

ORDINANCE NO. 2026-04

AN ORDINANCE OF THE PORT ARANSAS CITY COUNCIL OF THE CITY OF PORT ARANSAS, TEXAS AMENDING CHAPTER 10, "HEALTH AND SANITATION, ARTICLE IV NOISE"; AND PROVIDING FOR SEVERANCE, READING, AND EFFECTIVE DATE.

WHEREAS, the 89th Texas Legislature enacted House Bill 2844, codified in part in Chapter 437B of the Texas Health and Safety Code, establishing a statewide licensing framework for mobile food vendors; and

WHEREAS, House Bill 2844 preempts municipal ordinances that require local health licenses or permits to operate as a mobile food vendor, while preserving limited municipal authority to regulate land use, zoning, parking, traffic circulation, public safety, nuisance conditions, and the use of City owned property, to the extent permitted by state law; and

WHEREAS, the City of Port Aransas previously prohibited mobile food vendors with limited exceptions and now seeks to adopt regulations that are consistent with state law while providing clear, objective, and non-discriminatory standards governing where and how mobile food vendors may operate; and

WHEREAS, the City Council finds that reasonable site standards and operational regulations are necessary to protect public health, safety, and general welfare, minimize adverse impacts on surrounding properties, and ensure compatibility with existing development patterns; and

WHEREAS, the City Council further finds that administrative review of mobile food vendor locations and site conditions is necessary to ensure compliance with zoning, parking, sanitation, and nuisance standards, and that reasonable fees may be imposed to recover the cost of such administrative review;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARANSAS, TEXAS:

SECTION 1. AMENDMENT.

That Chapter 10, "Health & Sanitation, Article IV. Noise" is hereby amended to wit:

ARTICLE IV. NOISE

Sec. 10-51. Nuisance declared and prohibited.

Any unreasonably loud, disturbing, unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is prohibited.

(Code 1980, Ch. 6, § 5(F))

Sec. 10-52. Intensity and duration of noises.

Any noise of such character, intensity and continued duration as to substantially interfere with the comfortable enjoyment of private homes by persons of ordinary sensibilities is declared to be a nuisance and is prohibited.

(Code 1980, Ch. 6, § 5(G))

Sec. 10-53. Musical instruments.

It shall be unlawful for any person or any band to play any kind of musical instrument on any of the streets of the city without first having obtained a written permit from the chief of police.

(Code 1980, Ch. 6, § 5(A); Ord. No. 2007-05, § 1A, 2-15-07)

Sec. 10-54. Vehicles carrying megaphones or loudspeakers.

It shall be unlawful for any person to drive or permit to be operated upon the streets of the city any vehicle carrying loud-speakers or megaphones to which are attached phonographs or other musical instruments at a time when such megaphones or loudspeakers are emitting sound, music or voice or to drive or permit to be operated upon the streets of the city any vehicle carrying loudspeakers or megaphones through which the human voice is emitted directly or through which the human voice or sound is indirectly emitted by means of mechanical or electrical reproduction and amplification of sound without first obtaining from the chief of police a written permit.

(Code 1980, Ch. 6, § 5(B))

Sec 10-55 . Generators

Except as otherwise specifically authorized by this Code, it shall be unlawful for any person to operate or permit the operation of any portable generator device or equipment that produces sound in excess of 70 decibels (dBA), measured at the nearest property line of the receiving property. Measurement of said noise shall be made with a decibel meter meeting the standards of the American National Standards Institute.

Secs. 10-55, 10-56. Reserved.

Editor's note(s)—Ord. No. 2007-05, §§ 1B, 1C, adopted Feb. 15, 2007, deleted §§ 10-55, 10-56, which pertained to mechanical and electrical reproduction and amplification of sound; grating or other annoying noises, respectively and derived from Code 1980., Ch. 6, §§ 5(c)(D).

Sec. 10-57. Other noise nuisances enumerated.

The following acts are declared to be nuisances in violation of this article but such enumeration shall not be deemed to be exclusive:

(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:
 - i. 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
 - ii. At any time of the day on Sunday.
- b. Allowed decibel level: The allowed decibel levels are as follows:
 - i. 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
 - ii. 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 seventy (70) decibels.
- c. Music overlay district: The music overlay district is that geographical area of the city generally being that area within the city limits of the city as shown below.



MUSIC OVERLAY DISTRICT

- 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. Complainant need not be physically present during peace officer's measurement of noise.
 - f. Exclusivity: This subsection (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 subsection (1)a. above. Conduct not defined under this subsection (1)a. of section 10-57 shall be governed by other provisions of this Code, including but not necessarily limited to section 10-51.
- (2) *Radios, phonographs, portable audio equipment, stereos, musical instrument, etc. [beach, public park, public outdoor area setting].*
- a. The conduct: The playing of any radios, phonographs, portable audio equipment, stereos, musical instrument, etc., whether with or without loud speakers or amplifiers, on the beach, in a public park or public outdoor area, in such a manner or with such volume that the decibel level of the noise generated by such conduct at any location more than one hundred (100) feet from the source exceeds the allowed decibel level.

- b. Allowed decibel level: The allowed decibel levels are as follows: The allowed decibel level is eighty-five (85) decibels, between the hours of 12:00 noon and 10:00 p.m. The allowed decibel level is seventy (70) decibels at all other times.
 - c. Decibel measurement: Measurement of said noise shall be made with a decibel meter meeting the standards of the American National Standards Institute. The measurement will be made at a distance of at least one hundred (100) feet from the source.
 - d. Complainant: A prosecution of a violation of this subsection may be based on the complaint of any person adversely affected or by any peace officer. Complainant need not be physically present during peace officer's measurement of noise.
 - e. Permit authorized: The chief of police may issue a permit extending the authorized hours from 10:00 a.m. to 12:00 noon and/or from 10:00 p.m. to 12:00 midnight. The permit is revocable by any peace officer with or without cause.
- (3) *Animals and birds.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.
 - (4) *Horns and signal devices on automobiles, etc.* The continued or frequent sounding of any horn or signal device of any automobile, motorcycle, bus or other vehicle except as a danger or warning signal or the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary and unreasonable period of time.
 - (5) *Loading and unloading operations; opening, etc.* The creation of any loud and excessive noise in connection with the loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, dumpsters or similar objects between the hours of 10:00 p.m. and 5:30 a.m. the following day, in such a manner as to disturb the comfort and repose of a person of ordinary sensibilities in a home or upon residential real property.
 - (6) *Discharge of exhaust from engines.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises.
 - (7) *Noise near school, etc.* The creation of any excessive noise on any street adjacent to any school or institution of learning while the same is in session or adjacent to any hospital which unreasonably interferes with the workings of such institution; that conspicuous signs are displayed in such manner indicating that the same is a school or hospital street.
 - (8) *Construction equipment and demolition.* Sound levels which disturb the comfort and repose of a person of ordinary sensibilities produced from tools and equipment in commercial construction, demolition, drilling, or reasonably similar activities, except such activities shall be allowable during the hours of 6:00 a.m. to 7:00 p.m., Monday through Saturday, and during the hours of 8:00 a.m. to 5:00 p.m. on Sunday.
 - (9) *Shouting and crying of peddlers, etc.* The raucous shouting and crying of peddlers, hawkers, and vendors which disturb the peace and quiet of the neighborhood.

- (10) *Drums, etc., calling attention to performance, show or sale.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show or sale of merchandise.
- (11) *Domestic power tools.* Sound levels which disturb the comfort and repose of a person of ordinary sensibilities produced from any powered saw, sander, drill, grinder, lawn/garden tool, or similar tools, except such activities shall be allowable during the hours of 7:00 a.m. to 9:00 p.m. The use of such tool or equipment shall conform to the industry standards for the equipment.

SECTION 2. FINDINGS.

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the CITY and made a part of this ordinance for all purposes and findings of fact.

SECTION 3. EFFECTIVE DATE.

This ordinance shall be effective from and after its date of passage.

SECTION 4. SEVERABILITY.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 5. OPEN MEETINGS.

It is hereby found and determined that the meetings at which this ordinance is considered are open to the public and that notice of the time, place and purpose thereof was given in accordance with the provisions of the Texas Government Code – Chapter 551, as amended, and that a quorum of the City Council was present.

PASSED, ORDAINED, APPROVED and ADOPTED this the 19th day of JUNE, 2026.

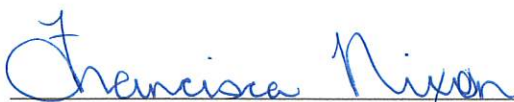


ATTEST:

CITY OF PORT ARANSAS, TEXAS



Wendy Moore, Mayor



Francisca Nixon, City Secretary

First Reading: April 21, 2026
Second Reading: May 20, 2026
Third Reading: June 18, 2026