

CHAPTER 45.

NOISE.

- Sec. 45-1. Declaration of policy; failure to conform declared public nuisance.
- Sec. 45-2. Definitions.
- Sec. 45-3. Decibel measurement criteria.
- Sec. 45-4. Noise performance standards.
- Sec. 45-5. Monitoring procedures.
- Sec. 45-6. Prohibited types of noise--Excessive noise.
- Sec. 45-7. Same--Sources of noise.
- Sec. 45-8. Same--Multiple family dwelling units.
- Sec. 45-9. Same--Schools, hospitals and churches; signs required.
- Sec. 45-10. Violations of chapter--Prima facie evidence.
- Sec. 45-11. Same--Penalty.
- Sec. 45-12. Same--Injunctions.
- Sec. 45-13. Enforcement of chapter; notice of intent to prosecute.

Sec. 45-1. Declaration of policy; failure to conform declared public nuisance.

In order to control unnecessary, excessive and annoying noises in the city, it is hereby declared to be the policy of the city to prohibit such noises generated from all sources as specified in this chapter.

It is determined that certain noise levels are detrimental to the public health, welfare and safety and contrary to public interest, and therefore the city council does ordain and declare that creating, maintaining, causing or allowing to be created or maintained, any noise in a manner prohibited by or not in conformity with the terms of this chapter, is a public nuisance and shall be punishable as such. (Ord. No. 317)

Sec. 45-2. Definitions.

The following words, phrases and terms, unless the context otherwise clearly indicates, shall have the meaning as indicated below:

"A" weighted sound level. The total sound level in decibels of all noise as measured with a sound level meter using the "A" weighting network or scale. The unit of measurement shall be defined as dBA.

Ambient noise level. The lowest sound level in dBA as determined by employing a sound level meter and excluding transient peak sound conditions during a specified sample period using a specific procedure.

Commercial purpose. The use, operation or maintenance of any sound amplifying equipment for the purpose of advertising any business, any goods or any services, or for the purpose of attracting the attention of the public to, advertising for or soliciting patronage or customers to or for any performance, show, entertainment, exhibition or event or for the purpose of demonstrating such sound equipment.

Decibel. A unit of level 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, vehicles or work. Any machinery, vehicle or work used, employed or performed in the efforts to protect, provide, prevent or restore safe conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.

Microbar. A unit of pressure commonly used in acoustics and equal to one dyne per square centimeter.

Motor vehicle. "Motor vehicle" shall include but not be limited to motorcycles, motor driven cycles, mini-bikes and go-carts, and shall include licensed vehicles while being operated upon any public highway, street or right-of-way.

Noise level. Sound level as defined in this chapter.

Noncommercial purpose. The use, operation or maintenance of any sound equipment for other than a commercial purpose. Noncommercial purpose shall mean and include, but shall not be limited to, philanthropic, political, patriotic and charitable purposes.

Period. "Period" of a periodic quantity shall mean the smallest increment of time for which the function repeats itself.

Periodic quantity. Oscillating quantity, the values of which recur for equal increments of time.

Person. A person, firm, association, copartnership, joint venture, corporation or any entity, public or private in nature.

Residential area. All parcels of real property zoned residential as shown on official zoning map of city.

Sound amplifying equipment. Including motor vehicles and motor vehicle equipment, means any machine or device, mobile or stationary, used for amplifying music, the human voice or any sound.

Sound level. The noise level in decibels as is the weighted sound pressure level obtained by using a sound level meter whose weighting characteristics are specified in the American National Standards Institute's (ANSI), standards S1-4-1961 for sound level meters with a reference pressure of 0.0002 microbars.

Sound level meter. An instrument, including an omnidirectional microphone, an amplifier and output meter, and meeting the ANSI standard S1-4-1961.

Sound truck. 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. (Ord. No. 317)

Sec. 45-3. Decibel measurement criteria.

Any decibel measurement made pursuant to the provisions of this chapter shall be based on a reference sound pressure of 0.0002 microbars as measured with a sound level meter using the "A" weighted network. (Ord. No. 317)

Sec. 45-4. Noise performance standards.

The following noise standards, unless otherwise specifically indicated, shall apply to all property within their assigned noise zones and such standards shall constitute the maximum permissible noise level within the respective zones.

NOISE STANDARD

<u>Noise Zone</u>	<u>Day (maximum)</u>	<u>Night (maximum)</u>
	<u>6:00 a.m. to 10:00 p.m.</u>	<u>10:00 p.m. to 6:00 a.m.</u>
Industrial and Commercial	82 decibels	77 decibels
R1 and R2	62	57
R3 and R4	67	62

(Ord. No. 317)

Sec. 45-5. Monitoring procedures.

The following procedures shall be employed for monitoring and evaluating exterior noise nuisances in the community, unless otherwise specified in this chapter.

- (a) The evaluation shall be conducted any time of the day or night when the suspect noise source is being operated.
- (b) The location selected for monitoring shall be on any residential property adjoining the suspect property at a point approximately ten feet from any building, wall or obstruction such as trees, bushes, etc., or on any property line, provided there are no walls, buildings or obstructions within ten feet of the sampling location.
- (c) The sound level meter shall be equipped with an omnidirectional microphone.
- (d) No individual other than the operator shall be within ten feet of the sound level meter during the sample period.
- (e) The ambient noise level shall be determined with the noise source not in operation prior to or after a measurement to determine a violation. The ambient noise level shall be determined as follows:
 - (1) Allow time for the sound level meter to up.
 - (2) Calibrate the sound level meter in accordance with the manufacturer's instructions.
 - (3) Set the sound level meter on the "A" weighted network at slow response.

- (4) Without the noise source in operation, set the microphone in a vertical position with the microphone head approximately four feet above the ground. The operator shall face the noise source and record the meter's instantaneous response or reading observed at fifteen second intervals for a period of fifteen minutes. The lowest reading is interpreted as the ambient noise level of that sampling point. If this reading is at any level above the standard set for the noise zone, steps must be taken to determine the source or sources of the intruding high level noise followed by appropriate control action before continuing the survey. If the reading is equal to or below the standard, continue the survey.
- (f) With the noise source in operation, the operator shall again record the instantaneous response at fifteen second intervals for a fifteen minute period. Or, for a noise source of less than fifteen minutes, the operator shall record the instantaneous response at fifteen second intervals for the time the noise source is in operation. The lowest response level recorded while the noise source is in operation is interpreted as the intruding noise level.
- (g) Apply the noise corrective factors as set forth in section 45-4 to the noise standard established for the specific noise zone.
- (h) Compare the intruding noise levels with the standard. If the noise level generated from the noise source exceeds the standard, the noise source is generating noise levels in excess of the allowable standards set for the noise zone. (Ord. No. 317)

Sec. 45-6. Prohibited types of noise--Excessive noise.

It shall be unlawful for any person from any location within the city, including commercial, agricultural and industrial zoned property, to create, maintain, cause or allow to be created or maintained, any noise or sound upon any property within the city, which exceeds the noise standards as specified in section 45-4 as measured in accordance with procedures specified in section 45-5, unless the noise or sound source or sound is specifically exempted in this chapter. (Ord. No. 317)

Sec. 45-7. Same--Sources of noise.

The provisions of this chapter shall apply to, but shall not be limited to, the control, use and operation of the following noise sources whose use, operation, work, employment or other action creates, maintains, permits or causes to be created or maintained, any excessive, unnecessary, unwanted or annoying noise, sound, cry or behavior which exceeds the noise standards as set forth in section 45-4, unless specifically exempted.

- (a) Radios, televisions, musical instruments, drums or other percussion instruments, tape recorders, sound trucks or vehicles, whether mobile or stationary, public address systems, loudspeakers, bull horns, sound equipment or other devices or machines used for producing, reproduction or amplification of music, instructions, talks, speeches, addresses or lectures, or for attracting attention by persons selling merchandise, food or beverage or other similar purposes.
- (1) No person shall operate a loudspeaker or sound amplifying equipment for the purpose of transmitting sound to any assemblage of persons in the city without first filing a registration statement and obtaining approval from the city manager, and as otherwise required by chapter 37 of this Code as related to sound and advertising vehicles.
- (2) Exemption: Subsection (a) of this section shall not apply to school bands or duly licensed parades or other events authorized in paragraph (a) (1) of this section.

- (b) Hawkers, peddlers, catering vehicles, pushcart vendors or other similar operators who sell merchandise, food or beverages by personal outcry or mechanical or electrical devices.

Exemption: The provisions of this subsection shall not be construed to prohibit the selling of merchandise, food and beverage by outcry at licensed public sporting events, parades, fairs, circuses or other authorized similar public entertainment events.

- (c) Air conditioning units, refrigeration equipment, fans, blowers, pumps, engines, turbines, compressors, generators, saws, grinders, motors or other similar devices, equipment or apparatus.

Exemption: Any mechanical device, apparatus or equipment used, related to or connected with emergency work, machinery or vehicle operation defined as emergency machinery, vehicle or work shall be exempted from the requirements of this chapter.

- (d) Construction equipment or work including but not limited to the operation, use or employment of pile drivers, hammers, saws, steam shovels, pneumatic hammers, drills, derricks, steam or electric hoists, motorized mechanical equipment or other similar construction equipment.

(1) Exemption: Construction, repair or remodeling equipment and devices and other related construction noise sources shall be exempted from the provisions of this chapter provided a permit for such construction, repair or remodeling shall have been obtained for such construction, repair or remodeling from the building department of the city and the construction, repair or remodeling does not take place between the hours of 8:00 P.M. and 7:00 A.M.

(2) Exemption: Any construction, repair or remodeling necessary as defined as emergency work, machinery or vehicles. (Ord. No. 317)

Sec. 45-8. Same--Multiple family dwelling units.

Notwithstanding other sections of this chapter, it shall be unlawful for any person to create, maintain or cause to be created or maintained, any noise within the interior of any multiple family dwelling unit which exceeds 55 dBA as measured. In any adjoining dwelling unit between the hours of 10:00 P.M. and 6:00 A.M. (Ord. No. 317)

Sec. 45-9. Same--Schools, hospitals and churches; signs required.

It shall be unlawful for any person to create, maintain or cause to be created or maintained, any noise or sound upon any school, hospital or church while the same is in use, which exceeds the noise standards as specified in section 45-4 for the assigned noise zone in which the school, hospital or church is located, or which noise level unreasonably interferes with the working of such installations or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in three separate locations within one-tenth of a mile indicating the presence of a school, church or hospital. (Ord. No. 317)

Sec. 45-10. Violations of chapter--prima facie evidence.

Any noise exceeding the noise levels for specific noise zones as specified in section 45-4 and as measured as specified in section 45-5, or noise levels exceeding the standard as specified in section 45-8, shall be deemed to be prima facie evidence of a violation of the provisions of this chapter. (Ord. No. 317)

Sec. 45-11. Same--Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars or be imprisoned in the county jail for a period not exceeding six months or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. (Ord. No. 317)

Sec. 45-12. Same--Injunctions.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this chapter, which operation or maintenance causes or creates noise levels exceeding the noise levels as specified in this chapter, shall be deemed and 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. (Ord. No. 317)

Sec. 45-13. Enforcement of chapter; notice of intent to prosecute.

The director of ordinance enforcement or his duly authorized representatives are hereby empowered, and it shall be their duty, to enforce all provisions of this chapter.

No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of this duty.

Violation of this chapter shall be prosecuted in the same manner as other misdemeanor violations of the city's Code; provided, however, that in the event of violation of sections 45-7 (b) and 45-7 (c) of this chapter, a written notice of intention to prosecute will be given the alleged violator not less than three calendar days prior to the issuance of a misdemeanor complaint. No complaint shall be issued in the event the cause of violation is removed or the condition abated or fully corrected within such three day period. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the three day period shall commence at the date of the day following the mailing of such notice. (Ord. No. 317)

(Ord. No. 317)