

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Police

AGENDA DATE: 12/03/2024

PUBLIC HEARING DATE: 12/17/2024

CONTACT PERSON NAME AND PHONE NUMBER: Steve Alvarado, (915) 212-6026

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: 2 - Set the Standard for a S;

SUBGOAL: 2.8 - Implement effective co;

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

An Ordinance amending Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.010 (Definitions) to add definitions for low ambient reading and stadium event; Section 9.40.020

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

These are amendments to the noise ordinance including the recommendations by city staff from the Responsible Hospitality Institute (RHI) report presented to city council in May, 2024. These amendments were developed from the RHI report and cross-functional teams to address quality of

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes, City staff presented recommendations to the city council on February 26, 2019, at that time

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

No impact to the current budget as these enforcement actions are being addressed by both EPPD and Code Enforcement.

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.40 (NOISE), SECTION 9.40.010 (DEFINITIONS) TO ADD DEFINITIONS FOR LOW AMBIENT READING AND STADIUM EVENT; SECTION 9.40.020 (APPLICABILITY) TO CLARIFY THE REASONABLE SENSIBILITIES STANDARD AND EXCEPTION FOR EVENTS AT VENUES WITH MORE THAN 2,500 SEATING CAPACITY; SECTION 9.40.030 (SOUND LEVEL VIOLATIONS) TO CLARIFY THE MAXIMUM SOUND LEVEL FOR “C” READINGS AND THE LOCATION OF SOUND READINGS; SECTION 9.40.040 (VIBRATION) TO CLARIFY THAT VIBRATION VIOLATIONS CAN OCCUR ON ANY AFFECTED PROPERTY; SECTION 9.40.070 (PENALTIES) TO CLARIFY THAT THE CITY MAY SEEK CIVIL ACTION AND PENALTIES OF UP TO \$1,000 PER DAY; SECTION 9.40.080 (ENFORCEMENT) TO CLARIFY WHICH CITY DEPARTMENTS HAVE AUTHORITY TO ENFORCE; THE PENALTY AS PROVIDED IN SECTION 9.40.070 OF THE CITY CODE.

WHEREAS, the El Paso City Council passed and approved Ordinance No. 018908 on February 26, 2019, amending Chapter 9.40 of the El Paso City Code relating to noise nuisance; and

WHEREAS, on June 22, 2022, the El Paso City Council directed the hiring of a third party consultant to further review issues including noise nuisance; and

WHEREAS, from August 2023 to May 2024, twelve city departments including the El Paso Police Department, Code Enforcement, and Planning and Inspections participated in approximately 29 meetings with over 100 stakeholders; and

WHEREAS, on May 21, 2024, the third party consultant, Responsible Hospitality Institute, presented its report and recommendations to City Council; and

WHEREAS, the RHI report recommends amendments to Chapter 9.40 of the El Paso City Code; and

WHEREAS, on September 24, 2024, the El Paso City Council heard updates on the Sociable City Assessment Action Plan, including recommendations to amend Chapter 9.40 of the El Paso City Code; and

WHEREAS, the El Paso City Council wishes to further amend Chapter 9.40 of the El Paso City Code, to clarify the requirements of the Chapter.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS THAT:

Section 1. That Title 9 (Health and Safety), Chapter 9.40 (noise), Section 9.40.010 (Definition), subsection 19. “Stadium event” be amended and subsection 20 “Local ambient reading” be added as follows:

19. “Stadium Event” means an event occurring at an outdoor stadium or amphitheater that is not related to a public or private school activity, including but not limited to

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concerts, professional sports competitions, and entertainment events.

20. "Local ambient reading" means the lowest sound level repeating itself during a one-minute period as measured with a sound level meter, using slow response and "C" weighting. The minimum sound level shall be determined with the music or entertainment noise source at issue silent, and in the same location as the measurement of the noise level of the source or sources at issue.

Section 2. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.020 (Applicability), Subsection A.5. and B.5. shall be amended as follows:

A. This chapter shall not apply to the following:

5. Sound generated at a scheduled stadium event or an event at a venue with more than 2,500 seating capacity;

B. Unless otherwise regulated by a current, valid permit issued by the permit official or specifically mentioned in Section 9.40.020A. specific noises that can constitute a noise nuisance include, but are not limited to the following:

5. Exterior loudspeakers. Operating or permitting to be operated any loudspeaker or sound-amplifying equipment in a fixed or movable position in or upon any street, alley, sidewalk, park, place, or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.

Section 3. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.030 (Sound level violations), Subsections A. and C. shall be amended and Subsections B. and E. added as follows:

- A. It shall be unlawful for any person to conduct, permit, allow, or produce a sound that is discernable beyond the property lines of the property on which the sound is being produced that, when measured with a sound level meter using the standardized frequency weighting as specified by the American National Standards Institute, exceeds seventy dB(A) between the hours of 10:00 p.m. and 7:00 a.m. daily for the property on which the sound is produced.
- B. It shall be unlawful for any person to conduct, permit, allow, or produce a sound that is discernable beyond the property lines of the property on which the sound is being produced that, when measured with a sound level meter using the standardized weight frequency weighting as specified by the American National Standards Institute, exceeds more than eight dB(C) above the local ambient reading at any point outside of the property line.
- C. The dB(A) and dB(C) levels set forth in this section apply to a property where the sound is being produced. Any sound that when measured at the property where the sound is being produced exceeds the dB(A) and dB(C) levels set forth in this section is a violation of this chapter.
- D. Procedure. Sound levels regulated in this chapter shall be measured in accordance with a city-adopted policy.

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- E. Reading Location(s). The location or locations for measuring noise levels shall be at a location or locations as near as possible to a property line of the property producing the noise.

Section 4. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.040 (Vibration), shall be amended as follows:

It shall be unlawful for any person to create, maintain or cause any ground or airborne vibration which is perceptible without instruments by a person at any point on any affected property, in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort and repose of a person of reasonable sensibilities, unless such activity is otherwise regulated under other applicable law.

Section 5. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.070 (Penalties), Subsection 9.40.070.C. shall be amended as follows:

- C. In addition to proceeding under authority of subsections A. and B. of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes, including a civil action in accordance with Chapter 54 of the Texas Local Government Code to recover a civil penalty not to exceed \$1,000 for each day or portion of a day during which the violation is committed, continued, or permitted, or other ordinances against a person that remains in violation of this chapter.

Section 6. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.080 (Enforcement), shall be amended as follows:

The director of the planning and inspections department, the director of code enforcement, or the police chief or their designated representatives, shall be responsible for the enforcement of this chapter.

Section 7. Except as herein amended, Title 9 (Health and Safety), Chapter 9.40 (Noise) of the El Paso City Code shall remain in full force and effect.

ADOPTED this ___ day of _____, 2024.

CITY OF EL PASO

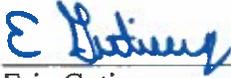
Oscar Leeser
Mayor

ORDINANCE NO. _____

ATTEST:

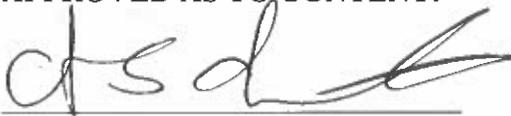
Laura D. Prine

APPROVED AS FORM:



Eric Gutierrez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Arthur S. Alvarado, Director
El Paso Police Department
Code Enforcement

ORDINANCE NO. _____

HQ#: 24-3943-PD | TRAN-595934 | TITLE 9.40 – Amendment – Noise | EG

ORDINANCE NO. _____

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concerts, professional sports competitions, and entertainment events.

20. "Local ambient reading" means the lowest sound level repeating itself during a one-minute period as measured with a sound level meter, using slow response and "C" weighting. The minimum sound level shall be determined with the music or entertainment noise source at issue silent, and in the same location as the measurement of the noise level of the source or sources at issue.

Section 2. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.020 (Applicability), Subsection A.5. and B.5. shall be amended as follows:

A. This chapter shall not apply to the following:

5. Sound generated at a scheduled stadium event or an event at a venue with more than 7,000 seating capacity;

B. Unless otherwise regulated by a current, valid permit issued by the permit official or specifically mentioned in Section 9.40.020A. specific noises that can constitute a noise nuisance include, but are not limited to the following:

5. Exterior loudspeakers. Operating or permitting to be operated ~~between the hours of 10:00 p.m. and 7:00 a.m.~~ any loudspeaker or sound-amplifying equipment in a fixed or movable position in or upon any street, alley, sidewalk, park, place, or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons, ~~or~~ in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.

Section 3. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.030 (Sound level violations), Subsections A. and C. shall be amended and Subsections B. and E. added as follows:

A. It shall be unlawful for any person to conduct, permit, allow, or produce a sound that is discernable beyond the property lines of the property on which the sound is being produced that, when measured with a sound level meter using the standardized frequency weighting as specified by the American National Standards Institute, exceeds seventy dB(A) between the hours of 10:00 p.m. and 7:00 a.m. daily for the property on which the sound is ~~received~~produced.

A.B. It shall be unlawful for any person to conduct, permit, allow, or produce a sound that is discernable beyond the property lines of the property on which the sound is being produced that, when measured with a sound level meter using the standardized weight frequency weighting as specified by the American National Standards Institute, exceeds more than eight dB(C) above the local ambient reading at any point outside of the property line.

B.C. The dB(A) and dB(C) levels set forth in this section apply to a property where the sound is being ~~received~~produced. Any sound that when measured at the property where the sound is being ~~received~~produced exceeds the dB(A) and dB(C) levels set forth in this section is a violation of this chapter.

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~~C.D.~~ Procedure. Sound levels regulated in this chapter shall be measured in accordance with a city-adopted policy.

~~D.E.~~ Reading Location(s). The location or locations for measuring noise levels shall be at a location or locations as near as possible to a property line of the property producing the noise.

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It shall be unlawful for any person to create, maintain or cause any ground or airborne vibration which is perceptible without instruments by a person at any point on any affected property ~~adjoining the property in which the vibration source is located~~, in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort and repose of a person of reasonable sensibilities, unless such activity is otherwise regulated under other applicable law.

Section 5. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.070 (Penalties), Subsection 9.40.070.C. shall be amended as follows:

C. In addition to proceeding under authority of subsections A. and B. of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes, including a civil action in accordance with Chapter 54 of the Texas Local Government Code to recover a civil penalty not to exceed \$1,000 for each day or portion of a day during which the violation is committed, continued, or permitted, or other ordinances against a person that remains in violation of this chapter.

Section 6. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.080 (Enforcement), shall be amended as follows:

The director ~~of the department of environmental services. Director~~ of the planning and inspections department, the director of code enforcement, or the police chief or their designated representatives, shall be responsible for the enforcement of this chapter.

Section 7. Except as herein amended, Title 9 (Health and Safety), Chapter 9.40 (Noise) of the El Paso City Code shall remain in full force and effect.

(Signatures begin on following page)

ADOPTED this ___ day of _____, 2024.

CITY OF EL PASO

Oscar Leeser

ORDINANCE NO. _____

HQ#: 24-3943-PD | TRAN-595934 | TITLE 9.40 – Amendment – Noise | EG

Mayor

ATTEST:

Laura D. Prine

APPROVED AS FORM:

Eric Gutierrez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Arthur S. Alvarado, Director
El Paso Police Department
Code Enforcement

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