



CITY OF ALPINE
MUSIC ADVISORY BOARD MEETING
November 12, 2024 – 5:30 PM

City Council Chambers, 803 W. Holland Avenue, Alpine, Texas 79830

1. **CALL TO ORDER.**

2. **DETERMINATION OF QUORUM AND PROOF OF NOTICE OF MEETING**

3. **PUBLIC COMMENTS.**

Each person in attendance who desires to speak to the Board on an item on the agenda shall speak during this section. Public comments may be made regarding agenda items only. Attendees must be physically present in order to address the Board. Comments by proxy are not allowed. Public Comments are limited to 3 minutes per person. Unused time may not be yielded to other attendees.

4. **PUBLIC HEARINGS.**

At this time, the Chair will invite members of the public to address each item listed in this section. Comments made during this section are limited to the topic of each public hearing. Attendees must be physically present in order to address the Board. Comments by proxy are not allowed. Public Comments are limited to 3 minutes per person. Unused time may not be yielded to other attendees. If more than one public hearing is being held, each person will be allowed to speak during each topic.

5. **APPROVAL OF MINUTES**

6. **INFORMATION AND DISCUSSION ITEMS**

A. Discuss noise ordinance considerations, including possible updates and changes to the existing noise ordinances and complaints received regarding the current noise ordinance. (C. Ruggia, Chair)

7. **ACTION ITEMS.**

A. Discuss approving an updated recommendation to the Alpine City Council regarding proposed amendments to the noise ordinance. (C. Ruggia, Chair)

8. **SCHEDULE NEXT MEETING**

9. **ADJOURN.**

CERTIFICATION

I, Geoffrey R. Calderon, do hereby certify that this notice was posted at City Hall, in a convenient and readily accessible place to the general public, and on the City website at www.cityofalpine.com/agenda pursuant to Section 551.043, Texas Government Code. The said notice was posted by 3:00 P.M. on November 8, 2024, and remained so posted for at least 72 hours preceding the scheduled time of the said meeting.

WITNESS MY HAND AND SEAL
this 8th day of November, 2024.



Geoffrey R. Calderon, TRMC
City Secretary & Chief Governance Officer



MUSIC ADVISORY BOARD AGENDA ITEM REPORT

November 12, 2024

Agenda Item No. 6A

Department: Board

Sponsor: Chris Ruggia, Director of Tourism

Memo Prepared By: Geoffrey R. Calderon, City Secretary

Staff Recommendation:



AGENDA ITEM

Discuss noise ordinance considerations, including possible updates and changes to the existing noise ordinances and complaints received regarding the current noise ordinance. (C. Ruggia, Chair)

EXECUTIVE SUMMARY

SUPPORTING MATERIALS

- 1. ARTICLE_III.___NOISE

BUDGET CONSIDERATIONS

Expenditure Required: N/A
Savings Anticipation: N/A
Current Budget FY 2024-2025: N/A
Additional Funding: N/A

APPROVERS

Alex Tackett, Records Clerk
Geoffrey R. Calderon, City Secretary
Megan Antrim, City Manager

ARTICLE III. NOISE

Sec. 26-61. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section unless the context of their usage clearly indicates another meaning.

Daytime hours shall mean the hours from 7:00 a.m. on one day until 8:00 p.m. on the same day.

dB(A) shall mean the intensity of a sound expressed in decibels, A-weighted to approximate human hearing.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss that demands immediate action.

Emergency work shall mean any work performed for the purpose of:

- (1) Preventing or alleviating the physical trauma or property damage threatened or caused by an emergency;
- (2) Restoring property to a safe condition following a fire, accident, or natural disaster;
- (3) Protecting persons or property from exposure to danger; or
- (4) Restoring public utilities.

Evening hours commercial shall mean the hours from 8:00 p.m. on one day until 11:00 p.m. the same day for Sundays through Thursdays of each week. Evening hours shall mean the hours from 8:00 p.m. on one day until 12:00 midnight the same day for Friday and Saturday nights of each week for properties in the following zoning districts: C-1, C-1a, C-2, C-2a, M-1.

Evening hours residential shall mean the hours from 8:00 p.m. on one day until 10:00 p.m. the same day for properties in the following zoning districts: R-1, R-2, R-3, R-4, and for commercial, manufacturing or industrial properties (C-1, C-1a, C-2, C-2a, M-1) when measured at a property line which separates that property from any residentially zoned property (R-1, R-2, R-3, R-4).

Nighttime hours commercial shall mean the hours from 11:00 p.m. on one day until 7:00 a.m. the following day for Sundays through Thursdays, and 12:00 midnight on one day and 7:00 a.m. the same day on Saturday and Sunday mornings for properties in the following zoning districts: C-1, C-2, C-1a, C-2a, M-1.

Nighttime hours residential shall mean the hours from 10:00 p.m. on one day until 7:00 a.m. the following day for properties in the following zoning districts: R-1, R-2, R-3, R-4, AND for commercial, manufacturing or industrial properties (C-1, C-1a, C-2, C-2a, M-1) when measured at a property line which separates that property from any residentially zoned property (R-1, R-2, R-3, R-4).

Outdoor amplified sound means any sound produced, projected, or generated outdoors utilizing speakers or other sound projection or enhancement equipment.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. For example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the name of the song, specific words, or the artist performing it. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

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, hotel or motel room, office, or any other type of occupancy from that of other occupants.

Responsible party shall mean any of the following persons, including entities (including but not limited to corporations, trusts, partnerships, associations, and the like), who or which violates the terms of this article including, as applicable.

- (1) Any person present at the time of the offense who makes, assists in making or continuing, permits, causes, or permits sound in excess of the provisions of this article to be made or continued;
- (2) Any person who has the ability to control the level of noise at the time of the offense;
- (3) Any owner of the property on which the violation occurs, any owner or manager (including an employee in charge at the time of the offense) of the business being conducted on the property on which the violation occurs;
- (4) Any operator of, or person in charge of the sound-generating instrument or equipment at the time of the offense; or
- (5) Any person who leaves unattended any equipment, machine, instrument, device, child, animal, or any combination of same, which thereafter commences producing noise in violation of this article.
- (6) In the case of a business or event playing live or recorded music, the owner of the business or organizer of the event, and not performers or DJs hired to entertain by the business or event organizer.

Sound shall include a single source or collective sources emanating from a single property.

Zoning ordinance shall mean the City of Alpine Zoning Ordinance as the same may be amended from time to time. Any reference to the location of properties or zoned properties or areas shall be to the zones established in the zoning ordinance as may be modified in a specific violation description.

(Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

Sec. 26-62. Prohibitions.

- (a) Sounds exceeding, or not complying with, the following under the conditions and measurement criteria set forth in this chapter shall be unlawful and no responsible party shall make, assist in making, permit, continue or cause to be made or continued such sounds in any zoning area except as defined in this article.
 - (1) Sound levels shall not exceed the following:
 - a. Eighty-five db(A) during daytime hours.
 - b. Seventy-five db(A) during evening hours commercial or evening hours residential as applicable.
 - c. Sixty-five db(A) during nighttime hours commercial.
 - d. Fifty-five db(A) nighttime hours residential.
 - (2) Outdoor amplified sound is prohibited from 10:00 p.m. on any day until 7:00 a.m. the following day in residentially zoned properties (R-1, R-2, R-3, R-4).
 - (3) The pouring of a slab, demolishing a building, or utilizing any yard tools, mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device, commercial or industrial power tools is prohibited from 10:00 p.m. on any day until 7:00 a.m. the following day on any residentially zoned property (R-1, R-2, R-3, R-4) or commercially zoned property (C- 1, C-1a, C-2, C-2a) on any day without first having obtained a permit issued in accordance with section 26-68 for such work.
 - (4) Knowingly making, or causing to be made, any unreasonable sound is prohibited on any residentially zoned property (R-1, R-2, R-3, R-4). In determining whether a sound is unreasonable, the following factors shall be considered as applicable to the circumstances:
 - a. That the sound occurs between the hours of 10:00 p.m. and 7:00 a.m.;

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- b. That the sound is not compatible with the normal activity of the area in which the property is located at that time of day;
 - c. That the sound created at a location where the sound emanates is due to an excessive number of people for that time of day;
 - d. That the sound has been enhanced in volume or range by any type of electronic, mechanical or other means; and
 - e. That the sound is plainly audible or physically detectable at a distance defined below under section 26-67.
- (5) The use of any motor vehicle so that it creates any loud and unreasonable or unusual sound which is heard above all other vehicles at a distance of 50 feet from the vehicle is prohibited.
 - (6) The making of or causing to be made, any amplified sound from a motor vehicle on a public roadway that is audible from a distance of 50 feet from the vehicle on abutting streets of, or properties which are zoned 2, R-3, R-4, R-5, rural residential, C-1, C-1a, C-2, C-2a is prohibited.
 - (7) The operation of an engine of any motor vehicle as defined by the Texas Transportation Code so as to "brake" or slow the same through the use of gears (commonly known as "jake braking") or by any other method which produces any noise in addition to the normal operating engine noise is prohibited.
 - (8) The operation of or allowing of an engine of any sort of motor vehicle, except emergency equipment at any location or vehicles then located at a permitted public event or parade, to idle for more than one hour is prohibited.
 - (9) The acts enumerated in the foregoing subsections of this section are declared to be loud, disturbing, and unnecessary noises and nuisances in violation of this article.
- (b) Prior to issuance of a complaint the city police department and or municipal court prosecutor may require a written complaint from anyone complaining of an excessive noise.
 - (c) Upon receipt of a prior notice or warning, verbal or otherwise, from a peace officer or a code enforcement officer of the city, it shall be presumed that the person has knowledge that the sound is unreasonable.
- (Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

Sec. 26-63. Authorized live music events.

- (a) Live music events with a permit as defined in section 26-64 below may exceed sound levels described in subsection 26-62(a) as follows:
 - (1) Evening sound levels, or 75 dB(A), may be maintained until midnight Sunday through Thursday.
 - (2) Evening sound levels, or 75 dB(A), may be maintained until 2:00 a.m. Friday or Saturday.
 - (b) The extended hours above apply to only music performed live and not to recorded music, either automated or provided by DJs.
- (Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

Sec. 26-64. Permit for live music events.

- (a) The permit required in section 26-63 above shall be issued upon compliance with the requirement of this section. Events for which a permit is issued for live music may exceed the sound levels in section 26-62 in the manner described in section 26-63.
- (b) [The permit] shall be obtained by making an application to the city police department or other person or department of the city so designated by the city manager.

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- (c) [The permit shall be received] upon payment of an administrative fee for the costs of issuing the permit.
 - (d) The city council will set the administrative fee by resolution.
 - (e) [The permit] is valid for the requested day(s).
 - (f) The permit application required to be filed pursuant to this section shall contain the following information:
 - (1) The date of the application and the date and hours for which the permit is requested.
 - (2) The name and address of the applicant, and the name and address of the person in charge of the event.
 - (3) The address of the location where the event will occur.
 - (4) A brief description of the event.
 - (g) All permits must be posted on-site in a clearly visible location. No permit may be issued for a period of one year from the date of the latest conviction for any property which is the subject of two convictions or deferrals of convictions within any 12-month period even if there is a change in ownership or management.
- (Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

Sec. 26-65. Official Alpine Music Venue program.

- (a) Businesses that qualify according to the criteria below may apply to become an "Official Alpine Music Venue."
- (b) Official Alpine Music Venues will be eligible to acquire one permit annually for live music events. All live music performances at Official Alpine Music Venues holding an annual permit will be considered "authorized live music events" as described above without the need for an additional permit.
- (c) The city council will set the administrative fee of the Official Alpine Music Venue annual permit by resolution.
- (d) The Official Alpine Music Venue designation is also intended as a promotional tool for the city and its businesses. Logo images and signage will be made available by the Alpine Visitor Center to qualifying businesses on request.
- (e) In order to qualify as an Official Alpine Music Venue, a business must:
 - (1) Have a consistent physical location.
 - (2) Host regular live music. An applying business must have hosted at least three live music events open to the general public in the previous six-month period.
 - (3) Promote their events by announcing them in local media (options include social media, radio, newspaper, posters, etc.). Venues should proactively send music event information to the Alpine Visitor Center.
 - (4) Pay the musicians. Unpaid music events like open mics or open stage jams may be a part of the venue's operations but should be less than 50 percent of the music events hosted by the venue.
- (f) Businesses that meet the above criteria at the time of passage of the ordinance codified in this article are considered to be Official Alpine Music Venues without the requirement of a formal application.
- (g) No fee will be charged for certification as an Official Alpine Music Venue.
- (h) The application required to be filed pursuant to this section shall contain the following information:
 - (1) The name and address of the business requesting Official Alpine Music Venue certification.
 - (2) The name and contact information of the person in charge of music operations at the business.
 - (3) An attestation of compliance with the criteria for Official Alpine Music Venue certification.

(Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

Sec. 26-66. Noisy animals and birds.

Subsection 10-42(1) of this Code controls the prohibition and consequences of keeping unreasonably noisy animals in the city.

(Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

Sec. 26-67. Method of sound measurement.

- (a) Whenever portions of this chapter 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 Standards Association or better. Measurements recorded shall be taken so as to provide a proper 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 measured sound. Traffic, aircraft, and other transportation noise shall not be considered in taking measurements except where such background noise interferes with the noise being measured and cannot reasonably be distinguished from the primary noise. Measurements will be made for a duration of no less than 30 seconds. Violations will be based on the highest registered reading within such time period which is attained more than one time in said time period or sustained.
- (b) Measurements of sound shall be taken from a distance of 200 feet from the property line of the property from which the sound originates.

(Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

Sec. 26-68. Permit for construction or use of tools, equipment.

- (a) The permit required in subsection 26-62(c) shall be issued upon compliance with the requirements of this section. Properties for which a permit is issued for the construction or for the use of outdoor tools or equipment (except equipment related to amplified sound) may exceed the sound levels of the method of sound measurement, subsection 26-67(a) above.
- (b) [Permits may be issued] for properties that are commercially zoned (C-1, C-1a, C-2, C-2a) at any time of the year, but may be issued for properties which are residentially zoned (R-1, R-2, R-3, R-4) only during the time period from Memorial Day through Labor Day of each year.
- (c) [Permits] shall be obtained by making application to the city police department or other person or department of the city so designated by the city manager.
- (d) [Permits are issued] upon payment of an administrative fee for the costs of issuing the permit or a sworn statement of inability to pay the fee.
- (e) [A permit] is valid for the requested day between the hours of 5:00 a.m. and 12:00 midnight.
- (f) [Permits] shall not be issued to the same or any other person for the same location more than twice nor for more than two consecutive days during any 30-day period.
- (g) [Permits] shall not be issued unless the applicant provides proof to the city that he or she has notified all persons who occupy or own properties adjacent to the site for which the permit is sought or the activity/work to be done and the expected duration of the activity/work. Such notice shall be sent in the same manner as set out in the city zoning ordinance, or hand delivered to the properties. Notices shall be sent at least ten days in advance of the proposed activity.
- (h) The permit application required to be filed pursuant to this section shall contain the following information:

(Supp. No. 26, Update 2)

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- (1) The date of the application and the date and hours for which the permit is requested.
 - (2) The name and address of the applicant, and the name and address of the person in charge of the activity/work.
 - (3) A description and diagram of the property on which the activity/work will occur.
 - (4) The address and a description of the location where the equipment will be used.
 - (5) A description of the type of equipment, tools or other devices to be used.
- (i) All permits must be posted on-site in a clearly visible location. No permit may be issued for a period of one year from the date of the latest conviction for any property which is the subject of two convictions or deferrals of convictions within any 12-month period even if there is a change in ownership or management.

(Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

Sec. 26-69. Exemptions and defenses.

- (a) The following are exemptions from prosecution under this article, but which need not be specifically plead in any complaint or indictment:
- (1) The sound was generated or produced as a result of an emergency, by an authorized emergency vehicle or due to emergency work to restore utilities or other public works.
 - (2) The sound was generated or produced:
 - a. By any public utility or public works or by governmental authority including, but not limited to, street and road construction and repair, operation of water treatment plants, animal shelters and the like, the alerting persons to the existence of an emergency, danger, or attempted crime;
 - b. By a parade and spectators and participants on the parade route during a lawful parade;
 - c. By patrons and participants using cannons and gunfire during historical battle re-enactments or demonstrations for which a pyrotechnic permit was obtained and the explosives for which were inspected by the fire marshal provided that such events shall not exceed one weekend in any 30 calendar day period or 12 weekends in any one calendar year;
 - d. By a pyrotechnic display that was inspected and approved by the fire marshal;
 - e. By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert that was sponsored or co-sponsored by the city, which has received a special events review and permit in accordance with the city's promulgated special events policies provided that said permit establishes different standards than are provided for by this chapter, otherwise this exemption does not apply, and is in compliance with any provisions of such permit and otherwise in full compliance with city regulations;
 - f. By aircraft, in flight or in operation at an airport, or bus, trolley, or other public transportation equipment in operation on streets or other rights-of-way, if any;
 - g. By church bells or church chimes when used as part of a religious observance or service during daytime hours or evening hours; or
 - h. During daytime hours by activities conducted on public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletics, band and school entertainment practice or events.
 - (3) The sound emits from or is produced by lawful manufacturing or industrial pursuits on manufacturing or industrially zoned property (I, M-1, M-2 or M-3 or an industrial or manufacturing related PUD) or is the sound of animals emitting from a veterinary business, animal shelter or other animal or livestock related business lawfully located within the city in accordance with the city's zoning ordinance.

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- (4) The following defenses shall apply to any offense established in this article, and the same must be specifically plead by anyone charged with a violation, the burden of proof being upon the person claiming such defense:
- a. The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime, or was produced pursuant to any safety rule or regulation of any governmental entity or agency and is not generated by governmental authority;
 - b. The sound was produced by or for emergency work not exempted as set forth in subsection (a)(1) above; or
 - c. The sound was generated as authorized under the terms of a permit issued under this Code.
- (b) The regulations hereof are not required for the purpose of regulating speech which is protected speech or to conflict with any law of any superior governmental authority. Any regulation hereof that is in conflict with any such right or authority is hereby declared to be inoperative and severable from the other regulations herein, and is additionally declared to be an exemption.

(Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

Sec. 26-70. Penalty.

- (a) The provisions of section 26-62 provide the various violations, and a person or entity may be prosecuted under any or all of the subsections thereto. Any person who violates any provision of this chapter is guilty of an offense and, upon conviction thereof, shall be punished by a fine of not more than that defined in section 1-11 of this Code. In addition, following notification by a city police officer or code enforcement officer, each 15 minutes in which any violation shall occur shall constitute a separate offense. For purposes of setting fines, violations hereof are declared to be health and safety violations.
- (b) Enforcement hereunder shall not require the pleading or proving of any culpable mental state.

(Ord. No. 2022-12-02, § I(Exh. A), 1-3-23)

MUSIC ADVISORY BOARD AGENDA ITEM REPORT

November 12, 2024

Agenda Item No. 7A

Department: Board

Sponsor: Chris Ruggia, Director of Tourism

Memo Prepared By: Geoffrey R. Calderon, City Secretary

Staff Recommendation: None



AGENDA ITEM

Discuss approving an updated recommendation to the Alpine City Council regarding proposed amendments to the noise ordinance. (C. Ruggia, Chair)

EXECUTIVE SUMMARY

None

SUPPORTING MATERIALS

None

BUDGET CONSIDERATIONS

Expenditure Required: N/A
Savings Anticipation: N/A
Current Budget FY 2024-2025: N/A
Additional Funding: N/A

APPROVERS

Alex Tackett, Records Clerk
Geoffrey R. Calderon, City Secretary
Megan Antrim, City Manager