

**ORDINANCE 2010 - 09**

**AN ORDINANCE REGULATING NOISE CREATED BY THE PLAYING OF  
RADIOS, PHONOGRAPHS, MUSICAL INSTRUMENTS OR SIMILAR  
INSTRUMENTS**

**WHEREAS, excessive noise causes distress, discomfort and injury to persons, interferes with  
and prevents the comfortable enjoyment of homes and businesses;**

**WHEREAS, excessive noise is a public nuisance and must be regulated; and**

**WHEREAS, the noise defined in the hereinafter set forth provisions is excessive, is a public  
nuisance, and it is in the public interest to regulate same in accordance with the provisions hereinafter  
set forth.**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
PORT ARANSAS, COUNTY OF NUECES, STATE OF TEXAS:**

**Section 1. Amendment.** Section 10-57(1) Port Aransas Code of Ordinances is hereby deleted in its  
entirety and is replaced by the following:

10-57(1) Radios, phonographs, musical instruments, etc., [commercial setting].

a. The Conduct: The playing of any radio, phonograph, musical instrument, or similar instrument or

apparatus, whether with or without loud speakers or amplifiers, in or on the premises of a commercial establishment in such a manner or with such volume that the decibel level of the noise generated by such conduct at any location on any property other than the property on which said commercial establishment is located (the "receiving property") exceeds the allowed decibel level hereinafter established: (a) between the hours of 12:00 noon and 12:00 midnight if the commercial establishment is located within the boundaries of the *Music Overlay District*, hereinafter established, or between the hours of 12:00 noon and 10:00 p.m. if the commercial establishment is located outside the boundaries of the *Music Overlay District*, Monday through Saturday or (b) at any time of the day on Sunday.

b. Allowed decibel level: The allowed decibel levels are as follows: (a) if the commercial establishment from which the noise originates is located within the boundaries of the *Music Overlay District*, the allowed decibel level is eighty-five (85) decibels, or (b) if the commercial establishment from which the noise originates is located outside of the boundaries of the *Music Overlay District*, the allowed decibel level is (70) decibels.

c. *Music Overlay District*. The *Music Overlay District* is that geographical area of the City defined on Exhibit A hereto attached, and generally being that area \_\_\_\_\_ within the city limits of the City.

d. Decibel Measurement: Measurement of said noise shall be made with a decibel meter meeting the standards of the American National Standards Institute.

e. Complainant. A prosecution of a violation of this subsection may only be based on the complaint of a person who is an owner or lawful occupant or possessor of the receiving property, i.e. the property on which the noise is measured.

f. Exclusivity: This sub-section (1) of Section 10-57 shall be the exclusive provision of Chapter 10, Article IV of this Code of Ordinances which shall apply to and govern conduct defined at sub-section (1)a. above. Conduct not defined under this sub-section (1)a. of 10-57 shall be governed by other provisions of this Code, including but not necessarily limited to 10-51.

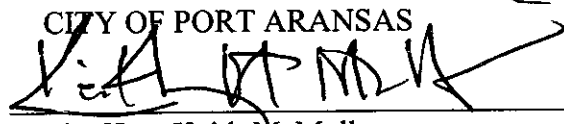
**Section 2. Effective Date.** As provided by Article III, Section 12.C. and by Article XII, Section 2 of the Charter of the City of Port Aransas, this ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the City of Port Aransas.

**Section 3. Reading.** As provided by Article III, Section 13 and Article III, Section 12.b. of the Charter of the City of Port Aransas, this ordinance or the caption of it shall be read at three city council meetings with at least one week elapsing between each reading.

**Section 4. Severance.** If any part of this ordinance is invalid or void or is declared to be so, then said part shall be severed from the balance of this ordinance and said invalidity shall not affect the balance of this ordinance, the balance of the ordinance to be read as if said invalid or void portion thereof were not included.

**Section 5. Publication.** As provided by Article III, Section 12.C., this ordinance shall be published one time in the official newspaper of the City of Port Aransas, Nueces County, Texas, which publication shall contain the caption of this ordinance stating in substance the purposes of same.

**PASSED, ORDAINED, APPROVED AND ADOPTED** this 15<sup>th</sup> day of July, 2010.

CITY OF PORT ARANSAS  
BY:   
The Hon. Keith McMullen

ATTEST:

  
\_\_\_\_\_  
Esther Arzola, City Secretary

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_