

Chapter 17 - NOISE CONTROL<sup>[1]</sup>

Footnotes:

--- (1) ---

**Cross reference**— *Noisy animals, § 6-6; noisy dogs, § 6-107; nuisances, ch. 18; offenses against public peace, § 20-41 et seq.; use of noise by auctioneers to attract customers, § 30-161; measurement of noise, § 55-803; maximum permitted sound levels, § 55-804.*

## ARTICLE I. - IN GENERAL

## Sec. 17-1. - Operation of construction equipment prohibited during certain hours.

It shall be unlawful for any person in the construction of buildings to operate between the hours of 10:00 p.m. and 7:00 a.m. any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(Code 1980, § 17-1)

## Sec. 17-2. - Mufflers for fans and engines.

It shall be unlawful for any person to operate or cause to be operated any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise, so that the same shall not cause annoyance to the public or disturb the rest and quiet of persons on adjacent premises.

(Code 1980, § 17-2)

## Sec. 17-3. - Volume control.

No person shall play, use, operate or permit to be played, used or operated, any radio, tape recorder, cassette player, compact disc (CD) player, or other machine or device for reproducing sound, if it is located in or on:

- (1) Any public property, including any public street, highway, building, sidewalk, park or thoroughfare; or any motor vehicle on a public street, highway or public space unless the volume of amplified sound shall be so controlled that it will not be audible for a distance in excess of one hundred (100) feet from the source and so that the volume is not unreasonably great and the noise, raucous, jarring, disturbing or a nuisance to persons within the area of audibility; or
- (2) Residential property, whether a unit of a multiple-family residential dwelling or a single-family dwelling structure, unless the volume of amplified sound shall be so controlled that it will not be audible in any adjoining unit. Provided, however, that actual notice from the occupant of the adjoining residence to the occupant of the property containing the source of amplified sound shall be a necessary element under this subsection.

(Ord. No. 34037, § 1, 11-5-96)

**Editor's note**— Ordinance No. 34037, § 1, adopted November 5, 1996, added a new § 17-50. However, in order to provide better classification in an article, such section was redesignated as § 17-3 at the discretion of the editor.

Secs. 17-4—17-20. - Reserved.

ARTICLE II. - MOTOR VEHICLE NOISE CONTROL<sup>[2]</sup>

Footnotes:

--- (2) ---

**Cross reference**— *Motor vehicles, ch. 16; traffic, ch. 36.*

Sec. 17-21. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

*A band level:* The total sound level of all noise as measured with a sound level meter using the A weighting network. The unit of measurement is the dB(A).

*Ambient noise:* The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

*ANSI:* American National Standards Institute or its successor bodies.

*Authorized emergency vehicle:* Vehicles of the police and fire divisions of the public safety department of the city and such ambulances and other vehicles as are designated and authorized as emergency vehicles by the public safety director of the city.

*Band pressure level:* Of sound for a specified frequency band, the sound pressure level for the sound contained within the restricted band. The reference pressure must be specified.

*Bel:* A unit of level when the base of logarithm is 10. Use of the bel is restricted to levels of quantities proportional to power.

*Cycle:* The complete sequence of values of a periodic quantity that occur during a period.

*Decibel:* One-tenth of a bel and a unit of level when the base of the logarithm is the tenth root of 10, and the quantities concerned are proportional to power.

*Frequency:* Of a function periodic in time, the reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.

*Microbar:* A unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

*Motor vehicle:* Any passenger vehicle, truck, truck-trailer, trailer or semitrailer propelled or drawn by mechanical power, and shall include all vehicles except self-propelled invalid chairs, farm tractors used occasionally outside of general farm usage, road rollers, and any vehicles which run only on rails or tracks.

*Muffler:* An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

*Period:* A periodic quantity, the smallest increment of time for which the function repeats itself.

*Periodic quantity:* An oscillating quantity, the values of which recur for equal increments of time.

*SAE:* The Society of Automotive Engineers or its successor bodies.

*Sound analyzer:* A device for measuring the band pressure level or pressure spectrum level of a sound as a function of frequency.

*Sound-level meter:* An instrument including a microphone, an amplifier, an output meter and frequency weighting networks for the measurement of noise and sound levels in a specified manner.

*Sound pressure level:* In decibels of sound, 20 times the logarithm to the base 10 of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.

*Spectrum:* A function of time, and a description of its resolution into components, each of different frequency and usually of different amplitude and phase, and is also used to signify a continuous range of components usually wide in extent within which waves have some specified characteristics, such as the audio-frequency spectrum, and is also applied to functions of variables other than time.

*Unnecessary noise:* Any excessive or unusually loud sound or any sound which disturbs the peace and quiet of any neighborhood or which does annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of any person, or causes damage to property or business.

All technical terminology used in this chapter, unless the context otherwise requires, shall be defined in accordance with American National Standards Institute (ANSI) publication S1.1-1960, revised 1971, or successor publications of ANSI or its successor bodies.

(Code 1980, § 17-21)

**Cross reference—** Definitions and rules of construction generally, § 1-2.

Sec. 17-22. - Policy.

It is hereby declared to be the public policy of the city to reduce the ambient noise level in the city, so as to preserve, protect and promote public health, safety and welfare and the peace and quiet of the inhabitants of the city and prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants and facilitate the enjoyment of the natural attractions of the city.

(Code 1980, § 17-22)

Sec. 17-23. - Applicability of article.

The provisions of this article shall apply within the corporate limits of the city.

(Code 1980, § 17-23)

Sec. 17-24. - Enforcement of article.

The provisions of this article shall be enforced by the police department.

(Code 1980, § 17-24)

Sec. 17-25. - Operation standards.

It shall be unlawful for any person to operate any motor vehicle or combination of vehicles at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to discharge or emit total noise beyond the following noise limits for each category of motor vehicle. Noise level limits shall be applied to each category of vehicle regardless of actual speed of the motor vehicle or combination of vehicles within the set out speed limit zone.

		Speed Limit Zone	
Type of Motor Vehicle		<u>35</u> mph or Less	Over <u>35</u> mph
(1)	Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or more	86 dB(A)	90 dB(A)
(2)	Any motorcycle	82 dB(A)	86 dB(A)

(3)	Any other motor vehicle	76 dB(A)	82 dB(A)
-----	-------------------------	----------	----------

The foregoing noise limits shall be applied to measurements taken at a distance 50 feet from the curblineline of the street on which the motor vehicle or combination vehicles is traveling; provided, nothing herein shall be construed to require that measurements shall be made only at such distance. If measured at a distance less or greater than 50 feet, the following correction factor shall be applied to any limit for each category of motor vehicle or combination of vehicles:

Measurement Distance (feet)	Correction to Limit
<u>25</u>	+6
<u>28</u>	+5
<u>32</u>	+4
<u>35</u>	+3
<u>40</u>	+2
<u>45</u>	+1
<u>50</u>	0
56	-1
63	-2
70	-3
80	-4
90	-5
100	-6

The provisions hereof shall apply to the total noise discharged or emitted from a motor vehicle or combination of vehicles. Nothing herein shall be construed to limit or preclude the enforcement of any other applicable provision of this Code, including those relating to motor vehicle mufflers.

(Code 1980, § 17-25)

Sec. 17-26. - Sound level meters—Type required.

The noise limit of any motor vehicle shall be measured and determined with a sound level meter type 2 or better meeting the standards prescribed by the American National Standards Institute.

(Code 1980, § 17-26)

Sec. 17-27. - Same—Specifications.

There is hereby adopted by the city the American National Standard, Specification for Sound Level Meters, same being designated as ANSI S1.4-1971 (R1976), published by the American National Standards Institute, Inc., 1430 Broadway, New York, New York, 10018, of which not less than three copies are on file in the office of the city clerk, and the same is hereby adopted and incorporated as fully as if set out in length herein, and the provisions thereof shall be controlling and shall be the specification for sound level meters within the jurisdictional area outside the city limits.

(Code 1980, § 17-27)

Sec. 17-28. - Same—Calibration.

The sound level meter shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement.

(Code 1980, § 17-28)

Sec. 17-29. - Manner of taking measurement.

Noise measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone, during measurement, shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Readings taken for the enforcement of this article shall be taken on the fast response scale.

(Code 1980, § 17-29)

Sec. 17-30. - Use of noise measurement as evidence of vehicle noise.

The noise limit of any motor vehicle measured in accordance with the provisions of this article shall be accepted as prima facie evidence of the total noise of the vehicle in any court or legal proceedings when the noise limit of the vehicle is at issue.

(Code 1980, § 17-30)

Sec. 17-31. - Exceptions.

The provisions of this article shall not apply to any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

(Code 1980, § 17-31)

Sec. 17-32. - Penalty.

Any person convicted of an offense under this chapter may be punished as provided in section 1-10 of this Code. A person imprisoned for nonpayment of fines and costs shall be given credit on such fines and costs for time served at the rate prescribed by state law governing fines and costs for time served.

(Code 1980, § 17-32)

Sec. 17-33. - Adequate muffler or sound-dissipative device required.

- (a) No person shall operate, or cause to be operated, any motor vehicle or motorcycle not equipped with a muffler or other sound-dissipative device in good working order and in constant operation.
- (b) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound-dissipative device on a motor vehicle or motorcycle.

(Code 1980, § 17-33)

Sec. 17-34. - Vehicle engine compression brakes—Prohibited.

The operation of audible vehicle engine compression brakes is hereby prohibited on the national system of interstate and defense highways within the City of Omaha and upon any street or road containing four or more traffic lanes within the City of Omaha at any point where the grade of the same is less than five degrees. This prohibition shall not apply to any other type of vehicle braking devices and shall not apply to vehicles owned by governmental agencies or to contractors actually performing contracted work for governmental agencies. The traffic engineer of the City of Omaha is hereby authorized and required to place appropriate signs to inform motorists of this prohibition upon those sections of the National System of Interstate and Defense Highways located within the city's limits within the prohibition described herein. Such sign placement shall be coordinated with, and approved by, the State of Nebraska Department of Roads. It shall be an affirmative defense to any alleged violation of this section that the operator of the vehicle used such brakes to reasonably avoid a collision that would likely result in personal injury.

(Ord. No. 35493, § 1, 2-20-01; Ord. No. 36349, § 1, 7-28-03)