

ARTICLE II. - NOISE<sup>[2]</sup>

Footnotes:

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**Editor's note**—Ord. No. 92-09, adopted Oct. 6, 2009, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 16-41—16-50, pertained to the same subject matter, and derived from Code 1976, §§ 18-25—18-34.

## Sec. 16-41. - Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Decibel (dB)* means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the referenced pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

*Emergency work* means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

*Noise disturbance* means any sound which:

- (1) Endangers or injures the safety or health of humans or animals; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

*Plainly audible* means any sound produced by the use of an amplification device, radio, television, phonograph, drum, musical instrument or similar device which produces, reproduces, or amplifies sound and which sound clearly can be heard at a distance of one hundred fifty (150) or more feet. The measurement standard shall be by the auditory senses, based on direct line of sight. Words or phrases need not be discernible and bass reverberations are included.

*Sound level* means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network, such as A, B, or C as specified in the American National Standards Institute's specifications for sound level meters. If the frequency weighing employed is not indicated, the A-weighing shall apply.

*Sound level meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, or output meter, and weighing network used to measure sound pressure levels.

*Sound pressure level* means twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to reference pressure of twenty (20) micropascals ( $20 \times 10^{-6}$  N/m<sup>2</sup>).

*Transient sound source* means noise, the source of which is lawn equipment, an implement of husbandry, a domestic power tool, or the temporary repairing of a damaged domicile to maintain its habitability. Also, the temporary repairing of a motor vehicle to maintain its safe operability.

(Ord. No. 92-09, 10-6-09)

## Sec. 16-42. - Unreasonable or excessive noise prohibited; exceptions.

- (a) Except as provided herein, it shall be unlawful for any person to make, or continue or cause or permit to be made or continued, any noise disturbance.
- (b) The provisions of this section shall not apply to:
  - (1) The emission of sound for the purpose of alerting persons to the existence of an emergency or as a warning signal;
  - (2) The emission of sound in the performance of emergency work;
  - (3) The movement of aircraft which is in all respects conducted in accordance with, or pursuant to applicable federal laws or regulations;
  - (4) The use of bells or chimes in conjunction with places of religious worship;
  - (5) The intentional sounding or permitting the sounding of any fire, burglar or civil defense alarm, siren, whistle or similar stationary or emergency signaling device, for emergency purposes or for testing, provided such testing uses only the minimum cycle test time;
  - (6) Events that occur only on an annual or greater interval, (e.g., Arkansas Oklahoma State Fair, Air Show);
  - (7) Special events that receive a permit pursuant to section 24-201 of this Code, or are otherwise legally permitted;
  - (8) Events hosted by the City of Fort Smith or its departments;
  - (9) The central business improvement district; or,
  - (10) Athletic or school related events.
- (c) For the purpose of this section, the use of an amplification device, radio, television, phonograph, drum, musical instrument or similar device which produces, reproduces, or amplifies sound shall be deemed annoying or disturbing to a person, reasonably calculated to disturb the peace and unreasonably offensive and injurious to the public, if the sound is produced between the hours of 11:00 p.m. and 7:00 a.m., and is plainly audible a distance of one hundred fifty (150) feet or more from the source of the sound.

(Ord. No. 92-09, 10-6-09)

Sec. 16-43. - Penalty.

Any person violating any of the provisions of this article shall upon conviction be guilty of a misdemeanor and shall be punished as set forth in section 1-9 of this Code.

(Ord. No. 92-09, 10-6-09)

Sec. 16-44. - Measurements.

Sound level measurements shall be made with a sound level meter Type II or better using the A-weighted scale in conformance with the existing standards promulgated by the American National Standards Institution.

(Ord. No. 92-09, 10-6-09)

Sec. 16-45. - Limitations by land use category.

- (a) No person shall operate or cause to be operated, or permit, contract or allow to be operated on premises on public or private property any identifiable source of sound in such a manner as to create a sound level within the use districts in Table 1 below which exceeds the maximum noise levels as set forth in Table 1 as measured at any point on the boundary of the property from which the sound or noise was emanating. Except between the hours of 11:00 p.m. and 7:00 a.m., a complaint under this section must be brought by a property owner or leaseholder affected by excessive noise on their property.

Table 1

Use Districts	Time	Max Noise Level

Residential, Transitional and Commercial-1 Zones	7:00 a.m. to 11:00 p.m.	60 dB(A)
Residential, Transitional and Commercial-1 Zones	11:01 p.m. to 6:59 a.m.	55 dB(A)
Commercial Zones	7:00 a.m. to 11:00 p.m.	75 dB(A)
Commercial Zones	11:01 p.m. to 6:59 a.m.	70 dB(A)
Industrial Zones	7:00 a.m. to 11:00 p.m.	80 dB(A)
Industrial Zones	11:01 p.m. to 6:59 a.m.	75 dB(A)

All measurements of sound shall be taken with a calibrated sound level meter.

- (b) *District boundaries.* When a noise source can be identified and its noise measured in more than one (1) use district, the noise level limits of the most restrictive use district shall apply at that district boundary.
- (c) *Commercial source.* Notwithstanding the zoning classification of the underlying parcel, restaurants, night clubs, private clubs, auditoriums, dance halls, rehearsal studios, taverns, bars or similar places where alcohol is served, are defined as commercial sound sources existing in commercial zones for the purposes of this chapter.
- (d) *Transient source.* For a transient sound emanating from any land use district, the peak noise level shall not exceed twenty (20) decibels above the limit set in Table 1 above.
- (e) *Construction.* Construction projects shall be subject to the limitations specified for industrial zones for the period of time allowed by the building permit.

(Ord. No. 92-09, 10-6-09)

Sec. 16-46. - Reserved.

**Editor's note**— Ord. No. 92-09, adopted Oct. 6, 2009, repealed § 16-46, which pertained to playing of radios, instruments, etc. and derived from Code 1976, § 18-30.

Sec. 16-47. - Reserved.

**Editor's note**— Ord. No. 92-09, adopted Oct. 6, 2009, repealed § 16-47, which pertained to yelling, shouting, etc. and derived from Code 1976, § 18-31.

Sec. 16-48. - Reserved.

**Editor's note**— Ord. No. 92-09, adopted Oct. 6, 2009, repealed § 16-48, which pertained to motor vehicles and derived from Code 1976, § 18-32.

Sec. 16-49. - Reserved.

**Editor's note**— Ord. No. 92-09, adopted Oct. 6, 2009, repealed § 16-49, which pertained to engine exhausts and derived from Code 1976, § 18-33.

Sec. 16-50. - Reserved.

**Editor's note**— Ord. No. 92-09, adopted Oct. 6, 2009, repealed § 16-50, which pertained to near schools, hospitals, etc. and derived from Code 1976, § 18-3.

Secs. 16-51—16-70. - Reserved.