

Sec. 8-1-13. - Regulation of noise.

(a) Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient sound level means the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds and those from the source under investigation. The ambient sound level is synonymous with background sound level. Ambient sounds are differentiated from extraneous sounds by the fact that the former are of a more steady state, although they may not be continuous. For purposes of this definition, the term "extraneous sound" means a sound of high intensity and relatively short duration which is neither part of the ambient sound, nor comes from the sound source under investigation.

Amplified sound means the use of any loudspeaker, public address system, amplifier, or any other device which electronically or mechanically augments the volume of sound including, by way of example, a radio, television set, bullhorn, or musical instrument.

Person means any individual, corporation, partnership, or other legal entity, or any agent or employee thereof.

Real property line means either:

- (1) The boundary line of a parcel;
- (2) The vertical and horizontal boundaries of a dwelling unit that is part of a multifamily dwelling; or
- (3) On a mixed-use property, the interface between the two portions of the property on which different categories of activity are being performed.

For purposes of this definition, the term "mixed-use property" means more than one type of use in a building or set of buildings with some combination of residential and nonresidential use, and the term "multifamily dwelling" means any building occupied or intended to be occupied by more than two families, living separately and with separate kitchens or facilities for cooking on the premises (which includes apartments, condominiums and coach homes, but does not include hotels, motels, bed and breakfasts, townhouses, or cluster dwellings).

Sound-affected site or unit means the location or dwelling unit of a person making a noise complaint.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency-weighting network, such as A, as specified in the latest revision of the ANSI Standard S1.4, "Specification for Sound Level Meters."

Sound level meter means an instrument that measures sound and conforms to ANSI S1.4-1983 or its successor publications.

Violator means any person that has committed or is alleged to have committed a Code violation or is legally responsible for a Code violation including, but not limited to, a property owner or his or her agent, tenant, or entity on the premises, or any combination thereof.

(b) General Prohibition.

It shall be unlawful for any person to willfully make, continue or cause to be made or continued any loud and raucous noise which term shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the city.

(c) The following acts, among others, are declared to be loud and raucous noises in violation of this section 8-1-13, which enumeration shall not be deemed to be exclusive:

(1) Horns and signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up. The use of sirens, except by authorized emergency vehicles, is prohibited.

(2) Amplified sound. The making of amplified sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, chamber, or outdoor private property in which such machine or device is operated and who are voluntary listeners thereto. The making of any such sounds;

a. Between the hours of 10:00 p.m. and 7:00 am the following day on Sunday, Monday, Tuesday, Wednesday and Thursday ; or

b. Between the hours of 11:00 p.m. and 7:00 a.m. the following day on Friday and Saturday;

in such manner as to be plainly audible at a distance of 50 feet from the source of the noise, or if the noise is emanating from a building, structure or vehicle, shall be prima facie evidence of a violation of this section. Such amplified sound is prohibited in the following zones: R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, HR-1, HR-2, HC-1, PR-1AAA, PR-2, ATZ-1 and ATZ-2. Provided, however, that the making of amplified sound in connection with a special event or parade shall be governed by the applicable noise provisions found in this code.

- (2 3) *Radios, phonographs and similar devices.* The using, operating or permitting to be played, used or operated, of any radio receiving set, television set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this paragraph.
- (3 4) *Local vocal noises.* Vocal noises made in a loud and raucous manner between the hours of ~~11:00~~ 10:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet, comfort, or repose of persons in any office or other place of business, or in any dwelling, hotel or other type of residence.
- (4 5) *Animals and birds.* ~~The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of persons in the vicinity. The owning, keeping, possessing or maintaining of any domesticated animal which vocalizes (howls, yelps, barks, squawks, or generates any other noise) where the vocalizing is plainly audible at or within the property line of the sound-affected site or unit, and where:~~
- a. Such vocalizing continues for more than five (5) minutes without interruption, which is defined as an average of ten or more vocalizations per minute; or
 - b. Such vocalizing is repeated an average of five (5) times or more per minute for 20 or more consecutive minutes.
- (5 6) *Exhaust.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, ~~motor boat flushing of boat~~ motors, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (6 7) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or vehicle so out of repair, so loaded or in such manner as to create unreasonably loud and unnecessary grating, grinding, rattling or other noise within a residential area.

(8) Mufflers. Every motor vehicle, motorcycle and motor-driven cycle muffler that creates unreasonably, excessive or unusual noise.

(9) Noises to attract attention. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.

(10) Loudspeakers, ect. The use or operation on or upon the public streets, alleys and thoroughfares anywhere in the city for any purpose of any device known as a sound truck, loudspeaker or sound amplifier or any other instrument of any kind or character which emits loud and raucous noises.

(11) Power tools and landscaping equipment use by resident. The operation of noise-producing lawn mowers, lawn edgers, week trimmers, blowers, chippers, chainsaws, power tools and other noise-producing tools which are used to maintain the outdoors of a residence:

a. Between the hours of 8:00 p.m. on Sunday, Monday, Tuesday, Wednesday Thursday and Friday and 8:00 a.m. the following day;

b. Between the hours of 8:00 p.m. Saturday and 8:00 a.m. the following day.

c. Permissible hours of use:

| <u>Power Tools and Landscaping Equipment Use by Resident</u> | |
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| <u>Monday - Saturday</u> | <u>Sunday</u> |
| <u>8:00 a.m. to 8:00 p.m.</u> | <u>8:00 a.m. to 8:00 p.m.</u> |

(12) Outdoor maintenance equipment use by commercial entity. The use of maintenance equipment by a commercial entity or business, which creates a loud, excessive, unnecessary or unusual noise in connection with the operation of said equipment with 100 feet of any residential area:

a. Between the hours of 7:00 p.m. on Monday, Tuesday, Wednesday, and Thursday and 8:00 a.m. the following day;

b. Between the hours of 7:00 p.m. on Friday and 8:00 a.m on Saturday;

c. Between the hours of 7:00 p.m. on Saturday and 8:00 a.m. on Monday

d. Permissible hours of use:

| <u>Outdoor Maintenance Equipment Use by Commercial Entity</u> | | | |
|---|-------------------------------|-------------------------------|-------------------------------|
| <u>Sunday</u> | <u>Monday-Thursday</u> | <u>Friday-Saturday</u> | <u>Sundays & Holidays</u> |
| <u>Prohibited</u> | <u>8:00 a.m. to 7:00 p.m.</u> | <u>8:00 a.m. to 7:00 p.m.</u> | <u>Prohibited</u> |

e. The use of outdoor maintenance equipment within all parks located within the City are exempt from the hours of operation restrictions.

f. The use of outdoor maintenance equipment by, or on behalf of, the City of Pensacola is exempt from the hours of operation restrictions.

Commercial maintenance equipment includes, by way of example, noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chainsaws, power tools, and other noise-producing tools, where that noise is generated by a third party commercial maintenance company, rather than by the lawful owner or tenant of the premises.

(8 13) *Schools, courts, churches, hospitals, and other medical facilities.* No person, while on public or private grounds adjacent to any building in which a school, court, church, hospital, or other medical facility is in session or in use, shall willfully make or assist in the making of any noise which disturbs the peace or good order of such activity occurring within the building. The term "medical facility," as used in this paragraph, includes physicians' offices, walk-in medical centers, medical diagnostic testing centers, surgical centers and facilities which provide reproductive health services including the termination of pregnancy and/or counseling or referral services relating to the human reproductive system.

(7 14) *Construction or repairing of buildings.*

(i) The erection, including excavation, demolition, alteration or repair of any building other than between the hours of 6:00 a.m. and 7:00 p.m. on Monday through Saturday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the director of inspections, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the director of inspections should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 7:00 p.m. and 6:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 7:00 p.m. and 6:00

a.m., including Sundays, upon application being made at the time the permit for work is awarded or during the progress of the work.

(ii) *Reserved.* At the request of the city this section has been removed.

(9 15) *Construction equipment.*

(i) The operation between the hours of 6:00 p.m. and 7:00 a.m. and at any time on Sundays of any pile driver, steam or power shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(ii) The provisions of subsection (i), above, insofar as they pertain to the hours between 7:00 a.m. and 6:00 p.m. on Sundays are suspended and shall not be operative through December 31, 2006, in order to facilitate residential repair from damage caused by Hurricane Ivan.

(16) *Steady, mechanical noise.* The use of an air conditioner, electric motor, pool pump, exhaust fan, filter, or similar noise-producing mechanical equipment which creates a noise that exceeds the following sound levels:

| <u>TABLE 1: Maximum Permitted Sound Levels in Decibels (dBA)</u> |
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| <u>To Be Determined</u> |
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The sound levels in Table 1 above shall be measured from the real property line of the sound-affected site or unit, and the zoning district where the sound-affected site or unit is located shall apply. The sound levels shall be measured with a sound level meter manufactured according to standards prescribed by the American National Standards Institute. The subsection (16) shall not apply to noise generated pursuant to a valid construction permit or during a declared state of emergency.

(17) *Shouting.* Any unreasonably loud, boisterous or raucous shouting in any residential area.

~~(10) *Electronic sound amplification.* The use of electronic sound amplification equipment in such a manner as to produce a sound which is capable of being heard at a point in excess of fifty (50) feet between the hours of 11:00 p.m. and 7:00 a.m. is prohibited in the following zones: R-1AAAAA, R-1AAAA, R-1AAA,~~

~~R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, HR-1, HR-2, HC-1, PR-1AAA, PR-2, ATZ-1 and ATZ-2.~~

- (c) The provisions of section ~~8-4-16~~ 8-1-13 are intended to be construed to secure for the people freedom from unwanted loud and raucous noise as described herein without violating any of the rights secured by the constitution to the people, and are not intended, nor shall they be construed, to regulate the usual and customary noise incidental to urban life.
- (d) Exemptions. The terms and prohibitions of this article shall not be applied to or enforced against:
- (1) Any motor vehicle, boat or other vehicle of the city, the county or the state or licensed public utility vehicle within the city while engaged in necessary emergency or public business.
 - (2) Emergency work of public service utilities by or on behalf of the city, the county, or the state, or performance of such work during the night if the public welfare and convenience renders it impossible to perform such work during the day.
 - (3) Reasonable noise generated for the purpose of alerting persons to the existence of an emergency or to other dangers; reasonable noise generated in the performance of reasonable actions taken in response to an emergency or danger, including but not limited to, the operation of emergency backup energy generators; and reasonable noise generated in the testing of devices used for purposes of alerting persons to the existence of an emergency.
 - (4) Sanitation operations which include the unloading, emptying or collection of any waste or recyclable container, provided that operation is conducted between the hours of 7:00 a.m. and 10:00 p.m.
 - (5) Noise generated by any aircraft or generated in connection with the operation of any airport.
- (d) *Penalty.* Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and subject to the penalty provided by section 1-1-8 of the Code.
- (e) *Additional remedy, injunction.* As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in an area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 52-87, § 1, 12-10-87; Ord. No. 7-93, § 1, 4-8-93; Ord. No. 33-94, § 2, 9-18-94; Ord. No. 37-94, § 1, 10-13-94; Ord. No. 4-95, § 1, 1-26-95; Ord. No. 07-05, §§ 1, 2, 6-23-05)