

ARTICLE III. - NOISE^[3]

Footnotes:

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Editor's note—Ord. No. 2006-68(6), § 1, adopted Oct. 10, 2006, repealed and re-enacted art. III, §§ 54-86—54-92, to read as herein set out. Formerly, said article pertained to similar subject matter as enacted by Ord. No. 1991-54, §§ 1—6, adopted Dec. 3, 1991; as amended.

State Law reference— Municipal authority to regulate noise, MCA 1972, § 21-19-15.

Sec. 54-86. - Purpose.

This article is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet for the citizens of the City of Jackson through the reduction, control and prevention of noise. It is the intent of this chapter to establish standards that will eliminate and reduce unnecessary and excessive motor vehicle and community noise, which are physically harmful and otherwise detrimental to individuals and the community in the enjoyment of life, property and conduct of business.

(Ord. No. 2006-68(6), § 1, 10-10-06)

Sec. 54-87. - 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:

Ambient sound level shall mean the A-weighted sound level of all sound associated with a given environment, exceeded 90 percent of the time (L90) measured and being a composite of sounds from many sources during the period of observance while the sound from the noise source of interest is not present.

A-weighted sound pressure level shall mean the sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A).

Commercial power equipment shall mean any equipment or device rated at more than five horsepower and used for building repairs or property maintenance excluding snow removal equipment.

Commercial premises shall mean any land parcel with buildings where the use of less than 50 percent of the gross floor area meets the definition of residential premises.

Construction equipment shall mean any device or mechanical apparatus operated by fuel, electric, or pneumatic power in the excavation, construction, repair, or demolition of any building, structure, land parcel, street, alley, waterway, or appurtenance thereto.

Decibel shall mean a logarithmic unit of measure often used in measuring magnitudes of sound. The symbol is dB.

Domestic power equipment shall mean any equipment or device rated at five horsepower or less and used for building repairs or grounds maintenance excluding snow removal equipment.

Emergency vehicle shall mean an authorized motor vehicle that has sound warning devices such as whistles, sirens and bells which can lawfully be used when responding to an emergency, or during a police activity or which is required by state or federal regulations (i.e., reverse alarms).

Emergency work is an activity made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from exposure to imminent danger. It includes work by private or public entities for providing or restoring immediately necessary service as well as all situations deemed necessary by the city.

Motor vehicle shall mean any vehicle which is self propelled, used primarily for transporting persons or property upon public roadways and required to be licensed according to motor vehicle registration laws. The term motor vehicle shall not mean include: Aircraft, watercraft, motor vehicles operated on private property for recreational or amusement purposes, vehicles used exclusively on stationary rails, or specialized utility vehicles normally used only on private property in the daily course of business such as forklifts, and pallet movers.

Muffler-approved type shall mean an apparatus consisting of a series of chambers, baffle plates or other mechanical devices designed for the purpose of receiving and transmitting exhaust gases and which reduce sound emanating from such an apparatus by at least 20 decibels from the non-muffled condition.

Noise shall mean sound that is unwanted and which causes or tends to cause adverse psychological or physiological effects on human beings.

Person shall mean any person, firm, association, organization, partnership, business, trust, corporation, state or federal government agency, district, or any officer or employee thereof.

Premises shall mean any building, structure, land, utility or portion thereof, including all appurtenances, and shall also include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.

Property line shall mean that real or imaginary line and its vertical extension which separated real property owned or controlled by any person from contiguous real property owned or controlled by another person. The vertical and horizontal boundaries of a dwelling unit in a multi-dwelling-unit building, condominium, or townhouse complex shall not be considered property lines separating one premises from another.

Public premises shall mean all real property including appurtenances thereon which is owned or controlled by any governmental entity and shall include streets, alleys, parks and waterways.

Residential premises shall mean any premises where single or multiple dwelling units exist and shall include primary schools, churches, nursing homes and similar institutional facilities including any commercial premises where the use of more than 50 institutional facilities including any commercial premises where the use of more than 50 percent of the gross floor area meets definition of residential premise.

Sound shall mean an oscillation in pressure, stress, particle, displacement and particle velocity which includes auditory sensation.

Tree maintenance equipment shall mean any equipment used in trimming or removing trees only and shall not be limited to chainsaws, chippers and stump removers.

(Ord. No. 2006-68(6), § 1, 10-10-06)

Sec. 54-88. - Noise sound pressure level measurement instrumentation.

The instrumentation for determining noise sound pressure levels shall be with a sound level meter of standard design.

(Ord. No. 2006-68(6), § 1, 10-10-06)

Sec. 54-89. - Inspections.

- (a) For the purpose of determining compliance with the provisions of this chapter, the chief of police or their authorized representatives are hereby authorized to make inspections of all noise sources and to take measurements and tests whenever necessary to determine the quantity and character of noise. If any person refuses or restricts entry and free access to any part of a premise, or refuses inspection, testing or noise measurement of any activity, device, facility, motor vehicle, or process where inspection is sought, the manager or the chief of police or their authorized representatives may seek from the appropriate court a warrant for inspection requiring that such person permit entry and free access without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise. Any appropriate court shall have power, jurisdiction and authority to enforce all orders issued under the provisions of this article.
- (b) It shall be unlawful for any person to refuse to allow or permit the chief of police free access to any premise when they or their authorized representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.
- (c) It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise or noise services.
- (d) No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of their duties under this chapter. Restrictions and measurements of noise between source and receiving premises (Table A).
- (e) It shall be unlawful for any person to emit or cause to be emitted any noise which leaves the premises on which it originates, crosses a property line, and enters onto any other premises in excess of the sound pressure levels during the time periods as specified in Table A. It is further unlawful for any person to emit or cause to be emitted any noise within the public premises in excess of the limits defined in Table A.
 - (1) The noise source shall be measured at any point along the property line or within the property line of the receiving premises to determine compliance with this article.
 - (2) When it is determined that the ambient sound level at the receiving premises equals or exceeds the maximum allowable sound pressure level specified in Table A, then the ambient sound level is the standard which cannot be exceeded by the source.

Table A:
Allowable Noise Levels (in dBA) with Time of Day Allowance

Source premises	dBA allowance receiving property within the City of Jackson
Residential	55
Commercial	57

The maximum permissible sound levels established by this subchapter shall be reduced or increased by the sum of the following:

Between the hours of 10:00 p.m. and 7:00 a.m. during weekdays, and between the hours of 10:00 p.m. and 9:00 a.m. on weekends, the levels established are reduced by ten dBA where the receiving property lies within a residential district of the city.

(Ord. No. 2006-68(6), § 1, 10-10-06)

Sec. 54-90. - Exemptions.

The maximum permissible sound pressure levels as specified in Table A shall not apply to sounds emitted from:

- (1) Any bell or chime from any building clock, school or church, not including any amplified bell or chime sounds emitted from loudspeakers.
- (2) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in case of fire, collision, civil defense, police activity or imminent danger, provided however, that burglar alarms not terminating within 15 minutes after being activated shall be deemed a nuisance and unlawful.
- (3) Any aircraft in flight subject to federal law regarding noise control and any helicopter in the act of landing or taking off at a helipad licensed by the city so long as the helicopter is not landing or taking off in violation of any conditions or restrictions of the helipad's license.
- (4) Any funeral bells and/or chimes used in funeral and/or burial processions.
- (5) Sounds which originate at airports and are directly related to flight operations.
- (6) Sounds created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community.
- (7) Sounds created by natural phenomena.
- (8) Sounds created by auxiliary equipment on motor vehicles used for maintenance.
- (9) The musical instruments of any school marching band while performing any sporting event or marching band competition, and the musical instruments of any school.
- (10) Repairs or excavations of bridges, streets or highways by or on behalf of the City of Jackson, the state or the federal government from the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between the hours of 7:00 a.m. and 7:00 p.m.
- (11) Outdoor school and playground activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
- (12) Other outdoor events. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.
- (13) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government, provided such equipment is operated with the manufacturing mufflers and noise reducing equipment in use and in proper operating condition.
- (14) All noises resulting from normal operations of railroad trains are exempt.
- (15) Use of public address systems in any ballpark or stadium while an athletic contest or any other public event is in progress.
- (16) Any other noise not specifically exempted herein resulting from activities of a temporary duration and for which a permit has been granted by the chief of police.

(Ord. No. 2006-68(6), § 1, 10-10-06)

Sec. 54-91. - Enforcement.

- (a) The following individuals shall enforce this article: The chief of police will have the primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this article shall prevent the chief of police from obtaining voluntary compliance by way of warning, notice, or education. Any law enforcement officer, citizen, or individual over the age of 18 may file a complaint with the appropriate court to enforce the noise regulations contained herein.
- (b)

If a person's conduct would otherwise violate this article and consists of speech or communication; of a gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political or religious questions, the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

(Ord. No. 2006-68(6), § 1, 10-10-06)

Sec. 54-92. - Penalties.

- (a) A person who violates a provision of this article is guilty of a misdemeanor which is punishable by a fine of not less than \$250.00 nor more than \$500.00 or imprisonment not to exceed 60 days, or both.
- (b) Each occurrence of a violation or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

(Ord. No. 2006-68(6), § 1, 10-10-06)

Secs. 54-93—54-125. - Reserved.