palms Chamber of Commerce will be reporting to the ATAX Committee later this month on how their funds have been used. Council Member Ward would like to see a Form 990 from both organizations. Administrator Fragoso said the City's engagement with LENS will be paused until the full Council can discuss the matter.

C. Discussion of implementation of K9 unit in the police department

Chief Cornett said the Police Department will work on a K9 policy after they have received Council approval for the program and determined what kind of dog will match the City's needs. He believes a detection dog would be a good choice. He explained what makes up a K9 unit and the extra time and training needed to upkeep the program. He said such a program could be operational within six months. He noted that providing coverage for the K9 officer while he is in training presents a challenge, but he believes it can be overcome.

6. Miscellaneous Business

Council Member Hahn asked Chief Cornett to speak to recent resident concerns about police vehicles speeding down Palm Boulevard. Chief Cornett explained they were responding to a home alarm that had mistakenly been keyed in as a hostage situation, and they were responding accordingly.

The next meeting of the Public Safety Committee will be Tuesday, June 6, 2023 at 10:00am.

7. Adjournment

Council Member Hahn made a motion to adjourn, and Council Member Ward seconded the motion. The meeting was adjourned at 11:27am.

Respectfully submitted,

Nicole DeNeane
City Clerk

Submitted by Al Clouse 5/8/23

Public Safety Committee 5/2/23; Clouse Comments. Meeting # 12 since 4/13/2022
regarding NOISE ORDINANCE; NUISANCE.

After four (4) requests, we are still waiting on written assurances regarding enforcement of § 9-2-5 (b)(c). "Amplified Music" is "unlawful" and the core of this situation.

Lack of enforcement has evolved into a legal nuisance by the Sweetgrass Inn § 9-2-5 (i.)(1)(2).

Question: Where is the "sound study" from the resort? What is the reason we do not have a copy of the results. They were very open regarding providing us a copy. Now, I must say, very guarded. Is there something in said study they do not want us to see.

Echo Effect: Sunday around noon, I am working on my front porch. A number of you have been on my front porch. I suddenly hear amplified music, which more than meets the "plainly audible" definition (a.) (11.) in the current proposed noise ordinance. Clearly, in violation of the current noise ordinance § 9-2-5 (b)(c) regarding "amplified music".

The resort miserably attempts to manage the volume of their music in relation to wind speed, direction and distance from an unwelcome target. Failing to understand who their audience is. The above is the reason to require measurements ten (10) foot from the source of the noise.

Simple terms: We do not want to hear, be annoyed and be disturbed by the resort's amplified music, which is a clear violation of the current noise ordinance.....none! We do not want to hear their large event crowds; the "after party"; "fire side chat party"; "hot tub rubber ducky party" and all the hooping and hollering which accompanies said events.

How many noise complaints has the resort alleged against us? How many? How many?

Said resort's visible south property line is well defined. Said resort does not own the "fire lane". Last we looked, the resort does not own: **11 57th Ave; 14 57th Ave; 16 57th Ave; 4 57th Ave; 1 57th Ave; 2 57th Ave or GP3.** The resort does not have the right to negatively impact the livability of the above.

The resort's behavior is egregious! No enforcement has escalated into a legal nuisance § 9-2-5 (i.)(1)(2) which we request said section be reinstated into the proposed noise ordinance.

§ 9-2-5 (h.) Permits for additional amplification; appears to be crafted by the resorts legal counsel.

The smell test: In our opinion, someone is telling someone, to not enforce the noise ordinance as it relates to the Sweetgrass Inn. Why?

We desire a restrictive noise ordinance to improve livability for us, and our community; not be a product of a graph which charts decibels; analyzed by IOP Math.

We believe decibels are only a part of the solution. A complainant's overall livability would prevail over a decibel reading. The onus is on the perpetrator, not the complainants. We do not believe owning and operating a hotel has inherent rights to disturb the neighborhood. They should have thought about this before they built the damn thing.

Proposed Decibels for Residential and Commercial: 55 dBA's 10:00 AM to 10:00 PM
50 dBA's 10:00 PM to 10:00 AM

ORDINANCE 2023-08

AN ORDINANCE AMENDING TITLE 9, OFFENSES, CHAPTER 2, OFFENSES AGAINST PUBLIC PEACE, TO REPEAL AND REPLACE SECTION 9-2-5, NOISE, OF THE CITY OF ISLE OF PALMS CODE OF ORDINANCES.

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL MEMBERS OF THE CITY OF ISLE OF PALMS, SOUTH CAROLINA, IN CITY COUNCIL ASSEMBLED:

SECTION 1. That Section 9-2-5, “Noise,” is hereby deleted in its entirety and replaced with the following new Section 9-2-5, “Noise,” to state as follows:

“Sec. 9-2-5. Noise.

- a. *Definitions.* In addition to the common meaning of words, the following definitions shall be used in interpreting this section.
 1. *“A” weighted scale.* The sounds pressure level, in decibels, as measured with the sound level meter using the “A” weighted network (scale). The standard unit notation is “dB(A).”
 2. *Amplified sound.* Sound augmented by any electronic means which increases the sound level or volume.
 3. *ANSI.* American National Standards Institute or its successor bodies.
 4. *Complainant.* Any owner, lessee, manager or person with a legal interest in real property within the corporate limits of the City who reports to the police department being disturbed by sound heard at their residence or place of business and not originating therefrom.
 5. *Construction.* On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility or addition thereto, including all related activities, including, but not restricted to, clearing of land, earth moving, blasting and landscaping.
 6. *dB(A).* Sound level in decibels, determined by the “A” weighted scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI, S 1.4-1971, or its successor publication(s).

7. *Decibel (dB)*. a unit of level which denotes the ratio between two quantities which are proportional to power; the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base ten of this ratio.
8. *Excessive noise*. Any unnecessary or unusually loud sound or ~~any sound~~~~noise which that~~ disrupts the peace and quiet of any neighborhood and which does annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensibilities.
9. *Emergency work*. Work made necessary to restore property to a safe condition, work required to protect, provide, or prevent persons or property from danger or potential danger, or work by a private or public utility when restoring utility service.
10. *Person*. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group or agency.
11. *Receiving property*. Any residence or place of business on which uninvited noise is plainly audible.
12. *Sound level*. In decibels, a weighted sound pressure level determined by the use of a sound level meter whose characteristics and frequency weightings are specified in ANSI standards.
13. *Sound level meter*. is an instrument including a microphone, an amplifier, an output meter, and "A" frequency weighting network for the measurement of sound levels that conforms to American National Standards Institute (ANSI) Standard S 1.4-1971 "Specifications for Sound Level Meters," or the latest revision.
14. *Sound pressure level*. In decibels, twenty (20) times the logarithm to base 10 of the ratio of the magnitude of a

particular sound pressure to the standard reference pressure.
The standard reference pressure is 0.0002 microbars.

15. *Sound source.* Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

16. *Uninvited noise.* Noise not originating from the receiving property.

b. *Noise measurement.* Noise measurements shall be employed by an officer of the police department in the following manner:

1. Noise measurements shall be made using a sound level meter taken from anywhere within the boundary line of the complainant's property. If measurement is not possible from the complainant's property, noise measurements may be taken from a similar distance to the complainant's property at the nearest boundary line of the public right-of-way.

2. No individual other than the sound meter operator(s) shall be within ten (10) feet of the sound level meter during the sample period.

3. Sound measurements shall be conducted at that time of day or night when the suspect noise is emitting sound.

4. The sound level meter shall be employed in accordance with the manufacturer's instructions.

5. It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurements.

c. *Maximum decibel levels.* Unless otherwise specifically indicated, it shall be unlawful for any person to cause or allow the emission of sound from any source or sources which, when measured pursuant to paragraph (b) above, to exceed:

1. 60dB(A) during daytime hours (10:00 a.m. to 10:00 p.m. Sunday through Thursday and 10:00 a.m. to 11:00 p.m. Friday and Saturday) for residential and rental properties,

2. 75dB(A) during daytime hours (10:00 a.m. to 10:00 p.m. Sunday through Thursday and 10:00 a.m. to 11:00 p.m. Friday and Saturday) for commercial establishments; and

3. The maximum decibel level shall not exceed 85 dB(A) during daytime hours (10:00 a.m. to 10:00 p.m. Sunday through Thursday and 10:00 a.m. to 11:00 p.m. Friday and Saturday) in the GC-2 general commercial zoning district.
4. 55dB(A) during evening hours (10:00 p.m. to 10:00 a.m. Sunday through Thursday and 11:00 p.m. to 10:00 a.m. Friday and Saturday) for residential properties, rental properties, and commercial establishments.

The sound meter operator may cease taking readings as soon as the readings ~~already taken~~ show a violation of this ordinance (1) for a period of thirty (30) seconds; (2) or more than six (6) readings exceeding the maximum decibels; over a two (2) minute period.

d. *Excessive noise prohibited.*

1. Section (d) of this Ordinance is to be utilized when the noise or sound cannot be measured by the sound meter, including but not limited to, bass frequencies or other low frequency sounds.

1.2. It shall be unlawful for any person to intentionally produce, intentionally cause to be produced, or intentionally participate in the producing any excessive noise within the municipal limits.

2.3. In determining whether a sound is excessive noise for purposes of this section, factors ~~that may to~~ be considered include, but are not limited to:

- a. The volume of the noise;
- b. The intensity of the noise;
- ~~e. Whether the nature of the noise is usual or unusual;~~
- ~~d.e.~~ Whether the origin of the noise is natural or unnatural;
- ~~e. The volume and intensity of the background noise, if any;~~
- ~~f.d.~~ The proximity of the noise to residential sleeping facilities;
- ~~g.e.~~ The nature and zoning of the area within which the noise emanates;
- ~~h.f.~~ The time of the day or night the noise occurs;
- ~~i.g.~~ The duration of the noise; and
- ~~j.h.~~ Whether the noise is recurrent, intermittent, or constant.

The determination of whether a noise or sound is excessive noise shall be made without considering the content of any message conveyed by the noise or sound.

- e. *Specific prohibitions.* The following acts are specifically prohibited:
1. Pets. It shall be unlawful to keep, stable, harbor or maintain any animal or bird which disturbs the comfort or repose of any reasonable person of ordinary sensibilities in the vicinity by making continually or frequently loud noise.
 2. Mufflers. Sound emitting from a motor vehicle's muffler in violation of S.C. Code Ann. § 56-5-5020.
 3. Loudspeakers, etc. It shall be unlawful to use, maintain or operate loudspeakers, sound trucks, amplifiers or other mechanical or electrical devices for increasing the volume of sound, upon the street, sidewalks, parks or other outdoor public places owned or under the control of the City, except as permitted under paragraph (g) of this section; provided, however, that any City-owned property subject to a commercial lease and a noise control agreement or permit is exempt from the requirements of this paragraph.
 4. Hawking or peddling. It shall be unlawful for any person to make any noise on a public street or in such proximity thereto as to be distinctly and loudly audible on such street by any kind of crying, calling, or shouting or by means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument, or other device for the purpose of attracting attention or of inviting patronage of any persons to any business whatsoever. It is the express intention of this paragraph to prohibit hawking, peddling, soliciting or using other loud noises to attract attention to a business and not to prohibit the spill-over noise emanating from a lawfully operating business.
- f. *No employee liability.* No employee of any place of business acting within the scope of his or her employment shall be liable for a violation of this section, unless an employee is also an owner of the business.
- g. *Exceptions.* This section shall not apply to the following sources:
1. Any City-hosted, City-sponsored or City-sanctioned special events.
 2. Excavations or repairs of bridges, streets or highways, by or on behalf of the City, county or state during the night, when the public welfare and convenience renders it impossible to

perform the work during the day; nor shall the same apply to work performed by public utility companies under like conditions and circumstances, or when there is urgent necessity therefore.

3. Construction activities performed by or on behalf of a governmental agency, including, but not limited to, construction, repair or maintenance of public buildings and drainage facilities, dredging activities, beach renourishment activities, and other public projects.
 4. It shall be unlawful for any contractor, subcontractor, landscaper, supplier or vendor to operate or use any piledrivers, steam shovels, pneumatic hammers, derricks, steam or electric hoists, or other apparatus, tools or equipment, the use of which is attended with loud or disturbing noises, at any time other than between the hours of 7:30 a.m. and 6:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 4:00 p.m. on Saturday. No such use shall be permitted on Sundays, or on the following legal holidays: New Year's Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; and Christmas Day. Approval for such use may be granted by the City for performing emergency repairs outside of the hours specified. Nothing in this paragraph shall be construed to prohibit an owner or member of an owner's immediate family from performing maintenance, repairs, or other work on their own property at any time, provided that such work is otherwise in compliance with City ordinances.
 5. A commercial property or business owner may apply to City Council for an exception to this ordinance, and City Council may issue a permit that modifies the maximum decibel levels as it deems reasonable in light of the circumstances to support public good, infrastructure, and resources of the City, including the time and resources of law enforcement and code enforcement.
- h. *Violations.* Any person who violates any provision of this section shall be fined not more than \$500 or imprisoned for not more than 30 days. However, no penalty shall exceed the penalty provided by state law for similar offenses. A separate offense shall be deemed committed on each day that a violation occurs or continues.”
- i. In addition to the penalties set forth in subsection (h) of this section, five (5) repeated violations of this section by a person who owns, manages, operates, is a business agent of, or otherwise controls a

business establishment may result in the suspension or revocation of any business license issued to the premises on which the violations occurred in accordance with section 7-1-15. For purposes of this Ordinance, a “violation” occurs when (1) a citation is issued for violating this Ordinance and said citation is paid; or (2) if a citation is issued, contested, and adjudicated by the Municipal Court resulting in a finding that this Ordinance was violated.

SECTION 2. That should any part of this Ordinance be held invalid by a Court of competent jurisdiction, the remaining parts shall be severable therefrom and shall continue to be in full force and effect.

SECTION 3. That all ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affect this Ordinance.

SECTION 4. That this Ordinance take effect and be in full force immediately. This Ordinance shall be revisited by City Council to consider any possible changes or amendments after it has been in place for six (6) months.

PASSED AND APPROVED BY THE CITY COUNCIL FOR THE CITY OF ISLE OF PALMS, ON THE _____ DAY OF _____, 2023.

Phillip Pounds, Mayor

(Seal)

Attest:

Nicole DeNeane, City Clerk

First Reading: _____

Public Hearing: _____

Second Reading: _____

Ratification: _____

ORDINANCE 2023-02

AN ORDINANCE AMENDING TITLE 7, LICENSING AND REGULATION, CHAPTER 3, BEACH AND MARINE RECREATION REGULATIONS, ARTICLE A GENERAL PROVISIONS AND TITLE 8 MOTOR VEHICLES AND TRAFFIC, CHAPTER 1 TRAFFIC REGULATIONS, ARTICLE B OPERATION OF A VEHICLE, OF THE CITY OF ISLE OF PALMS CODE OF ORDINANCES TO PROVIDE REGULATIONS FOR ELECTRIC ASSIST BYCICLES AND OTHER MODES OF TRANSPORTATION PROPELLED BY A MOTOR AND TO PROVIDE FOR CIVIL AND OTHER PENALTIES.

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL MEMBERS OF THE CITY OF ISLE OF PALMS, SOUTH CAROLINA, IN CITY COUNCIL ASSEMBLED:

SECTION 1. That Title 7, Chapter 3, Article A, “General Provisions,” Section 7-3-2 “Definitions” is hereby amended by adding a new definition (5) to state as follows:

“Sec. 7-3-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Beach means that area lying between the low-water mark of the Atlantic Ocean and the easternmost property line of the property owned by private individuals or corporations, lying closest in proximity to the Atlantic Ocean, and shall extend out from the mean low-water mark for a distance of three hundred (300) yards into the water. The term "beach" shall also include that area from the mean low-water mark for a distance of fifty (50) yards into the water from the mouth of Breach Inlet to the seaward side of Breach Inlet Bridge and from the mouth to the midpoint of Dewees Inlet.

(2) Boat means any watercraft, including sea planes when not airborne, sailboats, jet skis, aqua-trikes or similar types of watercraft.

(3) Designated areas means any portion of the beach designated by the City Council for a special use, such as swimming, surfing, beaching of boats, etc.

(4) Motorboat means any boat operated through use of a motor or motorized propulsion, including jet skis, but excluding sailboats that use motors as an auxiliary means of propulsion.

(5)"Electric-assist bicycles" and "bicycles with helper motors" means low-speed electrically assisted bicycles with two or three wheels, each having

fully operable pedals and an electric motor of no more than 750 watts, or one horsepower, and a top motor-powered speed of less than twenty miles an hour when operated by a rider weighing one hundred seventy pounds on a paved level surface, that meet the requirements of the Federal Consumer Product Code provided in 16 C.F.R., Part 1512, and that operate in a manner such that the electric motor disengages or ceases to function when their brakes are applied or the rider stops pedaling.

SECTION 2. That Title 7, Chapter 3, Article A, “General Provisions,” is hereby amended by deleting Section 7-3-3, “Vehicles restricted,” in its entirety and replacing it with a new Section 7-3-3 to state as follows:

“Sec. 7-3-3. Vehicles restricted.

(a) No vehicles, to include electric-assist bicycles and any other mode of transportation that is propelled by a motor or any other battery-assisted devices, including but not limited to, battery-assisted motorized skateboards or battery-assisted motorized mono-wheel skateboards, are allowed on the beach between the hours of 10:00 a.m. through 5:00 p.m. from May 15 through Labor Day, except for bicycles and vehicles authorized pursuant to section 5-4-15(C).

(b) It is unlawful to operate, park, stop, or stand a motor vehicle upon the beach except as otherwise provided in the City Code.”

(c) It is unlawful for any person to operate bicycles, tricycles or similar human, gas, or electric powered wheeled vehicles, of any type, on any dune or in any dune area located within the city limits of Isle of Palms.

SECTION 3. That Title 8, Chapter 1, Article B. “Operation of a Vehicle” is hereby amended by deleting Section 8-1-19 “Vehicular operation on the beach or beach accesses”, in its entirety and replacing it with a new Section 8-1-19 to state as follows:

“Sec. 8-1-19. Vehicular operation on the beach or beach accesses.

No person shall operate, or allow or cause to be operated, a vehicle, to include electric-assist bicycles and any other mode of transportation that is propelled by a motor or any other battery-assisted devices, including but not limited to, battery-assisted motorized skateboards or battery-assisted motorized mono-wheel skateboards, on the beach or beach accesses except as provided in section 5-4-15(C)(5)(a) or section 8-2-17.

SECTION 4. That should any part of this Ordinance be held invalid by a Court of competent jurisdiction, the remaining parts shall be severable therefrom and shall continue to be in full force and effect.

SECTION 5. That all ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affect this Ordinance.

SECTION 6. That this Ordinance take effect and be in full force immediately.

PASSED AND APPROVED BY THE CITY COUNCIL FOR THE CITY OF ISLE OF PALMS, ON THE _____ DAY OF _____, 2023.

Phillip Pounds, Mayor

(Seal)

Attest:

Nicole DeNeane, City Clerk

First Reading:

Public Hearing:

Second Reading:

Ratification: