

4-6.201 Purpose of Provision.

It is hereby found and declared that:

- a. The creation or maintenance of excessive noise or vibration which is prolonged or unreasonable in its time, place and use is deemed to be a serious detriment to the public health, safety and quality of life of the residents of the City; and
- b. Therefore, it is the intent of the City to control and, in some instances, prohibit noise and vibration which may impact the health, safety or welfare of the citizens of Walnut Creek. (5410 and by §1, Ord. 1753, eff. 11/8/90)

4-6.202 Definitions.

Loud Noise is defined as excessive or unreasonable noise, sound or vibration which endangers the comfort, repose, health, peace or safety of others within the limits of the City. The determination of whether a noise is unreasonable shall be based on, among other things, consideration of the hour, place, nature, and circumstances of the emission or transmission of any loud noise.

Holidays are those days enumerated in the resolution of the City Council entitled "Resolution Enumerating Holidays" on file in the office of the City Clerk. (5411 and by §1, Ord. 1753, eff. November 8, 1990)

4-6.203 Prohibited Noises Enumerated.

As used in this article, loud, excessive or unreasonable noise shall include, but not be limited to, the following:

- a. Radios, Phonographs, etc. The use, operation or maintenance of sound, from any radio, musical instrument, phonograph or other device designed for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of individuals on a public street, or in or near a residence, business or other such occupied structure. The creation or maintenance of such noise in such a manner so as to be plainly audible at a distance of fifty feet (50') from the source of such noise shall be prima facie evidence of a violation of this Section.
- b. Loudspeakers and Amplifiers for Advertising. The use, operation, or maintenance of any loudspeaker, sound amplifier or other machine or device used for the production or reproduction of sound which is directed toward, or cast upon or across, a residential or commercial property line for the purposes of commercial advertising unless a permit for such sound is secured from the Chief of Police. The Chief of Police may issue a permit, subject to reasonable restrictions.

Such restrictions shall be based upon the area in which the proposed broadcast is to occur, the hours of the proposed broadcast, and the method by which such amplification or broadcast shall occur. In residential zones, a permit shall be granted only for broadcast during the hours of 8 a.m. and 6 p.m. on weekdays which are not holidays and between the hours of 9 a.m. and 5 p.m. on weekends and holidays but such amplification shall not be plainly audible from a distance of more than 50' (fifty feet) from the source of such amplification. In all other zones, a permit shall be granted only for broadcast during the hours of 8 a.m. and 9 p.m. on weekdays, weekends and holidays but such amplification

shall not be plainly audible from a distance of more than 50' (fifty feet) from the source of such amplification.

The applicant for such a permit, if the same is denied for cause, may appeal this denial to the City Manager. The City Manager shall thereupon issue or deny the permit. Any permit issued by the Chief of Police may be revoked by either the City Manager or the Chief of Police if the applicant violates any of the conditions set forth in the permit.

c. **Distraction of Drivers of Motor Vehicles.** The use, operation, or maintenance of any horn, radio, machine or device used for the production or reproduction of sound which is directed to, or cast upon, public streets or highways which distracts, or is intended to distract, the attention of drivers of motor vehicles, unless operated to request assistance or warn of a hazardous situation. This section does not apply to authorized emergency vehicles or vehicles operated by gas, electric, communications, water, or other such public utilities.

d. **Yelling, Shouting, etc.** Yelling, shouting, hooting, whistling, or singing on a public street at any time or place with the intent to annoy or disturb the quiet, comfort or repose of a person or persons in any dwelling, office, building or structure, or of any person or persons in the vicinity.

e. **Animals, Birds, etc.** The keeping of any animal or bird, as pet or livestock, which, by causing frequent or continuous noise disturbs the comfort or repose of any persons in the vicinity. The creation or maintenance of noise by animals in such a manner as to be plainly audible at a distance of 50' (fifty feet) from the source of such noise shall be prima facie evidence of a violation of this Section.

f. **Construction or Repair of Buildings.** The erection, construction, demolition, alteration or repair of any building, structure or residence that requires a permit, or the excavation of any earth, fill, streets or highways that requires a grading permit, other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays which are not holidays, or those precise hours of operation enumerated in individual building and grading permits.

If the Chief of Code Enforcement determines that the public health, safety and welfare will not be impaired by the erection, construction, demolition, alteration or repair of any building, structure or residence during hours other than permitted in the preceding paragraph, and if he or she further determines that loss or inconvenience would result to any person in interest, he or she may grant permission for such work to be done, the specific hours and days of operation to be enumerated in the permit.

If the City Engineer determines that the public health, safety and welfare will not be impaired by the excavation of any earth, fill, streets or highways during the hours of the first paragraph of this subsection and if he or she further determines that loss or inconvenience would result to any person in interest, he or she may grant permission for such work to be done, the specific hours and days of operation to be enumerated in the permit.

In case of urgent necessity in the interest of public health and safety, the Chief of Code Enforcement or the City Engineer may issue a permit to conduct such emergency work for a period not to exceed three (3) days or less while the emergency continues. Such permit may be renewed for periods of

three (3) days or less while the emergency continues.

This Section shall not be construed to require a permit for a public utility engaged in any of the aforementioned activities provided reasonable effort is made to minimize noise disturbance while such work is in progress.

g. Maintenance Equipment. The use and operation of any noise-creating commercial or residential landscaping or home maintenance equipment or tools including, but not limited to, hammers, blowers, trimmers, mowers, chainsaws, power fans or any engine, the operation of which causes noise due to the explosion of operating gases or fluids, other than between the hours of 8:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. (§1, Ord. 1753, eff. November 8, 1990)

4-6.204 Loud Noises Prohibited.

No person shall make, continue or cause to be made or continued, any loud, excessive or unreasonable noise or sound within the limits of the City. (§1, Ord. 1753, eff. November 8, 1990)

4-6.205 Exemptions.

a. The provisions of this article shall not apply in actual or threatened emergency situations such as those caused by natural or man-made disasters.

b. Businesses and individuals using maintenance equipment in the Core Area and in business parks may commence at 7:00 a.m. on weekdays which are not holidays but are otherwise subject to the limitations set forth above.

c. Schools within the City's limits using maintenance equipment may commence at 7:00 a.m. on weekdays which are not holidays but are otherwise subject to the limitations set forth above. (§1, Ord. 1753, eff. November 8, 1990)

d. If the Community Development Director determines that the public health, safety and welfare will not be impaired by the operation of golf course maintenance equipment, expressly for the purpose of preparing greens and sand trap areas prior to a course being opened for play, he or she may allow such operations to occur prior to the normal operating hour limitations as set forth in Section 4-6.203 (g) of the Municipal Code, but in no instance prior to 30 minutes before sunrise or 6:00 A.M., whichever is later. In granting such an exemption, the Community Development Director may impose any conditions as deemed necessary to ensure that the operation of golf course maintenance equipment prior to the normally permitted operating hours will not unreasonably disturb the occupants of residences located adjacent to the golf course requesting the exemption. Exemptions granted by the Community Development Director can be revoked at any time. Decisions by the Community Development Director shall be final. (§1, Ord. 1920, eff. 2/19/98.)

4-6.207 Penalty; Misdemeanor or Infraction.

Any person who violates any provision of §§4-6.203 through 4-6.204 shall be deemed guilty of a misdemeanor or an infraction.

a. If charged as an infraction, the penalty upon conviction of such person shall be a fine as set forth in §1-2.01 of this Code.

b. If charged as a misdemeanor, the penalty upon conviction of such person shall be imprisonment in the county jail for a period not to exceed six months, or by a fine not exceeding \$1000.00, or by both fine and imprisonment. (§1, Ord. 1753, eff. November 8, 1990)

4-6.208 Abatement of Noise as Nuisance.

Any noise maintained in violation of any provision of this article shall additionally be deemed a public nuisance. Such public nuisance may be abated by the Chief of Police, the Community Development Director, or his or her designees, in accordance with the procedures authorized by this Code. (§1, Ord. 1753, eff. November 8, 1990)

Article 3. Parking on Private Property