

Article I. General Provisions

9.22.010 Purpose.

A. The city council declares and finds that excessive, unnecessary and annoying noise levels are detrimental to the public health, welfare and safety and contrary to the public interest as follows:

1. By interfering with the comfortable enjoyment of life, the full use and enjoyment of property, and with the conduct and operation of business and industry;

2. By contributing to hearing impairment and a wide range of adverse physiological and psychological stress conditions; and

3. By adversely affecting the value of real property.

B. It is the intent of this chapter to protect persons from excessive levels of noise and the following regulations are enacted for this purpose. (Ord. 3924 § 3, 1999)

9.22.020 Definitions.

The following words, phrases and terms as used in this chapter shall have the following meanings specified in this section:

“Amplified sound” means sound created by the use of sound-amplifying equipment.

“Central traffic district” means that portion of the city defined as such by Chapter 10.08 or any other ordinance hereafter adopted by the city.

“Construction” means any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or of private or public rights-of-way, structures, utilities or similar property and includes the transportation or delivery of any materials, tools, equipment or personnel to or from the site of any construction project for the loading or unloading or use of such materials, tools, equipment or personnel.

“Emergency work” means work made necessary to restore property to a safe condition following a public calamity, work required to protect persons or property from exposure to danger, or work by private or public utilities when restoring utility services.

“Person” means any individual, partnership, corporation, organization, or association of any nature whatsoever.

“Public place” means any area open to the public within the

jurisdiction and control of the city of Bakersfield.

“Public right-of-way” means any street, avenue, boulevard, highway, sidewalk, alley, easement or the like dedicated to and accepted by the city of Bakersfield.

“Sound equipment” means and includes any loudspeaker, public address system, sound amplifier, radio or phonograph equipped with a loudspeaker or sound amplifier, or any machine or device for the amplification or reproduction of the human voice, music or any other sound, when operated or maintained in such a manner as to cause any such sound to be audible to a person of average hearing faculties or capacity in, on or over any public right-of-way, public building, park or other public place or any private premises or vehicle other than that in or upon which any such machine or device is being operated or maintained. It does not include the operation of any public address system, loudspeaker or other machine or device for the necessary amplification or reproduction of sound in connection with any program, entertainment, contest, public celebration, performance, show, exhibit or similar event, with a volume no louder than necessary for the convenient hearing of those within the building, enclosure or space in which such program, entertainment, contest, public celebration, performance, show, exhibition or similar event is staged or conducted; the operation of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound with a volume no louder than necessary for the convenient hearing of the person or persons who are within the room, building, vehicle, chamber, space or location in which such machine or device is operated and are voluntary listeners thereto; or warning device on authorized emergency vehicles or horns or other authorized emergency vehicles or horns or other authorized warning devices on any vehicle used for traffic safety purposes.

“Sound truck” means any vehicle having mounted thereon, or attached thereto, any sound equipment defined in the definition of “sound equipment” of this section. (Ord. 3924 § 3, 1999)

9.22.030 Noise generally.

A. It is unlawful for any person to willfully make or continue, or allow to be made or continued, any loud, unnecessary noise which

disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to persons residing within one thousand feet of the noise source.

B. The standards which may be considered in determining whether a violation of the provisions of this section exists may include, but are not limited to the following:

1. The level of the noise;
2. The level and intensity of any background noise;
3. The proximity of the noise to residential sleeping facilities;
4. The nature and zoning of the area within which the noise occurs;
5. The density of habitation of the area within which the noise occurs;
6. The time of the day or night the noise occurs;
7. The duration of the noise;
8. Whether the noise is recurrent, intermittent or constant.

C. Refrigerator trucks shall be permitted to operate in any commercial or manufacturing zone at all hours; provided, however, that such use does not emit noise or vibration detrimentally impacting neighboring residential properties and the occupants thereof between ten p.m. and seven a.m. (Ord. 3924 § 3, 1999)

9.22.040 Exemptions.

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

A. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency works for as long a period of time as is necessary to constitute adequate alerting of persons to the existence of the emergency or the emergency work;

B. Warning devices for the protection of the public safety, as for example, police, fire, ambulance, commercial, residential and vehicle alarm devices, and train horns;

C. All mechanical devices, apparatus or equipment which are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions. (Ord. 3924 § 3, 1999)

9.22.050 Noise during construction.

A. Except as provided herein or in subsection B, C or D of this section, it is unlawful for any person, firm or corporation to erect, demolish, alter or repair any building, or to grade or excavate land, streets or highways, other than between the hours of six a.m. and nine p.m. on weekdays, and between eight a.m. and nine p.m. on weekends; provided, however, that city crews and those of the city's contractors performing street work between nine p.m. and six a.m. are exempt herefrom if the city engineer has directed that work be performed between such hours to alleviate potential traffic congestion.

B. Notwithstanding any other provisions of this chapter, if the city manager determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavating and grading of land, streets or highways between the hours of nine p.m. and six a.m., and if he or she further determines that loss or inconvenience would result to any party in interest by virtue of the requirements provided in subsection A of this section, he or she may grant a permit for such work to be done between the hours of nine p.m. and six a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work. Such permit may be granted for a period not to exceed three days, and may be extended by the city manager for a period not to exceed three days.

C. The provisions of this section shall not apply to any work of construction performed one thousand feet or more from the nearest residential dwelling.

D. The provisions of this section shall not apply to performance of emergency work as defined in this chapter. (Ord. 3924 § 3, 1999)

9.22.060 Assessment of service fee.

In addition to the penalty provided for in Chapter 1.40 of this code, a property owner shall be assessed a service fee pursuant to Chapter 3.70 if Bakersfield enforcement personnel respond more than one time in a thirty-day period for violation(s) of this chapter. (Ord. 3924 § 3, 1999)

9.22.070 Other remedies.

No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damages arising from any violation of this chapter. (Ord. 3924 § 3, 1999)

Article II. Amplified sound. 9.22.080 Purpose.

The city council enacts this article for the sole purpose of securing and promoting the public health, comfort, safety and welfare of its citizenry. While recognizing that the use of sound-amplifying equipment is protected by the constitutional rights of freedom of speech and assembly, the council nevertheless feels obligated to reasonably regulate the use of sound-amplifying equipment in order to protect the constitutional rights of the citizens of this community to privacy and freedom from public nuisance of loud and unnecessary amplified sound. (Ord. 3924 § 3, 1999)

9.22.090 Registration and permit required.

No person, other than personnel of law enforcement or governmental agencies, shall operate, maintain, or cause, allow or permit to be operated or maintained any sound equipment in the city before filing a registration statement in writing with the city finance director or his or her designee and procuring a valid permit. The registration statement shall be made on forms to be furnished by the city, shall be submitted no less than two working days prior to the event, shall be filed in duplicate and shall contain the following information:

- A. Name, address and telephone number of:
 1. The registrant,
 2. The owner of the sound equipment,
 3. The person in direct charge of the sound equipment, and
 4. All persons who will use or operate the sound equipment;
- B. A general description of the sound equipment which is to be used;
- C. The location where such sound equipment is to be used; if on a sound truck, the name and address of the registered owner and the

license number of same, and a general statement of the area or areas of the city in which such sound truck is to be operated;

- D. A general statement of the purpose for which such sound equipment is to be used;
- E. The proposed hours of operation of such sound equipment;
- F. The dates of proposed operation of such sound equipment;
- G. The maximum sound producing power of the sound equipment to be used. State the following:
 - 1. The wattage to be used,
 - 2. The volume in decibels of the sound which will be produced,
 - 3. The approximate maximum distance sound will be transmitted from the sound equipment;
- H. The applicant shall pay a fee not to exceed the cost of processing any such application as set forth in Chapter 3.70. (Ord. 3924 § 3, 1999)

9.22.100 Registration statement amendment.

All persons operating or maintaining, or causing, allowing or permitting to be operated or maintained any sound equipment shall amend any registration statement filed pursuant to this section within two working days after any change in the information therein furnished. (Ord. 3924 § 3, 1999)

9.22.110 Issuance and display of permit.

A. If the information on the registration statement demonstrates that the proposed operation will be consistent with the regulations in this chapter, the city finance director or his or her designee shall return to each registrant, one copy of such registration statement duly certified as a correct copy of such permit.

B. Such permit shall be in the possession of any person operating the sound equipment at all times, and such permit shall be displayed promptly to any enforcement personnel upon request. (Ord. 3924 § 3, 1999)

9.22.120 Regulations for use.

The operation or maintenance of sound equipment shall be subject to the following regulations:

A. Only music and human speech are permitted.

B. Operations are permitted only between the hours of nine a.m. and six p.m., of each day; except, that sound equipment operating from a fixed location on private premises included in a commercial or industrial zone by the provisions of Title 17 may be operated between the hours of nine a.m. and ten p.m. of any day. The hours of operation and location for use, including within the central traffic district, may be modified by special permit issued by the city manager as otherwise permitted by provisions of this municipal code.

C. Sound equipment shall not be operated within one hundred yards of:

1. Any hospital;

2. Any school, except after school hours and on days when school is not in session and when such school is not being used for the purpose of a public meeting;

3. Any church, except when the same is not being used for religious services or classes;

4. The City Hall or Kern County courthouses, except after five p.m. on weekdays or on weekends or legal holidays;

5. Any mortuary or cemetery, when services are in progress.

D. No sound truck or sound equipment shall be operated or maintained within the central traffic district where the volume of sound is audible for a distance in excess of fifty feet from the sound truck or the exterior boundaries of the premises upon which such sound equipment is located, except that the city council may issue a permit for the installation and operation of a stationary sound equipment affixed to a building for the reproduction or amplification of music or bell tones to be reproduced at regular stated intervals and for a stated period each time, during the day between nine a.m. and ten p.m., upon compliance with all other provisions of this chapter and amendments thereto; and, provided further, that the volume of sound shall be controlled so that it will not be audible for a distance of more than six hundred feet from the point of location of such sound equipment; and, provided further, that such permit may be revoked at any time by the city council, upon satisfactory evidence that such use of such equipment is a nuisance to the surrounding neighborhood, and disturbs and interferes with the reasonable and comfortable enjoyment of life or

property of persons residing or working in the neighborhood of such equipment.

E. Except as otherwise stated in this section or by special permit referred to in subsection B of this section, the volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred fifty feet from the exterior boundaries of the premises upon which such sound equipment is located, and so that such volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance.

F. When any loudspeaker, public address system, sound amplifier, radio or phonograph equipped with loudspeaker, jukebox or any other machine or device for the amplification or reproduction of the human voice, music or any other sound is so arranged, operated or equipped that it can be heard both inside and outside of the building or premises where the same is maintained, and such machine or device is operated at times other than those in which the operation of sound equipment is permitted under the provisions of this chapter, then such machine or device shall be equipped with a control switch located inside such building or premises, in such a manner that all speakers located outside such building or premises can be turned off at times when the operation of sound equipment is prohibited by this chapter. (Ord. 3924 § 3, 1999)

9.22.130 Amplification from aircraft prohibited.

No person shall operate, or cause, allow or permit to be operated any aircraft for any purpose in or over the city from which any sound equipment is being operated with volume sufficiently loud to be audible to a person of average hearing faculties or capacity in or on any private premises in such city. (Ord. 3924 § 3, 1999)

9.22.140 Amplified sound from vehicles.

Except as otherwise allowed under this chapter, no person shall use or operate or permit to be used or operated a radio, tape player, tape recorder, compact disc player, or any similar device in or attached to a vehicle whether moving, stopped or parked, occupied or unoccupied, which is audible to a person of normal hearing sensitivity more than fifty feet from such vehicle or, as to any vehicle not located on a public street, so audible more than fifty feet from the property line of the

property on which such vehicle is located. This section shall not apply to acts proscribed by Vehicle Code Section 27007 after the effective date of such section, to any sound system being operated to request assistance or to warn of a hazardous situation, to any authorized emergency vehicle or vehicles operated by gas, electric, communications or water utilities. (Ord. 3924 § 3, 1999)

9.22.150 Revocation.

Any permit issued pursuant to this chapter may be immediately revoked by the city finance director or his or her designee whenever he or she finds:

- A. That false or misleading statement(s) were made on the application; or
- B. That the applicant has done any act related to the application involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or
- C. That the permit holder has violated any provision of this chapter or any other applicable law; or
- D. That any of the terms or conditions of such permit have been violated. (Ord. 3924 § 3, 1999)

9.22.160 Appeal.

- A. 1. The decision of the city finance director on any registration statement filed under this chapter may be appealed to the city manager or his or her designee.
- 2. The applicant must file the appeal with the office of the city manager within five days of the mailing or delivery of such decision.
- 3. The city manager or his or her designee shall hold a hearing within three days of the filing of such appeal at the office of the city manager, at which hearing the applicant may present any evidence, testimony and information relevant to the registration statement.
- 4. The city manager or his or her designee may, within twenty-four hours after the conclusion thereof, issue a decision either affirming the denial of the application or directing the city finance director to issue a permit as applied for or upon such conditions as are reasonable under all the circumstances, in accordance with this chapter. The city manager or his or her designee shall specify the grounds for denial or

the imposition of conditions.

B. 1. Should any applicant be dissatisfied with the decision of the city manager not to grant a permit or for the revocation of a permit, then such applicant may, no later than ten days after notice of such hearing is deposited in the United States mail, addressed to the applicant or permittee at the address provided on the application, make written objection to the city council setting forth the grounds for dissatisfaction, whereupon the council shall hear such objections at a regular meeting no later than three weeks following the filing of the objection with the city clerk. The applicant shall be given written notice no less than three days prior to such hearing. The council may, upon such hearing, sustain, suspend or overrule the decision of the city manager, which decision shall be final and conclusive.

2. Pending the hearing before the council, the decision of the city manager shall remain in full force and effect and any reversal thereof by the city council shall not be retroactive but shall take effect as of the date of the council's decision. (Ord. 3924 § 3, 1999)