

CHAPTER 12 OFFENSES AND NUISANCES

ARTICLE 12.08 NOISE*

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Sec. 12.08.001 Definitions

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

dB(A). The intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting **scale and the slow meter response**, as specified by the applicable publications of the American National Standards Institute or its successor body.

Nonresidential property. Any real property within the limits of the city which is not included in the definition of residential property as defined in this section.

Person. Any individual, association, partnership or corporation.

Property line. The line along the ground surface, and its vertical extension, which separates the real property owned, leased or occupied by one person from that owned, leased, or occupied by any other person and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise occupies an apartment, condominium, hotel or motel room, office, or any other type of occupancy.

Residential property. Any real property developed and used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.

Sound nuisance. Any sound which either exceeds the maximum permitted sound levels specified in [section 12.08.005](#) or otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of persons with ordinary sensibilities within the limits of the city.

(Ordinance 11-025, sec. 1, adopted 3/8/11)

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Sec. 12.08.002 Declaration of findings

The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city, and the necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained in [sections 12.08.003](#) and [12.08.004](#) are in pursuance of and for the purpose of

securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants. (1958 Code, sec. 22-5; 1978 Code, sec. 13-12; Ordinance 11-025, sec. 1, adopted 3/8/11)

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Sec. 12.08.003 Causing prohibited

It shall be unlawful and constitute the creation and/or maintenance of a public nuisance for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city. A noise does not have to exceed the maximum permissible sound levels contained in [section 12.08.005](#) in order to constitute a violation of this article if such noise disturbs the peace, quiet and comfort of a person of ordinary sensibilities. (1958 Code, sec. 22-6; 1978 Code, sec. 13- 13; Ordinance 11-025, sec. 1, adopted 3/8/11)

ARTICLE 12.08 NOISE*

Sec. 12.08.004 Acts or conditions prohibited

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this code, but said enumeration shall not be deemed to be exclusive, namely:

(1) Horns, signaling devices. The sounding of any horn or signaling device of any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is, for any reason, held up.

(2) Radios and other sound-producing devices emanating from vehicles. The using, operating or permitting to be played, used or operated any radio or audio and visual sound device, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants of ordinary sensibilities or at any time with louder volume than is necessary for convenient hearing for the persons of ordinary sensibilities who are in the vehicle in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such manner as to be plainly audible at a distance of fifty (50) or more feet from the vehicle in which it is located shall be prima facie evidence of a violation of this section. For the sound to be “plainly audible,” words or phrases need not be distinguishable and bass reverberations are sufficient.

(3) Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio or television 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) Yelling, shouting and other such vocal noises. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons of ordinary sensibilities in the vicinity.

(5) Animals and birds. The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort or repose of persons of ordinary sensibilities in the vicinity.

(6) Steam whistles. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

(7) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine, motorboat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) Defect in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, or loaded in such manner, as to create loud and unnecessary grating, grinding, rattling or other noise.

(9) Loading, unloading, opening boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(10) Construction or repairing of buildings.

(A) The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building official, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues.

(B) If the building official should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(11) In the vicinity of schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same 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 streets indicating that the same is a school, hospital or court street.

(12) Hawkers, peddlers. The shouting and crying of peddlers, hawkers and vendors **which disturb the peace and** quiet of the neighborhood.

(13) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of a noise to any performance, show or sale.

(14) Metal rails, pillars and columns, transportation thereof. The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places, upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or **as to disturb the peace and quiet** of persons of ordinary sensibilities in the vicinity of or on such streets or other public places.

(15) Pile drivers, hammers and other such appliances. **The operation between the hours of 10:00 p.m. and 7:00 a.m., or any time on Sundays, of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.**

(16) Blowers. **The operation of any noise-creating blower or power fan or any internal-combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.**

(1958 Code, sec. 22-7; Ordinance 94-32, sec. 1, adopted 6/21/94; 1978 Code, sec. 13-14; Ordinance 11- 025, sec. 1, adopted 3/8/11)

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Sec. 12.08.005 Maximum permissible sound levels

(a) **Except as otherwise provided herein by the preceding sections of this article, no person shall conduct, permit, or allow any activity or sound source to produce a sound discernible at any location beyond the property lines of the property on which the sound is being generated that when measured as provided in [section 12.08.006](#) exceeds the applicable dB(A) level listed below for the property on which the sound is received:**

(1) Residential property.

(A) 55 dB(A) between 7:00 a.m. to 10:00 p.m.

(B) 50 dB(A) between 10:00 p.m. to 7:00 a.m.

(2) Nonresidential property.

(A) 70 dB(A) between 7:00 a.m. to 10:00 p.m.

(B) 65 dB(A) between 10:00 p.m. to 7:00 a.m.

(b) **The dB(A) levels set forth in this section apply to the property where the sound is being received. Any sound that exceeds the dB(A) levels set forth in this section under the conditions and measurement criteria set forth in this article is a violation of this article. Evidence that an activity or sound source**

produces a sound that exceeds the dB(A) levels specified in this section shall be prima facie evidence of a sound nuisance that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article. Regardless of the measurable dB(A) level established above and measured as provided in this section the generator of any sound of such a nature as to cause persons of ordinary sensibilities occupying or using any property other than the property upon which the sound is being generated to be aware of sympathetic vibrations or resonance caused by the sound shall also be prima facie evidence of a sound that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.

(Ordinance 11-025, sec. 1, adopted 3/8/11)

ARTICLE 12.08 NOISE*

Sec. 12.08.006 Noise measurement

(a) Any noise measurement made pursuant to the provisions of this article shall be made with a sound level meter which meets the American National Standards Institute's standard. The A-weighted network (scale) at "slow" response shall be used to measure the sound level.

(b) No external measurements shall be made during precipitation or if the wind speed exceeds 15 miles per hour.

(c) Exterior noise levels shall be measured at the property line of an offended person. Where practical, the microphone shall be positioned four to five feet above the ground and ten feet or more away from any reflective surface. For the purpose of enforcing this article, a measurement period shall be taken over a period of at least 10 minutes.

(d) Interior noise levels shall be measured at a point at least four feet from any wall, ceiling or floor. (Ordinance 11-025, sec. 1, adopted 3/8/11)

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Sec. 12.08.007 Exceptions

The following uses and activities shall be exempt from the noise level regulations herein specified.

(1) Noise emanating from a facility on property located within the light industrial zoning district is subject to the decibel limits and hours of operation prescribed under [section 28.04.007](#) (performance standards).

(2) Noise emanating from a facility on property located within the heavy industrial zoning district is subject to the decibel limits and hours of operation prescribed under [section 28.04.007](#) (performance standards).

(3) Use of sound equipment at a facility on property located within the central business district that produces sound as measured at any point along the property line of the permitted venue not greater than 85 decibels between:

(A) 10:00 a.m. and 11:00 p.m. on Sunday through Thursday; or

(B) 10:00 a.m. and 12:00 midnight on Friday or Saturday.

(Ordinance 11-025, sec. 1, adopted 3/8/11)