

ORDINANCE 13-06

WHEREAS, Title 9 of the Hyrum City Municipal Code sets forth those regulations pertaining to public peace, morals, and welfare; and

WHEREAS, the citizens of Hyrum have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life in Hyrum; and

WHEREAS, concerned officials in local government and law enforcement desire to provide the means by which substantial noise may be regulated.

NOW, THEREFORE, the City Council of Hyrum City, Cache County, State of Utah, hereby adopts, passes, and publishes the following:

AN ORDINANCE REPEALING AND READOPTING CHAPTER 9.50 NOISE DISTURBANCE ORDINANCE OF TITLE 9 (THE PUBLIC PEACE, MORALS, AND WELFARE ORDINANCE) OF THE HYRUM CITY MUNICIPAL CODE.

BE IT ORDAINED by the City Council of Hyrum City, Cache County, Utah, as follows:

1. Chapter 9.50 Noise Disturbance of Title 9 Public Peace, Morals, and Welfare of the Hyrum City Municipal Code is hereby readopted to read as follows:

Chapter 9.50

NOISE DISTURBANCE

Sections:

- 9.50.010 Definitions Generally
- 9.50.020 Prohibited Acts Generally
- 9.50.030 Prohibited Acts Specifically
- 9.50.040 Exceptions
- 9.50.050 Application for Special Permit
- 9.50.060 Penalty
- 9.50.070 Additional Remedy-Injunction
- 9.50.080 Severability
- 9.50.090 Sound Levels by Receiving Land

9.50.010 Definitions Generally.

All terminology used in this chapter and not defined in the following shall be in conformance with applicable American Standards Institute Publications. For the purposes of this chapter, certain words and phrases used in this chapter are defined as set forth in the following definitions:

- A. **CONTINUOUS SOUND:** Any sound that exists, essentially without interruption for a period of ten minutes or more
- B. **DEVICE:** Any mechanism that is intended to produce, or that actually produces, noise when operated or handled.
- C. **EMERGENCY WORK:** Work made necessary to restore property to safe conditions following public calamity, or work required to protect persons or property from an imminent exposure to danger.
- D. **EMERGENCY VEHICLE:** A motor vehicle used in response to a public calamity, or to protect persons or property from an imminent exposure to danger.
- E. **MOTOR VEHICLE:** Any vehicle that is self-propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, campers, motorcycles, mini-bikes, go-carts, snowmobiles, and racing vehicles.
- F. **MUFFLER:** An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.
- G. **NOISE DISTURBANCE:** Any sounds that annoys or disturbs reasonable persons with normal sensitivities, or that injures or endangers the comfort, repose, health, hearing, peace, and safety of other persons.
- H. **NOISE:** Any sound that is unwanted or that causes or tends to cause an adverse psychological or physiological effect on human beings.
- I. **PERSON:** Any human being, firm, association, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner, or operator, including any municipal corporation or its officers or employees.
- J. **PROPERTY BOUNDARY:** An imaginary line exterior to any enclosed structure at the ground surface, and its vertical extension, that separates the real property owned by one person from that owned by another person.
- K. **PUBLIC RIGHT-OF-WAY:** Any street, avenue, boulevard, highway or alley or similar place that is owned or controlled by a public governmental entity.
- L. **SOUND:** A temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction

of that medium, and that propagates at finite speed to distant points.

- M. **USE DISTRICT:** Those districts established by the city zoning ordinances.

9.50.020 Prohibited Acts Generally.

It shall be unlawful for any person to make, continue, or cause to be made or continue any excessive, unnecessary or unusual loud noise or any noise that either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others within the limits of Hyrum City.

9.50.030 Prohibited Acts.

The following acts, among others, are declared to be loud, disturbing or unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

- A. Horns and Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, that creates any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary or unreasonable period of time. The use of any horn, whistle or other device operated by engine exhaust.
- B. Radios, subwoofers, etc. The using, operating, or permitting to be played, used or operated in residential areas and electronic amplifying device such as television, radio receiving set or musical instrument in such a manner as to disturb the peace, quiet and comfort of neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are voluntary listeners thereto. The operation of any such device between the hours of ten (10:00) p.m. and seven (7:00) a.m. the following morning in such a manner as to be plainly audible at a distance of thirty (30) feet from the building, structure or vehicle in that it is located shall be prima facie evidence of a violation of this section.
- C. Loud speakers, amplifiers and other sound devices for advertising. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure without or in violation of a permit issued pursuant to Section 9.50.040 of this Chapter.

- D. Yelling, shouting, etc. Yelling, shouting, whistling or otherwise creating sustained noise on public streets, particularly between the hours of ten (10:00) p.m. and seven (7:00) a.m. the following day, or at a time of place as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, or other type of residence.
- E. Animals and Birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive area.
- F. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device that will effectively prevent loud or explosive noises there from.
- G. Defect in vehicle or load. The use of any automobile, motorcycle, or any other vehicle, that due to lack of repair or improper loading creates loud and unnecessary grating, grinding, rattling or other noise.
- H. Loading and unloading of vehicles. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.
- I. Construction or repairing of buildings. The erection (including excavation), demolition, alteration or repair of any building shall be prohibited between the hours of ten (10:00) p.m. and seven (7:00) a.m. the following day, local prevailing time, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the city.
- J. Schools, courts, churches, hospitals, parks. The creation of any excessive noise adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, that unreasonably interferes with the working of such institution, or that disturbs or unduly annoys patients in the hospital, or in any park, that unreasonably disturbs the users thereof.
- K. Pile drivers, hammers, etc. The operation between the hours of ten (10:00) p.m. and seven (7:00) a.m. the following day of any pile driver, pneumatic hammer, derrick, hoist or other appliance, the use of that is usually attended by loud or unusual noise.

- L. Power Lawn Mowers. The operation of any power mower, cultivator, or like or related device (except snow blowers) in an area zoned residential between the hours of ten (10:00) p.m. and seven (7:00) a.m. the following day.

9.50.040 Exceptions:

The following uses and activities shall be exempt from noise level regulations:

- A. Noises of safety signals, warning devices, and emergency pressure relief valves.
- B. Noises resulting from any authorized emergency vehicle, when responding to an emergency.
- C. Noises resulting from emergency work as defined in Section 9.50.010.
- D. Any other noise resulting from activities of a temporary duration permitted by law that a license or permit therefore has been granted by the city in accordance with Section 9.50.050.
- E. Any aircraft or railroad equipment operated in conformity with or pursuant to state statute, federal law, federal regulations and traffic control instruction used pursuant to and within the duly adopted state or federal regulations. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt.
- F. Farm equipment, when in actual crop production (such as, but not limited to baling hay).
- G. Noises resulting from a City sponsored event (such as, but not limited to, baseball games, dances, celebrations, etc.)
- H. Noises resulting from yard care equipment being used for normal property maintenance between the hours of seven (7:00) a.m. and ten (10:00) p.m. (such as but not limited to, mowers, tillers, trimmers, chain saws, etc.).

9.50.050 Application for Special Permits.

Applications for a permit for relief from the noise level designated in this Chapter on the basis of undue hardship may be made to the city council or duly authorized representative. Any permit granted by the council hereunder shall contain all conditions upon that said permit and shall specify a reasonable time that the permit shall be effective. The city council or duly

authorized representative may grant a relief as applied for if they find:

- A. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this chapter; or
- B. The activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with the chapter; and
- C. That no other reasonable alternative is available to the applicant.

The city council, in granting such a special permit, may prescribe any conditions or requirements they deem necessary to minimize adverse effects upon the community of the surrounding neighborhood.

9.50.060 Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of an infraction. Each occurrence when such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

9.50.070 Additional Remedy - Injunction.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions hereof or that causes discomfort or annoyance to reasonable persons of normal sensitivity or that endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be a public nuisance and may be subject to abatement as prescribed by law.

9.50.080 Severability.

It is the intention of the city council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the city council that if any provision of this chapter be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

9.50.090 Sound Levels by Receiving Land.

Maximum Permissible Sound Levels By Receiving Land Use. No person shall operate or cause to be operated on private party any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the occupied receiving land zone category in table I of this chapter when measured at or within the property boundary of the receiving land zone. Exceptions may be

extended in cases where the receiving land does not have human occupancy.

Table I

Receiving Land Use Zone	Time	Sound Level Limit dBA
RA, R-1, R-2, R-2A, R-3, R-4, R-5	10:00 P.M. to 7:00 A.M.	55
	7:00 A.M. to 10:00 P.M.	65
C-1, C-2, M-1, PT	10:00 P.M. to 7:00 A.M.	60
	7:00 A.M. to 10:00 P.M.	65
M-2	Any time	75

Table II

MOTOR VEHICLE AND MOTORCYCLE SOUND LIMITS

(Measured at 50 feet)
 (24 hours a day, any day)
 (Sound Level in dBA)

Vehicle Class	Speed Limit 35 MPH or Less	Speed Limit Over 35 MPH	Stationary Run-Up
Motor carrier vehicle engaged in interstate commerce for GVWR or GCWR of 10,000 pounds or more	88	90	88
All other motor vehicles of GVWR or GCWR of 6,000 pounds or more	88	90	88
Any motorcycle	86	90	86
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	83	76

Table III

RECREATIONAL MOTORIZED VEHICLE SOUND LIMITS

(Measured at 50 feet)
(24 hours a day, any day)

Vehicle Type	Sound Level, dBA
Snowmobile	73
Motorcycle	73
Any other vehicle	73

Chapter 9.50

NOISE DISTURBANCE

~~Sections:~~

~~9.50.010 Purpose.~~

~~9.50.020 Definitions.~~

~~9.50.030 Radios, Television Sets, Musical Instruments
and Similar Devices.~~

~~9.50.040 Penalties.~~

~~9.50.050 Abatement Orders.~~

~~9.50.010 Purpose.~~

~~The purpose of this chapter is to promote the safety and health of the citizens and youth of Hyrum City and to provide for the control of sound vibration originating within Hyrum City Corporate Limits.~~

~~9.50.020 Definitions.~~

~~For purposes of this chapter, the following definitions apply:~~

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

~~B. "Noise Disturbance" means any sound which endangers or injures the safety or health of humans or animals; or annoys or disturbs a reasonable person of normal sensitivities; or endangers or injures personal or real property.~~

~~C. "Public Right of Way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.~~

~~D. "Public Space" means any real property or structures thereon which is owned or controlled by a governmental entity.~~

~~E. "Real Property Boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.~~

~~F. "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.~~

~~9.50.030 Radios, Television Sets, Musical Instruments and Similar Devices.~~

~~The following acts, and the causing thereof, are declared to be in violation of this chapter:~~

~~A. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:~~

~~1. Between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. the following day in such a manner as to create a noise disturbance across a real property boundary.~~

~~2. In such a manner as to create a noise disturbance at fifty feet (50') from such device, when operated in or on a motor vehicle on a public right of way or public space.~~

~~9.50.040 Penalties.~~

~~A. Any person who violates any provision of this ordinance shall be guilty of Class C Misdemeanor. (Ord. 06-16)~~

~~B. Each day of violation of any provision of this ordinance shall constitute a separate offense.~~

~~9.50.050 Abatement Orders.~~

~~A court of competent jurisdiction may issue an order requiring abatement of any source of sound alleged to be in violation of this ordinance within a reasonable time. (Ord.06-12)~~

2. REPEALER. All ordinances, resolutions, and zoning maps of the

city, or parts thereof inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

3. DECLARATION OF SEVERABILITY. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Hyrum City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

4. EFFECTIVE DATE. This ordinance shall become effective upon posting three (3) copies in three (3) public places within Hyrum City.

5. ADOPTION. This ordinance is hereby adopted and passed by the Hyrum City Council this 19th day of September, 2013.

HYRUM CITY

BY: _____
W. Dean Howard
Mayor

ATTEST:

Stephanie Fricke
City Recorder

Posted: _____