

ORDINANCE NO. 2019-06

AN ORDINANCE TO PROHIBIT NOISE THAT INJURES OR ENDANGERS THE COMFORT, REPOSE AND PEACE OF OTHERS AND PROVIDE FOR PENALTIES FOR VIOLATIONS THEREOF

WHEREAS, the City of Farmington has the authority to regulate and prohibit unreasonable or excessive noise under ACA §14-54-103 and ACA §5-71-207; and

WHEREAS, 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; and

WHEREAS, it is the express intent of the City Council that noise be prohibited when it exceeds certain levels or when it unreasonably disturbs the peace, comfort, and repose of others.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF FARMINGTON, ARKANSAS:

SECTION 1: The Noise Control Regulations for the incorporated boundaries of the City of Farmington are hereby adopted and attached as Exhibit "A" are incorporated herein in their entirety.

SECTION 2: Repealing Clause: All other ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: Severability Clause: In the event any part of this ordinance is declared inoperative or invalid as a result of a statute or judicial decision, then only that portion expressly so declared to be inoperative or invalid shall be affected thereby and all other provisions hereof shall remain in full force and effect.


SECTION 4: That the City Council of the City of Farmington, Arkansas further determines that it is necessary for comfort, repose and peace of the citizens to adopt regulations that prohibit unreasonable and excessive noise within the city boundaries; therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after the ordinance has been published as required by law.

PASSED AND APPROVED this 8th day of July, 2019.



Ernie Penn, Mayor

ATTEST:



Kelly Penn, City Clerk



EXHIBIT A
NOISE CONTROL REGULATIONS

A. TERMS

The following words, terms, and phrases shall have the meaning prescribed to them herein:

Ambient Sound Level means the total sound pressure in the area of interest including the source of interest.

A-weighting means the electronic filtering in sound level meters that model human frequency sensitivity.

dBA means the A-weighted unit of sound pressure level response of a sound level meter.

dBC means the C-weighted unit of sound pressure level response of a sound level meter.

Decibel (dB) means the unit for measurement for sound pressure level at a specified location.

Emergency means any occurrence involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency Work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise Disturbance means any sound which: (1) endangers or injures the safety or health of humans or animals; (2) annoys or disturbs a reasonable person of normal sensibilities; or (3) endangers or injures personal or real property.

Sound Amplification Device means radio, radio receiving set, television, stereo, tape player, cassette player, compact disc player, loud speaker, musical instrument, sound amplifier, or other devices which produces, reproduces, or amplifies sound.

Sound Level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network, such as A, B, or C as specified in the American National Standards Institute specifications for sound level meters. If the frequency weighing employed is not indicated, the A-weighing shall apply.

Sound Level Meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, or output meter, and weighing network used to measure sound pressure levels.

Sound Pressure Level means twenty (20) times the logarithm to the base ten of the ration of the RMS sound pressure to reference pressure of 20 micro pascals (20×10^{-6} N/m²).

B. UNREASONABLE OR EXCESSIVE NOISE PROHIBITED: EXCEPTIONS

- (1) Notwithstanding any other provision of this section, and in addition hereto, it shall be unlawful for any person to make, or continue to cause or permit to be made or continued, any noise disturbance.
- (2) The provisions of this section shall not apply to:
 - a. The emission of sound for the purpose of alerting persons to an emergency.
 - b. The emission of sound in the performance of emergency work.
 - c. The intentional sounding or permitting the sounding of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary or emergency signaling device, for emergency purposes or for testing, providing such testing uses the only minimum cycle test time.
- (3) For the purpose of this section, the use of an amplification devise, radio, television, phonograph, drum, musical instrument or similar devise which produces, reproduces, or amplifies sound shall be deemed annoying or disturbing to a person, reasonably calculated to disturb the peace and unreasonably offensive and injurious to the public if the sound is produced between the hours of 11:00 p.m. and 8:00 a.m., and is plainly audible at a distance of 150 feet or more from the source of the sound.
 - a. Plainly audible means any sound produced as set forth above which clearly can be heard at a distance of 150 feet or more. The measurement standard shall be by the auditory senses, based on direct line of sight. Words or phrases need not be discernable and bass reverberations are included.
 - b. This provision shall not apply to athletic and school related events; and public events sponsored by the City of Farmington.
- (4) Late night construction noise near residences. For the purpose of this section, construction noise from private development construction activity shall be deemed annoying or disturbing to a person, reasonably calculated to disturb the peace and unreasonably offensive and injurious to the public if the sound or noise is produced later than 11:00 p.m. and prior to 8:00 a.m. and is plainly audible at or near any residence within 150 feet of the construction activity.
 - a. The measurement standard shall be by auditory senses and includes transient construction activity noises.
 - b. Emergency construction activity to repair or prevent a dangerous condition in order to protect the health, safety and welfare of Farmington citizens or the workers on the development project site is exempt from this provision if authorized in advance or ratified later by the Mayor.
 - c. This subsection takes precedence over any conflicting and less restrictive noise limitation provisions in D. Limitations by Land Use Category.
 - d. A variance pursuance to G. Permit for Variance may also be requested and granted for necessary and temporary after-hours construction activities.

C. MEASUREMENTS

Sound level measurements shall be made with a sound level meter Type II or better using the A-weighted scale or C-weighted scale in conformance with the standards promulgated by the American National Standards Institution.

D. LIMITATIONS BY LAND USE CATEGORY

(1) No person shall operate or cause to be operated, or permit, contract or allow to be operated on premises on public or private property any identifiable source of sound in such a manner as to create a sound level within the use districts enumerated in this section below which exceeds the maximum noise levels as set forth below as measured at any point on the boundary of the property from which the sound or noise was emanating. All complaints will be measured with sound level measuring equipment by the responding officer to a complaint.

<u>Use District</u>	<u>Time</u>	<u>Maximum Noise Levels</u>
All residential zones	8:00 a.m. to 11:00 p.m.	60 dB(A) or 75 dB(C)
All residential zones	11:00 p.m. to 8:00 a.m.	55 dB(A) or 70 dB(C)
All commercial zones	8:00 a.m. to 11:00 p.m.	75 dB(A) or 75 dB(C)
All commercial zones	11:00 p.m. to 8:00 a.m.	70 dB(A) or 70 dB(C)
All industrial zones	8:00 a.m. to 11:00 p.m.	80 dB(A) or 75 dB(C)
All industrial zones	11:00 p.m. to 8:00 a.m.	75 dB(A) or 70 dB(C)

All measurements shall be taken with a sound level meter in its fast or peak level setting.

(2) District Boundaries. When a noise source can be identified and its noise measured in more than one use district, the noise level limits of the most restrictive use district shall apply at that district boundary.

(3) Commercial Source. Notwithstanding the zoning classification of the underlying parcel, restaurants, night clubs, private clubs, auditoriums, dance halls, and rehearsal studios are defined as commercial sound sources existing in commercial zones for the purpose of this chapter.

(4) Transient Source. For a transient sound emanating in any land use category, the peak noise level shall not exceed 20 decibels above the limit set above.

(5) Construction. Construction projects shall be subject to the limitations specified for industrial zones for the period of time allowed by the building permit.

E. MOTOR VEHICLES AND MOTORCYCLE SOUND LIMITS

- (1) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way or private property at any time and in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the levels set forth below.

Motor Vehicle and Motorcycle Sound Limits

<u>Vehicle Class</u>	<u>Speed Limit (35 mph or less)</u>	<u>Speed Limit (over 35 mph)</u>	<u>Stationary (Run-up)</u>
Motor Vehicle carrier engaged Interstate commerce of GVWR or GCWR of 10,000 lbs. or more	86 dB	90 dB	88 dB
Any other motor vehicle or any combination of vehicles towed by any such motor vehicles	78 dB	78 dB	78 dB
Motorcycles	78 dB	78 dB	78 dB

- (2) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.
- (3) No person shall sound any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public place, except as a warning of danger.
- (4) Operating or causing to operate any sound amplification device from within a vehicle so that the sound is plainly audible at a distance of 30 feet or more from the vehicle whether in a street, a highway, an alley, parking lot or driveway, whether public or private property, is prohibited and declared to be a violation of this chapter.
- (5) No person shall operate or cause to be operated a motor vehicle or motorcycle by rapidly advancing its throttle (revving) such that a noise disturbance occurs.

F. RADIOS AND LOUDSPEAKERS USED FOR CERTAIN PURPOSES PROHIBITED

It shall be unlawful for any person to use, operate or permit to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets from a point of origin located on private property, for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

G. ORDER IN LIEU OF NOTICE OF VIOLATION

- (1) In lieu of issuing a notice of violation, a law enforcement officer responsible for enforcement of any provision of this section may issue an order requiring abatement of any source of sound alleged to be in violation of this section within a reasonable time period. An abatement order shall not be issued when the law enforcement officer has reason to believe that there will not be compliance with said order.
- (2) Any violation of any provision of this section shall be cause for a notice of violation to be issued by the law enforcement officer.

H. PENALTY

The violation of any provision of this chapter shall be punished by a fine of not more than \$500.00 or double that sum for each repetition of such violation. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuation thereof shall not exceed \$250.00 for each day that the same is unlawfully continued.