

## Chapter 8.32 - NOISE CONTROL

### Article I. - Noise Standards

#### 8.32.010 - Purpose and intent of provisions.

- A. In order to control unnecessary, excessive and annoying sounds emanating from incorporated 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.

(Prior code § 19A-1)

#### 8.32.020 - Definitions.

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

"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.

"Impact noise" means and includes 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" 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 twenty 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 amplifying equipment" means and includes any machine or device for the amplification of the human voice, music or any other sound or by which the human voice, music or any other sound is amplified. Sound amplifying equipment shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

"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 twenty times the logarithm to the base ten of the ratio of the pressure of the sound to a reference pressure, which reference pressure is explicitly stated.

(Prior code § 19A-2)

#### 8.32.030 - Enforcement authority.

- A. The Council Health Officer and his duly authorized representatives are directed to enforce the provisions of this chapter. The County Health Officer and his duly authorized representatives are authorized, pursuant to Penal Code Section 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 chapter which such person is engaged in the performance of his duty.

(Prior code § 19A-11)

#### 8.32.040 - 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 8.32.020 of this chapter.

(Prior code § 19A-3)

#### 8.32.050 - Noise zones designated.

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

Noise Zone 1: All residential properties in the City.

(Prior code § 19A-4)

#### 8.32.060 - Noise standards—Exterior.

- A. The following noise standards, unless otherwise specifically indicated, shall apply to all residential property within a designated noise zone:

##### Noise Standards

Noise Zone	Noise Level	Time Period
I	55 dB(A)	7 a.m.—10 p.m.
	50 dB(A)	10 p.m.—7 a.m.

- B. It is unlawful for any person, at any location within the City, to create any noise which causes the noise level when measured on any residential property to exceed:
1. The noise standard for a cumulative period of more than thirty minutes in any hour;
  2. The noise standard plus five dB(A) for a cumulative period of more than fifteen 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 fifteen dB(A) for a cumulative period of more than one minute in any hour; or
  5. The noise standard plus twenty dB(A) for any period of time.
- C. In the event the ambient noise level exceeds any of the five noise limit categories stated in subsection B of this section, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. Furthermore, the maximum permissible noise level shall never exceed the maximum ambient noise level.
- D. Each of the noise limits specified in this section shall be reduced by five dB(A) for impact or simple tone noises or for noises consisting of speech or music.

(Prior code § 19A-5)

#### 8.32.070 - Noise standards—Interior.

- A. It is unlawful for any person at any location within the City to create any noise which causes the noise level when measured within a dwelling unit on any residential property during the period ten p.m. to seven a.m. to exceed:
1. Forty-five dB(A) for a cumulative period of more than five minutes in any hour;
  2. Fifty dB(A) for a cumulative period of more than one minute in any hour; or
  3. Fifty-five dB(A) for any period of time.
- B. In the event that the ambient noise level exceeds any of the above three noise limit categories, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. Furthermore, the maximum permissible noise level shall never exceed the maximum ambient noise level.

(Prior code § 19A-6)

#### 8.32.080 - Exterior and interior noise level measurement.

The location selected for measuring exterior noise levels shall be at any point on the affected residential property. In the case of interior noise measurement, the windows shall be closed and the measurements shall be made at a point at least four feet from the wall, ceiling or floor nearest the noise source.

(Prior code § 19A-10)

#### 8.32.090 - Exemptions.

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

- A. School bands, school athletic and school entertainment events;
- B. Activities otherwise lawfully conducted on parks, public playgrounds and school grounds, provided such parks, playgrounds and school grounds are owned and operated by a public entity;
- C. Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicles or work;
- D. Noise sources associated with construction, repair, remodeling, or grading of any real property, provided said activities do not take place between the hours of eight p.m. and seven a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday;
- E. 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;

- F. Mobile noise sources associated with agricultural operations, provided such operations do not take place between the hours of eight p.m. and seven a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday;
- G. 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;
- H. Noise sources associated with the maintenance of real property used for residential purposes, provided said activities take place between the hours of seven a.m. and eight p.m. on any day except Sunday, or between the hours of nine a.m. and eight p.m. on Sunday;
- I. Any activity to the extent regulation thereof has been preempted by state or federal law.
- J. Noise sources associated with the maintenance of real property owned or operated by a public entity, such as but not limited to golf courses, libraries, municipal buildings, parks, playgrounds, recreation facilities, and school grounds.

(Ord. 2008-922, § 1, 2008; prior code § 19A-7)

#### 8.32.100 - Noise standards—Schools, hospitals and churches.

It is 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 8.32.060 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 institution 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.

(Prior code § 19A-8)

#### 8.32.110 - Special provisions for air-conditioning and refrigeration.

During the five year period following the effective date of the ordinance codified in this chapter, the noise standards enumerated in Sections 8.32.060 and 8.32.070 shall be increased eight dB(A) where the alleged offensive 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.

(Prior code § 19A-9)

#### 8.32.120 - Variance procedure.

- A. 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 the owner or operator shall set forth all actions taken to comply with said provisions, the reasons why immediate compliance cannot be achieved, a proposed method of achieving compliance, and a proposed time schedule for its accomplishment.
- B. The application shall be accompanied by a fee in the amount of seventy-five dollars.
- C. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership, or several fixed sources of a single property, may be combined into one application.
- D. Upon receipt of said application and fee, the Health Officer shall refer it with his recommendation thereon within thirty days to the noise variance board for action thereon in accordance with the provisions of this chapter.
- E. An applicant for a variance shall remain subject to prosecution under the terms of this chapter until the variance is granted.

(Prior code § 19A-12)

### 8.32.130 - Noise Variance Board—Composition and duties of.

- A. There is hereby created a Noise Variance Board consisting of five members. Two of the members shall be professional engineers, registered in this state, one of whom shall have demonstrated knowledge and experience in the field of acoustics; the other shall be a registered mechanical engineer. One member shall be a physician, licensed in this state and qualified in the field of physiological effects of noise; one, a representative of business and industry, and one, a representative of the general public.
- B. The Noise Variance Board shall evaluate all applications for variance from the requirements of this chapter and may grant 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.
- C. 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:
  - 1. The magnitude of nuisance caused by the offensive noise;
  - 2. The uses of property within the area of impingement by the noise;
  - 3. The time factors related to study, design, financing and construction of remedial work;
  - 4. The economic factors related to age and useful life of equipment; and
  - 5. The general public interest and welfare.
- D. Any variance granted by the board shall be by enforcement. Any violation of the terms of said variance shall be unlawful.
- E. Members of the Variance Board shall be appointed by, and shall serve at the pleasure of, the Orange County Board of Supervisors. The Variance Board shall adopt reasonable rules and regulations for its own procedures in carrying out its functions under the provisions of this chapter.
- F. Three members shall constitute a quorum and at least three affirmative votes shall be required in support of any action.
- G. 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.
- H. Meetings of the Noise Variance Board shall be held at the call of the secretary and at such times and locations as said board shall determine. All such meetings shall be open to the public.

(Prior code § 19A-13)

### 8.32.140 - Appeals procedure.

- A. Within fifteen 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 city council as discussed hereafter. If the actual cost of such preparation differs from the estimated cost, the applicant shall pay the amount of any deficiency to the secretary and the secretary shall pay the amount of any excess to the applicant.
- B. Within fifteen days following receipt of a notice of appeal and the appeal fee, the secretary of the Variance Board shall forward to the City Council:
  - 1. Copies of the application for variance;
  - 2. The recommendation of the Health Officer;
  - 3. The notice of appeal;
  - 4. All evidence concerning the application received by the variance board and its decision thereon.
- C.

In addition, any person may file with the City Council written arguments supporting or attacking the decision and the City Council may in its discretion hear oral arguments thereon.

- D. The City Clerk shall mail 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.
- E. Within sixty days following its receipt of the notice of appeal, the City 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 8.32.120 and 8.32.130.
- F. As part of its decision, the Council may direct the Variance Board to conduct further proceedings on the application. Failure of the City Council to affirm, modify or reverse the decision of the Variance Board within the sixty day period shall constitute an affirmance of the decision.

(Prior code § 19A-14)

## Article II. - Sound Amplifying Equipment

### 8.32.150 - Permit required.

- A. No person shall operate a loudspeaker, public address system or sound amplification system or play any musical instrument anywhere in the City if such loudspeaker, public address system or sound amplification system or musical instrument can be heard outside any building, save and excepting as follows:
  - 1. If the loudspeaker, public address system or sound amplification system is to be operated or musical instrument is to be played from a motor vehicle, it must be done in accordance with Section 10.04.140 and any other applicable ordinances of the City;
  - 2. If the loudspeaker, public address system or sound amplification system is to be operated, or musical instrument is to be played, other than from an automobile at any time of the day or night, such operation must first be approved by the City Manager by the issuance of a permit.
  - 3. If the loudspeaker, public address system, sound amplification system or musical instrument is used in connection with a parade for which a permit has been obtained, this section shall not be applicable.
  - 4. No person shall use or operate any sound amplifying equipment so that the sound being emitted therefrom is raucous, jarring, or disturbing to those within the area of audibility.

(Prior code § 19A-15)

### 8.32.160 - Application for permit—Procedure—Term.

The application for any such permit shall be in writing signed by an applicant at least eighteen years of age and filed with the City Clerk at least three business days prior to the event unless excused for cause by the City Manager. It shall state the following:

- A. Name and home address of the applicant;
- B. Address and place of business of applicant;
- C. Name and address of person having direct charge of the sound amplifying equipment desired to be used;
- D. The purpose for which the sound amplifying equipment will be used;
- E. The address and type of place where the sound amplifying equipment will be used;
- F. The hours during which such sound amplifying equipment will be used;
- G. Proposed days and number of days of operation;
- H. A general description of the sound amplifying equipment which is to be used;
- I. The maximum sound producing power of the sound amplifying equipment to be used; and
  - 1. The wattage to be used,

2. The approximate maximum distance for which sound will be thrown from the room, stadium, structure, public place or lot in or on which such sound amplifying equipment will be located;
- J. The form of application for permit shall be provided by the City and shall provide for the above information together with a reference to Civil Code Section 1714.1 for the information of the applicant.
- K. All permits shall be issued for one day at a time.

(Prior code § 19A-16)

#### 8.32.170 - Permit—Terms and conditions.

All such permits issued for the use of such sound amplifying equipment shall be issued subject to the following conditions:

- A. The sound amplifying equipment shall not be used between the hours of eleven p.m. and eight a.m., except that for Easter sunrise services such equipment may be permitted starting at six a.m.
- B. Sound from the sound amplifying equipment shall not be cast such a distance that it will interfere with or disturb the occupants of any hospital, sanitarium, school, church, courtroom, place of residence or public assemblage.
- C. The sound amplifying equipment shall be used only for the producing of human speech or song or music and the speech or song shall not be profane, lewd, indecent, slanderous or of such character as to tend to incite riot or other public disorder nor shall such speech or song advocate disloyalty to or the overthrow of the government of the United States by arms or other unlawful means nor shall such speech or song urge any unlawful conduct or encourage or reasonably tend to encourage a breach of the public peace of the community.
- D. The sound from the sound amplifying equipment shall not interfere unreasonably with the rest, repose, peace or normal activities of those persons within the vicinity of the location of such sound amplifying equipment.
- E. The sound amplifying equipment shall be used only in accordance with and in compliance with the statements set forth in the application for the permit.

(Prior code § 19A-17)

#### 8.32.180 - Permit—Display of required.

It shall be the duty of the applicant to display any permit received pursuant to this chapter at any event in which said permit is utilized.

(Prior code § 19A-19)

#### 8.32.190 - Permit—Revocation when.

After the issuance of the permit, the City Manager shall revoke such permit if the sound amplifying equipment permitted to be used thereby is used or operated contrary to any of the provisions of this chapter.

(Prior code § 19A-18)

#### 8.32.200 - Violation—Penalty.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor. Each day such violation is committed or permitted to continue constitutes a separate offense and is punishable as such. The provisions of this chapter shall not be construed as permitting conduct not prescribed herein and shall not affect the enforceability of any other applicable provisions of law.

(Prior code § 19A-20)