

City of Dallas Unnecessary Noise Variance Application



Please Return Application to: City Manager's Office, 187 SE Court St., Dallas, Oregon 97338
Phone: 503-831-3502 Fax: 503-623-2339

Applicant:

Organization:

Address:

Phone Number:

I/we request permission for a variance to the unnecessary noise ordinance as follows:

Date(s):

Time(s):

Location (Specific Address, if possible):

Source of Sound / Physical Characteristics:

Reason why variance is requested:

Applicant must provide a site plan sketch showing area of sound generation and identify the zoning of the surrounding area.

Applicant is required to provide written notice by mail or personal delivery to the occupants of all properties within 500 feet of the area of sound generation. The notice must be provided at least ten (10) days prior to the event and shall include a description of the proposed event and the phone number of the City Manager's office so that recipients may comment on the proposed variance. The applicant must file with the City Manager a list of the names and addresses of persons to whom notice was given.

I/We understand and agree to comply with the conditions set forth by the Dallas City Code 5.020.

APPLICANT'S SIGNATURE

DATE:

(STAFF USE ONLY)

APPROVED

DENIED

CITY MANAGER'S SIGNATURE

DATE:

5.020 Unnecessary Noise.

(1) No person shall create, assist in creating, permit, continue, or permit the continuance of any noise disturbance.

(2) As used in this section:

(a) "Noise disturbance" means any sound that: (i) Annoys or disturbs a reasonable person of normal sensitivities; or (ii) Injures or endangers the health or safety of a person.

(b) "Plainly audible" means the listener can clearly hear the sound produced by a sound source with unaided hearing faculties.

(3) The following acts are declared to be noise disturbances in violation of this section per se, if the sound produced thereby is plainly audible within or on the grounds or yard of any dwelling unit, church or other religious facility, business, day care center, hospital or school, other than the source of the sound. This subsection shall not be deemed to limit noise disturbances for the purposes of this section to those enumerated herein.

(a) Keeping a dog or other animal that causes frequent or continued noise.

(b) Operating any idling engine for more than 15 consecutive minutes between 10:00 p.m. and 7:00 a.m.

(c) Operating any mechanical device which is built in or attached to a motor vehicle, including, but not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, and blowers, for more than 30 minutes between the hours of 10:00 p.m. and 7:00 a.m.

(d) Operating domestic power tools or equipment used for home or building repair or maintenance and landscaping, including, but not limited to powered hand tools, lawn mowers, garden equipment, blowers and snow removal equipment, during the hours of 10:00 p.m. to 7:00 a.m.

(e) Erecting, excavating, demolishing, altering, or repairing a building in a residential district between the hours of 10:00 p.m. and 7:00 a.m.

(f) Using or operating a musical instrument, radio, television, loudspeaker, or other similar sound producing equipment during the hours of 10:00 p.m. to 7:00 a.m.

(g) Repairing or testing any motor vehicle between 10:00 p.m. and 7:00 a.m.

(h) Using unmuffled engine brakes, commonly known as "Jake Brakes."

(4) Exemptions. The following sounds are exempted from the provisions of this section:

(a) Sounds made by work necessary to restore property to a safe condition following a natural or other disaster, or work required to protect persons or property from imminent exposure to danger.

(b) Sounds made by warning devices to protect persons or property from imminent exposure to danger, provided however, that burglar or fire alarms shall not operate continuously for more than 15 minutes.

(c) Sounds made by the Dallas Fire Department siren during use and testing.

(d) Sounds made by an emergency vehicle, as defined in ORS 801.260, when responding to or from an emergency or when in pursuit of an actual or suspected violator of the law.

(e) Sounds made by activities by or on direction of the city of Dallas in maintenance, construction, or repair of public improvements in public rights-of-way or easements.

(f) Sounds produced pursuant to a specific variance granted by the Oregon Environmental Quality Commission.

(g) Sounds produced by the audience, participants, and sound amplifying equipment at athletic or other public events on public property and sponsored, sanctioned, or otherwise approved by the City or the Dallas School District 2.

(5) Any person who owns, controls, or operates any sound source which does not comply with a provision of this section may apply for a variance.

(6) An applicant for a variance shall submit in writing to the City Manager or the City Manager's designee an application that includes:

(a) The reason or reasons why the variance is requested;

(b) The physical characteristics of the sound involved;

(c) The times when the sound will be emitted;

(d) A site plan sketch that shows the area of sound generation and designates whether the uses in the area within 500 feet of the source of the sound are residential, commercial, or industrial, where the sound will not be generated by a mobile source that moves beyond the boundaries of one block;

(e) Any other information the City Manager or the City Manager's designee may reasonably require to allow consideration of the conditions set forth in this section.

(7) Where the sound will not be generated by a mobile source that moves beyond the boundaries of one block, the applicant for a variance shall provide written notification by mail or personal delivery to the occupants of all properties within 500 feet of the area of sound generation. Notice shall be provided at least 10 days before the event. Notice shall include a description of the proposed event and the phone number for the City Manager's office so that recipients may comment on the proposed variance. The notice shall state that any comments are due within three business days after the date of the notice. The applicant for a variance shall file with the City Manager or the City Manager's designee a list of the names and addresses of persons to whom notice under this subsection was given.

(8) The City Manager or City Manager's designee may grant a variance, after considering the written application for variance and any comments submitted by persons under subsection (7), when it appears that the following conditions exist:

(a) There are unnecessary or unreasonable hardships or practical difficulties that can be most effectively relieved by granting the variance; and

(b) That granting the application will not be unreasonably detrimental to the public welfare.

(9) The City Manager or City Manager's designee shall grant or deny a variance within five days of receipt of a complete variance application, including proof of notice required under subsection (7).

(a) The City Manager or City Manager's designee may impose such limitations and conditions as deemed necessary or appropriate to protect the public safety and welfare. A violation of any such condition or limitation shall constitute a violation of this section.

(b) A decision to grant or deny a variance shall be in writing and shall state the reasons for such decision. The City Manager or City Manager's designee shall notify the applicant of the decision and shall make it available to any person who has submitted comments on the application.

(10) Violation of this section is a civil infraction, subject to a minimum bail amount of \$142, except as provided below:

(a) For a second or successive violation of this section within a six-month period the minimum bail amount shall be \$242.

(b) For a second or successive violation of this section within a three-month period the minimum bail amount shall be \$427.

[Subsection (1)(k) added by Ordinance No. 1500, passed May 16, 1994; subsection 5.020(1)(i) amended by Ordinance No. 1580, passed October 4, 1999; subsection 5.020(2) amended by Ordinance No. 1705, passed August 3, 2009; amended by Ordinance No. 1741, passed September 19, 2011.]