

“NOISE CONTROL”

PUBLIC PEACE AND WELFARE

(an addition to Title 9 of the West Liberty Municipal Code)

Sec. 9.0

**UNLAWFUL NOISES PROHIBITED; EXCEPTIONS; SPECIAL VARIANCES;
PENALTIES;**

(a.) *Unlawful noises prohibited;* It shall be unlawful for any person to make, cause to be made, continue or permit any excessive or unreasonably loud **noise** or any other raucous sound, considering the time, date, place, and nature of such **noise** or sound, that annoys, disturbs, injures, or endangers, the comfort, health, peace, safety, or repose of other persons or ordinary sensibilities, in any residential zone within the city.

(b) *Unlawful noises emanating from motor vehicles on public right-of-way;*

No person operating or occupying a motor vehicle on any publicly owned property, park, right-of-way, easement, alley, off street parking lot, or any other area to which the public has access, shall play, use, operate, or permit, to be played, used or operated, any radio, tape player, cassette player, compact disk player, loud speaker, sound amplification system, or other device designed to generate, amplify, and/or reproduce sound, from within the motor vehicle in such manner that the sound is plainly audible by another human being at distance of fifty (50) feet from the device producing the sound. For the purpose of this prohibition, “plainly audible” means any sound which clearly can be heard, by unimpaired auditory senses based on a direct line of sight of fifty (50) or more feet; however, words or phrases need not be discernible and said sound shall include bass reverberation.

(c) *Exceptions:* The prohibitions set forth herein shall not apply, and it shall be a defense to any prosecution hereunder, if an otherwise unlawful **noise** was emitted from:

(1) Any siren, whistle, horn or bell lawfully used by emergency vehicles or any other alarm systems, including property operating vehicle alarms, used as a warning of danger or the presence of public safety officials acting within the course and scope of their authority.

(2) Sirens, whistles, horns, bells or other ambient noises emanating from persons or sound devices in association with community wide festivals, parades, church activities, organized school related programs, activities, or sporting events or other public events or activities sponsored and /or authorized by the city.

(3) Any **noise** made, or caused to be made by any person that is reasonable and necessary under the circumstances to prevent imminent risk or death or injury to persons or property damage.

(4) Any domestic power equipment, including but not limited to, lawn mowers, weed eaters, blowers, mulching equipment, or edgers, commonly used for routine household and/or lawn care maintenance.

(5) Any commercial power equipment operated in the ordinary course of business.

(6) The operation and maintenance of airplanes, aircraft, locomotives, trains, brush chippers, vacuum leaf loaders, street sweepers, tractor-mowers, sanitation removal and refuse collection vehicles, or any other city service vehicle or equipment.

(d) Special variance:

(1) The mayor shall have the authority, consistent with the subsection, to grant special variances relative to **noise** disturbances that would otherwise violate provisions of the section.

(2) Any person seeking a special variance pursuant to this subsection shall file an application with the mayor, no less than twenty (20) calendar days prior to the date on which the special variance is sought to be effective. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with the subsection would constitute an unreasonable hardship on the applicant, on

the community, or on other persons; that the applicant, on the community, or on other persons; that the activity, operation, or **noise** source will be a temporary duration and cannot be done in a manner that would comply with the provisions of this section; that no reasonable alternative is available to the applicant and that the applicant will comply with all time, manner, and place restrictions deemed reasonable and necessary by the mayor, under the circumstances. The applicant shall give notice of its application for a special variance, by regular mail, to all persons who own and/or occupy the real property adjoining the site for which the special variance is sought, not less than fifteen (15) days prior to the date on which the special variance is sought to be effective. Proof of the notice required herein shall be given by the applicant to the mayor. The failure of the applicant to give actual notice to all adjoining property owners and /or occupants shall not be fatal, in and of itself, to applicant's request for special variance. Any individual claiming to be adversely affected by allowance of special variance may file a written statement with the mayor containing any information to support his or her position. Said statement shall be filed not less than seven (7) calendar days prior to date on which the special variance is sought to be effective.

(3) in determining whether to grant or deny the application, the mayor shall consider the duration, manner, and location of the proposed **noise** source on property affected and any other adverse impact of granting the special variance; and whether or not a reasonable alternative with less adverse impact on surrounding people and properties is available to the applicant. Applicants for special variances and persons objecting thereto may be required to submit additional information to the mayor. No application for a special variance shall be denied on the basis of the content of any **noise** source proposed by the applicant. In granting or denying an application, the mayor shall place on public file with the city clerk and the police department, a copy of the decision and a reason for denying or granting the special variance.

(4) special variances shall be granted by notice to the applicant containing all necessary terms and conditions upon which the permit has been granted, including but not limited to, the effective date, time of day location, and equipment limitations, if any. The special variance shall not become effective until all conditions are agreed to by the applicant. Non-compliance with any

conditions of special variance shall terminate it and subject the person holding it to those provisions of this section regulating the source of sound or activity for which the special variance was granted. Any application for extension of the time limit specified in a special variance or for modification of other substantial conditions shall be treated like a new application for special variance.

(5) the mayor may issue guidelines defining the procedures to be followed in applying for a special variance, and any additional criteria not inconsistent with those set forth herein, that may be considered in deciding whether to grant or deny a special variance.

(e) Penalties: any person who violates any provisions of this section shall be guilty of a violation upon conviction thereof, shall be punished by a fine not to exceed two hundred fifty dollars (\$250). Each such violation shall constitute a separate offense.

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Attest Sally barker