

## **CHAPTER 6**

### **NOISE REGULATION**

#### **ARTICLE 1 - GENERAL PROVISIONS**

(Added by O-2170; Amended by O-2211)

##### **46.1.1 DECLARATION OF POLICY.**

It is hereby declared to be the policy of the City to prohibit unnecessary, excessive and annoying noises from all sources subject to its police power. At certain levels noises are detrimental to the health and welfare of the citizenry and in the public interests shall be systematically proscribed.

##### **46.1.2 DEFINITIONS.**

(Amended by O-2466)

As used in this Chapter, unless the context otherwise clearly indicates, the words and phrases used in this Chapter are defined as follows:

- a) Ambient noise is the all encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far, without inclusion of intruding noises from isolated identifiable sources.
- b) Decibel (db) shall mean a unit of level which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio to two (2) amounts of power is ten (10) times the logarithm to the base ten (10) of this ratio.
- c) Emergency work shall mean work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.
- d) Noise level, in decibels, is the A-weighted sound pressure level as measured using the slow dynamic characteristic for sound level meters specified in ASA S1.4-1961, American Standard Specification for General Purpose Sound Level Meters, or latest revision thereof. The reference pressure is twenty (20) micronewtons/square meter ( $2 \times 10^{-4}$  microbar).
- e) Person shall mean a person, firm, association, copartnership, joint venture, corporation or any entity, public or private in nature.
- f) Sound level meter shall mean 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 as specified in ASA S1.4-1961, American Standard Specification for General Purpose Sound Level Meters, or latest revision thereof.
- g) Sound pressure level, in decibels (db) of a sound is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of this sound to the reference pressure. For the purpose of this Chapter the reference pressure shall be twenty (20) micronewtons/square meter ( $2 \times 10^{-4}$  microbar).
- h) Impulsive sound means a short duration sound (such as might be produced by the impact of a drophammer or pile driver) with one (1) second or less duration.
- i) Motor vehicles shall include, but not be limited to, minibikes and go carts.

- j) Sound amplifying equipment shall mean any machine or device for the amplification of the human voice, music, or any other sound. Sound amplifying equipment shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. Sound amplifying equipment, as used in this Chapter, shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.
- k) Sound truck shall mean any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon, or attached thereto, any sound amplifying equipment.
- l) Commercial purpose shall mean and include the use, operation or maintenance of any sound amplifying equipment for the purpose of advertising any business or any goods or any services, or for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage or customers to or for any performance, show, entertainment, exhibition, or event, or for the purpose of demonstrating any such sound equipment.
- m) Noncommercial purpose shall mean the use, operation or maintenance of any sound equipment for other than a commercial purpose. Noncommercial purposes shall mean and include, but shall not be limited to, philanthropic, political, patriotic and charitable purposes.
- n) Residential land shall mean that land which is utilized for residential purposes or zoned for residential purposes.
- o) Residential purpose means any purpose involving routine and relatively permanent use of a building as a dwelling, as opposed to relatively transient uses such as hotels and motels.
- p) Day means the time period from 7:00 A.M. to 10:00 P.M.
- q) Night means the time period from 10:00 P.M. to 7:00 A.M.

#### **46.1.3 MEASUREMENTS.**

Noise levels shall be measured with a sound level meter satisfying the requirements of ASA S1.4-1961, American Standard Specification for General Purpose Sound Level Meters, or latest revision thereof. Noise level of steady or slowly varying sounds shall be measured using the slow dynamic characteristic of the sound level meter and by reading the central tendency of the needle. Noise level of impulse sounds shall be measured using the fast dynamic characteristic of the sound level meter and by reading the maximum indication of the needle.

### **ARTICLE 2 - SPECIAL NOISE SOURCES**

#### **46.2.1 RADIOS, TELEVISION SETS AND SIMILAR DEVICES.**

- a) Use Restricted. It shall be unlawful for any person within the City of Torrance to use or operate any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing of sound at any time in such a manner as to produce noise levels on residential land which would disturb the peace, quiet and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area.
- b) Prima Facie Violation. Any noise exceeding the ambient noise level at the property line of any residential land (or if a condominium or apartment house, within any adjoining apartment) by more than five (5) decibels shall be deemed to be prima facie evidence of a violation of the provisions of this Section.

**46.2.2 HAWKERS AND PEDDLERS.**

It shall be unlawful for any person within the City to sell anything by outcry within any area of the City utilized for residential purposes. The provisions of this Section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events.

**46.2.3 DRUMS.**

It shall be unlawful for any person to use any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise within the City. This Section shall not apply to any person who is a participant in a school band or duly licensed parade or who has been otherwise duly authorized by the City to engage in such conduct.

**46.2.4 SCHOOLS, HOSPITALS AND CHURCHES.**

It shall be unlawful for any person to create any noise on any street, sidewalk or public place adjacent to any school, institution of learning or church while the same is in use or adjacent to any hospital, which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets, sidewalks or public place indicating the presence of a school, church or hospital.

**46.2.5 ANIMALS AND FOWL.**

No person shall keep or maintain, or permit the keeping of upon any premises owned, occupied or controlled by such person, any animal or fowl otherwise permitted to be kept which, by any sound, cry or behavior shall cause annoyance or discomfort to a reasonable person of normal sensitiveness on any residential land.

**46.2.6 MACHINERY, EQUIPMENT, FANS AND AIR CONDITIONING.**

It shall be unlawful for any person to operate any machinery, equipment, pump, fan, air conditioning apparatus or similar mechanical device in any manner so as to create any noise which would cause the noise level at the property line of any residential land to exceed the ambient noise level by more than five (5) decibels.

**46.2.7 OIL PRODUCTION EQUIPMENT.**

(Added by O-2528)

It shall be unlawful for any person to operate, or cause to be operated any oil production equipment in any manner so as to create any noise which would cause the noise level at the nearest property line of any residential land to exceed the ambient noise level by more than five (5) decibels; provided, however, that the aforesaid provisions of this Section shall not apply to oil production equipment being used in the drilling, re-drilling, deepening, repair, maintenance or abandonment of an oil well.

**ARTICLE 3 - CONSTRUCTION**

**46.3.1 CONSTRUCTION OF BUILDINGS AND PROJECTS.**

(Amended by O-3712)

a) It shall be unlawful for any person within the City of Torrance to operate power construction tools, equipment, or engage in the performance of any outside construction or repair work on buildings, structures, or projects in or adjacent to a residential area involving the creation of noise beyond 50 decibels (db) as measured at property lines, except between the hours of 7:30 A.M. to 6:00 P.M. Monday through Friday and 9:00 A.M. to 5:00 P.M. on Saturdays. Construction shall be prohibited on Sundays and Holidays observed by City Hall. An exception exists between the hours of 10:00 A.M. to 4:00 P.M. for homeowners that reside at the property.

- b) The Community Development Director may allow expanded hours and days of construction if unusual circumstances and conditions exist. Such requests must be made in writing and must receive approval by the Director prior to any expansion of the hour and day restrictions listed above.
- c) Every construction project requiring Planning Commission review or considered to be a significant remodel as defined by Section 231.1.2, shall be required to post an information board along the front property line that displays the property owner's name and contact number, contractor's name and contact number, a copy of TMC Section 46.3.1, a list of any special conditions, and the Code Enforcement phone number where violations can be reported.
- d) Properties zoned as commercial, industrial or within an established redevelopment District, are exempted from the above day and hour restrictions if a minimum buffer of 300 feet is maintained from the subject property's property line to the closest residential property. The Community Development Director, may, however, revoke such exemption for a particular project if the noise level exceeds 50 decibels (db) at the property line of a residential property beyond the 300 linear foot buffer.
- e) Heavy construction equipment such as pile drivers, mechanical shovels, derricks, hoists, pneumatic hammers, compressors or similar devices shall not be operated at any time, within or adjacent to a residential area, without first obtaining from the Community Development Director permission to do so. Such request for permission shall include a list and type of equipment to be used, the requested hours and locations of its use, and the applicant shall be required to show that the selection of equipment and construction techniques has been based on minimization of noise within the limitations of such equipment as is commercially available or combinations of such equipment and auxiliary sound barriers. Such permission to operate heavy construction equipment will be revoked if operation of such equipment is not in accordance to approval. No permission shall be required to perform emergency work as defined in Article 1 of this Chapter.

#### **46.3.2 OPERATION OF OIL EQUIPMENT.**

(Added by O-2528)

- a) It shall be unlawful for any person to operate machinery or power tools for the repair, maintenance or abandonment of oil well equipment on Sundays and legal holidays and, except between the hours of 7:00 A.M. and 8:00 P.M., on any other day; provided, however, that the provisions of this subsection shall not apply to any well, the surface of which is three hundred (300) or more feet from any dwelling.
- b) It shall be unlawful for any person to conduct oil drilling or redrilling operations other than circulation of mud, on Sundays and legal holidays and, except between the hours of 7:00 A.M. and 9:00 P.M., on any other day; provided, however, that the provisions of this subsection shall not apply to any well the surface of which is three hundred (300) or more feet from any dwelling.
- c) It shall be unlawful for any person to operate machinery or power tools for the repair, maintenance or abandonment of oil well equipment or to conduct oil well drilling or redrilling operations at any time within three hundred (300) feet of any dwelling without first obtaining from the Director of Building and Safety permission to do so. Such request for permission shall include a list and type of equipment to be used, the requested hours and locations of its use. The Director of Building and Safety shall issue such permit only if the applicant demonstrates to the reasonable satisfaction of the Director that the selection of equipment and construction techniques has been based on minimization of noise within the limitations of such equipment as is commercially available or combinations of such equipment and auxiliary sound barriers or acoustical sound blankets as provided in Section 46.3.3. Such permission to operate oil well equipment shall be revoked if such equipment is not operated and construction is not accomplished in accordance with the conditions of approval. No permission shall be required to perform emergency work as defined in Article 1 of this Chapter. The person performing such emergency work shall first notify the

occupants of adjacent residences and the Torrance Police Department as to the nature and extent of the work to be performed.

#### **46.3.3 ACOUSTICAL BLANKETS.**

(Added by O-2528)

Acoustical blankets shall be made of fibrous glass insulation 1-1/2 inches thick, 0.50 pounds per cubic foot density, 0.63 pounds per square foot weight, .00010 to .00015 fibre diameter (inches) with phenolic binder having a temperature limit of 450 degrees F. sewed between layers of fire retardant vinyl fibre glass cloth, 15-17 ounces per square yard sewed with dacron thread D-92 with stitches not more than six (6) to the inch. The lacing cord shall be flat vinyl coated tape composed of fibrous glass yard braided, heat set and bonded. The tape shall have a 90 pound tensile strength. Grommets shall be No. 4 brass. Provided, however, that there may be substituted for the aforesaid specifications an acoustical blanket which in the opinion of the Director of Building and Safety is equal to sound-proofing ability and fire resistive qualities to the aforesaid specifications.

### **ARTICLE 4 - VEHICLES**

#### **46.4.1 VEHICLE REPAIRS.**

It shall be unlawful for any person within the City of Torrance to repair, rebuild or test any motor vehicle at any time in such a manner that a reasonable person of normal sensitiveness located on residential land is caused discomfort or annoyance by reason of the noise produced therefrom.

#### **46.4.2 MOTOR DRIVEN VEHICLES.**

It shall be unlawful for any person to operate any motor driven vehicle within the City in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance; provided, however, that any such vehicle which is operated upon any public highway, street or right-of-way shall be excluded from the provisions of this Section, provided the provisions of the California Motor Vehicle Code, Sections 23130, 27150 and 27151 are complied with.

### **ARTICLE 5 - AMPLIFIED SOUND**

(Amended by O-3360)

#### **46.5.1 PURPOSE.**

The Council enacts the provisions of this Article for the sole purpose of securing and promoting the public health, comfort, safety, and welfare for its citizenry. While recognizing that the use of sound amplifying equipment is protected by the constitutional rights of freedom of speech and assembly, the Council nevertheless feels obligated to reasonably regulate the use of sound amplifying equipment in order to protect the correlative constitutional rights of the citizens of this community to privacy and freedom from public nuisance of loud and unnecessary noise.

#### **46.5.2 APPLICATION REQUIRED.**

It shall be unlawful for any person, other than personnel of law enforcement or governmental agencies, to install, use or operate within the City a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound truck for the purposes of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in or upon any street, alley, sidewalk, park, place or public property without first filing an application and obtaining a permit therefor as set forth in Division 3 of this Code.

#### **46.5.3 REGULATIONS.**

The commercial and noncommercial use of sound amplifying equipment shall be subject to the following regulations:

- a) The only sounds permitted shall be either music or human speech, or both.

b) The operation of sound amplifying equipment shall only occur between the hours of 9:00 A.M. and 9:00 P.M. each day except on Sundays and legal holidays. The operation of sound amplifying equipment for noncommercial purposes on Sundays and legal holidays shall only occur between the hours of 10:00 A.M. and 6:00 P.M.

c) No sound emanating from sound amplifying equipment shall exceed fifteen (15) dBA above the ambient as measured at any property line.

d) Notwithstanding the provisions of subsection c) of this Section, sound amplifying equipment shall not be operated within two hundred (200) feet of churches, schools or hospitals.

e) In any event, the volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing or a nuisance to reasonable persons of normal sensitiveness within the area of audibility.

**ARTICLE 6 - TRAIN HORNS AND WHISTLES**

**46.6.1 EXCESSIVE SOUND PROHIBITED.**

It shall be unlawful for any person to operate or sound or cause to be operated or sounded, between the hours of 10:00 P.M. of one day and 7:00 A.M. of the next day, a train horn or train whistle which creates noise in excess of ninety (90) db at any place or point three hundred (300) feet or more distant from along a line normal to the direction of travel of the source of such sound.

**ARTICLE 7 - GENERAL NOISE REGULATIONS**

**46.7.1 GENERAL NOISE REGULATIONS.**

Notwithstanding any other provision of this Chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

**46.7.2 NOISE LIMITS.**

To provide for methodical enforcement and to give reasonable notice of the performance standards to be met, the foregoing intent is expressed in the following numerical standards. For purposes of this Chapter, the City is divided into regions as set forth in Exhibit A.

a) Noise Limits on Residential Land. It shall be unlawful for any person within the City of Torrance (wherever located) to produce noise in excess of the following levels as received on residential land owned or occupied by another person within the designated regions. In addition to the noise limits stated herein, the noise limits set forth in Sec. 46.7.2.b) shall also be complied with.

1) For noise receivers located on residential land, for measurement positions five hundred (500) feet or more distant from the boundaries of Regions 1 and 2, the following limits apply:

REGION (in which noise receiver is located)	NOISE LEVEL, db	
	Day	Night
3	50	45
4	55	50

2) For noise receivers located on residential land, for positions within five hundred (500) feet from the boundary of Region 1 or 2, the following limits apply:

Five (5) dB above the limits set forth in Section 46.7.2.a) 1 above, or 5 dB above the ambient noise level, whichever is the lower number.

**b) Noise Limits at Industrial and Commercial Boundaries:**

1) Noise Sources in Region 1: It shall be unlawful for any person in Region 1 to produce noise levels at the boundary of Region 1 in excess of 70 dB during the day or 65 dB during the night.

2) Noise Sources in Region 2: It shall be unlawful for any person in Region 2 to produce noise levels at the boundary of Region 2 in excess of 60 dB during the day or 55 dB during the night.

3) Noise Sources in All Remaining Industrial Use Land: It shall be unlawful for any person on industrial use land outside Region 1 and 2 to produce noise levels at his own property boundary in excess of 60 dB during the day or 55 dB during the night.

4) Noise Sources on All Land Use for Commercial Purposes: It shall be unlawful for any person on land used for commercial purposes to produce noise levels at his own property boundary in excess of 60 dB during the day or 55 dB during the night.

In addition to the noise limits set forth herein (Sec. 46.7.2.b), the noise limits set forth in Sec. 46.7.2.(a) shall also be complied with.

c) Corrections to the Noise Limits: The numerical limits given in Sec. 46.7.2.(a) and (b) shall be adjusted by addition of the following corrections where appropriate.

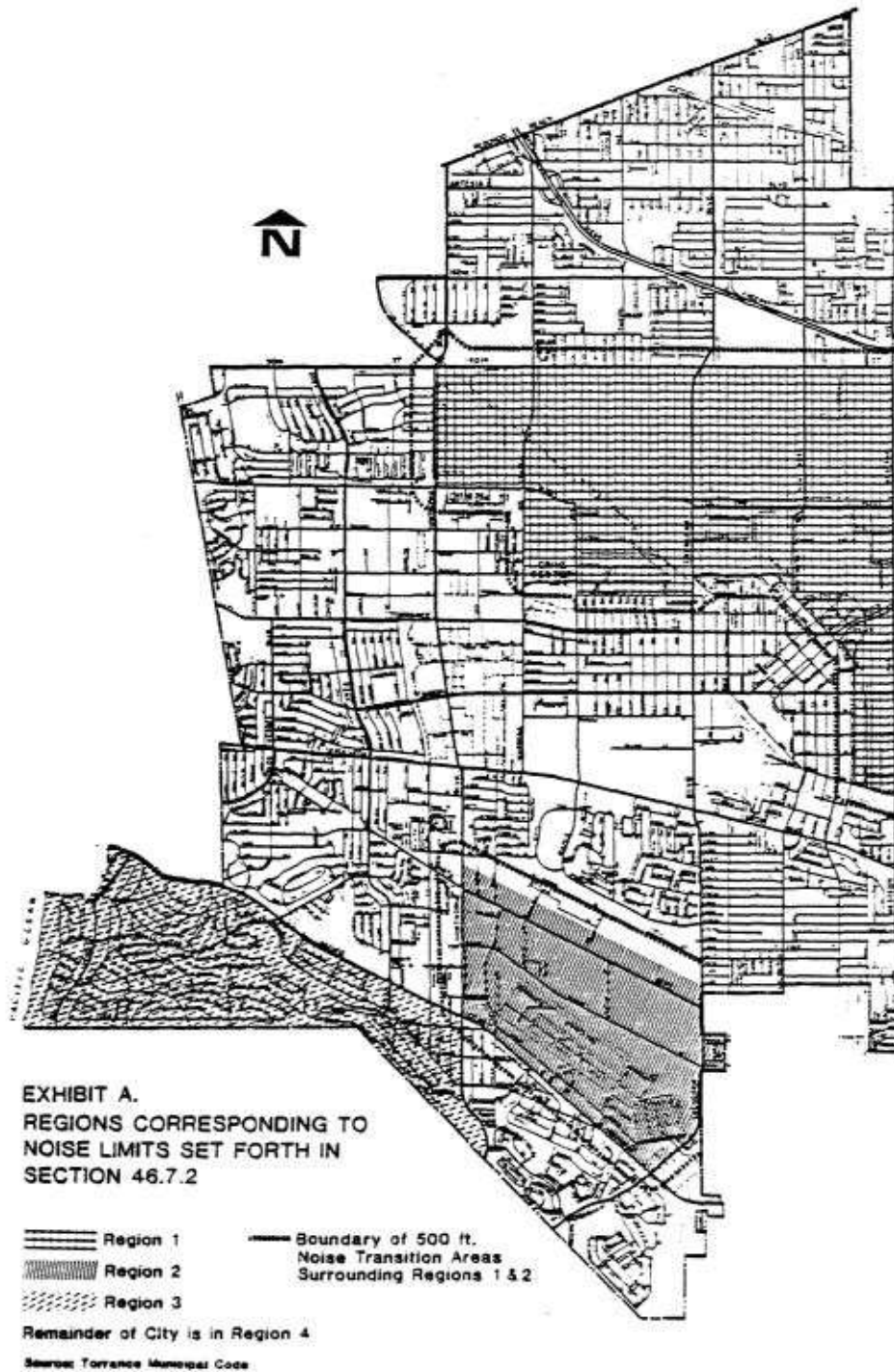
	<b>Noise Conditions</b>	<b>Correction to the Limits, decibels</b>
1.	Noise contains a steady, audible tone, such as a whine, screech or hum	-5
2.	Noise is a repetitive impulsive noise, such as hammering or riveting	-5
3.	If the noise is not continuous, one of the following corrections to the limits shall be applied:	
	a) Noise occurs less than 5 hours per day or less than 1 hour per night	+5
	b) Noise occurs less than 90 minutes per day or less than 20 minutes per night	+10
	c) Noise occurs less than 30 minutes per day or less than 6 minutes per night	+15
4.	Noise occurs on Sunday morning (between 12:01 A.M. and 12:01 P.M. Sunday)	-5

**46.7.3 EXCEPTIONS.**

The following noise sources are specifically excluded from the provisions of this Chapter:

- 1) Aircraft in flight.

- 2) Motor vehicles operating in accordance with Sec. 46.4.2. and in accordance with all the sections of the California Motor Vehicles Code.





## **ARTICLE 8 - AIRPORT NOISE LIMITS**

(Added by O-2784)

### **46.8.1 VIOLATIONS UNLAWFUL.**

It shall be unlawful for any person to pilot or operate or permit to be piloted or operated an aircraft in violation of the provisions of Sections 46.8.8., 46.8.9. or 46.8.14.

### **46.8.2 EXTENDED AIRPORT BOUNDARIES DEFINED.**

For the purposes of this Article, the term extended airport boundaries shall mean the area enclosed by Lomita Boulevard on the north, Crenshaw Boulevard on the east, Pacific Coast Highway on the south and Hawthorne Boulevard on the west.

### **46.8.3 TAKE-OFF DEFINED.**

(Amended by O-3270)

For the purposes of this Article, take-off shall mean the flight of an aircraft departing Torrance Airport from the time it commences on its departure on the runway.

### **46.8.4 LANDING DEFINED.**

(Amended by O-3270)

For the purposes of this Article, landing shall mean the flight of an aircraft from the time it begins its landing approach until it is taxied from the runway.

### **46.8.5 SOUND EXPOSURE LEVEL.**

For the purposes of this Article, the sound exposure level is the level of sound accumulated during a given event, with reference to a duration of one second. More specifically, sound exposure level, in decibels, is the level of the time-integrated A-weighted squared sound pressure for a stated time interval or event, based on the reference pressure of 20 micronewtons per square meter and reference duration of one second.

### **46.8.6 SENEL.**

For the purposes of this Article, the single event noise exposure level (SENEL), in decibels, is the sound exposure level of a single event, such as an aircraft fly-by, measured over the time interval between the initial and final times for which the sound level of a single event exceeds the threshold sound level. For implementation of the provisions of this Article, the threshold noise level shall be at least 20 decibels below the numerical value of the single event noise exposure level limits specified in Sections 46.8.8. or 46.8.9. as the case may be.

### **46.8.7 MAXIMUM SOUND LEVEL DEFINED.**

For the purposes of this Article, the maximum sound level, in decibels, is the highest sound level reached at any instant of time during the time interval used in measuring the sound exposure level of a single event.

### **46.8.8 AIRCRAFT NOISE LIMIT.**

Except as provided in Section 46.8.10., no aircraft taking off from or landing on the Torrance Municipal Airport may exceed a single event noise exposure level (SENEL) of 88 dBA or a maximum sound level of 82 dBA measured at ground level outside the extended Airport boundaries.

### **46.8.9 AIRCRAFT NOISE LIMIT AT NIGHT.**

(Amended by O-3284)

Notwithstanding the provisions of Section 46.8.8., except as provided in Section 46.8.10., no aircraft taking off from or landing on the Torrance Municipal Airport between the hours of 10:00 P.M. of any day and 7:00 A.M. of the following morning on any Monday through Friday inclusive, nor between the hours of 10:00 P.M. each night and 8:00 A.M. of the following morning on any Saturday or Sunday inclusive, nor on any of the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day; provided, however, that if any such holiday falls on a Saturday or Sunday, the observance of which is then moved to the preceding Friday, or the following Monday, then such Friday or Monday shall be considered to be a holiday for purposes of this section, may exceed a single event noise exposure level (SENEL) of 82 dBA or a maximum sound level of 76 dBA measured at ground level outside the extended Airport boundaries.

**46.8.10 AIRCRAFT NOISE EXEMPTION.**

(Amended by O-3382)

The following categories of aircraft shall be exempt from the provisions of Sections 46.8.8. and 46.8.9.:

- 1) Aircraft operated by the United States of America or the State of California;
- 2) Law enforcement, emergency, fire or rescue aircraft operated by any county or city of said state;
- 3) Aircraft used for emergency purposes during an emergency that has been officially proclaimed by competent authority pursuant to the laws of the United States, said State or the City;
- 4) Civil Air Patrol aircraft when engaged in actual search and rescue missions;
- 5) Aircraft engaged in landings or takeoffs while conducting tests under the direction of the Airport Manager in an attempt to rebut the presumption of aircraft noise violation pursuant to the provisions of Section 46.8.13
- 6) Aircraft while participating in a City-sponsored event approved by City Council.

**46.8.11 CULPABILITY OF INSTRUCTOR PILOT.**

In the case of any training flight in which both an instructor pilot and a student pilot are in the aircraft which is flown in violation of any of the provisions of this Article, the instructor pilot shall be rebuttably presumed to have caused such violation.

**46.8.12 CULPABILITY OF AIRCRAFT OWNER OR LESSEE.**

For purposes of this Article, the beneficial owner of an aircraft shall be presumed to be the pilot of the aircraft with authority to control the aircraft's operations, except that where the aircraft is leased, the lessee shall be presumed to be the pilot. Such presumption may be rebutted only if the owner or lessee identifies the person who in fact was the pilot at the time of the asserted violation.

**46.8.13 DENIAL OF USE OF AIRPORT.**

(See Section 51.7.2. et seq. concerning denial of the use of the Airport for repeated violations of this Article.)

**46.8.14 PRESUMPTION OF AIRCRAFT NOISE VIOLATION.**

In the event that the Airport Manager determines to his reasonable satisfaction that available published noise measurements for a particular type or class of aircraft indicate that it cannot meet the noise levels set forth in Sections 46.8.8. and 46.8.9., it shall be presumed that operation of such aircraft will result in violation of the provisions of Sections 46.8.8. and 46.8.9. and such aircraft will not be permitted to land on, tie down on, be based at or take off from the Torrance Municipal Airport, except in emergencies as set

forth in Section 51.4.2.; provided, however, that the owner or operator of such aircraft shall be entitled to rebut such presumption to the reasonable satisfaction of the Airport Manager by furnishing evidence to the contrary.

**46.8.15 DESIGNATED ENFORCEMENT OFFICIAL.**

The Director of Building and Safety, the Administrator of Environmental Quality, the Environmental Quality Officers and such other City employees as are designated by the Director of Building and Safety with the approval of the City Manager, all acting under the direction and control of the City Manager, shall have the duty and authority to enforce the provisions of this Article, pursuant to the provisions of Section 836.5 of the State Penal Code.