

Sec. 14-70. - Definitions applicable to sections 14-70 through 14-80.

As used in sections 14-70 through 14-80:

- (1) *Construction* means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition for or on public or private rights-of-way, structures, utilities or similar property.
- (2) *Demolition* means any dismantling or intentional destruction or removal of structures, utilities, public or private right-of-way, surfaces, or similar property.
- (3) *Dwelling unit* means one (1) room or rooms connected together, constituting a separate, independent housekeeping establishment for occupancy by a family as owner, by rental or lease on a weekly, monthly or longer basis and physically separated from any other rooms or dwelling units which may be in the same building, and containing independent cooking and sleeping facilities.
- (4) *Dwelling unit boundary* means a real or imaginary boundary which separates one (1) dwelling unit from another dwelling unit, including, but not limited to, walls, ceilings and floors in a building containing more than one (1) dwelling unit or in situations involving detached single dwelling unit[s], the real property boundary line of the unit.
- (5) *Motor vehicle* means every vehicle defined as a motor vehicle in section 18-1(15) of this Code.
- (6) *Motorcycle* means every vehicle defined as a motorcycle in section 18-1(14) of this Code.
- (7) *Noise disturbance* means any sound which:
  - a. Endangers or injures the safety or health of humans or animals;
  - b. Annoys or disturbs a reasonable person of normal sensitivities; or
  - c. Endangers or injures personal or real property.
- (8) *Person* means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.
- (9) *Powered model vehicle* means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designated to carry persons, including, but not limited to, any model airplane, boat, car or rocket.
- (10) *Public right-of-way* means any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

(Ord. No. 115-82, § 1, 7-1-82; Ord. No. 192-92, § 6, 10-29-92; Ord. No. 293-2000, § 1, 9-28-00)

Sec. 14-71. - Noise disturbances—Generally.

In addition to the specific prohibitions outlined in section 14-72, no person shall make, continue, or cause to be made, continued or permitted any noise disturbance on or across a public right-of-way or a public place. This section shall not apply to noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.

(Ord. No. 115-82, § 1, 7-1-82; Ord. No. 293-2000, § 2, 9-28-00)

Sec. 14-72. - Same—Specific acts.

The following acts, and the causing or permitting thereof, are declared to be in violation of sections 14-70 through 14-80:

- (1) Maintaining any machinery or equipment, whose operation involves rotating or reciprocating parts or equipment in such a manner as to create a noise disturbance across a dwelling unit boundary.

- (2) Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, such that the sound therefrom creates a noise disturbance across a dwelling unit boundary, except for emergency work of public service utilities or by special variance as provided for in section 14-74. This paragraph shall not apply to the use of domestic power tools subject to subsection (3) of this section.
- (3) Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawnmower or other similar device used outdoors that creates a noise disturbance across a dwelling unit boundary other than powered snow removal equipment, between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, or on Saturday or Sunday before the hour of 9:00 a.m., prevailing local time.
- (4) Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, in such a manner as to cause a noise disturbance across a dwelling unit boundary.
- (5) Collecting refuse or operating refuse collection vehicles between the hours of 11:00 p.m. and 5:30 a.m., prevailing local time, in such a manner as to create a noise disturbance across a dwelling unit boundary.
- (6)
  - a. Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound therefrom on a public right-of-way or public space for any commercial purpose.
  - b. Using, operating or permitting for any noncommercial purpose any loudspeaker, public address system, mobile sound vehicle or similar device between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, such that the sound therefrom creates a noise disturbance across a dwelling unit boundary.
- (7) Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a dwelling unit boundary or in a public place between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time.
- (8) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument or similar device in such a manner as to create a noise disturbance across a dwelling unit boundary.
- (9) Repairing, rebuilding, modifying, testing or operating any motor vehicle, motorcycle, motor bicycle or motorboat in such a manner as to cause a noise disturbance across a dwelling unit boundary.
- (10) It shall be unlawful for any person to keep or harbor within the urban county any animal, including, but not limited to, domestic pets, that repeatedly or frequently emits any sound, including but not limited to barking, yelping, howling, meowing, or squawking, or that otherwise creates a noise disturbance across a dwelling unit boundary, in such a manner so as to annoy or disturb a reasonable person of normal sensitivities.
- (11) Consistent with the other provisions of sections 14-70 through 14-80 of the Code, and in addition thereto, no person shall use or operate any radio, stereo, tape player, record player, compact disc player or any similar device for the producing, reproducing or amplification of sound in or on any vehicle located within or on the public streets or rights-of-way or within or on any other public property, including, but not limited to parks, or public parking lots operated by the urban county government or the Lexington and Fayette County Parking Authority/LexPark, in such a manner as to create a noise disturbance that is audible to a person of normal hearing sensitivity more than ten (10) feet from such vehicle. Words and phrases need not be discernible for said sound to be "audible", and said sound shall include bass reverberation.

(Ord. No. 115-82, § 1, 7-1-82; Ord. No. 23-83, § 1, 2-24-83; Ord. No. 216-90, § 1, 10-18-90; Ord. No. 5-91, §§ 1—3, 1-24-91; Ord. No. 293-2000, § 3, 9-28-00; Ord. No. 162-2012, §§ 1, 2, 12-6-12)

Sec. 14-73. - Right of entry of law enforcement officer to investigate noise disturbance.

Any urban county government law enforcement officer, in addition to any authority vested in him, has the power, upon presentation of proper credentials, to enter and inspect any dwelling, multifamily dwelling, building, structure or premises within the county as may be necessary to enforce the provisions of this section. Needed permission is to be obtained from the occupant or, in the case of unoccupied property, from the owner or his agent. If such permission is refused or is otherwise unobtainable, a search warrant must be obtained upon the showing of probable cause to believe that a violation of sections 14-70 through 14-80 may exist, before such entry or inspection is made.

(Ord. No. 115-82, § 1, 7-1-82)

Sec. 14-74. - Mayor authorized to grant special variances relative to noise disturbances.

- (a) The mayor or his designated representative shall have the authority, consistent with this section, to grant special variances to those persons who can demonstrate that bringing a source of sound or activity into compliance with sections 14-71 and 14-72 would constitute an unwarranted health hazard or an unreasonable economic hardship upon the applicant.
- (b) Any person seeking a special variance pursuant to this section shall file a written application with the mayor or his designated representative. The application will be provided by the mayor or his designated representative. The application shall contain reasons why an unwarranted health hazard or an unreasonable economic hardship would result if the applicant was required to comply with sections 14-71 and 14-72. The mayor or his designated representative additionally may require that the applicant give notice of the application for special variance to persons who frequent the area of the sound or activity and may be adversely affected by the granting of the variance. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the mayor or his designated representative containing any information to support his claim.
- (c) In determining whether to grant or deny the application, the mayor or his designated representative shall balance the hardship to the applicant, the community and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impact of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the mayor or his representative may reasonably require. In granting or denying an application, the mayor or his representative shall place on public file a copy of the decision and the reasons for denying or granting the special variance.
- (d) Special variances shall be granted by notice to the applicant containing all necessary conditions including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any conditions of the special variances shall terminate it and subject the person holding it to those provisions of this section regulating the source of sound or activity for which the special variance was granted.
- (e) Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like application for initial special variances.
- (f) The mayor or his designated representative may issue guidelines defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

(Ord. No. 115-82, § 1, 7-1-82; Ord. No. 164-82, § 1, 9-9-82)

Sec. 14-75. - Order of abatement of noise disturbance.

In lieu of issuing a citation as provided for in section 14-76, any urban county government law enforcement officer may issue an order requiring the immediate abatement of any source of sound alleged to be in violation of sections 14-70 through 14-80.

(Ord. No. 115-82, § 1, 7-1-82)

Sec. 14-76. - Citation for violation of sections 14-70 through 14-80.

Except where a person is acting in good faith to comply with an abatement order issued pursuant to section 14-75, violation of any provision of sections 14-70 through 14-80 shall be cause for a citation to be issued by an urban county government law enforcement officer.

(Ord. No. 115-82, § 1, 7-1-82).

Sec. 14-77. - Effect of sections 14-70 through 14-80 on existing law.

No provision of sections 14-70 through 14-80 shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of these sections or from other law.

(Ord. No. 115-82, § 1, 7-1-82)

Sec. 14-78. - Exceptions to provisions of sections 14-70 through 14-80.

The provisions of sections 14-70 through 14-80 shall not apply to the following:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency work.
- (2) Organized school-related programs, activities or events, or parades or other public programs, activities or events authorized by the mayor or his designated representative.
- (3) The discharge of firearms by members of the division of police or other sworn peace officers.
- (4) The operation of airplanes and aircraft both on and off airport property, the maintenance of same.

(Ord. No. 115-82, § 1, 7-1-82; Ord. No. 5-91, § 4, 1-24-91)

Sec. 14-79. - Enforcement of other laws not affected by sections 14-70 through 14-80.

Nothing in sections 14-70 through 14-80 shall be construed to permit conduct prohibited by any other statute, ordinance or regulation, or to prohibit the enforcement thereof.

(Ord. No. 115-82, § 1, 7-1-82)

Sec. 14-80. - Penalty for violation of sections 14-70 through 14-80.

Any person who violates any provision of sections 14-70 through 14-80 shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). Any person found guilty of a second offense of any of these sections within any twelve-month period shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and any person found guilty of a third offense of any of these sections within any twelve-month period shall be subject to a fine of not less than two hundred-fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00).

(Ord. No. 115-82, § 1, 7-1-82; Ord. No. 293-2000, § 4, 9-28-00)