

ARTICLE VI. - NOISE<sup>5</sup>

Footnotes:

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**Editor's note**—Ord. No. O-2013-12, §§ 1—6, adopted April 16, 2013, added provisions that were not specifically amendatory. At the editor's discretion, said provisions were included as §§ 86-101—86-106.

Sec. 86-101. - Authority; area.

- (a) The City of Pharr hereby adopts in its entirety the V.T.C.A., Local Government Code ch. 217, subch. C, §§ 217.041, 217.042, as may be amended from time to time. This article and provisions herewith shall be included in the Pharr Code of Ordinances. The city further incorporates V.T.C.A., Local Government Code ch. 250, § 250.001, and V.T.C.A., Election Code ch. 61, § 61.004.
- (b) As matters related to the public's health, safety, and welfare is of the utmost concern, the City of Pharr shall be authorized to enforce, through its city attorney, this article as may be allowed by law herein. This article is effective and shall be enforced within the corporate boundaries of the City of Pharr and within 5,000 feet outside the limits.

(Ord. No. O-2013-12, § 1, 4-16-13; Ord. No. O-2014-22, § 1, 6-3-14; Ord. No. O-2014-35, § 1, 8-5-14)

Sec. 86-102. - Definitions.

The following terms and phrases are defined herein for interpretation and use in and enforcement of this article. The definitions referenced herein shall not be used in giving meaning or interpretation to any other ordinance, rule, resolution, or legal provision not otherwise included within this article.

*A-weighted sound level* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

*Noise nuisance* means any loud, irritating, vexing or disturbing sound originating from a nearby property under separate ownership which causes injury, discomfort, or distress of a person of reasonable nervous sensibilities, or any sound that exceeds the maximum permitted sound levels specified in this article.

*Nonresidential property* shall mean any real property that is not included in the definition of residential property as defined in this section. Without limitation, the term includes properties that have been developed other than as residential properties, properties that are undeveloped, and properties that are devoted to public purposes, such as public streets and parks.

*Plainly audible when describing a sound or noise* means any amplified sound or noise that can be clearly heard by a person with normal hearing faculties such that a reasonable person would believe such sound or noise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article. The term does not require the clear appreciation of specific words of speech or specific words of a song.

*Property line* means, with respect to single occupancy properties on the same side of a street, the line along the ground surface and its vertical extension that separates the real property occupied by one person from that occupied by another person. With respect to single occupancy properties on opposing

sides of a street, the term means the curb line or line that separates the real property and the adjacent street. With respect to shared occupancy properties the term means the imaginary line that represents the legal limits of occupancy of any person who occupies an apartment, condominium, hotel or motel room, office, or any other type of occupancy from that of other occupants.

*Residential property* shall mean any real property developed and used for human habitation that 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 level* means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network as specified in American National Standards Institute specifications for sound level meters. If the frequency weighting employed is not indicated, the A-weighting shall apply.

*Sound level meter* means an instrument that is used to measure sound pressure levels.

(Ord. No. O-2013-12, § 2, 4-16-13; Ord. No. O-2014-22, § 2, 6-3-14; Ord. No. O-2014-35, § 2, 8-5-14)

Sec. 86-103. - Prohibited acts.

- (a) The following acts, among others not hereinafter enumerated, are declared to be unlawful and in violation of the provisions of this article when such acts are done or accomplished, caused, or carried on in such a manner, or with such volume, intensity, or with continued duration, so as to create or allow sound that may annoy, cause distress, or to disturb the quiet, comfort, or repose of any reasonable person, within the vicinity or hearing thereof, or so as to damage, endanger or injure the safety or health of humans or animals, or so as to interfere with the physical well-being of humans or animals, or so as to endanger or injure personal or real property:
- (1) The playing or permitting or causing the playing of any radio, television, drum, juke box, musical instrument, sound amplifier, notification device, or similar device which produces, reproduces, or amplifies sound;
  - (2) The keeping of any animal, fowl, or bird, which makes frequent or long, continued noise.
  - (3) The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal;
  - (4) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, or other motor vehicle or boat, except through a properly installed muffler or other device which prevents loud or explosive noises therefrom;
  - (5) The crying, calling, or shouting, in person or by a mechanical device, or the use of any whistle, rattle, bell, gong, clapper, hammer, drum, buzzer, horn, loudspeaker or phonograph with or without an amplifier, hand organ, or other devices or instruments, musical or otherwise;
  - (6) The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors or any other persons;
  - (7) Operating or controlling a motor vehicle in either a public or private place within the city to operate any sound amplifier which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette player, or other similar device in the motor vehicle, in such a manner that, when operated, is audible at a distance of 30 or more feet from the source or, when operated causes a person to be aware of the vibration accompanying the sound in any location outside the confines of the vehicle emitting the sound, noise, or vibration;
  - (8) Operation of a sound amplification device or sound vehicle as defined and prohibited by V.T.C.A., Election Code ch. 61, § 61.004.
- (b) The acts enumerated in the following sections of this article, among others, are declared to be unlawful in violation of this article, but such enumeration shall not be deemed to be exclusive.

(c) In addition to the violations established by the preceding sections of this article, it is unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound at any location beyond the property lines of the property on which the sound is being generated that when measured as provided in subsection (e) of this article exceeds the applicable dB(A) level listed below for the property on which the sound is received:

(1) *Residential property:*

a. Eighty dB(A) during daytime hours;

b. Seventy-five dB(A) during nighttime hours.

(2) *Nonresidential property:* Eighty-five dB(A) at all times.

(d) Any sound that exceeds the dB(A) levels set forth in this article 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 that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in violation of this article.

(e) Method of sound measurement. Whenever portions of this article prohibit sound over a certain decibel limit, measurement shall be made with a type 1 or type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American National Standards Institute (A.N.S.I. S1.4-1984/85A). Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used. Measurements of sound generated shall be taken from the property line of the nonresidential property or residential property where the sound is received towards the source of the sound.

(f) The persons responsible for violations of this article are identified as follows:

(1) *At residential property.* Any resident present at the time of the offense, and any guest or trespasser with the ability to control the level of noise at the time of the offense when no resident is present at the time of the offense.

(2) *At nonresidential property.* Any business owner, operator, manager, employee in charge, and all persons in control or in possession of the noise nuisance generating instrument or property at the time of the offense.

(3) *At any location with an unattended noise nuisance producing machine, device, instrument, animal or combination of same.* Any person who leaves unattended any machine, instrument, device, animal, or any combination of same, which thereafter commences producing or dispensing noise in violation of this article.

(Ord. No. O-2013-12, § 3, 4-16-13; Ord. No. O-2014-22, § 3, 6-3-14; Ord. No. O-2014-35, § 3, 8-5-14)

Sec. 86-104. - Enforcement.

Should any person or business commit a violation of this article or otherwise create a nuisance, or allowed the commission of any act or condition that violates this article or creates a nuisance, city personnel or the city attorney may take any action to enforce this or any ordinance to prevent and summarily abate any conditions or nuisance. These actions may include but not be limited to allowing for municipal resources and personnel to: abate any premises or property, closure, condemn, remove any person or thing, court action, suspend, cancel, or void any license or permit issued by the City of Pharr, and any and all other relief as may be necessary.

(Ord. No. O-2013-12, § 4, 4-16-13; Ord. No. O-2014-22, § 4, 6-3-14; Ord. No. O-2014-35, § 4, 8-5-14)

Sec. 86-105. - Exceptions.

The provisions of this article shall not apply to any of the following:

- (1) The emission of sound for the purpose of alerting persons to an emergency;
- (2) Sound produced by emergency vehicles;
- (3) Sound produced by a vehicle motor with a properly installed muffler while the vehicle is moving on a private or public right-of-way, public waterway, airport runway, railway, or moving or stationary in furtherance of commercial activities at a commercial location;
- (4) Sound produced by any governmental body in the performance of a governmental function or in the furtherance of preparation for a governmental function;
- (5) Sound generated at a scheduled public stadium event; by parade spectators and participants on the parade route during a permitted parade; by outdoor celebration participants sponsored or co-sponsored by the City of Pharr for the general welfare of the public; by patrons and participants using pyrotechnic devices with a permit approved by the City of Pharr; by City of Pharr sponsored pyrotechnic displays that are inspected and approved;
- (6) Sound generated from normal activities conducted on public playgrounds and public or private school grounds, including but not limited to, school athletic and school entertainment events;
- (7) Sound generated by any activity in which the regulation thereof has been preempted by state or federal law, including, but not limited to, sound produced by aircraft in flight and interstate commerce transactions and activities;
- (8) Sound generated by the normal maintenance of property, such as lawn mowing, provided the activities take place from 7:00 a.m. to 8:00 p.m.;
- (9) Sound produced by the operation of any air-conditioning unit, heat pump, HVAC system, or swimming pool machinery which does not produce a sound exceeding 75 dBA on residential property or 85 dBA on nonresidential property, when measured at the nearest exterior wall of a residential or commercial building under separate ownership;
- (10) Sound produced by construction demolition, repair, drilling, excavation, and alteration during the hours of 7:00 a.m. to 8:00 p.m., unless the work is of urgent necessity in the interest of public health and safety;
- (11) Sounds produced by an association or private club, or a sport shooting range as defined by V.T.C.A., Local Government Code ch. 250, § 250.001, as long as the activities take place from 7:00 a.m. to 8:00 p.m.
- (12) In the interest of the public or the city's welfare being social or economic, the City of Pharr may waive any of the provisions of this article in the interest of justice.

(Ord. No. O-2013-12, § 5, 4-16-13; Ord. No. O-2014-22, § 5, 6-3-14; Ord. No. O-2014-35, § 5, 8-5-14)

Sec. 86-106. - Penalties.

- (a) Any violation of this article shall be subject to both civil and criminal penalties. A criminal conviction shall be a class C misdemeanor. A violator shall also be subject to the maximum penalties allowed by law for failing to appear in court when charged with an offense as described herein.
- (b) A liable party shall be subject to a civil penalty of \$1,000.00 per day or the maximum allowed by law.

(Ord. No. O-2013-12, § 6, 4-16-13; Ord. No. O-2014-22, § 6, 6-3-14; Ord. No. O-2014-35, § 6, 8-5-14)

Secs. 86-107—86-109. - Reserved.