CHAPTER 8 OFFENSES AND NUISANCES

ARTICLE 8.04 NOISE*

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Sec. 8.04.001 Generally

(a) Offenses; declaration of nuisance. Any unreasonably loud, disturbing or unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof, or any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities, is prohibited after the effective date hereof, and is hereby declared to be a nuisance. The following acts, among others, are declared to come within the purview of this article and to be nuisances within the meaning hereof, but said enumeration shall not be deemed to be exclusive, such acts being as follows:

(1) The playing of any radio, phonograph or other musical instrument in such manner or with such volume, particularly during the hours from 10:00 p.m. until 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type residence;

(2) The use of any stationary loudspeaker or amplifier, particularly during the hours from 10:00 p.m. until 7:00 a.m., to produce a noise or sound of such intensity that annoys or disturbs persons of ordinary sensibilities in the immediate vicinity thereof; provided, however, that nothing herein shall be construed to prohibit the infrequent use of a loudspeaker or amplifier for periods of short duration by a religious organization or association in the playing of music where the intensity of same does not annoy or disturb such persons;

(3) The keeping of any animal or fowl which, by causing frequent or long-continued noise, disturbs the comfort or repose of persons of ordinary sensibilities in the immediate vicinity thereof;

(4) The continued or frequent sounding of any horn or other signal device on any automobile or other vehicle except as a danger or warning signal, or the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary purpose or unreasonable period of time;

(5) The blowing of any steam whistle attached to any stationary boiler, except when giving notice of the time to commence or stop work, or as a warning of danger;

(6) The discharge into the open air of the exhaust of any fixed and stationary steam engine, stationary internal combustion engine, or motor vehicle or boat engine, except through an exhaust system in good working order and in constant operation to prevent excessive or unusual noise; provided that this subsection shall not apply to trains and locomotives;
(7) The use of any mechanical device operated by compressed air, unless the noise to be created thereby has been effectively muffled and reduced;

(8) The creation of any excessive or unreasonable noise on any street or premises adjacent to any school, place of religious worship, or other institution of learning while the same is in session, or any hospital, which unreasonably interferes with the operation or use of any such institution;

(9) The raucous shouting or crying of peddlers, hawkers or vendors which unreasonably disturbs the peace and quiet of any neighborhood;

(10) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show or sale of merchandise;

(11) The excavation or grading of land, or the erection, construction, demolition or alteration of any building or structure, between the hours of 9:00 p.m. and 7:00 a.m., within six hundred feet (600') of any occupied residential structure, or that generates, produces or results in any noise or sound that may be heard at the property line of any occupied residential structure; provided that this subsection shall not apply to any such work, construction, repairs or alterations that constitute an urgent necessity for the benefit and interest of the public safety, health or general welfare, e.g., repairs and emergency installations by any public utility, or to any excavation, erection, construction, demolition or alteration authorized by the city council to be undertaken between the hours of 9:00 p.m. and 7:00 a.m.;

(12) The keeping of any animal or fowl which barks, whines, meows, howls, crows, or makes other annoying noises in excess of thirty (30) minutes between the hours of 10:00 p.m. and 7:00 a.m., disturbing the comfort or repose of persons of ordinary sensibilities in the immediate vicinity thereof; and

(13) The keeping of any animal or fowl which barks, whines, meows, howls, crows, or makes other excessive and annoying noises near the residence of another person, disturbing the comfort or repose of persons of ordinary sensibilities in the immediate vicinity thereof.

(b) Penalty. Any person, firm or corporation violating any provision of this section shall be fined in accordance with the general penalty provision found in section 1.01.009 of this code.

(c) Complaint procedure. Citizens who witness violations(s) of this section are authorized to file a complaint with the city municipal court. The municipal court judge shall specify the affidavit to be used by complainants.

(d) Prima facie evidence of violation. It shall be prima facie evidence that the noise is unreasonably loud, disturbing and unlawful if the noise creates a vibration which is above the vibration perception threshold of an individual at or beyond the property of the source if on private property or at 50 feet or more from the source if in a public right-of-way. For purposes of this subsection, the term “vibration perception threshold” means the minimum ground-borne or structure-borne vibration necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. It shall also be prima facie evidence that
the noise is unreasonably loud, disturbing and unlawful if the noise exceeds a decibel level of eighty-five (85) after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance, and the instrument measuring the noise level is held twenty-five (25) feet or more from the source of the noise.

(2003 Code, sec. 8.601)