

Chapter 22 - NOISE^[1]

Footnotes:

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Editor's note—Ord. No. 2009-9120, § 2, adopted Sept. 24, 2009, amended Ch. 22 in its entirety to read as set out herein. Former Ch. 22 pertained to similar subject matter and derived from Ord. No. 151, §§ 2—6, 8; Ord. No. 614, § 1; Ord. No. 5278, § 1, adopted Aug. 27, 1987; and Ord. No. 5853, § 17, adopted Sept. 6, 1990.

Cross reference— Prohibition against keeping noisy animals, § 6-6.

State Law reference— Disorderly conduct, V.T.C.A., Penal Code § 42.01.

Sec. 22-1. - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"A" level means the total sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit of measurement is dB(A).

Chief of police means the chief of the Irving Police Department or his designee, to include code enforcement officers, for purposes of this chapter.

Decibel means a unit of measurement for sound pressure level at a specified location.

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

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

Person means an individual, corporation, business trust, estate trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

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

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

Residential area means any real property which contains a structure or building in which one (1) or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the City of Irving's zoning ordinance.

(Ord. No. 2009-9120, § 2, 9-24-09)

Sec. 22-2. - General prohibition.

(a) No person shall make, continue, or cause to be made or continued:

- (1) Any unreasonably loud, disturbing, and unnecessary noise; or
- (2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City of Irving; or
- (3)

Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

- (b) Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:
- (1) The proximity of the sound to sleeping facilities, whether residential or commercial;
 - (2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
 - (3) The time of day or night the sound occurs;
 - (4) The duration of the sound; and
 - (5) Whether the sound is recurrent, intermittent, or constant.

(Ord. No. 2009-9120, § 2, 9-24-09)

Sec. 22-3. - Noises prohibited.

- (a) The following acts are declared to be per se violations of this chapter. This enumeration does not constitute an exclusive list:
- (1) *Unreasonable noises*: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, disturbing, and unnecessary noise, disturbance, commotion, or vibration in any boarding facility, dwelling, place of business, or other structure, or upon any public street, park, or other place or building unless the noise is the ordinary and usual sounds, noises, commotion, or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residents or which will not detrimentally affect the operators of adjacent places of business;
 - (2) *Vehicle horns, signaling devices, and similar devices*: The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the City of Irving, for more than ten (10) consecutive seconds unless the sounding of any horn, signaling device, or other similar device is a danger warning;
 - (3) *Nonemergency signaling devices*: Sounding or permitting the sounding of any amplified signal from any bell, chime, siren, whistle, or similar device intended primarily for nonemergency purposes from any place for more than ten (10) consecutive seconds in any hourly period. It is an affirmative defense to this subsection that the amplified signal is the reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors, or by the City of Irving for traffic control;
 - (4) *Emergency signaling devices*: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, unless in an emergency or except as provided in subsections a. and b., below:
 - a. Testing of an emergency signaling device shall occur between 7:00 a.m. and 9:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month;
 - b. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen (15) minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this chapter, in addition to any violation(s) of ordinances pertaining to alarms;
 - (5)

- Radios, televisions, boom boxes, phonographs, stereos, musical instruments, and similar devices:* The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passersby, or is plainly audible at a distance of fifty (50) feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential areas, including multi-family or single-family dwellings;
- (6) *Loudspeakers, amplifiers, public address systems, and similar devices:* The unreasonably loud, disturbing, and unnecessary use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound:
- a. Between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays in the following areas:
 - i. Within or adjacent to a residential area;
 - ii. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous. This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the City of Irving; or
 - b. From moving vehicles for the purpose of advertising any show, sale, display of merchandise, or any other purpose;
- (7) *Yelling, shouting, and similar activities:* Yelling, shouting, whistling, or singing in residential areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities;
- (8) *Animals and birds:* Unreasonably loud, disturbing, and unnecessary noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls, harbors, or otherwise cares for the animal or bird unless the sounds made by animals or birds in animal shelters, kennels, veterinary hospitals, pet shops, or pet kennels, licensed under and in compliance with licensing and permitting provisions set forth in this code;
- (9) *Loading or unloading merchandise, materials, equipment:* The creation of unreasonably loud, disturbing, and unnecessary noise in connection with the loading or unloading of any vehicle at a place of business or residence;
- (10) *Construction or repair of buildings, excavation of streets and highways:* The construction, demolition, alteration, or repair of any building in or adjacent to a residential district or the excavation of streets and highways in or adjacent to a residential district other than between the hours of 6:00 a.m. and 9:00 p.m. on weekdays and 7:00 a.m. and 8:00 p.m. on weekends unless the construction or repair noises results from an emergency. In nonemergency situations, the building official may issue a permit, upon application, if the building official determines that the public health and safety, as affected by unreasonably loud noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 7:00 p.m. and 7:00 a.m., will not be impaired, and if the building official further determines that loss or inconvenience would result to a party in interest. The permit shall grant permission in nonemergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less. A three-member administrative panel consisting of one representative each from the building official's office, the city engineer's office, and the police department, may issue a permit for more than six (6) days if the administrative panel determines that the public health and safety will not be impaired and if the administrative panel further determines that loss

or inconvenience would result to a party in interest. The hearing regarding an application must be heard no later than forty-eight (48) hours from the date an application is filed, unless otherwise agreed to by the city and the applicant. The ruling of the administrative panel shall be final and non-appealable;

- (11) *Blowers and similar devices*: In residential areas, between the hours of 10:00 p.m. and 7:00 a.m., the operation of any noise creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud, disturbing, and unnecessary and can be heard across the property line of the property from which it emanates;
- (12) *Commercial establishments adjacent to residential property*: Unreasonably loud, disturbing, and unnecessary noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. which is plainly audible from any residential property;
- (13) *Motor vehicle idling*: The operation of any engine of any motor vehicle with a manufacturer's gross weight specification in excess of ten thousand (10,000) pounds within a residential area or three hundred (300) feet of a residential structure for a period in excess of fifteen (15) minutes unless the vehicle is located in an enclosed structure;
- (14) *Operation of a vehicle*: The unreasonably loud, disturbing, and unnecessary:
- a. Grating, grinding, or rattling noise caused by the use of any motor vehicle that is out of repair or poorly or improperly loaded;
 - b. The discharge into the open air of the exhaust of any stationary steam engine, stationary internal combustion engine, or motor boat engine, except through a muffler or other device that will effectively and efficiently prevent loud and disturbing noises or vibrations; or
 - c. The discharge into the open air of the exhaust from any motor vehicle, except through a muffler or other device that will effectively and efficiently prevent loud and disturbing noises or vibrations;
- (15) *Vibration*: The use or cause of the use of any device that creates any ground vibration which is perceptible without instruments at any point beyond the property boundary of the source of the vibration.
- (b) *Prima facie evidence of unreasonable noise*: In residential areas between the hours of 10:00 p.m. and 7:00 a.m., the generation of sound from any identifiable source that exceeds 50 dB(A) at the property line of an offended person shall constitute prima facie evidence of a violation of this chapter. In residential areas between the hours of 7:00 a.m. and 10:00 p.m., the generation of sound from any identifiable source that exceeds 60 dB(A) at the property line of an offended person shall constitute prima facie evidence of a violation of this chapter.

(Ord. No. 2009-9120, § 2, 9-24-09)

Sec. 22-4. - Exemptions.

Sounds caused by the following are exempt from the prohibitions set out in section 22-3 and are in addition to the exemptions specifically set forth in section 22-3:

- (1) Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property;
- (2) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in 22-3(4) continues to apply;
- (3) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work;
- (4)

Repairs or excavations of bridges, streets, or highways by or on behalf of the City of Irving, the state, or the federal government, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.; or

- (5) Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including, but not limited to, school athletic and school entertainment events.

(Ord. No. 2009-9120, § 2, 9-24-09)

Sec. 22-5. - Presumption.

Whenever a violation of subsections 22-3(a)(2), (a)(6)b, or (a)(14) of this chapter occurs, the registered owner of the motor vehicle is presumed to be the person who committed the violation. Proof of ownership of a vehicle may be made by a computer-generated record of the registration of the vehicle with the Texas Department of Transportation showing the name of the person to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the person to whom the certificate of registration was issued.

(Ord. No. 2009-9120, § 2, 9-24-09)

Sec. 22-6. - Enforcement.

- (a) The chief of police or his designee (which for purposes of this chapter includes police and code enforcement officers) will have primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this chapter shall prevent the chief of police from obtaining voluntary compliance by way of warning, notice, or education.
- (b) If a person's conduct would otherwise violate this chapter and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political, or religious questions; the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

(Ord. No. 2009-9120, § 2, 9-24-09)

Sec. 22-7. - Penalties.

- (a) A person who violates a provision of this chapter is guilty of a misdemeanor which is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (b) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

(Ord. No. 2009-9120, § 2, 9-24-09)

State Law reference— Penalty for ordinance violations, V.T.C.A., Local Government Code § 54.001.