

CHAPTER 53

NOISE CONTROL

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* 53.01 STATEMENT OF PUBLIC POLICY. The Council finds and declares that:

1. Noise Hazard. Excessive noise is a serious hazard to the public health and welfare and the quality of life in a close urban society.

2. Abatement. A substantial body of science and technology exists by which excessive noise can be substantially abated without serious inconvenience to the public.

3. Essential Equipment. Certain of the noise-producing equipment in the City is essential to the quality of life herein and should be allowed to continue at reasonable levels with moderate regulation.

4. Personal Rights. Each person has a right to an environment reasonably free from noise which jeopardizes health or welfare or unnecessarily degrades the quality of life or diminishes property values.

5. Central Policy. It is the declared policy of the City to promote an environment free from excessive noise, otherwise properly called "noise pollution," which unnecessarily jeopardizes the health and welfare and degrades the quality of the lives and devalues the property of the residents of the City, without unduly prohibiting, limiting or otherwise regulating the function of certain noise-producing equipment which is not amenable to such controls and yet is essential to the economy of and quality of life in the City.

* 53.02 PURPOSE. The purpose of this chapter is to establish standards for the control of noise pollution in the City, and thereby to protect the public health, safety and general welfare.

* 53.03 SCOPE OF REGULATIONS. This chapter shall apply to the control of all noise originating within the limits of the City, except where either (i) a State or Federal agency has adopted a different standard or rule from that prescribed within this chapter and has so preempted the regulation of noise from a particular source as to render this chapter inapplicable thereto or (ii) the Council has determined that, by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to the residents of the City.

* 53.04 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings. Definitions of technical terms used in this chapter which are not herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI):

1. "Application" means the application discussed in Section 53.08 of this chapter.
2. "City Building Official" means the person holding the office of Building Official under the Building Code of the City, as said building code may be from time to time amended or re-enacted. When said office is vacant or when such person is out of the City or away from his or her duties because of vacation or illness, "City Building Official" means the person then holding the office of Director of Public Works in the City.
3. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
4. "Emergency work" means any work performed for the purpose of alleviating or resolving an emergency.
5. "Motorcycle" means any two or three-wheeled motor vehicle.
6. "Motor vehicle" means any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways. (Note: "Motor vehicle" includes most motorcycles.)
7. "Noise" means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

8 "Noise disturbance" means those sounds defined as "noise disturbances" in Section 53.06 of this chapter.

9. "Person" means unless used in such a manner to denote only a human being, any firm, partnership, domestic or foreign corporation, association or joint stock company, trust or other association or entity, city, county or state government and subdivisions or agencies thereof and the federal government and subdivisions and agencies thereof.

10. "Powered model vehicles" means any self-propelled airborne, waterborne or landborne model plane, vessel or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

11. "Public right-of-way" means the traveled portion of any street, avenue, boulevard, highway, alley or similar place which is owned or controlled by the City or another governmental entity.

12. "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

13. "Recreational vehicle" means any motor-powered vehicle designed to carry at least one passenger or driver and equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways shall be deemed a "motor vehicle" (and a "motorcycle" if two or three-wheeled) and not a "recreational vehicle." (Examples of recreational vehicles are snowmobiles, minibikes, stock cars or motorboats.)

14. "Residential property" means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

15. "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

16. "Sound equipment" means any radio, record player, tape deck or player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except, however, "sound equipment" does not include (i) sirens and other equipment used to alert persons to the existence of an emergency, (ii) equipment used by law enforcement and other public safety officials in the performance of their official duties, (iii) church carillons, bells or chimes, (iv) mobile radio or telephone signaling devices, and (v) automobile and truck radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted therefrom is not audible for more than fifty (50) feet from such automobile or truck.

* 53.05 NOISE DISTURBANCE PROHIBITED. It is unlawful for any person to willfully make or continue, or cause or allow to be made or continued, any noise disturbance within the City, and upon conviction shall be subject to penalty as stated in Section 1.10.

* 53.06 INCLUDED SOUNDS. Except for sounds excluded in Section 53.07, the term "noise disturbance," as used in this chapter, means any of the following sounds:

1. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the welfare, safety or health of a human being, or disturbs a reasonable human being of normal sensitivities, or causes or tends to cause an adverse physiological or physical effect on human beings or devalues or injure property.
2. Selling by "Hawking" or "Barking". The sound of selling by shout or outcry when made within the area of the City zoned residential or commercial.
3. Loading and Unloading. The sound made by the outdoors loading, unloading, opening, closing or handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of nine o'clock (9:00) p.m. and seven o'clock (7:00) a.m. the following morning within any area of the City zoned residential.
4. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying or testing of a motor vehicle or recreational vehicle which is received between the hours of seven o'clock (7:00) p.m. and eight o'clock (8:00) a.m. the following morning at the real property boundary of residential property.

5. Powered model vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of eight o'clock (8:00) p.m. and eight o'clock (8:00) a.m. the following morning at the real property boundary of residential property.

6. Musical instruments. The sound made by a drum, horn, reed instrument, string instrument or other musical instrument or device which is received between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. at the property boundary of residential property.

7. Off-road motorcycle and recreational vehicle noise. The sound made on private property or on City-owned property other than public right-of-way by a motorcycle or recreational vehicle and received between the hours of eight o'clock (8:00) p.m. and eight o'clock (8:00) a.m. the following morning at the real property boundary of residential property; provided, however, the sound made by a motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a "noise disturbance" unless made so by some provision of this section other than this Subsection 7.

8. Construction noise. The sound made by tools or equipment in erection, demolition, excavation drilling or other such construction work which is received between the hours of nine o'clock (9:00) p.m. and seven o'clock (7:00) a.m. the following morning at the real property boundary of residential property.

9. Sound equipment. The sound made by sound equipment operated upon the public right-of-way or in any building or upon any premises, public or private, if plainly audible from any public right-of-way within the City unless the person using, operating or causing to be used or operated the sound equipment possesses a current sound equipment permit and the actual use or operation of such sound equipment is not inconsistent with the statements made in the application, the conditions imposed in the sound equipment permit or the limitations specified in Subsection 4 of Section 53.08 of this chapter.

10. Racing. The sound made by a motor vehicle or recreational vehicle on private property or public right-of-way during any racing event or time trial, whether organized or unorganized.

11. Screeching tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle in areas of the City zoned residential or commercial.
12. Noisy exhaust system. The sound made by a motor vehicle or a recreational vehicle whose exhaust system has been modified by the installation of a muffler cut-out or by-pass.
13. Animal or bird noises. The frequent or habitual sound made by a domesticated animal or bird, other than livestock owned or possessed for agricultural purposes, which is received between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. the following morning at the real property boundary of residential property.

53.07 EXLUDED SOUNDS. Any other provision of Section 53.06 or other sections of this chapter to the contrary notwithstanding, the term "noise disturbance," as used in this chapter, does not mean or include the following sounds:

1. Lawn and garden equipment. The sound emitted by motor-powered, muffler-equipped lawn and garden equipment operated between the hours of seven o'clock (7:00) a.m. and ten o'clock (10:00) p.m.
2. Chain saws. The sound emitted by motor-powered tree trimming equipment operated between the hours of six o'clock (6:00 a.m.) and eight o'clock (8:00 p.m.). *(Ord. 881 – Mar. 18 Supp.)*
3. Snow removal equipment. The sound emitted by motor-powered, muffler-equipped snow removal equipment operated between the hours of six o'clock (6:00) a.m. and ten o'clock (10:00) p.m. and the sound emitted by City-owned or hired snow removal equipment.
4. Emergencies. The sound emitted in the performance of emergency work or to alert persons to the existence of an emergency.
5. Alarms. The sound emitted by the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationery emergency signaling device for emergency purposes or for the essential testing of such device when conducted between the hours of nine o'clock (9:00) a.m. and four o'clock (4:00) p.m.
6. Church bells. The sound emitted by church carillons, bells or chimes.

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7. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or player or other such standard equipment used and intended for the use and enjoyment of such vehicle's occupants while such vehicle is on the public right-of-way, provided that the sound emitted therefrom is not audible for more than fifty (50) feet.

8. Certain Signaling Devices. The sound emitted by mobile radio or telephone signaling devices.

9. Religious Ceremonies. The sound emitted in conjunction with a religious celebration.

10. Law Enforcement. The sounds made or caused to be made by law enforcement officials in the performance of their official duties.

11. Construction Noise. The sound emitted by construction work (erection, demolition, excavation, drilling, etc.) between the hours of seven o'clock (7:00) a.m. and nine o'clock (9:00) p.m. which is being performed pursuant to a proper and current building permit.

12. Mosquito Spraying Equipment. The sound made by City-owned or hired mosquito spraying equipment.

§ 53.08 SOUND EQUIPMENT PERMIT. No person shall use, operate or cause to be used or operated any sound equipment upon the public right-of-ways or in any building or upon any premises, public or private, if the sound emitted thereby is plainly audible from the public right-of-way within the City unless such person has obtained a sound equipment permit in accordance with this section and the actual use or operation of such sound equipment is not inconsistent with the statements made in the application, the conditions imposed in the sound equipment permit or the limitations specified in Subsection 4 of this section. A sound equipment permit shall not be transferable, and it shall be conspicuously displayed on or adjacent to the sound equipment.

1. Application For Permit. Applications for sound equipment permits shall be made in writing to the Clerk or Building Official and shall contain the following information:

A. Name and address of applicant.

B. The purpose for which the sound equipment will be used.

C. The location where the sound equipment will be used.

D. The number of days of use and proposed hours of operation of the sound equipment.

E. A general description of the sound equipment, including the license number of any motor vehicle upon which it is to be operated.

F. Any other information as may be required by the Clerk or the City Building Official.

*2. Permit Fee. The fees for a sound equipment permit shall be as follows:

A. Permits for one (1) day or less - \$ 5.00

B. Permits for two (2) days through seven (7) days - \$25.00

except that no fee shall be required for a sound equipment permit issued to the City, State or the Federal government or any governmental subdivision or agency thereof.

*3. Issuance of Permit. Permits may be issued by either the City Building Official or by the Clerk. Except as hereinafter provided, if the application contains the required information and is accompanied by the required fee, the sound equipment permit shall be issued with reasonable dispatch.

*4. Limitations. Any other language in this section to the contrary notwithstanding, a sound equipment permit shall not be issued if:

A. The sound to be emitted by the sound equipment is other than human speech or music.

B. The sound equipment is to be operated for commercial advertising purposes or for the purpose of attracting the attention of the public to any building, structure or vehicle for monetary profit or for the purpose of advertising such sound equipment.

C. The sound to be emitted by the sound equipment would be a noise disturbance under Section 53.06 of this chapter (other than Subsection 9 of said Section).

A sound equipment permit issued in violation of this Subsection 4 is void and of no force or effect.

* 5. Conditions. The City Building Official, or the Council, as the case may be, may impose reasonable conditions and requirements to be met or fulfilled by the sound equipment permit holder preliminary to or at the time of the use or operation of the sound equipment. Such conditions and requirements shall be those conditions and requirements necessary or advisable to protect the health, welfare and quality of life of the residents of the City and may include, without limitation, restrictions on the time of day the sound equipment can be used or operated, restrictions on the level of the sound to be produced and restrictions on the number of minutes or consecutive minutes (or other unit of time) that the sound equipment may be used or operated during any one hour or day (or other unit of time).

* **53.09 CONSTRUCTION.** No provisions of this chapter should be construed to legalize or permit sounds, devices or activities made unlawful by other ordinances of the City or State or Federal Statutes.

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