



CITY OF HOUSTON
City Council

Interoffice

Correspondence
Sallie Alcorn
At-Large 5

To: Mayor Sylvester Turner

Subject: Special-Called RNA on Bar
Nuisances

CC: Marvalette Hunter
William Paul Thomas

From: Council Member Sallie Alcorn

Date: November 12, 2020

Mayor Turner,

Thank you for your assistance thus far as I delve into the issue of neighborhood nuisances associated with bad-actor bars and nightclubs. Issues include noise, parking, capacity, disorderly conduct, loitering, crime, and more. As you are aware, these issues are growing and persistent in several Houston neighborhoods. I convened a special-called meeting of the Regulatory and Neighborhood Affairs Committee on Monday, November 2, 2020, to address this subject. Committee members heard from relevant city departments and state agencies including: Houston Fire Department Fire Marshal; Houston Police Department; Texas Alcoholic Beverage Commission; Administration and Regulatory Affairs Department; and Legal Department. Each department and agency representative highlighted statistics and other information related to the handling of nuisance and crime complaints.

Following the presentations, nearly 30 residents addressed the committee. It was clear from their remarks, and from many additional emails and calls received on this matter, that many residents are dissatisfied with the city's and TABC's inability to effectively and consistently enforce rules to bring relief. I have summarized the concerns, complaints, and comments below.

Noise:

- The bass sound is so loud it vibrates inside homes and disrupts quality of life
- The current environment "makes it impossible to live our lives"
- Some of the louder establishments are operating later than 2:00 A.M., 7 days a week
- Several residents mentioned they have installed sound-proofed windows, but bass sound and vibration remains an issue
- Many bars and nightclubs have open-air concepts with retractable roofs and/or floor-to-ceiling windows open during operating hours; they also use commercial grade speakers and sound projects loudly to nearby residents
- HPD is unsuccessful in mitigating noise violations
- HPD doesn't have the resources to address loud noise
- The permitting of any sound measuring 75 dB(A) is extremely loud – those who don't live in mixed-use neighborhoods with noise-based businesses need to understand how much noise they are asking fellow Houstonians to put up with on a protracted basis
- Bar/nightclub patrons are extremely loud, especially at closing time when heading to their parked vehicles



Parking:

- Not enough adequate parking for patrons; spaces provided are being used valet drop-off
- Lack of parking results in neighborhood curbside parking
- The only protection for homeowners is ParkHouston Residential Parking Permit Program (RPP), but there seems to also be a lack of enforcement here as residents claim ParkHouston is refusing to tow without an HPD officer present
- RPP is not enough to address parking issues
- There are cases of illegal parking (blocking stop signs, fire hydrants and driveways) as well as cases of poor or illegal drive behavior by valet drivers (rolling of stop signs, near misses with pedestrians, side swiping parked vehicles, even one fatal accident)

Capacity:

- Some establishments are reclassifying as restaurants per state rules and not actually serving food (or not serving enough food)
- Residents claim the number of bars and nightclubs exceeding capacity is way more than what is being reported by HFD
- Many ignoring mask order
- TABC doesn't have the resources to effectively enforce the governor's Covid-19-related orders

Disorderly conduct/crime:

- Irresponsible patrons, urinating/defecating while walking from venue to parked car
- Large groups of people drinking outside the establishments
- Littering, disposing of empty bottles in residents' front yards
- Sexual activity occurring outside/behind the establishments and visible to neighbors
- Gunshots heard/shootings witnessed
- Loitering and trespassing
- People waiting on rideshares spill into the street causing traffic safety issues
- Drunk driving
- Street racing
- Prostitution

Lack of enforcement:

- City has rules on the books not being enforced; city should start with enforcing the rules it already has
- When HPD is called to a scene for a noise violation, sound is turned down, then when HPD leaves, the sound is turned up again



- Lack of enforcement could be attributed to HPD officers' insufficient training on the sound ordinance -- how the sound meters work, how to correctly write a citation -- these factors lead to citations getting thrown out
- Several residents confirmed they have witnessed HPD officers in marked cars drive by with the sound meter hanging out of the car window, but the noise level never changes
- One resident referenced an establishment which hosted outdoor bands on the patio the past three weekends with a decibel reading at 85 dB(A); however, HPD issued only warnings
- Venues continuing to receive warnings should be receiving citations and higher penalties
- Residents are receiving a lack of response from HPD on loud noise calls. Often, officers drive by to listen for the sound, but subjectively they decide it's not too loud, so they close the case
- Off-duty officers working extra jobs at venues look the other way when sound and other ordinances are being violated

Prosecution:

- Many larger bars/nightclubs have the resources for strong defense attorneys who continuously reset cases until given up or dismissed
- Often establishments pay fines without intention to change their ways – they consider the fines to be “the cost of doing business”
- One resident claimed there is a ticket still in process from 2018 – the date that has been reset 12 times
- One resident suggested attorneys from the prosecutor's office sit down with HPD Differential Response Team offices to address the disconnect
- Several residents/complainants indicated they were unaware they need to provide testimony in court because no one ever contacts them after they make a complaint; they have no idea what becomes of complaints

Other:

- Unpermitted and permitted containers, like dumpsters, set in parking lots adjacent to residential properties creating an infestation of rats, spreading the smell of trash, and adding to the noise problem when being utilized at night and emptied in the early morning
- There is a lot of turnover with these businesses; some establishments make appropriate corrections after being issued citations, but new ownership/management comes in and problems start all over again
- Many instances of business owners and managers not willing to work with nearby residents
- Rented “party houses” are contributing to neighborhood nuisances in much the same way



Public speakers also offered suggestions on ways the city should approach these multi-faceted issues:

- A Washington Avenue Parking Benefits District (WAPBD) advisory committee member proposed a pilot program, offering to use WAPBD revenue funds to purchase a sound meter to record the environmental impact of nearby bars and restaurants
- At a Super Neighborhood 22 meeting in January 2019, Chief Acevedo recommended a procedure that would require HPD officers working extra jobs in the area to handle all noise-related calls – what is status of this?
- Require HPD officers working second jobs as security to be proactive in the monitoring and enforcement of sound levels. These HPD officers can install decibel meters on their smartphones to help get out ahead of the problem. The objective is to identify elevated noise levels at the source and not wait until the residential property is disturbed.
- Require entertainment venues located near residential properties to install permanent sound monitoring equipment. Businesses would be required to monitor their noise continually and report all exceedances. Penalties could be collected more frequently, and businesses would be less inclined to incur the penalty for the risk of being thrown into the category of a nuisance.
- Modify building codes to require sound suppression for indoor entertainment venues and sound containment for outdoor structures like open air patios and retractable roofs.
- Develop a tiered ladder of penalties, just as other jurisdictions do with other infractions. Alternatively, entertainment venues at which three or more violations occur within a certain period should constitute a nuisance and be subject to an action for abatement. Penalties should be designed to discourage a behavior or activity. The cost of non-compliance should not become a cost of doing business.
- The city attorney's office should also provide a more consistent, efficient approach to keeping complainants informed (and a path to successful prosecutions of these types of offenses).
- Create an MOU between the city and county to expand county law enforcement personnel (constables, sheriff's deputies) operating within the city limits the ability to write citations for bar nuisances, specifically loud noise violations.
- Eliminate permits for sound amplification equipment for businesses seeking to exceed the 68 decibels.
- During training, test HPD cadets in theory and practice on the sound ordinance and how to write noise citations to ensure a higher rate of prosecutions.

After hearing nearly 90+ minutes of public testimony, it is important to note, most of the complaints center around larger nightclubs and *not* smaller, responsible neighborhood bars. During the COVID-19 pandemic, many Houston bars have suffered significant economic loss, and it is important not to paint all establishments with one brush. There is a fine balance that must be struck to accommodate Houston's robust nightlife while protecting and providing relief to our residents.



I invited Houston bar owner Bobby Heugel and also Lindsay Burleson with the Texas Neighborhood Bar Coalition to make comments and provide suggestions as well. Several attempts were made to contact Houston members of the Texas Bar and Nightclub Alliance, but none were successful.

Mr. Huegel spoke at the meeting and also provided important insight via phone conversation and emails. He urges careful consideration of the dire economic position many bars currently face due to the pandemic, and stresses the city must tread lightly on measures that could potentially cause them to bear any additional burden. He advised the city:

- Add a new classification for nightclubs in Chapter 26
 - Consider adding a fourth tier that includes spaces above 6,000 square feet to define nightclubs, as most (not all) complaints are relevant to venues with square footage above 6,000
 - Regarding valet, should valet drivers be permitted to park vehicles on public streets? Perhaps valet permit fees for nightclubs could be increased, and these dollars could be earmarked for neighborhood benefits
 - Valets should be restricted from setting off car alarms to locate vehicles and should have a better record keeping system
- In other parts of the code regarding the nightclub tier, perhaps in the occupancy section:
 - Minimal security requirements for nightclubs at the door for venues above a certain occupancy
 - Signage would be required for all nightclubs asking guests to keep quiet upon exiting and respect neighbors
 - Nightclubs would be required to police the volume of guests on property or adjacent to their businesses with security personnel
 - Nightclubs neglecting these requirements could be found negligent and fined (common in other cities)
- Bolster enforcement on health protocols as outlined in Chapter 39, and consider a dumpster maintenance requirement similar to a grease trap requirement. This would require regular cleaning of a dumpster area with a manifest inspected by health department showing areas were cleaned and maintained by a third-party company.
- Consider an ordinance requiring metal detectors in locations where there are repeated weapons and assault complaints. "Nightclubs would do everything possible to avoid this hassle, and that means they would have to think about the activities of their crowds more. This would really address safety issues in larger nightclubs with violence issues."
- On the sound ordinance, conversations again should be pointed at this nightclub tier and decibel readings should be taken at the property line of the property generating the sound.
- Enforcement is the issue here; solve that first and fix any enforcement clauses in the ordinance that need to be addressed



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A path forward:

To start, I have reached out to all district council members to gather lists of bad-actor establishments in their respective districts. Next, I've asked HPD, HFD, and Legal to gather statistics on calls for service, citations, and prosecutions attributable to each establishment. I want a better picture of the current situation and what the city's limitations are regarding enforcement.

Of all the many complaints, noise rises to top. The noise ordinance has not been revised since 2011 and the city has become denser since then. I recommend the city revisit the noise ordinance with appropriate stakeholders. Specifically, look at providing an objective level for bass noise; explore requiring those obtaining an annual sound permit to purchase and install a sound meter on property; and change where the sound measurement is taken – take the measurement from the property line of the establishment, not the complainant's property line. I'm certain there are other aspects of the ordinance to be improved, but those are a few of the specific ones which have been discussed.

I look forward to getting some firsthand knowledge on this subject tomorrow night, Friday, November 13, 2020, as I will be taking part in a late-night ride along with the HPD Central unit to tour the Washington Avenue Corridor during peak complaint hours.

I am interested in your thoughts on how the city should proceed in addressing the bar/nightclub nuisance issues. The current situation is untenable, and I look forward to working with you to improve the quality of life in impacted Houston neighborhoods.

Thank you again.

Kind Regards,

A handwritten signature in blue ink that reads "Sallie Alcorn". The signature is written in a cursive style and is positioned above a vertical line.

Council Member Sallie Alcorn