

## CHAPTER 52

# NOISE CONTROL

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**52.01 SCOPE OF REGULATIONS.** This chapter applies to the control of all noise originating within the limits of the City, except in the following cases: (a) a State or federal agency has adopted a different standard or rule than that prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable, or (b) 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.

**52.02 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. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
2. "Emergency work" means any work performed for the purpose of alleviating or resolving an emergency.
3. "Motorcycle" means any two or three-wheeled motor vehicle.
4. "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)
5. "Noise" means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
6. "Noise disturbance" means those sounds defined as "noise disturbances" in Section 52.04 of this chapter.

7. "Powered model vehicle" 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.

8. "Public right-of-way" means the traveled portion of any street or alley or similar place which is owned or controlled by the City or other governmental entity.

9. "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.

10. "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 is deemed a "motor vehicle" or "motorcycle" (if two or three-wheeled) and not a "recreational vehicle." (Examples of recreational vehicles are a snowmobile, a minibike, a stock car or motorboat.)

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

12. "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.

13. "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 (a) sirens and other equipment used to alert persons to the existence of an emergency, (b) equipment used by law enforcement and other public safety officials in the performance of their official duties, (c) church carillons, bells or chimes, (d) mobile radio or telephone signaling devices and (e) 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.

**52.03 NOISE DISTURBANCE PROHIBITED.** It is unlawful for any person to willfully make or continue or cause to allow to be made or continued any noise disturbance within the City.

**52.04 INCLUDED SOUNDS.** Except for sounds excluded in Section 52.05, the term "noise disturbance" 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 injures property.
2. Selling by "Hawking" or "Barking." The sound of selling by shout or cutely when made within the area of the City zoned residential or commercial.
3. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing or handling of boxes, crates, containers, building materials, garbage cans, trash receptacles or similar objects between the hours of nine o'clock (9:00) p.m. and six-thirty o'clock (6:30) a.m. within any area of the City zoned residential or at the real property boundary of residential property.
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 nine o'clock (9:00) p.m. and six-thirty o'clock (6:30) a.m. 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 nine o'clock (9:00) p.m. and six-thirty o'clock (6:30) a.m. 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 nine o'clock (9:00) p.m. and six-thirty o'clock (6:30) a.m. at the real 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 a public right-of-way by a motorcycle or recreational vehicle and received between the hours of nine o'clock (9:00) p.m. and six-thirty o'clock (6:30) a.m. 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 provisions 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 six-thirty o'clock (6:30) a.m. 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 between the hours of nine o'clock (9:00) p.m. and six-thirty o'clock (6:30) a.m. or upon any school grounds or in any school zone during normal school hours, 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 or the conditions imposed in the sound equipment permit.

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 bypass.

13. Lawn and Garden Equipment. The sound emitted by motor-powered, muffler-equipped lawn and garden equipment operated between the hours of nine o'clock (9:00) p.m. and six-thirty o'clock (6:30) a.m.

14. Chain Saws. The sound emitted by motor-powered tree trimming equipment operated between the hours of nine o'clock (9:00) p.m. and six-thirty o'clock (6:30) a.m.

**52.05 EXCLUDED SOUNDS.** Any other provision of Section 52.04 or other section 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. Emergencies. The sound emitted in the performance of emergency work or to alert persons to the existence of an emergency.
2. Alarms. The sound emitted by the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for emergency purposes, or for the essential testing of such device when conducted between the hours of six-thirty o'clock (6:30) a.m. and nine o'clock (9:00) p.m.
3. Church Bells. The sound emitted by church carillons, bells or chimes.
4. 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.
5. Certain Signaling Devices. The sound emitted by mobile radio or telephone signaling devices.
6. Religious Ceremonies. The sound emitted in conjunction with a religious celebration.
7. Law Enforcement. The sounds made or caused to be made by law enforcement officials in the performance of their official duties.
8. Mosquito Spraying Equipment. The sound made by City-owned or hired mosquito spraying equipment.

**52.06 SOUND EQUIPMENT PERMIT.** No person shall use, operate or cause to be used or operated any sound equipment upon the public rights-of-way 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 or the conditions imposed in the sound equipment permit.

- 1 Application for Permit. Applications for sound equipment permits shall be made in writing to the Council and shall contain the following information:

- A. Name and address of applicant.
  - B. The type of event for which the sound equipment will be used.
  - C. The location where the sound equipment will be used,
  - D. The proposed date and duration of the event and the hours of operation of the sound equipment.
  - E. A general description of the sound equipment, including whether the sound source will be located inside a building or outside as well as the license number of any motor vehicle upon which said sound equipment is to be operated if applicable.
  - F. Any other information as may be required by the Council.
2. Permit Fee. The fee for a sound equipment permit shall be as established by resolution of the Council.
  3. Issuance of Permit. Permits may be issued by the Council. 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. A sound equipment permit shall not be issued if the sound to be emitted by the sound equipment would be a noise disturbance under Section 52,04 (other than subsection 9) of this chapter. A sound equipment permit issued in violation of this subsection 4 is void and of no force and effect.
  5. Conditions. The Council 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 that the sound equipment may be used or operated during any one hour or day.
  6. Permissibility. Any other language to the contrary in this chapter notwithstanding, sound made by sound equipment for which a valid sound equipment permit has been issued under this Section 52.06 shall be permissible hereunder and shall not constitute a violation of this chapter regardless of the fact that said sound equipment may be operated

upon the public right-of-way or in a building or upon premises, public or private, that is plainly audible from a public right-of-way within the City.

**52.07 OTHER LAWS AND ORDINANCES.** No provisions of this chapter should be construed to legalize or permit sounds, devices or activities made unlawful by State or federal statutes or this Code of Ordinances.

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