

# Attachment D

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## Chapter 9.09 NOISE

### Sections:

#### 9.09.010 Purpose.

The city council finds that the making, creation, or maintenance of loud, unnecessary, unnatural, unusual or habitual noises that are prolonged, unusual, and/or unnatural in their time, place, use, and effect and are detrimental to the public health, comfort, safety, welfare, and prosperity of the residents of the city. The provisions of this chapter are enacted for the purpose of securing and promoting the public health, comfort, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants by protecting citizens from excessive, unnecessary and unreasonable noises from any and all sources within the community.

(Ord. No. 699, § 2, 3-2-2016; Ord. 589 § 1 (part), 2002)

#### 9.09.020 Unreasonable noise prohibited.

- A. It is unlawful and a nuisance for any person within the city to make, or cause to be made or caused, by any natural or mechanical means, including but not limited to noise produced by any animal owned or in said person's possession or control, upon any premises owned, occupied, possessed, or controlled by him/her or upon any public street, alley, or thoroughfare, any unnecessary noise or sound which is physically annoying to persons of ordinary and normal sensitivity or which is so harsh or so prolonged, unnatural or unusual in its use, time, and place as to cause physical discomfort, or which is injurious or disturbs or endangers the lives, health peace and comfort of any person of reasonable and normal sensibility.
- B. The standards that shall be considered in determining whether a violation of the provisions of this chapter exists shall include but not be limited to the following:
  - 1. The level, intensity, character and duration of the noise. Reference to the Soledad General Plan and Zoning Code for permissible noise levels, and measurement thereof on an A-weighted scale with an authorized sound level meter, may be utilized for making a determination of reasonableness, but are not a prerequisite to issuance of a citation;
  - 2. The level, intensity and character of background noise, if any;
  - 3. The time when and the place and zoning district in which the noise is occurring;
  - 4. The proximity of the noise to residential sleeping facilities; and
  - 5. Whether the noise is recurrent, intermittent, or constant.
  - 6. Whether the noise endangers or injures the safety or health of human beings or animals.
  - 7. Whether the noise endangers or injures personal or real property.
- C. The provisions of this chapter shall not be construed to apply to any public celebration, public holiday, or public parade conducted under authorized permit, nor shall such provisions apply to any sporting event or activity conducted under the direction and supervision of any public or private school; nor shall the provisions apply to the operation of any mechanical devices used by public employees or utility companies involved in remedying a dangerous, hazardous, or unhealthful situation at any time of the day or night.

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(Ord. No. 699, § 2, 3-2-2016; Ord. 589 § 1 (part), 2002)

### **9.09.025 Specific noise prohibitions.**

The following activities are specifically prohibited and considered violations of this chapter:

- A. Operating, playing or permitting the operation or playing of any radio, television set, loudspeaker, stereo, drum, musical instrument, or similar device which produces or reproduces sound in violation of the provisions of Section 9.09.020.
- B. Noise sources associated with the operation of any tools or equipment used in construction, drilling, repair, alteration, remodeling, paving, or grading of any real property, or demolition work, which creates sound which is in violation of Section 9.09.020 between the hours of 6:00 p.m. and 7:00 a.m. the following day. Notwithstanding, the chief of police or designated representative may, for good cause, exempt certain construction work from the provisions of this chapter for a limited time when an unforeseen or unavoidable condition occurs during a construction project and the nature of the project necessitates that work in progress be continued until a specific phase or task is completed. In such circumstances, the contractor or owner shall be allowed to work after 6:00 p.m. and to operate machinery and equipment necessary until the specific work in progress can be completed in a manner that will not jeopardize the inspection or acceptance of a project or create undue financial hardships for the contractor or property owner.
- C. Operating or permitting the operation of any mechanically powered saw, drill, grinder, lawn or garden tool, or similar tool between the hours of 10:00 p.m. and 7:00 a.m. of the following day in violation of Section 9.09.020.
- D. Unless otherwise permitted and conditioned pursuant to Chapter 9.12, any noise or commotion resulting from a party that produces sound in violation of Section 9.09.020. For purposes of this section, the word "party" means a gathering for social and/or entertainment purposes at a private residence or other location. The performance of any live band or use of the services of a DJ at any party at a private residence, whether or not said band or DJ uses electronic sound reproduction or any amplification device, between the hours of 10:00 p.m. and 11:00 a.m. is expressly prohibited in the city.

(Ord. No. 699, § 2, 3-2-2016)

### **9.09.030 Penalty.**

The first violation of any of the provisions of this chapter shall be an infraction. any subsequent violation of the provisions of this chapter within twelve months from a conviction for violating any provisions of this chapter and/or the forfeiting of bail in connection with a prior violation of this chapter shall be a misdemeanor. each violation of the provisions of this chapter shall constitute a separate offense. persons violating the provisions of this chapter shall be subject to punishment as set forth in chapter 1.04 of this code.

(Ord. No. 699, § 2, 3-2-2016; Ord. 589 § 1 (part), 2002)

### **9.09.035 Liability for second police response.**

- A. Liability.
  - 1. A second or subsequent response by police personnel within eight hours of the first response to a location at which there was a violation of Section 9.09.020 of this chapter, shall cause all persons responsible for such response to be jointly and severally liable for the cost thereof. A second or subsequent response to such an incident is an emergency response inasmuch as such response

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requires immediate action in order to safeguard the public health, welfare, and safety of the residents in the neighborhood where such violation is occurring.

2. The person responsible for the source of the violation of Section 9.09.020, and/or in charge of the premises at which the violation occurs, shall be deemed liable for the cost of the second police response. If either of those persons is a minor, the parents or guardians of that minor shall be held jointly and equally liable for such costs.

B. Imposition of Costs.

1. To the fullest extent permitted by law, the costs of any second or subsequent police response shall include all reasonable costs incurred by the city in responding to the location of the site at which an alleged violation of Section 9.09.020 occurs. Costs shall include, but are not limited to, salary and benefits of city personnel, use of and/or damages to city equipment, treatment of injuries to city personnel, and administrative costs incurred to process, bill and collect appropriate costs of police response.
2. An invoice shall be prepared and sent to the responsible party notifying such person or persons of the specific charges for all reasonable costs incurred by the city attributable to the second police response. The responsible person or persons shall have the right to present any evidence or argument challenging the invoiced amount within ten days of the date the invoice was mailed. All challenges shall be made to the city manager or his/her designee.
3. The amount of all reasonable costs incurred by the city shall be deemed a debt owed to the city by the person or persons liable for such costs pursuant to subsection 9.09.035.A of this section.
4. If the persons liable for such cost are minors, both the minor and the parents or guardians of such minor are jointly and severally liable for the costs of the second response. Any person liable for such second response costs pursuant to this section shall be liable in an action brought in the name of the city for the recovery of such costs, including reasonable attorney fees.
5. The liability imposed by this section for second response shall be in addition to any fines, penalties or forfeitures imposed for violation of any of the provisions of this chapter.

(Ord. No. 699, § 2, 3-2-2016)

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