

Chapter 9.40 - NOISE*

Sections:

9.40.010 - Definitions.

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

"Agricultural property" means a parcel of real property which is undeveloped for any use other than agricultural purposes.

"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.

"A-weighted sound level" means the total sound level meter with a reference pressure of twenty micro-pascals using the A-weighted network (scale) at slow response. The unit of measurement shall be defined as dBA.

"Commercial property" means a parcel of real property which is developed and used as either in or part or in whole for commercial purposes.

"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.

"Director of community development" means the director of community development of the city of Chino or his/her duly authorized deputy.

"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, work or alarm" means any machinery, vehicle, work or alarm used, employed, performed or operated in an effort to protect, provide or restore safety 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 residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

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

"Hertz (Hz)" means the unit which describes the frequency of a function periodic in time which is the reciprocal of the period.

"Health care institution" means any hospital, convalescent home or other similar facility excluding residential.

"Impulsive noise" means a noise of short duration usually less than one second and of high intensity, with an abrupt onset and rapid decay.

"Industrial property" means a parcel of real property which is developed and used either in part or in whole for manufacturing purposes.

"Intruding noise level" means the total sound level, in decibels, created, caused, maintained or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

"Licensed" means the issuance of a formal license or permit by the appropriate jurisdictional authority, or where no permits or licenses are issued, the sanctioning of the activity by the jurisdiction as noted in public record.

"Major roadway" means any street, avenue, boulevard or highway used for motor vehicle traffic which is owned or controlled by a public government entity.

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

"Person" means a person, firm, association, co-partnership, 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, and residential care facilities.

"Simple tone noise" means a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished. If measured, simple tone noise shall exist if the one-third octave band sound pressure levels in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two continuous one-third octave bands as follows: 5 dB for frequencies of 500 Hertz (Hz) and above or; by 15 dB for frequencies less than equal to 125 Hz.

"Sound level meter" means an instrument meeting American National Standard Institute's Standard S1.4-1971 or most recent revision thereof for 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 twenty times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure shall be explicitly stated.

"Vibration" means any movement of the earth, ground or other similar surface created by a temporal and spacial oscillation device or equipment located upon, affixed in conjunction with that surface.

(Ord. 95-10 § 1 (part), 1995.)

9.40.020 - Decibel measurement criteria.

Any decibel measurement made pursuant to the provisions of this chapter shall be based on a reference sound pressure of twenty micro-pascals as measured with a sound level meter using the A-weighted network (scale) at slow response.

(Ord. 95-10 § 1 (part), 1995.)

9.40.030 - Designated noise zones.

The properties hereinafter described are assigned to the following noise zones:

Noise Zone I: All single-, double- and multiple-family residential properties.

Noise Zone II: All commercial properties.

Noise Zone III: All manufacturing or industrial properties.

(Ord. 95-10 § 1 (part), 1995.)

9.40.040 - Exterior noise standards.

The following noise standards, unless otherwise specifically indicated, shall apply to all residential property with a designated noise zone:

These criteria are given in terms of allowable noise levels for a given period of time at the residential property boundary. Higher noise levels are permitted during the day (seven a.m. to ten p.m.) than the night (ten p.m. to seven a.m.). The table below shows the acceptable levels at residential land uses during the daytime and nighttime.

City of Chino Exterior Noise Ordinance

Criteria for Residential Properties (Zone 1)

Maximum Time of Exposure	Noise		
Metric	Noise Level Not to Exceed	7 am—10 pm	<u>10</u> pm—7 am
30 min/hr	L50	55 dBA	50 dBA
15 min/hr	L25	60 dBA	55 dBA
5 min/hr	L8.3	65 dBA	60 dBA
1 min/hr	L1.7	70 dBA	65 dBA
Any period of time	Lmax	75 dBA	70 dBA

Each of the noise limits specified here shall be reduced by five dBA for impulse or simple tone noises, or for noises consisting of speech or music; provided, however, that if the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

It is unlawful for any person at any location within the incorporated area of 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, which causes the noise level when measured on any other property, to exceed:

- A. The noise standard for a cumulative period of more than thirty minutes in any hour; or
- B. The noise standard plus five dBA for a cumulative period of more than fifteen minutes in any hour; or
- C. The noise standard plus ten dBA for a cumulative period of more than five minutes in any hour; or
- D. The noise standard plus fifteen dBA for a cumulative period of more than one minute in any hour; or
- E. The noise standard plus twenty dBA for any period of time.

In the event the ambient noise level exceeds any of the first four noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the fifth noise category, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

If the measurement location is on boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.

If the intruding noise source is continuous and cannot be reasonably discontinued or stopped for a time period whereby the ambient noise level can be determined, the measured noise level obtained while the source is in operation shall be compared directly to the allowable noise level standards as specified respective to the measurement location's designated land use and for the time of the day the noise level is measured.

- A. The reasonableness of temporarily discontinuing the noise generation by an intruding noise source shall be determined by the director or his/her duly authorized deputy for the purpose of establishing the existing ambient noise level at the measurement location.

(Ord. 95-10 § 1 (part), 1995.)

9.40.050 - Interior noise standards.

The following noise standard, unless otherwise specifically indicated, shall apply to all residential property within all noise zones:

Each of the noise limits specified above shall be reduced by five dBA for impulse or simple tone noises or for noises consisting of speech or music provided, however, if the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

It is unlawful for any person at any location within the incorporated area of the city to create any noise or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such a person which causes the noise level when measured within any other residential dwelling unit in any noise zone to exceed:

- A. The noise standard for cumulative period of more than five minutes in any hour; or
- B. The noise standard plus 5 dBA for a cumulative period of more than one minute in any hour; or
- C. The noise standard plus ten dBA for any period of time.

In the event the ambient noise level exceeds any of the first two noise limit categories above, the noise standard applicable to said category shall be increased to reflect the maximum ambient noise level.

If the measurement location is on a boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.

If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be determined; the same procedures specified in Section 9.40.040(E), shall be deemed proper to enforce the provisions of this section.

(Ord. 95-10 § 1 (part), 1995.)

9.40.060 - Special provisions.

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

- A.

Activities conducted on public parks, public playgrounds and public or private school grounds including school athletic and school entertainment events that are conducted under the sanction of the school or which a license or permit has been duly issued pursuant to any provision of the city code;

- B. Occasional outdoor gatherings, public dances, show, sporting and entertainment events, provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events. Such permits and licenses may restrict noise;
- C. Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle, work or warning alarm or bell, provided the sounding of any bell or alarm on any building or motor vehicle shall terminate its operation within thirty minutes in any hour of its being activated;
- D. Noise sources associated with or vibration created by construction, repair, remodeling or grading of any real property or during authorized seismic surveys, provided said activities do not take place outside the hours for construction as defined in Section 15.44.030 of this code, and provided the noise standard of sixty-five dBA plus the limits specified in Section 9.40.040(B) as measured on residential property and any vibration created does not endanger the public health, welfare and safety;
- E. All mechanical devices, apparatus or equipment associated with agriculture operations provided:
 1. Operations do not take place between eight p.m. and seven a.m. on weekdays, including Saturday, or at any time Sunday or a Federal holiday, or
 2. Such operations and equipment are utilized for the protection of salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions, or
 3. Such operations and equipment are associated with agricultural pest control through pesticide application, provided the application is made in accordance with permits issued by or regulations enforced by the California Department of Agriculture,
 4. Noise sources associated with the maintenance of real property, provided said activities take place between the hours of seven a.m. to eight p.m. on any day except Sunday, or between the hours of nine a.m. and eight p.m. on Sunday,
 5. Any activity to the extent regulation thereof has been preempted by state or federal law.

NOTE: Preemption may include motor vehicle, aircraft in flight, and railroad noise regulations.

(Ord. 2004-23 § 59, 2004; Ord. 95-10 § 1 (part), 1995.)

9.40.070 - Schools, churches, libraries, health care institutions—Special provisions.

It shall be deemed unlawful for any person to create any noise which causes the noise level at any school, hospital or similar health care institution, church or library while the same is in use, to exceed the noise standards specified in Section 9.40.040 prescribed for the assigned noise zone level, unreasonably interferes with the use of such institutions, or which unreasonably disturbs or annoys patients in a hospital, convalescent home or other similar health care institutions, provided conspicuous signs are displayed in three separate locations within one-tenth-mile of the institution or facility indicating a quiet zone.

(Ord. 95-10 § 1 (part), 1995.)

9.40.080 - Air conditioning and refrigeration—Special provisions.

Until January 1, 1996, the noise standards enumerated in Section 9.40.040 and 9.40.050 shall be increased five dBA where the alleged intruding noise source is an air conditioning or refrigeration system or associated equipment which was installed prior to the effective date of the ordinance codified in this chapter.

(Ord. 95-10 § 1 (part), 1995.)

9.40.090 - Noise sources generated on publicly owned property.

Notwithstanding any other provision of this code and in addition thereto, it is unlawful for any person to permit or cause any noise, sound, music or program to be emitted from any radio, tape player, tape recorder, record player, television outdoors, or any other mode on or in any publicly owned property, park or place when such noise, sound, music or program is audible to a person of normal hearing sensitivity one hundred feet from said radio, tape player, tape recorder, record player or television.

- A. As used herein, "a person of normal hearing sensitivity" means a person who has a hearing threshold level of between zero decibels and twenty-five decibels HL averaged over the frequencies 500, 1,000 and 2,000 Hertz.
- B. Notwithstanding any other provision of this code, any person violating this section shall be guilty of an infraction and upon conviction thereof, is punishable by a fine not exceeding fifty dollars, for a first violation; a fine not exceeding one hundred dollars for a second violation of this section within one year; a fine not exceeding two hundred fifty dollars for each additional violation of this section within one year. A person who violates the provisions of this section shall be deemed to be guilty of a separate offense for each day, or portion thereof, during which the violation continues or is repeated.
- C. Notwithstanding any other provision of this code, no citation or notice to appear shall be issued or criminal complaint shall be filed for a violation of this section unless the offending party is first given a verbal or written notification of violation by any peace officer, public officer, park ranger or other person charged with enforcing this section and the offending party given an opportunity to correct said violation.
- D. This section shall not apply to broadcasting from any aircraft, vehicle or stationary sound amplifying equipment or to the use of radios, tape players, tape recorders, record players or televisions in the course of an assembly or festival for which a license has been issued or a parade for which a permit has been issued pursuant to or any other activity, assembly or function for which a permit or license has been duly issued pursuant to any provision of the city code.

(Ord. 95-10 § 1 (part), 1995.)

9.40.100 - Noise level measurement.

The location selected for measuring exterior noise levels shall be made within the affected residential unit. The measurements shall be made at a point at least four feet from the wall, ceiling or floor nearest the noise source with windows in an open position depending on the normal seasonal ventilation requirements.

(Ord. 95-10 § 1 (part), 1995.)

9.40.110 - Vibration.

Notwithstanding other sections of this chapter, it is unlawful for any person to create, maintain or cause any ground vibration which is perceptible without instruments at any point on any affected property adjoining the property on which the vibration source is located. For the purpose of this chapter, the perception threshold shall be presumed to be more than 0.05 inches per second RMS vertical velocity.

(Ord. 95-10 § 1 (part), 1995.)

9.40.120 - Proposed developments.

Each department whose duty it is to review and approve new projects or changes to existing projects that result or may result in the creation of noise shall consult with the director prior to any such approval. If at any time the director of community development has reason to believe that a standard, regulation, action, proposed standard, regulation or action of any department respecting noise does not conform to the provisions as specified in this chapter, the director may request such department to consult with them on the advisability of revising such standard or regulation to obtain uniformity.

(Ord. 95-10 § 1 (part), 1995.)

9.40.130 - Variance procedure.

The variance procedure process shall remain as specified in the city's zoning code (Title 20).

(Ord. 95-10 § 1 (part), 1995.)

9.40.140 - Planning commission.

The planning commission shall evaluate all applications for variance from the requirements of this chapter and may grant said 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 chapter. Said terms, conditions and requirements may include, but shall not be limited to, limitation 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 commission shall consider the following:

- A. The magnitude of nuisance caused by the offensive noise;
- B. The uses of property within the area of impingement by the noise;
- C. The time factors related to study, design, financing and construction of remedial work;
- D. The economic factors related to age and useful life of the equipment;
- E. The general public interest, welfare and safety.

Any variance granted by the commission shall be by resolution and shall be transmitted to the director of community development for enforcement. Any violation of the terms of said variance shall be unlawful.

The planning commission may require additional acoustical studies based on the individual circumstances of each case. Such studies must be performed by a person qualified in acoustical engineering with the state of California.

Meetings of the planning commission shall be held at the call of the secretary and at such times and locations as the commission shall determine. All such meetings shall be open to the public.

(Ord. 95-10 § 1 (part), 1995.)

9.40.150 - Appeals.

The appeal procedure process shall remain as specified in the city's zoning code (Title 20).

(Ord. 95-10 § 1 (part), 1995.)

9.40.160 - Prima facie violation.

Any noise exceeding the noise level standard as specified in Section 9.40.040 and 9.40.050 or vibration exceeding the standard as specified in Section 9.40.110 of this chapter, shall be deemed to be prima facie evidence of a violation of the provisions of this chapter.

(Ord. 95-10 § 1 (part), 1995.)

9.40.170 - Violations/misdemeanors.

Any persons violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed an amount as specified by city council resolution, or be imprisoned in the Jail for a period not to exceed six months or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Ord. 95-10 § 1 (part), 1995.)

9.40.180 - Violations/additional remedies— Injunctions.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this chapter which operation or maintenance causes or creates sound levels or vibration exceeding the allowable standards as specified in this chapter shall be deemed and is hereby declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Any violation of this chapter is declared to be a public nuisance and may be abated in accordance with law. The expense of this chapter is declared to be public nuisance and may be by resolution of the city council declared to be a lien against the property on which such nuisance is maintained, and such lien shall be made a personal obligation of the property owner.

(Ord. 95-10 § 1 (part), 1995.)

9.40.190 - Manner of enforcement.

The director is directed to enforce the provisions of this chapter and is authorized and may cite at his/her discretion, any person without a warrant who has reasonable cause to believe that such person has committed a misdemeanor in his/her presence.

No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of his/her duty.

Violations of this chapter shall be prosecuted in the same manner as other misdemeanor violations pursuant to Chapter 1.12; provided, however, that in the event of an initial violation of the provisions of this chapter, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected or an application for variance shall be received by the event the cause of the violation has been removed, the condition abated or fully corrected within the time period specified in the written notice.

In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice to registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a misdemeanor complaint.

(Ord. 95-10 § 1 (part), 1995.)

9.40.200 - Delay in implementation—Fixed noise sources.

None of the provisions of this chapter shall apply to a fixed sound source during the period commencing the effective date of this chapter and terminating one-hundred eighty days thereafter.

(Ord. 95-10 § 1 (part), 1995.)