

ARTICLE VII. - NOISE^[6]

Footnotes:

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Cross reference— Unreasonable noise from animals, § 14-7.**State Law reference**— Noise, V.T.C.A., Penal Code § 42.01(C).DIVISION 1. - GENERALLY^[7]

Footnotes:

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Editor's note— Section 1 of Ord. No. 12,151, adopted Jan. 10, 2013, amended div. 1 in its entirety to read as herein set out. Former div. 1, §§ 34-361—34-364, pertained to similar subject matter, and derived from Ord. No. 64, §§ 1—4, adopted Oct. 18, 1949; the 1967 codification, §§ 19-1—19-4; and Ord. No. 931, § 1, adopted Sept. 12, 1968.

Sec. 34-360. - Purpose and intent.

Among the powers granted to the city by its home rule Charter is one to pass such ordinances as may be expedient for maintaining and promoting the peace, welfare and government of the city and for the performance of the functions thereof. The purpose and intent of this article is the prohibition of unreasonably loud, disturbing and unnecessary noises in the city or affecting persons or property within the city, particularly such noises as are prolonged, unusual and unnatural in their time, place and use, and which materially interfere with the peace, welfare and government of the city. To this end, the police power of the state, delegated to this city to include the city's authority to define and prohibit nuisances within the city's jurisdiction, is invoked in aid of this article.

(Ord. No. 12,151, § 1, 1-10-13)

Sec. 34-361. - Definitions.

As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Baseline noise shall mean the total noise that is measured for at least five continuous minutes on residential property as a result of the combination of many sources of a steady character and duration. The term includes the continuous ambient noise and continuous noise of the source in question, but not impulse noises. The acceptable statistical measure to determine the baseline noise shall be the LA₉₀.

City's jurisdiction shall mean and include territory within the city's limits and territory within 5,000 feet outside of the city's limits.

dB(A) shall mean the broadband sound pressure level (ref. 20 m Pa) expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale as specified by the American National Standards Institute.

Engine-exhaust braking system shall mean a compression release engine brake device which converts diesel engine power into an air compressor and when engaged operates to slow the vehicle.

Impulse noise shall mean a sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulse sound include, but are not limited to, gunfire, hammering, drop hammering, pile driving, drop forging, pneumatic hammering, pavement breaking, pipe handling, or metal impacts.

LA₉₀ shall mean the noise level exceeded 90 percent of the measurement time with "fast" time weighting and "A" frequency weighting in dB(A) as specified by the American National Standards Institute. Measurement time should be long enough for the *LA₉₀* to converge to a stable value but not less than five minutes.

Residential property shall mean any property used as single family, duplex or multifamily dwelling units.

(Ord. No. 12,151, § 1, 1-10-13; Ord. No. 12,825, § 2, 4-9-15)

Sec. 34-362. - Prohibited generally.

The creation of any unreasonably loud, disturbing or unnecessary noise discernible in the city's jurisdiction shall be unlawful. It shall also be unlawful for the owner, lessee or proprietor of any business, house, apartment or other dwelling unit in the city's jurisdiction to make, cause, permit or suffer to be made therein any such loud, disturbing or unnecessary noises or to collect or permit to be collected therein any drunken, noisy or disorderly persons, to the annoyance or disturbance of neighboring residents. Noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of an ordinary, reasonable person are prohibited in the city's jurisdiction.

(Ord. No. 12,151, § 1, 1-10-13)

Sec. 34-363. - Maximum permissible sound levels.

(a) In enforcement of the violations established by section 34-362 of this article, it shall be prima facie evidence that a sound unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of section 34-362 when an activity or sound source produces an impulse noise (i) with a dB(A) level more than 15 dB(A) above the greater of the measured baseline noise or 40 dB(A) or (ii) with the following maximum dB(A) levels:

- (1) 75 dB(A) between the hours of 7:00 a.m. and 9:00 p.m.; and
- (2) 65 dB(A) at all other times.

For purposes of this subsection, the impulse noise shall be measured on residential property over the same period of time as the baseline noise is measured.

(b) Maximum permissible sound levels detailed in this section set forth evidence of a violation of this article. The lack of sound level measurements conducted in accordance with section 34-364 shall not prohibit prosecution and conviction under this article where there is other legally admissible evidence whereby a reasonably prudent person could conclude that a noise in the city's jurisdiction is unreasonably loud, disturbing or unnecessary.

(Ord. No. 12,151, § 1, 1-10-13)

Sec. 34-364. - Permissible methods of measuring sound levels.

(a) Measurements taken pursuant to section 34-363 shall be made with a type 1 or type 2 calibrated sound level meter utilizing the A-weighting scale and the fast meter response as specified by the American National Standards Institute (A.N.S.I. SI.4-1984/85A). Measurements recorded shall be taken so as to provide a proper representation of the sound being measured.

(b) Measurements taken pursuant to section 34-366 shall be made with a type 1 or type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American National Standards Institute (A.N.S.I. SI.4-1984/85A). Measurements recorded shall be taken so as to provide a proper representation of the sound being measured.

(Ord. No. 12,151, § 1, 1-10-13)

Sec. 34-365. - Specific prohibitions.

The following acts, among others, are declared to be loud, disturbing or unnecessary noises in violation of this article but such enumeration shall not be construed to be exclusive of other noises:

- (1) *Horns and signaling devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal; the creation by means of any such signaling device of any unreasonably loud or harsh sound, and the sounding of such device for any unnecessary or unreasonable period of time.
- (2) *Radios, phonographs or musical instruments.* The playing of any radio, phonograph or any musical instrument in such manner or with such volume, particularly during the hours between 9:00 p.m. and 7:00 a.m., as to create a noise such as is reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling, hotel or other type of residence in the vicinity, provided that this subsection shall not apply to the establishments or places covered by subsection (4) of this section.
- (3) *Loudspeakers, amplifiers for commercial advertising.* The operation of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (4) *Outdoor loudspeakers at places selling food or drink.* The operation of any outdoor loudspeaker or sound amplifier for the producing or reproducing of music at any cafe, restaurant, drive-in, tavern, ice cream store, watermelon garden or other place open to the public for the purpose of selling food or drink and having facilities or premises set aside for the accommodation of patrons, guests or customers located on the outside of the building, when the volume of sound shall be audible for a distance in excess of 200 feet from such outdoor loudspeaker or sound amplifier or when the volume of sound is unreasonably raucous, jarring or disturbing to persons of ordinary sensibilities residing in a dwelling, hotel or other type of residence in the vicinity. However, if a dwelling, hotel or other type of residence is located within 200 feet of an outdoor loudspeaker or sound amplifier of the kind referred to in this subsection, such outdoor loudspeaker or sound amplifier shall not be operated between the hours of 10:00 p.m. and 9:00 a.m.
- (5) *Automobile, motorcycle or vehicle out of repair.* The use of any automobile, motorcycle or vehicle so out of repair or so loaded as to create loud or unnecessary grating, grinding, rattling or other noise.
- (6) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while such is in use or adjacent to any hospital, which unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such street indicating that the street is a school, hospital or court street.
- (7) *Hawkers, peddlers.* The shouting or crying of peddlers, hawkers or vendors which disturb the peace and quiet of the neighborhood.
- (8) *Engine-exhaust braking.* The use of an engine-exhaust braking system while operating a motor vehicle.

(Ord. No. 12,151, § 1, 1-10-13; Ord. No. 12,825, § 3, 4-9-15)

Sec. 34-366. - Exceptions.

The following activities are exceptions to prosecution under this article:

- (1) Emission of any sound for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime or any sound created by an act necessary to prevent the loss of life or property.
- (2) Sound produced by an authorized emergency vehicle or produced by emergency work.
- (3) Sound generated:
 - a. At a lawfully scheduled stadium or sporting event, including, but not limited to, school athletic and school entertainment events;
 - b. By a parade and spectators and participants on the parade route during a lawful parade;

- c. By spectators and participants at a lawfully scheduled amphitheater event;
 - d. By patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit was obtained and the explosives were inspected by the fire marshal;
 - e. By a pyrotechnic display that was inspected and approved by the fire marshal; or
 - f. By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert that was sponsored or co-sponsored by the city and is in full compliance with a permit issued by the city.
- (4) Sound produced by the erection, excavation, construction, or demolition of any building or structure, including the use of any necessary tools or equipment, conducted between the hours of 7:00 a.m. and 9:00 p.m., which activity did not produce a sound exceeding 90 dB(A) when measured from the residential property where the sound is being received.
 - (5) Sound produced by aircraft in flight or in operation at an airport and railroad equipment in operation.
 - (6) Sound produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 9:00 p.m., provided the device did not produce a sound exceeding 90 dB(A) when measured from residential property where the sound is being received and was used for the maintenance or upkeep of the property on which it was operated.
 - (7) Sound produced by the operation of any air conditioning unit that did not produce a sound exceeding 65 dB(A) on residential property or 75 dB(A) on nonresidential property, when measured from the residential property where the sound is received.
 - (8) Sound produced as part of a religious observance or service between the hours of 7:00 a.m. and 9:00 p.m., provided the sound did not cumulatively exceed five minutes duration in any one-hour period.
 - (9) Sound, other than sound prohibited in subsection 34-365(2), produced within park hours, as specified in section 70-1 of the Code, which hours fall between 7:00 a.m. and 9:00 p.m. by activities conducted on public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletic and school entertainment events.
 - (10) Sound produced from the ordinary and lawful operation of a motor vehicle and commercial vehicle under the Texas Code of Transportation.
 - (11) Sound produced between the hours of 7:00 a.m. and 9:00 p.m. from the emptying of trash dumpsters or by the delivery, pickup, or raising of any dumpster, in or near residential areas.

(Ord. No. 12,151, § 1, 1-10-13)

Secs. 34-367—34-390. - Reserved.

DIVISION 2. - SOUND TRUCKS^[8]

Footnotes:

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Cross reference— *Traffic and vehicles, ch. 94.*

Sec. 34-391. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sound amplifying equipment means any machine or device for the amplification of the human voice, music or any other sound. Sound amplifying equipment shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.

Sound truck means any motor vehicle, or horse-drawn vehicle, having mounted thereon or attached thereto any sound amplifying equipment. When such a sound truck is being used or operated as a stationary loudspeaker or sound amplification equipment, such use or operation shall be subject to division 1 of this article.

(Ord. No. 65, § 1, 10-18-49; Code 1967, § 19-15)

Cross reference— Definitions generally, § 1-2.

Sec. 34-392. - Commercial advertising prohibited.

No person shall operate or cause to be operated any sound truck for commercial sound advertising purposes in the city with sound amplifying equipment in operation.

(Ord. No. 65, § 3, 10-18-49; Code 1967, § 19-16)

Sec. 34-393. - Registration of noncommercial sound trucks.

- (a) *Required.* No person shall use or cause to be used a sound truck with its sound amplifying equipment in operation for noncommercial purposes in the city before filing a registration statement with the city clerk in writing. This registration statement shall be filed in duplicate and shall state the following:
- (1) The name and home address of the applicant;
 - (2) The address of the place of business of the applicant;
 - (3) The license number and motor number of the sound truck to be used by the applicant;
 - (4) The name and address of the person who owns the sound truck;
 - (5) The name and address of the person having direct charge of the sound truck;
 - (6) The names and addresses of all persons who will use or operate the sound truck;
 - (7) The purpose for which the sound truck will be used;
 - (8) A general statement as to the section of the city in which the sound truck will be used;
 - (9) The proposed hours of operation of the sound truck;
 - (10) The number of days of proposed operation of the sound truck;
 - (11) A general description of the sound amplifying equipment that is to be used; and
 - (12) The maximum sound producing power of the sound amplifying equipment to be used in or on the sound truck, stating the following:
 - a. The maximum potential wattage of the equipment; and
 - b. The approximate maximum distance for which sound will be thrown from the sound truck.
- (b) *Registration statement amendment.* Every person using or causing to be used a sound truck for noncommercial purposes shall amend any registration statement filed pursuant to this section within 48 hours after any change in the information therein furnished.
- (c) *Certificate and identification.* The city clerk shall return to each applicant under this section one copy of the registration statement duly certified by the city clerk as a correct copy of the application. This certified copy of the application shall be in the possession of any person operating the sound truck at all times while the sound truck's sound amplifying equipment is in operation, and this copy shall be promptly displayed and shown to any police officer upon request.

(Ord. No. 65, § 2, 10-18-49; Code 1967, § 19-17)

Sec. 34-394. - Use of noncommercial sound trucks.

Noncommercial use of sound trucks in the city with sound amplifying equipment in operation shall be subject to the following:

- (1) The only sounds permitted are music or human speech;
- (2)

Operations are permitted for nine hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted nine hours of operation shall be between the hours of 9:00 a.m. and 6:00 p.m.;

- (3) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour, except when the truck is stopped or impeded by traffic. Where stopped by traffic the sound amplifying equipment shall not be operated for longer than one minute at each such stop;
- (4) Sound shall not be issued within 100 yards of hospitals, schools or churches;
- (5) The human speech and music amplified shall not be profane, loud, indecent or slanderous; and
- (6) The volume of sound shall be controlled so that it will not be audible for a distance in excess of 200 feet from the sound truck and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons of ordinary sensibilities within the area of audibility.

(Ord. No. 65, § 2, 10-18-49; Code 1967, § 19-18)

Secs. 34-395—34-420. - Reserved.