

CHAPTER 14 OFFENSES AND ADDITIONAL PROVISIONS

ARTICLE 14.04 NOISE\*

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Sec. 14.04.001 Policy

It is the policy of the city to minimize the exposure of citizens to excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare. It is the express intent of the city to control the level of noise in a manner which promotes commerce and promotes the use, value, and enjoyment of property all within the realm that protects the sleep, peace, comfort, and repose of citizens, and preserves the quality of the environment. (1983 Code, sec. 18-4.1; Ordinance 2006-O0103, sec. II, adopted 10/13/2006; Ordinance 2012-O0084, sec. 1, adopted 8/23/2012)

ARTICLE 14.04 NOISE\*

Sec. 14.04.002 Administration

- (a) The provisions of this article shall be administered by and under direction of the city secretary.
- (b) The city secretary shall have the authority to:
  - (1) Oversee the general administration of this chapter, including but not limited to, the permit decision-making process;
  - (2) Make necessary inspections and tests with proper authorization or permission from the owner of any private property or place; and
  - (3) Make or require any investigations or studies which are necessary to determine if compliance can be achieved and require noise attenuation measures in accordance with the findings of such investigations or studies for the purpose of determining compliance with this article.

(1983 Code, sec. 18-4.2; Ordinance 2006-O0103, sec. II, adopted 10/13/2006; Ordinance 2012-O0084, sec. 1, adopted 8/23/2012)

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Sec. 14.04.003 Prohibited noises

- (a) This section shall not be construed to include any activities or actions:
  - (1) At public or private educational facilities;
  - (2) Undertaken by a governmental entity, on or using its owned or leased property; or
  - (3) Authorized by the city at the amphitheater located in Mackenzie Park.

(b) Unless a permit of variance is first obtained from the city, the following sounds are hereby determined to be specific noises which can constitute a noise disturbance.

(1) Animals. Owning, keeping, possessing, or harboring any animal or animals which, by frequent or habitual noisemaking, unreasonably disturbs or interferes with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities. The provisions of this subsection shall apply to all private facilities, including but not limited to any private or commercial animal shelters or kennels, which hold or treat animals.

(2) Radios, television sets, musical instruments, and similar devices. Operating or permitting to be operated in a fixed or movable position or mounted upon or within any vehicle in or upon any street, alley, sidewalk, park, place, or public or private property any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device for the production or reproduction of sound or vibrations in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities.

(3) Exterior loudspeakers. Operating or permitting to be operated any loudspeaker or sound-amplifying equipment in a fixed or movable position in or upon any street, alley, sidewalk, park, place, or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities.

(4) Construction work. Operating or permitting to be operated any equipment used in commercial construction, repair, alteration, or demolition work on buildings, structures, streets, alleys, or appurtenances thereto, between the hours of 10:00 p.m. and 6:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, and repose of neighboring persons of ordinary sensibilities.

(5) Power equipment. Operating or permitting to be operated any power equipment in residential zones outdoors between the hours of 10:00 p.m. and 6:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities.

(6) Power equipment - inflatable play equipment. Operation of an electrical generator to power inflatable play equipment in residential zones and/or city parks in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities.

(7) Places of public entertainment. Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound which produces, at a point that is normally occupied by the customer, maximum sound pressure levels of 100 dBA as read on a sound level meter, unless a conspicuous and legible sign is posted near each public entrance stating: "Warning Sound Levels Within May Cause Permanent Hearing Impairment." This provision shall not be construed to allow the operation of any loudspeaker or other source of sound in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities.

(8) Mechanical devices. Operating or permitting to be operated, any mechanical, electrical, or electronic device in a residential area between the hours of 10:00 p.m. and 6:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities.

(9) Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle, or similar stationary emergency signaling

device for more than five minutes during any consecutive 60-minute period in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities, except for those exemptions outlined in this article. Nothing herein shall be construed to authorize the operation of any emergency signaling device in violation of [article 8.11](#) (burglar and robbery alarms) of this code.

(10) Other prohibited sound levels. Any emanations of the human voice or noise from any other source, including but not limited to fireworks, motor vehicle horns or other noise-creating object, device or equipment, whether amplified or not, which unreasonably disturbs or interferes with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities.

(1983 Code, sec. 18-4.3; Ordinance 2006-O0103, sec. II, adopted 10/13/2006; Ordinance 2012-O0084, sec. 1, adopted 8/23/2012; Ordinance 2015-O0050, sec. 1, adopted 5/28/2015)

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### **Sec. 14.04.004 Motor vehicle noise**

(a) Modifications to motor vehicles. No person shall operate or cause to be operated any motor vehicle, unless the vehicle is equipped with an exhaust system which includes a tailpipe and resonator where the original vehicle design included a tailpipe and resonator. Such exhaust system shall be:

- (1) Equipped with a muffler which is in good working order (free of damage to the baffles contained in the muffler and is in constant operation); and
- (2) Not equipped with any cut out, bypass or similar device.

(b) Tire noise. It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason; provided that sound resulting from emergency braking to avoid imminent danger shall be exempted from this subsection.

(c) Off-highway motor vehicles. No person shall operate or permit to be operated any motorized vehicle off a public right-of-way in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of neighboring persons of ordinary sensibilities.

(1983 Code, sec. 18-4.4; Ordinance 2006-O0103, sec. II, adopted 10/13/2006; Ordinance 2012-O0084, sec. 1, adopted 8/23/2012)

## ARTICLE 14.04 NOISE\*

### **Sec. 14.04.005 Permit of variance–Application; issuance procedures**

(a) Applications for a permit for relief from the noise levels designated in this article may be made to the city secretary. Any permit granted by the city secretary hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. Any permit granted by the city secretary cannot be assigned or transferred. The city secretary may grant relief as applied for if it is found:

- (1) That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this article; or

- (2) That the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with other provisions of this article; and
- (3) That no other reasonable alternative is available to the applicant; and
- (4) That the city may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

(b) No permit of variance may be issued unless written petition of such request has been circulated to all owners, occupants, or representatives of real property lying within 300 feet from the point of origin where noise will be generated. Such petition shall state the nature, location, and length of time requested; and shall be issued not less than seven days prior to the date of permit variances for one-time events (less than a 24-hour period). Applications for such events as listed in subsection (a) shall be filed with the office of the city secretary no less than five (5) days prior to the date of the event. Late fees may apply if filed after the stated deadlines.

Permit of variances for greater than a 24-hour period, or for repetitive days may not be issued unless written petition of such request has been circulated to all owners, occupants, or representatives of real property lying within 300 feet of the point of origin where noise will be generated; and includes the nature, location, and the length of time requested. The written petition must be circulated fourteen days prior to the date of the event by the applicant. Applications for such events shall be filed with the office of the city secretary no less than ten (10) days prior to the date of the event. Late fees may apply if filed after the stated deadline.

A copy of each such written petition shall be provided to the city secretary prior to the date requested for issuance of said permit of variance. Such petition shall state persons for or opposed to such permit. If no objections are received, the city secretary shall issue the requested permit of variance. If one or more objections are received, the city secretary shall apply the standards of subsection (a) in making a determination as to whether a permit of variance shall be issued.

(c) The city may require a noise study to be performed in order to evaluate the impact of a proposed permit of variance. Such study must be performed to conduct noise evaluations and studies of the impact of noise. In the event such a study is necessary, the applicant shall be notified in writing of such requirement. The applicant shall be responsible for the expense of any study.

(1983 Code, sec. 18-4.5; Ordinance 2006-O0103, sec. II, adopted 10/13/2006; Ordinance 2007-O0095, secs. 1, 2, adopted 9/27/2007; Ordinance 2012-O0084, sec. 1, adopted 8/23/2012)

**ARTICLE 14.04 NOISE\***

**Sec. 14.04.006 Same–Rescheduling following approval and issuance**

The grantee of a permit of variance must notify the office of the city secretary no later than 24 hours prior to the rescheduling of the permitted activity. Weekends will not be included in the 24-hour time period. Said notice must be given to the office of the city secretary during its normal hours of operation. Subsequent to the aforementioned, recirculation of the written petition must be completed, by the grantee, to all owners, occupants, or representatives of real property lying within 300 feet of the point of origin where noise will be generated; and includes the nature, location, and the length of rescheduled time requested within 3 days. The written petition shall be submitted within 3 days after the request for rescheduling has been accepted. The city secretary then shall make a determination of approval/denial for rescheduling as per [section 14.04.005](#). (Ordinance 2012-O0084, sec. 1, adopted 8/23/2012)

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**Sec. 14.04.007 Same–Fees**

All associated fees shall be set by the current fiscal budget of the city. If no fee is established by budget ordinance, a minimum fee of fifty dollars (\$50.00) for the administrative costs of processing the permit of variance shall be required. (1983 Code, sec. 18-4.6; Ordinance 2006-O0103, sec. II, adopted 10/13/2006; Ordinance 2012-O0084, sec. 1, adopted 8/23/2012)

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**Sec. 14.04.008 Same–Appeal of disapproval**

Any individual who is aggrieved by the disapproval of a variance permit by the city secretary may appeal in writing to the permit and license appeal board and state any information to support his/her claim not later than ten (10) days after the disapproval or denial. All appeals shall be heard by the permit and license appeal board in accordance with [section 2.03.073](#) of this code. (1983 Code, sec. 18-4.7; Ordinance 2006-O0103, sec. II, adopted 10/13/2006; Ordinance 2007-O0095, sec. 3, adopted 9/27/2007; Ordinance 2012-O0084, sec. 1, adopted 8/23/2012)

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**Sec. 14.04.009 Exceptions**

Nothing herein shall be construed as prohibiting, limiting or restricting the activities of any governmental entity holding events on its owned or leased property or any public utility. (1983 Code, sec. 18-4.8; Ordinance 2006-O0103, sec. II, adopted 10/13/2006; Ordinance 2012-O0084, sec. 1, adopted 8/23/2012)

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**Sec. 14.04.010 Penalty**

A violation of any of the provisions of this article shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed five hundred dollars (\$500.00). Each day a violation is committed or continues shall constitute and be punishable as a separate offense. (Ordinance 2012-O0084, sec. 1, adopted 8/23/2012)