

CHAPTER 6.35. - NOISE CONTROL^[8]

Footnotes:

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Cross reference— Citations in lieu of immediate arraignment, ch. 1.08; buildings and construction generally, tit. 8; animals, tit. 10; offenses against public safety, ch. 11.17; traffic generally, tit. 12; parks and recreational facilities, tit. 13; streets and sidewalks, tit. 14.

State Law reference— Authority to adopt noise regulations, Health and Safety Code § 46002.

Sec. 6.35.010. - Declaration of policy.

- (a) In order to control unnecessary, excessive and annoying sounds emanating from areas of the city, it is hereby declared to be the policy of the city to prohibit such sounds generated from all sources as specified in this chapter.
- (b) It is determined that certain sound levels are detrimental to the public health, welfare and safety, and contrary to public interest.

(Ord. No. 88-12, § 3(4-6-1), 6-27-88)

Sec. 6.35.020. - Definitions.

The following words, phrases and terms as used in this chapter shall have the meaning as indicated below:

Ambient noise level means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

Cumulative period means an additive period of time composed of individual time segments which may be continuous or interrupted.

Decibel (dB) means a unit which denotes the ratio between two quantities which are proportional to power: The number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base ten of this ratio.

Dwelling unit means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Emergency machinery, vehicle or work means any machinery, vehicle or work used, employed or performed in an effort to protect, provide or restore safe conditions in the community or for the citizenry; or work by private or public utilities when restoring utility service.

Fixed noise source means a stationary device which creates sounds while fixed or motionless, including but not limited to industrial and commercial machinery and equipment, pumps, fans, compressors, generators, air conditioners and refrigeration equipment.

Grading means any excavating or filling of earth material, or any combination thereof, conducted at a site to prepare such site for construction or other improvements thereon.

Impact noise means the noise produced by the collision of one mass in motion with a second mass which may be either in motion or at rest.

Mobile noise source means any noise source other than a fixed noise source.

Noise level means the A-weighted sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of 20 micronewtons per square meter. The unit of measurement shall be designated as dB(A).

Person means a person, firm, association, copartnership, joint venture, corporation or any entity, public or private in nature.

Residential property means a parcel of real property which is developed and used either in part or in whole for residential purposes, other than transient uses such as hotels and motels.

Simple tone noise means a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished.

Sound level meter means an instrument meeting American National Standard Institute's Standard S1.4-1971 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

Sound pressure level of a sound, in decibels, means 20 times the logarithm to the base ten of the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated.

(Ord. No. 88-12, § 3(4-6-2), 6-27-88)

Cross reference— Definitions generally, § 1.01.170.

Sec. 6.35.030. - Noise level measurement criteria.

Any noise level measurements made pursuant to the provisions of this chapter shall be performed using a sound level meter as defined in section 6.35.020.

(Ord. No. 88-12, § 3(4-6-3), 6-27-88)

Sec. 6.35.040. - Exterior noise standards.

(a) The following noise standards, unless otherwise specifically indicated, shall apply to all residential property within the city:

Noise Standards

| Noise level | Time period |
|-------------|-----------------------|
| 55 dB(A) | 7:00 a.m.— 10:00 p.m. |
| 50 dB(A) | 10:00 p.m.— 7:00 a.m. |

If the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five dB(A).

(b) It shall be unlawful for any person at any location within the city to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person,

when the foregoing causes the noise level, when measured on any other residential property, to exceed:

- (1) The noise standard for a cumulative period of more than 30 minutes in any hour;
 - (2) The noise standard plus five dB(A) for a cumulative period of more than 15 minutes in any hour;
 - (3) The noise standard plus ten dB(A) for a cumulative period of more than five minutes in any hour;
 - (4) The noise standard plus 15 dB(A) for a cumulative period of more than one minute in any hour;
or
 - (5) The noise standard plus 20 dB(A) for any period of time.
- (c) If the ambient noise level exceeds any of the first four noise limit categories above, the cumulative period applicable to such category shall be increased to reflect such ambient noise level. If the ambient noise level exceeds the fifth noise limit category, the maximum allowable noise level under such category shall be increased to reflect the maximum ambient noise level.

(Ord. No. 88-12, § 3(4-6-5), 6-27-88)

Sec. 6.35.050. - Interior noise standards.

- (a) The following interior noise standards, unless otherwise specifically indicated, shall apply to all residential property within the city:

Interior Noise Standards

| Noise level | Time period |
|-------------|-----------------------|
| 55 dB(A) | 7:00 a.m.—10:00 p.m. |
| 45 dB(A) | 10:00 p.m.— 7:00 a.m. |

If the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five dB(A).

- (b) It shall be unlawful for any person at any location within the city to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, when the foregoing causes the noise level, when measured within any other dwelling unit on any residential property, to exceed:
- (1) The interior noise standard for a cumulative period of more than five minutes in any hour;
 - (2) The interior noise standard plus five dB(A) for a cumulative period of more than one minute in any hour; or
 - (3) The interior noise standard plus ten dB(A) for any period of time.
- (c) If the ambient noise level exceeds either of the first two noise limit categories above, the cumulative period applicable to such category shall be increased to reflect such ambient noise level. If the ambient noise level exceeds the third noise limit category the maximum allowable noise level under such category shall be increased to reflect the maximum ambient noise level.

(Ord. No. 88-12, § 3(4-6-6), 6-27-88)

Sec. 6.35.060. - Special provisions.

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

- (1) Activities conducted on the grounds of any public or private nursery, elementary, intermediate or secondary school or college.
- (2) Outdoor gatherings, public dances and shows, provided such events are conducted pursuant to a license issued by the county pursuant to title 5 of the codified ordinances of the county.
- (3) Activities conducted on any park or playground, provided such park or playground is owned and operated by a public entity.
- (4) Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or work.
- (5) Noise sources associated with construction, repair, remodeling or grading of any real property, and delivery or repair of construction and grading equipment, provided such activities do not take place between the hours of 8:00 p.m. to 7:00 a.m. on weekdays and Saturdays, or at any time on Sunday or a federal holiday.
- (6) 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.
- (7) Mobile noise sources associated with agricultural operations, provided such operations do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday.
- (8) Mobile noise sources associated with agricultural pest control through pesticide application, provided that the application is made in accordance with restricted material permits issued by or regulations enforced by the agricultural commissioner.
- (9) Noise sources associated with the maintenance of real property, provided such activities take place between 7:00 a.m. and 8:00 p.m. on any day except Sunday or a federal holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a federal holiday.
- (10) Any activity to the extent regulation thereof has been preempted by state or federal law.

(Ord. No. 88-12, § 3(4-6-7), 6-27-88; Ord. No. 89-37, § 1, 11-27-89)

Sec. 6.35.070. - Delivery, repair, and operations prohibited during certain hours.

Onsite building operations and the delivery of any materials, supplies, or construction equipment and the repair thereof, related directly or indirectly to onsite building operations located within one-half mile of a structure for human occupancy shall be prohibited between the hours of 8:00 p.m. to 7:00 a.m. on weekdays and Saturdays, or at any time on Sunday or a city holiday.

(Ord. No. 89-37, § 2(4-6-7.5), 11-27-89)

Sec. 6.35.080. - Schools, hospitals and churches; special provisions.

It shall be unlawful for any person to create any noise which causes the noise level at any school, hospital or church while the same is in use to exceed the noise limits as specified in section 6.35.040 prescribed for the assigned noise zone in which the school, hospital or church is located, or which noise level unreasonably interferes with the use of such institutions or which unreasonably disturbs or annoys

patients in the hospital, provided conspicuous signs are displayed in three separate locations within one-tenth of a mile of the institution indicating the presence of a school, church or hospital.

(Ord. No. 88-12, § 3(4-6-8), 6-27-88)

Sec. 6.35.090. - Motor vehicle racing.

It shall be unlawful to conduct motor vehicle racing, testing, timing or similar noise-producing activities at raceways, speedways, offroad vehicle courses, drag strips or other similar places, including, but not limited to, the operation of midget race cars, drag cars, motorcycles, offroad vehicles, and specialty automobiles, between the hours of 11:30 p.m. and 8:00 a.m.

(Ord. No. 88-12, § 3(4-6-8.1), 6-27-88)

Sec. 6.35.100. - Noise level measurement.

The location selected for measuring exterior noise levels shall be at any point on the affected property. Interior noise measurements shall be made within the affected dwelling unit. The measurement shall be made at a point at least four feet from the wall, ceiling, or floor nearest the alleged offensive noise source and may be made with the windows of the affected unit open.

(Ord. No. 88-12, § 3(4-6-10), 6-27-88)

Sec. 6.35.110. - Manner of enforcement.

- (a) The chief of police and the city community development director and their duly authorized representatives are directed to enforce the provisions of this chapter. The chief of police and the city health officer and their duly authorized representatives are authorized, pursuant to Penal Code § 836.5, to arrest any person without a warrant when they have reasonable cause to believe that such person has committed a misdemeanor in their presence.
- (b) No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this article while such person is engaged in the performance of his duty.

(Ord. No. 88-12, § 3(4-6-11), 6-27-88)

Sec. 6.35.120. - Variance procedure.

The owner or operator of a noise source which violates any of the provisions of this chapter may file an application with the health officer for a variance from the provisions thereof wherein such owner or operator shall set forth all actions taken to comply with such provisions, the reasons why immediate compliance cannot be achieved, a proposed method of achieving compliance, and a proposed time schedule for its accomplishment. The application shall be accompanied by a fee in the amount of \$75.00. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership, or several fixed sources on a single property may be combined into one application. Upon receipt of the application and fee, the health officer shall refer it with his recommendation thereon within 30 days to the noise variance board for action thereon in accordance with the provisions of this chapter. An applicant for a variance shall remain subject to prosecution under the terms of this chapter until a variance is granted.

(Ord. No. 88-12, § 3(4-6-12), 6-27-88)

Sec. 6.35.130. - Noise variance board.

- (a) There is hereby created a noise variance board consisting of five members. Two of the members shall be professional engineers, one of whom shall have demonstrated knowledge and experience in the field of acoustics, and one of whom shall be a registered mechanical engineer. One member shall be a physician licensed in this state, qualified in the field of physiological effects of noise. One member shall be a representative of business and industry. One member shall be a representative of the general public.
- (b) The noise variance board shall evaluate all applications for variance from the requirements of this article and may grant the variances with respect to time for compliance, subject to such terms, conditions and requirements as it may deem reasonable to achieve maximum compliance with the provisions of this article. The terms, conditions and requirements may include but shall not be limited to limitations on noise levels and operating hours. Each such variance shall set forth in detail the approved method of achieving maximum compliance and a time schedule for its accomplishment. In its determinations the board shall consider the magnitude of nuisance caused by the offensive noise; the uses of property within the area of impingement by the noise; the time factors related to study, design, financing and construction of remedial work; the economic factors related to age and useful life of equipment; and the general public interest and welfare. Any variance granted by such board shall be by resolution and shall be transmitted to the health officer for enforcement. Any violation of the terms of such variance shall be unlawful.
- (c) Members of the variance board shall be appointed by, and shall serve at the pleasure of, the city council. The board shall adopt reasonable rules and regulations for its own procedures in carrying out its functions under the provisions of this chapter.
- (d) Three members shall constitute a quorum and at least three affirmative votes shall be required in support of any action.
- (e) The health officer, or his appointed representative, shall be a nonvoting ex officio member of the variance board, and shall act as secretary of the board.
- (f) Meetings of the noise variance board shall be held at the call of the secretary and at such times and locations as the board shall determine. All such meetings shall be open to the public.
- (g) Traveling and other expenses incurred by each board member in the performance of his official duties shall be reimbursed at a rate determined by resolution of the council.

(Ord. No. 88-12, § 3(4-6-13), 6-27-88)

Sec. 6.35.140. - Appeals.

- (a) Within 15 days following the decision of the variance board on an application the applicant, the health officer, or any member of the city council, may appeal the decision to the city council by filing a notice of appeal with the secretary of the variance board. In the case of an appeal by the applicant for a variance the notice of appeal shall be accompanied by a fee to be computed by the secretary on the basis of the estimated cost of preparing the materials required to be forwarded to the council as discussed hereafter. If the actual cost of such preparation differs from the estimated cost, appropriate payments shall be made either to or by the secretary.
- (b) Within 15 days following receipt of a notice of appeal and the appeal fee the secretary of the variance board shall forward to the council copies of the application for variance; the recommendation of the health officer; the notice of appeal; all evidence concerning such application received by the variance board and its decision thereon. In addition, any person may file with the council written arguments supporting or attacking the decision and the council may in its discretion hear oral arguments thereon. The clerk shall mail to the applicant a notice of the date set for hearing of the appeal. The notice shall be mailed at least ten days prior to the hearing date.

- (c) Within 60 days following its receipt of the notice of appeal the council shall either affirm, modify or reverse the decision of the variance board. Such decision shall be based upon the council's evaluation of the matters submitted to the council in light of the powers conferred on the variance board and the factors to be considered, both as enumerated in sections 6.35.120 and 6.35.130.
- (d) As part of its decision the council may direct the variance board to conduct further proceedings on the application. Failure of the council to affirm, modify or reverse the decision of the variance board within the 60-day period shall constitute an affirmance of the decision.

(Ord. No. 88-12, § 3(4-6-14), 6-27-88)