

ARTICLE VIII. - NOISE<sup>[5]</sup>

Footnotes:

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**State Law reference**— Presumption of unlawful noise, V.T.C.A., Penal Code § 42.01(c).

Sec. 14-209. - General.

- (a) This article is adopted under the authority of the Constitution and laws of the state, particularly V.T.C.A., Local Government Code ch. 211, and by virtue of the authority of the city, as granted to it by the citizens of the city and contained in article 2, section 2.01 of the City Charter.
- (b) The purpose of this article is to provide an objective framework whereby the officers of the city may act to ensure the safety and welfare of the citizens by adopting quantitatively defined measures to protect against the deleterious effects of excessive, prolonged, or otherwise undesirable noise.

(Ord. No. G-07-11-08-0E1, § I(6.201), 11-8-2007)

Sec. 14-210. - Definitions.

The following words and terms, when used in this article, have the following meanings unless otherwise clearly indicated. All technical definitions not defined in this section will be interpreted in accordance with applicable publications and standards of the American National Standards Institute (ANSI).

A-weighting means the electronic filtering in sound level meters that models human hearing frequency sensitivity.

Chief of police means the Chief of Police of the City of Round Rock or his designated representative.

Construction means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

Daytime means 7:00 a.m. to 9:00 p.m. the same day.

dB(A) means the A-weighted unit of sound pressure level.

Decibel (dB) means the unit of measurement for sound pressure level at a specific location.

Domestic power tool means any mechanically, electrically, or gasoline motor-driven tool, including:

- (1) Chainsaws;
- (2) Lawn equipment;
- (3) Drills; and
- (4) Power sprayers.

Emergency work means any work or action necessary to deliver essential services including repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees from rights-of-way, or abating life threatening conditions.

Impulsive sound means a sound having duration of less than one second with an abrupt onset and rapid decay.

Measuring instrument means an instrument such as a sound level meter, integrating sound level meter, or dosimeter used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the latest version of ANSI standard S1.4-1983.

Motor vehicle means any vehicle that is propelled or drawn on land by an engine or motor.

Muffler means a sound dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

Nighttime means 9:00 p.m. to 7:00 a.m. the following day.

Noise means any sound of a level and duration that is or can be harmful to human health, or would unreasonably interfere with the enjoyment of life or property in the city.

Noise control ordinance means the Round Rock Noise Control Ordinance.

Noise disturbance means any sound which:

(1) Disturbs a reasonable person of normal sensitivities;

(2) Exceeds the sound level limits set forth in this article; or

(3) Is plainly audible as defined in this section.

Plainly audible means any sound or noise from any source that can be clearly heard by a person with normal hearing faculties at a distance of 200 feet or more from the real property line of the source of the sound or noise.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, or alley that is leased, owned, or controlled by a governmental entity.

Public space means any real property or structure thereon that is leased, owned, or controlled by a governmental entity.

Real property line means either:

(1) The imaginary line, including its vertical extension, that separates one parcel of real property from another; or

(2) The vertical and horizontal boundaries of a dwelling unit in a multi-dwelling unit building.

Sound level means the instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow integration speed.

Sound pressure level means 20 multiplied by the logarithm, to the base 10, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

Zoning districts. For purposes of this article, the zoning districts established in subsection 46-132(a) are divided into two separate groups as follows:

(1) Residential districts.

- a. MH (Manufactured housing).
- b. SF-1 (Single-family-large lot).
- c. SF-2 (Single-family-standard lot).
- d. SF-R (Single-family-rural).
- e. SR (Senior).
- f. TF (Two-family).

- g. TH (Townhouse).
  - h. MU-L (Mixed-use limited) district.
  - i. Areas that are zoned PUD (planned unit development) that are exclusively residential in character.
- (2) Commercial and industrial districts.
- a. AG (Agricultural).
  - b. BP (Business park).
  - c. C-1 (General commercial).
  - d. C-1a (General commercial-limited).
  - e. C-2 (Local commercial).
  - f. LI (Light industrial).
  - g. MI (Mining).
  - h. I (Industrial).
  - i. OF (Office).
  - j. OS (Open space).
  - k. PF (Public facilities).
  - l. MU-1 (Mixed-use historic commercial core) district.
  - m. MU-2 (Mixed-use downtown medium density) district.
  - n. Areas that are zoned PUD and exhibit mixed-use land development characteristics.

(Ord. No. G-07-11-08-0E1, § I(6.202), 11-8-2007; Ord. No. G-11-07-14-10C5, § I, 7-14-2011; Ord. No. G-13-07-11-H2, § XIV, 7-11-2013)

Sec. 14-211. - Noise measurement procedures.

(a) Measurement with sound level meter.

- (1) Whenever portions of this article prohibit sound over a certain decibel limit, measurement of the sound will 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 (ANSI S1.4-1984/85A).
- (2) Noise levels will be measured in decibels and A-weighted. The unit of measurement will be designated "dB(A)."
- (3) Meters must be maintained in calibration and in good working order. Calibrations will be employed that meet ANSI S1.40-1984 prior to and immediately after every sampling of sound.
- (4) Measurements recorded must be taken so as to provide a proper representation of the sound being measured.
- (5) The microphone of the meter should be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone must be used.
- (6) Except as otherwise provided, measurements will be taken at or near the nearest property line of the property where the sound is being received.

- (b) Measurement without sound level meter. Any city official with enforcement authority under this article who hears a noise that is plainly audible will assess the noise according to the following standards:
- (1) The primary means of detection are the official's normal hearing faculties, so long as the official's hearing is not enhanced by any mechanical device, such as a hearing aid.
  - (2) The official must have a direct line of sight and hearing to the real property of the source of the noise so the official can readily identify the offending source of the noise and the distance involved. If the official is unable to have a direct line of sight and hearing to the real property of the source of the noise, then the official must confirm the source of the noise by approaching the suspected real property source of the noise until the official can obtain a direct line of sight and hearing, and identify the same noise that was heard at the place of original assessment.
  - (3) The official need not determine the particular words or phrases being said or produced, or the name of the song or artist producing the noise. The detection of a rhythmic bass reverberating type of noise is sufficient to constitute a plainly audible noise.

(Ord. No. G-07-11-08-0E1, § I(6.203), 11-8-2007)

Sec. 14-212. - General noise prohibitions and sound level limitations.

- (a) Any noise that is measured in excess of the parameters set forth in tables I through III is declared to be a nuisance.
- (b) Sound causing permanent hearing loss.
  - (1) Tables I and II specify sound level limits which, if exceeded, will have a high probability of producing permanent hearing loss in anyone in the area where the sound levels are being exceeded.
  - (2) No sound is permitted within the city that exceeds the parameters set forth in tables I and II.

Table I—Maximum Continuous Sound Levels

Duration per Day (in continuous hours)	Sound Level (dB(A))
8	90
6	92
4	95
3	97
2	100
1½	102
1	105

½	110
¼	115

Table II—Maximum Impulsive Sound Levels

Number of Repetitions per 24-Hour Period	Sound Level (dB(A))
1	145
10	135
100	125

(c) No person will create, operate, or cause to be operated on private property any source of sound in such a manner as to create a noise which exceeds the limits set forth for the land use district as defined in section 14-210 and in table III when measured at a minimum distance of 200 lineal feet from the real property line of the source.

(d) When a noise source can be identified and its noise measured in more than one zoning district, the limits of the most restrictive use will apply at the boundaries between different zoning districts.

Table III—Maximum Sound Levels (in dB(A)) for Zoning Districts

	Daytime	Nighttime
Residential	55	50
Commercial and Industrial	80	75

(Ord. No. G-07-11-08-0E1, § I(6.204), 11-8-2007)

Sec. 14-213. - Specific noise prohibitions.

- (a) No person may cause or allow any sound that constitutes a noise disturbance as defined in section 14-210. Any person who causes or allows a noise disturbance to occur creates a nuisance.
- (b) The following acts are declared to be in violation of this article and are hereby defined as nuisances:

- (1) Motor vehicles.
  - a. The operation of a motor vehicle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.
  - b. Operating a motor vehicle with a muffler cut out, bypass, or similar device.
  - c. Operating or permitting to be operated any vehicle which, by virtue of disrepair, or manner of operation, or so loaded, alone or in combination with other motor vehicles, creates a grating, grinding, rattling, or any other loud noise that violates use district noise level restrictions.
  - d. Operating any motor vehicle with a dynamic braking device (commonly known as an engine brake, Jacobs Brake, or Jake Brake) engaged, except for the aversion of imminent danger.
  - e. Personal or commercial vehicular music amplification or reproduction equipment operated in such a manner as to cause a noise disturbance.
  - f. The sounding of any horn or signal device on any motor vehicle, except as a danger signal.
- (2) Construction work.
  - a. Construction work during nighttime hours in or adjacent to residential land use districts.
  - b. Construction work in any land use district that results in noise above the limits set for industrial land use districts in subsection 14-212(d).
- (3) Garbage collection during nighttime hours in a residential use district.
- (4) The operation of domestic power tools during nighttime hours so as to cause a noise disturbance.
- (5) The use of any mechanical device operated by compressed air, unless the noise to be created is effectively muffled and reduced.
- (6) Keeping an animal that makes any sound that:
  - a. Creates a noise disturbance across a residential real property line;
  - b. Is frequent or of continued duration for ten or more consecutive minutes; or
  - c. Is intermittent for a period of 30 or more minutes.
- (7) The production of any noise in a public right-of-way or other public space which is plainly audible across the real property line of the source.
- (8) Radios, television sets, musical instruments and similar devices.
  - a. Operating or playing, or allowing the operation or playing of a radio, television, phonograph, musical instrument, or similar device that reproduces or amplifies sound so it creates a noise disturbance for any person other than the operator of the device.
  - b. Operating or playing any such device so as to cause a noise disturbance.
  - c. Operating or playing any self-contained, portable, handheld music or sound amplification or reproduction equipment in a public space or public right-of-way so as to cause a noise disturbance.
- (9) Operation of any public loudspeaker in a fixed position, moveable position, or mounted on a sound vehicle in a public space or public right-of-way for the purpose of communication or sound reproduction so it violates section 14-212 or causes a noise disturbance, unless a permit has been approved by the chief of police in accordance with section 14-215.

(10) An exterior burglar alarm of a building or motor vehicle activated so it continues its operation for more than five minutes for continuous airborne sound and 15 minutes for impulsive sound after it has been activated.

(c) Violation of plainly audible standard on posted property.

(1) When a city official with enforcement authority under this article determines a person or persons are responsible for a sound that is in violation of the plainly audible standard on property posted as described below, the official will issue a citation for violation of this article to the responsible person or persons.

(2) Property will be considered posted for the purposes of this subsection if at least one warning sign is posted in a conspicuous place on the property, clearly visible and readable to all persons entering the property, warning persons that noise that is plainly audible is prohibited. The sign must read as follows:

WARNING

Playing a stereo, radio, or amplifier that can be heard 200 feet away is prohibited. City Ord. Sec. 14-213(c).

Letters in the word "WARNING" must be at least two inches high in bold type. Letters for the remaining text must be at least one inch high in normal type, and the words "City Ord. Sec. 14-213(c)" must be at least one-half inch in normal type. All letters must be light-reflective on a contrasting background. The sign structure containing the required warning must be permanently installed with the word "WARNING" not less than three feet and no more than six above ground level.

(3) The city manager or designee may require a property to be posted if it is used for commercial purposes, including as a parking lot of an adjacent business, and:

- a. The business is generally unattended by the owner or an agent of the owner during normal operating hours; or
- b. Two or more citations for violation of this article resulting in payment of a fine or adjudication of guilt by a judge are issued due to acts of patrons or visitors during any 90-day period.

(Ord. No. G-07-11-08-0E1, § I(6.205), 11-8-2007)

Sec. 14-214. - Exemptions.

(a) The following uses and activities are exempt from the sound level regulations contained in this article, except for the sound level regulations provided in table I and table II of subsection 14-212(b):

- (1) Noise of safety signals, warning devices and emergency pressure release valves.
- (2) Noise resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- (3) Noise resulting from emergency work.
- (4) All noise coming from the normal operations of interstate motor and rail carriers, to the extent that the provisions of this article regulating the sound levels of such vehicles has been preempted by the Noise Control Act of 1972 (42 USC 4901 et seq.) or other applicable federal laws or regulations.
- (5) Noise resulting from the operation of any aircraft within the parameters and guidelines prescribed by the Federal Aviation Administration and the rules and regulations of the city.
- (6) Noise resulting from a city-sponsored celebration or event.

- (7) Noise resulting from a lawfully scheduled stadium event.
  - (8) Noise resulting from a fireworks display or fireworks discharge if the person has acquired a permit from the fire marshal and otherwise complied with the provisions of chapter 16, article V.
  - (9) Noise from church bells or chimes when a part of a religious observance or service.
  - (10) Any noise resulting from activities of temporary duration permitted by law for which a permit has been approved by the chief of police in accordance with section 14-215.
- (b) Any activity to the extent regulation thereof has been preempted by state or federal law.

(Ord. No. G-07-11-08-0E1, § I(6.206), 11-8-2007; Ord. No. G-11-07-14-10C5, § II, 7-14-2011)

Sec. 14-215. - Temporary noise exemption permits.

- (a) Permits generally.
  - (1) A person may apply for a permit to engage in any activity that creates a noise that would otherwise constitute a nuisance or be in violation of this article.
  - (2) A person must apply in writing to the chief of police at least ten calendar days prior to the requested issuance date and time, unless the chief determines that unforeseeable circumstances justify a shorter amount of time.
- (b) The application for a permit must be on a form prescribed by the chief of police and must include the following:
  - (1) The name, address and telephone number of the applicant including both daytime and nighttime contact;
  - (2) A description of the type, duration, and location of the noise, specifically including the date and time the noise will occur;
  - (3) The name, if different from the applicant, of the owner of the property on which the noise will occur and a written letter of permission from the owner and any tenants or other persons occupying the property from which the noise will occur;
  - (4) A statement from the applicant that all property owners within 200 lineal feet to the property upon which the noise originates will be provided written notification within 24 hours of making the application of their right to respond directly to the chief of police to voice support or opposition to the application; and
  - (5) A copy of the notification(s) sent to any property owners.
- (c) Filing fee.
  - (1) A filing fee must be submitted with the application for a permit, in an amount as currently established or as hereafter adopted by resolution of the city council from time to time.
  - (2) No filing fee is to be assessed to any governmental entity or any person conducting activities on behalf of the governmental entity.
- (d) No permit issued will be valid for more than two consecutive calendar days.
- (e) In determining whether to grant or deny the permit, the chief of police must consider the following factors:
  - (1) The safety of the persons that will be subjected to the noise, whether voluntarily or involuntarily;
  - (2) The number of persons who will be involuntarily subjected to the noise;
  - (3) The reasonableness of the time, place, and manner of the noise and duration of the noise; and

- (4) Any other factors necessary to determine the impact on public health, safety, or disruption of the peace that the noise may cause.
- (f) Notice of decision.
- (1) The chief of police will notify the applicant of the decision to either grant or deny the permit within five calendar days following the date of the application.
  - (2) If the chief of police denies the permit, the chief will state the reasons for the denial in a written notice provided to the applicant.
  - (3) If the chief of police grants the permit, the chief may place reasonable time, place, and other restrictions on the activity authorized by the permit.
- (g) Appeal.
- (1) Upon receiving notice of the chief of police's decision, the applicant may appeal the decision, including restrictions placed on the activity placed on the permit, to the city manager.
  - (2) Within one working day of receiving the appeal, the city manager will consider the application, the basis of denial, or any restrictions placed on issuance of the permit.
  - (3) Based on the standards listed in subsection (e) of this section, the city manager may:
    - a. Uphold the decision of the chief of police;
    - b. Approve or deny the issuance of the permit as applied for; or
    - c. Modify or delete restrictions placed on the permit.
- (h) Permit.
- (1) The permit shall be in a form prescribed by the chief of police and must be displayed in the immediate vicinity of the source of the noise at all times during the production of the noise.
  - (2) The permit must include the following:
    - a. The date and time that the permit begins and ends;
    - b. The name of the permit holder and who will be generating the noise;
    - c. A description of the basic nature of the noise;
    - d. The specific location of the noise; and
    - e. Any special limitations or restrictions placed on the permit.
- (i) The chief of police may revoke any permit issued under this article for the following reasons or causes:
- (1) The substantial violation of this article or the terms and conditions of a permit;
  - (2) A material misstatement of any fact on the application for a permit.

(Ord. No. G-07-11-08-0E1, § I(6.207), 11-8-2007)

Sec. 14-216. - Enforcement procedures, penalties, and other remedies.

- (a) The city police department has primary, but not exclusive, enforcement responsibility for this article. The city council and chief of police both maintain the right to designate other agencies or departments to enforce this article as needed.
- (b) The enforcement official has the authority to have any device removed or toned down instantly until it can be otherwise operated in compliance with this article.

- (c) Persons cited for violations of any part of this article will be fined in accordance with section 1-9, per occurrence.
- (d) Violations of sections 14-212 through 14-215 are also hereby subject to abatement by means of a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. G-07-11-08-0E1, § I(6.208), 11-8-2007)

Secs. 14-217—14-240. - Reserved.