

CHAPTER 96: NUISANCES

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§ 96.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABATEMENT OF NUISANCE. The owner of any such junked vehicle and the owner or lessee or other person in possession of private land upon which any such junked vehicle is located, shall, upon appropriate notice, jointly and severally abate the nuisance by the removal of any such junked vehicle into a completely enclosed garage or other building authorized to be used for such storage purposes if within the corporate limits of the city, or otherwise to remove it to a location without the corporate limits.

NUISANCE. The doing of an unlawful act, or the omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, way, alley, parking area, stream, ditch or drainage way;
- (5) In any way renders other persons insecure in life or the use of property; and/or

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(6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

PROHIBITION OF UNSHELTERED STORAGE. It shall be unlawful to park, store, or keep or permit to be parked, stored or kept in the open upon public or private land within the corporate limits of the city a junked vehicle, except in properly zoned areas.

REMOVAL OF JUNKED VEHICLES.

(1) The term “junked vehicle” is hereby defined to mean and include any dismantled, abandoned, wrecked, junked or other motor vehicle legally or physically incapable of being operated.

(2) Unsheltered storage of a junked vehicle on public or private property is hereby declared to be a nuisance detrimental to the health, safety and welfare of the inhabitants of the city.

(Ord. 95-36, § 1) Penalty, see [§ 96.99](#)

§ 96.02 ILLUSTRATIVE ENUMERATION.

The maintaining, using, placing depositing, leaving or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (A) Noxious weeds and other rank vegetation;
- (B) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things;
- (C) Any condition which provides harborage for rats, mice, snakes and other vermin;
- (D) Any building or other structure which is in such dilapidated condition that it is unfit for human habitation, kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinary dangerous fire hazard in the vicinity where it is located;
- (E) All unnecessary or unauthorized noises and annoying vibrations, include noises;
- (F) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;
- (G) The carcasses of animals or fowl not disposed of within a reasonable time after death;
- (H) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial waste or other substances;
- (I) Any building, structure or other place or location, where any activity which is in violation of local, state or federal law is conducted, performed or maintained;

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(J) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground;

(K) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities;

(L) The unauthorized obstruction of any public street, road or sidewalk;

(M) Any abandoned vehicle; and

(N) Any condition which defaces, injures, mars or spoils the external appearance of property.

(Ord. 95-36, § 2)

§ 96.03 NOTICE TO ABATE.

Whenever a nuisance is found to exist within the city or within the city's extraterritorial jurisdiction, the city's Street Commissioner, city's Engineer, police officer of the city and/or Building Inspector or Code Enforcement Officer may give written notice to the owner or occupant of the property upon which the nuisance exists or upon the person causing or maintaining the nuisance.

(Ord. 95-36, § 4)

§ 96.04 CONTENTS OF NOTICE.

The notice to abate a nuisance issued under the provisions of this chapter shall contain:

(A) A notice to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances;

(B) The location of the nuisance, if the same is stationary;

(C) A description of what constitutes the nuisance;

(D) A statement of acts necessary to abate the nuisance; and

(E) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the city may abate such nuisance and assess the costs thereof against the person.

(Ord. 95-36, § 5)

§ 96.05 SERVICE OF NOTICE.

The notice to abate a nuisance shall be served as authorized by law.

(Ord. 95-36, § 6)

§ 96.06 ABATEMENT BY CITY.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the same, a duly designated officer or employee of the city may proceed to abate the nuisance and shall prepare a statement of costs incurred in the abatement thereof. If it is necessary for the city to contract for services to abate the nuisance, the city may proceed to abate the nuisance under a contract provision.

(Ord. 95-36, § 7)

§ 96.07 RECOVERY OF CITY’S COSTS.

(A) Any and all costs incurred by the city in abatement of a nuisance under the provision of this chapter shall constitute a lien against the property upon which the nuisance existed and shall be certified by the Clerk-Treasurer to the county’s Auditor who shall cause the cost to be placed on the tax duplicate of the owner of the property and the costs shall then be collected from the owner as other taxes are collected.

(B) In addition, the costs shall be debt which may be collected by the city in appropriate civil action.

(Ord. 95-36, § 8)

§ 96.99 PENALTY.

Any person who causes, permits, maintains or allows the creation or maintenance of a nuisance shall be punished by a fine not to exceed \$2,500. Every day any violation of this chapter or that a nuisance exists or continues shall constitute a separate offense. The fine provided for in this section shall be the maximum fine which shall be imposed in those cases where other provisions provide for a minimum fine, but does not provide for a maximum fine.

(Ord. 95-36, § 3)

§ 96.100 NOISE CONTROL.

It is hereby declared that creating any unreasonably loud or disturbing noise in the city is unlawful and constitutes a violation of city ordinance, subject to the following:

(A) The acts below are declared to be violations of this section, but such enumeration shall not be deemed to be exclusive:

(1) The operation of any electronic device, radio, audio player, television, stereo, “boombox” or similar unit at such level of volume that the sound emitted by the device is unreasonably loud or disturbing;

(2) The use or operation of any automobile, motorcycle, or other vehicle, engine, stationary or moving instrument, device or thing so used or repaired or so loaded in such manner as to create an unreasonably loud or disturbing and unnecessary roaring, booming, grating, grinding, rattling or other noise;

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(3) The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle except as a necessary warning of danger to property or persons, provided that this paragraph shall not apply to bells and sirens on emergency facilities and vehicles operated by public safety agencies of local or state government;

(4) The making of any loud noise upon the public street or in such proximity thereto as to be unreasonably loud or disturbing upon such street;

(5) The making of any noise audible out of doors or in any public place within the city by calling, barking or shouting or by means of any whistle, rattle, bell gong, musical instrument, loud speaker, amplifier or other device, or by sound truck for the purpose of advertising goods, wares, merchandise, services, or for the purpose of attracting attention or inviting patronage of a business or support of a candidate for office, political party or public issue;

(B) The term “unreasonably loud or disturbing” as used to describe sound or noise in this section means sound that:

(1) when emanating from automobiles, motorcycles or other vehicles, can be plainly heard or related vibrations detected out of doors at a distance of fifty feet or more away from the source by a person with normal hearing; or

(2) when emanating from other sources, can be clearly heard or related vibrations detected inside a building with doors and windows closed at a distance of fifty feet or more away from the source by a person with normal hearing.

(C) The creation of the following noise events shall not constitute a violation of this section:

(1) The ringing of or sounding of any church bells or chimes located upon, in or about any church or place of worship in the city;

(2) The explosion of fireworks when used as part of a permitted public event or otherwise used in manner consistent with law;

(3) The operation of trains and railroad crossing equipment and the sounding of their signals, bells and whistles;

(4) The noise produced by businesses, their vendors or customers when such noise is generated by activities in the normal course of said business that are included in approved zoning uses for the property where the business is located, provided that, the elimination of the noise would be unreasonably expensive or have a significant negative effect on the business, and reasonable, good faith measures to eliminate or reduce the offending noise have been attempted.

(5) Crowd noise, outdoor music and other noise incidental to indoor or outdoor events held pursuant to the grant of a permit by a public governmental entity.

(6) The noise generated by activities that have a history of occurring without complaint shall not be considered unreasonably loud or disturbing noise.

(7) The noise generated by lawn care and household maintenance activities between the hours of 8:00 a.m. and 8:00 p.m. prevailing local time.

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(8) The noise generated by home construction and home improvement activities between the hours of 7:00 a.m. and 7 p.m. prevailing local time.

(D) The Building Commissioner of the City is empowered to grant a written waiver of the provisions of this Section to allow unreasonably loud or disturbing noise:

(1) to emanate from a construction site during the hours otherwise prohibited by this Section when necessary or desirable to advance the progress of the construction project; or

(2) to be produced in other cases otherwise prohibited by this section when necessary or desirable to protect the public health, safety or morals.

Such waivers may be granted only pursuant to written application to the Building Commissioner on a form to be provided by the Commissioner eliciting the identity and contact information of the applicant, the place and manner of the production of the anticipated noise, the reason for same, and the availability of alternate, less noisy means to accomplish the purpose of the activity producing the noise. An interested person may appeal the grant of such written waiver to the City Board of Public Works and Safety, the decision of which upon the waiver will be final and binding.

(E) Violations of this section shall be chargeable as a violation of city ordinance and shall be subject to the penalties provided by [§ 10.99](#) of the Municipal Code. Every incident of violation and every day during which a violation continues is chargeable as a distinct and separate offense. Parties subject to liability under this section include persons who actually generate or cause to be generated the offending unreasonably loud or disturbing noise when such noise is generated on property owned by a governmental or public entity, or in the public common areas of privately owned businesses such as parking lots. Parties subject to liability under this section, when the offending unreasonably loud or disturbing noise is generated on private property, not in a public common area of a business, include the owner or owners of the property.

(F) Incidents of unreasonably loud or disturbing noise upon the streets or public areas of the city are hereby declared to constitute a public nuisance under this Article and may be abated under the terms thereof, in addition to, or in the alternative of citation for violation of city ordinance.

(Ord. 2009-10, § 1) (Ord. 2012-43, § 1)