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CHAPTER 47

NOISE POLLUTION

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47.01 PURPOSE. It is the purpose of this chapter to prevent excessive noise and to limit, control and eliminate excessive noise.

47.02 DEFINITIONS. As used in this chapter, the following terms have the following meanings, unless the context thoroughly indicates that a different meaning is intended.

1. "Enforcement Officials" means City Administrator, Zoning Administrator, Police Chief and other law enforcement officers from the City of Okoboji, surrounding municipalities and/or the Dickinson County Sheriff's Department.
2. "Facility" means the area, buildings, and equipment used by any person at a single location in the conduct of a business.
3. "Person" means any individual, natural person, syndicate, association, partnership, firm, corporation, institution, agency, authority, department, bureau or instrumentality of Federal, State or local government, or other entity recognized by law as a subject of rights and duties.

47.03 EXCESSIVE NOISE. It is unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, and unusual noise which disturbs the peace or quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area. The standards which may be considered in determining whether a violation of the provisions of this section exists may include (but are not limited to) the following:

1. The level of the noise;
2. Whether the nature of the noise is usual or unusual;
3. Whether the origin of the noise is natural or unnatural;
4. The level and intensity of the background noise, if any;
5. The proximity of the noise to residential sleeping facilities;
6. Measures taken by individuals attempting to sleep in order to reduce and/or eliminate the noise;
7. The nature and zoning of the area within which the noise emanates;
8. The density of the inhabitation of the area within which the noise emanates;
9. The time of the day and night the noise occurs;
10. The duration of the noise; and
11. Whether the noise is recurring, intermittent or constant.

47.04 OTHER REMEDIES. Nothing in this chapter shall be construed as limiting the rights of any person to redress in a court of law for any injury to person or damage to property caused by excessive noise.

47.05 POWERS AND DUTIES OF ENFORCEMENT OFFICIALS.

1. Enforcement officials shall be responsible for administration and enforcement of this chapter.
2. Enforcement officials shall have the power to effect compliance with this chapter by order or warning, directing all necessary action or forbearances necessary to achieve compliance.
3. Enforcement officials shall have the power to investigate complaints about noise, make observations, and maintain surveillance of the discharge or escape of noise.
4. Enforcement officials may inspect from time to time any installation, premises, equipment, devices and appurtenances thereto, that may, can, or do cause excessive noise, and enforcement officials may take measurements and make analysis of such noise, and when directed, the owner shall provide assistance to enforcement officials during periods of measurement.

47.06 VIOLATIONS.

1. A violation of this chapter, or the omission or failure to perform any act or duty required to comply with this chapter, is a municipal infraction and punishable by civil penalty, all as set forth in Chapter 3 of this Code of Ordinances.
2. This chapter does not preclude a public official from issuing a criminal citation for violation of this chapter in accordance with Chapter 1 of this Code of Ordinances.
3. Alternative Relief. Seeking a civil penalty as authorized by this chapter does not preclude the City from seeking alternative relief from the court in the form of criminal violations in the same action and does not preclude the City from seeking an order of abatement and/or injunctive relief, as the case may be.

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