

CITY COUNCIL OVERSIGHT COMMITTEE MEETING

**MUNICIPAL BUILDING CONFERENCE ROOM
201 WEST GRAY**

THURSDAY, AUGUST 9, 2018

4:00 P.M.

- 1. DISCUSSION REGARDING THE CITY OF NORMAN NOISE ORDINANCE.**



Date: August 3, 2018
To: City Council Oversight Committee
From: Jeanne Snider, Assistant City Attorney 
Subject: Noise Ordinance

BACKGROUND

Noise produced by people has increasingly become a concern for communities. Noise is usually a local, not a statewide or national concern. Local governments may enact ordinances in an attempt to control noise produced by commercial or non-commercial activities. Commercial noise could be sounds emitted from a business in the normal operation of that business. These noises could range from loud music from a venue or banging of a construction site. As the population increases and expands, residential communities are developing further into areas formerly characterized as “rural” resulting in clashes between residential neighbors and other zoning uses, such as commercial or industrial.

City legal staff has been asked to review Chapter 10, Article III Noise Control ordinances in the City Code.

DISCUSSION

Current Ordinance (Attachment 1)

The current ordinance generally defines prohibited acts, definitions or terminology and specific prohibitions against acts which include use or maintenance of items or activities. Maximum district noise levels are also included. There are limits on motor vehicle noise and exemptions for the emission of sound for the purpose of alerting persons to an emergency, emission of sound in the performance of emergency work and authorized testing for public safety equipment. Also exempted are organized school sponsored sporting events, public utilities, interstate railways and aircraft and allows for the issuance of a Noise Permit.

- Sec. 10-301 Declaration of policy
- Sec. 10-302 City of Norman contracts and purchases
- Sec. 10-303 Definitions and standards
- Sec. 10-304 Use district noise levels
- Sec. 10-305 Motor vehicle noise
- Sec. 10-306 Sound level measurement
- Sec. 10-307 Noises prohibited
 - a. General prohibitions
 - b. Specific prohibitions
 - 1. Horns and signaling devices

office memorandum

2. Radios, television sets, musical instruments and similar*
3. Public loudspeakers*
4. Hawkers and peddlers*
5. Animals*
6. Loading operation*
7. Construction work
8. Domestic power equipment
9. Commercial power equipment
10. Enclosed place of public entertainment
11. Fireworks or explosives
12. Racing events*
13. Powered model mechanical devices*
14. Dynamic engine braking devices
15. Defect in vehicle*
16. Refuse compacting vehicles
17. Garbage collection
18. Standing motor vehicles*
19. Quite zones
20. Bells and chimes
21. Fixed siren, whistlers and horns*
22. Vehicle, recreational vehicle, motorboat repairs, testing
23. Groups of gatherings of people*
24. Emergency-type alarms

- Sec. 10-308 Exemptions
- a. Emergencies
 - b. Organized school sponsored sporting event
 - c. Public utilities under authority of OCC
 - d. Interstate railway locomotives and trains; aircraft
 - e. Noise as a result of a Noise Permit

- Sec. 10-309 Permit
- Sec. 10-310 Reserved
- Sec. 10-311 Terminology
- Sec. 10-312 Penalties
- Sec. 10-313 Additional remedies

**specifically mentions Sec. 10-304 or causes a noise disturbance*

Loading operations, construction work, domestic and commercial power equipment, garbage collection and groups of gatherings of people all have adjustments that set specific days, times of day and maximum sound levels.

Decibel Sound Levels

Noise standards are often measured in decibels, which is the unit that is generally employed to measure sound pressure. Our research revealed not all cities require the use of decibels to measure sound. The use of decibels does provide some scientific evidence as to the noise level apart from one person's sensory observation or personal impression. Sec. 10-304 designates use district noise levels. The chart in 10-304 separates use districts of residential, commercial and industrial. Agricultural zoning district is not addressed. The chart separates L90, L10, and L1.

The L90, L10 and L1 are statistical noise levels for the sound level equaled or exceeded x% of the sample time. For example, L90 is the level which was exceeded 90% of the time. Section 10-304 of the Norman Code uses L90 for the ambient sound level. Statistical noise levels are commonly used for environmental noise monitoring. These levels fluctuate over time. The time period for the Norman Code is a minimum of five minutes and a maximum of 15 minutes. From our research, Oklahoma City is the only other city we found that uses these measurements.

Attachment 2 is a list of allowed residential decibel levels compiled from cities throughout the country with similar populations to Norman.

Noise Disturbance or Disturbing the Peace

Sec. 10-304 also has a secondary measurement of "or cause a noise disturbance". A noise disturbance is defined in 10-311(m) as "any sound which annoys or disturbs reasonable persons with normal sensitivities, or which injures or endangers the comfort, repose, health, hearing, peace or safety of other persons."

Sec. 15-503(3) of the Norman Code states no person shall disturb the peace of another by "playing or creating loud or unusual sounds".

The "reasonableness" standard would be applied to these ordinances and may pass constitutional muster. In prosecuting these types of noise violations, it is important to present evidence to show the noise violated a reasonable person standard and have descriptive words to describe noise of a type or volume that a reasonable person would not tolerate under the circumstances.

Any person violating any provision of the Noise Control ordinance may be punished by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00), or by imprisonment not to exceed sixty (60) days, or by both such fine and imprisonment. Each time such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

Persons convicted of violating the provisions of Chapter 15, Disturbing the Peace, may be punished by a monetary fine in an amount of not less than fifty dollars (\$50.00) nor

more than seven hundred fifty dollars (\$750.00), or by imprisonment for a period not to exceed sixty (60) days, or by both such fine and imprisonment.

Enforcement

The Norman Police Department purchased a hand-held sound level measuring device, the 3M SoundPro. The device makes it easy to document and analyze noise exposures. The SoundPro retrieves, downloads, shares and saves instrument data and creates charts, reports, tables and panels to interpret the measurements. When a noise complaint is received, a police officer can use this device to measure sound decibels and determine whether the applicable decibel levels are being exceeded. If the levels are being exceeded, the police office can issue a citation for violation of the noise ordinance. If the noise level does not exceed the decibel levels in the ordinance, but is disturbing the peace of the complaining party, the complaining party can sign a citation for a violation of Section 15-503, Disturbing the Peace.

Lt. Jeffrey Robertson will be present to discuss enforcement issues, the operation and training of the 3M SoundPro. A meeting is scheduled Monday, August 6, 2018, with the NPD, city legal staff and a representative from the Oklahoma Occupational Safety and Health Administration to discuss noise disturbances. Citizens may apply for a Noise Variance by completing a Permit application and submitting to the Norman Police Department. Seven permits per year per applicant may be approved. A copy of the Noise Variance Permit is attached. (Attachment 3).

Other Oklahoma Cities

Broken Arrow	Disturbing the peace, disorderly conduct includes time frames, but also establishes them as prima facie evidence; does not discuss decibels.
Edmond	Includes information scattered throughout ordinances without using decibels—very distinguishable from OKC or Norman.
Enid	General prohibition on “any loud, unnecessary, unusual or objectionable noise” disturbing the public or annoying inhabitants. Exemption provided for providing music “to the exclusive enjoyment of persons actually on the premises or within the place of business of such person” so long as not so loud to cause offense, annoy public, or disturb peace; however, no loud speakers allowed between 10:00 pm and 6:00 am.
Lawton	Similar to Norman but does not reference decibels, references prima facie evidence.
Moore	Similar to Norman; addresses sound production devices that are plainly audible between 10:00 pm and 7:00 am in a dwelling or

audible fifty feet from public property or right-of-way. Includes specific prohibitions on outdoor public address systems and unusual noises, music, or strong vibrations.

Oklahoma City	Similar to Norman with same decibel levels (except L ¹) but more guidance regarding law enforcement.
Owasso	Addresses disturbing peace and quietude with “any contrivance” with an exception for religious bells; prohibits creating loud or unnecessary noises that is detrimental or disturbs peace of another between 11:00 pm and 7:00 am such to disturb a residence.
Stillwater	Noises prohibited generally; Public nuisances including loud/unusual noises; prohibits loud music with limits for day and night based on distance in residential areas and provides guidelines on bass.
Tulsa	Similar to Broken Arrow, includes quiet hours without discussing decibels.
Ft. Worth, TX	Updated in 2012. References decibel levels (but does not include L90, L10, L1); includes specific days/times for specific acts. (Attachment 4).

Constitutional Considerations

To avoid constitutional challenges, ordinances should be content-neutral both facially and as applied, be mindful of affecting property rights, and provide clear definitions of potentially vague terms.

Modifications to ordinances may implicate constitutional considerations under the First, Fifth, and Fourteenth Amendments. See Luis Inaraja Vera, *How Science Can Improve Regulation: Noise Control in Urban Areas*, 53 TULSA L. REV. 33 (2017), Paula B. Bentley, *A Line in the Sand: Florida Municipalities Struggle to Determine the Line Between Valid Noise Ordinances and Unconstitutional Restrictions*, 35 STETSON L. REV. 461 (2006).

Any ordinance affecting public speech must be content-neutral on its face and in its application and must withstand strict scrutiny, meaning the regulation must be narrowly tailored to serve a compelling state interest. *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2226 (2015). Furthermore, regulations must not be overbroad by limiting “more speech than is necessary to achieve the goal of protecting citizens from excessive noise.” Bentley, *A Line in the Sand* at 475.

Dramatically altering permissible decibels or imposing greater restrictions on property usage also may trigger Fifth Amendment Takings considerations if the changed

regulation “sacrifice[s] all economically beneficial uses” of the property so as to diminish its value. Vera, *How Science Can Improve Regulation*, at 60-61. Ordinance modification also may implicate Due Process considerations if the language in the new ordinance is too vague. Bentley, *A Line in the Sand* at 478. Terms such as “unnecessary,” “annoying,” and “unusual” have been found to be vague. See *Coates v. Cincinnati*, 402 U.S. 611, 614 (1971) (“Conduct that annoys some people does not annoy others. Thus, the ordinance is vague . . . in the sense that no standard of conduct is specified at all.”), *Nichols v. Gulfport*, 589 So. 2d 1280, 1282 (Miss. 1991) (finding terms “unnecessary” and “unusual” in municipal ordinance to be vague so that common person has to guess at its meaning).

CONCLUSION

Most people believe in their right to quiet enjoyment of their surroundings, specifically in their home. Outdoor noise, and specifically outdoor live entertainment, are particular areas that can cause conflict between multiple land uses. The provisions of a noise ordinance should be tailored to meet the needs of a community.

Attachment 1

ARTICLE III. - NOISE CONTROL^[5]

Sec. 10-301. - Declaration of policy.

Whereas, the making and creation of excessive, unnecessary or unusually loud noises within the limits of Norman, Oklahoma is a condition which has existed for some time and the extent and magnitude of such noises is increasing; and

Whereas, the making, creation or maintenance of such excessive, unnecessary or unusually loud noises which are prolonged, unusual or unreasonable in their time, place and use affect and are a detriment to public health, comfort, convenience, safety and welfare of the residents of Norman, Oklahoma; and

Therefore, the necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of public policy, and the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and the peace and quiet of the inhabitants of Norman, Oklahoma.

(Ord. No. 0-7778-9)

Sec. 10-302. - City of Norman contracts and purchases.

- (a) *Compliance of City contractors and subcontractors.* It is the policy of the City of Norman to comply with the noise emission standards, as set forth in this chapter, in its own operations and the operations of its contractors and subcontractors shall be notified of and required to comply with the provisions of this article.
- (b) *City purchases.* It is the policy of the City of Norman to purchase only equipment which complies to the standards established for the same by this article.

(Ord. No. 0-7778-9)

Sec. 10-303. - Definitions and standards.

Terminology used in this article may be found in section 10-311, and if not defined therein shall be in conformance with applicable American National Standards Institute Publication, including but not limited to SI. 1-1960, R 1971, or those from its successor publications or bodies.

(Ord. No. 0-7778-9)

Sec. 10-304. - Use district noise levels.

(a) *Maximum permissible sound levels.* It shall be a violation of this article for any person to operate or permit to be operated any stationary source of sound which either:

- (1) Creates a sound level greater than 15dB(A) above the ambient sound level (L_{90}) within any land use district during any measurement period; or
- (2) Creates a ninetieth percentile sound level (L_{90}), a tenth percentile sound level (L_{10}) or a first percentile sound level (L_1) for any measurement period which exceeds the limits set forth for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise:

Use District	L_{90}		L_{10}		L_1	
	9pm— 7am	7am— 9pm	9pm— 7am	7am— 9pm	9pm— 7am	7am— 9pm
Residential	50dB(A)	55dB(A)	60dB(A)	65dB(A)	65dB(A)	70dB(A)
Commercial	55dB(A)	60dB(A)	65dB(A)	70dB(A)	70dB(A)	75dB(A)
Industrial	65dB(A)	70dB(A)	75dB(A)	80dB(A)	80dB(A)	85dB(A)

When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories. For the purpose of enforcing these provisions a measurement period shall not be less than five (5) minutes nor more than fifteen (15) minutes.

(b) *Correction for character of sound.*

- (1) For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound, the limits set forth in subsection (a) above shall be reduced by 5 dB(A).

- (2) Notwithstanding compliance with part (1) of this subsection, it shall be a violation of this ordinance for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying or repetitive impulsive sound which creates a noise disturbance.

(Ord. No. 0-7778-9; Ord. No. 0-8081-5; Ord. No. 0-8283-110)

Sec. 10-305. - Motor vehicle noise.

- (a) No person shall drive or move or cause or knowingly permit to be driven or moved a motor vehicle or combination of vehicles at any time in such a manner as to exceed the following noise limits for the category of motor vehicle shown below. The standard measurement height shall be five (5) feet (1.5 meters) and the measurement distance no less than twenty-five (25) feet (7.5m). The distance shall be measured from the near side of the nearest monitored traffic lane to the microphone.

	Sound Level, dB(A)
Motor vehicles with a manufacturers gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of ten thousand (10,000) pounds or more, or any combination of vehicles towed by such motor vehicle	88
Motorcycles	78
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	78

- (b) This section shall apply 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 this title relating to motor vehicle mufflers for noise control.

- (c) No person shall operate or cause to be operated any motor vehicle unless the exhaust system of such vehicle is:
- (1) Free from defects which affect sound reduction;
 - (2) Equipped with a muffler or other noise dissipative device; and
 - (3) Not equipped with any cut-out, by-pass or similar device.

(Ord. No. 0-7778-9; Ord. No. 0-0304-56, § 1)

Sec. 10-306. - Sound level measurement.

Sound level measurements shall be made with a sound level meter Type II or better using the "A" weight scale, in accordance and conforming with the standards promulgated by the American National Standards Institute.

(Ord. No. 0-7778-9)

Sec. 10-307. - Noises prohibited.

- (a) *General prohibitions:* In addition to the specific prohibitions outlined in subsection (b) and sections 10-304 and 10-312 below of this article, it shall be unlawful for any person to make, continue, or cause to be made or continued any noise disturbance within the limits of Norman.
- (b) *Specific prohibitions:* The following acts are declared to be in violation of this article:
- (1) *Horns and signaling devices.* Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place therein except as a danger warning signal as provided in the vehicle code of the State of Oklahoma, or the sounding of any such signaling device for an unnecessary and unreasonable period of time.
 - (2) *Radios, television sets, musical instruments, and similar devices.*
 - a. Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound, except as provided for in paragraph (3) below, in such a manner as to violate section 10-304 or cause a noise disturbance.
 - b.

The operating of any such device in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty (50) feet (fifteen (15) meters) from such device when operated in or on a vehicle on a public right-of-way or public space, or in a boat on public waters.

- (3) *Public loudspeakers.* Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, or public 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 violate section 10-304 or cause a noise disturbance unless a permit as provided by section 10-309 is first obtained.
- (4) *Hawkers and peddlers.* Selling anything by outcry (vocal, electrical, or mechanical amplification) within any area of the City therein zoned primarily for residential uses in such a manner as to violate section 10-304 or cause a noise disturbance. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.
- (5) *Animals.* Owning, keeping, possessing, or harboring any animal which by frequent or habitual noisemaking, violates section 10-304 or causes a noise disturbance. The provisions of this section shall apply to all private and public facilities, including any animal pounds, which hold or treat animals.
- (6) *Loading operation.* Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers or other objects between the hours of 9 p.m. and 7 a.m. the following day in such a manner as to violate section 10-304 or cause a noise disturbance.
- (7) *Construction work.* Operating, or causing to be used or operated, any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys, or appurtenances thereto:
 - a. In residential or commercial land use districts between the hours of 9 p.m. and 7 a.m. the following day;
 - b. In any land use district where such operation exceeds the sound level

limits for an industrial land use as set forth in section 10-304.

- (8) *Domestic power equipment.* Operating or permitting to be operated any power equipment used for home or building repair or grounds maintenance, including, but not limited to power saw, sander, lawn mower, or garden equipment, in residential or commercial zones:
 - a. Outdoors between the hours of 9 p.m. and 7 a.m. the following day;
 - b. Any such power equipment which emits a sound level in excess of seventy-four (74) dB (A) measured at a distance of fifty (50) feet (fifteen (15) meters).
- (9) *Commercial power equipment.* Operating or permitting to be operated, any power equipment, except construction equipment used for construction activities, including, but not limited to chain saws, pavement breakers, log chippers, powered hand tools:
 - a. In residential or commercial land use districts between the hours of 9 p.m. and 7 a.m. the following day;
 - b. In any land use district if such equipment emits a sound pressure level in excess of eighty-two (82) dB (A) measured at a distance of fifty (50) feet (fifteen (15) meters).
- (10) *Enclosed place of public entertainment.* Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound with produces, at a point that is normally occupied by a customer, maximum sound levels of ninety (90) dB (A) or greater as read with the slow response on a sound level meter, unless a conspicuous and legible sign at least two hundred twenty-five (225) square inches in area is posted near each public entrance stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE 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 violate section 10-304 of this article.
- (11) *Fireworks or explosives.* The use of explosives or fireworks, or the firing of guns or other explosive devices so as to be audible across a property boundary or on a public space or right-of-way, without first obtaining a permit as provided by section 10-309. This provision shall not be construed to permit conduct prohibited by other statutes, ordinances or regulations governing such activity.

- (12) *Racing events.* Permitting any motor vehicle racing event at any place in such manner as to violate section 10-304 or cause a noise disturbance, without first obtaining a permit as provided by section 10-309.
- (13) *Powered model mechanical devices.* The flying of a model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-producing devices, between the hours of 9 p.m. and 7 a.m. the following day or in such a manner as to violate section 10-304 or cause a noise disturbance.
- (14) *Dynamic engine braking devices.* (Commonly referred to as Jacobs Brake.) Operating any motor vehicle with a dynamic engine braking device engaged except for the aversion of imminent danger.
- (15) *Defect in vehicle.* Operating or permitting to be operated or used any truck, automobile, motorcycle, or other motor vehicle which, by virtue of disrepair or manner of operation, violates section 10-304 or causes a noise disturbance.
- (16) *Refuse compacting vehicles.* The operating or causing or permitting to be operated or used any refuse compacting vehicles which creates a sound pressure level in excess of seventy-four (74) dB (A) at fifty (50) feet (fifteen (15) meters) from the vehicle.
- (17) *Garbage collection.* The collection of garbage, waste or refuse between the hours of 9 p.m. and 7 a.m. the following day:
 - a. In any area zoned residential, or within three hundred (300) feet of an area zoned residential;
 - b. In any land use district so as to cause a noise disturbance.
- (18) *Standing motor vehicles.* The operating or causing or permitting to be operated any motor vehicle or any auxiliary equipment attached thereto in such a manner as to violate section 10-304 or cause a noise disturbance for a consecutive period longer than fifteen (15) minutes during which such vehicle is stationary in a residential zone.
- (19) *Quiet zones.* Creating noise in excess of the residential standard as defined in section 10-304 within the vicinity of any school, hospital, nursing home, institution of learning, court, or other designated area, while the same is in use, provided conspicuous signs are displayed in the streets indicating that the same is a quiet zone.

- (20) *Bells and chimes.* Sounding, operating or permitting to sound or operate an electronically amplified signal from any bell, chime or clock, including but not limited to bells, chimes or clocks in schools, houses of religious worship or governmental buildings, which fails to meet the sound level standards set forth in section 10-304 for more than five (5) minutes in any hour.
- (21) *Fixed sirens, whistles and horns.* The sounding or causing the sounding of any whistle, horn or siren as a signal for commencing or suspending work, or for any other purpose except as a sound signal of imminent danger or the testing of such equipment, in such a manner as to violate section 10-304 or cause a noise disturbance.
- (22) *Vehicle, recreational vehicle, or motorboat repairs and testing.* Repairing, rebuilding, modifying, or testing any vehicle, recreational vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a quiet zone.
- (23) *Groups of gatherings of people.* Talking, laughing, yelling, singing, or otherwise making noise by two (2) or more people between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to violate section 10-304 or cause a noise disturbance.
- (24) *Emergency-type alarms.* The sounding, operating or permitting to sound or operate an electronically amplified signal from an alarm which fails to meet the sound level standards set forth in section 10-304 for more than fifteen (15) minutes in any hour; or the testing of such emergency alarm which fails to meet the sound level standards set forth in section 10-304 for more than five (5) minutes in any twenty-four-hour period. Testing of any emergency type alarm shall be prohibited between the hours of 9:00 p.m. and 7:00 a.m.

(Ord. No. 0-7778-9; Ord. No. 0-7879-52; Ord. No. 0-9900-31)

Sec. 10-308. - Exemptions.

- (a) The provisions of this article shall not apply to (a) the emission of sound for the purpose of alerting persons to the existence of an emergency, or (b) the emission of sound in the performance of emergency work, or (c) the authorized testing of public safety equipment. This shall include but not be limited to: safety signals and

alarm devices, storm warning sirens or horns and the authorized testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency, and emergency pressure relief valves.

- (b) An organized school sponsored sporting event.
- (c) Public utilities under the authority of the Oklahoma Corporation Commission.
- (d) Interstate railway locomotives and trains en route, and aircraft under authorization by the Federal Aviation Administration.
- (e) Noise created or to be created as a result of a Noise Permit under Section 10-309, such that a permit shall be issued beforehand by the City Manager and/or his/her designee, and such event shall be conducted in accordance with the provisions of such permit.

(Ord. No. 0-7778-9; Ord. No. 0-0203-19)

Sec. 10-309. - Permit.

- (a) Applications for a permit for relief from the noise restrictions in these ordinances may be made to the City Manager of Norman. Any permit granted by the City Manager or his authorized representative shall contain all conditions upon which said permit has been granted, including but not limited to the effective dates, time of day, location, sound pressure level, or equipment limitation. The relief requested may be granted upon good and sufficient showing:
 - (1) That additional time is necessary for the applicant to alter or modify his 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 this ordinance; and
 - (3) That no reasonable alternative is available to the applicant.
- (b) The City Manager may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.
- (c) A permit granted may be granted only for a maximum time period of up to four consecutive days. No more than 7 permits based on the premises or location, with the exception of public parks, may be issued in one year.

Requests for additional permits may be authorized by appeal to the City Council.

(Ord. No. 0-7778-9; Ord. No. 0-0203-19)

Sec. 10-310. - Reserved.

Editor's note— Ord. No. 0-0203-19, adopted Dec. 17, 2002, deleted § 10-310 which pertained to enforcement responsibility and derived from Ord. No. 0-7778-9.

Sec. 10-311. - Terminology.

For the purposes of this article, certain words and phrases used herein are defined as follows:

- (a) *A-weighted sound level*: The sound level as measured with a sound level meter using the A-weighting network. The standard notation is dB (A) or dBA.
- (b) *Ambient sound pressure level*: The sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources. It is also the A-weighted sound pressure level exceeded ninety (90) percent of the time based on a measurement period of not less than ten (10) minutes nor more than thirty (30) minutes.
- (c) *Continuous sound*: Any sound which exists, essentially without interruption, for a period of ten (10) minutes or more.
- (d) *Cyclically varying noise*: Any sound which varies in sound level such that the same level is obtained repetitively at reasonably uniform intervals of time.
- (e) *Decibel*: Logarithmic and dimensionless unit of measure used in describing the amplitude of sound. Decibel is denoted as dB.
- (f) *Device*: Any mechanism which is intended to produce, or which actually produces, noise when operated or handled.
- (g) *Dynamic braking device* (Commonly referred to as Jacobs Brake): A device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.
- (h) *Emergency work*: Work made necessary to restore property or a public utility to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.
- (i) *Emergency vehicle*: A motor vehicle used in response to a public calamity or

to protect persons or property from an imminent exposure to danger.

- (j) *Impulsive noise*: A noise containing excursions, usually less than one second, of sound levels of twenty (20) dB(A) or more over the ambient sound level using the fast meter characteristic.
- (k) *Motor vehicle*: Any vehicle which is self-propelled by mechanical power, including but not limited to passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, minibikes, go-carts, mo-peds, and racing vehicles.
- (l) *Muffler*: An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.
- (m) *Noise disturbance*: Any sound which annoys or disturbs reasonable persons with normal sensitivities, or which injures or endangers the comfort, repose, health, hearing, peace or safety of other persons.
- (n) *Noise*: Any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.
- (o) *Percentile sound pressure level*: Tenth percentile noise level—The A-weighted sound pressure level that is exceeded ten (10) percent of the time in any measurement period (such as the level that is exceeded for 1 minute in a 10-minute period) It is denoted L_{10} .

Ninetieth percentile noise level—The A-weighted sound pressure level that is exceeded ninety (90) per cent of the time in any measurement period (such as the level that is exceeded for nine (9) minutes in a 10 minute period). It is denoted L_{90} .
- (p) *Person*: Any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.
- (q) *Plainly audible noise*: Any noise for which the information content of that noise is unambiguously transferred to the listener, such as but not limited to understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.
- (r)

Property boundary: An imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person or such imaginary line which separates individual living units in a multiple-family dwelling.

- (s) *Public right-of-way:* Any street, avenue, boulevard, highway, or alley or similar place which is owned or controlled by a public governmental entity.
- (t) *Pure tone:* Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels 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) and four hundred (400) Hz, and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.
- (u) *Repetitive impulsive noise:* Any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at "fast" meter characteristic will show changes in sound pressure level greater than ten (10) dB (A)
- (v) *Sound:* Sound is mechanical energy transmitted by a cyclic series of compressions and rarefactions of molecules of the material or materials through which it passes.
- (w) *Sound level meter:* An instrument, including a microphone, amplifier, RMS detector and integrator or time averager, output meter and/or visual display and weighting networks, used to measure sound levels. The sound level meter shall conform as a minimum to the requirements of ANSI S 1.4 - 1971 Type 2 or its successor publication; and be set to an A-weighted response. An acoustical calibrator accurate to within plus or minus one decibel shall be used to verify the before and after calibration of the sound level meter on each day noise measurements are taken.
- (x) *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.
- (y)

Sound pressure level: Twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals. The sound pressure level is denoted L or SPL.

- (z) *Stationary noise source:* Any device, fixed or movable including motor vehicles, which is located or used on property other than a public right-of-way.
- (aa) *Steady noise:* A sound pressure level which remains essentially constant during the period of observation, i.e., does not vary more than six (6) dB (A) when measured with the "slow" meter characteristic of a sound level meter.
- (bb) *Use district:* Those districts established by the Norman Zoning Ordinances.

(Ord. No. 0-7778-9; Ord. No. 0-7778-61)

Sec. 10-312. - Penalties.

Any person violating any provision of this article may be punished by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00), or by imprisonment not to exceed sixty (60) days, or by both such fine and imprisonment. Each time such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Ord. No. 0-7778-9; Ord. No. 0-8081-5; Ord. No. 0-9596-45; Ord. No. 0-9900-11; Ord. No. 0-0506-10)

Sec. 10-313. - Additional remedies.

Violations of sections 10-304 through 10-309 of this article are deemed and declared to be a nuisance, and such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 0-7778-9)

Attachment 2

City	Day dB(A)	Night dB(A)
Norman, OK	55 L ⁹⁰ , 65 L ¹⁰	50 L ⁹⁰ , 60 L ¹⁰
Oklahoma City, OK	55 L ⁹⁰ , 65 L ¹⁰	50 L ⁹⁰ , 60 L ¹⁰
Fort Worth, TX	70	60
Tuscaloosa, AL	80	75
Waco, TX	85	80
Austin, TX	75 *sound equipment	(beyond property line)
Portland, OR	55-65 (mixed use)	
Los Angeles, CA	45	
Charleston, SC	67	
Columbia, SC	40-65 (cycle variables)	
Kent, WA	55	45
Lafayette, LA	60	50
Round Rock, TX	55	50
Hartford, CT	55	45
Fargo, ND	55	50
Provo City, UT	65-85	55-60
Independence, MO	60	60
Pueblo, CO	55	50
Billings, MT	65	55

Attachment 3

NOISE VARIANCE PERMIT

CITY OF NORMAN ORDINANCE NO. 0-7778-9

NOTE: MAXIMUM PERMISSIBLE SOUND PRESSURE LEVEL WILL NOT EXCEED 80 dB(A)

1. DATE: _____
2. NAME: _____
3. ADDRESS: _____

4. PHONE: _____
5. ADDRESS WHERE LIMITATION WILL BE EXCEEDED:

INDOORS OUTDOORS

6. HOW LIMITATION WILL BE EXCEEDED:
BAND STEREO PA SYSTEM
OTHER (Specify) _____

7. BY REASON OF THE FOLLOWING EXCEPTIONS TO SECTION 10-304:
Applicant requires additional time to modify or alter his activity to comply with Section 10-304.
The operation or activity is of a temporary nature and cannot be done in a manner that would comply with Section 10-304.
No other reasonable alternative is available to the applicant.

8. DATED INVOLVED: FROM _____ TO _____
9. HOURS INVOLVED: FROM _____ () .M. TO _____ () .M.

NOTE: No variance for entertainment or recreational purposes will be permitted earlier than 7:00 a.m. or later than 11:00 p.m. Sunday through Thursday, and no later than 12:00 a.m. (midnight) Friday and Saturday.

10. ADDITIONAL DETAILS: _____

I, the undersigned applicant, have read, understand, and accept all of the requirements and conditions as set forth in the Noise Variance Permit Conditions and Guidelines on the reverse side of this form.

SIGNATURE: _____

CONDITIONS AND GUIDELINES:

1. No more than seven Noise Variance Permits will be approved at the same premises or location per calendar year.
2. No variance for entertainment or recreational purposes shall be permitted earlier than 7:00 a.m. or later than 11:00 p.m. Sunday through Thursday and 12:00 a.m. (midnight) on Friday and Saturday.
3. Noise Variance Permits where two or more outside activities will occur within 500 feet of one another on the same date and time will not be issued if the events are in conflict with one another.
4. Application for Noise Variance Permits must be submitted at least two weeks prior to the date of the planned activity. Applications must be submitted in person at the Norman Police Department.
5. Noise Variance Permits may be revoked by, or at the direction of any commissioned supervisor of the Norman Police Department, or by another authorized City employee if violations of any City Ordinance occur at the location for which the Noise Variance Permit is issued. Permits will ordinarily be revoked in the event of the following violations:
 - Uncorrected or repeated violation of the noise level permitted.
 - Consumption or possession of alcoholic beverages by persons under 21 years old.
 - Intoxicated persons on the premises.
 - Narcotics use on the premises.
 - Disturbing the peace by fighting on the premises.
 - Persistent citizen complaints of disturbing the peace caused by the noise source.

A written report will be submitted by the official revoking the permit documenting the justification for revocation.

Any location which has a Noise Variance Permit revoked or at which one or more of the violations enumerated above has resulted in the filing of criminal charges shall not be issued another permit for a minimum of 6 months.

cc: City Clerk, City Manager, Chief of Police, Operations Bureau, Communications Division

Revised 4/30/13

FOR OFFICE USE ONLY	
APPROVED	DISAPPROVED
Date: _____	By: _____
Norman Police Department	
FEE FOR APPLICATION IS \$25.00	
PAID	RECEIPT # _____
	DATE: _____

Attachment 4

ORDINANCE NO. 20191-05-2012

AN ORDINANCE AMENDING SECTION 23.8 "NOISE" OF CHAPTER 23, "MISCELLANEOUS OFFENSES" OF THE CODE OF THE CITY OF FORT WORTH, TO AMEND THE NOISE ORDINANCE TO ADD DECIBEL LEVELS; TO ADD DEFINITIONS RELATED TO NOISE; TO SET MAXIMUM SOUND LEVELS BASED ON ZONING CATEGORIES; TO REGULATE AMPLIFIERS IN THE RIGHT OF WAY; TO RESTRICT ANIMAL NOISE; TO ALLOW EXCEPTIONS, PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND NAMING AN EFFECTIVE DATE.

WHEREAS, it is the policy of the City of Fort Worth to minimize the exposure of citizens to excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare; and

WHEREAS, it is the intent of the City to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the use, value and enjoyment of property; and preserves the quality of the environment; and

WHEREAS, it is desirable to address common noise complaints caused by repetitive and excessive noise by adding maximum decibel levels and by adding restrictions on noise from animals and from amplifiers in public right-of-way;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

Section 23.8 "Noise" is amended to repeal the language contained therein and replace with revised language, to read as follows:

Sec. 23-8. Noise

(a) General Provisions.

1. *Scope.* This Section applies to the control of all sound and noise within the City of Fort Worth.
2. *Overview.* This Section is designed to regulate noise by various alternative means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this Section because it is disturbing to a reasonable person of ordinary sensibilities or because it

exceeds the decibel level restrictions provided below. If a noise violates more than one of these provisions, the violation will be enforced under whichever provision is most applicable to the situation as determined by the enforcement officer of the City.

(b) Definitions.

Ambient noise shall mean the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

A-Weighting (dBA) shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

Bounding real property line shall mean an imaginary line at the ground and its vertical extension which separates the real property owned or occupied by one person from that owned or occupied by another person.

Decibel (dBA) shall mean the unit of measurement for sound pressure at a specified location.

Governmental function shall mean work conducted by a governmental entity in the interest of the community.

Sound level shall mean the instantaneous sound pressure level measured in decibels obtained by the use of a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.

Residential shall mean: property zoned for residential use in accordance with the City's zoning ordinance

Unreasonable noise shall mean:

- (1) Any unreasonably loud, disturbing, and unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof; or
- (2) Any noise of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities.

(c) Restrictions on Decibel Levels.

(1) Maximum sound levels. During the times and in the zoning districts (except for activities originating in industrial zoning districts) set out below, the activities that create a sound pressure level on the complainant's bounding real property line that exceeds the maximum allowable sound level (dBA) below are declared to be public nuisances:

All **residential** (one-, two- and multi-family) zoning districts:

Daytime: 7 a.m. to 10 p.m. = 70 dBA
Nighttime: 10 p.m. to 7 a.m. = 60 dBA

All **non-residential and mixed-use** zoning districts (excluding industrial zoning districts) outside “H” Central Business District and “TU” Trinity Uptown:

Daytime: 7 a.m. to 10 p.m. = 80 dBA
Nighttime: 10 p.m. to 7 a.m. = 70 dBA

“H” Central Business District, “TU” Trinity Uptown, and West 7th Village (per attached map)

Sunday – Thursday
Daytime: 7 a.m. to 10 p.m. = 80 dBA
Nighttime: 10 p.m. to 7 a.m. the following day = 70 dBA

Friday – Saturday
Daytime: 7 a.m. to 2 a.m. the following day = 80 dBA
Nighttime and Sunday: 2 a.m. to 7 a.m. = 70 dBA

ALL zoning where ambient noise level exceeds the prescribed maximum level:

7 a.m. to 10 p.m. = Existing Ambient (dBA) + 3 dBA
10 p.m. to 7 a.m. = Existing Ambient (dBA)

(2) Method of noise measurement. Noise measurements shall be a minimum of 30 seconds in duration. Decibel levels are measured from the complainant’s property line. For residential districts adjacent to other districts (excluding industrial zoning districts), the residential decibel levels apply when measured from a residential complainant’s property line. Violations will be determined based on the highest registered reading in that measurement period. All measurement levels will be inclusive of any ambient noise that exists at the time of the measurement.

(d) Noise Prohibited.

(1) In addition to the other noise restrictions in this Section, no person shall make, cause, suffer, allow or permit unreasonable noise in such a manner, or with such volume, intensity or duration, so as to disturb a reasonable person of ordinary sensibilities. A decibel level shall not be required for the enforcement of this subsection.

(2) This subsection is intended to apply to, but is not limited to, unreasonable noises in the form of:

- a. Amplifiers in Public ROW and on City Property. The use of a bullhorn, loudspeaker, or other amplification is prohibited in the public right-of-way and on City of Fort Worth property, unless permitted as an exception below.

Exceptions:

- i. Public safety official while performing their duties.

- ii. Persons with an Outdoor Event Permit as described in Section 20-405 of the City Code.
- iii. Persons with permission from pertinent City department director or designee.
- b. Animals. It shall be unlawful to keep, or to permit the keeping of, any dog(s) or rooster(s) or any other bird or animal that creates any bark, cry, crow, or other sound on a frequent, repetitive or continuous basis for ten (10) minutes or longer.
- c. Construction Work. Noise created by construction work within three hundred (300) feet of an occupied residential structure involving the erection, excavation, demolition, alteration, or repair of any building, structure, or flatwork is prohibited as follows:

Before 7:00 a.m. or after 8:00 p.m. Monday-Friday
Before 9:00 a.m. or after 8:00 p.m. Saturday-Sunday

- d. Solid Waste Collection. Noise created by solid waste haulers within three hundred (300) feet of residential zoning before 6:00 a.m. or after 11:00 p.m. is prohibited, unless a waiver is granted to the waste hauler by the Director of Code Compliance or his designee in accordance with the Grant of Privilege issued by the City to the waste hauler.
- e. Music. The playing of any music or musical instrument in such manner or with such volume or bass, particularly during the nighttime hours described in Section (c) Restrictions on Decibel Levels above, as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.
- f. Horns or other signal devices. The continued or frequent sounding of any horn, air horn, or signal device on any vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary and unreasonable period of time.
- g. Operation of motor vehicles. The revving of any engine, the playing of any music with such volume or bass, or the operation of any vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring, rattling, or squealing noise or vibrations.

(e) Exemptions.

The following acts and sounds shall be exempt from the requirements of this Section:

1. Noise generated due to normal building conditioning and ventilation and property maintenance.
2. Noise generated on public and school property, as permitted by the property owner.
3. Noise generated by an Outdoor Event that is permitted as described in Section 20-405 of the City Code.
4. Noise generated by amplifiers at entertainment venues having a capacity of 1,000 or more persons within "TU" Trinity Uptown.
5. Noise generated by any governmental body and its contractors in the performance of a governmental function.
6. Noise generated by airport, railway and vehicular transportation.

7. Noise produced by gas drilling and production, which is regulated by the Gas Drilling Ordinance in Chapter 15 of the City Code.
8. Noise generated at Texas Motor Speedway.

(f) Enforcement.

The provisions of this section shall be enforced primarily by the Police Department and Code Compliance Department.

(g) Penalties.

1. A person commits an offense if the person makes noise in violation of this Section.
2. An offense under this Section is punishable by a fine of not more than Five Hundred Dollars (\$500.00).
3. Each occurrence of a violation, or, in the case of multiple violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.
4. A violation of this Section is a nuisance. The prosecution of an offense under this Section does not limit the City's right to abate the nuisance, including the use of injunctive or other civil relief.

SECTION 2.

That this ordinance shall be cumulative of all other ordinances of the City of Fort Worth, Texas, and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3.

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil and criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 6.

That the City Secretary of the City of Fort Worth, Texas, is hereby directed to publish this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by the V.T.C.A. Local Government Code Subsection 52.013.

SECTION 7.

This ordinance shall take effect after adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: Melinda Ramo
Assistant City Attorney

Adopted: May 1, 2012

Effective: 5/12/12