

The Codified Ordinances of the City of Newport, Rhode Island

Chapter 8.12 NOISE ABATEMENT

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8.12.010. Statement of public policy.

Council finds and declares that:

A. Excessive unreasonably loud, or disturbing noise is a serious hazard to the public health and welfare and the quality of life in a densely populated city and can violate the well-being, tranquility, and privacy of the home. Excessive noise can also deprive the residents of Newport of the fundamental right they have to the peaceable enjoyment of their homes.

B. A substantial body of science and technology exists by which excessive noise can be substantially abated without serious inconvenience to the public.

C. Certain of the noise producing equipment in this community is essential to the quality of life herein and should be allowed to continue at reasonable levels with moderate regulation.

D. Each person has a right to an environment reasonably free from unwelcome noise which jeopardizes health or welfare, degrades the quality of life, or violates the well-being, tranquility, and privacy of the home.

E. When enacting restrictions on expressive activities by way of laws or ordinances, the protections of the First Amendment must be paramount and restrictions imposed by such laws and ordinances must be enacted without reference to the content of any expressive activity. However, reasonable restrictions may be made to control the time, place and manner of any such expressive activity, so long as those restrictions are content-neutral and narrowly-tailored to serve a significant governmental interest and leave open ample alternative channels of communication.

F. The city of Newport is a destination for millions of visitors each year, including those who seasonally rent homes. A vast majority of homes in Newport are located in densely populated neighborhoods that are in close proximity to commercial districts. City officials are inundated with complaints from residents of overcrowding, disorderly behavior, and unreasonably loud and disturbing noise in such neighborhoods. A significant amount of these complaints involve unreasonably loud and disturbing noise in these neighborhoods caused by the human voice or voices late at night or in the early morning hours. There is an urgent need at this time to enact reasonable time, place, and manner restrictions narrowly tailored so as to protect persons from such activity and from unreasonably loud, disturbing or unwelcome noise in general, and to especially protect the wellbeing, tranquility, and privacy of the home.

G. It is the declared policy of the city to promote an environment free from excessive, unreasonably loud, or disturbing noise, otherwise properly called noise pollution, which unreasonably jeopardizes the health and welfare of the public, violates and disturbs the well-being, tranquility and privacy of the home, or otherwise degrades the quality of the lives of the residents of this community, without unduly prohibiting, limiting or otherwise

regulating the function of certain noise-producing equipment which is not amenable to such controls and yet is essential to the quality of life in the community, and at the same time keeping the protections of the First Amendment paramount in enacting any provisions prohibiting noise disturbances without reference to the content of any expressive activity. (Ord. 2004-17 § 1 (part), 2004)

8.12.020. Purpose, title and scope.

A. The purpose of this chapter is to establish standards for the control of noise pollution in the city by setting maximum permissible sound levels for various activities to protect the public health, safety and general welfare.

B. This chapter may be cited as the “Noise Abatement Chapter” of the city.

C. This chapter shall apply to the control of all noise originating within the limits of the city or originating from properties lying outside the limits of the city, owned or controlled by the city, except where either:

1. A state or federal agency has adopted a different standard or rule than that prescribed in this chapter and has so preempted the regulation of noise from a particular source as to render this chapter inapplicable thereto; or
2. Council has determined that, by reason of public acceptance of the activity producing a particular noise, such noise is deemed acceptable to the residents of the city. (Ord. 2004-17 § 1 (part), 2004)

8.12.030. Implementation, administration and enforcement.

A. This chapter shall be implemented, administered and enforced by the division of police, zoning division, or any other city department or division designated by the director of public safety.

B. The provisions of this chapter which prohibit a person from making or continuing noise disturbances, or causing the same to be made or continued, across a real property boundary or within noise sensitive areas, shall be enforced by the police division, zoning division, or any other city department or division designated by the director of public safety.

C. To implement and enforce this chapter, the police division, or any other duly designated city agency, shall have the power to:

1. Conduct research, monitoring and other studies related to sound;
2. Conduct programs of public education regarding the causes, effects and general methods of abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for reporting violations;
3. Coordinate the noise control activities of all city departments;
4. Review public and private projects, including those subject to mandatory review or approval by other departments, for compliance with this chapter, if these projects are likely to cause sound in violation of this chapter;

5. Issue sound variances pursuant to Section 8.12.180;
6. Prepare recommendations for consideration by council, after publication of notice and after a public hearing, for establishing the boundaries of noise sensitive areas.

D. Whenever a violation of this chapter occurs and two or more persons are present in or on the lot from which the sound emanates, and it is impossible to determine which of such persons is the violator, the owner of the lot, if present, shall be presumed responsible for the violation. In the absence of such owner, the tenant or tenants of such lot or any person present with the direct consent of the owner shall be held responsible for the violation.

E. In the case of continuing violations, the city solicitor may institute an action for injunctive relief against the owner and/or tenant of the lot. (Ord. 2004-17 § 1 (part), 2004)

8.12.040. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following words and terms shall have the meanings given. Definitions of technical terms used in this chapter, which are not herein defined, shall be obtained from publications of acoustical terminology issued by A.N.S.I. or its successor body.

“A-scale (dBA)” means the sound level in decibels measured using the A-weighted network as specified in A.N.S.I. Standard 1.4-1983 or the latest approved revision thereof, for sound level meters. The level is designated dB(A) or dBA.

“Ambient sound level” means the noise associated with a given environment, exclusive of the sound source under investigation, being usually a composite of sounds from many sources near and far, exclusive of intruding noises from isolated identifiable sources which are intermittent and relatively intense.

“A.N.S.I.” means the American National Standards Institute or its successor body.

“C-scale (dBC)” means the sound level in decibels measured using the C-weighted network as specified in A.N.S.I. Standard 1.4-1983 or the latest approved revision thereof, for sound level meters. The level is designated dB(C) or dBC.

“City” means the city of Newport, Rhode Island, or the area within the territorial limits of the city, and such territory outside of the city over which the city has jurisdiction or control by virtue of ownership or any constitutional or Charter provision or any law.

“Construction” means any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair or equipment of buildings, roadways or utilities, including land clearing, grading, excavating and filling.

“Decibel (dB)” means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to twenty (20) times the logarithm to the base

ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

“Demolition” means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

“Dwelling unit” means a building or portion thereof regularly used for residential occupancy.

“Dynamic braking device” means a device used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes. This device is often referred to as a “Jake Brake.”

“Emergency work” means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from imminent exposure to danger.

“Impulsive sound” means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-forge impacts and the discharge of firearms.

“Lot” means any area, tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting “platted lots” under the same ownership shall be considered a lot. The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.

“Mixed use” means a dwelling unit or school located in a commercial or industrial zone. Motorboat. See watercraft.

“Motorcycle” means any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term shall include motorized bicycles, motor scooters, mopeds and the like.

“Motor vehicle” means any motor-operated vehicle licensed for use on the public highways, but not including a motorcycle.

“Narrow band sound” means sound characterized by normal listeners as having a predominant pitch or series of pitches; sound described by such listeners as “whine,” “hiss,” “hum,” “toot” or “wail.”

“Noise control office” means the city department having responsibility for the enforcement of this chapter.

“Noise disturbance” means any sound or sound level that exceeds the standards for such sound or sound level set forth in this chapter. Noise disturbance shall also mean sound

from the human voice or voices including but not limited to yelling, laughing, hooting, hollering, screaming, or singing between the hours of twelve a.m. and seven a.m. which exceeds sound or sound level standards set forth in this chapter.

“Noise sensitive activities” means activities which should be conducted under conditions of exceptional quiet, including, but not limited to, operation of schools, libraries open to the public, churches, hospitals and nursing homes.

“Noise sensitive area” means any area posted with noise sensitive signs and subject to the noise levels set forth in Table I of this chapter.

“Nonconforming use” means a use of a structure, building or land which was established as a permitted use and which has been lawfully continued pursuant to the zoning code of the city, but which is not a permitted use in the zone in which it is now located.

“Offroad recreational vehicle” means any motor vehicle, including road vehicles, but excepting watercraft, used off public roads for recreational purposes.

“Person” means any individual, including the owner of premises or tenant, association, partnership or corporation, including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of a state, including the city.

“Physical characteristics of sound” means the steady, impulsive or narrow band property of a sound, the level of the sound and the extent to which it exceeds the background sound level.

“Plainly audible” means any sound that can be detected by a person with normal hearing using his or her unaided hearing faculties. As an example, if the sound source under investigation is a sound amplification or sound reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The noise control officer need not determine the title, specific words, or the artist performing the song.

“Port facilities” means any and all public or private facilities used for the repair, loading or unloading of ships within the city, including, but not limited to, shipyards, repair yards and dry docks.

“Powered model vehicle” means any self-propelled airborne, waterborne or landborne model plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

“Public right-of-way” means any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public governmental entity.

“Public space” means any real property, including any structure thereon, which is owned or controlled by a governmental entity.

“Real property boundary” means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

“Receiving land use” means the use or occupancy of the property, or the actual real property, which receives the transmission of sound.

“Residential property” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

“Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

“Sound level” means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in A.N.S.I. specifications for sound level meters (A.N.S.I. Standard 1.4-1983, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

“Sound level meter” means an instrument complies with A.N.S.I. Standard 1.4-1983 or the latest approved revision thereof.

“Sound pressure” means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

“Sound pressure level” means twenty (20) times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micronewtons per square meter ($20 \times 10^{-6} \text{N/m}^2$). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

“Steady sound” means a sound whose level remains essentially constant (± 2 dBA) during the period of the sound level meter.

“Used” and “occupied” include the words “intended, designed or arranged to be” (used or occupied).

“Watercraft” means any contrivance used, or capable of being used, as a means of transportation or recreation on water.

“Zoning districts” means those districts established in the zoning code and indicated on the official zoning map. (Ord. 2004-17 § 1 (part), 2004)

8.12.050. Measurement of sound.

A. If the measurements of sound are made with a sound level meter, it shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in A.N.S.I. Standard 1.4-1983, or the latest approved revision thereof. For purposes of this chapter, a sound level meter shall contain at least an A- and C-weighted scale and both fast and slow meter response capabilities.

B. If the measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy is at least that called for in A.N.S.I. Standard 1.4-1983, or the latest approved revision thereof, for Type II instruments.

C. When the location or distance prescribed in this chapter for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this chapter.

D. Procedures and tests required by this chapter and not specified herein shall be placed on file with the city clerk. (Ord. 2004-17 § 1 (part), 2004)

8.12.060. Exceptions.

The provisions of this chapter shall not apply to:

A. The emission of sound for the purpose of alerting persons to the existence of an emergency;

B. The emission of sound in the performance of emergency work;

C. Private or public speaking, including the unamplified human voice, private or public assembly activities conducted on any private property, public space or public right-of-way, except those activities controlled by Section 8.12.120 or prohibited by Sections 8.12.070 and 8.12.100;

D. Agricultural activities, exclusive of those involving the ownership or possession of animals or birds;

E. The emission of sound in the performance of military operations, exclusive of travel by individuals to or from military duty;

F. The emission of sound in the discharge of weapons or in fireworks displays licensed by the city, from seven a.m. to ten p.m.;

G. The emission of sound in the operation of snow removal equipment, so long as all internal combustion engines employed in this activity are fitted with a properly functioning muffler at all times; and

H. The emission of sound relative to permitted construction and demolition activities, provided that such activities do not occur between nine p.m. and seven a.m. (Ord. 2004-17 § 1 (part), 2004)

8.12.070. Noise disturbances prohibited.

A. No person shall make, continue or cause to be made or continued, except as permitted, any noise or sound which constitutes a noise disturbance, as defined in this chapter.

B. **Any person**, including a police officer, or a municipal zoning or building official, **may be a complainant for the purposes of instituting action for any violation of this chapter.** For any violation of this section, the receiving land use involved may include real property contiguous to, or bounding the real property containing the source of the sound which is the subject of the violation. (Ord. 2004-17 § 1 (part), 2004)

8.12.080. Maximum permissible sound levels by receiving land use.

A. With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, or unless some other standard or compliance determination location is specifically applied elsewhere in this chapter, the following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use:

**Table I
Sound Levels by Receiving Land Use and
Penalties for Violating Levels**

Location of Receiving Land Use Zoning District:	Time	Sound Limit dBA
Residential	7:00 a.m. to 10:00 p.m.	65 dBA
	10:00 p.m. to 7:00 a.m.	55 dBA
Limited Business	1:00 a.m. to 7:00 a.m.	55 dBA
	All other times	75 dBA
General Business	1:00 a.m. to 7:00 a.m.	55 dBA

	All other times	75 dBA
Waterfront Business		
	1:00 a.m. to 7:00 a.m.	55 dBA
	All other times	75 dBA
Commercial/Industrial		
	1:00 a.m. to 7:00 a.m.	55 dBA
	All other times	75 dBA
Other:		
Public Water		
	1:00 a.m. to 7:00 a.m.	55 dBA
	All other times	65 dBA
Noise Sensitive Area		
	7:00 a.m. to 10:00 p.m.	65 dBA
	10:00 p.m. to 7:00 a.m.	55 dBA

B. Notwithstanding any other provision of this chapter, any business with a liquor license which is cited for a noise disturbance is subject to the penalty for a violation in the general business district as set out in this section.

C. For any source of sound which emits narrow band sound, the maximum sound level limits set forth hereinabove shall be reduced by five dBA.

D. Exceptions to Table I are activities covered by the following Sections: 8.12.090, 8.12.120, 8.12.130, 8.12.150 and 8.12.180. (Ord. 2004-17 § 1 (part), 2004)

8.12.090. Emergency signaling devices.

A. No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection B of this section.

B. Testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed, but not before eight a.m. or after nine p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed sixty (60) seconds. (Ord. 2004-17 § 1 (part), 2004)

8.12.100. Specific activities prohibited.

A. Sales by “Hawking” or “Barking.” No person shall create a noise disturbance by offering for sale or selling anything by shouting or outcry across a real property boundary or in a noise sensitive area.

B. Shouting and Loud Conversation. Between the hours of twelve a.m. and seven a.m. no person shall vocalize at such excessive vocal amplification in a residential zone that is plainly audible at a distance of one hundred (100) feet or more from the point measurement for a duration longer than ten (10) seconds. This includes, but is not limited to: yelling, laughing, hooting, hollering, screaming, or singing. This shall apply to vocalizations that either cross a real property boundary or originate in a public space or public right-of-way.

C. Vehicle or Motorboat Repairs or Testing. No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a real property boundary or within a noise sensitive area.

D. Powered Model Vehicles. No person shall operate or permit the operation of a powered model vehicle in a public or private space out of doors or within a noise sensitive area between the hours of ten p.m. and seven a.m. the following day.

E. Disorderly House. No person shall do either of the following:

1. Keep a disorderly house or place of public resort whereby the peace, comfort, or decency of a neighbor is habitually disturbed; or
2. Being the owner of, or in control of such premises, and to intentionally permit them to be so used;
3. For purposes of this section, a disorderly house is defined as a residence or dwelling in which one or more noise disturbances resulting in a conviction or convictions in the municipal court have occurred within a three-year period;
4. The owner of such residence or dwelling may assert as a defense reasonable efforts to take action against the perpetrators of the violation of this chapter, including the initiation of eviction proceedings pursuant to Rhode Island General Laws. (Ord. 2006-4 § 1, 2006; Ord. 2004-17 § 1 (part), 2004)

8.12.110. Musical instruments and similar devices.

No person shall operate, play or permit the operation or playing of any drum, musical instrument or similar device which produces sound in such a manner as to create a noise disturbance across a residential real property boundary or outdoors within a noise sensitive area. (Ord. 2004-17 § 1 (part), 2004)

8.12.120. Regulation of sound equipment and sound amplifying equipment.

No person shall operate play, or permit the operation or playing of any radio, television, phonograph or other sound amplifying equipment so as to create a noise disturbance, except as provided for in Section 8.12.180. For the purposes of determining compliance with this provision, the sound level limits in Section 8.12.080 shall be applied at or beyond the property line of the source of the sound. (Ord. 2004-17 § 1 (part), 2004)

8.12.121. Regulation of radios, cassette and compact disk players, and the like, in public spaces and public rights-of-way.

No person shall play, use, operate or permit to be played, used or operated, any radio, tape recorder, cassette or compact disk player, or other device for receiving broadcast sound or reproducing recorded sound if the device is located in a public space or a public right-of-way and if the sound generated by the device is plainly audible to a person with normal hearing at a distance greater than seventy-five (75) feet between the hours of seven a.m. and ten p.m., and at a distance greater than twenty-five (25) feet between the hours of ten p.m. and seven a.m.. This section shall not apply to any person participating in a parade or public assembly for which a permit has been obtained. (Ord. 2004-17 § 1 (part), 2004)

8.12.130. Motorized vehicles.

A. No person shall operate the engine providing motive power, or any auxiliary engine, of a motor vehicle with a manufacturer's gross vehicle weight rate of ten thousand (10,000) pounds or more for a consecutive period longer than twenty (20) minutes while such vehicle is standing and located within one hundred fifty (150) feet of property zoned and used for residential purposes, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pick-up vehicles that require the operation of the engine to unload or load their vending loads.

B. No person shall operate, within the speed limits specified in this section, either a motor vehicle or a combination of vehicles of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the noise limit in Table II for the category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which such vehicle or vehicles are operated. Such noise shall be measured at a distance of not more than fifty (50) feet from the centerline of travel under test procedures established by subsection C of this section. If the distance of the measuring instrument from the centerline of travel is less than fifty (50) feet, such listed noise limits shall be corrected to reflect the equivalent noise limits for the actual distance.

Table II

Type of Vehicle	Noise Limit in Relation to Legal Speed Limit	
	35 mph or less	Over 35 mph
(1) Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more and any combination of vehicles towed by such motor vehicle	88 dB(A)	92 dB(A)
(2) Any motorcycle	82 dB(A)	86 dB(A)
(3) Any other motor vehicle and any combination of	76 dB(A)	82 dB(A)

motor vehicles towed by such motor vehicle		
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This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of these Codified Ordinances relating to motor vehicle muffler or noise control.

C. The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by A.N.S.I. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. Corrections shall be made for ambient and extraneous sounds that may interfere with the measurement of sound from the source under investigation.

D. Every motor vehicle and motorboat shall at all times be equipped with a muffler in good working order and in constant operation to prevent noise which exceeds the dBA levels set forth in Table II of this section. No person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway.

E. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated.

F. Motorcycles manufactured after December 31, 1982 (Federal Noise Regulations 40 CFR Part 205):

1. No person shall remove or deface any noise label or mark required by federal law which is affixed to any motorcycle or motorcycle part for purposes of identifying the motorcycle or motorcycle part as a federally regulated product.
2. No person shall operate any road or off-road motorcycle manufactured to federal noise law that does not bear a label or mark on the exhaust system that matches the model specific code of the motorcycle on which the system is installed. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated.
3. No person shall operate, nor shall any person cause, allow, permit or fail to control the operation of any competition motorcycle identified for "competition use only" by the noise label or mark required by federal law on any property other than a motor sports facility in a practice session or a racing event. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated.
4. No person shall operate, nor shall any person cause, allow, permit or fail to control the operation of any motorcycle fitted with an exhaust system or exhaust system component identified for "competition motorcycles only" by the noise label or mark required by federal law on any property other than a motor sports facility in a practice session or a

racing event. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated.

G. No person shall operate a recreation vehicle or permit the operation of one or more recreational vehicles, individually or in a group or in an organized racing event, on public or private property, in such a manner as to create a noise disturbance across a real property boundary or in a noise sensitive area. (Ord. 2004-17 § 1 (part), 2004)

8.12.140. Construction.

A. No person shall operate or permit the operation of any tool or equipment in construction, drilling or demolition work, or in preventive maintenance work for public service utilities, which creates a noise disturbance across a residential real property boundary or within a noise sensitive area unless otherwise addressed by other provisions of this code.

B. This section shall not apply to:

1. Emergency work or repair work performed by and for governmental entities or public service utilities; or
2. Work for which a variance has been obtained from council.

C. The use of domestic power tools or equipment is subject to the noise levels set forth in Section 8.12.080. (Ord. 2004-17 § 1 (part), 2004)

8.12.150. Stationary non-emergency signaling devices.

A. No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes, from any place, for more than one minute in any one hour.

B. Devices used in conjunction with on-going religious services shall be exempt from the operation of this section.

C. Exemptions for sound sources covered by this section, but not exempted under Section 8.12.140(B), may be granted by council under the procedure set forth in Section 8.12.180. (Ord. 2004-17 § 1 (part), 2004)

8.12.160. Animals and birds.

No person shall own, possess or harbor any animal or bird which frequently or for a continued duration emits sound that is native to the species, which sound exceeds the dBA levels set forth in Section 8.12.080. Further, no animal may make any vocalization for more than five minutes without interruption or more than fifteen (15) minutes if intermittent. (Ord. 2004-17 § 1 (part), 2004)

8.12.170. Departmental actions.

All departments and agencies of the city shall carry out their programs in furtherance of the policies set forth in this chapter. (Ord. 2004-17 § 1 (part), 2004)

8.12.180. Sound variances.

A. Council shall have the authority, consistent with this section, to grant sound variances from this chapter after public hearing.

B. Any person seeking a sound variance under this section shall file an application with council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.

C. All applications shall be subject to a fee of fifty dollars (\$50.00) per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within one hundred (100) feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the city. Notification shall be by regular mail at least seven days prior to the public hearing.

D. In determining whether to grant or deny an application, or revoke a variance previously granted, council shall balance hardship to the applicant, the community and other persons if the sound variance is not allowed, against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

E. Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted.

F. Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications. (Ord. 2004-17 § 1 (part), 2004)