CHAPTER 8.14

PROVISIONS FOR HAWKERS, PEDDLERS AND SOLICITORS

Sections:

8.14.010	Purpose.
8.14.020	Unlawful to go to private residences as a solicitor, hawker, itinerant merchant or transient vendor.
8.14.030	Violation - Penalty.

8.14.010 Purpose. The purpose of this chapter is to adopt by reference those portions of RCW 49.12, RCW 36.71, and RCW 48.17.

8.14.020 Unlawful to go to private residents as a solicitor, hawker, itinerant merchant or transient vendor. It is unlawful for any person, firm or corporation to go to private residences within the City of Kettle Falls as a solicitor, hawker, itinerant merchant or transient vendor, when not having been requested or invited to do so in advance by the owner or owners, occupant or occupants of the private residence, for the purposes of soliciting orders for sales of goods, wares and merchandises and for the purpose of bartering or hawking the same.

8.14.030 Violation - Penalty. Any violation of this chapter shall constitute a misdemeanor and upon conviction shall be punishable by a fine not to exceed five hundred dollars or by imprisonment in the county jail for a period not to exceed thirty days or by both such fine and imprisonment, and in addition the court may order that further action shall be enjoined by a permanent injunction.

CHAPTER 8.16

NOISE

Sections:

8.16.010	Purpose
8.16.020	Adoption
8.16.030	Definitions
8.16.040	Noise levels above permissible maximum levels prohibited.
8.16.050	Public disturbance noises prohibited.
8.16.060	Violations.
8.16.070	Construction/Severability.

8.16.010 Purpose. The City Council finds that inadequately controlled noise affects the health, safety, and welfare of the people, the value of property, and the quality of the environment. There is a need to abate and control noise, considering the social and economic impact upon the city. This chapter provides for noise abatement, a method of enforcement and for adopting State Noise WAC's by reference.

8.16.020 Adoption. The following chapters of Title 173, Washington Administrative Code, as now existing, and all future amendments, additions and new sections are hereby adopted by reference:

A. Chapter 173-58 WAC - Sound Level Measurement Procedures
B. Chapter 173-60 WAC - Maximum Environment Noise Levels

8.16.030 Definitions.

(1) "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the sound to a reference pressure of 20 mircopascals.

(2) "Distribution facilities" means any facility used for distribution of commodities to final consumers, including facilities of utilities that convey water, waste water, natural gas and electricity.

(3) "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

(4) "Noise" means the intensity, duration and character of sounds, from any and all sources.

(5) "Person" means any individual, corporation, partnership, association, governmental body, state agency or other enity whatsoever.

(6) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

(7) "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

(8) "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specifications S1.4-1971.

(9) "Class A Zone" is all property within the city limits of Kettle Falls zoned (a) single family residential or (b) multi-family residential.

(10) "Class B Zone" a all property within the city limits of Kettle Falls zoned (a) commercial or (b) public or (c) vacant or (d) resource.

(11) "Class C Zone" is all property within the city limits of Kettle Falls zoned industrial.

8.16.040 Noise levels above permissible "maximum levels prohibited.

(A) No person shall cause or permit noise to intrude into the property of another person or onto public property which noise exceeds the maximum permissible noise levels set forth herein. The noise limitations established are as set forth in the following table after any applicable adjustments provided for herein are applied:

EDNA OF NOISE SOURCE	EDNA OF RECEIVING PROPERTY		
	Class A	Class B	Class C
Class A	55 dBA	57 dBA	60 dBA
Class B	57	60	65
Class C	60	65	70

8.16.040 (b) Between the hours of 10:00 p.m. and 7:00 a.m. the noise limitations of the foregoing table shall be reduced by 10 dBA for receiving property within Class A EDNAs.

8.16.040 (c) At any hour of the day or night the applicale noise limitations in (a) and (b) above may be exceeded for any receiving property by no more than:

(i) 5 dBA for a total of 15 minutes in any one-hour period; or
(ii) 10 dBA for a total of 5 minutes in any one-hour period; or
(iii) 15 dBA for a total of 1.5 minutes in any one-hour period.

Exemptions:

(1) The following shall be exempt from the provisions of KFMC 8.16.040 between the hours of 7:00 a.m. and 10:00 p.m.:

(a) Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances.

(b) Sounds created by the discharge of firearms on authorized shooting ranges.

(c) Sounds created by blasting.

(d) Sounds created by aircraft engine testing and maintenance not related to flight operations; *Provided*, That aircraft testing and maintenance shall be conducted at remote sites whenever possible.

(e) Sounds created by the installation or repair of essential utility services.

(2) The following shall be exempt from the provisions of KFMC 8.16.040 (b):

(a) Noise from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility.

(b) Noise from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours, which would affect exemptions under this regulation, require approval of the department.

(3) The following shall be exempt from the provisions of KFMC 8.16.040, except insofar as such provisions relate to the reception of noise within Class A EDNAs between the hours of 10:00 p.m. and 7:00 p.m.

(a) Sounds originating from temporary construction sites as a result of construction activity.

(b) Sounds originating from forest harvesting and silvicultural activity.

(4) The following shall be exempt from all provisions of KFMC 8.16.040:

(a) Sounds created by motor vehicles when regulated by Chapter 173-62 WAC.

(b) Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations.

(c) Sounds created by surface carriers engaged in interstate commerce by railroad.

(d) Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, and carillons.

(e) Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.

(f) Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health, safety or welfare of the community.

(g) Sounds originating from motor vehicle racing events at existing authorized facilities.

(h) Sounds originating from officially sanctioned parades and other public events.

(i) Sounds emitted from petroleum refinery boilers during startup of said boilers: *Provided*, That the startup operation is performed during daytime hours whenever possible.

(j) Sounds created by the discharge of firearms in the course of hunting.

(k) Sounds caused by natural phenomena and unaplified human voices.

(l) Sounds created by motor vehicles, licensed or unlicensed, when operated off public highways EXCEPT when such sounds are received in Class A EDNAs.

(m) Sounds originating from existing natural gas transmission and distribution facilities.

8.16.050 Public Disturbance Noises Prohibited. A. Public Disturbance Noises. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is a public disturbance. No sound source specifically exempted from a maximum permissible sound level by this chapter shall be a public nuisance noise or public disturbance noise insofar as the particular source is exempted. The following sources of sound shall be public disturbance noises and public nuisance noises and are also subject to regulation under KFMC 8.16.

(1) Frequent, repetitive or continuous noise made by any animal which unreasonably disturbs or interferes with the peace, comfort and repose of property owners or possessors, except that such sounds made in animal shelters, or commercial kennels, veterinary hospitals, pet shops or pet kennels licensed under and in compliance with Chapter 6.04 shall be exempt from the subsection; provided, that notwithstanding any other provision of this chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located by the investigating officer of if the animal is a repeated violator of this subsection, the animal shall be impounded subject to redemption in the manner provided by KFMC 6.04.070 (D). When there are three violations within a twelve-month period then KFMC 8.16.060 Violation-Nuisance Abatement - by city When-Hearing-Costs shall also apply;

(2) Frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

(3) The creation of frequent, repetitive or continuous noise in connection with the starting operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within District 1 so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;

(4) Yelling, shouting, hooting, whistling or singing on or near public streets, particularly between the hours of eleven p.m. and seven a.m. or at any time and place so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property.

(5) The use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure or property or the contents therein, except as permitted by law, and except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection;

(6) The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment or condominium, which unreasonably interferes with the peace, comfort and repose of owners or possessors of real property, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings;

(7) Sound from motor vehicle audio sound systems, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source, and if not operated upon the property of the operator;

(8) Sound from audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source, and if not operated upon the property of the operator; and

(9) The foregoing provisions shall not apply to regularly scheduled events at parks, such as public address systems for baseball games or park concerts, public parade or any other activity approved by the city of Kettle Falls.

8.16.060 Violations. (A) Any person who violates any provisions of this Chapter shall incur a civil penalty. The penalty shall be $100 for each violation. For enforcement purposes, each day is defined as the 24-hour period beginning at 12:01 a.m. in which the violation occurs, shall constitute a separate offense.

A notice of infraction may be issued by the Chief of Police or his appointed officers or by any specially commissioned Police officer. The violation shall be prosecuted in accordance with applicale court rules, and the city may also proceed under KFMC 18.16.060 to abate any such violation or violations constituting a nuisance.

(B) Violation-Nuisance Abatement-By City When-Hearing-Costs.

(1) Any person violating any of the provisions of this chapter in the keeping or maintenance of any dog nuisance found to be violation of the noise ordnance three times within a twelve-month period as defined in this chapter may, in addition to the penalty provided for in KFMC 6.04.170 (A) and 8.16.060 (A), be ordered by the court in such action to forthwith abate and remove such dog nuisance. If the same is not done by the owner or the keeper within a reasonable amount of time as determined by the court, the same shall be abated and removed under the direction of any officer authorized by the order of the court. Such abatement order may include, but is not limited to, ordering a noise nuisance animal taken and euthanized.

(2) If a person who has been issued a notice of infraction or criminal citation elects not to request a hearing, the city may request a hearing for the purpose of determining whether an order of abatement should issue.

(3) When such nuisance has been abated by any officer or authorized agent of the city, the costs and expenses shall be taxed as part of the costs of the action against the party. In all cases where an officer is authorized by the court to abate any such nuisance, he/she shall keep an account of all expenses attending such abatement. In addition to other powers herein given to collect such costs and expenses, the city may bring suit for the same in any court of competent jurisdiction against the person keeping or maintaining the nuisance so abated.

(C) Notice of Infraction - Contents. (1) A notice of infraction represents a determination that violation has been committed. The determination will be final unless contested as provided in the chapter.

(2) A Washington Uniform Court Docket Citation may be used as the form for the notice of infraction, and shall included the following:

(a) A statement that the notice represents a determination that an infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter.

(b) A statement that an infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of monetary penalty established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that, at any hearing to contest the determination, the city has the burden of proving by a preponderance of the evidence that an infraction was committed, and that the person may subpoena witnesses, including the officer who issued the notice of infractions;

(g) A statement that at any hearing requested for the purpose of examining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witness;

(h) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;

(i) A statement that failure to respond to a notice of infraction as promised is a misdemeanor and may be punished by a fine imprisonment in jail.

(D) Notice of Infraction-Response Required-Contested Determination-Hearing.

(1) Any person who receives a notice of infraction under this chapter shall respond to such notice as provided in this Section within seven (7) calendar days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. Payment in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records.

(3) If the person determined to have committed the infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting the hearing and submitting it either by mail or in person to the court specified on the notice. The court shall notify the person in writing of the time, place and date of the hearing, and that date shall not be sooner than seven (7) days from the date of the notice, except by agreement.

(4) If any person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place and date of the hearing.

(5) If any person issued a notice of infraction fails to respond to the notice of infraction as provided in subsection (2) of this subsection, or fails to appear at a hearing requested pursuant to subsection (3) or (4) of this subsection, the court shall enter an appropriate order assessing the monetary penalty prescribed for the infraction and any other penalty authorized by this chapter.

(E) Hearing to Contest Determination of Infraction-Procedure.

(1) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without jury.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

(3) The attorney representing the city may appear in any proceeding under this chapter but need not appear, notwithstanding any rule of court to the contrary.

(4) The officer who issued the notice must appear at such hearing, and may subpoena witnesses, including the officer, and also has the right to present evidence and examine witnesses present in court.

(5) The burden of proof is upon the city to establish a commission of the infraction by preponderance of the evidence.

(6) After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed, an appropriate order shall be entered in the court's records.

(7) An appeal from the court's determination or order shall be to the Stevens County Superior Court. Such appeal shall be taken in accordance with the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The decision of the Stevens County Superior Court is subject only to discretionary review pursuant to the Rules of Appellate Procedure.

(F) Payment of Penalty. Whenever a monetary penalty is imposed by a court under this chapter, it is due immediately and to be made payable to the clerk of court. If a person is unable to pay at the time, the court may, in its discretion, grant an extension of the period in which the penalty may be paid. All penalties collected by the court shall be remitted to the city Clerk/Treasurer.

8.16.070 Construction - Severability. The provisions of this chapter are hereby declared to be severable. If any section, subsection, sentence, clause, or phase of this chapter or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remainder of the chapter shall not, as a result of said section, subsection, sentence, clause, or phrase be held unconstitutional or invalid.
(Ord. 1578, 1998)