

CITY OF LUBBOCK
CITY SECRETARY'S OFFICE
1625 13TH STREET, ROOM 206
P.O. BOX 2000
LUBBOCK, TEXAS 79457
(806) 775-2028

| |
|---|
| For Office Use Only: More than 24 hours: ___ Yes ___ No Date Notice given to property owners: _____ Date Scheduled for Council Action: _____ Approved by City Council: ___ Yes ___ No \$25 or \$50 non-refundable permit fee paid: ___ Yes ___ No |
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(PUBLIC ENTERTAINMENT)
APPLICATION FOR NOISE PERMIT OF VARIANCE
(City of Lubbock Code of Ordinances, Ch. 18, Art. I, Sec. 18-4 – 18-4.8)

Applicant's Name: _____

Applicant's Address: _____ **ZIP:** _____

Phone Number: **Home:** _____ **Work:** _____

Name of Organization: _____

Organization's Address: _____

Contact Person for Organization & Title: _____

Phone Number: **Home:** _____ **Work:** _____

Date of Event/Activity: _____

Time Event/Activity Begins: _____ **Time Event/Activity Ends:** _____

Is the above for a >24-hour period or repetitive days? ___ Yes ___ No
- If yes, the application must be submitted at least two weeks prior to event. The fee is \$50 non-refundable. See ordinance, Sec. 18-4.5.(b), for information on notification of property owners lying within 300 feet of the property on which the noise will be generated.

Location of event/activity: _____
(Please include a detailed map showing the area which will be affected by the issuance of this permit.)

What is the source of the sound that will be produced, creating maximum sound levels of 100 dBA? _____

Description of the event/activity: _____

I hereby declare that the information given in this application is true and correct to the best of my knowledge, and that I am aware that a warning sign must be posted near each public entrance (Sec. 18-4.3.(6).

_____ **Date:** _____
Applicant's Signature

Attach written permission or notification of the affected property owners (petition, if event less than 24 hours; copies of written notice if greater than 24 hours or repetitive days).

Sec. 18-4. Noise—Definitions.*

The following words, terms and phrases, when used in Sections 18-4 through 18-4.8, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient sound level means the sound level of the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources.

City means the City of Lubbock, city manager, or an authorized representative of the city.

Device means any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

Emergency vehicle means a motor vehicle used in response to a public calamity or to protect persons or property from an imminent danger.

Emergency work means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from an imminent danger.

Motor vehicle means any vehicle propelled by mechanical power such as, but not limited to, any passenger car, truck, truck-trailer, semitrailer, camper, motorcycle, minibike, go-cart, dune buggy or racing vehicle.

Muffler means any apparatus consisting of baffles, chambers or acoustical absorbing material whose primary purpose is to transmit liquids or gases while causing a significant reduction to sound emission.

Noise means any sound which is unwanted or which causes, or tends to cause, an adverse psychological or physiological effect on human beings.

Person means any individual, firm, association, partnership, corporation or any other entity, public or private.

Property boundary means an imaginary line at the ground surface and its vertical extension which separates the real property owned or occupied by one person from that owned or occupied by another person.

Public right-of-way means any street, avenue, boulevard, highway, alley or similar place which is owned or controlled by a public governmental entity.

Public service work means work conducted by a governmental entity in the interest of the community.

Sound means a temporal and spatial oscillation in pressure, or other physical quantity in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

Stationary sound source means any device, fixed or movable, which is located or used on property other than a public right-of-way.

Vibration means a temporal and spatial oscillation of displacement, velocity or acceleration in a solid material.

Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

(Ord. No. 2006-O0103, § II, 10-13-06)

Editor's Note—Ord. No. 2006-O0103, § I, adopted October 13, 2006, repealed § 18-4 pertaining to loudspeakers and amplifiers. Such section was derived from Ord. No. 891, §§ 1–3, adopted November 10, 1948; Ord. No. 8675, § 1, adopted October 25, 1984; Ord. No. 8839, § 2, adopted November 14, 1985; Ord. No. 9921, § 1, adopted July 25, 1996; and the 1959 Code, § 19-8.

Charter References: Power of city to regulate and prohibit noise, Ch. 1, Art. II, § 23.

Cross References: Sound amplifying equipment on vehicles, § 16-21.

State Law References: Power of city to restrain or prohibit noises, VTCS Art. 1015(22).

Sec. 18-4.1. Same—Policy.

It is the policy of the city to minimize the exposure of citizens to excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare. It is the express intent of the city to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the use, value and enjoyment of property; and preserves the quality of the environment.

(Ord. No. 2006-O0103, § II, 10-13-06)

Editor's Note—Ord. No. 2006-O0103, § I, adopted October 13, 2006, repealed § 18-4.1 pertaining to mobile loudspeakers and amplifiers. Such section was derived from Ord. No. 891, §§ 1–3, adopted November 10, 1948; Ord. No. 8675, § 1, adopted October 25, 1984; Ord. No. 8839, § 2, adopted November 14, 1985; Ord. No. 9921, § 1, adopted July 25, 1996; and the 1959 Code, § 19-8.

Sec. 18-4.2. Same—Administration.

- (a) The provisions of this article shall be administered by and under direction of the city manager or her authorized representative.
- (b) The duly appointed and authorized representative of the city manager's office shall have the authority to:
 - (1) Make necessary inspections and tests with proper authorization or permission from the owner of any private property or place.

(2) Make or require any investigations or studies which are necessary to determine if compliance can be achieved and require noise attenuation measures in accordance with the findings of such investigations or studies for the purpose of determining compliance with this article.

(Ord. No. 2006-00103, § II, 10-13-06)

Sec. 18-4.3. Same—Noises prohibited.

The following sounds are hereby determined to be specific noises which can constitute a noise disturbance, and violations of this article are hereby defined. This section shall not be construed to include any activities or actions by public or private educational facilities or entities or any governmental entity.

- (1) **Animals.** Owning, keeping, possessing or harboring any animal or animals which, by frequent or habitual noise-making, unreasonably disturbs or interferes with the peace, comfort and repose of neighboring persons of ordinary sensibilities, unless a permit of variance is first obtained. The provisions of this section shall apply to all private facilities, including but not limited to any private or commercial animal shelter or kennel, which hold or treat animals, unless a permit of variance is first obtained.
- (2) **Radios, television sets, musical instruments and similar devices.** Operating or permitting to be operated in a fixed or movable position or mounted upon any vehicle in or upon any street, alley, sidewalk, park, place or public or private property any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound or vibrations in such a manner as to unreasonably disturb or interfere with the peace, comfort and repose of neighboring persons of ordinary sensibilities, unless a permit of variance is first obtained.
- (3) **Exterior loudspeakers.** Operating or permitting to be operated any loudspeaker or sound-amplifying equipment in a fixed or movable position in or upon any street, alley, sidewalk, park, place or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons in such a manner as to unreasonably disturb or interfere with the peace, comfort and repose of neighboring persons of ordinary sensibilities, unless a permit of variance is first obtained.
- (4) **Construction work.** Operating or permitting to be operated any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto, between the hours of 10:00 p.m. and 6:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the peace, comfort and repose of neighboring persons of ordinary sensibilities, unless a permit of variance is first obtained.
- (5) **Power equipment.** Operating or permitting to be operated any power equipment in residential zones outdoors between the hours of 10:00 p.m. and 6:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the peace, comfort and repose of neighboring persons of ordinary sensibilities, unless a permit of variance is first obtained.
- (6) **Places of public entertainment.** Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound which produces, at a point that is normally occupied by the customer, maximum sound pressure levels of 100 dBA as read on a sound level meter, unless a conspicuous and legible sign is posted near each public entrance stating: "Warning Sound Levels Within May Cause Permanent Hearing Impairment." This provision shall not be

construed to allow the operation of any loudspeaker or other source of sound in such a manner as to unreasonably disturb or interfere with the peace, comfort and repose of neighboring persons of ordinary sensibilities, unless a permit of variance is first obtained.

(7) Mechanical devices. The operation of any mechanical, electrical or electronic device in a residential area between the hours of 10:00 p.m. and 6:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the peace, comfort and repose of neighboring persons of ordinary sensibilities, unless a permit of variance is first obtained.

(8) Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for more than five minutes during any consecutive 60-minute period in such a manner as to unreasonably disturb or interfere with the peace, comfort and repose of neighboring persons of ordinary sensibilities, except for those exemptions outlined in this article. Nothing herein shall be construed to authorize the operation of any emergency signaling device in violation of article XII, sections 14-300 through 14-326 of the Code of Ordinances of the City of Lubbock (False Alarms).

(9) Other prohibited sound levels. Any emanations of the human voice or noise from any other source, including but not limited to fireworks, motor vehicle horns or other noise-creating object, device or equipment whether amplified or not, which unreasonably disturbs or interferes with the peace, comfort and repose of neighboring persons of ordinary sensibilities, unless a permit of variance is first obtained.

(Ord. No. 2006-00103, § II, 10-13-06)

Sec. 18-4.4. Same—Motor vehicle noise.

(a) Modifications to motor vehicles. No person shall operate or cause to be operated any motor vehicle, unless the vehicle is equipped with an exhaust system which includes a tailpipe and resonator where the original vehicle design included a tailpipe and resonator. Such exhaust system shall be:

(1) Equipped with a muffler which is in good working order (free of damage to the baffles contained in the muffler and is in constant operation).

(2) Not equipped with any cut out, bypass or similar device.

(b) Tire noise. It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason; provided that sound resulting from emergency braking to avoid imminent danger shall be exempted from this subsection.

(c) Off-highway motor vehicles. No person shall operate or permit to be operated any motorized vehicle off a public right-of-way in such a manner as to exceed the sound levels prescribed in sections 18-4 through 18-4.8.

(Ord. No. 2006-00103, § II, 10-13-06)

Sec. 18-4.5. Same—Permits of variance.

(a) Applications for a permit for relief from the noise level designated in sections 18-4 through 18-4.8 on the basis of undue hardship may be made to the city secretary or her duly authorized representative. Any permit granted by the city secretary hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. Any permit granted by the city secretary cannot be assigned or transferred. The city secretary or her duly authorized representative may grant relief as applied for if it is found:

- (1) That additional time is necessary for the applicant to alter or modify the activity or operation to comply with sections 18-4 through 18-4.8; or
- (2) That the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with other provisions of sections 18-4 through 18-4.8; and
- (3) That no other reasonable alternative is available to the applicant; and
- (4) That the city may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

(b) No permit of variance may be issued for greater than a 24-hour period or for repetitive days within a one-year maximum term unless written notice of such request has been sent to all owners of real property lying within 300 feet of the property on which the noise will be generated stating the nature and location of the noise and the length of time requested. Such notice shall be given not less than ten days prior to the date the permit of variance is requested to be issued by depositing a written notice, properly addressed and postage paid, in the United States mail to such property owners as the ownership appears on the last approved city tax roll. A copy of each such notice shall be provided to the city secretary prior to the date requested for issuance of said permit of variance. Such notice shall state that persons opposed to such permit may state an objection to issuance in writing at the office of the city secretary of the City of Lubbock. If no objections are received, the city secretary shall issue the requested permit of variance. If one or more objections are received, the city secretary shall apply the standards of subsection 18-4.5(a) in making a determination as to whether a permit of variance shall be issued.

(c) The city may require a noise study to be performed in order to evaluate the impact of a proposed permit of variance. Such study must be performed by personnel trained and qualified to conduct noise evaluations and studies of the impact of noise. The city manager shall make the determination as to whether personnel are trained and qualified to conduct noise evaluations and studies of the impact of noise. In the event such a study is necessary, the requesting party shall be notified in writing of such requirement. The requesting party shall be responsible for the expense of any study.

(d) A fee of twenty-five dollars (\$25.00) shall be charged for a single day permit of variance issued by the city pursuant hereto and a fee of fifty dollars (\$50.00) shall be charged for a permit of variance involving more than one day. This fee may be reviewed and adjusted in accordance with section 1-10 of the Code of Ordinances of the City of Lubbock.

Sec. 18-4.6. Same—Fees.

A fee of twenty-five and no/100 dollars (\$25.00) shall be charged for each permit of variance issued by the City pursuant hereto. This fee shall be reviewed and adjusted in accordance with Sec. 1-10 of the Code of Ordinances of the City of Lubbock.

(Ord. No. 2006-00103, § II, 10-13-06)

Sec. 18-4.7. Same—Appeals.

Any individual who is aggrieved by the disapproval of a variance permit by the city secretary or her duly authorized representative may appeal in writing to the city stating any information to support his/her claim not later than ten (10) days after the disapproval or denial. All appeals shall be heard by the permit and license appeal board.

(Ord. No. 2006-00103, § II, 10-13-06; Ord No. 2007-O0095, § 3, 9-27-07)

Sec. 18-4.8. Same—Exceptions.

Nothing herein shall be construed as prohibiting, limiting or restricting the activities of any governmental entity, educational entity, or public utility.

(Ord. No. 2006-00103, § II, 10-13-06)