

Sec. 5-1. - Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

- (1) *Sound*. Any disturbance of the air that is detectable by the unaided human ear or which produces vibrations detectable by persons of normal nervous sensibilities.
- (2) *Noise*. Any sound or combination of sounds which, because of its volume, duration or intensity, tends to disturb persons of normal nervous sensibilities.
- (3) *Sound amplification device*. Any device or instrument for amplifying the human voice, music or other sound, including but not limited to loudspeakers, stereos, phonographs, radios or tape players, portable or otherwise.
- (4) *Person*. Any individual, association, firm, partnership or corporation.

(Code 1982, § 5-1; Ord. of 11-6-90)

Cross reference— Definitions generally, § 1-1.

Sec. 5-2. - Noise generally.

It shall be unlawful for any person to authorize or cause to be emitted from any property or source under his control any noise that is unreasonably loud, raucous or disturbing so as to frighten, pose a danger to the health of or seriously disturb any person of normal nervous sensibilities who:

- (1) If the noise emanates from a source located on private property, is located on other property; or
- (2) If the noise emanates from a source located on a street or other public property, is located on private property or the street or other public property.

(Code 1982, § 5-1.1; Ord. of 11-6-90, § 5-1.1)

Sec. 5-3. - Particular noise.

Without limiting the generality of section 5-2, the following acts are specifically declared to be unlawful and in violation of section 5-2:

- (1) The blowing of a horn on any motor vehicle except when the horn is used as a warning device.
- (2) The operation of any motor vehicle or any engine without a muffler, or with a muffler that is so defective or so designed that the vehicle emits an unusually loud noise.
- (3) The operation of a motor vehicle so as to create unusual noises through the screeching of tires or racing of engines.
- (4) The operation of a motor vehicle that is so loaded or so out of repair or that is operated in such a manner as to create loud grating, grinding, rattling, backfiring, or similar noises.
- (5) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or to warn of a danger.
- (6) The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced.
- (7) The excavation, erection, demolition, alteration or repair of any building in any area not zoned for commercial or industrial use at any time other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and Saturdays, except in case of urgent necessity in the interest of public safety.
- (8)

The creation of any loud or disturbing noise on any street adjacent to any school, institution of learning, library, hospital or sanitarium, or court while the same is in session, or any church during services.

- (9) The creation of any loud or disturbing noise in connection with the loading and unloading of any vehicle or the opening and destruction of bales, boxes, crates, or containers.
- (10) The playing or use of any sound amplification device, television, or any musical instrument, so as to unreasonably disturb the comfort, quiet or repose of persons in any place of residence or so as to interfere substantially with the operations of any church, school, theater, library, or other similar place of assembly, unless a noise permit has been obtained as required by section 5-6.
- (11) The use of any sound amplification device, musical instrument, or other device for the purpose of attracting attention by the creation of noise to any performance, show, sale, display, advertisement or merchandise, or other commercial venture, unless a noise permit has been obtained as required by section 5-6.
- (12) The use of any sound amplification device on any public street, sidewalk, park or other public area within the city limits, which is clearly audible by a person of normal nervous sensibilities at a distance of 50 feet or more from the source of the sound unless a noise permit has been obtained as required by section 5-6.

(Code 1982, § 5-2; Ord. of 11-6-90, § 5-2)

Sec. 5-4. - Noises impacting residential life.

It shall be unlawful to carry on the following activities in any residentially zoned area of the city or within 300 feet of any dwelling in any zoning district of the city:

- (1) Operation of garage or service station machinery or equipment between the hours of 11:00 p.m. and 7:00 a.m.
- (2) Operation of construction machinery or equipment between the hours of 11:00 p.m. and 7:00 a.m.
- (3) Operation of lawn mowers or other power-operated domestic tools out-of-doors between the hours of 11:00 p.m. and 7:00 a.m.

(Code 1982, § 5-2.1; Ord. of 11-6-90)

Sec. 5-5. - Exceptions.

The following are excepted from the application of sections 5-2 through 5-6:

- (1) Noise or sound emanating from scheduled outdoor athletic events.
- (2) Noise or sound of safety signals, warning devices, emergency pressure relief valves or church bells, provided that the church bells are not sounded for more than five minutes in any hour.
- (3) Noise or sound emanating from properly equipped aircraft operated in accordance with applicable federal rules and regulations.
- (4) Noise or sound emitted from any authorized emergency or public safety vehicle.
- (5) Noise or sound emanating from parades, street fairs, festivals or similar events which are conducted, sponsored or sanctioned by the city.
- (6) Noise or sound from railroad operations.

(Code 1982, § 5-2.2; Ord. of 11-6-90, § 5-2.2)

Sec. 5-6. - Noise permit.

- (a) It shall be unlawful for any person to use or cause to be used any sound amplifying device, musical or other instrument for entertainment, advertising or other purposes, or to otherwise engage in any activity creating noise which exceeds the standards set forth in section 5-2, without obtaining a noise permit in advance of

these activities.

- (b) All applications for noise permits shall be promptly considered and acted upon by the chief of police or his designee. In considering and acting on all applications for permits, the chief of police shall consider, but shall not be limited to, the following factors:
- (1) The nature and duration of the proposed activity;
 - (2) Other uses in the vicinity or location proposed for the activity;
 - (3) Effect of the activity on nearby residential areas;
 - (4) Cultural, social, recreational and/or educational benefit of the proposed activity;
 - (5) Previous experience with the applicant; and
 - (6) Previous violations of the noise ordinance, if any, by the applicant.
- (c) Taking into consideration the factors listed in subsection (b) above, the chief of police or his designee shall issue a noise permit upon finding that the interest furthered by the proposed use or activity outweighs the public interest in maintaining peace and quiet at the time and place involved.
- (d) The chief of police or his designee may impose such reasonable and appropriate conditions upon the permit as he deems necessary to assure that the proposed use will be consistent with the intent of this section.
- (e) The permit holder(s) shall agree to cooperate with the police department in enforcing the noise control ordinance by being available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the noise control ordinance. Failure of the permit holder(s) to be present or to assist the police in complying with this chapter will be cause for revocation of said permit.
- (f) A permit granted at least 48 hours in advance of the activity shall require payment of a \$5.00 administrative fee. If a permit is required and granted less than 48 hours in advance of the activity, a fee of \$25.00 shall be required.
- (g) If an application for a noise permit is denied, is approved with conditions unacceptable to the applicant, or if a permit is revoked, the applicant or permit holder shall be entitled to appeal the chief of police's action to the city manager after submission of a written request to do so. Such appeal shall be submitted to the city manager not later than ten days from the date of the action sought to be reviewed. The city manager shall hear the appeal within 10 days of the date of the appeal.
- (h) A permit may be denied or revoked in the following cases:
- (1) The activity constitutes a threat to the health, safety or welfare of others;
 - (2) The applicant has violated any provisions of sections 5-1 through 5-6 within 12 months preceding the date of the application;
 - (3) The applicant violates any of the provisions during the time allowed for the permitted activity; or
 - (4) The activity interferes with another previously permitted activity.

(Code 1982, § 5-3; Ord. of 11-6-90, § 5-3; Ord. No. 04-466, § 1, 8-3-04)

Sec. 5-7. - Noise complaint procedure.

In the event any person has reasonable grounds for believing that any provision of the city's noise ordinance is being violated, he may make a report thereof to the Gastonia police department which shall investigate the alleged violation. If such investigation reveals a violation, the investigating officer shall cause a written complaint to be made, and may issue a criminal or civil citation for violation thereof.

(Code 1982, § 5-3.1; Ord. of 11-6-90, § 5-3.1)