

CHAPTER 13.

NOISE

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5-13.01 Purpose.

It is hereby declared to be the policy of the City of Emeryville to prohibit excessive and annoying noises from all sources subject to its police power. Certain noises at high levels, or of a certain character, or when repeated, are detrimental to the health and welfare of the citizenry and public safety. The purpose of this chapter is to regulate annoying or excessive noise that disturbs any reasonable person of normal sensitivity.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)

5-13.02 Definitions.

Unless the context otherwise clearly indicates, the words and phrases used in this chapter shall be defined as follows:

- (a) “Amplified sound” shall mean any sound amplified with a machine or device that magnifies the human voice, music or any other sound. This definition does not include standard automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed. This definition also does not include warning devices on authorized vehicles or horns or other warning devices used only for safety purposes.
- (b) “Annoying noise” shall mean any noise with repetitive patterns, shrill frequencies, and/or static-like sounds, including loud music and noise attributable to, but not limited to, alarms, engines, barking dogs, and other animals.
- (c) “Construction” shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action involving site work, structures or utilities on private or public property or in the public right-of-way.

(d) “Emergency work” shall mean work made 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 or damage; or work by public agencies or private utilities when restoring utility service.

(e) “Excessive noise” shall mean any unnecessary noise that persists for ten (10) minutes or more, including but not limited to yelling, loud music, engines, and other noises that are louder than they need to be.

(f) “Motor vehicle” shall mean any and all self-propelled vehicles as defined by the California Vehicle Code and specifically includes, but is not limited to “mini-bikes,” “motor-scooters” and “go-carts.”

(g) “Person” shall mean any individual, association, partnership, or corporation, including any officer, employee, department, agency or instrumentality of the State or any political subdivision of the State.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)

5-13.03 Prohibited Noises – General Standard.

No person shall make, or cause to suffer, or permit to be made upon any public property, public right-of-way or private property, any excessive noise, annoying noise, amplified sound or vibrations which are physically annoying to reasonable persons of normal sensitivity or which are so harsh or so prolonged or unnatural or unusual in their use, time or place as to cause or contribute to the unnecessary and unreasonable discomfort of any persons of normal sensitivity located at the property line of the property from which said noises emanate or which interfere with the peace and comfort of residents or their guests, or the operators or customers in places of business in the vicinity, or which may detrimentally or adversely affect such residences or places of business.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)

5-13.04 Prohibited Acts.

(a) It shall be unlawful for any person to make, continue, or cause or allow to be made or continued excessive or annoying noise or amplified sound within or adjacent to a hospital, medical facility, nursing home, school, court, day care, church, or similar facility, so as to interfere with the functions of such activity.

(b) It shall be unlawful for any person to make, continue, or cause or allow to be made or continued, any noise so as to disturb or cause discomfort to any reasonable person of normal sensitivity located at the property line of the property from which such noise is emanating before 7:00 a.m. or after 9:00 p.m. on a weekday (Monday through Friday) or before 8:00 a.m. or after 9:00 p.m. on Saturday or Sunday. Prohibited noises include, but are not limited to, the following noises:

(1) Excessive or annoying noise from the premises of any commercial, industrial or residential establishment, including any outdoor area part of or under the control of the establishment.

- (2) Sustained truck idling, or the repair, modification, reconstruction, testing or operation of any automobile, motorcycle, machine or mechanical device or other contrivance or facility.
- (3) Loading, unloading, opening, closing, or other handling of boxes, containers, building materials, crates or similar objects.
- (4) Loud or raucous yelling or shouting, whistling, or singing.
- (5) Band or orchestral concert, rehearsals or practice.
- (6) Electronically or acoustically amplified sound.

(c) It shall be unlawful for any person to make, continue, or cause to allow to be made or continued, any noise prohibited in other sections of the Emeryville Municipal Code, including Section 6-1.117 regarding dog barking and other animal noises, Section 9-4.59.7 regarding noise from land uses, Section 10-1.13 regarding noise in the Emeryville Marina, and Section 10-2.05 regarding personal watercraft.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)

5-13.05 Construction Noise.

- (a) General construction noise on private and public projects shall be limited to weekdays from 7:00 a.m. to 6:00 p.m. Pile driving and similarly loud activities shall be limited to weekdays from 8:00 a.m. to 5:00 p.m.
- (b) General construction noise on projects repairing, renovating or adding to residential buildings with one (1) to five (5) units shall be limited to the general noise hours of 7:00 a.m. to 9:00 p.m., Monday through Friday, and 8:00 a.m. to 9:00 p.m., Saturday and Sunday.
- (c) Preconstruction noise including, but not limited to, loading and unloading, cleaning of mechanical toilets, maintenance of vehicles, deliveries, truck idling, backup beeps, yelling and radios is also limited to the general construction noise hours.
- (d) Conditions of approval for land use approvals pursuant to Chapter 4 of Title 9 shall set the same construction noise hours as this chapter, except in the following situations:
 - (1) More restrictive construction noise hours may be established when appropriate given the surrounding neighborhood, type of noise or other unique factors.
 - (2) Planning Commission or City Council approvals granted prior to final passage of this chapter shall prevail over this chapter.
 - (3) The City Council may allow construction noise beyond the hours contained in this chapter, upon request of a developer, owner or contractor for a waiver, following the procedure set forth in Section 5-13.06.
- (e) In an urgent situation, the City Manager, the Planning and Building Director or the Public Works Director may approve weekend or night work. Weekend work shall be limited to 9:00

a.m. to 6:00 p.m. except for time-sensitive tasks. When approving weekend or night work, staff shall notify the City Council and Planning Commission as soon as possible.

(f) The City Manager or the Public Works Director may approve weekend work related to construction activity in connection with a sewer lateral permit issued in accordance with Chapter 8 of Title 7, subject to the following conditions:

(1) The sewer lateral permit is issued for work on property located in any zoning district in the City of Emeryville excluding property zoned for High Density Residential, Medium-High Density Residential and Medium Density Residential;

(2) Weekend work shall be limited to 9:00 a.m. to 6:00 p.m. on Saturdays and Sundays; however, nighttime weekend work may be authorized for properties devoted to uses involving nonstop operations, such as a hotel, in order to minimize the impact of temporary loss of sewer facilities on their operations;

(3) All noise generating work associated with the replacement of the sewer lateral, including but not limited to asphalt or concrete saw-cutting, jack hammering, removal of asphalt or concrete or any other noise generating activity identified by the Public Works Director shall not be undertaken during the weekend;

(4) Any other condition imposed by the City Manager or Public Works Director reasonably related to suppression of noise as may be warranted in specific circumstances; and

(5) When approving weekend work related to a sewer lateral permit, the City Manager or Public Works Director shall notify the City Council as soon as possible.

(g) Violations of the permitted or approved hours could result in stop-work notices.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003; Sec. 2, Ord. 12-011, eff. July 19, 2012)

5-13.06 Procedures for Waiver.

(a) An applicant shall submit to the Planning Director a request for a waiver, stating the hours and days of work requested, type of work to be conducted, type of equipment to be used, location on the property where work will take place, and reason(s) why a waiver is needed.

(b) An application shall be accompanied by the fee as set forth in the Master Fee Schedule.

(c) An application shall be heard at a public hearing noticed by Types B, D and F Notice as defined in Section 9-4.89.3 of this Code.

(d) The City Council may grant a waiver by resolution and designate such conditions in connection with the waiver as it deems necessary in order to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

(1) Days and hours of construction noise (including pre-construction noise);

(2) Type of work to be performed;

(3) Location of work to be performed;

- (4) Types of equipment to be used;
- (5) Notification of neighbors;
- (6) Sound attenuation devices; and
- (7) Construction practices to minimize noise.

(e) The City Council may revoke or modify any waiver granted in accordance with the terms of this section if the applicant fails to comply with any of the conditions upon which the waiver is granted, or if complaints are received and not satisfactorily resolved.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)

5-13.07 Emergency Work.

Emergency work is exempt from this chapter.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)

5-13.08 Leaf Blowers, Generators and Other Loud Equipment.

The use of loud leaf blowers, generators, and other equipment with noise levels similar to those of pile drivers shall be limited to weekdays from 8:00 a.m. to 5:00 p.m., except that generators may be used at any time in case of a power outage.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)

5-13.09 Loud Parties or Gatherings.

The following provisions apply to a party or gathering of two (2) or more persons on private property generating any noise that is plainly audible at the property line of the property from which the noise is emanating, or is determined by a law enforcement officer at the scene to constitute a violation of the California Penal Code or the City of Emeryville Municipal Code, or is otherwise a threat to the public peace, health, safety or welfare due to the magnitude of the crowd, the disturbance, unruly behavior or destruction of property generated by the party or gathering, or excessive traffic caused by the party or gathering.

(a) The law enforcement officer at the scene shall take such actions and give such direction as is necessary to abate the violation or condition, and shall advise the responsible person or property owner or occupant that if additional law enforcement personnel or emergency service providers are called upon to abate the conditions, the responsible persons and the owner and occupant of the property shall be held liable for the cost to the city of providing such services. If the condition is not forthwith voluntarily abated and if additional law enforcement personnel or emergency service providers are necessary to respond on behalf of the city in order to disperse the party or gathering, quell any disturbance, direct traffic, cite illegally parked vehicles or otherwise respond, then the cost to the city of such additional services shall be reimbursed as provided in subsection (c) of this section.

(b) If in any one-month period, law enforcement or emergency personnel are required to respond to any one property or residence more than two times for a loud party or gathering and

notwithstanding that conditions on the property were thereafter voluntarily abated without the need for additional law enforcement or emergency response, then that property owner or occupant shall be deemed a repeat offender and shall be held liable for all costs of the city due to loud parties or gatherings at the property or residence.

(c) The person or persons responsible for a party or gathering described in subsections (a) and (b) of this section and the owner or occupant of the property on which the party or gathering is held, or, if such person is a minor, the parents or legal guardian of the minor shall be jointly and severally liable for the following costs incurred by the city:

- (1) The actual cost to the city of law enforcement services and emergency services in order to abate any of the conditions described in subsections (a) and (b) of this section;
- (2) Damage to public property resulting from the unlawful party or gathering;
- (3) Injuries to any law enforcement or emergency service personnel involved in such law enforcement or emergency response.

(d) The City Manager or his or her designee shall calculate all such costs. The person or persons specified above in subsection (c) of this section shall be billed by the City Manager or his or her designee for the total cost and payment shall be due and payable within fifteen (15) days of the billing date. If the amount due is not paid, the city may collect the debt, as well as any fees and costs incurred in its collection, pursuant to all applicable provisions of law.

(e) The remedies set forth in this section are not exclusive and may be used in addition to those set forth elsewhere in this Municipal Code or by law.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)

5-13.10 Violations: Penalties.

It shall be unlawful for any person to violate any provisions or to fail to comply with any requirement of this Chapter. Any person violating any provision of this Chapter shall be punishable as set forth in Chapter 2 of Title 1 of this Code.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)

5-13.11 Violations: Public Nuisance.

Noises in violation of this Chapter shall be deemed public nuisances and may be abated as set forth in Chapter 11 of Title 6 of this Code. Noises related to animals in violation of this Chapter shall be deemed public nuisances pursuant to Chapter 1 of Title 6 of this Code, and may be abated accordingly.

(Sec. 2 (part), Ord. 03-002, eff. Mar. 6, 2003)