

ARTICLE I. IN GENERAL

Secs. 34-1—34-30. Reserved.

ARTICLE II. NOISE

Sec. 34-31. Findings and intent.

(a) Unreasonable noise degrades the environment of the city to a degree which:

- (1) Harms and degrades the health, welfare and safety of its citizens;
- (2) Interferes with the comfortable enjoyment of life, property and recreation, and with the conduct and operation of commerce and industry; and
- (3) Constitutes a nuisance.

(b) No one has a right to create unreasonable noise.

(c) Effective control and elimination of unreasonable noise is essential to the furtherance of the health and welfare of the citizens of the city, and to the normal pursuits of life, recreation, commercial and industrial activity.

(d) A busy city creates sufficient noise by its own activity, which cannot be eliminated, thus the public interest is best served by elimination of additional unreasonable noise within the corporate limits.

(e) It is the legislative intent of the board of aldermen that the increased use of portable or mobile sound generating equipment (such as "boom-boxes," radios, stereos, tape or compact-disk players) outside of dwellings, upon the public rights-of-way, and in parks or on the porches and steps of dwellings or buildings be discouraged; and the use of such devices in these places at loud levels should be encouraged only with headphones or other devices which will limit the noise from such devices to be heard by those who wish to enjoy it and not to create a nuisance for those who do not wish to hear the noise.

(f) It is also the legislative intent of the board of aldermen that commercial establishments which provide entertainment, such as amplified live or recorded sounds, be discouraged from having such entertainment audible outside of the premises. (Ord. of 4-21-1992, § 1)

Sec. 34-32. General noise prohibition.

It shall be unlawful for any person within the city to make, continue or cause to be made or continued, any loud, disturbing, unreasonable or unusual noise which either disturbs or endangers the comfort, repose, health, peace or safety of others within the city limits. (Ord. of 4-21-1992, § 2)

Sec. 34-33. Specific unlawful noises.

The following acts, among others, are declared to be loud, disturbing, unreasonable and/or unusual noises in violation of this article, but such enumeration shall not be deemed to be exclusive, namely:

- (1) *Motor noises.* Any noise made by the motor of any automobile, truck, tractor, motorcycle, not reasonably required in the operation thereof under the circumstances and shall include but not be limited to motor racing and backfiring.
- (2) *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle, bus, or other vehicle on any public right-of-way of the city, except as a danger warning; the creation of any loud or harsh noise by any horn or signaling device, or the sounding of any horn or signaling device for an unreasonable or unnecessary period or time or number of times; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or any other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason delayed or detained.
- (3) *Yelling or shouting.* Yelling, shouting, hooting, whistling, singing or blowing of horns on the public rights-of-way, or at any time or in any place in a manner to annoy or

disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, motel, apartment or other type of residence, or of any persons in the vicinity.

- (4) *Pile drivers, hammers, etc.* The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- (5) *Tools.* The use of or operation between the hours of 10:00 p.m. and 7:00 a.m. of any power saw, power planer, or other powered tool or appliance or saw or hammer, or other tool, so as to disturb the quiet, comfort, or repose of persons in any dwelling, hotel, motel, apartment, or other type of residence, or of any person in the vicinity.
- (6) *Blowers.* The operating of any noise-creating blower or power fan or any internal combustion engine the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- (7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motorcycle or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. No person while on a public or private highway, street or road shall operate a motor vehicle with the muffler cut out or removed.
- (8) *Loading, unloading; opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.
- (9) *Hawkers, peddlers and vendors.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of persons in the neighborhood.
- (10) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (11) *Transportation of metal rails, pillars and columns.* The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks in any manner so as to cause loud noises or to disturb the peace and quiet of persons in the vicinity thereof.
- (12) *Animals, birds, fowls.* The keeping of any animal, bird or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of persons in the vicinity.
- (13) *Radios, tape players, etc.* Any noise emitted from a radio, tape player, tape recorder, record player, compact-disk player or television outdoors on or in any publicly owned property or place, including but not limited to public parks when such noise is audible to a person of normal hearing sensitivity 100 feet from such radio, tape player, tape recorder, record player, or television.
- (14) *Music.* The playing of music by a live band or other instruments or devices utilizing sound amplification equipment and/or the amplification of voices in any manner so as to disturb the peace and quiet of persons in the vicinity thereof.

(Ord. of 4-21-1992, § 3)

Sec. 34-34. Exemptions.

The following uses and activities shall be exempt from the noise prohibitions described in other sections of this article:

- (1) Nonamplified crowd noises resulting from legal activities, between the hours of 7:00 a.m. and 9:00 p.m.
- (2) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government, provided such equipment is

operated with the manufacturing mufflers and noise reducing equipment in use and in proper operating condition.

- (3) Noises of safety signals, warning devices, and emergency pressure relief valves.
- (4) Noises resulting from any authorized emergency, fire or police vehicle when responding to an emergency call, acting in time of emergency or in connection with official police or fire department business.
- (5) Noises from emergency work, being work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or work by private or public utilities when restoring utility service.
- (6) Noises made by places of worship using bells, chimes or carillons as part of their religious observance and by persons having obtained a permit to use the streets.
- (7) Any aircraft operated in conformity with, or pursuant to, a federal law, federal air regulations, and air traffic control instructions and pursuant to and within the duly adopted federal air regulations. Any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations are also exempt.
- (8) Use of public address systems in any ball park or stadium while an athletic contest is in progress therein.
- (9) Cries for emergency assistance and warning calls.
- (10) Any other noise resulting from activities of a temporary duration and for which a permit has been granted by the chief of police.

(Ord. of 4-21-1992, § 4)

Sec. 34-35. Permits; designation of quiet zone.

(a) *Temporary permit for loudspeakers* or other electrical devices. The chief of police may grant a temporary permit to persons desiring to use loud-

speakers or other electrical devices for parades or for religious, social or political gatherings to be held in any park or other suitable place of assembly.

- (1) *Application.* Any permit issued under this section should be issued only on written application which shall set forth the following:
 - a. A description of the premises for which the permit shall issue.
 - b. The dates and times for which the permit is to be issued.
 - c. The name and address of the person applying for the permit.
 - d. Any facts which would show that the activity for which the permit is sought would not disturb the peace of any family or person within the area into which the sound shall carry.
 - e. The application for a permit under this section shall designate a responsible person to be present during the activity. Such person shall be responsible for conducting the activity in compliance with the provisions of the permit and must be present at all times.
 - f. The application shall become a part of any permit issued.
- (2) *Issuance.* The chief of police shall issue a permit only upon a showing that the activity will not disturb the peace of any family or person within the area within which the noise will carry. A permit shall be issued or denied within 15 days of receipt of a completed, signed application. The chief of police shall consider the following factors in considering whether to grant such a permit.
 - a. The anticipated noise.
 - b. The time of day the activity is to take place.
 - c. The proximity of the activity to residential areas, schools, churches or other meetings places.

- d. Prior complaints from residents as a result of other similar activities.

If a permit is denied, the applicant may appeal the decision to the mayor and city council. Any such appeal shall be taken not more than ten days from denial of a permit by giving notice of the appeal to the city clerk.

- (3) *Revocation.* The chief of police shall have the authority to revoke any permit issued on the finding of any of the following:
 - a. The activity is being conducted in a manner inconsistent with the permit, including the description of the activity as set out in the application.
 - b. The activity is causing a disturbance of the peace of families or persons within the area into which the sound carries.
 - c. There is any misrepresentation of the activity on the application for the permit.
 - d. Other good cause.

(b) *Quiet zone.* The chief of police may designate a quiet zone upon application by placing a sign at the beginning and end of such zone on a public street and that any person found guilty of violating this article in a quiet zone shall be subject to the penalty provided in this article. (Ord. of 4-21-1992, § 5)

Sec. 34-36. Penalty.

Any person, firm or corporation violating any provision of the this article may be punished by the imposition of a fine in any amount not to exceed \$500.00, or be imprisoned for any term not to exceed 90 days, or punished by both such fine and imprisonment as determined in the discretion of the court. (Ord. of 3-17-1998)

Secs. 34-37—34-70. Reserved.

ARTICLE III. EROSION CONTROL

Sec. 34-71. Responsibility for erosion prevention on development sites.

The owner, or his designated agent, of any property upon which residential, commercial, or other types of development of any nature are proposed or are in progress after June 6, 2002, shall be responsible for taking necessary action to prevent erosion of the construction site and any resultant accumulation of sediment, debris or other materials upon property owned by the city or any other person.

(Ord. of 5-7-2002, § 2)

Sec. 34-72. Actions to prevent erosion and the accumulation of sediment.

Actions to prevent erosion and the accumulation of sediment shall be carried out to the satisfaction of the building official (for all development other than subdivisions) or superintendent of public works or city engineer (for subdivisions). Such necessary action may consist of the distribution of hay upon the construction site after grading, the placement of sedimentation cloth or geotextile material on the construction site, the placement of hay bales and silt fencing at selected locations, the construction of sedimentation pools, and/or other action considered satisfactory by the building official, superintendent of public works and/or city engineer.

(Ord. of 5-7-2002, § 3)

Sec. 34-73. Corrective actions.

If soil erosion occurs on any construction site resulting in accumulation of sediment and other materials on any other property, the responsible city official shall advise by certified or registered mail (return receipt requested) the owner or his designated agent that there is a violation of this article and shall advise him to take corrective action. The responsible city official may also hand deliver the notice of violation to the owner or his designated agent. If corrective action is not taken within three days following the owner's receipt of