

## ORDINANCE NO. 2020-2

**AN ORDINANCE OF THE CITY OF JAMAICA BEACH, TEXAS, AMENDING ORDINANCE 76-12 PROHIBITING UNREASONABLY LOUD, DISTURBING OR UNNECESSARY NOISE, OR NOISE DETRIMENTAL TO HEALTH, AS AMENDED, TO PROVIDE DEFINITIONS, NEW REGULATIONS AND STANDARDS RELATING TO NOISE NUISANCES; TO PROVIDE VIOLATIONS AND PENALTIES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR THE REPEAL OF ALL OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Jamaica Beach, Texas is a Type A General-Law Municipality and pursuant to Section 217.002 of the Texas Local Government Code the City may define and prohibit any nuisance within the city limits; and,

**WHEREAS**, the City Council of the City of Jamaica Beach, Texas deems it in the public's best interest to amend Ordinance 76-12 by providing definitions, new regulations and standards related to noise nuisances, and to establish factors for unreasonably loud and disturbing noise in order to protect the health, safety, welfare, and good order of the City and its inhabitants.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMAICA BEACH, TEXAS:**

**SECTION 1. DEFINITIONS:** As used in this Ordinance the following terms shall have the meanings respectively ascribed to them in this section:

- A. *Daytime Hours* – shall mean the hours from 8:00 a.m. to 10:00 p.m. on the same day.
- B. *dB(A)* – shall mean the intensity of a sound expressed in decibels.
- C. *Emergency* – shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.
- D. *Emergency Work* – shall mean any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency; restoring property to a safe condition following a fire, accident, or natural disaster; protecting persons or property from exposure to danger; or restoring public utilities.
- E. *Nighttime Hours* – shall mean the hours between 10:01 p.m. on one day to 7:59 a.m. on the following day.
- F. *Nonresidential Property* – shall mean any real property that is not included in the definition of residential property as defined in this section.
- G. *Property Line* – shall mean, with respect to single occupancy properties, the line along the ground surface and its vertical extension that separates the real property owned, leased, or occupied by one person from that owned, leased, or occupied by another person. With respect to shared occupancy properties the term shall mean the imaginary

line that represents the legal limits of occupancy of any person who owns, leases, or otherwise occupies an apartment, condominium, office, or any type of occupancy from that of other occupants.

- H. *Residential Property* – shall mean any real property developed and used for human habitation that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.
- I. *Sound Nuisance* – shall mean any sound that either exceeds that maximum permitted sound levels specified in section (6) of this Ordinance, or for the purposes of sections (3), (4), and (5) of this Ordinance, otherwise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others.

## **SECTION 2. GENERAL PROHIBITIONS:**

- A. After notice or warning by a licensed peace officer, it shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise that annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others. In determining whether a noise is loud, unnecessary, or unusual, the following factors must be considered:
  - 1. time of day;
  - 2. proximity to residential structures;
  - 3. whether the noise is recurrent, intermittent, or constant;
  - 4. the volume and intensity;
  - 5. whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; and
  - 6. whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.
- B. After notice or warning by a licensed peace officer, it shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound that either exceeds the maximum permitted sound levels specified in section (6) of this Ordinance, for purposes of sections (3), (4), and (5) of this Ordinance, otherwise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others.
- C. The acts enumerated in the following sections of this Ordinance, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this Ordinance, but such enumeration shall not be deemed to be exclusive.

## **SECTION 3. NOISY VEHICLES GENERALLY:**

The use of any motor vehicle so out of repair or modified, or so noisy that it creates any loud and unreasonable grating, grinding, rattling, or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

#### **SECTION 4. AMPLIFIED SOUND:**

After notice or warning by a licensed peace officer, it shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of an sound using any sound amplifier that is part or connected to any speaker system, radio, stereo receiver, compact disc player, cassette tape player, microphone, or any other sound source, when operated: (1) in such a manner to disturb the peace, quiet, and comfort or the neighboring inhabitants, or; (2) at any time with louder volume than necessary for convenient hearing for persons who are in a vehicle or within the property or premises in which such sound amplifier is operated and who are voluntary listeners thereto. The operation of such sound amplifier in such a manner is to be plainly audible at a distance of (50) feet from a vehicle shall be presumed to be a violation of this section. The operation of any such sound amplifier in such a manner that bass sounds are plainly audible at a distance of (50) feet from a property line of a property or premise in which the amplification is located shall presumed to be a violation of this section.

#### **SECTION 5. NOISY ANIMALS AND BIRDS:**

After notice or warning by a licensed peace officer or animal control officer, the keeping of any animal that causes or makes frequent or long and continued sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits, and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this Ordinance, regardless of whether the sound so created by said animal or bird is within permissible levels specified in section (6) of this Ordinance.

#### **SECTION 6. MAXIMUM PERMISSIBLE SOUND LEVELS:**

A. In addition to the violations established by the preceding sections of this Ordinance, no person shall conduct, permit, or allow any activity or sound source to produce a sound discernible at any location beyond the property lines of the property on which the sound is being generated that when measured as provided in section (7) of this Ordinance exceeds the applicable dB(A) level listed below for the property on which the sound is received:

1. Residential Property:
  - a. 75 dB(A) during daytime hours.
  - b. 70 dB(A) during nighttime hours.
2. Nonresidential Property: 75 dB(A) at all times.

Any sound that exceeds the dB(A) levels set forth in this section under the conditions and measurement criteria set forth in this Ordinance is a violation of this Ordinance. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section shall be prima facie evidence of a sound nuisance that unreasonably disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in violation of this Ordinance.

B. Regardless of the measurable dB(A) level established above and measured as provided in sections (7), below, the generator of any sound of such a nature as to cause persons

occupying or using any property other than the property upon which the sound is being generated to be aware of sympathetic vibrations or resonance caused by the sound shall also be prima facie evidence of a sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this Ordinance.

**SECTION 7. METHOD OF SOUND MEASUREMENT:**

Whenever portions of this Ordinance prohibit sound over a certain decibel limit, measurement shall be made with a Type 1 or Type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American National Standards Institute (A.N.S.I.S1.4-1984/85A). Measurements recorded shall be taken so as to provide representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measure sound. A windscreen for the microphone shall be used. Measurement of sound generated shall be taken from the property line of the nonresidential property or residential property where the sound is received to the source of the sound.

**SECTION 8.** Any person, firm, or corporation who violates any provision of this Ordinance is guilty of a misdemeanor and upon conviction is punishable by a fine of no less than one hundred dollars (\$100 USD) and no more than five hundred dollars (\$500 USD) plus court costs.

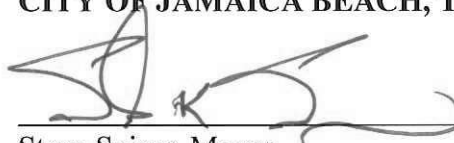
**SECTION 9.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of the Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 10.** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**SECTION 11.** This Ordinance shall be and become effective from and after its adoption.

**APPROVED AND ADOPTED** this the 16<sup>th</sup> day of March, 2020.

**CITY OF JAMAICA BEACH, TEXAS:**

  
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Steve Spicer, Mayor

**ATTEST:**

  
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Lupe Rushing, City Secretary