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Adelaide city council noise fact sheets

165 Sir Donald Bradman Drive Hilton South Australia 5033 T. +618 8416 6333 Email Customer Service csu@wtcc.sa.gov.au ABN 16346877634 1 Brooker Terrace Hilton South Australia 5033 T. +618 8416 6228 Email Library library@wtcc.sa.gov.au ABN 16346877634 © All booking noise coming from nearby establishments in 2019 often causes disputes between neighbours. Typical complaints concern barking dogs, loud sound systems, air conditioners, lawn mowers, manufacturing machinery, unmanned burglar alarm systems and parties. Those who are upset by the noise of their neighbors should first talk to their neighbors to see if they can stop or reduce the noise or limit it to a certain time of the day. If this fails, you may be able to arrange a meeting through mediation services. Mediation can often resolve such disputes, so you can avoid the need for legal action. However, the court's application to stop nuisance and reward compensation is an additional option. Under Section 17 of the Local Nuisance and Litter Management Act 2016 (SA), certain types of noise may enter the definition of local nuisance, depending on the situation. If you are unable to solve the problem by speaking to your neighbours, they can now lodge a complaint with your local council as they have the power to impose penalties for noise that meets the local definition of nuisance. However, not all noise falls under this definition, as described below, so the actions that can be taken will vary depending on whether the noise is a local nuisance. Schedule 1 of the Local Nuisance and Litter Management Act 2016 (SA) expands the content of noise-related activities to fall under the definition of local nuisance. This includes fixed domestic machine noise, noise from activities at domestic facilities, construction noise and waste collection noise. Legal definitions are so common that it may be useful to refer to the Environmental Protection (Noise) Policy 2007 for guidance on acceptable levels of noise. Fixed domestic machine noise generated by fixed machinery (such as air conditioning) in domestic facilities constitutes a local nuisance in the event of such an amount of noise moving from a domestic premises to a habitable room on a nearby premises, or to an outdoor courtyard or entertainment area. Under the Environmental Protection (Noise) Policy 2007, measurements measured between 7:00 a.m. and 10:00 p.m. on the same day are considered too noisy if the continuous source noise level exceeds 52 dB(A) or if the continuous sound level exceeds 45 dB in measurements made between 10 p.m. on the day and 7 a.m. the next day. Noise of domestic activities Noise generated from other domestic facilities (e.g., fixed machinery, tools, equipment) can be a local nuisance if noise moves to nearby facilities: between 8 pm and midnight; or midnight and 9am on Sundays. Or midnight and 8 a.m. on other days. Construction noise If the noise moves from the location of the construction activity of a nearby facility, the noise falls under the definition of a local nuisance: on any Sunday or public holiday; or after 7 p.m., or before 7 a.m. on any other day. Waste Collection Noise Noise from waste collection: Noise before 9am or after 7pm on Sundays or public holidays is prohibited. Or after 7 p.m., or before 7 a.m. on other days. However, if you need to avoid unreasonable interruptions in the traffic movement of vehicles and pedestrians, there is a provision that allows waste collection activities to take place before 9am on Sundays or public holidays or by 7am on other days [see Section 28 of the Environmental Protection (Noise) Policy 2007.] Street or tree maintenance machine Noise from roads and tree maintenance machines: Noise is prohibited before 9am or after 7pm on Sundays or public holidays. Or after 7 p.m., or before 7 a.m. on other days. Building an intruder alarm system Building intruder alarm system automatically sounds within 5 minutes after initial activation by the detection device and cannot be reactivated by the same detection device. The maximum penalty for causing local nuisance under the Local Nuisance and Litter Management Act 2016 (SA), consistent with maintaining the effectiveness of the alarm system as a penalty, is \$10 000 for natural persons and \$20 000 for businesses in the body. If the person engages in intentional or reckless activities and engages in activities with knowledge, the penalties that result in local annoyance are more severe. In these examples, the maximum penalty for natural persons is \$30 000 and the body's enterprise \$60 000[s 18]. It is also an offence not to cease activities if requested by a licensed officer. The maximum penalty is \$5 000 (expulsion fee: \$210)[s 20]. Noise that is not a local nuisance Not all noise comes within the definition of local nuisance. The following is not defined as being a local nuisance [see Schedule 1 of the Local Nuisance and Litter Management Act 2016 for a comprehensive list: noise or nuisance from fireworks displays, sports venues and community events.] Noise from public infrastructure work; activity or noise from licensed facilities [These complaints may be submitted to the Liquor Licensing Commissioner under Section 106 (SA) of the Liquor Use Act 1997. Noise consists mainly of music or voice (or both) from activities in domestic facilities. Noise from activities carried out in regular courses of activities by schools, kindergartens, daycare centers and places of worship. Noise made by barking dogs [problems with barking dogs are dealt with under Section 45A (5) of the Dog and Cat Management Act (SA). Noise, odor or waste from animals living in their natural habitat (except for such animals)] Encouraged by feeding to gather in certain areas; aircraft and rail noise; noise caused by sirens in emergency vehicles. For more information on dealing with noise and neighbors, see our noisy neighbor fact sheet. Page 2 Disputes also arise among neighbors due to smoke from chimneys and incinerators, burning in backyards, hot air from air conditioning exhausts, smells from animals and birds, chemical odors from factories, etc. Again, it is best to try to resolve such disputes amicably, but if this is not helpful, you can file a complaint with the local council. Local Nuisance and Litter Management Act 2016 (SA) Odors, dust, smoke or smoke may qualify as local nuisances depending on their nature, intensity or range (see below if unpleasant odors, dust or smoke constitute a local nuisance). The ability to burn out in openness (cooking food, preparing drinks, using campfires for warmth, etc.) is regulated by local councils in accordance with the Environmental Protection (Air Quality) Policy 2016. Domestic incinerators are included in the definition of what constitutes combustion in the open. Different restrictions and requirements apply depending on whether open combustion is occurring within metropolitan Adelaide or outside of metropolitan Adelaide. In some cases, permission should be sought from the council before combustion occurs in the open. The Environmental Protection Agency's website on burning in the open provides guidance on the activities and conditions allowed in open activities. They should also seek advice from local councils. As long as the Department of Fire and Emergency Services Act 2005 (SA) allows or the Environmental Protection Agency or local councils have given written consent by individual permits or general notices published in newspapers, they are allowed to burn out to reduce the risk of bush fires. Burning activities must also comply with the relevant CFS Code of Conduct (available through the CFS website) if they burn out outside of metropolitan Adelaide. Section 12 of the Smoke Environmental Protection (Air Quality) Policy 2016 from solid fuel (combustion) heaters provides guidance on the equivalent of excessive smoke from slow combustion (solid fuel) heaters and other fires. Smoke from solid fuel heaters constitutes a local nuisance in the following situations: if a visible plume of smoke spreads from the heater chimney to the skies above a nearby facility more than 15 minutes after the heater turns on. Licensed officers form the opinion that the nature, scope, color, smell or density of smoke causes unreasonable interference with the enjoyment of neighboring facilities by the occupants of those facilities. When does unpleasant odor, smoke or dust cause local nuisance? And the Waste Management Act 2016 (SA): Odors that occur in perms - when licensed officers determine that odors move to neighboring facilities and that the nature, intensity or extent of odors causes unreasonable interference with the enjoyment of neighboring facilities by the occupants of those facilities. Dust generated on the premises - if any licensed officer determines that the dust moves to a neighboring facility and the nature, degree, smell or density of the dust creates unreasonable interference with the enjoyment of the neighboring premises by the occupants of those facilities. Smoke generated on the facility (other than solid fuel heaters) - if a licensed officer determines that the smoke moves to a nearby facility and that the nature, degree, color, smell or density of the smoke creates unreasonable interference with the enjoyment of the neighboring facilities by the occupants of those facilities. Smoke produced by solid fuel heaters - spreading above neighbors' premises at least 15 minutes after the visible plume of smoke is lit, licensed officers determine that the nature, degree, color, smell or density of the smoke creates unreasonable interference with the enjoyment of neighboring facilities by the occupants of those facilities. Page 3 Under the Regional Nuisance and Garbage Management Act 2016 (SA), it is an offence to post invoices for property without the consent of the owner or occupant of the property [s 23(1)]. Maximum penalty: \$10 000 (or \$315 expulsion fee). It is also the act of distributing or approving invoices for unauthorized posting [s 23(2)]. But it would be a defense if it proved that the person did not foresee and could not reasonably expect the bill to be posted without their consent. Maximum penalty: \$20,000 (for body companies) or \$10,000 (for natural persons) or \$315 expulsion fee. If convicted of a crime under Articles 23 (1) or 23 (2), the court may order the offender to pay damages for damages for damages to property loss and damage due to the commission of the crime [s 23(4)]. If requested by a licensed officer, a person must follow instructions to remove the bill posted on the property, and failure to do so is a crime [s 24]. Maximum penalty: \$5 000 (expulsion fee: \$210) Page 4 legal help for unsomitted conditions for all South Australians can constitute a local nuisance under Section 17 of the Local Nuisance and Litter Management Act 2016 (SA). What constitutes unsomissing conditions is detailed in the law's Schedule 1 to include excessive or uncontrolled litter and vegetation. Items or items that are stockpiled or excessively discarded or discarded that a reasonable person considers to be garbage or waste. Graffiti left on the property - if aggressive graffiti, if left for more than 7 days. In other cases, if left for more than 28 days. Building in the opinion of the state of the building's licensed officers - partially demolished or in a state of disrepair or devastation - is having a negative impact on the value of amenities in the area. Unsomitted Conditions : Last Revised: The contents of the Thursday, June 29, 2017, Act Handbook are provided as public services for informational purposes only and should not be relied up on as a substitute for legal advice. For more information, see the disclaimer. For free and confidential legal advice in South Australia, call 1300 366 424. 424.