

CHAPTER 8 NOISE CONTROL

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6-8-1 PURPOSE. The purpose of this Chapter is to prevent excessive sound and vibration, which are a serious hazard to public health and welfare, safety and quality of life in the City.

6-8-2 DEFINITIONS. All terminology used in this Chapter and not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANS) or its successor body.

1. "A-Weighted Sound" shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

2. "Ambient Noise" shall mean the all-encompassing noise associated with a given environment, being usually a composite of sounds from, any sources near and far.

3. "Chief of Police" shall mean the Chief of Police of the City or a duly authorized officer subject to his/her order.

4. "Commercial Premises" shall mean any premises where offices, clinics, kennels, shopping and service establishments exist.

5. "Construction" shall mean any equipment of devices, such as but not limited to, pile drivers, power shovels, derricks, hoist tractors, loaders, rollers, concrete hauling motor vehicles, pavement breakers, trenchers, scrapers, wagons, pumps, compressors and pneumatic power equipment, or other mechanical apparatus operated by fuel or electric power in the construction, repair or demolition of any building, structure, land, street, alley, waterway, sewer or appurtenance thereto.

6. "Commercial Power Equipment" shall mean any equipment or device rated at more than five (5) horsepower and used for home or building repairs or grounds maintenance.

7. "Decibel" shall mean a logarithmic unit of measure often used in measuring volume of sound. The symbol is dB.

8. "Device" shall mean any equipment or mechanism which is intended to produce or which actually produces sound when operated or handled.

9. "Domestic Power Equipment" shall mean any equipment or device rated at five (5) horsepower or less and used for home or building repairs or grounds maintenance.

10. "Emergency Vehicle" shall mean a motor vehicle authorized to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency, or during a police activity.

11. "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.

12. "Manufacturing Facility." Any premise where manufacturing, processing or fabrication of goods or products takes place.

13. "Motor Vehicle." Any vehicle such as, but not limited to a passenger vehicle, truck, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power, and shall include motorcycles, snowmobiles, minibikes, go-carts and any other vehicle which is self-propelled.

14. "Muffler-Approved Type" means an apparatus consisting of a series of chambers, baffle plates or other mechanical devices designated for the purpose of receiving and transmitting gases and which reduces sound emanating from such apparatus by at least twenty (20) decibels in the A-weighting network dB(A), from the unmuffled condition, which is in good working order.

15. "Noise" shall mean sound which annoys or disturbs humans.

16. "Noise Disturbance" means any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property.

17. "Person" shall mean any individual, firm, corporation, association or organization of any kind.

18. "Premise" means any building, structure, land, utility, or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards, and real properties without buildings or improvements, owned, controlled or occupied by a person.

19. "Property Line" shall mean that real or imaginary line and its vertical extension which (a) separates real property owned, controlled or occupied by another person and (b) separates real property from the public premises.

20. "Public Premises" means all real property including appurtenances thereon which is owned or controlled by any public governmental entity and shall include streets, alleys, parks, and waterways.

21. "Residential Premises" shall mean any premises where single or multiple dwelling units exist and shall include schools, churches, hospitals, nursing homes and similar institutional facilities.

22. "Sound" means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

23. "Sound Level Meter" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971 or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

24. "Sound Level Meter" shall mean an apparatus or instrument including a microphone, amplifier, attenuator, output meter and frequency weighting networks for the measurement of sound levels. The sound level meter shall be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute, publication entitled "Specification for Sound Level Meters".

25. "Sound Pressure" shall mean the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

26. "Sound Pressure Level." Twenty (20) times the logarithm, to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty micronewtons per square meter (20 x 10 Newtons/ meter), and is expressed in decibels (dB).

6-8-3 NOISE DISTURBANCES PROHIBITED. It shall be unlawful for any person to make, continue, cause to be made or continued, or allow to be made or continued on any residential or commercial premises owned, controlled or occupied by said person, any noise disturbance. It shall be unlawful for any person to make, continue, or cause to be made any noise disturbances on any public premises.

6-8-4 SPECIFIC PROHIBITIONS. The following acts and the causing thereof are declared to be in violation of this Chapter, but such enumerations are not exclusive and not intended to limit or preclude enforcement of any other provision of this Chapter.

1. The sounding or the causing or allowing to be sounded of any horn or signaling device on any automobile, motorcycle, street car or other vehicle unless it is necessary as a warning to prevent or avoid a traffic accident; the creating by means of any such signaling device of any unreasonably loud or harsh sounds; or the sounding of such device for an unnecessary or unreasonable period of time.

2. The playing, using, operating, or the causing or allowing to be played, used or operated any radio, musical instrument, television set, phonograph, loud speaker, sound amplifier, other

machine or device for the producing or reproducing of sound at any time with louder volume than is necessary for the convenient hearing of a reasonable person of normal sensitiveness in the room, vehicle, chamber or area in which such machine or device is operated. Any noise exceeding the ambient noise level at the property line, at the premises boundary, or at a distance of twenty-five feet (25') from a motor vehicle or from any such device located on a public premises by more than five (5) decibels shall be deemed not to be necessary for the convenient hearing of a reasonable person of normal sensitiveness.

3. Talking, yelling, shouting, hooting, whistling or singing between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M. , so as to be plainly audible at a distance of fifty feet (50') by a reasonable person of normal sensitiveness.

4. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper City authorities.

5. The owning or operating of any motor vehicle or combination of motor vehicles at any time or place when the operation of any such motor vehicle would or does exceed the following noise sound pressure levels for the category of motor vehicle and for the designated time period as specified in Table A; provided that the ownership of a motor vehicle weighing more than ten thousand (10,000) pounds according to the Manufacturer's Gross Vehicle Weight, which does not exceed eighty-eight (88) dB(A) when operated shall not be unlawful.

The standards in Table A shall apply to all noise emitted from motor vehicles including any and all equipment thereon, under any condition of acceleration, deceleration, idle, grade or load and whether or not in motion.

TABLE A

MAXIMUM ALLOWABLE NOISE SOUND PRESSURE LEVELS FOR
MOTOR VEHICLES

Type of Vehicle	Time Period	Maximum Allowable Sound Pressure Level	Measurement Distance From Motor Vehicle
Motor vehicle weighing less than 10,000 pounds, manufacturer's gross vehicle	At any time	80 dB(A)	25 feet

weight			
Motor vehicles weighing more than 10,000 pounds, manufacturer's gross vehicle weight	7:00 A.M. to 10:00 P.M.	88 dB(A)	25 feet
Motor vehicles weighing more than 10,000 pounds, manufacturer's gross vehicle weight	10:00 P.M. to 7:00 A.M.	80 dB(A) on any premises or streets not permitting heavy vehicle traffic 88 dB(A) on streets and highways designated for heavy vehicle traffic	25 feet

6. The discharging into the ambient air of the exhaust any stationary internal combustion engine or air compressor equipment, unless such discharge be through a muffler of the approved type as defined by Section 6-8-2 of this Chapter or through an apparatus providing equal noise reduction.

7. The operating of an engine of any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds Manufacturer's Gross Vehicle Weight (GVW) for a period in excess of ten (10) minutes when such vehicle is parked on a residential premises or on the public premises next to a residential premises, provided however, that vehicles confined and operated within an enclosed structure shall not be subject to the provisions of this subsection.

8. The erecting (including excavation), demolishing, altering or repairing of any building, structure, land, street, alley, waterway, sewer, or appurtenance thereto between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. the following day, except for emergency work done with a permit from the City Manager or designated building inspector, which permit may be granted for a period not to exceed seven (7) days or less while the emergency continues and which permit may be renewed for periods of seven (7) days or less while the emergency continues.

If the City Manager or building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building, structure, land, street, alley, waterway, sewer or appurtenance thereto, and if he/she shall further determine that such work is necessary to protect persons or property from an eminent exposure to danger or an unreasonable loss of profits, he/she may grant permission for such work to be done between the hours of nine o' clock (9:00) P.M., and seven o'clock (7:00) A.M. for the following day upon application being made at the time the permit for the work is awarded or during the progress of the work.

9. The shouting and crying of peddlers, hawkers and vendors.

10. The using of any drum or other instrument or device for the purpose of attracting attention by the creation of a noise to any performance, show or sale.

11. The operating of 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, including any motor vehicle or motorcycle, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler of the approved type as defined by Section 6-8- 2.

12. The emitting or the causing or allowing to be emitted any noise which leaves the premises on which it originates, crosses a property line, and enters onto any other premises in excess of the sound pressure levels during the time periods as specified in Table B; the emitting or the causing or allowing to be emitted any noise within the public premises in excess of the noise sound pressure level during the time period as specified in Table B.

6-8-5 EXEMPTIONS. The following noises shall be exempt from noise level regulations:

1. Noises of safety signals, warning devices and emergency pressure relief valves.

2. Noises resulting from an authorized emergency vehicle, when responding to an emergency call or acting in time of urgency.

3. Noises resulting from emergency work as defined in Section 6-8-2.

4. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the City, including but not limited to parades, sporting events, concerts, and firework displays.

5. The noises resulting from any aircraft operated in conformity with, or pursuant to, Federal law, Federal air regulations, and air traffic control instruction used pursuant to and within a duly operated Federal air regulation; and any aircraft operated under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under Federal air regulations.

6. The noise resulting from the operation of any domestic power equipment upon any residential, commercial, industrial or public premises between seven o'clock (7:00) A.M. and ten

o'clock (10:00) P.M. which does not exceed a sound pressure level of eighty (80) dB(A) when measured twenty five-feet (25') from the noise source, and between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. which does not exceed the maximum sound pressure levels as specified in Table B below.

7. The noise resulting from the operation of any commercial power equipment upon any residential, commercial, industrial, or public premises between seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M. which does not exceed a sound pressure level of eighty-eight (88) dB(A) when measured twenty-five feet (25') from the noise source and between ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. which does not exceed the maximum sound pressure levels as specified in Table B below.

8. The noises resulting from alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger.

TABLE B

MAXIMUM ALLOWABLE NOISE SOUND PRESSURE LEVELS FOR SPECIFIC PREMISES

Type of Premises Where noise is Measured	Time Period	Maximum Allowable Sound Pressure Level	Location of Sound Pressure Level Measurement
Residential Premises	7:00 A.M. to 10:00 P.M.	55 dB (A)	Property Line or Boundary of Premises
	10:00 P.M. to 7:00 A.M.	50 dB(A)	Property Line or Boundary of Premises
Commercial Premises	7:00 A.M. to 10:00 P.M.	65 dB(A)	Property Line
	10:00 P.M. to 7:00 A.M.	60 dB(A)	Property Line
Industrial Premises	7:00 A.M. to 10:00 P. M.	80 dB(A)	Property Line
	10:00 P. M. to 7:00 A.M.	75 dB(A)	Property Line
Public Premises	7:00 A.M. to 10:00 P.M.	75 dB(A)	Property Line or anywhere on public

	10:00 P.M. to 7:00 A.M.	70 dB(A)	premises Property Line or anywhere on public premises
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Sound or noise projecting from one type of premises into another type of premises with a different sound pressure level limit shall not exceed the limits of the premises into which the noise is projected.

9. The noises resulting from any bell, chime or similar device on any building, clock, school, or church.

6-8-6 PERMIT FOR RELIEF FROM CHAPTER Application for permit for relief from this Chapter on the basis of undue hardship may be made to the City Council or its duly authorized representative. Any permit granted by the City Council hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time the permit shall be effective. The City Council or its duly authorized representative may grant the relief as applied for if it finds:

1. That additional time is necessary for the applicant to alter or modify his/her activity or operation to comply with this Chapter; or
2. The activity, operation or noise source will be of temporary duration, and cannot be in a manner that would comply with other subsections of this Chapter; and
3. That no other reasonable alternative is available to the applicant.

The City Council may prescribe any condition or requirement it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

6-8-7 NOISE SOUND PRESSURE LEVEL MEASUREMENT For the purpose of determining noise sound pressure levels as set forth in this Chapter, the following test procedures and measurements are applicable:

1. The instrumentation for determining noise sound pressure levels shall be with a sound level meter of standard design as defined in this Chapter. Sound pressure level measurements shall be made with the A-weighting network.
2. Noise sound pressure level(s) shall be measured at a linear distance of twenty-five feet (25') from the noise source or at the property line or other premise boundary as specified in this Chapter. Whenever it is impossible or impractical to measure the noise sound pressure level(s) at

twenty-five feet (25') or at the property line or other premises boundary, a greater distance from the noise source shall be used to determine compliance with this Chapter.

6-8-8 INSPECTIONS.

1. For the purpose of determining compliance with the provisions of this Chapter, the Chief of Police is hereby authorized to make inspections of all noise sources and to take measurements and tests whenever necessary to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a premises, or refuses inspection, testing or noise measurement of any activity, device, facility, motor vehicle, or process where inspection is sought, the Chief of Police may seek from a court of competent jurisdiction a warrant for inspection requiring that such person permit entry and free access without interference, restriction, or obstruction, at a reasonable time, for the purpose of inspecting, testing, or measuring noise.

2. It shall be unlawful for any reason to refuse to allow or permit the Chief of Police, or his/her authorized representative, free access to any premises when a warrant for inspection and order has been issued by the Court.

3. It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise or noise services.

4. It shall be unlawful for any person to hinder, obstruct, delay, resist, prevent in any way, interfere with any authorized person while in the performance of his/her duties under this Chapter.

6-8-9 ABATEMENT ORDER. The department responsible for enforcement of this Chapter may issue an order requiring abatement of any noise alleged to be in violation of this Chapter. If the abatement order is not complied with, or if no abatement order is issued, the alleged violator shall be charged and punished pursuant to Section 6-8-10.

6-8-10 SEPARATE OFFENSES. Each day a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

It shall be unlawful for any person to misrepresent or give any false or inaccurate information or in any way attempt to deceive the Chief of Police or his/her authorized representative in order to avoid compliance with the provisions of this Chapter.

6-8-11 NUISANCE; ABATEMENT. The operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision of this Chapter is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

6-8-12 OTHER REMEDIES. No provision of this Chapter shall be construed to impair any statutory, legal, or common law remedy of any person for injury or damage arising from any violation of this Chapter.

6-8-13 CITIZEN SUITS. Any person may commence a civil action on his/her own behalf against any person who is alleged to be in violation of this Chapter. The Jackson County District Court shall have jurisdiction to grant such relief as it deems necessary. The Court, in issuing any final order in any action brought pursuant to this Section, may at its discretion award the costs of litigation, including attorney fees, to any party to the action.