

ARTICLE IV. - NOISE CONTROL^[6]

Footnotes:

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Editor's note—Ord. No. O-204-2000, § 1(I—XI), adopted Dec. 5, 2000, repealed the former Art. IV and enacted a new article as set out herein. The former Art. IV, §§ 34-381—34-388, 34-401, 34-402, 34-421—34-429, 34-451—34-457, 34-471, 34-472, 34-491—34-500, pertained to noise and derived from City Code 1965, §§ 14-1—14-7, 14-23—14-26, 14-28—14-31, 14-48—14-52, and § 22-25; Parish Code 1977, §§ 14.5-1—14.5-15, 14.5-31, 14.5-32, and 14.5-41—14.5-44; Ord. No. O-235-97, §§ 1, 2, adopted Oct. 7, 1997; and Ord. No. O-373-97, § 1, adopted Nov. 18, 1997.

Sec. 34-361. - Declaration of findings and policy.

Whereas, excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and

Whereas, a substantial body of science and technology exists by which excessive sound may be substantially abated; and

Whereas, the citizens of Lafayette and the unincorporated area of the parish have a right to, and should be ensured of, an environment free from excessive sound, especially at their residences during the hours sleep normally occurs; and accordingly:

Now, therefore, be it ordained by the city-parish council that it is the policy of the city-parish consolidated government to prevent excessive sounds that may jeopardize the health, welfare, or safety of the citizens of Lafayette or degrade the quality of life in Lafayette and the unincorporated areas of the parish, and particularly in our residential neighborhoods. Therefore, the city-parish council hereby adopts the findings and policy stated in this section, and in accordance with said findings and policy, the city-parish council hereby adopts the following regulations for the control of noise within the city and the unincorporated areas of the parish.

(Ord. No. O-204-2000, § 1(I), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03)

Sec. 34-362. - Definitions.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

"A" weighted sound level is the sound level as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(A). Sounds measured with the "A" weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.

Agricultural activities means those activities performed on farmlands in order to cultivate the soil, produce crops, or raise livestock.

ANSI means the American National Standards Institute which serves as the administrator and coordinator of the United States private sector voluntary standardization system. ANSI facilitates development of American National Standards (ANSs) by establishing consensus among qualified groups. ANSs in the fields of acoustics and sound measurement are developed by the Acoustical Society of America in order to standardize practices and equipment.

"C" weighted sound level is the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

Commercial facility means any premises, property or facility involving traffic in goods or furnishing of services for sale or profit including, but not limited to:

- (1) Banking and other financial institutions;
- (2) Dining establishments;
- (3) Establishments for providing retail or wholesale goods or services;
- (4) Establishments for recreation and entertainment;
- (5) Establishments providing commercial living accommodations and commercial property used for human habitation, when such is the source of the sound under investigation;
- (6) Office buildings;
- (7) Transportation;
- (8) Warehouse.

Community service facility means any nonresidential facility used to provide services to the public, including but not limited to:

- (1) Club meeting halls, offices and facilities;
- (2) Organization offices and facilities;
- (3) Facilities for the support and practice of religion;
- (4) Schools.

Construction means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

Continuous sound means any sound with a duration of more than one second, as measured with a sound level meter set to the "slow" meter response.

Decibel (dB) is a relative unit for the measurement of sound pressure. It is based upon a reference pressure of 20 micropascals (zero decibels) which is the average threshold of hearing for a person with very good hearing. The decibel scale is logarithmic, and as such, an increase or decrease of three dB is a doubling or halving of sound pressure.

Demolition means any dismantling, destruction or removal of buildings, structures, or roadways.

Emergency energy release device means a device used specifically to release excess energy on a non-scheduled basis as necessary for purposes of safety.

Emergency work means any work or action necessary to deliver essential public services including, but not limited to, installing or repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, trimming or removing trees on public rights-of-way and in utility easements, dredging navigational waterways, or abating life-threatening conditions.

Enforcement agency means any agency with law enforcement powers and jurisdiction in Lafayette at the source of a sound which is the subject of a complaint or enforcement action under this article.

Extraneous sound means a sound of high intensity and relatively short duration which is neither part of the neighborhood residual sound, nor comes from the sound source under investigation. Extraneous sounds are excluded from measurements of the neighborhood residual sound level and the total sound level.

Frequency means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz). "Frequency" is sometimes colloquially referred to as "pitch." Low frequency sounds can correspond to the bass notes in music. Low frequency sound waves travel farther and penetrate structures more efficiently than high frequency sound waves.

Impulsive sound means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

Industrial facility means any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Lafayette means the geographic area of the City of Lafayette and the unincorporated area of the Parish of Lafayette, in which area this article enacting the noise control code is to apply and be enforced.

Motor vehicle means any vehicle that is propelled other than by human or animal power on land.

Muffler means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment.

Multi-dwelling unit building means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

Multi-use property means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

- (1) A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- (2) A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

Music box means a self-contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this noise control code.

Neighborhood residual sound level means that measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds, and those from the source under investigation. Neighborhood residual sound level is synonymous with background sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are more steady state, although they may not be continuous.

Noise control administrator means the person selected by the Lafayette City-Parish President, or his/her designee, as the person charged with the responsibility of exercising the powers and duties set forth herein.

Noise control code means the codification of the provisions of law enacted in this article to prevent excessive sounds that may jeopardize the health, safety and/or welfare of the citizens of Lafayette or degrade the quality of life in Lafayette.

Noise control officer means any government employee who has received noise enforcement training and is currently certified in noise enforcement pursuant to such criteria as are established by the noise control administrator. The employee must be acting within his or her designated jurisdiction in order to be considered a

noise control officer. The noise control officer may exercise such discretion as may be necessary to enforce the provisions of this noise control code.

Noise sensitive means a facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to:

- (1) Schools;
- (2) Houses of worship;
- (3) Medical facilities.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The noise control officer need not determine the title, specific words, or the artist performing the song.

Portable, hand-held music or sound amplification or reproduction equipment means any self contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this noise control code.

Private right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

Public celebrations means and includes organized special events or activities sponsored and/or produced by governmental or quasi-governmental organizations that are of general public interest and that are open to public attendance, including, by way of example only and not by way of limitation, Mardi Gras, Festival International, Downtown Alive series, Festivals Acadiens, and college and high school football games.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

Public space means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

Real property line means either (a) the imaginary line including its vertical extension that separates one parcel of real property from another; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

Residential property means property used for human habitation including, but not limited to:

- (1) Private property used for human habitation;
- (2) Commercial living accommodations and commercial property used for human habitation;
- (3) Recreational and entertainment property used for human habitation;
- (4) Community service property used for human habitation;
- (5) Hospitals or long-term care medical facilities.

Sound level meter means an instrument that conforms to ANSI S1.4-1983 or its successors.

Total sound level means that measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

Weekday means any day beginning on Sunday at 8:00 p.m. and ending the following Friday at 6:00 p.m.

Weekends means beginning on Friday at 6:00 p.m. and ending on the following Sunday at 8:00 p.m.

(Ord. No. O-204-2000, § 1(II), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03)

Sec. 34-363. - Applicability.

- (a) This noise control code applies to sound originating from, or received by, any property in Lafayette.
- (b) This noise control code shall be equally applicable to all properties in Lafayette, regardless of the permitted land uses or zoning classification of any such property. The provisions of this noise control code shall not be superseded or otherwise rendered inapplicable by any other law, ordinance, or regulation which would purport to permit a use of property in violation of this article.

(Ord. No. O-204-2000, § 1(III), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03)

Sec. 34-364. - Noise control administrator.

The noise control administrator shall have the following powers and duties:

- (1) Coordinate the noise control activities and noise control code enforcement activities of all departments and enforcement agencies in the city-parish consolidated government ("LCG") and cooperate with all other public bodies and enforcement agencies to the extent practicable; and
- (2) Review the actions of LCG and advise of the effect, if any, of such actions on noise control; and
- (3) Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this noise control code; and
- (4) Promulgate and publish rules and procedures within his or her office to establish techniques for measuring noise, and to provide for clarification, interpretation, and implementation of this noise control code; and
- (5) Review at least every three years the provisions of this noise control code and recommend revisions consistent with technology to reduce noise, or to address new sound sources within Lafayette; provided, however, that failure to review and/or recommend revisions shall not affect the validity of the provisions then in effect; and
- (6) Grant, review and revoke enforcement periods pursuant to section 34-370, below; and
- (7) Grant, review and revoke variances pursuant to section 34-371, below; and
- (8) Perform any other functions authorized in this noise control code.

(Ord. No. O-204-2000, § 1(IV), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03)

Sec. 34-365. - Noise control officers.

Where the provisions of this noise control code require the measurement of sound with the use of a sound level meter, such measurement shall be made by a noise control officer.

When the assessment of sound thought to be in violation of the provisions of this noise control code does not require measurement with a sound level meter, or when the level of noise is measured by a noise control officer, and is determined to be in violation of the provisions of this noise control code, any law enforcement officer having jurisdiction in the area where the violation takes place, may issue a citation and/or summons for the violations of this noise control code.

Noise control officers shall have the powers and duties assigned to them in this noise control code, including, but not limited to, the following:

- (1) Investigate and pursue possible violations of this noise control code for sound levels which equal or exceed the sound levels set forth in this noise control code, when measured at a receiving property located within the designated jurisdiction of the noise control officer, in accordance with section 34-366, below, and upon confirming violations of this noise control code, have the authority to issue citations and/or summons for same.
- (2) Cooperate and assist any law enforcement officer in the parish in measuring sound to determine if same is in violation of this noise control code or any other sound regulation having provisions requiring the measurement of sound with sound level meters.
- (3) Cooperate with noise control officers of adjacent jurisdictions in enforcing each jurisdiction's noise ordinances.
- (4) Perform any other functions for noise control officers authorized by this noise control code.

(Ord. No. O-204-2000, § 1(V), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03)

Sec. 34-366. - Maximum permissible sound levels.

- (a) *Continuous sound.* No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property in such a manner as to create a sound level that exceeds the sound level limits listed in Table I, as measured at any location at or within the property line of the receptor property. Sound pressure levels in excess of those established in Table I shall constitute prima facie evidence that such sound is in violation of this noise control code.

Table I

Maximum Permissible Sound Level Limits

dB(A)

| Residential | Residential | Commercial | Industrial |
|--|----------------------|-------------|-------------|
| 7:00 a.m.—10:00 p.m. Noise sensitive 24 hour | 10:00 p.m.—7:00 a.m. | 24 hours | 24 hours |
| 60.00 dB(A) | 50.00 dB(A) | 65.00 dB(A) | 70.00 dB(A) |

- (b) *Impulsive sound.*

- (1) Between 7:00 a.m. and 10:00 p.m., impulsive sounds which occur less than ten times in an hour shall not equal or exceed 20 decibels above the permissible sound level limits in Table I. Impulsive sound which repeats ten or more times in any hour shall not exceed the permissible sound level limits in Table I.
- (2) Between the hours of 10:00 p.m. and 7:00 a.m., impulsive sounds which occur less than four times in an hour shall not equal or exceed 20 decibels above the permissible sound level limits in Table I. Impulsive sound which repeats four or more times in any hour shall not exceed the permissible sound level limits in Table I.

- (c) *Amplified sound.* If the source of sound is an amplified sound reproduction device, and the complainant states that the rhythmic bass component of the music is disturbing within the complainant's residence, the noise control officer may take sound level measurements within the residence of the complainant. No person shall

cause, suffer, allow, or permit the operation of any amplified source of sound in such a manner that it exceeds the total sound levels by the permissible sound levels limits set forth in Table II when measured within the residence of a complainant. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response. Such measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms. For the purposes of these measurements, the ambient sound level is that sound level which is measured in the residence when the sound source under investigation is not prominent, or in a room on the same floor that is relatively unaffected by the sound source under investigation The C-scale is more sensitive to low frequency sound levels than the A-scale, and an increase of five dB is perceived by humans as being plainly louder, and a ten dB increase is perceived as being twice as loud. Examples of amplified sound reproduction devices, include but are not limited to, sound systems which augment music or voices such as those used for public announcements or as utilized by disc jockeys in playing music.

Table II

Amplified Sound Reproduction Device
 Maximum Permissible Sound Level Limits
 Indoors Across a Real Property Line
 dB(C) Above Ambient

| | |
|---|-----------------|
| Week nights 10:00 p.m.—7:00 a.m. Weekend nights 11:00 p.m. and 9:00 a.m. | All other times |
| 3 dB(C) | 5 dB(C) |

- (d) *Steady pure tones.* If the sound source under investigation is a mechanical device, and is, in the investigating officer's opinion, emitting a sound with a steady tonal quality, the permissible sound level limits in Table I shall be reduced by five dB(A). The sound emissions must be comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz. The measured sound levels of such a source must not fluctuate by more than plus or minus three dB. Such sound sources include, but are not limited to: heating, ventilating or air-conditioning units; refrigeration units; and transformers. Nothing to the contrary withstanding, sound sources from residential heating, ventilating or air conditioning units can not exceed 55 dB(A) at night.
- (e) *Supplemental standards.* In addition to the standards specified in subsections (a), (b), (c), and/or (d) of this section, no person shall cause, suffer, allow, or permit the operation of any source of amplified sound on property which is either:
 - (1) Plainly audible between the hours of 10:00 p.m. and 7:00 a.m. at a distance of 200 feet in any direction from any property line of the source property; or
 - (2) Of such volume as to be unreasonably loud, raucous, jarring, disturbing, or a nuisance to reasonable persons of normal sensibilities within the area of audibility; or
 - (3) Disturbing to the peace, quiet, comfort, or repose of a person on any other residential property or persons in any public place.

The standards established by this subsection (e) shall not require measurement of sound.

(Ord. No. O-204-2000, § 1(VI), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03; Ord. No. O-239-2006, § 2, 10-17-06)

Sec. 34-367. - Procedures for the determination of sound levels.

- (a) Where the measurement of sound is required, the sound level shall be measured with a sound level meter. The sound level meter and calibrator shall be recertified annually at a laboratory approved by the noise control administrator. A field check of meter calibration and batteries shall be conducted before and after every set of measurements, and at least every hour as necessary.
- (b) Total and neighborhood residual sound level measurements shall be taken in accordance with procedures approved by the noise control administrator. Calculation of source sound levels shall conform to accepted practice.
- (c) To the extent that plainly audible sound may constitute a violation of this noise control code, plainly audible sound shall not require measurement with a sound level meter.

(Ord. No. O-204-2000, § 1(VII), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03)

Sec. 34-368. - Exceptions.

The operational performance standards established in this noise control code shall not apply to any of the following noise sources:

- (1) Agricultural activities, properly muffled;
- (2) Unamplified bells, chimes or carillons while being used in conjunction with religious services;
- (3) Emergency energy release devices;
- (4) Emergency work;
- (5) National Warning System (NAWAS): systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane;
- (6) Noise of aircraft operations;
- (7) Public celebrations;
- (8) Surface carriers engaged in commerce by railroad, exclusive of loading and unloading;
- (9) Sound from the locomotion of properly muffled motor vehicles on a public rights-of-way. "Properly muffled" shall mean the use of a device to minimize the emission of sound rather than maximize the emission of sound.
- (10) Events which are operating within the time and volume parameters set forth in a variance issued by the noise control administrator.
- (11) Collection of residential refuse and residential recyclables.

(Ord. No. O-204-2000, § 1(VIII), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03)

Sec. 34-369. - Restricted uses and activities.

Notwithstanding the provisions of sections 34-366 and/or 34-368, the following standards shall apply to the activities or sources of sound set forth below:

- (1) Power tools and landscaping and yard maintenance equipment shall not be operated on residential property between the hours of 10:00 p.m. and 7:00 a.m.. All motorized equipment used in these activities shall be operated with a muffler. During the permissible hours of operation as established herein, the operation of power tools and landscaping and yard maintenance equipment on residential property shall not be subject to the provisions of section 34-366.
- (2) Power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in

Table I of section 34-366. In addition, power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Table I of section 34-366 between the hours of 10:00 p.m. and 7:00 a.m. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Table I of section 34-366 do not apply to power tools and landscaping and yard maintenance equipment.

- (3) Collection of commercial refuse or commercial recyclables may not be conducted within 250 feet of any residential property between the hours of 10:00 p.m. and 5:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 9:00 a.m. on weekends. For the purposes of this provision, collection of commercial refuse or commercial recyclables at apartments, apartment houses or complexes, condominium, and/or co-ops will be classified as commercial collection.
- (4) The operation of any commercial truck with refrigeration units may not be conducted within 250 feet of any residential property between the hours of 10:00 p.m. and 7:00 a.m. on weekdays or between the hours of 10:00 p.m. and 9:00 a.m. on weekends.
- (5) Construction and demolition activity, excluding emergency work, shall not be performed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 9:00 a.m. on weekends and federal holidays. All motorized equipment used in construction and demolition activity shall be operated with a muffler.
- (6) An exterior burglar alarm and/or fire alarm of a building or motor vehicle must be activated in such a manner that the alarm terminates its operation, after activation, within five minutes if the sound is emitted without interruption and ten minutes if the sound emitted is intermittent. At all times, the limits set forth in Table I of section 34-366 do not apply.
- (7) Domestic animals, and any other animal not in a state of natural liberty, may not make more than 60 vocalizations in any ten-minute period. At all times, the limits set forth in Table I of section 34-366 do not apply. Animal establishments, commercial kennels, pet shops, and veterinary hospitals, all as defined in section 10-71 of the Lafayette City-Parish Consolidated Government Code of Ordinances, animal shelters under public jurisdiction, and humane organizations shall be exempt from the vocalization limitations of this subsection (7).
- (8) Self-contained, portable, hand-held music or sound amplification or reproduction equipment, including but not limited to devices referred to as "music boxes," radios, stereos or any similar devices, shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 100 feet in any direction from the equipment during the hours of 7:00 a.m. to 10:00 p.m. and 50 feet in any direction from the equipment during the hours of 10:00 p.m. to 7:00 a.m.

(Ord. No. O-204-2000, § 1(IX), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03; Ord. No. O-064-2015, § 1, 3-24-15)

Sec. 34-370. - Enforcement and penalties.

- (a) The noise control officer shall classify a violation of this noise control code as a "major" or "minor" violation for the purposes of an enforcement and compliance period, if applicable, as follows: a violation shall be classified as major if it is not deemed a minor violation. A violation is deemed to be minor if:
 - (1) The violation is not the result of willful, reckless or grossly negligent conduct of the violator; and
 - (2) The activity or condition constituting the violation has not been the subject of an enforcement action against the violator in the immediately preceding 12 months; and
 - (3) The violation is not the result of the operation of a sound reproduction or amplification device of any kind, including, but not limited to, music boxes, with the exception of safety warning devices.
- (b) If the violation is deemed to be minor, the noise control officer shall issue an enforcement document notifying the violator that the activity or condition must be corrected and compliance achieved within 30 days or less, at the discretion of the noise control administrator, or any other reasonable period of time, not to exceed 180 days, to be determined based upon the nature, extent and impact of the violation and a

reasonable estimate of the time needed to correct the violation. The violator may request, from the noise control administrator, an extension of the compliance deadline, and the noise control administrator may approve any reasonable request for an extension if the violator can demonstrate that a good faith effort has been made to achieve compliance. The noise control administrator shall offer special consideration, during the six month period immediately following final enactment of this noise control code, for pre-existing sound sources which will require physical plant modifications to come into compliance.

- (c) If, during the compliance period established in the enforcement document, the sound emissions for which the violation has been assessed increase in duration or intensity, the noise control administrator may revoke the compliance period. In determining whether to revoke the compliance period, the noise control administrator may consider the following factors: the relative increase in intensity; whether the change of sound emissions is directly related to ongoing sound abatement measures, and the anticipated duration of the increased sound levels.
- (d) If the violator does not correct a minor violation within the compliance period, the violator shall be subject to the penalties established by subsection (f) of this section. If the noise control administrator has reason to believe that the violator is not acting in good faith during the compliance period, it may conduct further investigations during that period, and if the violator has not achieved compliance within the compliance period specified in the enforcement document, the noise control administrator may prosecute any violations documented during the compliance period.
- (e) If the violation is not deemed to be minor, it shall be classified as a major violation, and the violator shall be subject to the penalties established by subsection (f) of this section without allowing a period of time to correct the violation.
- (f) Any major violation of this noise control code, and any minor violation of this noise control code not corrected in accordance with an enforcement document, is unlawful and punishable under section 1-9, except that the fine specified in section 1-9(c) shall be modified as follows: the minimum fine shall be \$150.00.
- (g) Notwithstanding any other provision of this noise control code, any enforcement agency with jurisdiction may, in its discretion, immediately terminate (or provide for the immediate termination of) any activity or conduct causing a violation of this noise control code, without regard to the classification of the violation as "major" or "minor." Nothing in this noise control code shall be construed as a limitation upon the power of any enforcement agency with jurisdiction to immediately terminate (or provide for the immediate termination of) any activity or conduct causing a violation of this noise control code or to maintain or restore peace and order under any other provision of law.

(Ord. No. O-204-2000, § 1(X), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03)

Sec. 34-371. - Variances.

Variances shall be for a period not to exceed one week and shall not be granted more than six months in advance of the first effective day of the activity for which the variance is granted; provided, however, that a variance may be granted more than six months in advance for events that are scheduled as part of a program or events, or series of same, sponsored by a public body, or having been held for at least the previous five prior years, and/or that have a regular schedule that is published or promoted more than six months in advance of the event or the last event in the series. In the discretion of the noise control administrator, variance may be granted for an event or series of events that are held on days identifiable by event, such as Mardi Gras, which may have a variable date each year, or for alternate locations that are in the same general area, as in the event of rain-outs. No more than twelve (12) variances per year shall be requested or issued for the same location to the same person, group of persons, legal entity, organization, or any affiliate thereof (including, but not limited to, officers, employees, family members, or related persons or organizations).

(1)

Any person who owns or operates a sound source in one of the following categories may apply for a variance from the noise control administrator:

- a. Private celebrations;
 - b. Nighttime construction projects; or
 - c. Homeowner construction projects.
- (2) Applications for a variance shall supply information including, but not limited to:
- a. The nature, time, date and location of the noise source for which such application is made;
 - b. The reason for which the variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the variance is not granted;
 - c. The nature and intensity of noise that will occur during the period of the variance;
 - d. A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom; and
 - e. The name, address and means of contacting a responsible party during the hours of operation for which the variance is issued.
- (3) The noise control administrator may charge the applicant a fee of up to \$50.00 per variance to cover expenses resulting from the processing of the variance application. This fee shall be waived for non-profit organizations certified under section 501(c)(3) of the Internal Revenue Code upon presentation of proof of such certification to the noise control administrator.
- (4) The determination as to whether a variance shall be granted is within the sound discretion of the noise control administrator. In making the determination as to whether a variance shall be granted, the noise control administrator shall consider:
- a. The character and degree of injury to, or interference with, the health and welfare of persons in the vicinity of the sound to result from the variance, and the character and degree of injury to, or interference with, the reasonable use of property which is caused or threatened to be caused by the sound which may result from the variance.
 - b. The measures to be taken by the applicant to minimize any injury to, or interference with, the health and welfare of persons or property which is caused or threatened to be caused by the sound which may result from the variance.
 - c. The ability of the applicant to apply best practical noise control measures.
 - d. The number of previous variances requested by the applicant, by the applicant's organization, and by the applicant's affiliates, including, but not limited to, the applicant's officers, employees, family members, and related persons or organizations.
- (5) The variance shall enumerate the conditions of the variance including:
- a. Specific dates and times for which the variance is valid;
 - b. Sound level limits which may not be exceeded at the nearest affected residential property; and
 - c. Noise control measures which must be implemented by the holder of the variance.
- (6) The variance may be revoked by the noise control administrator, a noise control officer, an enforcement agency, or any law enforcement officer having jurisdiction if the terms of the variance are violated.
- (7) A variance may be revoked by the noise control administrator, and the issuance of future variances withheld, if there is:
- a. Violation of one or more conditions of the variance;
 - b. Material misrepresentation of fact in the variance application; or
 - c. Material change in any of the circumstances relied upon by the noise control administrator in granting the variance.
- (8)

Any application for a variance must be made two business days or more before the variance is to take effect so as to allow for notice to be given to the surrounding land owners and community. If the noise control administrator grants the variance, notice of the variance will be made public by posting the details of the variance on the outside of the office of the noise control administrator which such posting shall take place at two business days in advance of the event for which the variance has been granted in order to provide notice of the same.

(Ord. No. O-204-2000, § 1(XI), 12-5-00; Ord. No. O-108-2003, § 1, 5-20-03)

Secs. 34-372—34-400. - Reserved.