

ARTICLE V. - NOISE CONTROL

Sec. 34-171. - Declaration of policy.

It is declared to be the policy of the city to minimize the exposure of citizens to the physiological and psychological harm of excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare. It is the express intent of the city council to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the use, value and enjoyment of property; and preserves the quality of the environment.

(Code 1961, § 13B-1)

Sec. 34-172. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All technical terminology used in this article not defined in this section, shall be interpreted in conformance with applicable American National Standards Institute (ANSI) Noise Specifications.

Ambient sound level means the composite of noise from all sources, near and far, excluding the alleged offensive noise.

Authorized emergency vehicle means as defined in V.T.C.A., Transportation Code § 541.201.

A-weighted sound pressure level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read shall be designated dB(A) or dBA.

Bounding property line means the far side of any street, alley, stream or other permanently dedicated open space (not including park land) from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such space exists the common line between two parcels of property shall be interpreted as the bounding property line.

Daytime means the hours between 7:00 a.m. and 10:00 p.m. on any given day.

Decibel means the logarithmic unit of measure used in describing the amplitude of sound; denoted as dB.

Device means any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

Emergency work means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from an imminent danger.

Equivalent sound level (L_{eq}) means the constant sound level, in a given situation and time period, that conveys the same sound energy as does an actual time-varying sound during the same time period (also called average sound level).

Motor vehicle means any vehicle propelled by mechanical power such as, but not limited to, any passenger car, truck, truck-trailer, semitrailer, camper, motorcycle, minibike, go-cart, dune buggy or racing vehicle.

Nighttime means the hours between 10:00 p.m. and 7:00 a.m. the following day.

Noise means any sound which is unwanted or which causes, or tends to cause, an adverse psychological or physiological effect on human beings.

Person means any individual, firm, association, partnership, corporation or any other entity, public or private.

Property boundary means an imaginary line at the ground surface and its vertical extension which separates the real property owned or occupied by one person from that owned or occupied by another person.

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

Public service work means work conducted by a governmental entity in the interest of the community.

Sound means a temporal and spatial oscillation in pressure, or other physical quantity in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

Sound level means the weighted sound pressure level measured by the use of a sound level meter and weighted as specified by the American National Standards Institute. The sound pressure level of a sound expressed in decibels is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to the reference sound of 20 micropascals. 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 averager, output meter and weighting networks, that is sensitive to pressure fluctuations.

Stationary sound source means any device, fixed or movable, which is located or used on property other than a public right-of-way.

Vibration means a temporal and spatial oscillation of displacement, velocity or acceleration in a solid material.

Vibration perception threshold means the minimum ground or structure-borne vibrational motion necessary to cause a person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

Zoning districts means those districts as established by the city zoning ordinance. Residential district shall include the SF, 2F, MF, and MH districts. Commercial district shall include NS, LC and HC districts. Industrial district shall include A, I and OW districts. The PD district shall be included under the residential district standards, unless specifically provided in the planned development regulations.

(Code 1961, § 13B-2)

Cross reference— Definitions generally, § 1-2.

Sec. 34-173. - Administration.

- (a) *Lead official*. This chapter shall be administered by the director of community services of the city.
- (b) *Inspection authority*. In order to implement and enforce this chapter, and for the general purpose of noise and vibration abatement and control, the duly appointed and authorized representative of the department of urban development under the direct supervision of the superintendent, shall have the power to make necessary inspections and tests with proper authorization or permission from the owner on any private property or place.

(Code 1961, § 13B-3)

Cross reference— Administration, ch. 2.

Sec. 34-174. - Superintendent of inspectors.

The director of community services shall assume the titles and duties of superintendent of inspectors.

(Code 1961, § 13B-2)

Cross reference— Officers and employees, § 2-111 et seq.

Sec. 34-175. - Noise measurement.

- (a) Any noise measurement made pursuant to the provisions of this article shall be made with a sound level meter which meets the American National Standards Institute's Standard S1.4-Type II. The A-weighted network (scale) at "slow" response shall be used to measure the sound level.
- (b) Calibration of the measurement equipment utilizing an acoustic calibrator shall be performed immediately prior to recording any noise data.
- (c) A windscreen shall be used on the sound level meter for all sound measurements. No external measurements shall be made during precipitation or if wind speed exceeds 15 miles per hour.
- (d) Exterior noise levels shall be measured at the bounding property line. Where practical, the microphone shall be positioned four to five feet above the ground and ten feet or more away from any reflective surface. For the purpose of enforcing this article, a measurement period shall not be less than ten minutes, nor more than 30 minutes.
- (e) Interior noise levels shall be measured at a point at least four feet from any wall, ceiling or floor.

(Code 1961, § 13B-4)

Sec. 34-176. - Environmental sound levels.

It shall be a violation of this chapter for any person to operate or permit to be operated any stationary source of sound which exceeds the L_{eq} limit set forth in Table I.

TABLE I

Zoning District	Daytime	Nighttime
Residential districts	57 dB(A)	52 dB(A)
Commercial districts	63 dB(A)	59 dB(A)
Industrial districts	85 dB(A)	80 dB(A)

(Code 1961, § 13B-5)

Sec. 34-177. - Prohibited noises.

The following sounds are determined to be specific noises which can constitute a noise disturbance and violations of this article are described:

- (1) *Animals and fowl*. Any animal noise which creates an unreasonable disturbance for those living in the vicinity of such animal.
- (2) *Radios, televisions, musical instruments and similar devices*. Operating or permitting to be operated any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound in such a manner as to violate the sound levels as listed in section

34-176.

- (3) *Power equipment.* Operating or permitting to be operated any power equipment in residential zones outdoors during nighttime hours. Power equipment rated five horsepower or less shall not exceed a sound level of 74 dBA at a distance of 50 feet. Power equipment rated more than five horsepower shall not exceed a level of 82 dBA at a distance of 50 feet.
- (4) *Enclosed places of public entertainment.* Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound which produces, at a point that is normally occupied by the customer, maximum sound pressure levels exceeding 100 dBA, unless a conspicuous and legible sign is posted near each public entrance stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT." This subsection shall not be construed to allow the operation of any loudspeaker or other source of sound in such a manner as to violate the environmental sound levels as established in section 34-176.
- (5) *Emergency signaling devices.* The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for more than five minutes during any consecutive 60-minute period or as to violate the sound levels as listed in section 34-176.
- (6) *Vibration.* Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of the inspection authority at the bounding property line.

(Code 1961, § 13B-6)

Sec. 34-178. - Vehicle noise.

- (a) Motor vehicles operating on a public road shall comply with the applicable provisions of V.T.C.A., Transportation Code § 541.001 et seq.
- (b) No person shall operate or permit to be operated any motorized vehicle off a public right-of-way in such a manner as to exceed the levels as listed in section 34-174 at the receiving property boundary.
- (c) Aircraft and railroads shall comply with all applicable federal and state noise regulations.

(Code 1961, § 13B-7)

Cross reference— Traffic, ch. 106.

State Law reference— Prohibition on emission of excessive noise by motor vehicle, V.T.C.A., Transportation Code § 541.001 et seq.

Sec. 34-179. - Sound producing devices.

It shall be lawful for any owner, occupant or person in charge of any house, building, lot or premises to play or cause to be played or operated a radio, phonograph, television set, or any other sound producing device, where the sound is transmitted to the outside of the premises by the use of a loudspeaker, or attached to the inside of such premises, provided that the sound so permitted shall not be unreasonably loud, disturbing or obnoxious in nature so as to disturb the peace or injure the health of the people of the city. The director of community and urban development, within his discretion, may issue a temporary permit to persons desiring to use loudspeakers or other electrical devices for social or political gatherings of more than ten persons in a public or semipublic place.

(Code 1961, § 11-130(31))

Sec. 34-180. - Use of truck with amplification for advertising purposes.

Any person or group of persons operating a truck or other motor vehicle, equipped with a loudspeaker or amplifier producing sound, using the streets of the city for the purpose of making announcements or advertising, shall be required to secure a permit from the director of community and urban development, who may issue the permit, within his discretion, if public peace and health are not deemed violated thereby.

(Code 1961, § 11-130(31))

Sec. 34-181. - Sound amplification systems in vehicles.

- (a) No owner of a motor vehicle, as well as no person operating or occupying a motor vehicle which is stopped, standing, parked or moving on or in any public property or street, highway, alley, park, playground, parking lot, driveway, garage, carport, yard or car wash facility, whether on or in public or private property, shall operate or permit the operation of any sound amplification system from within the vehicle with a louder volume than is necessary for convenient hearing of the persons who are in the vehicle and who are voluntary listeners thereto. The operation of the sound amplification system from within a vehicle in such a manner as to be plainly audible of a distance of 50 or more feet from the vehicle or which disturbs the peace and tranquility of person within the immediate vicinity of the source of the noise shall be prima facie evidence of a violation of this section. For the sound to be "plainly audible", words or phrases need not be distinguishable and bass reverberations are sufficient.
- (b) The term "sound amplification system" means any radio, tape player, compact disc player, loud speaker; or other electronic device used for the amplification of sound.
- (c) The provisions of sections 34-175 (noise measurement) and 34-184 (variances) shall not apply to this section.
- (d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system and that any of the following apply:
- (1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition.
 - (2) The system was part of the authorized equipment on an authorized emergency or public safety vehicle, and the system was being operated in conjunction with the emergency or public safety use of the vehicle.
 - (3) The system or vehicle was used in an authorized public activity, such as a parade, fireworks event, sporting event, musical production, or other activity which has the approval of the city council or a department of the city authorized to grant the approval.
- (e) The fine schedule for conviction of a violation of this section shall be as follows:

Conviction Number	Minimum Fine
One	\$100.00
Two	\$250.00
Three or more violations	Not less that \$500.00 or more than \$2,000.00

Due to the necessity to protect the public health, the maximum fine shall be \$2,000.00.

(Code 1961, § 13B-7.1; Ord. No. 02-23, § 2, 5-14-2002)

Cross reference— Traffic, ch. 106.

Sec. 34-182. - Unreasonable noise by sound amplification systems.

- (a) No owner, no person, no lessee and no occupant of a residence or business shall operate or permit the operation of any sound amplification from within a residence or business with a louder volume than is necessary for convenient hearing of the persons who are within such residence or business and who are voluntary listeners thereto. The operation of sound amplification system from within a residence or business in such a manner as to be plainly audible of a distance of 50 or more feet or which disturbs the peace and

tranquility of persons within the immediate vicinity of the noise shall be prima facie evidence of a violation of this section. For the sound to be "plainly audible", words or phrases need not be distinguishable and bass reverberations are sufficient.

- (b) The term "sound amplification system" means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.
- (c) For purposes of this section, an act is deemed to occur in a place or near a place if it produces its offensive or proscribed consequences in or near a place.
- (d) The term "public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (e) The provisions of sections 34-175 (noise measurement) and 34-184 (variances) shall not apply to this section.
- (f) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
 - (1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition.
 - (2) The system was part of the authorized equipment on an authorized emergency or public safety vehicle, and the system was being operated in conjunction with the emergency or public safety use of the vehicle.
 - (3) The system was used in an authorized public activity, such as a parade, fireworks event, sporting event, musical production or other activity which has the approval of the city authorized to grant the approval.
- (g) The fine schedule for conviction of a violation of this section shall be as follows:

Conviction Number	Minimum Fine
One	\$100.00
Two	\$250.00
Three or more violations	Not less than \$500.00 or more than \$2,000.00

Due to the necessity to protect the public health, the maximum fine shall be \$2,000.00.

- (h) Notwithstanding section 34-173 (administration), the city police department shall be the primary responsibility for enforcing this section and section 34-182.

(Code 1961, § 13B-7.2; Ord. No. 02-23, § 3, 5-14-2002)

Sec. 34-183. - Exceptions.

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

- (1) School bands, school athletic and school entertainment events.
- (2) Activities conducted on parks, public playgrounds and school grounds, provided that such parks, playgrounds and school grounds are owned by a public entity and conducted pursuant to city regulations.
- (3) Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicles or work.
- (4)

Noise sources associated with demolition, construction, repair, remodeling or grading of any real property, provided that such activities do not take place during nighttime hours.

- (5) Mobile noise sources associated with agricultural operations, provided that such operations do not take place during nighttime hours.
- (6) Noise sources associated with the maintenance of real property used for residential purposes, provided that such activities take place during daytime hours.
- (7) Any noise associated with the provision of public services, including public utility operations, acting to protect the health, safety or welfare of the city.
- (8) Bells, chimes, carillons while being used for religious purposes or in conjunction with religious services, or for national celebrations or public holidays, and those bells, chimes, carillons that are presently installed, and in use for any purpose.
- (9) Any activity to the extent regulation of such activity has been preempted by state or federal law.

(Code 1961, § 13B-8)

Sec. 34-184. - Variances.

- (a) The zoning board of adjustment, as established by the city, shall hear and render judgement on requests for variances from the requirements of this article.
- (b) Any person seeking a variance for a noise source which the director of community services has determined violates any provision of this article may file an application for variance. Such application shall be accompanied by a fee of \$25.00. The application shall contain information that demonstrates that bringing the noise source into compliance with this article would constitute an unreasonable hardship on the applicant, the community or on other persons. The applicant shall also set forth any actions already taken to comply with the provisions of this article. A separate application shall be filed for each noise source; provided, however, that several mobile sources operating within the boundaries of a single property may be combined into one application. Notice of an application for a variance shall be published. Any person who claims to be adversely affected by the allowance of the variance may file a statement with the director of community services containing any information to support his claim. Upon receipt of the application and all supporting evidence the zoning board of adjustment shall:
 - (1) Approve the application in whole or in part; or
 - (2) Deny the application.
- (c) In determining whether to grant or deny an application for variance the following criteria shall be considered:
 - (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 equipment;
 - (5) The general public interest and welfare;
 - (6) Whether strict compliance with the requirements of this article will cause practical difficulties, unnecessary hardship or unreasonable expense and other relevant considerations including, but not limited to, the fact that the commercial or industrial facility commenced development prior to the existence of a resident affected by noise from such facility.
- (d) If the variance is granted, the applicant shall be notified of all conditions, which may include restrictions on noise level, noise duration and operating hours, an approved method of achieving compliance, and a time schedule for its implementation. The variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate the variance and subject the person holding it to these provisions of this article for which the variance was granted.

(Code 1961, § 13B-9)

Secs. 34-185—34-210. - Reserved.