

Chapter 14 OFFENSES, MISCELLANEOUS PROVISIONS

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**Sec. 14-1. Interfering with city officers or employees in performance of their duties.**

It shall be unlawful for any person to interfere with any city officer or employee in the performance of his duties as such.

**Sec. 14-2. Trespassing on city property.**

- (a) A person commits an offense if he enters or remains on city property without effective consent and he:
- (1) Had notice that the entry was forbidden; or
  - (2) Received notice to depart but failed to do so.
- (b) For purposes of this section:
- (1) *Entry* means the intrusion of the entire body; and
  - (2) *Notice* means:
    - a. Oral or written communication by the city or someone with apparent authority to act for the city;
    - b. Fencing or other enclosure obviously designed to exclude intruders or to contain livestock; or
    - c. Sign posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

**State law reference**— Trespass, V.T.C.A., Penal Code § 30.05.

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**Sec. 14-3. Generally.**

- (a) *General prohibition.* It shall be unlawful for any person to make, assist in making, continue or allow or cause to be made or continued within the limits of the city, and five thousand (5,000) feet beyond the limits any noise nuisance.
- (b) *Noise nuisance defined.* For purposes of this chapter, the phrase "noise nuisance" is any unreasonably loud, disturbing or unnecessary sound or noise that causes material distress, discomfort or injury to a reasonable person of ordinary sensitivity in the immediate vicinity thereof, and/or any sound or noise of such character, intensity and continued duration that substantially interferes with the comfortable enjoyment of private homes by reasonable persons of ordinary sensitivity; and/or any sound that exceeds eighty (80) decibels, except during the hours of quiet time, which shall be Sunday, Monday, Tuesday, Wednesday and Thursday, from 11:00 p.m. to 6:00 a.m.; and Friday and Saturday midnight to 6:00 a.m. the following morning, any sound that exceeds seventy (70) decibels, and measured as provided in section 14.3.1.1 below.

(Ord. No. 72-O-7, 7-11-72; Ord. No. 2004-O-1B, 1-26-2004; Ord. No. 2005-O-2D, § II, 3-14-2005; Ord. No. 2010-O-1C, § II.1, 2-8-2010)

**State law reference**— Authority to regulate noise, Vernon's Ann. Civ. St. art. 1015(21, 22); disorderly conduct, V.T.C.A., Penal code, § 42.01.

**Sec. 14-3.1. Prohibited noise nuisances.**

The following activities are declared to be a prima facie noise nuisance in violation of section 14-3 of this chapter and are unlawful:

- (1) *Animals, birds.* The keeping or maintenance or the permitting to be kept or maintained upon any premises owned, occupied or controlled by any person of any animal or bird that by frequent, habitual or continued noise unreasonably disturbs or interferes with the peace, comfort or repose of a reasonable person of normal sensitivity within the immediate vicinity.
- (2) *Construction.* The construction, excavation, demolition, alteration or repair work of any building or other structure, other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays, except in the case of urgent necessity or in the interest of public safety and convenience, and then only with written permission from the city manager or the city manager's designee.
- (3) *Firearms and fireworks.* The explosion of firecrackers, skyrockets, roman candles, pinwheels or any other form of fireworks or the shooting of any firearms, except as specifically authorized by law or the proper official.
- (4) *Horns and signaling devices.* The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except when necessary to ensure safe operation, or the creation by means of any horn or signaling device of an unreasonably loud or harsh sound or a whistle.
- (5) *Engine brakes and altered muffler system.* The use or operation of an unmuffled auxiliary or compression engine brake in a posted area on a street or highway on which such use is prohibited that produces any noise in addition to the normal operating engine noise within the city. This provision shall not be construed to prohibit the use of braking mechanisms by emergency vehicles while in the performance of their official or normal duties. This provision is not intended to prohibit the passage of vehicles equipped with engine or "Jake brakes" in posted areas but rather to prohibit the use of unmuffled engine or "Jake brakes" in posted areas.

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- (6) *Peddlers*. The raucous shouting and crying of peddlers, hawkers and vendors within any area of the city zoned for residential uses.
- (7) *Radios, loudspeakers, musical instruments*. The playing of any radio, television, phonograph, computer, loudspeaker, megaphone, amplifier, or musical instrument in such manner or with such volume as to annoy or disturb the quiet comfort or repose of persons of ordinary sensitivity in any dwelling, hotel, or other type of residence.
- (8) *Schools, courts, churches, libraries, hospitals, rest homes, long-term medical or mental care facilities*. The creation of any excessive noise on any street or sidewalk adjacent to any school, institution of learning, court, church or library while the same are in use or adjacent to any hospital, rest home, or long-term medical or mental care facility, which unreasonably interferes with the workings of such institutions, or which disturbs or unduly annoys the occupants of such institutions.
- (9) *Vehicles*. The operation or testing of any automobile, commercial vehicle, motorcycle or other vehicle so out of repair, or the operation of any motor engine or brakes of any automobile, commercial vehicle, motorcycle or other vehicle as to create loud, grating, jarring or rattling noise vibrations, or the operation of any automobile, commercial vehicle, motorcycle or other vehicle so loaded or in any such manner as to create loud or unnecessary grating, grinding, jarring or rattling noise or vibrations.
- (10) *Yelling, shouting*. Yelling, shouting, hooting, whistling or singing on the public streets, particularly, between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of a reasonable person of ordinary sensitivity in any office, or in any dwelling, hotel or other type of residence.

(Ord. No. 99-O-4G, § II, 5-18-99; Ord. No. 2004-O-1B, 1-26-2004; Ord. No. 2005-O-2D, § II, 3-14-2005; Ord. No. 2006-O-3B, § II, 4-10-2006)

**Sec. 14-3.1.1. Measurement of sound levels.**

Whenever this article prohibits sound above a certain decibel limit, measurement of the sound shall be made with a Type 1 or Type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American Standards Association. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used. Traffic, aircraft, and other transportation noise shall not be considered in taking measurements except where such background noise interferes with the noise being measured and cannot reasonably be distinguished from the primary noise.

Measurements of sound generated shall be conducted consistent with the directionality of the complaint or disturbance and the location of measurement shall be one of the following methods: Measurement conducted at the curb line or edge of pavement on the street side(s) of the building or venue at which the sound is emanating, but if there is not a minimum of fifty (50) feet between the building and the curb line or edge of pavement closest to the building, then the measurement shall be taken from the opposing side of the street directly in line with the structure, with clear line of sight; for all non-street side measurements the measurement shall be conducted a minimum of fifty (50) feet from the building or venue at which the sound is emanating.

(Ord. No. 2010-O-01C, § II.2, 2-8-2010)

**Sec. 14-3.2. Defenses and exemptions.**

- (a) *Defenses*. The following defenses shall apply to violations of section 14-3 of this chapter:

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- (1) *Emergency, danger.* The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger or attempted crime.
  - (2) *Emergency personnel and vehicles.* The sound was produced by police or fire personnel or an authorized emergency vehicle.
  - (3) *Utilities and protection.* The sound was produced by emergency work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger following a fire, accident or natural disaster.
  - (4) *Events and First Amendment.* The sound was generated:
    - a. At a lawfully scheduled stadium event;
    - b. By a parade and spectators and participants on the parade route during a permitted parade;
    - c. By spectators and participants at lawfully scheduled outdoor events;
    - d. By spectators and participants of any outdoor event, fun run, race, festival or concert that was sponsored, co-sponsored or permitted by the city; or
    - e. Any lawful activity that constitutes protected expression pursuant to the First Amendment to the United States Constitution.
  - (5) *Bells and chimes.*
    - a. *Church, school and clocks.* The sound was produced by bells or chimes or any device used for the production or reproduction of the sounds of bells or chimes from any church when used as part of a religious observance or service, or from any clock or school, which is used during daytime hours, and which does not exceed five (5) continuous minutes in duration in any one-hour period.
    - b. *Ice cream vending machines.* The sound was produced by bells or chimes or any device used for the production or reproduction of the sound of bells or chimes from any ice cream vending machine during daytime hours.
  - (6) *Permit.* The sound was produced in accordance with a permit issued under section 14-3.3 of this chapter.
- (b) *Exemptions.* The following are exempt from the prohibitions under section 14-3 of this chapter on Fridays and Saturdays between the hours of 8:00 a.m. and 12:00 midnight and on Sunday through Thursday between the hours of 8:00 a.m. and 11:00 p.m.:
- (1) Special events that have been approved by permit issued by the city manager or the city manager's designee. The noise levels for such events shall not exceed one hundred ten (110) decibels when measured from a distance of approximately one hundred (100) feet from the location where the noise is generated. The city manager or the city manager's designee may, in the interest of public health, safety, welfare or convenience, set different hours, days and/or decibel levels in the special events permit authorizing the event.
  - (2) Certain events at the Lakeside Park Pavilion. Events, public or private, held in the Lakeside Park Pavilion for which the organizers have entered into a contract with the city to reserve said facility and for which all fees and deposits have been paid. The noise levels for such events shall not exceed one hundred ten (110) decibels when measured at a distance of approximately one hundred (100) feet from the location where the noise is generated.

(Ord. No. 2005-O-2D, § II, 3-14-2005)

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**Sec. 14-3.3. Permits.**

- (a) The city manager or the city manager's designee may grant permits for relief from any provision in the city's noise ordinance on the basis of undue hardship in cases where:
  - (1) The sound source will be of short duration and the activity cannot be conducted in a manner that complies with sections 14-3 through 14-3.4;
  - (2) Additional time is necessary for the applicant to alter or modify the applicant's activity or operation to comply with sections 14-3 through 14-3.4; or
  - (3) No reasonable alternative is available to the applicant.
- (b) An automatic variance will be granted without the payment of a permit fee for the purpose of conducting parades or other public events, provided that any noise disturbance created by such activity will be abated when such request is made by the city manager or the city manager's designee.
- (c) The city manager or the city manager's designee may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects and may suspend any permit issued under this section for violating any provisions prescribed in the permit.
- (d) A fee of ten dollars (\$10.00) shall be charged to each applicant for processing permit applications.

(Ord. No. 2005-O-2D, § II, 3-14-2005)

**Sec. 14-3.4. Civil and criminal penalties.**

The city shall have the power to administer and enforce the provisions of sections 14-3 through 14-3.4 as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of sections 14-3 through 14-3.4 is hereby declared to be a nuisance.

- (1) *Criminal prosecution.* Any person violating any provision of sections 14-3 through 14-3.4 shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this article is violated shall constitute a separate offense. An offense under sections 14-3 through 14-3.4 is a Class C misdemeanor. Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this section 14-3 of this chapter.
- (2) *Civil remedies.* Nothing in sections 14-3 through 14-3.4 shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of sections 14-3 through 14-3.4 and to seek remedies as allowed by law, including, but not limited to the following:
  - a. Injunctive relief to prevent specific conduct that violates sections 14-3 through 14-3.4 or to require specific conduct that is necessary for compliance with sections 14-3 through 14-3.4; and
  - b. A civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of sections 14-3 through 14-3.4 and after receiving notice committed acts in violation of sections 14-3 through 14-3.4 or failed to take action necessary for compliance with sections 14-3 through 14-3.4; and
  - c. Other available relief.

(Ord. No. 2005-O-2D, § II, 3-14-2005)

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**Sec. 14-4. Discharge of firearms.**

It shall be unlawful for any person to discharge any firearm in the city except in defense of life or property.

**Cross reference**— Display of firearms in city parks, § 15-19.

**Sec. 14-5. Smoking in grocery stores.**

(a) *Purpose.* Because the smoking of tobacco or of any other weed or plant is a positive danger to health and a cause of material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined places, and in order to serve public health, safety and welfare, the purpose of this section is to prohibit the smoking of tobacco or any other weed or plant in certain areas which are used by or open to the public.

(b) *Definitions:*

*Grocery store* means any retail establishment that sells food for consumption off premises. This definition shall not include restaurants or convenience stores.

*Person* means any individual, partnership, joint venture, association, official group, fraternal organization, corporation, estate, trust, receiver, syndicate, or any other group or combination acting as a unit.

*Smoke* or *smoking* means and includes the holding or carrying of a lighted pipe, lighted cigar or lighted cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind. Smoking shall include tobacco products, as well as any other plant or weed used as a substitute or alternative to tobacco products.

(c) *Smoking prohibited.* It shall be unlawful for any person to smoke in any grocery store located within the city limits except as specifically authorized pursuant to this section. A grocery store may establish certain designated areas where smoking shall be permitted. However, these designated smoking areas shall not include any of the following:

- (1) Lobbies and public hallways.
- (2) Checkout stands.
- (3) Eating areas or any place of public assembly.
- (4) All other areas within the grocery store where food is stored or shelved for purchase.

(d) *Sign requirements.* Signs which designate smoking or no-smoking areas established by this section shall be clearly and conspicuously posted in every room, building or other place so covered by this section. The manner of such posting, including the wording, size, color, design and place of posting, whether on the walls, doors, tables, counters, stands or elsewhere, shall be at the discretion of the owner, operator, manager or other person having control of such room, building or other place so long as the sign clearly notifies the public of the prohibitions of this section. However, notwithstanding anything contained herein to the contrary, the sign shall contain the phrase "smoking is prohibited by city ordinance," and the ordinance number shall also appear on the sign. The sign shall also contain the international "NO" symbol to indicate no smoking areas.

(e) *Responsibility of owners and operators.* The owner, operator or manager of any facility, business or agency shall post or cause to be posted all no-smoking signs required by this section.

(f) *Violation, penalty.* Upon conviction thereof, any person who violates any provision of this section shall be punished by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).

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(Ord. No. 94-O-5, §§ 1—6, 5-10-94)

**Sec. 14-6. Overdue library material.**

(a) *Definitions.*

*Delinquent date* shall mean fourteen (14) days after the due date.

*Due date* shall mean the date established for the return of a library material to the library. This date shall be established at the time the library material is checked out of the library.

*Library material* means any printed or recorded information including but not limited to one (1) or more books, audiotapes, and videotapes.

*Notice of overdue materials* shall mean written notice sent by regular first class mail to the current address of the person who checked out the library material as shown on the records of the library, as provided in subsection (c) below.

- (b) The library shall notify each person who checks out library material of the due date for such material. This notice shall be in writing. The method presently used by the library for giving such notice is hereby approved. Any subsequently adopted method of giving the notice required by this section shall give fair notice of the due date to any person who checks out library material.
- (c) On or after the delinquent date, the library shall give written notice of overdue materials to each person who has failed to return library material on or before the due date. This notice of overdue materials shall be sent by first class mail to the person's address of record as maintained by the library.
- (d) It shall be unlawful for any person to fail to return library material within fourteen (14) days after the delinquent date. It shall be a separate violation for each item of library material not returned.
- (e) Upon conviction of violating this section, a person shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00).
- (f) Prosecution under this section shall in no way interfere with the library's right to collect fines or fees from the person prosecuted.

(Ord. No. 2000-O-8A, § II, 8-22-2000)

**Sec. 14-7. Regulation of sex offender residency.**

- (a) *Finding and intent.* The city council finds that sex offenders who are required to register as a sexual predator under V.T.C.A., Texas Code of Criminal Procedure, ch. 62, present an extreme threat to the health, safety and welfare of children. Sex offenders are likely to repeat an offense, have many more victims than are ever reported, are prosecuted for only a fraction of their actual sexual offenses, and children not only lack the ability to protect themselves but additional measures should be taken to keep known sex offenders from having access to children in areas where children generally feel safe.

It is the intent of this section to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around locations where children regularly congregate in concentrated numbers wherein certain registered sex offenders and sexual predators are prohibited from establishing temporary or permanent residency.

- (b) *Definitions.* The following words, terms, and phrases; when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning;

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*Minor:* A minor is a person younger than sixteen (16) years of age.

*Permanent residence:* A place where the person abides, lodges or resides for fourteen (14) or more consecutive days.

*Temporary residence:* A place where a person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a place where a person routinely abides, resides or lodges for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence

(c) *Sex offender residency prohibition; penalty; and exceptions.*

- (1) It is unlawful for a person who is required to register on the Texas Department of Public Safety's Sex Offender Database pursuant to V.T.C.A., Texas Code of Criminal Procedure, ch. 62 because of a violation involving a victim who was less than sixteen (16) years of age to establish a permanent residence or temporary residence within one thousand (1,000) feet of any premise where children commonly gather, including a public playground, playscape, skate park, youth soccer or baseball field, public or private school, day care facility, video arcade facility, public or private youth center, crisis center or shelter, or public swimming pool, as those terms are commonly understood and/or defined in V.T.C.A., Health and Safety Code, § 481.134. It shall be prima facie evidence that this chapter applies to such a person if the person's record appears on the database and the database indicates that the victim was less than sixteen (16) years of age.
- (2) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein, or in the case of multiple residences on one (1) property, measuring from the nearest wall of the building or structure occupied or the parking lot/driveway, whichever is closer to the nearest property line of the premises where children commonly gather, as described herein. A map generally depicting the prohibited areas is attached to this ordinance for representation purposes. The city shall review the map at least annually for changes, and it will be available at the Marble Falls Police Department.
- (3) *Civil and criminal penalties.* The city shall have the power to administer and enforce the provisions of this section as may be required by governing law. Any person violating any provision of this section is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this section is hereby declared to be a nuisance.
  - a. *Criminal prosecution.* Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this section shall continue shall constitute a separate offense.
  - b. *Civil remedies.* Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to, the following:
    1. Injunctive relief to prevent specific conduct that violates the section or to require specific conduct that is necessary for compliance with the section; and
    2. A civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of the section and after receiving notice committed acts in violation of the section or failed to take action necessary for compliance with the section; and
    3. Other available relief.
- (4) *Culpable mental state not required:* Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this chapter.

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- (5) *Exceptions.* This section does not apply to the following situations:
- a. The person established the permanent or temporary residence and has complied with all the sex offender registration laws of the State of Texas, prior to the date of the adoption of this section.
  - b. The person was a minor when he/she committed the offense and was not convicted as an adult.
  - c. The person is a minor.
  - d. The premises where children commonly gather, as specified herein, within one thousand (1,000) feet of the person's permanent or temporary residence was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the State of Texas.
  - e. The person proves that the information on the database is incorrect and that, if corrected, this chapter would not apply to the person erroneously listed on the database.
- (d) *Property owners prohibited from renting real property to sexual offenders; penalty.*
- (1) It is unlawful to let or rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to the terms of this Code, if such place, structure or part thereof, manufactured home, trailer, or other conveyance is located within one thousand (1,000) feet, as determined pursuant to subsection (c)(2), of any premises where children commonly gather, including a playground, playscape, school, day care facility, crisis center or shelter, skate park, youth soccer or baseball field, video arcade facility, public or private youth center, or public swimming pool, as those terms are commonly understood and/or defined in V.T.C.A., Health and Safety Code, § 481.134.
  - (2) *Penalty—Civil and criminal penalties.* The city shall have the power to administer and enforce the provisions of this section as may be required by governing law. Any person violating any provision of this section is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this section is hereby declared to be a nuisance.
    - a. *Criminal prosecution.* Any person, firm or corporation violating a provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) per violation. Each day that any violation of this ordinance shall continue shall constitute a separate offense.
    - b. *Civil remedies.* Nothing in this section shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this section and to seek remedies as allowed by law, including, but not limited to the following:
      1. Injunctive relief to prevent specific conduct that violates the section or to require specific conduct that is necessary for compliance with the section; and
      2. A civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of the section and after receiving notice committed acts in violation of the section or failed to take action necessary for compliance with the section; and
      3. Other available relief.
  - (3) *Affirmative defense.* It is an affirmative defense to prosecution for an offense under this section that on or prior to the date of the alleged offense, the property owner conducted a criminal history check with the Texas Department of Public Safety and reviewed the department of public safety's sexual predator registration database, and that at the time the property owner conducted the criminal history check and reviewed the sexual predator database the sexual

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offender's criminal history did not include a record of a sexual offense and the offender's name did not appear in the database.

(Ord. No. 2006-O-8C, § II, 9-11-2006)

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FOOTNOTE(S):

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**Cross reference**— Nuisances, Ch. 13; police, Ch. 18; traffic and motor vehicles, Ch. 25. [\(Back\)](#)

**State Law reference**— Police power of city, Vernon's Ann. Civ. St. art. 1011. [\(Back\)](#)