

CHAPTER 93

NOISE

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93.005. DECLARATION OF PURPOSE. It is hereby found and declared that:

(a) The making and creation of excessive, unnecessary or unusually loud noises within the limits of the City of Salem is a condition which has existed for some time and the extent in volume of such noises is increasing;

(b) The making, creation, or maintenance of such excessive, unnecessary, unnatural, or unusually loud noises which are prolonged, unusual and unnatural in their time, place, and use affect and are a detriment to public health, comfort, convenience, safety, welfare, and prosperity of the residents of the City of Salem; and

(c) The necessity in the public interest for provisions and prohibitions hereinafter contained in this chapter, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and prosperity and the peace and quiet of the City of Salem and its inhabitants. (Ord No. 166-78)

93.007. DEFINITIONS. Except where the context specifically requires otherwise, as used in this chapter, the following words and phrases mean:

(a) A-scale (dBA): the sound level in decibels measured using the A-weighted network as specified in American National Standard Specification for Sound Level Meters (ANSI S1.4-1971).

(b) Commercial: any use of real property, whether publically or privately owned, and rights-of-way appurtenant thereto, as an office, service establishment, hotel, motel, retail store, park, amusement or recreation facility, or other use of the same general type.

(c) Decibel (dB): a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure. The reference pressure is 20 micropascals (20 micronewtons per square meter).

(d) Decision maker: the City Council; the Health Officer, or the Director of Community Services, or their designees, acting as the decision maker on an application for a "Class A" or "Class C" variance for events requiring a permit under SRC 76.100, SRC Chapter 94, and SRC Chapter 103.

(e) Domestic power equipment: power tools or equipment used for home or building repair, maintenance, alteration or other home manual arts projects, including, but not limited to power hand tools, lawn mowers, garden equipment and snow removal equipment.

(f) Frequency: the time of repetition of a periodic phenomenon, measured in Hertz (H_z).

(g) Health Officer: the Director of the Department of Administrative Services of the City of Salem or the Director's designee.

(h) Impulse sound: a single pressure peak or single burst (multiple pressure peaks) for a duration of less than one second as measured on a peak unweighted sound level meter.

(i) Industrial: the use of real property, whether publically or privately owned, and rights-of-way appurtenant thereto, as a warehouse, factory, mine, wholesale trade establishment, or other use of the same general type.

(j) Motor vehicle: a vehicle that is self-propelled or designed for self-propulsion.

(k) Noise sensitive: any use of real property, whether publicly or privately owned, and rights-of-way appurtenant thereto, as a church, temple, synagogue, day care center, hospital, rest home, retirement home, group care home, school, dwelling unit (single family dwelling, duplex, triplex, multifamily dwelling, or mobile home), or other use of the same general type.

(l) Plainly audible: capable of being clearly heard by or communicated to a listener. Plainly audible sounds include, but are not limited to, understandable musical rhythms, understandable spoken words, and vocal sounds other than speech which are distinguishable as raised or normal.

(m) Sound level in dBA: the weighted sound pressure level, measured by the use of an A-weighted sound level meter set at a fast meter response.

(n) Sound level meter: a sound level measuring device, either Type 1 or Type 2, as defined by American National Standard Specification for Sound Level Meters (ANSI S1.4-1971).

(o) Sound pressure level-in dB: a sound level that is 20 times the logarithm to the base 10 of the ratio of the root-mean square of the pressure of a given sound to the reference pressure. The reference pressure is 20 micropascals (20 micronewtons per square meter). (Ord No. 179-82; Ord No. 53-97; Ord No. 91-99; Ord No. 23-2002; Ord No. 57-05; Ord No. 31-06)

93.010. NOISE DISTURBANCE PROHIBITED. (a) Generally. In addition to the specific prohibitions in subsection (b) of this section and SRC 93.180, it shall be unlawful for any person knowingly to create, assist in creating, permit, continue, or permit the continuance of any noise disturbance or to knowingly cause or permit sound produced by a musical instrument, radio, television, phonograph, loudspeaker, or other similar equipment to be plainly audible within any dwelling unit other than the source between 10 p.m. and 7 a.m. A noise disturbance is any unreasonable sound which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, within the limits of the City.

(b) Specific prohibitions. Unless exempted by SRC 93.185, the following acts are declared to be noise disturbances, provided that this enumeration shall not be deemed to be exclusive:

(1) Dynamic braking devices. Using any dynamic braking device on any motor vehicle, except to avoid imminent danger to persons or property. A dynamic braking device is one used primarily on trucks and busses to convert a motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.

(2) Idling engines on motor vehicles. Operating for more than 15 consecutive minutes any idling engine in such a manner as to be plainly audible within any dwelling unit between 10 p.m. and 7 a.m.

(3) Motor vehicle repair and testing. Repairing or testing any motor vehicle in such a manner as to be plainly audible within any dwelling unit between 10 p.m. and 7 a.m.

(4) Steam whistles. Blowing any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work.

(5) Sirens. Sounding a stationary siren. (Ord No. 3408; Ord No. 80-74; Ord No. 179-82; Ord No. 55-84; Ord No. 20-2000; Ord No. 23-2002)

93.015. MOTOR VEHICLE RACE TRACKS. It shall be unlawful for any person to operate or permit to be operated a motor vehicle race track in any residentially zoned district within the city. (Ord No. 80-74; Ord No. 55-84)

93.020. through 93.120. [Repealed by Ord No. 179-82]

93.150. through 93.165 [Repealed by Ord No. 166-78]

93.170. [Repealed by Ord No. 179-82]

93.180. MAXIMUM PERMISSIBLE SOUND LEVELS. (a) Except as specifically provided elsewhere in this chapter, no person shall cause or permit sound to be received on property used as specified herein if the sound exceeds the limits set forth in subsections (b) and (c). For purposes of this section, "day" hours are between 7 a.m. and 10 p.m., and "night" hours are between 10 p.m. and 7 a.m.

(b) Table of Maximum Permissible Sound Levels (in dBA).

<u>Type of Source by Use</u>	<u>Type of Receiver by Use</u>					
	<u>Noise Sensitive</u>		<u>Commercial</u>		<u>Industrial</u>	
	<u>Day</u>	<u>Night</u>	<u>Day</u>	<u>Night</u>	<u>Day</u>	<u>Night</u>
Noise Sensitive	55	45	60	55	65	60
Commercial	55	50	70	65	70	65
Industrial	55	50	70	65	Not Applicable	

(1) No sound received on a property shall exceed the established maximum permissible sound levels in the Table of Maximum Permissible Sound Levels by 10 dBA.

(2) No sound received on a property shall exceed the established maximum permissible sound levels in the Table of Maximum Permissible Sound Levels by 5 dBA for a cumulative total of greater than one minute, but less than five minutes in any ten minute period.

(3) No sound received on a property shall exceed the established maximum permissible sound levels in the Table of Maximum Permissible Sound Levels for a cumulative total of five minutes or more in any ten minute period.

(c) Exceptions.

(1) Impulse sound. Notwithstanding any other sound levels in this section, no person shall operate or permit the operation of a noise source which emits an impulse sound which has a peak sound pressure level in excess of 100 dB in the day or 80 dB in the night.

(2) Domestic power equipment. The day sound levels in the table in subsection (b) of this section do not apply to sounds produced by domestic power equipment.

During night hours, no person shall operate domestic power equipment in such a manner as to be plainly audible within any dwelling unit other than the source.

(3) Commercial construction. The day sound levels in the table in subsection (b) of this section do not apply to sounds produced in commercial construction activity.

(4) Off-highway vehicles. No person shall operate any self-propelling motor vehicle designed for or capable of travel on or over natural terrain, including but not limited to motorcycles, minibikes, motor scooters, dune buggies, and jeeps, off a public right-of-way in such a manner that the sound level generated thereby exceeds 60 dBA in the day or 55 dBA in the night as measured at or within the boundary of a noise sensitive receiver property.

(5) Auxiliary equipment on motor vehicles. No person shall cause, allow, permit, or fail to control the operation of any auxiliary equipment on a motor vehicle for more than 30 minutes when the sound level generated thereby exceeds 55 dBA in the day or 50 dBA in the night as measured at or within the boundary of noise sensitive property. Auxiliary equipment means a mechanical device which is built in or attached to a motor vehicle, including, but not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, and blowers.

(d) Measurement of sound levels under this section shall be made at one of the following points, whichever is farther from the sound source:

(1) 25 feet from that point on a receiver building nearest the sound source, or

(2) That point on the receiver property line nearest the sound source. (Ord No. 179-82; Ord No. 55-84; Ord No. 20-2000; Ord No. 23-2002)

93.185. EXEMPTIONS. The following sounds are exempted from the provisions of this chapter:

(a) Sounds made by work necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from imminent exposure to danger.

(b) Sounds made by warning devices to protect persons or property from imminent exposure to danger, provided however that burglar or fire alarms shall not operate continuously for more than fifteen minutes.

(c) Sounds made by an emergency vehicle, as defined in ORS 801.260 (1993), when responding to or from an emergency or when in pursuit of an actual or suspected violator of the law.

(d) Sounds made by current employment of land and buildings on a farm for the purpose of obtaining a profit in money by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals or honeybees, or the produce thereof, or for dairying and the sale of dairy products or any other agricultural or horticultural operations or any combination thereof including the preparation and storage of the products raised for man's use and animal use and disposal by marketing or otherwise by a farmer on such farm.

(e) Sounds made by activities by or on direction of the City of Salem in maintenance, construction, or repair of public improvements.

(f) Sounds produced pursuant to a specific variance granted by the Oregon Environmental Quality Commission, or by the health officer or council under SRC 93.195 through 93.225.

(g) Sounds produced by sound amplifying equipment at athletic events sponsored by Salem School District 24J.

(h) Sounds made by motor vehicle exhaust systems that comply with the provisions of ORS 815.250 (1997), but this exemption does not apply to violation of SRC 93.010(b)(2). (Ord No. 179-82; Ord No. 12-84; Ord No. 55-84; Ord No. 10-85; Ord No. 46-94; Ord No. 23-2002; Ord No. 31-05)

93.190. [Repealed by Ord No. 57-05]

93.195. VARIANCES, Generally. Any person who owns, controls, or operates any sound source which does not comply with a provision of this chapter may apply for:

(a) A Class A Variance, for an event or activity which does not exceed 72 hours in duration; or

(b) A Class B Variance, for an event or activity or series of related events, or activities which are 72 hours or more in duration or are less than 72 hours in duration and in the opinion of the health officer could have an adverse impact on a noise sensitive property, or large segment of the community.

(c) A Class C Variance, for an event or activity that occurs within the boundaries of the Downtown Parking District. (Ord No. 179-82; Ord No. 53-97; Ord No. 23-2002)

93.200. VARIANCE APPLICATION. (a) A person seeking a variance shall submit an application in writing containing:

- (1) A reference to the provision of this chapter for which the variance is sought;
- (2) The reason or reasons why the variance is necessary;
- (3) The physical characteristics of the sound involved;
- (4) The times when the sound involved will be emitted and the anticipated duration of the sound;

(5) Where the sound involved will not be generated by a mobile source which moves beyond the boundaries of one block, as defined in SRC 78.010, a site plan sketch which shows the area of sound generation and designates whether the uses in the area within 400 feet of the source of the sound are commercial, industrial, or noise sensitive, or a combination thereof;

(6) Any other supporting information which would establish that granting the variance will satisfy the criteria set forth in SRC 93.210.

(b) The applicant for a “Class A” or “Class C” variance for events requiring a permit under SRC 76.100, SRC Chapter 94, and SRC Chapter 103 shall submit the application to the Director of Community Services; other applicants for a “Class A” or “Class C” variance shall submit the application to the Health Officer. The applicant for a “Class B” Variance shall submit the application to the City Recorder, who shall place the matter on the agenda at the next available Council meeting.

(c) An application fee shall accompany the application, in the amount established for the particular class of variance, as set by resolution of the City Council. (Ord No. 179-82; Ord No. 53-97; Ord No. 65-99; Ord No. 23-2002; Ord No. 57-05)

93.205. PUBLIC NOTIFICATION FOR CLASS B OR C VARIANCE. The applicant for a Class B or C Variance shall notify in writing any officially recognized neighborhood association within whose geographical boundaries the involved sound is likely to be heard and any person residing or owner of a business within 400 feet of the sound source that an application for a variance is to be considered by the council or health officer. Notice under this section shall state the date the council or health officer will consider the application, the nature and substance of the variance to be considered, and that recipients of the notification may file written comments on the application with the city recorder or health officer before the scheduled meeting at which the application will be considered. (Ord No. 179-82; Ord No. 23-2002)

93.210. VARIANCE REVIEW. The decision maker may grant a variance, after considering the application and any written comments submitted by persons specified in SRC 93.205, when it appears that:

(a) There are unnecessary or unreasonable hardships or practical difficulties which can be most effectively relieved by granting the variance;

(b) That the public health and safety provisions of other provisions of the Salem Revised Code, exclusive of Chapter 93, will not be violated if a variance is granted; and

(c) That granting the variance will not be unreasonably detrimental to the public welfare. In determining whether the variance would be “unreasonably detrimental to the public welfare,” the decision maker shall consider such factors as the potential impacts on businesses and noise sensitive properties within 400 feet, the time of day, the day of the week, the proposed type and amount of amplification and any secondary noise consequences. (Ord No. 179-82; Ord No. 53-97; Ord No. 23-2002; Ord No. 57-05)

93.215. VARIANCE DECISION. (a) The Health Officer or the Director of Community Services shall grant or deny a “Class A” variance within 30 business days of receipt of a completed variance application.

(b) The City Council shall grant or deny a “Class B” variance within 30 business days of receipt of a completed variance application, or may, on its own motion, hold a public hearing on the application before deciding to grant or deny the variance.

(c) The decision maker may impose such limitations, conditions, and safeguards as deemed appropriate, so that the intent of this chapter will be met, and the public safety and welfare secured. A violation of any such condition or limitation shall constitute a violation of this chapter.

(d) A decision to grant or deny a variance shall be in writing and shall state the reasons for such decision. The decision maker shall notify the applicant of the decision, and shall make it available to any person who has submitted written comments on the application.

(e) In the case of a “Class C” variance, the event shall not occur before 9:00 a.m. nor after 10:00 p.m. Where the Health Officer has documented three or more noise complaints, a “Class C” variance shall not be allowed more frequently than two (2) days in any seven (7) consecutive day period. (Ord No. 179-82; Ord No. 53-97; Ord No. 23-2002; Ord No. 57-05)

93.220. REVIEW. (a) The decision maker shall file its written decision with the City Recorder.

(b) The decision of the City Council is final upon filing with the City Recorder. For all other decisions, the City Recorder shall place the matter on the agenda for the next available Council meeting. The decision on a “Class A” or “Class C” variance becomes final on the date of that Council meeting unless the City Council, on its own motion, decides to reverse or modify the decision of the decision maker or to schedule a public hearing on the application. If a public hearing is held, the City Council shall grant or deny the variance within 30 days after the hearing, and may impose conditions on the granting of the variance as set forth in SRC 93.215. (Ord No. 179-82; Ord No. 53-97; Ord No. 57-05)

93.230. through 93.980. Reserved for Expansion

93.990. VIOLATIONS. (a) Except as provided in subsection (b) of this section, violation of any provision of this chapter is an infraction and is punishable by a fine of not less than \$100 and not more than \$250. The second and subsequent violation in any one year period is punishable by a fine of not less than \$250. In addition to any other penalty provided by law, a person adjudged responsible for violation of any of the provisions of this chapter may be ordered by the court to correct the violation.

(b) Knowingly creating the same or a similar noise disturbance within six months of having received a citation or other notice of a violation of this chapter is a misdemeanor.

(c) A violation of any condition or limitation of a variance granted under SRC 93.215 shall constitute a violation of this chapter. In addition to any other remedy provided by law, the Health Officer shall have the authority to suspend or revoke a variance when the applicant has failed to meet the specific conditions or limitations.

(d) In the case of a “Class A” or “Class C” variance, the Health Officer or the Director of Community Services, shall have the authority to modify the variance when the original conditions or limitations of the variance cause an undue hardship on surrounding businesses or noise sensitive properties.

(e) In addition to, but not in lieu of, any other remedy provided by law, a civil penalty of \$250.00 may be imposed on the applicant when the applicant refuses to, or fails to, cause immediate corrective action for violations of the variance. The civil penalty may be appealed by following the appeal process set forth in SRC 50.860-50.875. (Ord No. 193-79; Ord No. 179-82; Ord No. 47-97; Ord No. 20-2000; Ord No. 23-2002; Ord No. 57-05)