

PART 1 NOISE POLLUTION - GENERAL

9.8.101: NOISE PROHIBITED:

- A. It is unlawful to make, create, or permit an excessive or unusually loud noise, or a noise which endangers public safety, or a noise which is harmful to any person, which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section [9.8.103](#) of this part; **except when made under and in compliance with a permit issued pursuant to section [9.8.109](#) of this part.**
- B. It is unlawful for any person to operate or allow to be operated any vehicle, machine, motor, or device or carry on any other activity in a manner as would be a violation of section [9.8.104](#) of this part and section [9.8.201](#) of this article or other applicable sections.
- C. It is unlawful for any person to operate, drive, or be in possession of a motor vehicle which is stopped, standing, parked or moving, and to make, create or permit an excessive or unusually loud noise, or a noise which endangers public safety, or is harmful to any person, which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section [9.8.103](#) of this part.
- D. **It is unlawful for any person to be in control of and allow operation of an electronic theft or burglar alarm which sounds an audible signal, without an automatic shutoff device, and the audible signal sounds continually for more than sixteen (16) minutes.** No part of this section shall apply to fire, smoke, sprinkler, medical or personal distress signaling devices.
- E. The complainant may include, but not be limited to, police officers acting under color of the person's authority.
- F. It is an exception to a charge under subsection C of this section that:
1. The vehicle was an emergency, medical, or public safety vehicle operating in its official capacity; or
 2. **The vehicle's sound amplification system was used in compliance with a permit issued pursuant to section [9.8.109](#) of this part,** or has the approval of the Mayor.

- G. Evidence of noise heard and measured in a manner prescribed in section [9.8.103](#) of this part, which is less than that required for a conviction by use of test or measurement as set out in section [9.8.103](#) of this part may be offered to prove a violation of this section as heard without an electronic measurement device. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that a person has violated this section are:
1. The time of day.
 2. The location of the noise.
 3. Whether the noise can be heard from at least one hundred feet (100') from its source. (Ord. 96-41; Ord. 01-42; Ord. 11-19)

9.8.102: SOUND AMPLIFICATION SYSTEMS:

- A. Prohibited: It is unlawful for any person to operate, drive, or be in possession of a motor vehicle which is stopped, standing, parked or moving, and to make, create or permit an excessive or unusually loud noise, or a noise which endangers public safety, or is harmful to any person, which is caused by a sound amplification system, and which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section [9.8.103](#) of this part. Words or phrases need not be discernible.
- B. Sound Amplification System Defined: For the purposes of this section, "sound amplification system" means any radio, stereo, tape player, compact disc player, or other electronic device used for the amplification of sound.
- C. Complainant: The complainant may include, but not be limited to, police officers acting under color of the person's authority.
- D. Exception To Charge: It is an exception to a charge under subsection A of this section that:
1. The vehicle was an emergency, medical, or public safety vehicle operating in its official capacity; or
 2. The vehicle's sound amplification system was used in compliance with a permit issued pursuant to section [9.8.109](#) of this part, or has the approval of the Mayor or the Mayor's designee, authorized to grant approval.

E. Evidence: Evidence of noise heard and measured in a manner prescribed in section [9.8.103](#) of this part, which is less than that required for a conviction by use of test or measurement as set out in section [9.8.103](#) of this part may be offered to prove a violation of this section as heard without an electronic measurement device. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that a person has violated this section are:

1. The time of day.
2. The location of the noise.
3. Whether the noise can be heard from at least one hundred feet (100') from its source.

F. Penalties:

1. Upon conviction for a first offense for violating subsection A of this section, the court shall impose a fine of not less than seventy five dollars (\$75.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.
2. Upon conviction for a second offense for violating subsection A of this section, the court shall impose a fine of not less than one hundred fifty dollars (\$150.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.
3. Upon conviction for a third or subsequent offense for violating subsection A of this section, the court shall impose a fine of not less than three hundred dollars (\$300.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine. Furthermore, the sound amplification system shall be forfeited, pursuant to subsection [9.1.205C](#) of this chapter.
 - a. The sound amplification system shall be confiscated by a police officer, when, on service of a citation for a violation of this section the arresting officer has knowledge or information that the person suspected of violating this section has two (2) previous convictions for violating this section.
 - b. Upon a determination by the arresting officer that the sound amplification system will be removed at the scene, the arresting officer's designee shall conduct the removal of the sound amplification system. If the arresting officer determines, in the officer's own discretion, that it is impractical to remove the sound amplification system at the scene of the violation, then the vehicle shall be impounded by the police for the limited purpose of the expedient removal of the sound amplification system.
 - c. The sound amplification system shall remain impounded until ordered released, or forfeited by the court pursuant to subsection [9.1.205C](#) of this chapter. (Ord. 96-41; Ord. 01-42; Ord. 11-19)

9.8.103: CLASSIFICATION, MEASUREMENT OF NOISE:

For purposes of determining and classifying any noise as excessive or unusually loud as declared to be unlawful and prohibited by this article, the following test measurements and requirements may be applied. A violation of sections [9.8.101](#) and [9.8.102](#) of this part may, however, occur without the following measurements being made:

A. Distance Of Measurement: Noise occurring within the jurisdiction of the City shall be measured at a distance of at least twenty five feet (25') from a noise source located within the public right of way, and if the noise source is located on private property or property other than the public right of way, at least twenty five feet (25') from the property line of the property on which the noise source is located.

B. Measurement:

1. The noise shall be measured on the A weighing scale on sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.
2. For purposes of this article, measurements with sound level meters shall be made when the wind velocity at the time and place of the measurement is not more than five (5) miles per hour, or twenty five (25) miles per hour with a windscreen.
3. In all sound level measurements consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of the sound level measurement. (Ord. 96-41; Ord. 01-42)

9.8.104: PERMISSIBLE NOISE LEVELS:

A noise measured or registered as provided in section [9.8.103](#) of this part from any source other than as provided in section [9.8.109](#) of this part at a level which is equal to or in excess of the db(A) established for the time period and zones listed in this section, is declared to be excessive and unusually loud and is unlawful.

Zone	7:00 A.M. To Next 7:00 P.M.	7:00 P.M. To Next 7:00 A.M.
Residential	55 dB(A)	50 dB(A)
Commercial	60 dB(A)	55 dB(A)

Light industrial	70 dB(A)	65 dB(A)
Industrial	80 dB(A)	75 dB(A)

For purposes of this section only, these zones shall be defined as follows:

A. Residential: An area of single or multi-family dwellings where businesses may or may not be conducted in the dwellings. The zone includes areas where multiple-unit dwellings, high rise apartment districts, and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. Residential zone includes educational facilities, hospitals, nursing homes and similar institutions.

B. Commercial:

1. An area where offices, clinics and the facilities needed to serve them are located;
2. An area with local shopping and service establishments located within walking distances of the residents served;
3. A tourist oriented area where hotels, motels and gasoline stations are located;
4. A large integrated regional shopping center;
5. A business strip along a main street containing offices, retail businesses and commercial enterprises;
6. A central business district; or
7. A commercially dominated area with multiple-unit dwellings.

C. Light Industrial:

1. An area containing clean and quiet research laboratories;
2. An area containing light industrial activities which are clean and quiet;
3. An area containing warehousing; or
4. An area in which other activities are conducted where the general environment is free from concentrated industrial activity.

D. Industrial: An area in which noise restrictions on industry are necessary to protect the value

of adjacent properties for other economic activity, but shall not include agricultural operations.

E. Adjacent Zones: When a noise source can be measured from more than one zone, the permissible sound level of the more restrictive zone shall govern. (Ord. 96-41; Ord. 01-42)

9.8.105: PERMISSIBLE INCREASES:

Between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., the noise levels permitted in section [9.8.104](#) of this part may be increased by ten (10) dB(A) for a period of not to exceed fifteen (15) minutes in any one hour period. (Ord. 96-41; Ord. 01-42)

9.8.106: PERIODIC, IMPULSIVE NOISES:

Periodic, impulsive, or shrill noises are declared unlawful when the noises are at a sound level of five (5) dB(A) less than those listed in section [9.8.104](#) of this part. (Ord. 96-41; Ord. 01-42)

9.8.107: CONSTRUCTION PROJECTS:

Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority, or if no time limitation is imposed, then for a reasonable period of time for completion of project. (Ord. 96-41; Ord. 01-42)

9.8.108: RAILROAD RIGHTS OF WAY:

All railroad rights of way shall be considered as industrial zones for the purposes of this part, and the operation of trains shall be subject to the maximum permissible noise levels specified for the zone. (Ord. 96-41; Ord. 01-42)

9.8.109: HARDSHIP PERMITS:

Applications for a permit, for other than vehicular traffic, for relief from the noise level designated in this part on the basis of undue hardship may be made to the Mayor. Any permit granted by the Mayor shall contain all conditions upon which the permit has been granted and shall specify a reasonable time for which the permit shall be effective. The Mayor is authorized to designate a fee which reasonably covers administrative costs incurred for the issuance of the permit. The Mayor may grant the relief as applied for if it is found:

- A. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this part; or
- B. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with sections [9.8.104](#), 9.8.105, 9.8.106 and [9.8.107](#) of this part.
- C. That no other reasonable alternative is available to the applicant; and
- D. The Mayor may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood. (Ord. 96-41; Ord. 01- 42; Ord. 11-19)