

CHAPTER 654. - NOISE<sup>[10]</sup>

Footnotes:

--- (10) ---

**Cross reference**— *Legislation re peace disturbances - see CHTR. Sec. 3-310; Motor vehicle horns - see TRAF. 5.80; Noise by motor vehicles - see TRAF. 5.90a, 5.92; Peace disturbances generally - see GEN. OFF. Ch. 664; Disorderly conduct in schools - see GEN. OFF. 680.02; Peace disturbances by street musicians - see B.R. & T. 864.07.*

## 654.01. - Findings of fact.

It is hereby found and declared that:

- (a) The making and creation of excessive, unnecessary or unusually loud noises within the City is a condition which has existed for some time and the extent and volume of such noise is increasing.
- (b) The making, creation or maintenance of such excessive, unnecessary, unnatural or unusually loud noises, which are prolonged, unusual and unnatural in their time, place and use, effect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the City.
- (c) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is hereby declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City and its inhabitants.

(Ord. No. 739, 12-22-86)

## 654.02. - Scope.

This chapter shall apply to the control of all sound originating from nonindustrial property within the City. This chapter shall not and is not intended to exclude industrial property or operations from the application of any other ordinances of the City.

(Ord. No. 739, 12-22-86)

## 654.03. - Definitions.

All terminology used in this chapter, not defined in this section, shall be in conformity with applicable publications of the American National Standards Institute (A.N.S.I) or its successor body. As used in this chapter:

*A-weighted sound level* means the sound pressure level, in decibels, as measured on a sound level meter using the A-weighting network. The level so read is designated dBA.

*Construction* means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excludes demolition for or of public right of ways, structures, utilities or similar property.

*Decibel (dB)* means a unit for measuring the volume of sound, equal to twenty times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals.

*Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Emergency* means any occurrence of a set of circumstances involving actual or imminent physical trauma or property damage which demands immediate attention.

*Emergency work* means any work performed for the purpose of preventing or alleviating the physical trauma of property damage threatened or caused by an emergency.

*Gross vehicle weight rating (GVWR)* means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

*Industrial property* means land, land improvements, buildings, structures, other real property and machinery, equipment and fixtures, or any part thereof, whether completed or in the process of construction, comprising an integrated whole, the primary purpose and use of which is the manufacture of goods or materials or the processing of goods and materials by physical or chemical change, and includes agricultural processing facilities. "Industrial property" includes facilities related to the manufacturing operation and under the same ownership or control, provided that such property is contiguous to the manufacturing operation. Such property shall include, but not be limited to, office, engineering research and development, warehousing or parts distribution facilities.

*Manufacture of goods or materials or processing of goods or materials* means any type of operation that would be controlled by an entity included in the classifications provided by Division D, Manufacturing, of the Standard Classification Manual of 1972, published by the United States Office of Management and Budget, regardless of whether or not the entity conducting such an operation is included therein.

*Motor carrier vehicle engaged* means any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

*Motor vehicle* means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, all-terrain vehicles or racing vehicles, but not including motorcycles.

*Motorcycle* means an unenclosed motor vehicle having a saddle or seat for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters, minibikes and motor propelled bicycles.

*Muffler or sound dissipative device* means a device for abating the sound of escaping gases of an internal combustion engine.

*Noise* means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

*Noise disturbance* means any sound which endangers or injures the safety or health of humans or animals, annoys or disturbs a reasonable person of normal sensitivities or endangers or injures personal or real property.

*Noise sensitive zone* means any area where a school, hospital, house of worship, day care center, nursing home, public library, senior citizen center, residence or court is located, or an area of potential noise disturbance.

*Person* means any individual, association, partnership or corporation and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

*Public right-of-way* means any street, avenue, boulevard, highway, sidewalk, path, alley or similar place which is owned or controlled by a governmental entity.

*Public space* means any real property or structures thereon which are owned or controlled by a governmental entity.

*Real property* means an imaginary line along the ground surface, and its vertical extension, which line separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

*Recreational motor vehicle* means any motor vehicle or motorcycle which is intended for recreational use or which is being used for recreational purposes, except snowmobiles. Recreational purposes include utilization of such a motor vehicle or motorcycle in competitive events even if engaged in professionally or for compensation.

*Residential area* means any area designated as an A, A-1, B, C, DM-1, DM-2, DM-3 or DM-4 Zoning District, pursuant to the Zoning Code or upon any plan or district map promulgated thereunder.

*RMS sound pressure* means the square root of the time averaged square of the sound pressure, denoted PRMS.

*Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

*Sound level* means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in American National Standards Institute Specifications For Sound Level Meters (A.N.S.I. SI.4-1971), or the latest approved revision thereof. If the frequency weighting employed is not indicated, the A-weighting shall apply.

*Sound level meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighting networks used to measure sound pressure levels.

*Sound pressure* means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

*Sound pressure level* means twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of twenty micropascals. The sound pressure level is denoted  $L_p$  or SPL and is expressed in decibels.

*Weekday* means any day, Monday through Friday, which is not a legal holiday.

(Ord. No. 739, 12-22-86)

#### 654.04. - Duties and responsibilities of departments.

All departments and agencies of the City shall, to the fullest extent consistent with other law, carry out their programs in such a manner as to further the policy of this chapter.

In the case of motor vehicle enforcement, the Police Department shall be the primary enforcement agency.

(Ord. No. 739, 12-22-86)

#### 654.05. - Motor vehicles.

(a) *On Public Right of Ways*. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right of way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in the following table:

Sound Level in dBA (measured at 50 feet or 15 meters)

	Speed Limit 35 mph or less	Speed Limit over 35 mph	Stationary run-up
Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR of 8,500 lbs. or more	86	90	88
All other motor vehicles of GVWR or GCWR of 8,500 lbs. or more	86	90	—
Any motorcycle	82	86	—
Any other motor vehicle or any combination of vehicles towed	76	82	—

- (b) *Standing Vehicles.* No person shall operate or permit the operation of any motor vehicle, motorcycle or auxiliary equipment attached to such a vehicle for longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right of way or public space within 150 feet (forty-six meters) of a residential area or designated noise sensitive zone, between 8:00 p.m. and 8:00 a.m. of the following day.
- (c) *Recreational Vehicles Operating Off Public Right of Ways.*
- (1) Except as permitted in paragraph (c)(2) hereof, no person shall operate or cause to be operated any recreational motor vehicle or motorcycle off a public right of way in such a manner that the sound level emitted therefrom exceeds the limits set forth in the following table at a distance of fifty feet (fifteen

meters) or more from the path of the vehicle when operated in a public space or at or across the boundary of private property when operated on private property. This subsection shall apply to all recreational motor vehicles, whether or not duly licensed and registered.

Vehicle Type	Sound Level, dBA
Motorcycle	Unit manufactured before 1975, 86 dBA
	Unit manufactured after 1975, 84 dBA
Any other vehicle	Unit manufactured before 1975, 86 dBA
	Unit manufactured after 1975, 80 dBA

- (2) Permits for motor vehicle racing events may be obtained from the City according to procedures and criteria set forth in Sections 654.10 and 654.11.

(Ord. No. 739, 12-22-86)

#### 654.06. - Railroads.

No person shall operate or permit to be operated any railroad locomotive or car, rolling stock or equipment so as to cause a violation of the allowable sound levels adopted by the U.S. Environmental Protection Agency under the Noise Control Act of 1972, 42 U.S.C. 4901 to 4918, as amended.

(Ord. No. 739, 12-22-86)

#### 654.07. - Prohibited noises generally.

No person shall make, or continue, cause or permit to be made, verbally or mechanically, any unnecessary noise disturbance. Noncommercial public speaking and public assembly activities conducted on any public space or public right of way shall be exempt from this section, except as otherwise provided herein.

The following acts, and the causing thereof, are hereby declared to be violations of this section:

- (a) *Sound Production and Reproduction Systems.* The playing, using or operating, or permitting the playing, using or operating, of any television or radio receiving set, musical instrument, phonograph or other machine or device for producing, reproducing or amplifying sound in such a manner as to create a noise disturbance, or at any time with a louder volume than is necessary for convenient hearing for the persons who are in the room, chamber, vehicle or other place in which such an instrument, machine, set or device is operated and who are voluntary listeners thereto. The operation of any such television or radio receiving set, instrument, phonograph, machine or device between 11:00 p.m. and 7:00 a.m. of the following day in such a manner as to be plainly audible at a distance of fifty feet from the building, structure, vehicle or other place in which it is located shall be prima-facie evidence of a violation of this section. This subsection shall not apply to noncommercial speech.
- (b) *Loudspeakers; Public Address Systems.*
- (1) The using or operating for any noncommercial purpose of any loudspeaker, public address system, musical instrument or similar device between 10:00 p.m. and 8:00 a.m. of the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary; or
  - (2) The using or operating for any commercial purpose of any loudspeaker, public address system or similar device so as to be audible in residential areas or in a noise sensitive zone.

- (c) *Street Sales.* Offering for sale or selling anything by shouting or outcry within any residential area of the City, except in connection with auction sales;
- (d) *Animals and Birds.* Owning, possessing or harboring any bird or other animal which frequently or for continued duration makes sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone;
- (e) *Loading and Unloading.* Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between 10:00 p.m. and 7:00 a.m. of the following day in such a manner as to cause a noise disturbance across a residential property boundary or within a noise sensitive zone;
- (f) *Motor Vehicle Repairs and Testing.* Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary;
- (g) *Construction.* Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work between 8:00 p.m. and 7:00 a.m. of the following day on weekdays, or at any time on weekends or holidays, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities or by a temporary or special permit issued pursuant to Section 654.10 or 654.11;
- (h) *Places of Public Entertainment.* Operating or playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment so as to produce a maximum sound level of fifty-five dBA on a residential real property boundary;
- (i) *Domestic Power Tools.* Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool or similar device used in residential areas between 8:00 p.m. and 8:00 a.m. of the following day so as to cause a noise disturbance across a residential real property boundary;
- (j) *Burglar Alarms.* Sounding or permitting the sounding of any burglar alarm or other alarm or any safety or warning device on any building or motor vehicle, unless such burglar alarm terminates its operation within fifteen minutes of its being activated. Any vehicle upon which a burglar alarm has been installed shall prominently display the telephone number at which communication may be made with the owner of such motor vehicle. All burglar alarms which emit a sound which is clearly audible at any residential property line shall be equipped and required to automatically shut off the sound not later than fifteen minutes after it has begun.
- (k) *Air Conditioning and Air Handling Devices.* The operation of air conditioning, air handling devices, refrigeration devices or other compressors causing a continuous sound level in excess of fifty-five dBA measured at any property line in residential areas. This subsection shall not apply if the sound from the air conditioner or air handling device produces less than a three dBA increase in the sound level that exists in the absence of such sound.

(Ord. No. 739, 12-22-86)

#### 654.08. - Exceptions to chapter.

The following activities and uses shall be exempt from the noise level regulations established by this chapter:

- (a) Noises of public or governmental safety signals, warning devices and emergency relief valves when used as intended for warnings in case of emergency or danger or when tested, and noises of fire alarms;
- (b) Noises resulting from any authorized police, fire or emergency vehicle when responding to an emergency call or acting in a time of emergency;
- (c)

Noises resulting from emergency work. Emergency work shall be work which is necessary to restore property to a safe condition following a public calamity or accident, or work required to protect persons or property from an imminent exposure to danger.

- (d) Any noise resulting from activities of a temporary duration, permitted by law and for which a temporary or special permit has been granted in accordance with Section 654.10 or 654.11;
- (e) Any aircraft operated in conformity with or pursuant to Federal law, Federal air regulations and air traffic control instruction and used pursuant to and within the duly adopted Federal air regulations;
- (f) Noise from church bells, chimes or churches, except between 12:00 midnight and 6:00 a.m.;
- (g) Noise from construction activity, except such noise as is specifically prohibited by this chapter;
- (h) Noise resulting from the repair of public utilities;
- (i) Noise resulting from the operation of snow removal equipment when being used for or in connection with snow removal; and
- (j) Noise resulting from a City sponsored cultural, ethnic or community activity open to the public.

(Ord. No. 739, 12-22-86; Ord. No. 758, 6-29-87)

#### 654.09. - Limitation of responsibility.

The City shall not enforce any noise regulations within the jurisdiction of the Michigan and Federal Occupational Safety and Health Act.

(Ord. No. 739, 12-22-86)

#### 654.10. - Temporary permits.

- (a) Upon application of a nonprofit organization, the Mayor or his or her designee may issue a permit for relief of any of the restrictions of this chapter. Such a permit shall not be effective for more than three days and shall not be renewed more than three times. Such a permit shall only be granted if the requirements set forth in Section 654.11(a) are satisfied.
- (b) Any permit granted pursuant to this section may be subject to and prescribe any conditions, limitations or requirements which the Mayor or his or her designee deems necessary to minimize adverse effects upon the community, persons within the community or the surrounding neighborhood.
- (c) Any permit granted pursuant to this section shall contain all conditions upon which the permit has been granted and shall specify the period of time that the permit is in effect.
- (d) Any permit granted pursuant to this section shall be revoked if the conditions to which it is subject are violated or if the conditions set forth in Section 654.11(a) are no longer satisfied.

(Ord. No. 739, 12-22-86)

#### 654.11. - Special permits.

- (a) Following a public hearing at a regularly scheduled Council meeting, and upon recommendation of the Mayor and approval by an affirmative vote of two-thirds of the members of Council, a permit for relief from any of the restrictions or noise level requirements of this chapter may be granted. Applications for a permit for such relief may be made to the Mayor or his or her designated representative. Such a permit for relief may be granted if it is found:
  - (1) That additional time is necessary for the applicant to alter or modify its operation to comply with this chapter, or that the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with the other requirements of this chapter;
  - (2) That no reasonable alternative is available to the applicant; and
  - (3) That the noise created will not unreasonably damage or endanger the health, safety or welfare of the public.

(b)

Residents living within 300 feet of the real property boundary line of the noise emitter applying for such a permit must be given notice of the application thirty days in advance of the hearing thereon. Such notice shall be delivered by mail to all such residents. Unintentional failure to notify any such resident as required in this subsection shall not invalidate a permit issued pursuant to this section.

- (c) Any permit granted pursuant to this section may be subject to and prescribe any conditions, limitations or requirements which Council deems necessary to minimize adverse effects upon the community, persons within the community or the surrounding neighborhood.
- (d) Any permit granted pursuant to this section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective, not to exceed two years.
- (e) Any permit granted pursuant to this section shall be revoked if the conditions to which it is subject are violated, or when issued pursuant to subsection (a) hereof, if the conditions set forth in such subsection are no longer satisfied or fulfilled.
- (f) If it is decided to revoke any permit granted pursuant to this section, written notice of revocation shall be served upon the permittee or his or her agent or officer personally or by certified mail, return receipt requested. If the activities being conducted or the noise created pursuant to such a permit endangers the public health or safety, such revocation will be effective immediately; otherwise the revocation will be effective ten days after service of the notice of revocation.
- (g) If a permittee wishes to appeal the revocation of a permit issued pursuant to this section, an appeal may be initiated by filing a written notice of appeal at the office of the City Clerk. The notice must state specifically the reasons and facts upon which the permittee bases the appeal. The notice of appeal must be filed within ten days of the service of the notice of revocation of the permit or of the denial of the permit. If such a notice of appeal has been filed in a timely fashion, and if the revocation of the permit was not given immediate effect based on danger to public health and safety, the revocation of the permit will be suspended until such time as the permittee's appeal is decided or until such time as Council finds that the activities engaged in or the noise produced pursuant to the permit endangers the health or safety of the public.
- (h) If an appeal of the revocation or denial of a permit granted pursuant to this section is made, the appellant shall be granted a hearing before Council or such persons as Council, by resolution, may designate. If the permit involved has been revoked and such revocation has not been suspended, the hearing shall be conducted and a decision on the appeal rendered as soon as reasonably possible. At any hearing conducted pursuant to this section, the appellant shall be permitted to be represented by counsel of choice, to present such pertinent testimony and other proof as he or she desires and to confront any witness or evidence submitted in the support of the revocation. The decision on the appeal shall be rendered in writing and a copy of the decision shall be supplied to the appellant. In the appeal, the appellant shall have the burden of proof as to all matters.
- (i) Fees shall be established by resolution of Council for the permits, appeals or variances granted pursuant to this section. Such fees shall reflect the costs of granting and investigating the permit or variance request, or, in the case of an appeal, the cost of conducting the hearing of the appeal, and shall be approved by Council.

(Ord. No. 739, 12-22-86)

#### 654.12. - Regulations.

The administration may establish regulations governing permits, exceptions and appeals provided for in this chapter. No such regulation shall be effective until it is approved as to form by the City Attorney and approved by Council.

(Ord. No. 739, 12-22-86)

#### 654.13. - Additional violations.

Except as provided in Section 654.08, no person shall:



- (a) Make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the City;
- (b) Discharge the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle into the open air, except through a muffler or other device which will effectively prevent loud or explosive noises;
- (c) Use any drum, loudspeaker or other instrument or device for the purpose of attracting attention, by the creation of noise, to any performance, show or sale or display of merchandise; or
- (d) Knowingly permit a minor under his or her guardianship, custody or control to violate any noise regulation contained in this chapter.

(Ord. No. 739, 12-22-86)

654.14. - Remedies cumulative.

No provision of this chapter shall be construed to impair any common law, statutory or other cause of action, or legal remedy therefrom, of any person, for injury or damage arising from a violation of any of the provisions of this chapter or of any other law.

(Ord. No. 739, 12-22-86)

654.99. - Penalty.

**Editor's note**— See Section 202.99 for general Code penalty if no specific penalty is provided.