

## Chapter 10.16 - OFFENSES AGAINST PUBLIC PEACE

### Part 1 - DISTURBING THE PEACE<sup>[2]</sup>

Footnotes:

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**State Law reference**— For statutory provisions on loud or unreasonable noises, see Penal Code § 415.

#### 10.16.010 - Disturbing the peace prohibited.

No person shall disturb the peace, quiet and comfort of any neighborhood by creating therein any disturbing or unreasonably loud noise.

(Prior code § 4231; Ord. 24198.)

#### 10.16.020 - Disturbing noises designated.

- A. It is the intent of this chapter to prohibit all noises which are disturbing or unreasonably loud. The types of noises set out in subsection B. shall not be deemed or construed as in any way exclusive, but merely illustrative.
- B. The following types of noises are declared to be disturbing to the peace, quiet and comfort of the neighborhood in which they are heard, and persons creating such noises are in violation of Section 10.16.010:
  1. The sounding of any horn, signal or noise device on any automobile, motorcycle, bus, truck or other vehicle, in any other manner or for any other purpose than allowed by the California Vehicle Code or other laws of the state;
  2. The noise from an exhaust system of any vehicle which is not equipped or constructed so as to prevent any disturbing or unreasonably loud noise;
  3. The revving of the engine of any motor vehicle while such vehicle is not in motion, except when done in the course of repairing, adjusting or testing it;
  4. Disturbing or unreasonably loud shouting or crying of peddlers, hawkers, vendors or newspaper carriers;
  5. The playing or operating of any radio, phonograph, orchestra or other musical device or instrument in a manner that is disturbing or unreasonably loud to a reasonable person outside the facility or unit from which the noise emanates; and
  6. Disturbing or unreasonably loud shouting, screaming, wailing or other vocalization that is disturbing or unreasonably loud to a reasonable person outside the facility or unit from which the noise emanates.

(Prior code § 4232; Ord. 24198.)

### Part 2 - LOUDSPEAKERS AND SOUND AMPLIFIERS

10.16.030 - Operation without permit prohibited.

No person shall operate any loudspeaker or sound amplifier or similar device in such a manner as to cause any sound to be projected outside of any building or out-of-doors, except upon receipt of a permit from the chief of police as provided in Section 10.16.040.

(Prior code § 4233; Ord. 24198.)

10.16.040 - Issuance of permit.

- A. The chief of police shall make a decision to grant or deny an application for a loudspeaker permit within five working days after the date the application is received by the police department.
- B. The chief of police may deny the permit application for any of the following reasons:
  - 1. The applicant has been convicted of a crime related to disturbance of the peace within the past three years or has been found civilly liable for the creation of a public or private nuisance by means of unreasonably loud or disturbing noise.
  - 2. The applicant has knowingly made false statements in the application.
  - 3. The proposed location(s) and/or time(s) for the use of the loudspeaker, sound amplifier, or other similar equipment would be likely to create a disturbance of the peace as set out in Sections 10.16.010 and 10.16.020 of this Code.
- C. The permit shall be issued only after payment of the permit fee set forth in the schedule of fees established by resolution of the council.
- D.
  - 1. The chief of police may set reasonable time, place, manner, sound level and duration restrictions on the use of loudspeakers, sound amplifiers and similar devices as a condition for the issuance of a loudspeaker permit.
  - 2. In setting reasonable time, place and manner restrictions, the chief of police may consider, but is not limited to consideration of, the following factors:
    - a. Proximity of the proposed use to residential neighborhoods, medical facilities and schools;
    - b. Other proposed applicants who wish to use the same or a nearby area during the same time period;
    - c. The likelihood that the proposed use will create a disturbance of the peace;
    - d. The applicant's history of compliance with the requirements of this chapter during the past three years.

(Prior code § 4234; Ords. 19764, 21289, 24198.)

10.16.050 - Summary suspension of permit.

- A. The chief of police is authorized to summarily suspend a loudspeaker permit at any time if use of the permitted speaker, sound amplifier or other similar device of the permittee violates the permit conditions set forth under subsection 10.16.040 D. or creates a disturbance of the peace as defined in Sections 10.16.010 and 10.16.020.
- B. The decision to suspend a loudspeaker permit shall take effect immediately.
- C. The decision to suspend the loudspeaker permit may be issued orally or in writing to the permittee or person controlling the loudspeaker. When the decision to suspend is delivered orally to the

permittee, the decision to suspend shall be reduced to writing and be mailed to the permittee at the address stated on the application or permit within five days after delivery of the oral decision. Alternatively, the decision to suspend may be hand-delivered or mailed to the permittee or to the address given on the application or permit within five days after delivery of the oral decision.

- D. The written decision to suspend shall advise the permittee that he or she may request a hearing before the appeals hearing board. The request must be in writing and received by the secretary of the board within fifteen days of the date of hand-delivery or mailing of the decision to suspend.
- E. If the permittee does not request a hearing before the board, then the decision to suspend shall become a final decision to revoke the permit at the end of fifteen days after the hand-delivery or mailing of the decision to suspend.

(Ord. 24198.)

#### 10.16.060 - Notice of decision to deny or revoke.

- A. The chief of police shall provide a written notice of decision to deny or revoke a loudspeaker permit.
- B. The notice of decision shall state all the grounds and reasons upon which the denial or revocation is based. A permit may be revoked by the chief of police for any of the grounds for denial stated in Section 10.16.040 B., for violation of any restriction placed on the permit under authority of Section 10.16.040 D., or for creating a disturbance of the peace as set out in Sections 10.16.010 and 10.16.020 of this chapter.
- C. The notice of decision shall be mailed to the applicant or permittee at the address stated on the application or permit. Alternatively, the notice of decision may be delivered to the applicant, permittee or address given in the application or permit.
- D. The notice of decision shall advise the applicant or permittee that the denial or revocation shall become final unless the applicant or permittee requests a hearing before the appeals hearing board. The request must be in writing and received by the secretary of the board within fifteen days of the mailing of the notice of decision.

(Ord. 24198.)

#### 10.16.070 - Expedited notice and hearing.

- A. In the case of the denial of a permit application for an event scheduled to take place within five days of the filing of the application, the chief of police, at the applicant's request, shall provide the applicant with expedited notice, written or oral, of the notice of decision, within twenty-four hours of the time the applicant files the application.
- B. Within twenty-four hours of the applicant's receipt of the expedited notice of the decision to deny a permit, the chief of police shall hold a hearing as provided for in Section 10.16.060.
- C. At the hearing before the chief of police, the applicant shall be given an opportunity to present witnesses and documentary and other evidence.
- D. The hearing will be conducted informally and technical rules of evidence shall not apply. Any and all evidence which the chief of police deems reliable, relevant and not unduly repetitious may be considered.
- E. The applicant may be represented by another person.
- F. The chief of police shall provide an oral or written decision to the applicant sustaining, reversing or modifying the initial decision to deny the permit at the close of the hearing.

- G. If the applicant is dissatisfied with the decision of the chief of police, he or she may file a request for an appeal hearing before the appeals hearing board. The request must be in writing and received by the secretary of the board within five days after the close of the hearing before the chief of police. If the applicant does not deliver the request for a hearing to the secretary within five days after the close of the hearing before the chief of police, then the decision of the chief of police shall be final.

(Ord. 24198.)

10.16.080 - Hearing before appeals hearing board.

- A. The request for a hearing must be in writing and received by the secretary of the appeals hearing board within fifteen days of the date of the police chief's hearing decision.
- B. The appeal hearing shall be conducted in conformance with Part 29 of Chapter 2.08 and the rules and regulations of the appeals hearing board.
- C. The decision of the appeals hearing board shall be final.

(Ord. 24198.)

10.16.090 - Private right of action.

- A. An owner or occupant of any property who is affected by a violation or threatened violation of any provision of this chapter may bring an action for damages, injunctive or declaratory relief or any other appropriate action, in a court of competent jurisdiction to enforce the provisions of this chapter.
- B. An owner or occupant of any property who is affected by a violation or threatened violation of any provision of this chapter who prevails in such an action shall be entitled to recover damages and costs, including reasonable attorney fees; and such other relief as determined by the court. In addition to all other damages or other relief, the court may award the city or private party a civil penalty of up to one thousand dollars for each violation of this chapter.
- C. The remedies provided by this chapter are in addition to any other legal or equitable remedies and are not intended to be exclusive.

(Ord. 24198.)

Part 3 - COST RECOVERY FOR RESPONSES TO DISTURBANCES

10.16.100 - Definitions.

The definitions in this section apply to the following terms as used in this part:

- A. "Disturbance" shall include conduct creating any disturbing or loud noise or sound; any conduct which disrupts the peace and quiet of a neighborhood; and any conduct which interferes with the quiet enjoyment of neighboring property by persons lawfully thereon.
- B. "Response" shall mean the arrival of a police officer at the scene of a disturbance to render whatever service is reasonably required in order to stop a disturbance.
- C. "Responsible party" is any person who owns, leases or is lawfully in charge of the property where the disturbance takes place, or any person who organizes, controls or participates in a disturbance. If the responsible person is a minor, then the parent or guardian who has physical custody of the child at the time of the disturbance shall be the responsible person who is liable.

(Ord. 24314.)

10.16.110 - Responses to disturbances.

- A. No responsible party shall cause, permit or tolerate a disturbance.
- B. Whenever a police officer at the scene warns any responsible party present to discontinue the disturbance, the responsible party shall be liable for the actual cost of each subsequent response required for a disturbance within twelve hours of the first response.
- C. At the first response, the responding police officer shall give an oral and/or written warning to one or more of the responsible parties present that the disturbance must cease immediately, and that if a second or subsequent response to the disturbance is required within twelve hours following such notice, a response fee shall be charged to any responsible party for all responses after the first response.
- D. All responsible parties shall be jointly and severally liable for the response charge regardless of whether or not a responsible party received an oral or written warning pursuant to Section 10.16.110 C.

(Ord. 24314.)

10.16.120 - Charging for responses.

- A. The response charge shall be the actual cost of police services including, but not limited to, personnel and equipment, incurred for each subsequent response within the twelve-hour period following the first response.
- B. The bill or charges shall be served by the chief of police upon the responsible party within thirty days after the last response to a disturbance.
- C. The total amount of the response charge shall be deemed to be a civil debt to the city and the director of finance may take such action to recover the costs as the city is authorized to do by law for the recovery of a civil debt. The bill of charges shall state the response fee.
- D. The bill of charges and any other notices required by this part shall be served upon the responsible party in accordance with Section 1.04.140 of this Code. If the responsible party has no last known business or residence address, then the scene of the disturbance shall be deemed to be the proper address for service of notice.
- E. The bill of charges shall include a notice of the right of the person being charged to request a hearing before the appeals hearing board within ten days of service of the bill to dispute the imposition of a response charge or the amount of the charge.

(Ord. 24314.)

10.16.130 - Hearing before appeals hearing board.

- A. Any request for a hearing to dispute the imposition of a response charge or the amount of the charge must be in writing and received by the secretary of the appeals hearing board within ten days of the date of service of the bill of charges.
- B. The hearing shall be conducted in conformance with Part 29 of Chapter 2.08 of Title 2 and the rules and regulations of the appeals hearing board.
- C. The decision of the appeals hearing board shall be final.

(Ord. 24314.)