

## Code of Ordinances of Sioux Falls, SD

**NOISE REGULATIONS****§ 93.001 DEFINITIONS AND STANDARDS.**

All terminology used in this subchapter and not defined in this section shall be in conformance with applicable American National Standards Institute publications. For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***A-WEIGHTED SOUND PRESSURE LEVEL.*** The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

***AMBIENT SOUND PRESSURE LEVEL.*** The sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources.

***CONTINUOUS SOUND.*** Any sound which exists, essentially without interruption, for a period of ten minutes or more.

***CYCLICALLY VARYING NOISE.*** Any sound which varies in sound level so that the same level is obtained repetitively at reasonably uniform intervals of time.

***DECIBEL.*** A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. ***DECIBEL*** is denoted as “dB.”

***DEVICE.*** Any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

***DYNAMIC BRAKING DEVICE (COMMONLY REFERRED TO AS JACOB’S BRAKE).*** A device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

***EMERGENCY VEHICLE.*** A motor vehicle used in response to any emergency or to protect persons or property from imminent exposure to danger.

***EMERGENCY WORK.*** Work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.

***IMPULSIVE NOISE.*** A sound of short duration usually less than one second with an abrupt onset and rapid decay.

***MOTOR VEHICLE.*** Any vehicle which is self-propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, helicopters, motorcycles, minibikes, go-carts, snowmobiles and racing vehicles.

***MUFFLER.*** An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from the apparatus.

***NINETIETH PERCENTILE NOISE LEVEL.*** The A-weighted sound pressure level that is exceeded 90% of the time in any measurement period (such as the level that is exceeded for nine minutes in a ten-minute period) and is denoted L90. The measurement period shall not be less than ten minutes unless otherwise noted in this chapter.

***NOISE.*** Any sound which is unwanted or which causes or tends to cause an adverse psychological or

physiological effect on human beings.

**NOISE DISTURBANCE.** Any sound which annoys or disturbs reasonable persons with normal sensitivities, or which injures or endangers the comfort, repose, health, hearing, peace and safety of other persons.

**PEAK.** A sound level with a brief occurrence within a sound event which is characterized by a quick onset, an above average sound amplitude, and a rapid return to a lower sound level.

**PERSON.** Any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.

**PLAINLY AUDIBLE NOISE.** Any noise for which the information content of that noise is unambiguously transferred to the listener, such as but not limited to understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

**PROPERTY BOUNDARY.** Any imaginary line exterior to any enclosed structure, at the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person.

**PUBLIC RIGHT-OF-WAY.** Any street, avenue, boulevard, highway or alley or similar place which is owned or controlled by a public governmental entity.

**PURE TONE.** Any sound which can be distinctly heard as a single pitch or a set of single pitches.

**RECEIVING LAND USE CATEGORY.** The principal use of the receiving property regardless of the zoning use established by city zoning ordinances.

**REPETITIVE IMPULSIVE NOISE.** Any noise which is composed of impulsive noises that are repeated at sufficiently slow rates so that a sound level meter set at fast meter characteristic will show changes in sound pressure level greater than 10 dB(A).

**SOUND.** A temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

#### **SOUND LEVEL METER.**

(1) An instrument, including a microphone, amplifier, RMS detector and integrator, time averager, output meter and/or visual display and weighting networks, that is sensitive to pressure fluctuations.

(2) The instrument reads sound pressure level when properly calibrated and is of type 2 or better as specified in American National Standards Institute publication S1. 4-1971 or its successor publication.

**SOUND PRESSURE.** The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

**SOUND PRESSURE LEVEL.** Twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure, which shall be 20 micropascals, denoted LP or SPL.

**STATIONARY NOISE SOURCE.** Any device, fixed or movable, which is located or used on property other than a public right-of-way.

**STEADY NOISE.** A sound pressure level which remains essentially constant during the period of observation; i.e., does not vary more than six dB(A) when measured with the slow meter characteristic of a sound level meter.

**USE DISTRICT.** Those districts established by the city zoning ordinance.

(1972 Code, § 9-1; 1992 Code, § 25.5-1) (Ord. 72-78, passed 7-10-1978; Ord. 22-86, passed 3-31-1986; Ord. 57-98, passed 6-15-1998; Ord. 6-10, passed 2-10-2010)

***Cross-reference:***

*Definitions and rules of construction generally, see § 10.002*

**§ 93.002 NOISES PROHIBITED.**

(a) *General prohibitions.* It shall be unlawful for any person or for any person to allow another person to make, cause to be made or continued any noise disturbance within the limits of the city. This includes the following specific prohibitions in division (b) below, along with exceeding the decibel levels set forth in this subchapter or granted through a sound permit.

(b) *Specific prohibitions.* The following acts are declared to be in violation of this subchapter:

(1) *Horns and signaling devices.* Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place within the county or any city therein except as a danger warning signal or the sounding of any signaling device for an unnecessary and unreasonable period of time;

(2) *Radios, television sets, musical instruments and similar devices.*

A. Using, operating or allowing the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound in a manner as to violate § 93.003 or cause a noise disturbance; or

B. Using, operating or allowing the use or operation of any device between the hours of 10:30 p.m. and 6:00 a.m. the following day in a manner as to be plainly audible at the property boundary of the source or plainly audible at 50 feet from the device when operated within a vehicle parked on a public right-of-way or plainly audible at 100 feet from the device when operated within a moving vehicle.

(3) *Public loudspeakers.* Using, operating or allowing the use or operation of a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in a manner as to violate § 93.003 or cause a noise disturbance;

(4) *Hawkers and peddlers.* Selling anything by outcry within any area of the city therein zoned primarily for residential uses in a manner as to violate § 93.003 or cause a noise disturbance. The provisions of this division (b)(4) shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events, or occasional sale of property by public auction;

(5) *Loading operation.* Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers or other objects between the hours of 10:30 p.m. and 6:00 a.m. the following day in a manner as to violate § 93.003 or cause a noise disturbance;

(6) *Enclosed places of public entertainment.* Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound which produces, at a point that is normally occupied by a customer, maximum sound pressure levels of 100 dB(A) as read with the slow response on a sound level meter, unless a conspicuous and legible sign at least 225 square inches in area is posted near each public entrance stating: "WARNING: SOUND LEVELS MAY CAUSE HEARING IMPAIRMENT." This division (b)(6) shall not be construed to allow the operation of any loudspeaker or other source of sound in a manner as to violate § 93.003;

(7) *Fireworks or explosives.* The use of explosives or fireworks, or the firing of guns or other explosive

devices so as to be audible across a property boundary or on a public space or right-of-way, without first obtaining a permit as provided by § 93.007. This division (b)(7) shall not be construed to permit conduct prohibited by other statutes, ordinances or regulations governing the activity.

(8) *Racing events.* Permitting any motor vehicle racing event at any place in a manner as to violate § 93.003 or cause a noise disturbance, without first obtaining a permit as provided by § 93.006;

(9) *Powered model mechanical devices.* The flying of a model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-producing devices, between the hours of 10:30 p.m. and 6:00 a.m. the following day; or in a manner as to violate § 93.003 or cause a noise disturbance;

(10) *Dynamic braking devices.* Operating any motor vehicle with a dynamic braking device engaged except for the aversion of imminent danger;

(11) *Defect in vehicle.* Operating or permitting to be operated or used any truck, automobile, motorcycle or other motor vehicle which, by virtue of disrepair or manner of operation, violates § 93.003 or causes a noise disturbance;

(12) *Standing motor vehicles.* The operating or causing or permitting to be operated any motor vehicle or any auxiliary equipment attached thereto in a manner as to violate § 93.003 or cause a noise disturbance for a consecutive period longer than 15 minutes during which the vehicle is stationary in a residential zone;

(13) *Noise sensitive zones.* Creating noise in excess of the standards as defined in § 93.003 within the vicinity of any school, hospital, institution of learning, court or other designated area where exceptional quiet is necessary, while the school, hospital, institution, court or other area is in use;

(14) *Bells and alarms.* Sounding, operating or permitting to sound or operate an electronically amplified signal from any bell, chime or clock, including but not limited to bells, chimes or clocks in schools, houses of religious worship or governmental buildings, which fails to meet the standards set forth in § 93.003;

(15) *Fixed sirens, whistles and horns.* The sounding or causing the sounding of any whistle, horn or siren as a signal for commencing or suspending work, or for any other purpose except as a sound signal of imminent danger, in a manner as to violate § 93.003 or cause a noise disturbance; and/or

(16) *Recreational vehicles and snowmobiles.* Operating a recreational vehicle or snowmobile in a manner which violates § 93.003 or causes a noise disturbance.

(1972 Code, § 9-2; 1992 Code, § 25.5-2) (Ord. 72-78, passed 7-10-1978; Ord. 85-78, passed 8-21-1978; Ord. 84-94, passed 9-19-1994; Ord. 57-98, passed 6-15-1998; Ord. 6-10, passed 2-10-2010)

**§ 93.003 USE DISTRICT NOISE LEVELS.**

(a) *Maximum permissible sound levels.*

(1) It shall be unlawful for any person to operate or permit to be operated any stationary source of sound in a manner as to create a 90th percentile sound pressure level (L90) of any measurement period (which shall not be less than ten minutes unless otherwise provided in this chapter) which exceeds the limits set forth for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise:

Normal Sound		
Receiving Land Use Category	Time	Sound Level Limit db(A)

Agricultural	6:00 a.m. to 10:30 p.m.	75
	10:30 p.m. to 6:00 a.m.	55
Commercial or business	At all times	65
Industrial	At all times	75
Noise sensitive zone	6:00 a.m. to 10:30 p.m.	60
	10:30 p.m. to 6:00 a.m.	50
Residential	6:00 a.m. to 10:30 p.m.	60
	10:30 p.m. to 6:00 a.m.	55

<b>Impulsive Sound</b>			
<b>Receiving Land Use Category</b>	<b>Time</b>	<b>No. of Peaks Per Hour</b>	<b>Maximum db(A)</b>
Agricultural	At all times	2	89
		4	83
		8	77
		16+	71
Agricultural residential	At all times	16+	61
Commercial	At all times	1	90
		2	84
		4	78
		8	72
		16+	66
Industrial	At all times	1	95
Noise sensitive zone	At all times	2	79
		4	73
		8	67
Residential	6 a.m. to 10:30 p.m.	1	85
	10:30 p.m. to 6 a.m.	1	80

(2) When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories.

(b) *Correction for character of sound.*

(1) For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound, the limits set forth in division (a) above shall be reduced by FIVE dB(A).

(2) Notwithstanding compliance with division (b)(1) above, it shall be unlawful for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying or repetitive impulsive sound which creates a noise disturbance.

(1972 Code, § 9-3; 1992 Code, § 25.5-3) (Ord. 72-78, passed 7-10-1978; Ord. 57-98, passed 6-15-1998; Ord. 6-10, passed 2-10-2010) Penalty, see § 10.999

### **§ 93.004 SOUND LEVEL MEASUREMENT.**

Sound level measurements shall be made with a sound level meter using the A-weighting scale, in accordance with standards promulgated by the American National Standards Institute or other reasonable standards adopted and tested by the health department. An L90 measurement shall have a measurement period no less than ten minutes unless otherwise stated in this chapter.

(1972 Code, § 9-4; 1992 Code, § 25.5-4) (Ord. 72-78, passed 7-10-1978; Ord. 6-10, passed 2-10-2010)

### **§ 93.005 EXEMPTIONS.**

The following uses and activities shall be exempt from noise level regulations:

- (a) Noise of safety signals, warning devices and emergency pressure relief valves;
- (b) Noise resulting from any authorized emergency vehicles when responding to an emergency call or acting in time of emergency; and
- (c) Noise resulting from emergency work.

(1972 Code, § 9-5; 1992 Code, § 25.5-5) (Ord. 72-78, passed 7-10-1978; Ord. 85-78, passed 8-21-1978; Ord. 57-98, passed 6-15-1998; Ord. 6-10, passed 2-10-2010)

### **§ 93.006 EXCEPTIONS.**

The following exceptions shall be allowed between the hours of 6:00 a.m. and 10:30 p.m. in residential or commercial land use zones. These uses and activities are not required to obtain a sound permit unless otherwise stated:

- (a) *School events.* School outdoor concerts and music activities including marching band activities, sporting activities with musical components, art festivals and student fund-raisers;
- (b) *Religious events.* Religious organizations conducting worship services outdoors;
- (c) *City-sponsored events.* The city, including, but not limited to, parks and recreation department-sponsored activities;
- (d) *Private events in city parks.* Private events in city parks with a duration of one hour or less;
- (e) *Construction work.* Operating, or causing to be used or operated, any equipment used in construction, repair alteration or demolition work on buildings, structures, streets, alleys or appurtenances in any land use district where the operation causes a sound pressure level no more than 75 dbA measured at a distance of 50 feet;
- (f) *Domestic power equipment.* Operating or permitting to be operated any power equipment rated five horsepower or less used for home or building repair or grounds maintenance, including, but not limited to, a power saw, sander, lawn mower or garden equipment in residential or commercial zones at a sound pressure no more than 75 dbA measured at a distance of 50 feet;
- (g) *Commercial power equipment.* Operating or permitting to be operated any power equipment, except construction equipment used for construction activities, rated more than five horsepower, including, but not

limited to chain saws, pavement breakers, log chippers or powered hand tools in residential or commercial land use districts at a sound level no more than 82 dbA measured at a distance of 50 feet;

(h) *Refuse compacting vehicles or units.* Operating or permitting to be operated or used any refuse compacting vehicle or unit at a sound level no more than 75 dbA measured at a distance of 50 feet; and

(i) *Permits.* Permits approved by the health director or his or her designated agent.

(1992 Code, § 25.5-5.5) (Ord. 6-10, passed 2-10-2010)

### **§ 93.007 PERMIT.**

(a) Applications for a permit for relief from the noise restrictions in this subchapter for an activity shall be made to the health director or his or her designated agent.

(b) Permits must comply with the following:

(1) Application shall be made on a form provided by the health department;

(2) Application shall be made in accordance with the application deadlines set forth in § 93.011;

(3) Payment of a fee as set forth in § 93.011, except bona fide neighborhood block parties which shall be free;

(4) Permits may be issued for any activity conducted between the hours of 6:00 a.m. and 10:30 p.m. Permits shall allow the permitted sound pressure level of no more than an L90 of 70 dbA or allow no more than five peaks of 77 dbA or higher in any three-minute period until 8:00 p.m. when the permit shall allow the permitted sound pressure level of no more than an L90 of 65 dbA or no more than five peaks of 72 dbA or higher in any three-minute period. Permits shall expire at 10:30 p.m. unless otherwise stated;

(5) Permits may be issued in the Main Street Sioux Falls Business Improvement District for the purpose of music and entertainment between the hours of 6:00 a.m. and 10:30 p.m. except Friday and Saturday nights when the permits may be granted from 6:00 a.m. until 11:30 p.m. These permits shall allow the permitted sound pressure level of no more than an L90 of 70 dbA or allow no more than five peaks of 77 dbA or higher in any three-minute period for the entire duration of the permit;

(6) A special sound permit for a location may be granted allowing extended time and/or decibel levels on a case by case basis. In those cases, the parameters of the event(s) covered by the permit shall be outlined on the permit;

(7) The permit may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the city or the surrounding neighborhood;

(8) The health director or his or her designated agent may revise the conditions of any permit if atmospheric conditions, topography or unanticipated acoustic reverberations increase sound levels at the receiving land;

(9) The permit shall be posted at the activity; and

(10) When sound readings are taken to determine compliance with a permit, the sound readings shall be of the sound emitting from the permitted source.

(1972 Code, § 9-6; 1992 Code, § 25.5-6) (Ord. 72-78, passed 7-10-1978; Ord. 57-98, passed 6-15-1998; Ord. 6-10, passed 2-10-2010)

### **§ 93.008 MOTOR VEHICLE NOISE.**

(a) No person shall drive or move or cause or knowingly permit to be driven or moved a motor vehicle or combination of vehicles at any time in a manner as to exceed the following noise limits for the category of motor vehicle shown. Noise shall be measured at a distance of at least 25 feet (7.5 meters) and at a height of at least 4 feet (1.2 meters) above the immediate surrounding surface.

	Sound Pressure Level dB(A)	
	Speed Limit 40 mph or less	Speed Limit over 40 mph
Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,000 pounds or more, or any combination of vehicles towed by the motor vehicle	90	94
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	80	84

(b) This section shall apply to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this subchapter relating to motor vehicle mufflers for noise control.

(c) No person shall operate or cause to be operated any motor vehicle within the city unless the exhaust system of the vehicle is:

- (1) Free from defects which affect sound reduction;
- (2) Equipped with a muffler or other noise dissipative device; and
- (3) Not equipped with any cutout, bypass or similar device.

(1972 Code, § 9-7; 1992 Code, § 25.5-7) (Ord. 72-78, passed 7-10-1978; Ord. 85-78, passed 8-21-1978; Ord. 6-10, passed 2-10-2010)

***Statutory reference:***

*Motor vehicle noise, see SDCL 32-15-11*

**§ 93.009 ENFORCEMENT.**

(a) The health department shall have joint enforcement responsibility with appropriate law enforcement agencies as it relates this subchapter.

(b) Permits shall allow the permitted sound pressure level of no more than an L 90 of 70 dbA or allow no more than five peaks of 77 dbA or higher in any three-minute period until 8:00 p.m. when the permit shall allow the permitted sound pressure level of no more than an L90 of 65 dbA or no more than five peaks of 72 dbA or higher in any three-minute period. Permits shall expire at 10:30 p.m. unless otherwise stated.

(c) Permits issued in the Main Street Sioux Falls Business Improvement District for the purpose of music and entertainment shall allow the permitted sound pressure level of no more than an L90 of 70 dbA or allow no more than five peaks of 77 dbA or higher in any three-minute period for the entire duration of the permit.

(d) Any violation of the parameters, conditions or requirements set forth for a permit shall be deemed a violation of the permit and shall subject the permit to revocation or compliance review.



(e) A permit may be periodically reviewed and, if findings warrant, the terms and conditions of the permit may be revised or the permit revoked.

(f) In the case that a permit holder or an activity is found to be in violation of this chapter, a notice of violation or a citation may be written. If two or more notices of violation and/or citations are written, the permit holder will be subject to a compliance review. Failure to remedy the noise violation and/or noise disturbance or comply with the orders of the compliance review may result in revocation or denial of future permits.

(g) If 25 residents of the city affected by a sound activity wish to protest a sound permit, they may sign a petition and present it to the health director. When the health director receives a petition, a compliance review of the sound permit will occur.

(1972 Code, § 9-8; 1992 Code, § 25.5-8) (Ord. 72-78, passed 7-10-1978; Ord. 6-10, passed 2-10-2010)

***Cross-reference:***

*Health and sanitation, see ch. 92*

**§ 93.010 ADDITIONAL REMEDIES.**

In addition to the imposition of other penalties, violations of §§ 93.002 through 93.008 are deemed and declared to be a nuisance, and as such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction.

(1972 Code, § 9-10; 1992 Code, § 25.5-9) (Ord. 72-78, passed 7-10-1978)

**§ 93.011 SOUND PERMIT APPLICATION DEADLINE AND FEES.**

<b>Sound Permit Applications and Fees</b>				
<b>Application Type</b>	<b>Description</b>	<b>Application Deadline</b>	<b>Permit Cost</b>	<b>Past Deadline Fee</b>
Monthly	Single vendor permitting multiple events within a calendar month. Limited to no more than 10 days	Minimum 2 weeks prior to 1st day of the month	\$240	\$360
Single Event	Single vendor requesting for event lasting no more than 3 consecutive days	Minimum 1 week prior to event	\$60	\$90
Special	Single event lasting no more than 3 consecutive days requesting extended time and/or decibel levels	Minimum 1 month prior to event date	1 day-\$90; 2 day-\$130; 3 day-\$170	1 day-\$135; 2 day-\$195; 3 day-\$255

(1992 Code, § 25.5-16) (Ord. 6-10, passed 2-10-2010)