

Sec. 8-79 Unnecessary noise.

- (a) *Definitions.* The following words and phrases, when used in this section, shall have the meanings respectively ascribed to them:

*A-weighted sound level:* The sound pressure level in decibel as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

*Construction:* Any site preparation, assembly, erection, substantial repair, alteration, or similar repair, alteration, or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.

*Decibel (dB):* A unit for measuring the volume of sound, equal to twenty (20) times the logarithm to the base ten (10) 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:* Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

*Emergency:* Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

*Emergency work:* Any work performed for the purpose of preventing or alleviating the physical trauma or property damage which demands immediate action.

*Gross vehicle weight rating (GVWR):* The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR) which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle shall be used.

*Impulsive sound:* 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.

*Motor carrier vehicle engaged in interstate commerce:* Any vehicle for which regulations apply pursuant to section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

*Motor vehicle:* Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, amphibious

craft on land, dune buggies, or racing vehicles, but not including motorcycles.

*Motorboat:* Any vessel which operates on water and is propelled by a motor, including but not limited to boats, barges, amphibious crafts, water ski towing devices and hover craft.

*Motorcycle:* An unenclosed motor vehicle having a saddle for the use of the operator and two (2) or three (3) wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

*Muffler or sound dissipative device:* A device for abating the sound of escaping gases of an internal combustion engine.

*Noise:* Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

*Noise disturbance:* Any sound which:

- (1) Endangers or injures the safety or health of humans or animals.
- (2) Annoys or disturbs a reasonable person of normal sensitivities.
- (3) Endangers or injures personal or real property.

*Noise sensitive zone:* Any area designated pursuant to section 12:102d for the purpose of ensuring exceptional quiet.

*Person:* Any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

*Powered model vehicle:* Any self-propelled air-borne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

*Property line:* 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 intrabuilding real property divisions.

*Public right-of-way:* Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a government entity.

*Public space:* Any real property or structures thereon which are owned or controlled by a governmental entity.

*Pure tone:* Any sound which can be distinctly heard as a single pitch or a set of single

itches. For the purpose of this section, a pure tone shall exist if the one-third octave band sound pressure level in the band when the tone exceeds the arithmetic average of the sound pressure level of the two (2) contiguous one-third octave bands by five (5) dB for center frequencies of five hundred (500) Hz and above by eight (8) dB for center frequencies between one hundred sixty (160) Hz and four hundred (400) Hz and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.

*Sound:* An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including direction, intensity and frequency.

*Sound level:* The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as an A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI SI. 4-1971), or the latest approved revision thereof. If the frequency weighting employed is not indicated, the A-weighting shall apply.

*Sound level meter:* An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighting networks used to measure sound pressure levels.

*Sound pressure:* 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:* Twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure of twenty (20) micropascals ( $20 \times 10^{-6}$  N/m<sup>2</sup>). The sound pressure level is denoted L, or SPL and is expressed in decibels.

*Terminology:* All terminology used in this section, not defined herein, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

*Vibration:* An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

*Weekday:* Any day Monday through Friday which is not a legal holiday.

(b) *Enforcement:*

- (1) *Prima facia evidence of a violation.* Evidence establishing that an activity is causing or has caused the permissible sound level to be exceeded by

more than five (5) decibels at a point designated in any section of this chapter shall be deemed to be prima facia evidence of a violation of this section. Sound level measurements taken in order to show such prima facia violation must conform to the procedures as outlined in subsection (b).

- (2) *Procedures and measurements.* Unless otherwise provided in this section, sound level measurements shall be taken with a sound level meter microphone located at any point on the real property boundary or other point as provided in this section, no closer than five (5) feet from any wall or vertical obstruction when possible, and where practicable not less than five (5) feet above ground level, but in no event less than three (3) feet above ground. A minimum of three (3) readings shall be taken at two-minute intervals. The sound level shall be the average of these readings.
- (3) *Impoundment.* The Jackson Police Department may impound and retain as evidence any instrumentality used to create any noise in violation of this section, and, in the case of motor vehicles, the owner will be responsible for ordinary towing and storage charges incurred in the course of the impoundment.

(c) *Prohibitions:*

- (1) *Maximum permissible sound levels by emanating land use.* No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits as established in the following table in accordance with the time of day and zoning applicable to the property from which the sound is created.

When the property from which the sound emanates is zoned:

	Between	Maximum dBA
Commercial:	11:00 p.m.—7:00 a.m.	65
	7:00 a.m.—11:00 p.m.	85
Residential:	10:00 p.m.—7:00 a.m.	40
	7:00 a.m.—10:00 p.m.	60

At no time should sound emanate 90 dBA.

- (2) *Places of public entertainment.* It shall be unlawful for any person to operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment at a sound level which exceeds (95) dBA except where a sign is posted at every public entrance which reads:
- "WARNING, SOUND LEVELS CREATED IN THIS BUILDING MAY CAUSE PERMANENT HEARING DAMAGE OR LOSS."
- (3) *Maximum permissible sound levels by motor vehicles.* No person shall operate or cause to be operated any motor vehicle on a public street in such a manner that the sound level emitted therefrom exceeds eighty-five (85) dBA when measured from the curb of the street, the outer edge of the paved surface or the outer gravel edge on nonpaved streets.
- (4) *Noise sensitive zones.* It shall be unlawful for any person to create any noise which exceeds the sound level of fifty (50) dBA as measured within twenty (20) feet from any exterior wall of any public school between the hours of 7:00 a.m. and 4:00 p.m. on weekdays when school is in session.
- (5) *Recreational motorized vehicles operating off public rights-of-way.* No person shall operate or cause to be operated any recreational motorized vehicle on a public right-of-way or private property in such a manner that the sound level emitted therefrom exceeds eight (8) dBA at or across the boundary of any private property receiving the noise. This section shall apply to all recreational motorized vehicles whether or not fully licensed and registered, including, but not limited to, commercial and noncommercial racing vehicles, motorcycles, go-carts, minibikes, amphibious crafts, campers and dune buggies but not including motorboats.
- (6) *Motor vehicle horns and signaling devices.* It shall be a violation of this section to either sound any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger or sound any horn or other auditory signaling device which produces a sound level in excess of ninety-five (95) dB at fifty (50) feet.
- (7) *Animals and birds.* It shall be a violation of this section for any person to own, possess or harbor any animal or bird which frequently or for continued durations howls, barks, meows, squawks, or makes any other sound which shall disturb the comfort or repose of persons dwelling in the vicinity of where the animal or bird

is kept.

(8) *Permissible time for construction activity, operation of domestic power tools etc.*

- a. It shall be unlawful for any person to do, perform or engage in any construction work of any nature in the Town of Jackson between the hours of 7:00 p.m. and 7:00 a.m. if any such activity shall cause noises whose levels result in excess of fifty-five (55) dBA at the receiving property line. This section shall not prohibit any work performed because of emergency.
- b. It shall be unlawful to operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 8:00 a.m. and 8:00 p.m. At no time shall the sound level caused by or emitted from any of the above tools exceed ninety (90) dBA at the property line.

(d) *Variances and exceptions:*

(1) *Variance permit:*

- a. The council shall have the authority, consistent with this section, to grant special variances which may be requested when it finds or determines that:
  1. Strict conformance with the provisions of this chapter would cause a hardship upon any person; or
  2. The offending noise will be for a short duration and compliance with this section will be impractical; or
  3. The benefit in the community of the activity creating the offending noise is greater than the adverse effect on the community of the noise created; or
  4. The applicant needs additional time to modify equipment or take other action in order to comply with the provisions of this section.
- b. Notice of an application for a variance granted under this section shall be published in the same manner as provided for notice of ordinances and shall be granted only after the matter is considered in a hearing at a regularly scheduled council meeting.
- c. The mayor or chief of police may grant an application for a variance a temporary permit to exceed levels established herein until action is taken by the council on the application for a variance.

- d. Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by applicant. Noncompliance with any condition of a special variance shall terminate it and subject the person holding it to those provisions of this section regulating the source or activity for which the special variance was granted. Applications for extension of time limits specified in special variances or for modifications of other conditions shall be treated like applications for initial variances.

(2) *Exceptions:*

- a. Airport and aircraft operations.
- b. Public functions: Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate any public or private school function, including sporting events where the function occurs on the property of the school.
- c. Governmental activities: Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate any federal, state or local governmental agency or any employee or agent of the same in the fulfillment of any official duty or activity sanctioned by or on behalf of the governmental agency.

- (e) *Penalties.* Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or not more than thirty (30) days in jail, or both, at the discretion of the judge.

(Ord. No. 1991-3, 6-11-91; Ord. No. 1994-6, 11-22-94)