

TITLE XVIII: COMMUNITY NOISE AND VIBRATION CONTROL

Chapter

18.02 NOISE AND VIBRATION CONTROL REGULATIONS**CHAPTER 18.02: NOISE AND VIBRATION
CONTROL REGULATIONS**

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§ 18.02.010 DECLARATION OF POLICY.

(A) In order to control unnecessary, excessive and annoying noise and vibration in the city, it is hereby declared to be the policy of the city to prohibit such noise and vibration generated from or by all sources as specified in this title.

(B) It is hereby determined that certain noise levels and vibrations are detrimental to the public health, welfare and safety and contrary to public interest and, therefore, the City Council hereby declares that creating, maintaining, causing or allowing to be created, caused or maintained, any noise or vibration in a manner prohibited by, or not in conformity with, the provisions of this title, is a public nuisance and shall be punishable and/or abated as such.

(C) Nothing in this chapter is intended to establish standards for what levels or type of noise or vibration may or may not constitute a private nuisance under the law.

('86 Code, § 18.02.010) (Ord. 4022, passed - -; Am. Ord. 4611, passed 2-11-13)

§ 18.02.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMBIENT NOISE LEVEL. The all encompassing noise level associated with a given environment, being a composite of sounds

from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

A-WEIGHTED SOUND LEVEL. The total sound level meter with a reference pressure of 20 micro-pascals using the A-weighted network (scale) at slow response. The unit of measurement shall be defined as dBA.

DECIBEL (dB). A unit which denotes the ratio between two quantities which are proportional to power: the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base ten of this ratio.

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

EMERGENCY MACHINERY, VEHICLE, WORK or ALARM. Any machinery, vehicle, work or alarm used, employed, performed or operated in an effort to protect, provide or restore safety conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.

HEALTH CARE INSTITUTION. Any hospital, convalescent home or other similar facility excluding residential.

MIXED USE DISTRICT. Those properties fronting on Main Street between Garfield Avenue and Atlantic Boulevard.

PUBLIC ADDRESS SPEAKER SYSTEM. An electronic amplification machine or device with loudspeakers for broadcasting in outdoor areas and designed and used for one-way communications only.

SOUND OR NOISE LEVEL (in Decibels (dB)). The sound measured with the A weighting network and with slow response by a sound level meter.

('86 Code, § 18.02.020) (Ord. 4022, passed - - ; Ord. 4065, passed - -; Am. Ord. 4611, passed 2-11-13)

§ 18.02.030 SOUND LEVEL MEASUREMENT.

Any sound or noise level measurement made pursuant to the provisions of this title shall be measured with a sound level meter using the A-weighted network (scale) as slow response. The interior noise measurement shall be made at a point in the affected unit at least four feet from the wall, ceiling or floor nearest the noise source with all windows and doors in a fully closed position. The maximum noise level generated by the offending noise source shall be noted for comparison with the noise standard. The noise measurement should be conducted for a duration sufficient to quantify the intruding noise source. For the purposes of quantifying live or amplified music, a measurement of five (5) minutes is deemed acceptable for assessment purposes.

('86 Code, § 18.02.030) (Ord. 4022, passed - -; Am. Ord. 4611, passed 2-11-13)

§ 18.02.040 DESIGNATED NOISE ZONES.

The properties hereinafter described are hereby assigned to the following noise zones:

(A) *Residential Noise Zone.* All single, double- and multiple-family residential properties (R-1, R-2, R-3, or R-4), excluding dwelling units in the Mixed Use District.

(B) *Commercial Noise Zone.* All commercial, manufacturing, and industrial properties (C-1, C-2, M-1, M-2 and the like).

(C) *Mixed Use Noise Zone.* All dwelling units in the Mixed Use District.

('86 Code, § 18.02.040) (Ord. 4022, passed - -; Am. Ord. 4611, passed 2-11-13)

§ 18.02.050 NOISE STANDARDS.

(A) It is unlawful for any person to produce, suffer or allow to be produced noise or sounds which are received on property occupied by another person within the designated noise zone, in excess of the following levels when measured inside any dwelling unit or commercial structure at a point at least four feet from the wall, ceiling or floor nearest the noise source with windows and doors opening to the exterior of the structure in a closed position.

<i>Noise Zone</i>	<i>Allowable Noise Level</i>
Residential	55 dBA
Commercial	70 dBA
Mixed Use	60 dBA

(B) In the event the ambient noise level exceeds the allowable noise level limits in the table above, the maximum allowable noise level under the category shall be increased to reflect the maximum ambient noise level.

(C) If the measurement location is on the boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.

('86 Code, § 18.02.050) (Ord. 4022, passed - -; Am. Ord. 4611, passed 2-11-13) Penalty, see § 18.02.120

§ 18.02.060 EXEMPTIONS.

The following activities shall be exempted from the provisions of this chapter:

(A) Occasional outdoor gatherings, public dances, show, and sporting and entertainment events, provided the events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of the events. Such permits and licenses may restrict noise.

(B) Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle, work or warning alarm or bell, provided the sounding of any bell or alarm on any building or motor vehicle shall terminate its operation within 30 minutes in any hour of its being activated.

(C) Noise sources associated with or vibration created by construction, repair, remodeling or grading of any real property or during authorized seismic surveys, provided the activities do not take place between the hours of 7 p.m. and 7 a.m. on weekdays including Saturday, or at any time on Sunday or a federal holiday, and provided any vibration created does not endanger the public health, welfare and safety.

(D) Noise sources associated with the maintenance of real property, provided the activities take place between the hours of 7 a.m. to 6 p.m. on any day except Sunday, or between the hours of 9 a.m. and 5 p.m. on Sunday.

(E) Any activity to the extent regulation thereof has been preempted by state or federal law. (Pre-emption may include motor vehicle, aircraft in flight, and railroad noise regulations.)

(F) Any activity conducted on public property, or on private property with the consent of the owner, by any public entity or its officers, employees, representatives, agents, subcontractors, permittees, licensees or lessees that the public entity has authorized.

(G) Any construction or repair activities conducted by public agencies or their contractors necessitated by emergency conditions or deemed necessary by the city to serve the best interests of the public and to protect the public health, safety and welfare. These operations may include, but are not limited to, street sweeping, debris and limb removal, removal of downed wires, restoring electrical service, repairing traffic lights, unplugging sewers, vacuuming catch basins, repairing water hydrants and mains, gas lines, oil lines, storm drains, roads, sidewalks, etc.

(Ord. 4611, passed 2-11-13)

§ 18.02.070 SCHOOLS, CHURCHES, LIBRARIES, HEALTH CARE INSTITUTIONS; SPECIAL PROVISIONS.

It is unlawful for any person to create any noise which unreasonably interferes with the use of any school, hospital or similar health care institution, church, or library or which unreasonably disturbs or annoys patients in a hospital, convalescent home or other similar health care institutions; provided conspicuous signs are displayed in three separate locations within 1/10 mile of the institution or facility indicating a quiet zone.

('86 Code, § 18.02.080) (Ord. 4022, passed - -; Am. Ord. 4611, passed 2-11-13) Penalty, see § 18.02.120

§ 18.02.080 ANIMALS AND FOWL.

No person may keep or maintain, or permit the keeping of, upon any premises owned, occupied, or controlled by such person any animal or fowl otherwise permitted to be kept which, by any sound, cry, or behavior, causes annoyance or discomfort to a reasonable person of normal sensitiveness in any residential neighborhood.

(Ord. 4611, passed 2-11-13) Penalty, see § 18.02.120

§ 18.02.090 PUBLIC ADDRESS SPEAKER SYSTEMS; SPECIAL PROVISIONS.

(A) Public address speaker systems shall be permitted only on properties zoned commercial planned development (CPD), central business district (CBD), or industrial planned development (IPD) and the public address speaker systems meet the following technical standards:

(1) The speakers shall be capable of producing no more than a maximum of ten watts with a maximum of no more than 95 decibels at four feet;

(2) All inside and outside cables and amplifiers must bear an Underwriters Laboratory (UL) label;

(3) Amplifiers must include an internal limiting device to control maximum volume.

(B) It is unlawful for any person or business to install, use, or permit to be used, in or upon any premises within the city, a public address speaker system, without having first obtained a permit therefore issued by the Department of Development Services pursuant to the following provisions:

(1) A permit shall be obtained from the Department of Development Services prior to operation of a public address system.

(2) The permit shall be renewable on an annual basis, subject to review and approval of the Department of Development Services.

(3) If the business operating the public address system is found to be in violation of this chapter more than one time during the permit period, the permit shall be revoked.

(4) If a public address system permit is revoked, a new one shall not be issued for a period of one year from the date of revocation.

(C) Public address speaker systems which are lawfully in existence at the time of the adoption of these special provisions and which are neither specifically permitted nor exempted from these special provisions are nonconforming and shall be removed within two years from the effective date of the ordinance enacting this § 18.02.090, except as noted: Immediately upon any change, modification, alteration, or expansion in the building or use of the premises where any nonconforming public address speaker systems exist, all such systems shall become unlawful and shall be removed or abated immediately.

('86 Code, § 18.02.095) (Ord. 4065, passed - -; Am. Ord. 4103, passed - -; Am. Ord. 4611, passed 2-11-13)

§ 18.02.100 VIBRATION.

Notwithstanding other sections of this title, it shall be unlawful for any person to create, maintain or cause any ground vibration which is perceptible without instruments at any point on any affected property adjoining the property on which the vibration source is located. For the purpose of this title, the perception threshold shall be presumed to be more than 0.05 inches per second RMS vertical velocity.

('86 Code, § 18.02.110) (Ord. 4022, passed - -; Am. Ord. 4611, passed 2-11-13) Penalty, see § 18.02.120

§ 18.02.110 TEMPORARY EXCEPTION PROCEDURE.

(A) The owner or operator of a noise or vibration source which violates any of the provisions of this title may file an application with the Director of Development Services for an exception from the provisions thereof wherein the owner or operator shall set forth all actions taken to comply with the provisions, the reasons why immediate compliance cannot be achieved, a proposed method of achieving compliance, and a proposed time schedule for its accomplishment. The application shall be accompanied by a nonrefundable fee in an amount specified by resolution of the City Council. A separate application shall be filed for each noise source: provided however, that several sources under common ownership, or located on a single property may be combined into one application. Upon receipt of the application and fee, the Director of Development Services shall refer the application with his or her recommendations thereon within 30 days to the Planning Commission for action thereon in accordance with the provisions of this title.

(B) The Planning Commission shall evaluate all applications for exception to the requirements of this title and may grant the exceptions with respect to time for compliance, subject to such terms, conditions and requirements as it may deem reasonable to achieve maximum compliance with the provisions of this title. The terms, conditions and requirements may include, but shall not be limited to, limitation on noise levels and operating hours. Each such exception shall set forth in detail the approved method of achieving maximum compliance and a time schedule for its accomplishment. In its determinations, the Planning Commission shall consider the following:

- (1) The magnitude of nuisance caused by the offensive noise.
- (2) The uses of property within the area of impingement by the noise.
- (3) The time factors related to study, design, financing and construction of remedial work.
- (4) The economic factors related to age and useful life of the equipment.
- (5) The general public interest, welfare and safety.

(C) Any exception granted by the Planning Commission shall be by resolution and shall be transmitted to the Director of Development Services for enforcement. Any violation of the terms of the exception shall be a violation of the requirements of this chapter.

(D) A decision of the Planning Commission hereunder shall be subject to appeal pursuant to § 23.76.090.

(E) This section is in addition to any application for a variance which may be filed pursuant to other provisions of this Municipal Code and is intended as a procedure to approve a temporary deviation from the noise and vibration requirements of this code to accommodate a plan to come into compliance.

(Ord. 4611, passed 2-11-13) Penalty, see § 18.02.120

§ 18.02.120 PENALTY FOR VIOLATIONS.

(A) Any person who violates any provision of this title is guilty of an infraction and shall be punished as provided in § 1.12.011 of this code.

(B) Each separate noise violation under this title without an exception therefore shall constitute a separate offense; provided, however, that in the event of an initial violation of the provisions of this title, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected or an application for exception shall be received by the Director of Development Services. In the event the alleged violator cannot be located in order to serve the written notice, such notice shall be deemed to be given upon posting or leaving the notice in a conspicuous location at the place from which the noise emanates, or by mailing the notice by registered or certified mail to the alleged violator at his or her last-known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice or 30 minutes after the posting or leaving of the notice as provided in this section.

(C) As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this title which operation or maintenance causes or creates sound levels or vibration exceeding the allowable standards as specified in this title shall be deemed and is hereby declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. Any violation of this title is declared to be a public nuisance and may be abated in accordance with law and the provisions of this Municipal Code.

(Ord. 4395, passed 5-22-00; Am. Ord. 4611, passed 2-11-13)