

CHAPTER 96: NOISE

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§ 96.01 PURPOSE.

This chapter is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet for the citizens of the city through the reduction, control and prevention of noise. It is the intent of this chapter to establish standards that will eliminate and reduce unnecessary and excessive motor vehicle and community noise, which are physically harmful and otherwise detrimental to individuals and the community in the enjoyment of life, property and conduct of business.
(2002 Code, § 35-1) (Ord. 2004-5, passed 5-11-2004)

§ 96.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMBIENT SOUND LEVEL. The A-weighted sound level of all sound associative with a given environment, exceeded 90% of the time (L90) measured and being a composite of sounds from many sources during the period of observation while the sound from the noise source of interest is not present.

A-WEIGHTED SOUND PRESSURE LEVEL. The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is *dB(A)*.

BACKGROUND NOISE. Noise from all other sources other than that under specific consideration, including, but not limited to, traffic operating on public thoroughfares, pedestrian traffic and the like.

COMMERCIAL POWER EQUIPMENT. Any equipment or device rated at more than five horsepower and used for building repairs or property maintenance excluding snow removal equipment.

COMMERCIAL PREMISES. Any land parcel with buildings located in a B-1, B-2 or B-3 Zone within the municipality where offices, clinics and the facilities needed to serve them are located, an area with local shopping and service establishments located within walking distances of residents served, a tourist-oriented area where hotels, motels, gasoline stations and/or convenience stores are located, any integrated shopping centers, a business strip along a main street containing offices, retail businesses, commercial enterprises, restaurants or licensed liquor establishments, a central business district; or a commercially dominated area with multiple-unit dwellings.

CONSTRUCTION EQUIPMENT. Any device or mechanical apparatus operated by fuel, electric or pneumatic power in the excavation, construction, repair or demolition of any building, structure, land parcel, street, alley or appurtenance thereto.

DECIBEL. A logarithmic unit of measure often used in measuring magnitudes of sound. The symbol is *dB*.

DOMESTIC POWER EQUIPMENT. Any equipment or device rated at five horsepower or less and used for building repairs or ground maintenance excluding snow removal equipment.

EMERGENCY POWER GENERATOR. Equipment used to generate electrical power in the event of an interruption, malfunction or failure of the electrical power supplied by the service provider.

EMERGENCY VEHICLE. An authorized motor vehicle that has an audible warning device such as whistles, sirens and bells which may lawfully be used when responding to an emergency, or during a police activity which is required by state or federal regulations. This shall also include fixed emergency warning sirens.

EMERGENCY WORK. An activity made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from exposure to imminent danger. It includes work by private or public entities for providing or restoring immediately necessary services as well as all situations deemed necessary by the municipality.

INDUSTRIAL PREMISES. Any premises where manufacturing, processing or fabrication of goods or products takes place.

LIGHT INDUSTRIAL PREMISES. Any premises containing light industrial activities that are clean and generally quiet; an area containing warehousing; or an area in which other activities are conducted where the general environment is free from concentrated periods of excessive noise.

MOTOR VEHICLE. Any vehicle which is self-propelled, used primarily for transporting persons or property upon public roadways and required to be licensed by motor vehicle registration laws. The term **MOTOR VEHICLE** shall not include: aircraft, watercraft, motor vehicles operated on private property for recreational or amusement purposes, or specialized utility vehicles normally used only on private property in the daily course of business such as forklifts and pallet movers.

MUFFLER-APPROVED TYPE. An apparatus consisting of a series of chambers, baffle plates or other mechanical devices designed for the purpose of receiving and transmitting exhaust gases and which reduce the sound emanating from such apparatus by at least 20 decibels in the A-weighting network dB(A), from the non-muffled condition.

NOISE. Sound that is unwanted and/or which causes or tends to cause adverse psychological or physiological effects on human beings.

PERSON. Any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user or owner, and shall include any municipal corporation, state or federal governmental agency or any officer or employee thereof.

PREMISES. Any building, structure, land, utility or portion thereof, including all appurtenances, and shall also include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.

PROPERTY BOUNDARY. The real or imaginary line and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person. The vertical and horizontal boundaries of a dwelling unit in a multi-dwelling unit building, condominium or townhouse complex shall not be considered property lines separating one unit from another.

PUBLIC PREMISES. All real property including appurtenances thereon which is owned or controlled by any government entity and shall include streets, alleys, parks and green spaces.

RECEPTOR PREMISES. The premises (residential, commercial, industrial or public) which are receiving noise emitted from the source premises after crossing one or more property lines.

RESIDENTIAL PREMISES. Any premises where single or multiple dwelling units exist and shall include primary schools, churches, nursing homes and similar institutional facilities including any commercial premises where the use of more than 50% of the gross floor area meets the definition of **RESIDENTIAL PREMISES**.

SOUND. An oscillation in pressure, stress, particle displacement and particle velocity which induces auditory sensation.

SOUND LEVEL METER. 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 characteristics of a Type IE or better instrument as established by the American National Standards Institute, publication SI.4-1971 entitled "Specification for Sound Level Meters".

SOUND PRESSURE LEVEL. Twenty times the logarithm to the base ten of the ratio of the pressure of a sound to the reference pressure of 20 micronewtons per square meter (20×10^{-6} newtons/meter squared), and is expressed in decibels (dB).

SOURCE PREMISES. The premises (residential, commercial, industrial or public) that are emitting noise that is crossing one or more property lines and impacting the receptor premises.

SNOW REMOVAL EQUIPMENT. Any equipment used for removing snow from land or building surfaces and shall include snow plows, snow blowers, snow sweepers and snow shovels.

TREE MAINTENANCE EQUIPMENT. Any equipment used in the trimming or removing of trees and shall not be limited to chainsaws, chippers and stump removers.
(2002 Code, § 35-2) (Ord. 2004-5, passed 5-11-2004)

§ 96.03 NOISE PROHIBITED.

(A) It shall be unlawful to make, continue or cause to be made or continued any noise in excess of the noise levels set forth in § 96.04 of this chapter unless the noise is reasonably necessary to the preservation of life, health, safety or property.

(B) The following acts, which enumeration shall not be deemed to be exclusive, are hereby declared to be noise nuisances in violation of this section and are unlawful:

(1) The playing or permitting or causing the playing of any radio, radio receiving set, television, phonograph, stereo, portable stereo or "boom box", loudspeaker, drum, juke box, nickelodeon, musical instrument(s), sound amplifier or similar device which produces, reproduces or amplifies sound when done in such a manner or with such volume, intensity or with continued duration so as to annoy, to distress or to disturb the quiet, comfort or repose of any person.

(a) When in or on any public premises, the noise emitted from any such device shall not exceed the sound levels defined by § 96.04 of this chapter when measured from 25 feet or more.

(b) Noise produced by any such device coming from inside a building, house or other private property shall not exceed the sound levels, as defined by § 96.04 of this chapter, by more than five dB(a) when measured at the property boundary between the source property and the receptor property or the property boundary of the closest adjacent private or public property.

(2) It is unlawful for any person to operate upon any public highway any motor vehicle or any combination of motor vehicles under any conditions of grade, load, acceleration or deceleration in such manner so that the motor vehicle's exhaust noise exceeds 95 decibels.

(a) This sound measurement shall be taken from the property boundary of any property which abuts the public right-of-way of the public highway or street or such measurement may be taken from any public street perpendicular to or which intersects the highway or street upon which the noise source vehicle is traveling.

(b) This sound measure shall be taken at a distance not less than 25 feet from the noise source vehicle.

(3) Construction noise. The erection, including construction, excavation, demolition, alteration or repair work, or permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in construction, excavation, drilling, demolition, alteration or repair work:

(a) Other than between the hours of 7:00 a.m. and 10:00 p.m.; and

(b) This division (B)(3) shall not apply in cases of extreme and urgent necessity in the interest of public safety and convenience, and then only by approval of the Superintendent of Public Works or his or her designee.

(4) Any noise emanating from a stationary source, as defined in this section, shall require a sound measurement of five minutes or more to prove a violation of this section.

(2002 Code, § 35-3) (Ord. 2004-5, passed 5-11-2004) Penalty, see § 96.99

§ 96.04 EXCESSIVE NOISE LEVELS.

(A) A noise measured or registered as provided herein from any source not exempted by this chapter at a level which is equal to or in excess of the dB(a) established for the time period and zones listed below or that exceeds the background level by five dB(a), whichever is greater, is declared to be excessive, unusual, loud and unnecessary, for the purposes of this chapter.

<i>Zone</i>	<i>8:00 a.m. to next 10:00 p.m.</i>	<i>10:00 p.m. to next 8:00 a.m.</i>
Commercial	70 dB(a)	65 dB(a)
Industrial	80 dB(a)	75 dB(a)
Light Industrial	80dB(a)	75 dB(a)
Residential	65 dB(a)	60 dB(a)

(B) If there is considerable background noise, as defined in this chapter, the measuring of the noise level shall be done over a 15-minute period of time.

(C) In the event the source property is in a different zone than the receptor property, the maximum sound levels of the receptor property shall be the level which is enforced.

(2002 Code, § 35-4) (Ord. 2004-5, passed 5-11-2004) Penalty, see § 96.99

§ 96.05 EXCEPTIONS.

The following activities, as long as they are conducted in the daytime hours as a normal function of a permitted use and the equipment is maintained in proper working condition, are excepted from the provisions of this chapter:

(A) Lawn and garden maintenance;

(B) Repair of personal use vehicles;

(C) Home repair of place of residence;

(D) Tree and/or shrubbery trimming; and/or

(E) Home use snow removal equipment.

(2002 Code, § 35-5) (Ord. 2004-5, passed 5-11-2004)

§ 96.06 EXEMPTIONS; DAYTIME AND NIGHTTIME HOURS.

(A) The following sounds are exempt from the provisions of this chapter between the hours of 7:00 a.m. and 10:00 p.m.:

(1) Sounds created by bells, chimes or carillons not operating for more than 15 minutes in any one hour;

(2) Unamplified sounds originating from officially sanctioned parades or other public events;

(3) Sounds created by the discharge of firearms on legally established shooting ranges; and/or

(4) Emergency warning devices (e.g., sirens, bells, whistles).

(2002 Code, § 35-6)

(B) The following sounds are exempt from the provisions of this chapter between the hours of 10:00 p.m. and 7:00 a.m. during weekdays and between 10:00 p.m. and 8:00 a.m. during weekends:

- (1) Sounds created by existing stationary equipment used in the conveyance of water by a utility;
- (2) Sounds created by existing electrical substations or electrical production plants;
- (3) Sounds created by sources in industrial zones which, over the previous three years, have consistently operated in excess of 15 hours per day as a demonstrated routine or as a consequence of process necessity;
- (4) Sounds created by the operation of snow removal equipment; and
- (5) Sounds originating from officially sanctioned parades or other public events to include, but not necessarily be limited to:
 - (a) The Wayne Chicken Show and Henoween;
 - (b) The Wayne County Fair;
 - (c) The Jaycees July 4th Fireworks Display; and
 - (d) The Relay for Life.

(2002 Code, § 35-7)

(Ord. 2004-5, passed 5-11-2004)

§ 96.07 REQUEST FOR WAIVER; WHEN ALLOWED.

Persons and/or organizations sponsoring a public event may request, in writing, a waiver of the conditions of this chapter from the City Council for the use of amplified sounds for a specific event and for a clearly defined period of time. Such waiver shall define the specific dates and times and shall prohibit amplified sound greater than 95 dB(a) as measured a minimum of 150 feet from the source of the sound if the event is located in a residential zone.

(2002 Code, § 35-8) (Ord. 2004-5, passed 5-11-2004)

§ 96.08 SOUND MEASUREMENT.

Sound level measurements shall be made with a sound level meter which meets the requirements of a Type II instrument, as described in American National Standards Institute Specifications, § 1.4-1971, which is in good working order and that was checked for calibration both before and after any sound level measurement was taken.

(2002 Code, § 35-9) (Ord. 2004-5, passed 5-11-2004)

§ 96.09 ENFORCEMENT.

The Chief of Police and all municipal law enforcement officers, or designates, properly trained in the use of the Type II sound level meter shall be responsible for the enforcement of the provisions of this chapter.

(2002 Code, § 35-10) (Ord. 2004-5, passed 5-11-2004)

§ 96.99 PENALTY.

Any person who violates the provisions of this chapter within the corporate limits of the municipality shall be guilty of a misdemeanor and upon conviction be subject to the following fines and costs:

(A) First offense: \$100 fine, plus costs;

(B) Second offense: \$250 fine, plus costs; and

(C) Third and subsequent offenses: \$500 fine, plus costs.

(2002 Code, § 35-11) (Ord. 2004-5, passed 5-11-2004)