

Chapter 8.05

NOISE REGULATIONS

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8.05.005 **Declaration of Policy.** It is hereby declared to be the policy of the City of Benton City to minimize the exposure of citizens to the harmful effects of excessive noise. It is the express intent of the City Council to control the level of noise in a manner which promotes commerce; the use, value and enjoyment of property; sleep and repose; and the quality of the environment. (Ord. 757, March 2003.)

8.05.010 **Definitions.**

- A. “Background source level” means the level of all sounds in a given environment, independent of the specific source being measured.
- B. “dDBA” means the sound pressure level in decibels measured using the “A” weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.
- C. “Distribution facilities” means any facility used for distribution of commodities to final consumers, including facilities of utilities that convey water, wastewater, natural gas, and electricity.
- D. “EDNA” means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.
- E. “Leq” means the equivalent continuous sound pressure level. A measure of the average sound pressure level during a period in time, in decibels.

- F. "Mayor" means the Mayor of the City of Benton City, Washington, or his designee.
- G. "Noise" means the intensity, duration and character of sounds, from any and all sources.
- H. "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.
- I. "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.
- J. "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.
- K. "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specification S1.4.1971. (Ord. 757, March 2003.)

8.05.020 **Public Disturbance Noise Prohibited.** No person, whether or not that person is in actual possession of the noise source, shall create, continue, or cause to be created or continued, or allow to be created or continued, any public disturbance noise. "Public disturbance noise" means any sound which:

- A. Is specifically included in, but not limited to, those listed in subsection C.
- B. That unreasonably disturbs or interferes with the peace, comfort and repose of another.
- C. Public disturbance noises for the purposes of this section shall include, but shall not be limited to, the following specified sounds and are also subject to regulation under the provisions of Section 8.05.030 of this Chapter.
 - 1. Any sound made by the use of a musical instrument, whistle, sound amplifier, juke box, radio, television, or other similar device which emanates from a building, structure or property between the hours of 10:00 p.m. and 7:00 a.m. and is received within a residential district.

2. Any sound made by the unamplified human voice which emanates from a building, structure or property between the hours of 10:00 p.m. and 7:00 a.m., and is received within a residential district.
3. Frequent, repetitive or continuous sounds made by any animal, which emanates from a building, structure, or property and is received within a residential district.
4. Any sound made by the discharge of exhaust gases from an internal combustion engine except through a muffler, or noise generated by the use of an exhaust compression brake ("jake brake").
5. Any sound made by the operation of any motorcycle, motorbike, off-road or terrain vehicle in the City on any property not a part of the street system of the City when such motorcycle, motorbike, off-road or terrain vehicle does not conform to the muffler standards required for operation on the public streets.
6. Any sound made by a horn or other similar signaling device attached to a motor vehicle except when reasonably necessary to insure safe operation as permitted in RCW 46.37.380.
7. Any sound made by a loud speaker or sound amplifier exterior to any building for commercial advertising or sales purposes or for attracting the attention of the public to any performance, show or other event.
8. Any sound made by the construction, excavation, repair, demolition, destruction, or alteration of any building, property or upon any building site between the hours of 10:00 p.m. and 7:00 a.m. and is received within a residential district.
9. Any sound made by operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool or air conditioner, fan or blower, or similar device used in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential boundary.
10. Any sound made by speaker sound amplifier or motor vehicle audio system exterior to the passenger sitting compartment of a motor vehicle on a public street or highway (anywhere within the right-of-right thereof) of a commercial radio station broadcast, or music from an audio tape cassette, compact disc, or other recording

medium.

11. Any sound from a motor vehicle audio system such as tape players, radios, and compact disc players, operated at a volume and under conditions, so as to be audible greater than seventy-five (75) feet from the vehicle itself.
12. Any sound from portable audio equipment, such as a radio, tape player or compact disc player, which is operated at such a volume so as to be audible at a distance of seventy-five (75) feet or more from the source of the sound. (Ord. 757, March 2003.)

8.05.030 **Maximum Permissible Environmental Noise Levels.**

A. Designation of Zoned Areas. The Environmental Designation for Noise Abatement (EDNA) is hereby established as follows:

1. Residential Zones Class A EDNA
2. Commercial Zones Class B EDNA
3. Industrial Zones Class C EDNA

B. Maximum Noise Levels.

1. No person shall cause or permit noise to intrude into the property of another person which noise exceeds the maximum permissible noise levels set forth below in this section.
2. The noise limitations established are as set forth in the following table after any applicable adjustments provided for herein are applied.

| | <u>EDNA of</u> | | |
|---------------------------|---------------------|----------------|----------------|
| | <u>Noise Source</u> | | |
| | <u>Class A</u> | <u>Class B</u> | <u>Class C</u> |
| <u>EDNA of</u> | | | |
| <u>Receiving Property</u> | | | |
| Class A | 55 dBA | 76 dBA | 60 dBA |
| Class B | 57 dBA | 60 dBA | 65 dBA |
| Class C | 60 dBA | 65 dBA | 70 dBA |

3. Between the hours of 10:00 p.m. and 7:00 a.m., the noise limitations of the foregoing table shall be reduced by 10 dBA for receiving property within Class A EDNAs.

4. At any hour of the day or night, the applicable noise limitations as stated above may be exceeded for any receiving property by no more than:
 - a. 5 dBA for a total of 15 minutes in any one-hour period; or
 - b. 10 dBA for a total of 5 minutes in any one-hour period; or
 - c. 15 dBA for a total of 1.5 minutes in any one-hour period. (Ord. 757, March 2003.)

8.05.040 **Exceptions.**

- A. The following shall be exempt from the provisions of Section 8.05.030 (B) between the hours of 7:00 a.m. and 10:00 p.m.:
 1. Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances.
 2. Sounds created by the discharge of firearms on authorized shooting ranges.
 3. Sounds created by blasting.
 4. Sounds created by aircraft engine testing and maintenance not related to flight operations; provided, that aircraft testing and maintenance shall be conducted at remote sites whenever possible.
 5. Sounds created by the installation or repair of essential utility services.
- B. The following shall be exempt from the provisions of Section 8.05.030 (B):
 1. Noise from electrical substations and existing stationary equipment used in the conveyance of water, wastewater and natural gas by a utility.
 2. Noise from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours,

which would affect exemptions under this regulation, require approval of the City.

- C. The following shall be exempt from the provisions of Section 8.05.030.B except insofar as such provisions relate to the reception of noise within Class A EDNAs between the hours of 10:00 p.m. and 7:00 a.m.
1. Sounds originating from temporary construction sites as a result of construction activity.
- D. The following shall be exempt from all provisions of Section 8.05.030.B:
1. Sounds created by motor vehicles when regulated by Chapter 173-62 WAC.
 2. Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations.
 3. Sounds created by surface carriers engaged in interstate commerce by railroad.
 4. Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes and carillons.
 5. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.
 6. Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health, safety or welfare of the community.
 7. Sounds originating from officially sanctioned parades and public events.
 8. Sounds emitted from petroleum refinery boilers during startup of said boilers: provided, that the startup operation is performed during daytime hours whenever possible.
 9. Sounds caused by natural phenomena and unamplified human voices.
 10. Sounds created by motor vehicles, licensed or unlicensed, when operated off public highways EXCEPT when such sounds are received in Class A EDNAs.

11. Sounds originating from existing natural gas transmission and distribution facilities.

However, in circumstances where such sounds impact EDNA Class A environments and complaints are received, the Mayor or his designee, may take action to abate by application of EDNA Class C source limits to the facility under the requirements of this Chapter.

- E. Nothing in these exemptions is intended to preclude the City from requiring installation of the best available noise abatement technology consistent with economic feasibility. (Ord. 757, March 2003.)

8.05.050 Additional Exceptions - Application.

- A. Additional exceptions may be granted to any person from any requirement of Section 8.05.020 of this Chapter if findings are made that any such exception is in the public interest and that the proposed activity will have a substantial public participation, i.e., festivals, parades and other community celebrations.
- B. Exceptions may be granted to any person from any requirement of Section 8.05.030 of this Chapter if findings are made that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon existing noise source or because of nonavailability of feasible technology or control methods.
- C. Applications shall be made to the Mayor. Exceptions shall be issued only upon application in writing and after providing such information as may be requested. No exception shall be issued for a period of more than thirty (30) days except upon due notice to the public with opportunity to comment to the City Planning Commission. The City Planning Commission shall make a recommendation for approval or disapproval to the City Council in all such cases. The City Council shall then make a final determination of approval or disapproval of an exception for a period exceeding thirty (30) days. Public hearings may be held before the City Planning Commission, in any case, when substantial public interest is shown at the discretion of the Mayor.
- D. Any such exceptions or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances.
- E. An implementation schedule for achieving compliance with this Chapter shall be incorporated into any exception from Section 8.05.030 that is

issued.

- F. Sources of noise, subject to this Chapter, shall immediately comply with the requirements of this Chapter, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of an exception. (Ord. 757, March 2003.)

8.05.060 **Noise in Public Parks and Places.**

- A. It is unlawful for any person to cause, or for any person in charge of a group of persons to allow sound from an officially sanctioned musical event to originate in a public park, stadium or public place, which exceeds an Leq of ninety-five (95) dBA for one (1) minute as measured fifty feet (50') (approximately fifteen (15) meters) from the source or sources, whether or not the sounds are live or recorded; provided, that this limitation shall not apply to indoor events. Between the hours of 10:00 p.m. and 7:00 a.m., Sunday through Thursday, and 11:00 p.m. and 7:00 a.m. Friday and Saturday, the maximum noise levels set in Section 8.05.030 shall govern.
- B. Each violation of this Section which occurs after notice to the person (designated on the permit as the agent to receive notices of violations in the case of events with permits) that he or she is in violation of this section shall constitute a separate offense. At the time of application, the applicant shall designate an on-premises agent who will accept notices of violations of this section during the event. The absence of the designated on-premises agent from the event or the inability of the serving agency to locate the on-premises agent or the refusal of an on-premises agent or responsible official of a group to accept notice of a violation shall not affect the validity of the initial or successive violations.
- C. The Mayor, or his authorized representative, may terminate a performance as a public nuisance after following the notice requirements of subsection B of this section if the decibel level exceeds one hundred five (105) dBA for a total of five (5) minutes in any thirty (30) minute period as measured fifty feet (50') (approximately fifteen (15) meters) from the source or sources.
- D. Before any permit or other authorizing document is issued for any event which will produce sounds which may violate this section, the application shall be circulated to the Mayor who is authorized to attach any conditions consistent with this Chapter and reasonably calculated to prevent annoying sounds.

- E. In any permit for use of a public park, stadium or public place, the Mayor or his designee may stipulate that the City will require sound-control monitoring services whenever:
 - 1. Amplified sound will be used at the proposed event; and
 - 2. The Mayor finds that, unless monitored, the sound level originating at the proposed event may exceed the sound level in Section 8.05.060 (A). The Mayor shall be guided principally by the expected power and type of amplification and, for those with a record of prior usage, by past events held on City property within the last two (2) years.
- F. The Mayor, in his or her discretion, may perform the service directly, delegate performance to the authority issuing the permit, or retain an acoustician.
- G. In the event that monitoring is required, the cost of such service shall be paid by the event permittee.
- H. This section does not limit or diminish the management authority of the Mayor to require a performance bond or cash deposit for the use and occupancy of a public park, stadium or public place, a security for payment of costs and expenses related thereto, damages or cleanup costs that may arise from a proposed event, and/or taxes and other amounts that may become payable; nor does this section limit or diminish the City's management authority to grant or deny such permits for causes independent of this Noise Regulations Ordinance codified in this Chapter.
- I. A copy or digest of this section on noise in public parks and public places shall be delivered to every person applying for a permit or other authorizing document which involves the production of sounds which may violate this section and the permittee shall sign a receipt signifying that he or she has received the same. (Ord. 757, March 2003.)

8.05.070 **Enforcement.** Noise measurement is not necessary for the enforcement of Section 8.05.020 of this Chapter. Noise measurement for the purpose of enforcing the provisions of any section of this Chapter shall be measured in dBA with a sound level meter in good operating condition and properly calibrated. Except for parks and recreation areas and 8.05.020.C 5, 6, 11, 12 and 13, enforcement of Section 8.05.020 and 8.05.030 of this Chapter shall be undertaken only upon receipt of a complaint by an identifiable person who resides, owns property, or is employed in the area affected by the noise complained of. Whenever any Code Enforcement Officer of the City or the Benton County Sheriff Deputy has reason to

believe that any person is in violation of any provision of this Chapter, it shall be cause for the issuance of a Notice of Infraction. (Ord. 757, March 2003.)

8.05.080 **Violations.** Any person found to be in violation of the provisions of this Chapter shall be deemed to have committed a civil infraction and for each violation shall be subject to a civil penalty of one hundred dollars (\$100.00). (Ord. 757, March 2003.)

8.05.090 **Ordinance Additional to Other Law.** The provisions of this Ordinance shall be cumulative and nonexclusive and shall not effect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal or amend or modify any law, ordinance, or regulation relating to noise, but shall be deemed additional to existing legislation and common law on noise. (Ord. 757, March 2003.)

8.05.100 **Severability.** If any section, part of section, sentence, clause or phrase of this Chapter shall be held to be unconstitutional or invalid, the remaining provisions of this Chapter shall nevertheless remain in full force and effect. (Ord. 757, March 2003.)