



April 1, 2025

Notice is hereby given of a City Council Work Session of Nacogdoches City Council to be held on the above date in the City Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, beginning at 4:00 p.m. for the purpose of considering the following agenda items.

Some City Council Members may attend via videoconference but a quorum of the City Council and the Presiding Officer will be present at the above-stated physical location. The meeting will be streamed live at <https://www.nactx.us/21>. There will be an opportunity for the public to comment on agenda items in person in Council Chambers.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.
2. PLEDGE OF ALLEGIANCE.
3. OPEN FORUM. Open Forum is an opportunity for citizens to address the City Council about items listed on the agenda, as well as on matters that are not specifically listed on the agenda. Alternatively, a citizen may address the City Council about an agenda item when the item comes up for consideration during the meeting. In order to address the City Council, please complete the Public Comment Form and submit it to the City Secretary prior to the start of the meeting. In accordance with the Texas Open Meetings Act, the City Council will not discuss, deliberate, or make any decisions on items not listed on the agenda. Comments are limited to 3 minutes per person.
4. WORK SESSION. Items included under Work Session are intended to provide opportunities for City Council to study and discuss various issues, and gather and analyze information. Council will not take formal action on matters presented at a work session, but may direct staff to place items relating to the matter on future agendas for formal consideration.
 - A. Consider possible revisions to the City's noise ordinances, including the addition of a sound equipment permit requirement. (City Attorney)
5. ADJOURN.

Rhonda Lewis
City Secretary



This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact Attorney General of Texas at 1-800-252-8011; City Secretary at (936) 559-2506 or visit City of Nacogdoches web site at www.nactx.us.

CERTIFICATION

This meeting will be conducted pursuant to Chapter 551 of the Texas Government Code. The Council reserves the right to adjourn into Executive Session at any time during the meeting to discuss any of the above posted agenda, as authorized by Texas Local Government Code Sections 551.071 [litigation and certain consultation with attorney], 551.072 [acquisition of interest in real property], 551.073 [prospective gift to city], 551.074 [certain personnel deliberations], 551.076 [deployment/implementation of security personnel or devices], or 551.087 [deliberations regarding economic development negotiations]. The City of Nacogdoches is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications may be provided upon request. Please contact the City Secretary at (936) 559-2506 for information. I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas 75961, on April 28, 2025, by 5:00 p.m. pursuant to Chapter 551 of the Texas Government Code.

Rhonda Lewis, City Secretary

Sec. 118-504. Noise.

- (a) *Measurement.* Measurement of noise shall be made at the residential property line with a sound level meter and octave band analyzer meeting the standards prescribed by the American Standards Association.
- (b) *Noise levels at residential property lines.* Standards for noise levels at residential property lines shall be as follows:
- (1) *Nighttime noise level.* Noise levels shall not exceed 49 dBA at a residential property line between 7:00 p.m. and 7:00 a.m.
 - (2) *Daytime noise level.* Noise levels shall not exceed 56 dBA at a residential property line.
 - (3) *Octave band standards.* Noise in any octave band shall not exceed standards set out in the following chart:

FIGURE 1 NOISE STANDARDS

At no point along the bounding property line of any lot or parcel in a residential district shall the sound pressure level of any operation or activity exceed the decibel limits specified in the octave band groups designated in the following table:

Octave Band Range (cps)	Decibel Band Limit (dB re 0.0002 microbar)
37—75	80
75—150	68
150—300	61
300—600	55
600—1200	51
1200—2400	48
2400—4800	45
4800—9600	43
A scale (for monitoring purposes only)	56

Noise level adjustments:

Nighttime noise—between 7:00 p.m. and 7:00 a.m.—Subtract 7 dB

Impulsive noise—Subtract 7 dB

(Meter reading changes at a rate greater than 10 dB per second)

- (1) *Higher ambient noise levels.* Where ambient noise levels from traffic or multiple sources already exceed the standards, the subject source may not increase that existing noise level.
- (2) *Public facilities and activities excluded.* Public facilities and activities are excluded from this standard. Such activities may include the following:
 - a. Any activity the city or its agents conduct in pursuit of its usual activities such as trash removal, police and fire protection.
 - b. Any public event which may occur from time to time such as concerts and other events sponsored by a public or nonprofit organization, excluding fraternities and sororities.

(Ord. No. 1130, art. VI, § 4, 11-3-1998)

ARTICLE V. NOISE AND VIBRATIONS¹

Sec. 34-151. Prohibited acts.

A person commits an offense if he makes or causes to be made an unreasonably loud and disturbing noise or vibration in the city that is offensive to the ordinary sensibilities of persons in the city.

(Ord. No. 1573-5-11, § 2, 5-17-2011; Ord. No. 1934-10-22 , § II, 11-15-2022)

Editor's note(s)—Ord. No. 1573-5-11, § 2, adopted May 17, 2011, amended § 34-151 in its entirety to read as herein set out. Former § 34-151 pertained to similar subject matter and derived from the Code of 1971, § 19-14(a).

Sec. 34-152. Violations.

The following acts, among others, are declared to be unreasonably loud disturbing noises and vibrations and are presumed to be offensive to persons of ordinary sensibilities in the city in violation of this article, unless an exemption exists as provided in section 34-157, but such enumeration shall not be deemed to be exclusive:

- (1) *Operation of vehicles.*
 - a. For purposes of this article, "vehicle" means automobile, motorboat, motorcycle, streetcar, truck, trailer, all-terrain vehicle or any other vehicle equipped with a motor to propel the vehicle and occupants or cargo.
 - b. The sounding of any horn or signaling device on any vehicle on any street or public place of the city, except as a danger warning as required by law; the sounding of any such device unnecessarily or for an unreasonable period of time; or use of any horn, whistle or other device operated by engine exhaust.
 - c. The use of any vehicle so out of repair, or loaded, or operated to create loud or unnecessary noises (such as, but not limited to, spinning or squealing tires, grating, grinding, rattling, engine braking, engine revving or other noises).
 - d. The discharge into the open air of the exhaust of any internal combustion engine, steam engine, stationary engine, or vehicle except through a muffler or other effective noise suppression system in good working order.
 - e. Use of a muffler cut out, bypass or similar device on a vehicle.
 - f. Use of a compression release brake sometimes called engine braking, or jake braking.
 - g. Operating an on-highway motorcycle manufactured after December 31, 1985 not equipped with exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle's model year, stating that the exhaust system meets the 80 dBA standard at 50 feet, as set out in the Code of Federal Regulations Title 40, Volume 24, Part 205, Subpart D and Subpart E.
 - h. Operating an all-terrain vehicle or off-highway motorcycle manufactured after December 31, 1985 not equipped with exhaust muffler bearing the Federal EPA required labeling applicable to

¹Editor's note(s)—Ord. No. 1573-5-11, § 1, adopted May 17, 2011, changed the title of Art. V from "Noise" to "Noise and vibrations".

Charter reference(s)—Authority of city to regulate noise, art. II, § 22[10].

the motorcycle's model year, stating that the exhaust system meets the 82 dBA standard at 50 feet, as set out in the Code of Federal Regulations Title 40, Volume 24, Part 205, Subpart D and Subpart E.

- i. Operating sound equipment connected to or incorporated in a vehicle which is plainly audible or causing vibration more than 30 feet from the vehicle. The fact that the sound is plainly audible at a distance of 30 feet from the vehicle is prima facie evidence of a violation of this chapter.

"Plainly audible" means any sound that can be detected by a reasonable person using his or her unaided hearing faculties. As an 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 title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

- (2) *Operation of sound equipment.* The use, ~~or~~ operation ~~or permitting to be played, used or operated~~ of any sound equipment, including any radio receiving set, musical instrument, stereo, tape, or disc player, digital device, loud speaker, or any other machine or device for the amplifying, producing, or reproducing of sound, which:

- a. ~~Is plainly audible~~ Exceeds the applicable decibel level between the hours of 9:00 p.m. and 6:00 a.m. at a distance of 50 feet measured from the property line building, structure, or place in which the device is located, as specified in section 34-158; or
- b. ~~Is plainly audible or causing vibration more than 30 feet from the vehicle in which the device is located;~~
- c. ~~Is for the purposes of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons;~~
- d. ~~Unreasonably disturbs the peace, quiet, or comfort of another person.~~

"Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. As an 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 title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound. Exceeds the maximum decibel level allowed under a permit for sound equipment as specified in section 34-159.

- (3) *Yelling, shouting, etc.* Loud and raucous yelling, shouting, hooting, whistling, or singing on the public streets or property or on private property at any time or place which injures, endangers or disturbs the comfort, repose, health, peace, or safety of persons of ordinary sensibilities in the vicinity.
- (4) *Hawkers, peddlers.* The loud and raucous shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of reasonable persons of ordinary sensibility.
- (5) *Animals, birds, etc.* The keeping of any animal or bird which, by causing frequent or long continued loud and raucous noise, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of persons of ordinary sensibilities in any office, dwelling, hotel or other type of residence, or of such persons in the vicinity.
- (6) *Loading, unloading, opening boxes.* The creation of a loud and raucous or excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.
- (7) *Pile drivers, hammers, etc.* The operation between the hours of 9:00 p.m. and 6:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.
- (8) *Leaf or grass blowers, lawnmowers and other lawn or landscape maintenance equipment.* The operation between the hours of 9:00 p.m. and 6:00 a.m. of any noise-creating blower, power fan, any internal combustion engine, electric powered trimmer or chain saw the operation of which causes noise due to the explosion of operating gases or fluids, or the spinning of a motor or string or chain,

unless the noise from such equipment is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

- (9) *Schools, courts, churches, hospitals.* The creation of any loud and raucous noise on any street or public way adjacent to any school, institution of learning, church or court while such is in use, or adjacent to any hospital, which materially interferes with the workings of such institution or which disturbs, injures or endangers patients in the hospital, provided conspicuous signs are displayed on any such street indicating that the street is a school, hospital or court street.
- (10) *Construction or repairing of buildings.* The erection including excavation, demolition, alteration or repair of any building other than between the hours of 6:00 a.m. and 9:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the building inspector determines that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways within the hours of 9:00 p.m. and 6:00 a.m. and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 9:00 p.m. and 6:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(Code 1971, § 19-14(b); Ord. No. 1456-4-07, 4-17-2007; Ord. No. 1573-5-11, §§ 3—7, 5-17-2011; Ord. No. 1662-3-14, § 3, 3-4-2014; Ord. No. 1934-10-22 , § II, 11-15-2022)

Sec. 34-153. Penalty.

Any person violating any of the sections of this article shall, upon conviction, be fined as provided in section 1-14.

(Code 1971, § 19-14(c); Ord. No. 1934-10-22 , § II, 11-15-2022)

Sec. 34-154. Declaration of nuisance.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any section of this article and which disturbs reasonable persons of ordinary sensibilities or which endangers or injures the comfort, repose, health, safety or peace of such persons shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Code 1971, § 19-14(d); Ord. No. 1934-10-22 , § II, 11-15-2022)

Sec. 34-155. Speech or other communication violations.

- (a) If conduct that would otherwise violate this article consists of speech or other communication or of gathering with others to hear or observe such speech or communication or of gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political, or religious questions, the actor must be ordered to move, disperse, or otherwise remedy the violation prior to his arrest if he has not yet intentionally harmed the interest of others.
- (b) The order required by this section may be given by a peace officer, a firefighter, a person with authority to control the use of the premises, or any person directly affected by the violation.

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- (c) It is a defense to prosecution under this section that:
- (1) In circumstances in which this section requires an order, no order was given;
 - (2) An order, if given, was manifestly unreasonable in scope; or
 - (3) An order, if given, was promptly obeyed.

(Code 1971, § 19-14(e); Ord. No. 1934-10-22 , § II, 11-15-2022)

Sec. 34-156. Presumption.

- (a) A person uses or operates the equipment, animal, operation or device if the person actually manipulates or operates the device, owns or manages the business or building in which equipment, animal, operation or device is located, or drives the vehicle in which the device is located.
- (b) Whenever a vehicle is involved in a violation of any portion of section 34-151 or 34-152 of this chapter, and the identity of the operator of the vehicle is not ascertained, it may be presumed that the registered owner of the vehicle is the person who committed the violation, either personally or through an agent or employee. Proof of ownership may be made by a computer-generated record of registration of the vehicle with the state department of transportation showing the name of the person to whom state licenses were issued. This proof is prima facie evidence of the ownership of the vehicle by the person to whom the certificate of registration was issued.
- (c) These presumptions may be rebutted by the affidavit of the owner of the building, business or the registered owner of the vehicle, if a vehicle is involved, as to the identity of the operator of the device or vehicle at the time of the violation or by other clear and convincing evidence unless the operator is an employee or child of the owner.

(Ord. No. 1573-5-11, § 8, 5-17-2011; Ord. No. 1934-10-22 , § II, 11-15-2022)

Sec. 34-157. Affirmative defenses.

It is an affirmative defense to prosecution under this article that the prohibited conduct was done by:

- (1) An employee of a governmental agency engaged in the employee's official duty;
- (2) A ~~person at a lawfully scheduled event at a~~ stadium, sports field, or ballpark ~~during an event~~;
- (3) A ~~person at a~~ parade, festival, street event, ~~or~~ outdoor music event, ~~or~~ other celebration of a political subdivision, school, or bona fide religious organization permitted under this Code of Ordinances;
- (4) ~~The~~A person ringing ~~of~~ a bell or other on-site call to religious activity;
- (5) Protests or demonstrations permitted under this Code of Ordinances;
- (6) ~~A person operating an~~An emergency vehicle or emergency warning siren;
- (7) ~~A person operating~~The operation of an audible warning device on a vehicle or train as required by law;
or:
- (8) A person operating sound equipment under a permit issued under section 34-159.

(Ord. No. 1573-5-11, § 8, 5-17-2011; Ord. No. 1629-5-13, § 2, 5-21-2013; Ord. No. 1934-10-22 , § II, 11-15-2022)

Sec. 34-158. Noise level measurement.

- (a) Unless stated otherwise in this chapter, measurement of noise shall be made at the property line in which the noise is emanating.
- (b) Whenever portions of this chapter prohibit sound over a certain decibel limit, measurement of the decibel level should 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 (ANSI S1.4-1984/85A). Measurements recorded shall be taken

so as to provide a proper representation of the sound being measured. The microphone of the meter should be shielded by use of a windscreen and positioned so as not to create any unnatural enhancement or diminution of the measured sound.

(c) Standards for noise levels at property lines shall be as follows:

(1) Residential property:

(i) Nighttime noise level. Noise levels shall not exceed 49 dB(A) between the hours of 9:00 p.m. and 6:00 a.m.

(ii) Daytime noise level. Noise levels shall not exceed 56 dB(A) between the hours of 6:00 a.m. and 9:00 p.m.

(2) Non-residential property: Noise levels shall not exceed 70 dB(A) at all times.

(d) Regardless of the measurable decibel levels established in this article, the creation of any sound that is plainly audible within a building or structure, located 30 feet or more from where the sound is being generated, shall be prima facie evidence of a violation.

Sec. 34-159. Permit for sound equipment.

(a) No person shall use or cause to be used any sound equipment which produces, reproduces, or amplifies sound, including, but not limited to a loudspeaker, loudspeaker system, sound amplifier or any other such machine or device in a manner which exceeds the decibel levels specified in section 34-158 without first obtaining a permit. A permit shall be required for the use and operation of any sound equipment at a special event, as defined under chapter 74, article IV, of the Code of Ordinances, or on any city-owned property.

(b) A permit issued for the use of sound equipment:

(1) may be obtained by making application to the police chief or his designee;

(2) requires payment of a permit fee;

(3) shall be valid between the hours of 8:00 a.m. and 10:00 p.m., unless an alternate time is authorized by the city manager; and

(4) shall not authorize, allow, or permit the production, reproduction, or amplification of sound which exceeds 85 dB(A), unless an alternate decibel level is requested and authorized by the city manager. The city manager may impose additional conditions and requirements in order to approve alternate times or decibel levels.

(c) An application for a sound equipment permit must be filed with the police chief or his designee and include:

(1) the name, address, and telephone number of the applicant;

(2) a description of the type of sound amplifying equipment to be used;

(3) the address or a description of the location where the sound equipment will be used, unless a location is specifically designated by the police chief or his designee;

(4) the proposed date and time during which the sound equipment will be used;

(5) a statement that the applicant agrees to comply with all applicable requirements for issuance of the permit; and

(6) Any other information reasonably requested by the police chief or his designee in order to approve the application.

(d) At the time of the filing of the application for a sound equipment permit, an applicant shall pay a fee for the issuance of the permit in the amount set forth in the Master Fee Schedule, Addendum A to the Code of Ordinances.

(e) The police chief or his designee shall approve or deny the application for a sound equipment permit no later than fifteen (15) business days from the date the application is filed and fee is paid by the applicant, unless the applicant is notified in writing that additional information is necessary to consider the application.

(f) A permit issued hereunder may not be transferred or otherwise assigned by the applicant unless specifically authorized by the police chief or his designee.

(g) A permit may be suspended or revoked by the police chief if it is determined:

(1) The permit was issued in error;

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- (2) The applicant provided materially false or incomplete information on the permit application; or
 - (3) The person issued the permit fails to comply with any applicable provisions of this chapter.
 - (h) If an application for a sound equipment permit is denied or a permit that has been issued is subsequently revoked or suspended for any reason, an appeal of the decision may be made to the city manager as follows:
 - (1) The appeal to the city manager shall be filed with the city secretary no later than ten (10) days from the date of the notification of the decision to deny or revoke the permit.
 - (2) The appeal must be presented in writing, and specify the decision being appealed and the grounds for the appeal.
 - (3) The city manager, after hearing the appeal, shall make written findings as to whether or not grounds exist for the denial or revocation of the permit, and may uphold, reverse, or modify the decision of the police chief. The city manager's decision shall be final.