

## ARTICLE IV. NON-VEHICULAR NOISE<sup>1</sup>

### 58-201 Applicability.

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The provisions of Article IV apply to all sources of sound except: (1) motor vehicles (as defined in the State Motor Vehicle Code, 1949 PA 300 (MCLA 257.1 et seq.)) in operation on a public right-of-way; (2) aircraft in flight or in operation at an airport; (3) railroad equipment in operation on railroad rights-of-way.

(Ord. No. 2304, § 1(A), 8-12-13)

### 58-202 Definitions.

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As used in this article:

(1) *dB(A)* means the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the fast meter response, as specified in American National Standards Institute standard S 1.4-1971.

(2) *Commercial* means a use of the property for purposes other than residential.

(3) *Legal holiday* means the following days: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Veterans' Day, and Christmas Day.

(4) *Property line* means the imaginary line which represents the legal limits of property (including an apartment, condominium, room, or other dwelling unit) owned, leased, or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the "property line" shall be the nearest boundary of the public right-of-way.

(5) *Residential* means a legal use of property for temporary or permanent dwelling purposes.

(Ord. No. 2304, § 1(A), 8-12-13)

**Cross reference**—Definitions generally, § 1-2.

### 58-203 General prohibition.

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It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing, unusual or unnecessary noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the City of Pontiac. The time, location, and duration of the noise shall be considered by the enforcing officer to determine if the noise is unreasonable.

(Ord. No. 2304, § 1(A), 8-12-13)

### 58-204 Specific prohibitions.

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No person shall engage in, assist in, permit, continue or permit the continuance of the following activities if the activity produces clearly audible sound beyond the property line of the property on

which it is conducted even if the sound level is equal to or less than the dB(A) specified in section 58-205:

- (1) The operation, between 10:00 p.m. and 7:00 a.m., of power tools or equipment.
- (2) The sounding, between 10:00 p.m. and 7:00 a.m., of any bell, chime, siren, whistle or similar device, except:
  - a. To alert persons to the existence of an emergency, danger or attempted crime; or
  - b. As provided in section 58-206(4).
- (3) The operation or playing between 10:00 p.m. and 7:00 a.m. of any radio, television, phonograph, drum or musical instrument.
- (4) Construction, repair, remodeling, demolition, drilling or excavation work at any time on Sunday or a legal holiday and between 8:00 p.m. and 7:00 a.m. Monday through Saturday, except as permitted by section 58-206(2). The persons to whom this subsection applies shall include, but not be limited to, construction managers, foremen, property owners, developers, contractors, and subcontractors who direct, order, require, authorize, or commission another person to perform these activities in a manner that violates this section. If the person is an entity, this subsection shall also apply to the officers, directors, partners, limited liability company members, or other individuals constituting such entity.
- (5) The operation or use between 10:00 p.m. and 7:00 a.m. of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds.
- (6) The creation of a loud, unnecessary noise in connection with the loading or unloading of any vehicle or the opening and closing or destruction of bales, boxes, crates, or other containers.
- (7) The use of any drums, loudspeakers, musical devices or other instruments or devices for the purpose of attracting attention by the creation of noise to any performance, show or sale or display of merchandise.
- (8) Operate, or permit to be operated, any sound amplification equipment in or on the vehicle so as to produce sound that is clearly audible more than 50 feet from the vehicle.

(Ord. No. 2304, § 1(A), 8-12-13)

#### **58-205 Maximum permissible sound levels.**

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No person shall conduct or permit any activity that produces a dB(A) beyond his property line exceeding the levels specified in Table I. Where property is used for both residential and commercial purposes, the residential sound levels shall be used only for measurements made on the portion of the property used solely for residential purposes.

TABLE I

USE OF PROPERTY RECEIVING THE SOUND	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
Residential	61	55
Commercial	71	61
Industrial	75	65

(All limits expressed in dB(A)).

(Ord. No. 2304, § 1(A), 8-12-13)

### **58-206 Limited exemptions.**

The following limited activities are exempted from the sound level limitations of section 58-205:

- (1) Operation, between 7:00 a.m. and 10:00 p.m., of power equipment that does not produce a sound level exceeding 90 dB(A) beyond the property line of the property on which the equipment is operated.
- (2) Construction, repair, remodeling, demolition, drilling, wood cutting or excavation work conducted between 7:00 a.m. and 8:00 p.m. Mondays through Saturdays, except legal holidays, which does not produce a sound level exceeding 105 dB(A) beyond the property line of the property on which the work is being conducted. Also, a person may engage in such activities at his residence between 9:00 a.m. and 6:00 p.m. on Sundays.
- (3) Operation or use, for any noncommercial purpose, of any loudspeaker, sound amplifier, public address system, or similar device to amplify spoken words between 7:00 a.m. and 10:00 p.m. This exemption applies to the use or operation of mechanical loudspeakers on or from motor vehicles only if a specific permit for the activity has been granted by the Director of Community Development or his designee. The Director of Community Development shall cause such a permit to issue when it finds the following:
  - a. The applicant has a noncommercial message that cannot be effectively communicated to the public by the other means of communication available.
  - b. The applicant will limit the use of the loudspeakers to times, locations and sound levels which will not unreasonably disturb the public peace.
  - c. The applicant will not use the equipment in residential areas between 10:00 p.m. and 7:00 a.m.
- (4) The use for noncommercial purposes of one or more bells or chimes which does not exceed 90 seconds in duration in an hour.
- (5) Playing or practicing with a single musical instrument between 7:00 a.m. and 10:00 p.m.

without electric amplification for not more than one hour a day that does not produce a sound level in excess of 67 dB(A) beyond the property line of the property on which the instrument is used.

(Ord. No. 2304, § 1(A), 8-12-13)

### **58-207 General exemptions.**

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(a) The following activities are exempted from the sound level limitations of section 58-205:

- (1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster. To restore public utilities, or to protect persons or property from an imminent danger.
- (2) Sound made to alert persons to the existence of an emergency, danger, or attempted crime.
- (3) Activities or operations of governmental units or agencies.
- (4) Parades, concerts, festivals, fairs or similar activities subject to any sound limits in the approval by the City.
- (5) Athletic, musical, or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools, and public or private colleges or universities.

(b) The following activities are exempted from the requirements of section 58-204:

- (1) Regular activities or operations of governmental units or agencies provided the activity is approved in advance and in writing by both the department head or agency director and the chief administrator.
- (2) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster or to restore public utilities, or to protect persons or property from an imminent danger.
- (3) Devices or activity creating sound made to alert persons to the existence of an emergency, danger, or attempted crime.

(Ord. No. 2304, § 1(A), 8-12-13)

### **58-208 Public address system permits.**

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(a) The Community Development Director or his designee shall issue a permit for the use of a public address system to any applicant upon the showing of the following:

- (1) The name, office address and home address of the applicant who shall be in charge of such public address system;
- (2) A general statement of the locality where the public address system is to be used; and

(3) The day or days, not to exceed three days under any one permit, when the public address system is to be used.

(b) The permit shall be carried or conspicuously displayed by the permit holder while the public address system is in operation, and shown to any policeman or other official of the City upon request.

(Ord. No. 2304, § 1(A), 8-12-13)

#### **58-209 Variances.**

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Persons wishing to continue activities which commenced prior to this article and which create noise in excess of the permitted levels may seek a variance from the Board of Appeals. Such a variance may be granted if the Board finds that strict application of this chapter would cause a hardship and that there is no reasonable and prudent alternative method of engaging in the activity.

(Ord. No. 2304, § 1(A), 8-12-13)

#### **58-210 Liability of owner, lessee, or occupant.**

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If the person responsible for an activity which violates this article cannot be determined, the owner, lessee or occupant of the property on which the activity is located shall be deemed responsible for the violation. A person found responsible under this section shall be guilty of a civil infraction punishable by a fine of \$50.00 to \$500.00 plus costs. For a second offense within a two-year period, the fine shall be \$100.00 to \$500.00 plus costs. For third and subsequent offenses within a two-year period, the fine shall be \$200.00 to \$500.00 plus costs.

(Ord. No. 2304, § 1(A), 8-12-13)

#### **58-211 Penalty.**

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Except as provided in section 58-210, an activity which violates this article shall be punishable by a fine of \$50.00 to \$500.00 plus costs. For a second offense within a two-year period, the fine shall be \$100.00 to \$500.00 plus costs. For third and subsequent offenses within a two-year period, the penalty shall be \$200.00 to \$500.00 plus costs and/or, in the discretion of the court, up to 240 hours community service.

(Ord. No. 2304, § 1(A), 8-12-13)

#### **58-212 Enforcement.**

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The Community Development Director may designate any employee of the City or any contracted law enforcement agency or contracted code enforcement agency to enforce the provisions of this article on behalf of the City.

(Ord. No. 2304, § 1(A), 8-12-13)

#### **58-213—58-350 Reserved.**

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<sup>1</sup>**Editor's note**—Ord. No. 2304, § 1, adopted August 12, 2013, amended Art. IV in its entirety to read as herein set out.

Formerly, Art. IV pertained to similar subject matter and derived from §§ 19-16—19-27 of the 1985 Code.

## ARTICLE II. NON-VEHICULAR NOISE

### **114-26 Applicability.**

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The provisions of this article apply only to motor vehicles as defined in the Michigan Vehicle Code, being 1949 PA 300, as amended (MCLA 257.1 et seq.), in operation on a public right-of-way. The definitions provided in the Michigan Vehicle Code shall apply to this article.

(Ord. No. 2304, § 1(B), 8-12-13)

### **114-27 Horns and other warning devices.**

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A person shall not operate a motor vehicle in a manner or with equipment that does not comply with the following requirements:

- (1) A motor vehicle, when operated upon a highway, shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet but a horn or other warning device shall not emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall, when reasonably necessary to ensure safe operation, give audible warning with his horn but shall not otherwise use the horn.
- (2) A vehicle shall not be equipped with nor shall a person use upon a vehicle a siren, whistle, or bell, except as otherwise permitted in this section.
- (3) A commercial vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
- (4) An authorized emergency vehicle may be equipped with a siren, whistle, air horn, or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet, but the siren shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law. In those cases the driver of the vehicle shall sound the siren when necessary to warn pedestrians and other drivers of the approach of the vehicle.
- (5) A motor vehicle licensed as a historic vehicle may be equipped with a siren, whistle, or bell which may be used when participating in a parade, exhibition, tour, or similar event.

(Ord. No. 2304, § 1(B), 8-12-13)

### **114-28 Mufflers and exhaust systems.**

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(a) A person shall not operate a motor vehicle unless the motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. A person shall not remove, destroy, or damage any of the baffles contained in the muffler, nor shall a person use a muffler cutout, bypass, or similar device upon a motor vehicle on a

highway or street.

(b) A person shall not operate a motor vehicle unless the engine and power mechanism of the motor vehicle are so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

(c) A person shall not operate a motor vehicle unless the motor vehicle is equipped with a properly operating exhaust system, which shall include a tailpipe and resonator on a vehicle where the original design included a tailpipe and resonator.

(Ord. No. 2304, § 1(B), 8-12-13)

#### **114-29 Exhaust systems and backfiring devices.**

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(a) A person shall not operate a motor vehicle unless the vehicle is equipped with an exhaust system in good working order to prevent excessive or unusual noise and is equipped to prevent noise in excess of the limits established in section 114-30.

(b) No person shall introduce any gasoline, foreign material or obstruction into the muffler or exhaust pipe which causes or is capable of causing exhaust gases to ignite, burn, or flash in any manner or form.

(c) For purposes of sections 114-28 to 114-31 of this article, a motor vehicle does not include special mobile equipment.

(Ord. No. 2304, § 1(B), 8-12-13)

#### **114-30 Vehicle noise limits.**

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(a) A person shall not operate a motor vehicle on a highway or street if the motor vehicle produces total noise exceeding one of the following limits at a distance of 50 feet except as provided in subsections (a)(2)(c) and (3)(c) of this section:

(1) A motor vehicle with a gross weight or gross vehicle weight rating of 8,500 pounds or more, combination vehicle with gross weight or gross vehicle weight ratings of 8,500 pounds or more:

- a. Ninety dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour.
- b. Eighty-six dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour.
- c. Eighty-eight dB(A) under stationary run-up test.

(2) A motorcycle or a moped:

- a. Eighty-six dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour.

b. Eighty-two dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour.

c. Ninety-five dB(A) under stationary run-up test at 75 inches.

(3) A motor vehicle or a combination of vehicles towed by a motor vehicle not covered in subsection (a)(1) or (2) of this section:

a. Eighty-two dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour.

b. Seventy-six dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour.

c. Ninety-five dB(A) under stationary run-up test 20 inches from the end of the tailpipe.

(b) A dealer shall not sell or offer for sale for use upon a street or highway a new motor vehicle manufactured after April 1, 1978, which produces a maximum noise exceeding the following limits:

(1) A motor vehicle with a gross vehicle weight rating of 8,500 pounds or more: 83 dB(A).

(2) A motorcycle or a moped: 83 dB(A).

(3) A motor vehicle not covered in subsection (b)(1) or (2) of this section: 80 dB(A).

(c) A person shall not operate a vehicle on a highway or street if the vehicle has a defect in the exhaust system which affects sound reduction, is not equipped with a muffler or other noise dissipative device, or is equipped with a cutout, bypass, amplifier, or a similar device.

(d) A person, either acting for himself or herself or as the agent or employee of another, shall not sell, install, or replace a muffler or exhaust part that causes the motor vehicle to which the muffler or exhaust part is attached to exceed the noise limits established by this article.

(e) A person shall not modify, repair, replace, or remove a part of an exhaust system causing the motor vehicle to which the system is attached to produce noise in excess of the levels established by this article, or operate a motor vehicle so altered on a street or highway.

(f) A dealer shall not sell a used or secondhand motor vehicle for use upon a street or highway which is not in compliance with this article.

(Ord. No. 2304, § 1(B), 8-12-13)

#### **114-31 Test procedures.**

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Test instrumentation and procedures used for implementation and enforcement of sections 114-29 and 114-30 shall substantially conform to applicable standards and recommended practices established by the Society of Automotive Engineers, Inc., and the American National Standards Institute, Inc., for the measurement of motor vehicle sound levels. Rules establishing these test procedures that have been promulgated by the Department of State Highways and Transportation



shall also be followed in the implementation and enforcement of sections 114-29 and 114-30. If such rules so provide, sound level measurements may be made at other than the distances specified in section 114-30; provided, that the decibel limits applied at the other distances are adjusted accordingly.

(Ord. No. 2304, § 1(B), 8-12-13)

**114-32 Penalties.**

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(a) A person who violates section 114-30(b), (d) or (f) is guilty of a misdemeanor punishable by a fine of \$100.00.

(b) A person who violates section 114-29 or section 114-30(a), (c) or (e) is responsible for a civil infraction punishable by a fine of not more than \$100.00 and which shall be processed pursuant to the terms of the Michigan Vehicle Code.

(c) All other violations of this article shall be punishable by a fine of not more than \$100.00 or by imprisonment not to exceed 90 days, or both.

(Ord. No. 2304, § 1(B), 8-12-13)

**114-33—114-45 Reserved.**

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**Editor's note**—Ord. No. 2241, § 1, adopted January 13, 2012, repealed §§ 114-26—114-33, which pertained to the central business district parking commission and derived from §§ 2-43.8—2-43.15 of the Code of 1985.