

ORDINANCE 2024-01

AN ORDINANCE TO REPEAL AND REPLACE SECTION 9-2-5, NOISE, OF THE CITY OF ISLE OF PALMS CODE OF ORDINANCE.

WHEREAS, excessive sound is a serious hazard to public health, welfare, safety and the quality of life; and,

WHEREAS, a substantial body of science and technology exists by which excessive sound may be substantially abated; and,

WHEREAS, the citizens have a right to, and should be ensured of, an environment free of excessive sound; and,

WHEREAS, the Isle of Palms City Council has the authority to repeal and replace its Code of Ordinances when deems to be in the best interest of the citizens of the City, and now desires to do so with respect to the subject of excessive noise by enacting the revisions displayed below.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Councilmembers of the City of Isle of Palms, Section 9-2-5 of the Isle of Palms Code of Ordinances titled Noise is hereby repealed in its entirety and replaced to specifically read as follows: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 correction factor applied to a sound pressure measurement as defined in ANSI/IEC documentation.
 2. *Amplified sound.* the use of any radio, TV, amplified musical instrument (including but not limited to brass or drum instruments), or other amplification device or apparatus making or reproducing music, voice or other sounds.
 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. *Decibel (dB).* A logarithmic (dimensionless) measure used in describing the amplitude of sound.

6. *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 of reasonable persons of ordinary sensibilities.
 7. *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.
 8. *Equivalent Continuous Sound Level.* The constant sound level that has the same energy as the actual time-varying sound level over the measurement period as defined in ANSI/IEC documents for sound level meters. Also referred to as time-averaged sound level and abbreviated as LAeq, LAeq, Lavg.
 9. *IEC.* The International Electrotechnical Commission.
 10. *Person.* Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group or agency.
 11. *Plainly Audible.* Any sound that can be detected by a person using his or her unaided hearing faculties, including, but not limited to, the understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.
 12. *Receiving property.* Any residence or place of business on which uninvited noise is plainly audible.
 13. *Raucous sound.* Any sound created by yelling, screaming, the use of horns, whistles or similar devices, or the banging of objects with the primary purpose of creating noise.
 14. *Sound level.* See Equivalent Continuous Sound Level.
 15. *Sound level meter.* An instrument that measures time-averaged, frequency-weighted sound levels and is certified as meeting the type -2 requirements of ANSI/ASA S1.4-2014/Part 1 / IEC 61672-1:2013. Commonly referred to as an integrating-averaging or integrating sound level meter.
 16. *Sound source.* Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.
 17. *Uninvited noise.* Noise not originating from the receiving property.
- b. *Sound Measurement.* Sound measurements shall be employed by the police department in the following manner:

1. Sound 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, sound measurements may be taken 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 to measure the Equivalent Continuous Sound Level using A-weighted scale and slow response time.
5. Sound measurements shall be taken over a period of 30 seconds or greater. If the measurement exceeds the threshold by 5dBA or more after 15 seconds, testing may be stopped, and the sound deemed excessive noise.
6. 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~~ speech or music ~~any any source or sources~~ which, when measured pursuant to paragraph (b) above, to exceed:

1. In the SR-1, SR-2 and SR-3 zoning districts:

~~65~~ 50-55 dB(A) during daytime hours (7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday), ~~for residential and rental properties,~~

~~+~~ 50-55 dB (A) during nighttime hours (10:00 p.m. to 7:00 a.m. Sunday through Thursday and 11:00 p.m. to 7:00 a.m. Friday and Saturday),

2. In the GC-1, GC-3, LC and PDD zoning districts:

~~70~~ 50-55 dB(A) during daytime hours (7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday),

~~2-~~ 50-55 dB (A) during nighttime hours (10:00 p.m. to 7:00 a.m. Sunday through Thursday and 11:00 p.m. to 7:00 a.m. Friday and Saturday), ~~for commercial establishments; and~~

3. In the GC-2 general commercial zoning district, excessive noise is prohibited during daytime hours (7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday). In determining whether a sound

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~~constitutes excessive noise, section d(2) should be referenced.) During nighttime hours, the maximum decibel level shall be 5055 dB (A) (10:00 p.m. to 7:00 a.m. Sunday through Thursday and 11:00 p.m. to 7:00 a.m. Friday and Saturday). In determining whether a sound constitutes excessive noise, section d(2) should be referenced.~~

~~i. 50dB(A) during nighttime hours (10:00 p.m. to 7:00 a.m. Sunday through Thursday and 11:00 p.m. to 7:00 a.m. Friday and Saturday) for residential properties, rental properties, and commercial establishments.~~

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d. *Excessive noise prohibited.*

1. 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. In determining whether a sound is excessive noise for purposes of this section, factors that may be considered include, but are not limited to:
 - a. The volume of the noise;
 - b. The intensity of the noise;
 - c. Whether the nature of the noise is usual or unusual;
 - d. Whether the origin of the noise is natural or unnatural;
 - e. The volume and intensity of the background noise, if any;
 - f. The proximity of the noise to residential sleeping facilities;
 - g. The nature and zoning of the area within which the noise emanates;
 - h. The time of the day or night the noise occurs;
 - i. The duration of the noise; and
 - j. 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 in a manner as to be plainly audible at a distance of 50 feet 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.

4.3. 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.

4. Raucous or Amplified Sound Nighttime. It shall be unlawful for any person to create or cause to create any raucous sound or amplified sound in such a manner that during the hours from 10:00 p.m. to 10:00 a.m. Sunday through Thursday, or between the hours of 11:00 p.m. and 10:00 a.m. Friday and Saturday that is plainly audible on any adjacent property.

5. Radios, phonographs, televisions, etc. The use, operation or playing of or permitting the use, operation or playing of any radio, hi-fi, stereo system, phonograph, piccolo, television or any musical instrument in such manner as to exceed the maximum decibel levels listed in Section 9-2-5 (c).
5.

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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.
When approved by City Council, the City Administrator or her/his designated representative may issue special event permits for events such as (but not limited to) concerts, festivals, parades, and athletic events to permit reasonable and limited exceptions to the provisions of this section.

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2. Public interest events. Notwithstanding any other provision of this section, on application to, and approval by, the Chief of Police, written permits may be granted to broadcast programs of music, speeches, general entertainment, or announcements as a part of and incident to community celebrations of national, State, or City occasions, public festivals, or other public interest events, provided that traffic on the streets is controlled. In determining whether or not to issue such a permit, the Chief of Police shall weigh the public interests in the

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event against the noise and disturbance anticipated to be created by the event and must consider the intensity and duration of the noise and the area that will likely be affected. The language or content emanating from the event shall not be considered.

3. Sound emitting from a motor vehicle's muffler in compliance of S.C. Code Ann. § 56-5-5020.

2.4 Any city vehicle engaged in city business.

3.5 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.

4.6 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.

5.7 It shall be lawful 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, 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.

6.8 It shall be lawful for an owner or member of an owner's immediate family to perform maintenance, repairs, or other work on their own property between the hours of 7:30 a.m. and 10:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 10:00 p.m. on Saturday and Sunday, provided that such work is otherwise in compliance with City ordinances.

7.9 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

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First Reading – ~~March 26, 2024~~

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.”

SECTION 2. 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 immediately upon approval by Council.

PASSED AND APPROVED BY THE CITY COUNCIL FOR THE ISLE OF PALMS ON THE _____ DAY OF _____, 2024.

Phillip Pounds, Mayor

(Seal)

Attest: _____
Nicole DeNeane, City Clerk

First Reading: _____
Public Hearing: _____
Second Reading: _____
Ratification: _____