

## ARTICLE VII. - NOISE AND SOUND LEVEL REGULATION<sup>(8)</sup>

### Footnotes:

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**Editor's note**—Ord. No. 1994-26, adopted August 16, 1994, repealed former Art. VII, §§ 16-201, 16-202, relative to noise, and enacted new provisions relative to similar subject matter which have been included herein at the discretion of the editor as a new Art. VII, §§ 16-203—16-208. The provisions of former Art. VII derived from Code 1967, §§ 21-1, 21-2.

**Cross reference**— Buildings and building regulations, ch. 6; licenses, permits and business regulations, ch. 13; parks and recreation areas, ch. 17; streets, sidewalks and certain other public places, ch. 22; traffic and vehicles, ch. 25; zoning, ch. 28.

### Sec. 16-201. - Definitions.

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

Daytime hours shall mean the hours between 7:00 a.m. on one day and 10:00 p.m. the same day.

dB(A) shall mean 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.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or less which demands immediate action.

Emergency work shall mean any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, or which is otherwise necessary to restore property to a safe condition following a fire, accident or natural disaster, or which is required to protect persons or property from exposure to danger, or which is required to restore public utilities.

Nighttime hours shall mean the hours between 10:00 p.m. on one day and 7:00 a.m. the following day.

Nonresidential property shall mean 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 shall mean any individual, association, partnership or corporation.

Property line shall mean 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.

Public right-of-way shall mean any street, avenue, boulevard, highway, road, thoroughfare, sidewalk, alley or any other property which is owned or controlled by a governmental entity.

Residential property shall mean 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 shall mean any sound which either exceeds the maximum permitted sound levels specified in section 16-202 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.

(Ord. No. 1994-26, § 2 (21-1), 8-16-94)

Sec. 16-202. - Maximum permissible sound levels.

No person shall conduct, permit or allow any activity or sound source to produce a sound that is discernible beyond the property lines of the property on which the sound is being received that when measured as provided in section 16-208 of this code exceeds the applicable dB(A) level listed below for the property on which the sound is received:

(1) Residential property:

a. Eighty-five (85) dB(A) during daytime hours.

b. Eighty (80) dB(A) during nighttime hours.

(2) Nonresidential property: Eighty-five (85) dB(A) during either daytime or nighttime hours.

The dB(A) levels set forth in this section apply to the property where the sound is being received. Any sound that when measured at the property where the sound is being received exceeds the dB(A) levels set forth in this section is a violation of this chapter. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section, when measured at the site where the sound is being produced, if available, shall be prima facie evidence of a sound nuisance which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city in violation of this chapter.

(Ord. No. 1994-26, § 2 (21-2), 8-16-94)

Sec. 16-203. - General prohibition.

- (a) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued or permit the continuance of any sound which either exceeds the maximum permitted sound levels specified in section 16-202 or otherwise unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the limits of the city.
- (b) The acts enumerated in the following sections of this article, among others, are declared to be sound nuisances which are unreasonably loud, irritating, disturbing, or excessive sounds in violation of this article, but such enumeration shall not be deemed to be exclusive.

(Ord. No. 1994-26, § 2 (21-3), 8-16-94)

Sec. 16-204. - Noisy vehicles generally.

The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such a manner so as to create loud and unreasonable grating, grinding, rattling or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

(Ord. No. 1994-26, § 2 (21-4), 8-16-94)

Sec. 16-205. - Amplified sound from motor vehicle.

The production or reproduction of sound from amplification equipment contained in or mounted on a motor vehicle that produces sound in excess of the limits set forth in section 16-202, when measured at or near 30 feet from the nearest external point on the vehicle, or otherwise produces noises which are unreasonably loud, irritating, or disturbing, are hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, except as permitted by section 13-243 of this code.

(Ord. No. 1994-26, § 2 (21-5), 8-16-94)

Sec. 16-206. - Noisy animals.

The keeping of any animal which barks, whines, howls, crows, cackles or makes any noise excessively and continuously, and such noise disturbs a person of ordinary sensibilities, is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in section 16-202 of this code.

(Ord. No. 1994-26, § 2 (21-6), 8-16-94)

Sec. 16-207. - Affirmative defenses.

The following defenses shall apply to any offense established in this chapter:

- (1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger or attempted crime.
- (2) The sound was produced by an authorized emergency vehicle.
- (3) The sound was produced by emergency work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger, following a fire, accident or natural disaster.
- (4) The sound was generated:
  - a. At a lawfully scheduled stadium event;
  - b. By a parade and spectators and participants on the parade route during a permitted parade;
  - c. By spectators and participants at a lawfully scheduled amphitheater event;
  - d. By spectators and participants of any outdoor event, fun run, race, festival, or concert which was sponsored, cosponsored, or permitted by the city; or
  - e. A governmental entity, as defined by Local Government Code § 271.021 as it may be amended from time to time.
- (5) The sound was produced by the erection, excavation, construction, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in any such activity conducted between the hours of 7:00 a.m. and 10:00 p.m. and which activity did not produce a sound exceeding 85 dB(A) when measured from the nearest residential property where the sound is being received.
- (6) The sound was produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.
- (7) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 8:00 p.m. and which device did not produce a sound

exceeding 85 dB(A) when measured from the nearest residential property where the sound is being received and was used for the maintenance or upkeep of the property on which it was used.

- (8) The sound was generated as authorized under the terms of a permit issued under section 13-243 of this code.
- (9) The sound was produced by the operation of any air conditioning unit which did not produce a sound exceeding 65 dB(A) on residential property or 75 dB(A) on nonresidential property, when measured at or near 15 feet from the air conditioning unit producing the sound being measured.

(Ord. No. 1994-26, § 2 (21-7), 8-16-94)

Sec. 16-208. - Method of sound measurement.

Whenever portions of this article prohibit sound over a certain decibel limit, measurement of said sound 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). Noise levels shall be measured in decibels and A-weighted. The unit of measurement shall be designated as dB(A). Meters shall be maintained in calibration and good working order. Calibrations shall be employed which meet A.N.S.I.S1.40-1984 prior to and immediately after every sampling of sound. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of said meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for said microphone shall be used.

(Ord. No. 1994-26, § 2 (21-8), 8-16-94)