

CHAPTER 43

EXCESSIVE NOISE WITHIN CITY LIMITS

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43.01 STATEMENT OF PUBLIC POLICY. It is the declared policy of the City to promote an environment free from excessive noise which unnecessarily jeopardizes the health, welfare, and quality of life of the residents of the community, without unduly prohibiting or limiting the function of certain noise-producing equipment which is not amenable to such controls and yet is essential to the economy and life of the community.

43.02 PURPOSE AND SCOPE. The purpose of this chapter is to establish standards for the control of noise pollution in the City by setting maximum permissible sound levels for various activities and to protect the public health, safety, and general welfare. This chapter applies to the control of noise-producing activities and objects originating within the limits of the City or originating from properties lying outside the limits of the City owned or controlled by the City with a lease or other similar arrangement, except where either:

1. A State or Federal agency has adopted a different standard or rule from that prescribed within this chapter and has preempted the regulation of noise from a particular source as to render this chapter inapplicable thereto; or
2. The Council has determined that, by reason of public acceptance of the activities producing a particular noise, such noise is deemed acceptable to the residents of the City.

43.03 NOISE DISTURBANCE PROHIBITED. No person shall make or continue to make, except as permitted, any noise disturbance deemed excessive as set forth in this chapter. Any noise disturbance may be prosecuted whether or not the specified levels are reached.

43.04 PENALTY FOR VIOLATION. Any person who violates any of the provisions of this chapter shall, upon conviction, be subject to a criminal penalty as shown below. Each and every day that a violation occurs or continues shall be deemed a separate offense. Each offense shall be counted for one calendar year.

1. First Offense – \$75.00 fine plus court costs and surcharge.
2. Second Offense – \$150.00 fine plus court costs and surcharge.
3. Third Offense – \$500.00 fine plus court costs and surcharge (and may include up to 30 days in jail).

43.05 STANDARDS FOR DETERMINATION OF VIOLATION. It is unlawful for any person to permit, make, continue, or cause any excessive or unusually loud noise or any noise that annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of

others within the limits of the City. The standards that shall be considered in determining whether a violation exists include the following:

1. The sound pressure level of the noise.
2. Whether the origin of the noise is natural or manmade.
3. The sound pressure level of the background noise.
4. The proximity of the noise to residential sleeping facilities.
5. The nature and zoning of the area within which the noise emanates.
6. The time of the day or night the noise occurs.
7. Whether the noise is recurrent, intermittent, or constant.

43.06 ENUMERATION OF PROHIBITED ACTS. Each of the following acts, among others, is hereby declared to be in violation of this chapter and is prohibited. This section shall not be construed as limiting or precluding enforcement of any other provisions of this chapter, nor is it intended to be a comprehensive list of prohibited acts.

1. **Unnecessary Sounding of Horns or Signaling Devices.** The sounding of any horn or signaling device on any automobile, motorcycle, bus, or other vehicle on any street or public place of the City (except as a danger or alerting signal), and the sounding of any device for an unnecessary and unreasonable period of time.
2. **Loud Operation of Radios and Loudspeakers.** The using, operating, or permitting to be placed, used, or operated any radio receiving set, musical instrument, loud speakers, or other machine or device for the production or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants.
3. **Use of Loudspeakers or Amplifiers for Advertising.** The using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, drum, phonograph, loudspeaker, sound amplifier, or other device for producing or reproducing sound which is broadcast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any structure or event.
4. **Keeping Noisy Animals and Fowl.** The keeping, upon any premises owned, occupied, or controlled by any person, of any animal or fowl otherwise permitted to be kept which, by any sound or cry, shall cause annoyance or discomfort to a reasonable person of normal sensibilities.
5. **Creation of Noise Near Schools, Courts or Churches.** The creation of loud and excessive noise on any street adjacent to any school, institution of learning, church, or court while these areas are in use, which unreasonably interferes with the workings of such places.
6. **Construction or Repair of Buildings, Structures, and Streets During Certain Hours.** The erection, including excavation, demolition, alteration, or repair of any building, structure, or street between the hours of 7:00 a.m. and 10:00 p.m., Monday through Saturday, except in the case of urgent necessity in the interest of public health and safety, and then only with a permit from the Director of Public Works. This permit may be granted and renewed for a period not to exceed three days or less while the emergency continues. If the Director of Public Works should determine that the public health and safety would not be impaired by the erection, demolition, alteration,

or repair of any building or the excavation of streets and highways within the hours of 10:01 p.m. and 6:59 a.m., permission may be granted for such work. This request should be made upon the application being made at the time the permit for the work is awarded. This subsection will not apply to the performance of necessary emergency work.

7. Operation of Pile Drivers and Hammers During Certain Hours. Except as provided in subsection 6 of this section, the operation between the hours of 6:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, power hoist, or other construction equipment, and such equipment shall at all times be equipped with an effective muffling device.

8. Repairing Vehicles During Certain Hours. The repair or rebuilding of any motor vehicle within any residential area of the City between the hours of 10:01 p.m. and 6:59 a.m.

9. Discharge of Unmuffled Exhaust. The discharge into the open air the exhaust of any steam or internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

10. Unlawful Use of Buildings. Using, permitting the use of or renting any premises to be used for any business or employment or residential use or for any purpose or pleasure or recreation, if such noise generated exceeds the limits set forth in this chapter.

11. Use of Stationary Machinery Producing Excessive Noise. The operation of any immobile machinery, equipment, pump, fan, or similar mechanical device in any manner as to create any noise which would cause the noise level at any portion of the property line of any property to cause a person of normal sensitivities residing in the area discomfort or annoyance.

43.07 GROUP NOISE. Whenever a group acts together to create noise, each individual person in such group shall be deemed responsible for the creation of such noise.

43.08 METHOD OF MEASURING NOISE. Each noise or sound shall first be evaluated using the standards set forth to indeed see if a violation exists. Secondly, these noise levels should be judged at the nearest property line to which the complaint has been made and should not exceed permissible sound level as set forth in Section 43.12, Sound Levels by Land Use.

43.09 VIBRATIONS. Any vibration that can be felt beyond the property line in any zoning district, whether manufacturing, business, commercial, or residential, is in violation of this chapter.

43.10 SOUND VARIANCES.

1. Any person may file an application with the Clerk requesting a sound variance from the requirements of this chapter. The application must state facts which show that the applicant's compliance with this chapter would constitute an unreasonable hardship on the applicant, the community, or on other persons.

2. In determining whether to grant the request for a variance, the Council shall decide if such a variance is warranted. A variance can also be granted that may include one or more conditions.

43.11 PERMITS AND FEES FOR OUTDOOR COMMERCIAL ENTERTAINMENT.

1. Permits are non-transferable and must be conspicuously displayed on or immediately adjacent to the sound equipment.
2. Each application for permit shall be filed with the Clerk along with the appropriate fee. Each permit shall be filed in such time as to be approved by the Council at their next scheduled meeting. If any application is denied for any reason, the application fee shall be returned to the applicant within 10 days.[†]
3. Two types of permits are available:
 - A. A daily permit is good for only one activity on one date, and the application fee of \$10.00 is required at the time the application is filed with the Clerk.
 - B. A yearly permit is good for one year, with the year starting on the day the permit is approved. The yearly permit application fee of \$50.00 is required at the time the application is filed with the Clerk.
4. Permit Restrictions.
 - A. Each permit shall allow such operations ONLY between the hours of 9:00 a.m. and 1:30 a.m. of the following morning.
 - B. Any permit issued for the amplification of music or the human voice will allow said applicant to engage in such activity. This permit will allow such activity as long as the sound equipment emitting music and/or human speech shall not register more than 75 dBa(s) when measured from a real property boundary of a private residence nearest the sound equipment. If any complaint is filed with local law enforcement agency, it shall be the responsibility of the applicant to comply with the wishes of any law enforcement officer. If any person does not abide by any law enforcements instructions, the permit shall become null and void and any further applications may not be approved by the Council.

43.12 SOUND LEVELS BY LAND USE.

Zoning Category	Time	Maximum dBa Level
R-1 to R-4	7:00 a.m. to 10:00 p.m.	65
	10:01 p.m. to 6:59 a.m.	55
B-1 to B-2	At all times	65
I-1 to I-2	At all times	75
Sensitive Noise Areas	At all times	55

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[†] **EDITOR’S NOTE:** See page 15 of APPENDIX for form of Application for Permit.