

**CHAPTER 10.24****NOISE****SECTIONS:**

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**10.24.010 Loud, Annoying, and Unnecessary Noises Prohibited.** No person shall make, cause to be made, or continue to make or cause to be made, within the city limits of the City of San Marcos, any loud, annoying or unnecessary noise that injures, impairs or endangers the health, peace or safety of any person of reasonable sensibilities, or that disturbs the peace, quiet, comfort or tranquility of the neighborhood or community. The characteristics and conditions that should be considered in determining whether a violation of the provisions of this section exists, include, but are not limited to, the following: **(Ord. No. 2008-1300; 2/26/08)**

- (1) The level and intensity of the noise;
- (2) Whether the nature of the noise is usual or unusual;
- (3) Whether the origin of the noise is natural or unnatural;
- (4) The level and intensity of background noise;
- (5) The nature and zoning of the area abutting and within which the noise emanates;
- (6) The time of the day or night the noise occurs;
- (7) Whether the noise is recurrent, intermittent or constant;

**10.24.020 Definitions and Examples of Prohibited Noise.**

(a) "Prohibited Noise" means any sound that disturbs a reasonable person of normal sensitivities, or is plainly audible as further defined in this section. Where no specific distance is set forth for the determination of audibility, references to noise disturbance shall be deemed to mean plainly audible at a distance of two hundred (200) feet from the real property line of the source of the sound, if the sound occurs on privately owned property, or from the source of the sound, if the sound occurs on public right of way, public space or other publicly owned property. **(Ord. No. 2008-1300; 2/26/08)**

(b) The following described noises are hereby declared to be in violation of this Chapter; this list is deemed illustrative and shall not be deemed or construed in any degree or way to be an exclusive or all-inclusive list of the noises prohibited by this Chapter, it being the intent and purpose of this Chapter to include and prohibit all noises of the character described in section 10.24.010. References to “adjacent” or “neighboring” residences or units in this subsection (b) shall mean those residences or units located next to or in close proximity to the source of the noise, and no specific distance standard for audibility shall be required for such locations. **(Ord. No. 2008-1300; 2/26/08)**

(1) **Horns and other signaling devices.** The sounding of any horn or signaling device on any automobile, motor vehicle or any other vehicle on any street or public street except as a danger warning; the creation by means of any such signaling device of any unreasonably and unnecessarily loud or harsh sounds; the sounding of any such signaling device for an unnecessarily or unreasonably long period of time; or the use of any horn, whistle or other device operated by engine exhaust.

(2) **Motor vehicle noises.** Any loud or annoying noise made by any motor vehicle and not reasonably necessary to the operation thereof under the circumstances, including, but not limited to, noise caused by screeching of tires; racing or accelerating the engine, except in the course of repair or adjustment thereof between the hours of 7:00 a.m. and 10:00 p.m.; backfiring the engine; or the emission of exhaust from the engine tail pipe or muffler.

(3) **Stereos, TVs, Radios and Phonographs.** The using, operating or playing, or the permitting to be played, used or operated, any stereo, radio receiving set, musical instrument, phonograph, television set or any like machine or device that produces or reproduces sound, in such manner as to disturb at any time, the peace, quiet and comfort of the neighboring inhabitants, with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, chamber or place in which the machine or device is operated and who are voluntarily listening thereto. The operation of any such machine or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible by inhabitants or occupants of any adjacent or neighboring residential properties or units, or plainly audible at a distance of fifty (50) feet from any non-residential building, structure, vehicle or place in which it is located, shall be prima facie evidence of a violation of this subsection. **(Ord. No. 2008-1300, 2/26/08)**

(4) **Loudspeakers or amplifiers for advertising.** The using, operating or playing, or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound, which casts sound upon the streets for the purpose of commercial or political advertising, or attracting the attention of the public to any building, structure or attraction between the hours of 10:00 p.m. and 7:00 a.m.

(5) **Yelling or shouting.** Loud or raucous yelling, shouting, hooting, whistling or singing in the public streets or in public places, or any other place, so as to annoy or disturb the quiet, comfort or repose of persons in any office or inhabitants or occupants of any neighboring or adjacent dwelling, hotel, apartment building or other kind of residence. The occurrence of such conduct between the hours of 10:00 p.m. and 7:00 a.m. shall be prima facie evidence of a violation of this subsection. **(Ord. No. 2008-1300; 2/26/08)**

(6) **Animals or birds.** The keeping of animals or birds which, by causing frequent

or long, continued noise plainly audible by inhabitants or occupants of any adjacent or neighboring residential properties or units, or plainly audible at a distance of fifty (50) feet from any non-residential building or structure, shall be presumed to disturb the comfort or repose of any person or persons in the vicinity and shall be prima facie evidence of a violation of this subsection; however, nothing in this subsection shall be construed as applying to occasional noises emanating from a legally operated kennel, animal hospital or veterinary clinic, humane society or pound. **(Ord. No. 2008-1300; 2/26/08)**

(7) **Noise in proximity to schools, courts, churches or hospitals.** The creation of any excessive noise on any street adjacent to a school, institution of learning, church or court while such facilities are in use, or adjacent to any hospital which unreasonably interferes with the work of the institution or which disturbs or unduly annoys patients of the hospital; however, this subsection shall not apply unless conspicuous signs are displayed in such streets indicating that there is located in the vicinity a school, hospital, court or church.

(8) **Hawkers and peddlers.** The shouting or crying of peddlers, hawkers or vendors, so as to disturb the peace and quiet of the neighborhood.

(9) **Erection or demolition of buildings,** excluding owner resident additions or remodeling, and the grading and excavation of land including the use of blasting, the start up and use of heavy equipment such as dump trucks and graders and the use of jack hammers except on week days Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. and on Saturdays 8:00 a.m. to 5:00 p.m. The City Manager may waive any or all of the provisions of this subsection in cases of urgent necessity, or in the interest of public health and safety. The provisions of this subsection may also be waived or modified pursuant to a Conditional Use Permit or other development entitlement processed and issued in accordance with the applicable City requirements and procedures. **(Ord. No. 2008-1300; 2/26/08)**

(10) **Late Night Disturbances** that are plainly audible by inhabitants or occupants of any adjacent or neighboring residential properties or units, or are plainly audible at a distance of fifty (50) feet, that occur on week days, Monday through Friday, between the hours of 10:00 p.m. and 7:00 a.m. the following day, and/or on weekends, Saturday through Sunday, between the hours of 11:00 p.m. and 7:00 a.m. the following day, shall be prima facie evidence of violation of this subsection. **(Ord. No. 2008-1300; 2/26/08)**

**10.24.030 Assessment of Sound.** Any law enforcement officer, code enforcement officer, or other official designated by the city manager or designee who hears a noise or sound that is plainly audible, as defined in Section 10.24.020, in violation of this Chapter, may enforce this chapter and shall assess the noise or sound according to the following standards: **(Ord. No. 2008-1300; 2/26/08)**

(a) The primary means of detection shall be by means of the official's normal hearing faculties, not artificially enhanced. **(Ord. No. 2008-1300; 2/26/08)**

(b) The official shall first attempt to have a direct line of sight and hearing to the vehicle or real property from which the sound or noise emanates so that the official can readily identify the offending source of the sound or noise and the distance involved. If the official is unable to have a direct line of sight and hearing to the vehicle or real property from which the sound or noise emanates, then the official shall confirm the source of the sound or noise by approaching the suspected vehicle or real property until the official is able to obtain a direct line of sight and hearing, and confirm the source of the sound or noise that was heard at the place of the original assessment of the sound or noise. **(Ord. No. 2008-1300; 2/26/08)**

(c) The official need not be required to identify words, song titles, artists, or lyrics in order to establish a violation. **(Ord. No. 2008-1300; 2/26/08)**

**10.24.040 Defenses.** In any prosecution for a violation of this Chapter, it shall be a sufficient defense that the noise of which complaint is made resulted from reasons beyond the control of the person charged with making the noise, unless the noise is due to a reparable or otherwise curable cause which was not diligently cured or repaired; that it was necessary to make the noise to prevent injury to persons or property or that the creation or emission of the noise was done by or with a device, such as a horn, siren or muffler, installed and operated pursuant to state law and meeting the requirements thereof. **(Ord. No. 2008-1300; 2/26/08)**

**10.24.050 Violation – Enforcement and Penalties.**

(a) A violation of this Chapter shall be an infraction and shall be punished as prescribed in Section 1.12.010. **(Ord. No. 2008-1300; 2/26/08)**

(b) A violation of this Chapter shall be a public nuisance and, upon direction to do so by the city council, the city attorney shall proceed to abate the nuisance. **(Ord. No. 2008-1300; 2/26/08)**

(c) **Joint and Several Responsibility.** In addition to the person causing the offending sound, the owner, tenant or lessee of property, or a manager, overseer or agent, or any other person lawfully entitled to possess the property from which the offending sound is emitted at the time the offending sound is emitted, shall be responsible for compliance with this Chapter if the additionally responsible party knows or should have known of the offending noise disturbance. It shall not be a lawful defense to assert that some other person caused the sound. The lawful possessor or operator of the premises shall be responsible for operating or maintaining the premises in compliance with this Chapter and may be cited regardless of whether or not the person actually causing the sound is also cited. Notwithstanding the foregoing, an owner, manager, overseer or agent of property from which offending sound is emitted and who does not reside on such property shall not be cited for violation of the provisions of this Chapter unless such owner, manager, overseer or agent has previously been informed in writing by a law enforcement officer, code enforcement officer, or other official designated by the city manager or designee of the existence of an offending noise disturbance on the property, and such disturbance continues or occurs again. **(Ord. No. 2008-1300; 2/26/08)**