

CHAPTER 7A-07. NOISE CONTROL.

- 7A-07-010. Prohibited Noise.**
- 7A-07-020. Regulated Noise.**
- 7A-07-030. Factors.**
- 7A-07-040. Exceptions.**
- 7A-07-050. Special Permit.**
- 7A-07-060. Violations.**

7A-07-010. Prohibited Noise.

It is unlawful for any person to willfully or with reckless disregard create the following noise disturbances within the City:

(a) **Disruption Of Dwelling:** To make, cause or permit any excessive noise which annoys, injures or endangers the comfort, repose, health or safety of any neighborhood or person residing therein which under the circumstances would disturb a person of average and reasonable sensitivities.

(b) **Disruption Of Meeting:** To make, cause or permit any excessive noise which prevents or disrupts a lawful meeting, gathering, business or other lawful activity, which under the circumstances would disturb a person of average and reasonable sensitivities.

(c) **Automobiles:** To operate or permit the operation of a motor vehicle which causes excessive noise levels as a result of any car stereo, a defective or modified exhaust system, or as a result of any unnecessary rapid acceleration, deceleration, engine revving or tire squealing.

(d) **Street Performances:** To use or permit the use of bells, whistles, sirens, music horns or any other noisemaking device for the purpose of business, amusement or otherwise which tends to collect persons on the streets or sidewalks of the City.

(e) **Emergency Signals:** To make, cause or permit the sounding of any fire, burglar, automobile or civil defense alarm, siren, whistle, or similar emergency signaling device other than for emergency or testing purposes. Any testing permitted herein shall be conducted between the hours of ten o'clock (10:00) A.M. and six o'clock (6:00) P.M. and shall be conducted for the minimum test cycle time, not to exceed three (3) minutes.

7A-07-020. Regulated Noise.

It shall be unlawful to cause, permit or perform the following acts between the hours of eleven o'clock (11:00) P.M. and six o'clock (6:00) A.M. within the City when such acts create a noise disturbance within a residential area:

(a) **Loading Operation:** To load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage containers or similar objects.

(b) **Construction Work:** To operate any tools or equipment used in construction, drilling, repair, alteration or demolition work on buildings, structures or streets.

(c) **Power Equipment:** To operate any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawn mower or other similar device, other than powered snow removal equipment.

(d) **Garbage Collection:** To collect garbage, waste or refuse.

(e) **Loudspeakers:** To operate or use any loudspeaker, public address system or mobile sound vehicle amplifying sound therefrom.

- (f) Radios: To operate or play any radio, television, musical instrument or similar audio device.

7A-07-030. Factors.

The factors to be considered in determining whether a violation of the provisions of this Chapter exist include, but shall not be limited to, the following:

- (a) The level of the noise;
- (b) The nature of the noise (i.e., usual or unusual);
- (c) The origin of the noise (i.e., natural or unnatural);
- (d) The level and intensity of any background noise;
- (e) The proximity of the noise to residential areas;
- (f) The nature and zoning of the surrounding area;
- (g) The density of inhabitants in the surrounding area;
- (h) The time of day of the noise; and
- (i) The recurrence or consistency of the noise.

7A-07-040. Exceptions.

The provisions of this Chapter shall not apply to emergency situations, the lawful exercise of free speech, and conduct permitted by license or permit of the City or otherwise authorized by law. In addition, this Chapter shall not apply to amusement parks or agricultural equipment or operation. The exceptions provided herein are limited to the provisions of this Chapter and shall not provide any exception from any other applicable law or ordinance and shall not be interpreted to limit the City's enforcement authority regarding the same.

7A-07-050. Special Permit.

Persons may file an application with the City for a special temporary noise permit authorizing the applicant to take certain action or conduct certain activities not otherwise permitted herein. Any permit issued hereunder shall be in addition to any and all other licenses or permits required by law, and shall be subject to all other state and county laws regarding noise emissions.

(a) Application: Applications for a special temporary noise permit shall be made in writing to the City planning department and shall include the following items:

- (1) Name and address of the applicant;
- (2) Activity or purpose for which the permit is desired;
- (3) Reasons why the permit is necessary, including an explanation of undue hardship and lack of reasonable alternatives;
- (4) The specific date, time and location to be covered by the permit; and
- (5) Any other relevant information requested by the City.

(b) Fees: Each application for the special temporary noise permit filed hereunder shall be accompanied by any required permit fees set forth by resolution of the City council. No permit shall be issued until the proper fees have been paid to the City. Unless otherwise provided, the fees required herein shall be in addition to any and all other license or permit fees imposed by any other law.

(c) Issuance: The City Manager or his or her designee shall review all applications filed hereunder and may issue or deny a permit, in whole or in part, based upon consideration for public health and safety. Any permit issued hereunder shall contain any conditions upon which the permit has been granted, including the effective dates, time restrictions, location and other reasonable requirements necessary to minimize adverse affects upon surrounding areas and any persons therein.

(d) Denial: If the proper fees have not been paid, or the City planner/zoning administrator or his or her designee determines that the application does not conform with applicable law or it is not in the public's best interest to issue the permit, the City planner/zoning administrator or his or her designee shall deny the permit and notify the applicant in writing of such denial. The notice shall state the reasons for denial and inform the applicant that he or she may file a written appeal of such denial pursuant to subsection (i) of this Section.

(e) Term: Any permit issued hereunder shall specifically state the term and purpose for which it was issued, not to exceed thirty (30) days.

(f) Limitation: Except as provided herein, each permit issued hereunder shall be valid only for the person to whom it is issued. Permit holders shall ensure that the permit is available for inspection by City officials at the place and time for which it is issued.

(g) Records: The City planner/zoning administrator or his or her designee shall keep a record of all permits issued hereunder, including the name of the person to whom the permit was issued, the type of permit issued, and the fees collected.

(h) Revocation: Any permit issued hereunder may be revoked or suspended by the City planner/zoning administrator or his or her designee due to the permit holder's failure to comply with the provisions hereof or other applicable law. Prior to revocation of any permit, proper notice and an opportunity to be heard shall be provided to the permit holder.

(i) Appeal: Any determination made by the City planner/zoning administrator or his or her designee relative to the issuance, denial or revocation of a permit hereunder may be appealed to the City manager by filing within ten (10) days from the date of said determination, a written notice of appeal setting forth the grounds for the appeal and any other pertinent information. Such notice of appeal shall be filed by delivering an original and three (3) copies to the City manager during regular business hours. Upon receipt of the appeal, the City manager shall thoroughly and objectively investigate the matter and issue a written decision stating the reasons for the decision and informing the appellant of any right to judicial review provided by law.

7A-07-060. Violations.

Any person found in violation of this Chapter shall be guilty of a class C misdemeanor and subject to imprisonment and/or fines as provided by law. Violations of this Chapter may also constitute a public nuisance and may be enjoined and abated as such by the City.