

## CHAPTER 48

# NOISE CONTROL

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

**48.02 SCOPE OF REGULATIONS.** This chapter applies to the control of all noise originating within the limits of the City, except in the following cases:

1. A State or Federal agency has adopted a different standard or rule than prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable, or
2. 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.

**48.03 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 submitted to the City requesting a noise permit.
2. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
3. "Emergency work" means any work performed for the purpose of alleviating or resolving an emergency.
4. "Motorcycle" means any two or three-wheeled motor vehicle.
5. "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.)
6. "Noise" means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

7. “Noise disturbance” means those sounds defined as “sounds not allowed” Section 48.05 of this chapter.
8. “Person” means, unless used in such a manner to denote only a human being, any firm, partnership, domestic or foreign corporation, association, 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.
9. “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.
10. “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.
11. “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 division.
12. “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 snowmobiles, a mini-bikes, a stockcars or motorboats.)
13. “Residential property” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.
14. “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.

15. “Sound equipment” means any radio, record player, tape deck or compact disc player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound; except, however, “sound equipment” does not include sirens and other equipment used to alert persons to the existence of an emergency; equipment used by law enforcement and other public safety officials in the performance of their official duties; church carillons, bells or chimes; mobile radio or telephone signaling devices; or automobile and truck radios or players of recorded music such as compact discs or tapes or other such standard equipment used and intended for the use and enjoyment of the occupants of the vehicle, provided that the sound emitted from the vehicle does not exceed 75 dB(A) when measured at a distance of twenty-five (25) feet.

*(Ord. 806 – Jun. 04 Supp.)*

16. “Sound level meter” means an instrument, including a microphone, amplifier, output meter and weighting networks, that is sensitive to pressure fluctuations. The output meter reads sound pressure level in decibels when properly calibrated and the instrument is of Type 2 or better as specified in American National Standards Institute, USA Standard Specification for General Purpose Sound Level Meters (S1.4-1971), and Preferred Center Frequencies for Acoustical Measurements (S1.6-1960), or any subsequent nationally adopted standard superseding such standards. A “weighted sound level” or “sound level” means the sound pressure level in decibels as measured on a sound level meter using the A weighting network. The level so read shall be designated as dB(A) or dBA. “Decibel” means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound and is denoted as dB.

*(Ord. 806 – Jun. 04 Supp.)*

**48.04 NOISE DISTURBANCE PROHIBITED.** It is unlawful for any person to willfully make, continue, cause or allow any noise disturbance within the City.

**48.05 SOUNDS NOT ALLOWED.** The term “noise disturbance” means any of the following sounds:

1. Alarm Testing. The sound emitted by the intentional sounding outdoors of any privately-owned fire alarm, burglar alarm, siren, whistle, or similar stationary emergency signaling device for the essential testing of such device, when conducted between the hours of **5:00 p.m. and 8:00 a.m.**
2. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or compact disc 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 from the vehicle does not exceed 80 dB(A) when measured at a distance of twenty-five (25) feet. *(Ord. 806 – Jun. 04 Supp.)*
3. Chain Saws. The sound emitted by motor-powered tree trimming equipment operated between the hours of **10:00 p.m. and 7:00 a.m.**

4. Construction Noise. The sound made by privately-owned and operated tools or equipment in erection, demolition, excavation, drilling, or other such construction work which is received between the hours of **10:00 p.m. and 7:00 a.m.** at the real property boundary of residential property.
5. Engine Brake Noise. The sound made by an engine brake device of a diesel engine truck
6. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying, or testing a motor vehicle or recreational vehicle which is received between the hours of **10.00 p.m. and 7.00 a.m.** at the real property boundary of residential property.
7. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the health, safety, or welfare of a human being, 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.
8. Lawn and Garden Equipment. The sound emitted by motor-powered, muffler-equipped lawn and garden equipment operated between the hours of **10:00 p.m. and 7:00 a.m.**
9. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing, or handling of boxes, crates, containers, building materials, trash cans, containers, receptacles, and/or dumpsters which are received at the real property boundary of residential property between the hours of **10:00 p.m. and 7:00 a.m.**
10. Musical Instruments. The sound made by a drum, horn, reed and/or string instrument, or other musical instrument or device which is received between the hours of **10:00 p.m. and 7:00 a.m.** at the real property boundary of residential property.
11. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system is defective or has been modified by the installation of a muffler cutout or bypass.
12. Off-road Motorcycle and Recreational Vehicle Noise. The sound made on private or City-owned property other than a public right-of-way by a motorcycle or recreational vehicle and received between the hours of **10:00 p.m. and 7:00 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.
13. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of **10:00 p.m. and 7:00 a.m.** at the real property boundary of residential property.

- 14. 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.
- 15. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle.
- 16. 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.
- 17. Sound Equipment. The sound made by sound equipment (see definition under Section 48.03[15]) operated upon the public right-of-way, in any building or upon any public or private premises shall be classified as a noise disturbance if either (a) the sound is in excess of the maximum permitted levels shown in the chart below when measured at the property boundary, or anywhere within the property, of a receiving land use, or if in a park, approximately two hundred (200) feet from the source of the sound or, when a complaint is received, at the nearest boundary of the property where the complaining party was disturbed; or (b) the sound is of a nature that cannot accurately be measured by a sound level meter, and such sound is disturbing to a reasonable human being of normal sensitivities.

MAXIMUM PERMITTED LEVELS

RECEIVING LAND USE:	MAXIMUM dB PERMITTED:
Residential:	65 between 7 a.m. and 10 p.m. 55 between 10 p.m. and 7 a.m.
Commercial:	70
Industrial:	75
Park:	65

Sound in excess of the maximum permitted levels shall not be a noise disturbance if such sound is emitted in accordance with a noise permit issued by the City.

*(Ord. 806 – Jun. 04 Supp.)*

**48.06 MEASUREMENT OF NOISE AND SOUND.** The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone shall be positioned so as not to create an unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. The measurement shall be an A weighted, slow response sound level.  
*(Ord. 806 – Jun. 04 Supp.)*

**48.07 NOISE PERMIT FOR SOUND EQUIPMENT.** No person shall use, operate or cause to be used or operated any sound equipment upon the public right-of-way, in any building or upon any public or private premises, if the sound is in excess of the maximum permitted levels under Section 48.05(17) when measured at the property boundary, or anywhere within the property, of a receiving land use, or if in a park, approximately two hundred (200) feet from the source of the sound or, when a complaint is received, at the nearest boundary of the property where the complaining party was disturbed, unless such person has obtained a noise permit in accordance with this section, and the actual use or operation of such sound equipment is not inconsistent with statements made in the application, the conditions imposed in the sound equipment permit or the limitations specified in subsection 4 of this section. Any person who operates any sound equipment in violation of this section, and without obtaining a noise permit, shall be subject to having the event stopped or the sound equipment turned off or reduced to a legal level. Such remedy shall be in addition to any other rights and remedies of the City. A noise permit shall not be transferable, and it shall be conspicuously displayed on or adjacent to the sound equipment.

*(Ord. 857 – Jun. 06 Supp.)*

1. Application for Permit. Applications for noise permits shall be made in writing to the City Clerk or Deputy City Clerk and shall contain the following information:
  - A. Name, address, phone number(s) and signature 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 City Clerk or Deputy City Clerk.
2. Permit Fee. A permit fee shall be paid by the applicant for the permit, with the amount of the fee determined in accordance with an established fee schedule, which fee schedule may be modified from time to time with the approval of the Council.

No fee is required for a noise permit issued to City, State or Federal government or any governmental subdivision or agency thereof.

3. Issuance of Permit. Applications for noise permits shall be reviewed and then issued or denied by either the City Clerk or his/her designee. The applicant may appeal the denial of a noise permit by filing a written request for appeal with the City Clerk or his/her designee, requesting that the denial of the application for noise permit be reviewed by the City Council at the Council's next regularly scheduled meeting. The City shall consider the following factors in connection with the issuance of a noise permit:

- A. The location of the proposed event of source of the noise in relation to surrounding residences or businesses;
- B. The time of day and day of the week for which the permit is requested. The City shall not issue a noise permit that extends after 10:00 p.m. on a weeknight or after 11:00 p.m. on a weekend night or on the night of a holiday, except in unusual circumstances, for good cause shown and approval by the City Council;
- C. The duration of the activity for which the noise permit is requested;
- D. Whether the applicant has misrepresented any information in past noise permits;
- E. Whether the applicant has failed to comply with conditions set forth in prior noise permits that have been issued by the City;
- F. Whether the applicant has had prior violations of the noise ordinance; and
- G. Such other considerations as are advisable to protect the health, welfare and quality of life for the residents and businesses of the City.

No person or establishment may be granted a noise permit between the hours of 9:00 p.m. and 7:00 a.m. more often than 3 times in any calendar year, except in unusual circumstances, for good cause shown and approval by the City Council.

*(Ord. 806 – Jun. 04 Supp.)*

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 48.05 of this chapter (other than subsection 17 of said section).

A noise permit issued in violation of this subsection 4 is void and of no force and effect.

5. Conditions. When a permit is issued pursuant to this chapter, the sound levels listed in the following table shall be the maximum levels permitted when measured at the edge of the City street, the alley right-of-way or the property line, whichever reasonably appears to be nearest to the source of the sound, or

if in a park, approximately two hundred (200) feet from the source of the sound:

RECEIVING LAND USE:	MAXIMUM dB PERMITTED:
Residential:	75 between 7 a.m. and 10 p.m. 65 between 10 p.m. and 7 a.m.
Commercial:	80
Industrial:	80
Park:	80

When granting the permit, the Council may impose lower sound level limits based upon the location and length of the proposed event for which the permit is requested and the Council may impose other reasonable conditions and requirements to be met or fulfilled by the noise permit holder preliminary to or at the time of the use or operation of the sound equipment. Such conditions shall be those 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 and restrictions on the length of time that the sound equipment may be used or operated. The permit holder shall be responsible for monitoring the level of sound to ensure that the conditions of the permit are not violated.

Should the person holding a permit not attentively observe all limitations and restrictions found in this chapter and in the noise permit, the City authorities shall be authorized to stop such permitted event or to turn the sound equipment off or reduce it to the level authorized by the noise permit.

*(Ord. 806 – Jun. 04 Supp.)*

**48.08 OTHER LAWS AND ORDINANCES.** 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.

**48.09 PENALTY.** Unless another penalty is expressly provided by this chapter for any particular provision or section, any person violating any provision of this chapter or any rule or regulation adopted herein by reference shall be subject to a civil penalty as set forth in the Schedule of Civil Penalties in Chapter 4 of this Code of Ordinances. Each day that a municipal infraction occurs and/or is permitted to exist constitutes a separate offense.

*(Ch. 48 – Ord. 738 – Dec. 01 Supp.)*

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