

## ARTICLE VIII. - NOISE ABATEMENT

### Sec. 29-200. - Purpose.

This article is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the city through the reduction, control, and prevention of unreasonably loud and raucous sounds, or any noise that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity. Nothing in this article shall be construed as preventing the lawful exercise of right of free speech protected by the Constitutions of the United States or the State of Illinois.

(Ord. No. O04-57, § 1, 5-25-04)

### Sec. 29-201. - Savings.

A prosecution which is pending on the effective date of this article and which arose from a violation of an ordinance repealed by this article, or a prosecution which is started within six (6) months after the effective date of this article, arising from a violation of an ordinance repealed by this article, shall be tried and determined exactly as if the ordinance had not been repealed.

(Ord. No. O04-57, § 1, 5-25-04)

### Sec. 29-202. - Scope.

This article applies to the control of all sound originating within the jurisdictional limits of the city.

(Ord. No. O04-57, § 1, 5-25-04)

### Sec. 29-203. - Definitions.

When used in this article:

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

*Emergency work* means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

*Noise sensitive area* includes, but is not limited to, the land on which a school, hospital, nursing home, church, court, public library, or similar institution is located and the area within two hundred fifty (250) feet of a school, hospital, nursing home, church, court, public library, or similar institution.

*Person* means any individual, firm, association, partnership, joint venture, or corporation.

*Public right-of-way* means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public that is owned or controlled by a government entity.

*Public space* means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

*Residential area* means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the city's zoning ordinance.

(Ord. No. O04-57, § 1, 5-25-04)

### Sec. 29-204. - General prohibition.

- (a) No person or property owner, shall make, allow, permit, continue, or cause to be made or continued, the following:
- (1) Any unreasonably loud or raucous noise; or
  - (2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City of Aurora; or
  - (3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.
- (b) Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:
- (1) The proximity of the sound to sleeping facilities, whether residential or commercial;
  - (2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
  - (3) The time of day or night the sound occurs;
  - (4) The duration of the sound; and
  - (5) Whether the sound is recurrent, intermittent, or constant.

(Ord. No. O04-57, § 1, 5-25-04; Ord. No. O09-88, § 1, 11-10-09)

Sec. 29-205. - Noises prohibited.

The following acts are declared to be per se violations of this article. This list does not constitute an exclusive list.

- (1) *Unreasonable noises*: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of residences or which will not detrimentally affect the operators of other places of business are exempted from this provision.
- (2) *Non-emergency signaling devices*: Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, seasonal contribution solicitors, or by the city for traffic control purposes are exempt from the operation of this provision.
- (3) *Emergency signaling devices*: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsection a. below. Local, state, and federal governments are exempt from this prohibition.
  - a. Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

- (4) *Radios, televisions, boom boxes, phonographs, stereos, musical instruments and similar devices:* The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of seventy-five (75) feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings. This subsection shall not apply to violations of 5/12-611 of the Illinois Vehicle Code.
- (5) *Loudspeakers, amplifiers, public address systems, and similar devices:* The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound, except as may be permitted by section 29-22 of the City of Aurora Code of Ordinances, between the hours of 10:00 p.m. and 7:00 a.m. of the following day on weekdays, and 10:00 p.m. and 10:00 a.m. of the following day on weekends and holidays (holidays shall consist of Christmas Day, Thanksgiving Day, New Year's Eve, New Year's Day, Memorial Day, and Independence Day) in the following areas:
- a. Within or adjacent to residential or noise-sensitive areas;
  - b. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous. This shall not apply to any public performance, gathering, or parade or which a permit has been obtained from the local government.
- (6) *Yelling, shouting, and similar activities:* Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m. of the following day, or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.
- (7) *Animals and birds:* Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls, or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, veterinary hospitals, pet shops, or pet kennels [licensed under, and in compliance with, licensing and permitting provisions set forth in this Code and which use reasonable measures to minimize such sounds emanating from their property] are exempt from this subsection.
- (8) *Loading or unloading merchandise, materials, equipment:* The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence between the hours of 10:00 p.m. and 6:00 a.m. of the following day.
- (9) *Construction or repair of buildings, excavation of streets and highways:* The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 6:00 a.m. and 9:00 p.m., on weekdays and 8:00 a.m. and 6:00 p.m. on weekends. Local, state, and federal governments are exempt from this prohibition. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the following shall apply:
- a. The director of property standards may, at his discretion, issue written permission, upon application, if he determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings between the hours of 6:00 p.m. and 9:00 a.m. of the following day, will not be impaired, and if he further determines that loss or inconvenience would not result to a party in interest. The written permission shall

grant permission in non-emergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less.

- b. The director of public works may, at his discretion, issue written permission, upon application, if he determines that the public health and safety, as affected by loud and raucous noise caused by construction or excavation of roadways and sidewalks between the hours of 6:00 p.m. and 9:00 a.m. of the following day, will not be impaired, and if he further determines that loss or inconvenience would not result to a party in interest. The written permission shall grant permission in non-emergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less.
- (10) **Noise sensitive areas—schools, courts, churches, hospitals, and similar institutions:** The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which unreasonably disturbs the persons in these institutions.
- (11) **Blowers, and similar devices:** In residential or noise sensitive areas, between the hours of 9:00 p.m. and 6:00 a.m. of the following day, the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases, fuels, or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates. This subsection shall not apply to snow blowers and other snow removal machinery nor to landscaping operations conducted on golf courses.
- (12) **Commercial establishments.** Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 6:00 a.m. of the following day which is plainly audible at a distance of fifty (50) feet from any residential property.

(Ord. No. O04-57, § 1, 5-25-04; Ord. No. O04-68, § 1, 6-29-04)

#### Sec. 29-206. - Exemptions.

Sounds caused by the following are exempt from the prohibitions set out in section 29-204 and are in addition to the exemptions specifically set forth in section 29-205:

- (1) Repairs of utility structures, which are damaged, in disrepair, or out of service and such condition, pose a clear and immediate danger to life, health, or significant loss of property.
- (2) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition(s) in subsection 29-205(d) continues to apply.
- (3) Repairs or excavations of bridges, streets, or highways by or on behalf of the City of Aurora, the State of Illinois, or the federal government, between the hours of 10:00 p.m. and 6:00 a.m. of the following day, when public welfare and convenience renders it impractical to perform the work between 6:00 a.m. and 10:00 p.m.
- (4) Outdoor school and playground activities. Reasonable activities conducted on public playgrounds and public or private school/university grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school/university athletic and school/university entertainment events.
- (5) Other outdoor events. Outdoor gatherings, public dances, shows, parades, festivals, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.
- (6) Any event that is sponsored by and directly controlled by the city or its designee.
- (7) Outdoor church activities that cannot be heard from a distance of more than one hundred (100) feet beyond the church property boundaries between 10:00 p.m. and 6:00 a.m. of the following

day, except that a church may sound chapel bells periodically so long as each said ringing does not continue for an unreasonable amount of time.

(Ord. No. O04-57, § 1, 5-25-04)

Sec. 29-207. - Enforcement and violation notice.

- (a) The chief of police, or his designees, will have primary responsibility for the enforcement of the noise regulations herein. Nothing in this article shall prevent the police chief, or his designees, from obtaining voluntary compliance by way of warning, notice, or education.
- (b) If a person's conduct would otherwise violate this article and consists of any of the following: 1) speech or communication protected by the Constitution of the United States or the State of Illinois; 2) of a gathering with others to hear or observe speech or communication protected by the Constitution of the United States or the State of Illinois; 3) or of a gathering with others to lawfully picket or otherwise express, in a non-violent manner, a position on a social, economic, political, or religious questions, then the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.
- (c) Every ticket or citation issued pursuant to this article shall contain, but not necessarily be limited to, the following information:
  - (1) The date and time of the violation.
  - (2) The address where the violation took place.
  - (3) The particular regulation violated.
  - (4) The penalty which may be assessed for the violation.
  - (5) A section entitled "Request for Hearing" which shall clearly set forth that the person or property owner may request and appear at an administrative hearing to contest the violation on its merits, by:
    - a. Checking or placing a mark in a space provided and clearly identified, "Request for Hearing."
    - b. Placing his/her name and current address in the place provided.
    - c. Signing his/her name in the appropriate indicated place.
    - d. Filing the violation notice, with the "Request for Hearing" section fully completed, with the law department in person not later than seven (7) business days after the citation or ticket including the date the ticket or citation was issued. Such filing shall be deemed completed upon receipt by the law department.
  - (6) That payment of the indicated fine shall operate as a final disposition of the violation without necessity of attendance at any hearing.
- (d) Service of the ticket or citation shall be made by the person issuing same by:
  - (1) Handing it to the person or property owner, if present, or
  - (2) Affixing the original or a facsimile of the ticket or citation to an entryway door of the property where the violation took place if the person or property owner is not present.
- (e) The correctness of facts contained in the ticket or citation shall be certified by the person issuing said notice by:
  - (1) Signing his/her name to the ticket or citation at the time of service, or
  - (2) In the case of a notice produced by a computer device, by signing a single certificate, to be kept by the police department, attesting to the correctness of all notices produced by the device while under the signatory's control.

- (f) The original or a facsimile of the ticket or citation shall be retained by the police department and kept as a record in the ordinary course of business.
- (g) Any ticket or citation issued, signed and served in accordance herewith, or a copy of the ticket or citation, shall be prima facie evidence of the correctness of the facts shown on the notice.
- (h) The ticket or citation or a copy shall be admissible in any subsequent administrative or judicial proceeding to the extent permitted by law.

(Ord. No. O04-57, § 1, 5-25-04; Ord. No. O09-88, § 2, 11-10-09)

Sec. 29-208. - Penalties.

- (a) Any violation of the provisions of this article is punishable by a ticket or citation carrying a fine of not less than two hundred fifty dollars (\$250.00). However, this subsection shall not be construed as requiring the Aurora Police Department to cite a person or property owner for violation of this article if, in its discretion, the department determines that it is in the best interest of the community to utilize other lawful means to gain compliance.
- (b) A second violation of this article by the same person or at the same property, which occurs within one year (365 days) of receiving a previous ticket, is punishable by a ticket carrying a fine of not less than five hundred dollars (\$500.00). A third or subsequent violation of this article by the same person or at the same property at any time thereafter is punishable by a ticket carrying a fine of not less than one thousand dollars (\$ 1,000.00). Any ticket issued and remaining unpaid shall be a lien upon, and run with the land, of the property where the violation was cited.
- (c) Each occurrence of a violation of this article or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

(Ord. No. O04-57, § 1, 5-25-04; Ord. No. O04-68, § 2, 6-29-04; Ord. No. O09-88, § 3, 11-10-09)

Sec. 29-209. - Procedure.

Any person issued a ticket or citation under this section shall have the right to seek a hearing in front of the administrative hearing officer subject to the following provisions:

- (1) For purposes of this section, the administrative hearing officer shall be the individual who holds administrative hearings involving violations of the city's property maintenance code under chapter 12 of this Code of Ordinances and violations of the city's criminal nuisance ordinance under this chapter.
- (2) Any person seeking a hearing by the administrative hearing officer shall file a written request within fourteen (14) calendar days after receipt of the ticket or citation. The written request must be received by the city's law department prior to the expiration of the fourteen-day period, or on the first date the law department is open for business after such period if the law department is closed on the fourteenth day. Mailing the request on such date is insufficient. If the petition is not received during this time period, then the ticket/citation shall become final and not subject to further review, and the city may proceed with collection of the fine or other such penalties as enumerated above.
- (3) The written request shall state the reason(s) why the ticket is invalid and state the relief sought from the hearing officer. Upon receipt of the written request, the law department shall promptly set a time and date for a hearing on the petition and shall notify the petitioner of the same not less than seven (7) days prior to the date set for hearing. A hearing date may be continued by the administrative hearing officer for good cause.
- (4) At such hearing, the administrative hearing officer shall give the petitioner an opportunity to be personally heard and to present witnesses and information relevant to the issue. The hearing officer shall also hear from the city and its witnesses and information. Upon conclusion of such hearing, and after consideration of any information presented by the petitioner and the city, a decision shall be made by the hearing officer either canceling or affirming the ticket/citation.

- (5) The decision of the administrative hearing officer, reached at the conclusion of such hearing, shall be final. If applicable, the city may enforce such decision in any manner available by law or ordinance.

(Ord. No. O04-68, § 3, 6-29-04)

Sec. 29-210. - Severability.

A determination of the invalidity or unconstitutionality of any clause, sentence, paragraph, section, or part of this article, by a court of competent jurisdiction, shall not affect the validity of the remaining parts of this article.

(Ord. No. O04-57, § 1, 5-25-04; Ord. No. O04-68, § 4, 6-29-04)

Secs. 29-211—29-299. - Reserved.