

ARTICLE II. - NOISE CONTROL

Sec. 34-31. - Definitions.

- (a) All terminology used in this article, unless otherwise defined in subsection (b) of this section, shall be in conformance with applicable and current publications of the American National Standards Institute (ANSI) or its successor body.
- (b) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted sound level means the sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit of measurement shall be dB(A).

Band pressure level of sound for a specific frequency band means the sound pressure level for the sound contained within that restricted band. The reference pressure must be specified.

Construction means any site preparation, or any assembly, erection, substantial repair, alteration or similar action, excluding demolition, for or on public or private right-of-way, structures, utilities or similar property.

dB(A) means sound level in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by ANSI.

Decibel means the unit for measuring the amplitude of sound, as that term is defined in applicable and current publications of ANSI.

Demolition means any dismantling, intentional destruction or removal of structures from the utilities or public or private right-of-way surfaces, and shall also include site clearing or land clearing.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which necessitates immediate action.

Emergency work means work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger or damage.

Motor vehicle means any vehicle which is or is designed to be self-propelled or is designed or used for transporting persons or property, including off-road vehicles being operated for recreational purposes.

Motorboat means any boat or vessel propelled or powered by machinery, whether or not such machinery is the principal source of propulsion, including but not limited to boats, barges, amphibious craft, water ski towing devices and hovercraft.

Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters, mopeds or any other motorized bicycle or three-wheel vehicle. This definition expressly excludes tractors and other farm equipment.

Multifamily dwelling means a building or other shelter that has been divided into separate units to house more than one family, including but not limited to condominiums, apartments, duplexes and triplexes.

Noise means any sound which annoys or disturbs humans or which causes or tends to cause adverse psychological or physiological effect on humans.

Noise-sensitive areas means any area designated by the city council as an appropriate area where the qualities of serenity, tranquility and quiet are of extraordinary significance and serve as an important public need, including but not limited to schools, libraries open to the public, hospitals, churches, nursing homes and convalescent homes. Such areas shall be marked by conspicuous signs designating such area as a noise-sensitive area.

Person means the state or any agency or institution thereof, and any municipality, political subdivision, public or private corporation, individual, partnership, association or other entity, and includes any officer, employee, agent or governing or managing body of any municipality, political subdivision, or public or private corporation.

Powered model vehicle means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

Public right-of-way means any street, avenue, boulevard, highway or sidewalk or alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

Public space means any real property or structure thereon which is normally accessible to the public.

Real property line means any imaginary line along the surface of the land and its vertical plane extension which separates the real property owned, rented, leased or controlled by one person from that owned, rented, leased or controlled by another person, excluding intrabuilding real property divisions.

Sound level means the weighted sound pressure level obtained by use of a metering characteristic and weighting, as specified in ANSI specifications for sound level meters, ANSI S1.4-1971, or in its successor publications. Unless otherwise indicated, the A-weighting scale shall apply in the application of this article.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager output meter, and weighting networks used to measure sound pressure levels. The output meter shall read sound pressure levels when properly calibrated, and the instrument shall be of type 2 or better, as specified in the American National Standards Institute publication S1.4-1971, or its successor publications.

Unusually loud, excessive and unnecessary noise means any sound in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life or property, or which unnecessarily interferes with the enjoyment of life or property, including outdoor recreation. In addition to the specific noise-generating activities set out in this section, this term includes the excessive and unnecessary honking of horns, whistles, operation of radios, television sets, phonographs, loudspeakers, amplifiers or equipment, and excessive and unnecessary noise caused by animals.

Weekday means any day, Monday through Friday, which is not a legal holiday.

Zoning or land use categories. All terms used in this article which refer to zoning or land use categories (including but not limited to "commercial area," "residential area," etc.) shall be defined as set out in the various zoning ordinances and comprehensive plans or other resolutions duly adopted by the city council.

(Code 1982, §§ 12-35, 12-36)

Cross reference— Definitions generally, § 1-2.

Sec. 34-32. - Penalty.

- (a) Any person violating any of the provisions of this article shall, upon conviction thereof, be punished as provided in section 1-14.
- (b) If at any time after conviction of a violation of this article it appears that the convicted person has previously been convicted or sentenced for a substantially similar violation of this article, the court shall sentence that person for a term of imprisonment of not less than five days and a fine of not less than \$1,000.00. In order that the alleged violator be made fully aware of the intent to seek a stricter sentence under this subsection (b), a notice of intent to seek a sentence and fine under this subsection shall be served upon the defendant or his attorney prior to trial or the entry of a plea on the subsequent or second violation.

(Code 1982, § 12-43)

Sec. 34-33. - Additional remedies.

No provisions of this article shall be construed to impair any common law or equitable or statutory cause of action or other legal remedy of any person for injury or damage arising from any violation of this article. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this article and which causes discomfort or annoyance, or endangers the comfort, repose, health or peace of other persons, shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by proceedings in a court of competent jurisdiction for injunction, both temporary and permanent.

(Code 1982, § 12-44)

Sec. 34-34. - Prohibited noise generally.

No person shall make, continue or cause to be made or continued any unusually loud, unnecessary or excessive noise which unreasonably annoys, disturbs, injures or endangers the comfort and repose of others within the limits of the city.

(Code 1982, § 12-37)

Sec. 34-35. - Specific prohibitions.

In addition to the general prohibitions set out in section 34-34 and the maximum permissible sound levels set out in section 34-36, unless otherwise exempted by this article or by act of the city council, the following specific acts, or the causing or permitting thereof, are hereby declared to be in violation of this article:

- (1) *Radios, television sets, musical instruments and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument or similar device which produces or reproduces sound:
 - a. Between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to create unusually loud, excessive and unnecessary noise across a residential real property line or within a noise-sensitive area; or
 - b. In such a manner as to exceed the levels set forth for public space in section 34-36, measured at a distance at least 50 feet from such device operating on a public right-of-way or public space.
- (2) *Loudspeakers.* Using or operating for any purpose any loudspeaker, loudspeaker system or similar device between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays, in areas within or adjacent to residential, commercial or noise-sensitive areas, except for any noncommercial public speaking, public assembly or other activity for which a variance has been issued by a board or commission of the city council empowered to grant variances.
- (3) *Street sales.* Offering for sale, selling anything or advertising by shouting or outcry within any residential or commercial area or noise-sensitive zone of the city, except by variance issued by a board or commission of the city council empowered to grant variances.
- (4) *Animals.* Owning, possessing or harboring any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which create unusually loud, excessive and unnecessary noise across a residential or commercial real property line or within a noise-sensitive zone. This provision shall not apply to public zoos or private animal attractions

operated for profit, or not for profit, to which the public has general admission and which are regulated by the city.

- (5) *Loading and unloading.* Loading and unloading, opening, closing or other handling of boxes, crates, containers, equipment, building materials or similar objects between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and 7:00 p.m. and 10:00 a.m. on weekends or holidays, in or within 50 yards of any residential property line or noise-sensitive zone.
- (6) *Construction and demolition.* Operating or causing the operation of any tools used in construction, drilling, repair, alteration or demolition work between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, or between 9:00 p.m. and 9:00 a.m. on weekends or holidays, in or within 50 yards of any residential area or noise-sensitive zone, except for emergency work by public service utilities or by other variance approved by a board or commission of the city council empowered to grant variances. This subsection shall not apply to the use of domestic power tools as specified in subsection (11) of this section.
- (7) *Powered model vehicles.* Operating or permitting the operation of powered model vehicles:
 - a. Between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and 7:00 p.m. and 10:00 a.m. on weekends or holidays, in or within 100 feet of any residential area or noise-sensitive zone; or
 - b. In such a manner as to exceed the levels set for public space land use in section 34-36, measured at a distance of not closer than 100 feet to any point on the path of a vehicle operating on a public space or public right-of-way.
- (8) *Emergency signaling devices.* The intentional sounding or permitting the sounding outdoors of any fire, burglary or civil defense alarm, fire, whistle or similar stationary emergency signaling device before 7:00 a.m. or after 7:00 p.m., except for the purpose of signaling an emergency. Any such testing shall use the minimum cycle test time appropriate for such devices, in no case to exceed 60 seconds. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall occur only on weekdays and not before 7:00 a.m. or after 10:00 p.m., and shall be exempt from the time limit specified in this subsection. The sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such alarm is automatically terminated within 15 minutes of activation, shall be prohibited.
- (9) *Motorboats.* Operating or permitting the operation of any motorboat in any lake, river, stream, canal, bay or other waterway in such a manner as to cause unusually loud, excessive or unnecessary noise within a residential area or noise-sensitive zone.
- (10) *Creation of noise in noise-sensitive zone.* Creating or causing the creation of any sound within any noise-sensitive zone so as to exceed the decibel levels set forth in section 34-36 for such zone when measured at a distance at least 25 feet from the sound source, provided that conspicuous signs are displayed indicating the presence of the noise-sensitive zone; or the creating or causing the creation of any unusually loud, excessive and unnecessary noise within or adjacent to any noise-sensitive zone containing a hospital, nursing home, school, court or other designated area, provided that conspicuous signs are displayed indicating the presence of the noise-sensitive zone.
- (11) *Domestic power tools.* Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool after 10:00 p.m. on any evening and before 7:00 a.m. on weekdays, before 8:00 a.m. on Saturdays and legal holidays, and before 9:00 a.m. on Sundays, unless such equipment is operated inside a building or other structure so that the sound there-from does not travel across any residential real property line or sensitive zone. All such equipment shall be properly muffled and maintained in working order so as not to create unusually loud, excessive and unnecessary noise.
- (12) *Noise in multifamily dwellings.* Operating or permitting the operation within a multifamily dwelling of any source of sound in a manner so as to exceed 55 dB(A) from 7:00 p.m. to 10:00

p.m. or 45 dB(A) from 10:00 p.m. to 7:00 a.m. on weekdays and 10:00 p.m. to 10:00 a.m. on weekends and holidays, when measured within an adjacent intrabuilding dwelling. These noise limits shall not be exceeded more than ten percent of any measurement, which shall not be less than ten minutes. The maximum permissible sound level, when measured in an adjacent intrabuilding area between 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 10:00 a.m. on weekends and holidays, shall be 50 dB(A).

- (13) *Pumps, air conditioning equipment, air handling equipment and other continuously operating equipment.* Operating or permitting the operation of any pump, air conditioning equipment, air handling equipment or other continuously operating equipment in such a manner as to exceed any of the following sound levels when measured as specified in the "Code of Recommended Practices" referred to in section 34-38:

Measurement Location	Sound Level (dB(A))
Any point on neighboring property line	60
Centering of nearest neighboring patio or porch	55
Outside a neighboring living area window nearest the equipment location	55

- (14) *Places of public entertainment.* Operating or permitting to be operated any loudspeaker, musical instrument, drum, sound reproduction device or similar equipment in any place of public entertainment at a noise level which allows the sound produced to be heard in any residential or noise-sensitive area.
- (15) *Recreational motorized vehicles operating off public right-of-way.* Operating or causing to be operated any recreational motorized vehicle or motorcycle off the public right-of-way in any residential or noise-sensitive zone. This subsection shall apply to all motorized vehicles or motorcycles, whether or not duly licensed and registered.
- (16) *Solid waste and recycling operations and collection.* Solid waste and recycling operations and collection in all zoning districts from 7:00 p.m. to 5:00 a.m., and additionally between 5:00 a.m. and 7:00 a.m. in zoning districts: OUR, RE, RMF, RMH, RSF, RTR and PUD or within 150 feet of any property zoned as such.
- (17) *Golf course maintenance.* The operator of a golf course and its employees and contractors may not utilize power equipment and tools to perform golf course maintenance between the hours of 9:00 p.m. and 5:00 a.m.

(Code 1982, § 12-38; Ord. No. 2005-20, § 1, 4-12-05; Ord. No. 2005-31, § 1, 7-12-05; Ord. No. 2005-34, § 1, 7-26-05; Ord. No. 2012-01, § 1, 1-10-12)

Sec. 34-36. - Maximum permissible sound levels by receiving land use.

- (a) No person shall operate or cause to be operated any source of sound which travels off of the property limits where the sound originates in such a manner as to create a sound level which, when measured at the property line of the receiving property, exceeds the limit set forth for the receiving

land use category in the following table, more than ten percent of any measurement, which shall not be less than ten minutes, when measured on or beyond the property bounds of the receiving land use:

Receiving Land Use Category	Time	Sound Level Limits (dB(A))
Noise-sensitive	At all times	50
Residential or public space	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m. on weekdays	55
	10:00 p.m. to 10:00 a.m. on weekends and holidays	55
Commercial or business	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	60
Manufacturing, industrial or agricultural	At all times	80

(b) For any source of sound, the maximum sound level shall not exceed the sound level limits in the table in subsection (a) of this section by:

- (1) Ten dB(A) from 7:00 a.m. to 10:00 p.m.
- (2) Five dB(A) from 10:00 p.m. to 7:00 a.m.
- (3) Ten dB(A) at all times in a manufacturing, industrial or agricultural land use area.

(Code 1982, § 12-39)

Sec. 34-37. - Exemptions from article.

The provisions of this article shall not apply to:

- (1) The unamplified human voice.
- (2) The interstate railways, locomotives and cars.
- (3) Nonstationary farming equipment.
- (4) Aircraft operations.
- (5) Routine maintenance of public service utilities.

- (6) Solid waste and recycling operations of the city when an executive order declaring an emergency has been issued.

(Code 1982, § 12-40; Ord. No. 2005-20, § 2, 4-12-05; Ord. No. 2005-34, § 2, 7-26-05)

Sec. 34-38. - Method of measurement.

All measurements made to determine compliance with this article shall be conducted in accordance with the procedures set out in the Code of Recommended Practices published by the state department of environmental regulation in 1975, or with any procedure subsequently recognized or established by the state department of environmental protection or the United States Environmental Protection Agency for use in the measurement and evaluation of community noise.

(Code 1982, § 12-41)

Sec. 34-39. - Special permit to exceed noise limits.

Any person desiring to seek relief from any provisions of this article shall apply to the city council, or its designated authorized representative, for a special permit to cause or create noise at levels which would otherwise be in violation of this article. Such permits shall be granted only upon the showing of good cause therefor and shall specify the duration for which such noncompliance shall be permitted and shall prescribe the conditions or requirements necessary to minimize adverse effects upon the community or the surrounding neighborhood.

(Code 1982, § 12-42)

Secs. 34-40—34-60. - Reserved.