

The Environmental Protection Agency's Model Community Noise Control Ordinance

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ARTICLE I Short Title

This ordinance may be cited as the "Noise Control Ordinance of the (City/County) of _____"

ARTICLE II Declarations of Findings and Policy & Scope

2.1 Declaration of Findings and Policy
 WHEREAS excessive sound and vibration are a serious hazard to the public health and welfare, safety, and the quality of life: and WHEREAS a substantial body of science and technology exists by which excessive sound and vibration may be substantially abated: and, WHEREAS the people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or welfare or safely or degrade the quality of life: and NOW, THEREFORE, it is the policy of the (City/County) of _____ to prevent excessive sound and vibration which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

2.2 Scope
 This ordinance shall apply to the control of all sound and vibration originating within the limits of the (City/County) of _____

ARTICLE III Definitions

- 3.1 Terminology**
 All terminology used in this ordinance not defined below, shall be in conformance with applicable publications of the American National Standards institute (ANSI) or its successor body.
- 3.2.1 "A-Weighted Sound Level" Means**
 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.
- 3.2.2 "Commercial Area" Means**
 [(As defined in the community (comprehensive plan)/ (zoning ordinance)].
- 3.2.3 "Construction" Means**
 Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.
- 3.2.4 "Day-Night Average Sound Level (L_{dn})" Means**
 The 24-hour energy average of the A-weighted sound pressure level, with the levels during the period 10:00 p.m. to 7:00 a.m. the following day increased by 10 dBA before averaging.
- 3.2.5 "Decibel (dB)" Means**
 A unit for measuring the volume of a sound, equal to 20 times (the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
- 3.2.6 "Demolition" Means**
 Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.
- 3.2.7 "Emergency" Means**
 Any occurrence or set or circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- 3.2.8 "Emergency Work" Means**
 Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- 3.2.9 " Noise Control Officer" Means**
 The municipal agency or department having lead responsibility for this ordinance. (If no such agency is designated, the term shall mean the municipal official having lead responsibility for this ordinance.)
- 3.2.10 "Equivalent A-Weighted Sound Level (L_{eq})" Means**
 The constant sound level that in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. [For the purposes of this ordinance, a time period of 24

hours shall be used, unless otherwise specified.]

3.2.11 “Gross Vehicle Weight Rating (GVWR) Means

The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWH), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle shall be used.

3.2.12 “Impulsive Sound” Means

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

3.2.13 “Industrial Area” Means

[(As defined in the community (comprehensive plan)/ (zoning ordinance)].

3.2.14 “Motor Carrier Vehicle Engaged in Interstate Commerce” Means

Any **** for which regulations **** pursuant to Section 18 of the Federal Noise Control Act of 1972(P.L. 72-***), as amended, pertaining to motor carriers engaged in interstate commerce.

3.2.15 “Motor Vehicle” Means

As defined in the motor vehicle code of this state. [Any vehicle which is propelled or drawn on land by a motor, such is, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, amphibious craft on land, **** **, or racing vehicles, but **** ** motorcycles.]

3.2.16 “Motorboat” Means

Any vessel which operates on water and **** is propelled by a motor, including but not limited to, boats, barges, amphibious craft, water ski **** devices and hover craft.

3.2.17 “Motorcycle” Means

As defined in the motor vehicle code of this state. [An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including but not limited to, motor scooters and mini-bikes.]

3.2.18 “Muffler or Sound Dissipative Device” Means

A device for abating sound of escaping gases of an internal combustion engine.

3.2.19 “Noise” Means

Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

3.2.20 “Noise Disturbance” Means

Any sound which (a) endangers or **** 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.

3.2.21 “Noise Sensitive Zone” Means

Any area designated pursuant to Section **** of this ordinance for the purpose of ensuring exceptional quiet.

3.2.22 “Person” Means

Any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a State or any political subdivision of a State.

3.2.23 “Powered Model Vehicle” Means

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

3.2.24 “Public Right-of-Way” Means

Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

3.2.25 “Public Space” Means

Any real property or structures thereon which are owned or controlled by a governmental entity.

3.2.26 “Pure Tone” Means

Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this ordinance, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

3.2.27 “Real Property Boundary” Means

An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

3.2.28 “Residential Area” Means

[(As defined in the community (comprehensive plan)/ (zoning ordinance)].

3.2.29 “RMS Sound Pressure” Means

The square root of the time averaged square of the sound pressure, denoted P_{rms}

3.2.30 “Sound” Means

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

3.2.31 “Sound Level” Means

The weighted sound pressure level obtained by the use of a sound level meter and frequency-weighting

network, such as A or C, as specified in the 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.

3.2.32 “Sound Level Meter” Means

An instrument which includes a microphone, amplifier, RMS detector, integrator or time averaging device, output meter, and weighting networks used to measure sound pressure levels.

3.2.33 “Sound Pressure” Means

The instantaneous difference between the actual pressure and the average or barometric pressure of a given point in space, as produced by sound energy.

3.2.34 “Sound Pressure Level” Means

20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20x10⁻⁶N/m). The sound pressure level is denoted L_p, or SPL and is expressed in decibels.

3.2.35 “Vibration” Means

An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

3.2.36 "Weekday" Means

Any day Monday through Friday which is not a legal holiday.

ARTICLE IV Powers and Duties of the Noise Control Officer (NCO)

4.1 Lead (Agency/Official)

The noise control program established by this ordinance shall be administered by (title of municipal agency or lead official).

4.2 Powers of the Noise Control Officer (NCO)

In order to implement and enforce this ordinance and for the general purpose of sound and vibration abatement and control, the NCO shall have, in addition to any other authority vested in it, the power to:

4.2.1 Studies

Conduct, or cause to be conducted, research, monitoring, and other studies related to sound and vibration.

4.2.2 Education

(a) Conduct programs of public education regarding:
(1) the causes, effects and general methods of abatement and control of noise and vibration; and
(2) the actions prohibited by this ordinance and the procedures for reporting violations; and
(b) encourage the participation of public interest groups in related public information efforts.

4.2.3 Coordination and Cooperation

(a) Coordinate the noise and vibration control activities of all municipal departments;
(b) Cooperate to the extent practicable with all appropriate State and Federal agencies;
(c) Cooperate or combine to the extent practicable with appropriate county and municipal agencies; and
(d) Enter into contracts [with the approval of the (appropriate authority)] for the provision of technical and enforcement services.

4.2.4 Review of Actions of Other Departments

Request any other department or agency responsible for any proposed or final standard, regulation or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this ordinance.

4.2.5 Review of Public and Private Projects

Review public and private projects, subject to mandatory review or approval by other departments, for compliance with this ordinance, if such projects are likely to cause sound or vibration in violation of this ordinance.

4.2.6 Inspections

(a) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this ordinance may exist. Such inspection may include administration of any necessary tests.
(b) Stop any motor vehicle, motorcycle, or motorboat operated on a public right-of-way, public space, or public waterway reasonably suspected of violating any provision of this ordinance, and issue a notice of violation or abatement order which may require the motor vehicle, motorcycle or motorboat to be inspected or tested as the Noise Control Officer may reasonably require.]

4.2.7 Records

Require the owner or operator of any commercial or industrial activity to establish and maintain records and make such reports as the NCO may reasonably prescribe.

4.2.8 Measurements by the Owner or Operator

Require the owner or operator of any commercial or industrial activity to measure the sound level of or the vibration from any source in accordance with the [published] methods and procedures and at such locations and times as the NCO may reasonably prescribe and to furnish reports of the results of such measurements to the NCO. The NCO may require the measurements to be conducted in the presence of its enforcement officials.

- 4.2.9 Product Performance Standard Recommendations**
(a) Develop and recommend for promulgation (to the appropriate authority) provisions regulating the use and operation of any product, including the specification of maximum allowable sound emission levels of such product.
(b) Develop and recommend for promulgation (to the appropriate authority) provisions prohibiting the sale of products which do not meet specified sound emission levels, where the sound level of the product is not regulated by the United States Environmental Protection Agency under Section 6 of the Noise Control Act of 1972.]
- 4.2.10 Noise Sensitive Zone Recommendations**
 Prepare recommendations, to be approved by (the appropriate authority), for the designation of noise sensitive zones which contain noise sensitive activities. Existing quiet zones shall be considered noise sensitive zones until otherwise designated. Noise sensitive activities include, but are not limited to, operations of schools, libraries open to the public, churches, hospitals, and nursing homes.
- 4.3 Duties of Noise Control Officer (NCO)**
 In order to implement and enforce this ordinance effectively, the NCO shall within a reasonable time after the effective date of the ordinance:
- 4.3.1 Standards, Testing Methods, and Procedures**
 Develop, [recommend to the appropriate authority.] and promulgate standards, testing methods and procedures.
- 4.3.2 Investigate and Pursue Violations**
 In consonance with Section 4.2.6, Article XI, and other provisions of this ordinance, investigate and pursue possible violations of this ordinance.
- 4.3.3 Delegation of Authority**
 Delegate functions, where appropriate under this ordinance, to personnel within the NCO and to other agencies or departments, (subject to approval of).
- 4.3.4 Truck Routes and Transportation Planning**
(a) Study the existing transportation systems, such as truck routes within the community; determine areas with sensitivity to sound and vibration caused by transportation; recommend changes or modifications to transportation systems to minimize the sound and vibration impact on residential areas and noise sensitive zones
(b) Assist in or review the total transportation planning of the community, including planning for new roads and highways, bus routes, airports, and other systems for public transportation, to ensure that the impact of sound and vibration receives adequate consideration.
- 4.3.5 Capital Improvement Guidelines**
 Establish noise assessment guidelines for the evaluation of proposed improvements for the capital improvements budget and program pursuant to Section 5.5. These guidelines shall assist in the

determination of the relative priority of each improvement in terms of noise impact.

- 4.3.6 State and Federal Laws and Regulations**
(a) Prepare and publish [with the approval of] a list of those products manufactured to meet specified noise emission limits under Federal, State, or community law for which "tampering" enforcement will be conducted; and.
(b) Make recommendations for modifications or amendments to this ordinance to ensure consistency with all State and Federal law; and regulations.
- 4.3.7 Planning to Achieve Long Term Noise Goals**
 [Develop a generalized sound level map of the (city/county), a long term plan for achieving quiet in the (city/county), and [with the approval of] integrate this plan into the planning process of the (city/county).]
- 4.3.8 Administer Grants, Funds and Gifts**
 Administer noise program grants and other funds and gifts from public and private sources, including the State and Federal governments.
- 4.3.9 Periodic Report**
 [Evaluate and report, every year(s) following the effective date of this ordinance, on the effectiveness of the (city/county) noise control program and make recommendations for any legislative or budgetary changes necessary to improve the program. This report shall be made to the (Noise Control Advisory Board)/ (appropriate authority) which may amend it after consultation with the NCO, and then submit it to the (appropriate authority), for approval.]

ARTICLE V Duties and Responsibilities of Other Departments

- 5.1 Departmental Actions**
 All departments and agencies shall, to the fullest extent consistent with other law, carry out their programs in such a manner as to further the policy of this ordinance.
- 5.2 Departmental Cooperation**
 All departments and agencies shall cooperate with the NCO to the fullest extent in enforcing this ordinance.
- 5.3 Departmental Compliance with Other Laws**
 All departments and agencies shall comply with Federal and State laws and regulations and the provisions and intent of this ordinance respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.
- 5.4 Project Approval**
 All departments whose duty it is to review and approve new projects or changes to existing projects that result, or may result, in the production of sound or vibration shall consult with the NCO prior to any such approval.

5.5 Contracts
Any written contract, agreement, purchase order, or other instrument whereby the (city/county) a committed to the expenditure of dollars or more in return for goods or services shall contain provisions requiring compliance with this ordinance.

5.6 Low Noise Emission Products
Any product which has been certified by the Administrator of the United States Environmental Protection Agency pursuant to Section 15 of the Noise Control Act as a low noise emission product and which he determines is suitable for use as a substitute, shall be procured by the city/county and used in preference to any other product, provided that such certified product is reasonably available and has a procurement cost which is not more than (125) percent of the least expensive type of product for which it is certified as a substitute.

5.7 Capital Improvement Program
All departments responsible for a capital improvements budget and program shall prepare an analysis of the noise impact of any proposed improvements in accordance with noise assessment guidelines established by the NCO pursuant to Section 4.3.5. Proposed capital improvements include land acquisition, building construction, highway improvements, and utilities and fixed equipment installation.

ARTICLE VI Prohibited Acts

6.1 Noise Disturbances Prohibited
No person shall unreasonably make, continue, or cause to be made, or continued, any noise disturbance. Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this Section.

6.2 Specific Prohibitions
The following acts, and the causing thereof, are declared to be in violation of this ordinance:

6.2.1 Radios, Television Sets, Musical Instruments and, Similar Devices
Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:
(a) Between the hours ofp.m. and a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone. [Except for activities open to the public and for which a permit has been issued by (appropriate authority) according to criteria set forth in];
(b) In such a manner as to create a noise disturbance at 50 feet (15 meters) from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public

waters, or;
(c) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;
(d) This section shall not apply to non-commercial spoken language covered under Section 6.2.2.

6.2.2 Loudspeakers/Public Address Systems
(a) Using or operating for any non-commercial purpose any loudspeaker public address system, or similar device between the hours of 10:00 p.m. and 8:00 a.m. the following day, such that the sound there from creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(b) Using or operating for any commercial purpose any loudspeaker, public address system, or similar device **** such that the sound there from creates a noise disturbance across a real property boundary or within a noise sensitive zone: or (2) between the hours of p.m. and a.m. the following day on a public right-of-way or public space.

6.2.3 Street Sales
Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the **** county (except by permit issued by (appropriate authority) according to criteria set forth in and/or except between the hours of ... a.m. and p-m].

6.2.4 Animals and Birds
Owning possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, **** squawks, or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone. [This provision shall not apply to public zoos.]

6.2.5 Loading and Unloading
Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of p.m. and a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

6.2.6 Construction
Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:
(a) Between the hours of p.m. and a.m. the following day on weekdays or at any time on (Sundays/weekends) or holidays, such that the sound there from creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities or by special variance issued pursuant to Section 7.2;
(b) At any other time such that the sound level at or across a real property boundary exceeds an L_{eq} of dBA for the daily period of operation.
(c) This section shall not apply to the use of domestic power tools subject to Section 6.2.17.

6.2.7 Vehicle or Motorboat Repairs and Testing
Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

6.2.8 Airport and Aircraft Operations
(a) The NCO shall consult with the airport proprietor to recommend changes in airport operations to minimize any noise disturbance which the airport owner may have authority to control in its capacity as proprietor.
(b) Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft which are in all respects, conducted in accordance with, or pursuant to applicable Federal Laws or regulations.

6.2.9 Places of Public Entertainment
Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, slating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."

6.2.10 Explosives, Firearms, and Similar Devices
The use or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way, without first obtaining a special variance issued pursuant to Section 7.2. [Such permit need not be obtained for licensed game-hunting activities on property where such activities are authorized.]

6.2.11 Powered Model Vehicles
Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of p.m. and a.m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in Table 1 of Section 8.1 and shall be measured at a distance of feet (meters) from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by Section 8.1 and Section 6.2.16, respectively.

6.2.12 Vibration
Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond

the property of the source if on private property or at feet (meters) from the source if on a public space or public right-of-way. For the purposes of this section, "vibration perception threshold" means the minimum ground or structure-borne vibratory motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to sensation by touch or usual observation of moving objects.

6.2.13 Stationary Non-Emergency Signaling Devices
(a) Sounding or permitting the sounding of any [electronically-amplified] signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place, (for more than minutes in any hourly period.)
(b) Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision.]
(c) Sound sources covered by this provision and not exempted under subsection (b) shall be exempted by (appropriate authority) using criteria set forth in Section 7.2.]

6.2.14 Emergency Signaling Devices
(a) The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in Subsection **(b)**.
(b)(i) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before a.m. or after p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed seconds.
(b)(ii) 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 not occur before a.m. or after p.m. The time limit specified in subsection (i) shall not apply to such complete system testing.
(c) 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 minutes of activation. [This action shall not be interpreted to apply to alarms.]

6.2.15 Motorboats
Operating or permitting the operation of any motorboat in any lake, river, stream, or other waterway in such manner as to exceed a sound level of dBA at 50 feet (15 meters) or the nearest shoreline, whichever distance is less.

6.2.16 Noise Sensitive Zones
(a) Creating or causing the creation of any sound within any noise sensitive zone designated pursuant to Section 4.2.10, so as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the

presence of the zone; or

(b) Creating or causing the creation of any sound within any noise sensitive zone, designated pursuant to Section 4.2.10, containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.

6.2.17 Domestic Power Tools

Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snow blower, or similar device used outdoors in residential areas between the hours of p.m. and a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

6.2.18 Tampering

The following acts or the causing thereof are prohibited:

(a) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any noise control device or element of design or noise label of any product identified under Section 4.3.6. The NCO may, by regulation, list those acts which constitute violation of this provision.

[(b) The (intentional) moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the NCO, provided such device or the immediate area is clearly labeled, in accordance with NCO regulations, to warn of the potential illegality.]

(c) The use of a product, identified under Section 4.3.6, which has had a noise control device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

ARTICLE VII Exceptions and Variances

7.1 Emergency Exception

The provisions of this ordinance shall not apply to:
(a) the emission of sound for the purpose of alerting persons to the existence of an emergency, or
(b) the emission of sound in the performance of emergency work

7.2 Special Variances

(a) The (NCO)/(Hearing Board) shall have the authority, consistent with this section, to grant special variances which may be requested pursuant to Sections 6.2.6 (Construction) and 6.2.10 (Explosives, Firearms, and Similar Devices).
(b) Any person seeking a special variance pursuant to this section shall file an application with the (NCO)/(Hearing Board). The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this ordinance would constitute an unreasonable hardship on the applicant, on the community, or on other persons. [Notice of an application for a special

variance shall be published according to (Jurisdictional procedure).] Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the (NCO)/(Hearing Board) containing any information to support his claim. If the (NCO)/(Hearing Board) finds that a sufficient controversy exists regarding an application, a public hearing may be held.

(c) In determining whether to grant or deny the application, the (NCO)/(Hearing Board) shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the (NCO)/(Hearing board) may reasonably require. In granting or denying an application, the (NCO)/(Hearing Board) shall place on public file a copy of the decision and the reasons for denying or granting the special variance.

(d) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant.

Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this ordinance regulating the source of sound or activity for which the special variance was granted, including enforcement actions.

(e) Application for extension of time limit specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under subsection (b).

(f) The (NCO)/(Hearing Board) may issue guidelines [approved by] defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

7.3 Variances for Time to Comply

(a) Within days following the effective date of this ordinance, the owner of any commercial or industrial source of sound may apply to the (NCO)/(Hearing Board) for a variance in time to comply with Section 6.2.12 (Vibration) or Article VIII. The (NCO)/(Hearing Board) shall have the authority, consistent with this section, to grant a variance, not to exceed days from the effective date of this ordinance.

(b) Any person seeking a variance in time to comply shall file an application with the (NCO)/(Hearing Board). The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this ordinance prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons. [Notice of an application for a variance in time to comply shall be published

according to (jurisdictional procedure).] Any individual who claims to be adversely affected by allowance of the variance in time to comply may file a statement with the (NCO)/(Hearing Board) containing any information to support their claim. If the (NCO)/(Hearing Board) finds that a sufficient controversy exists regarding an application, a public hearing may be held.

(c) In determining whether to grant or deny the application, the (NCO)/(Hearing Board) shall balance the hardship to the applicant, the community, and other persons of not granting the variance in time to comply, against the adverse impact on health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the variance. Applicants for variances in time to comply and persons contesting variances may be required to submit any information the (NCO)/(Hearing Board) may reasonably require. In granting or denying an application, the (NCO)/(Hearing Board) shall place on public file a copy of the decision and the reasons for denying or granting the variance in time to comply.

(d) Variances in time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The variance in time to comply shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this ordinance for which the variance was granted.

(e) Application for extension of time limits specified in variances in time to comply or for modification of other substantial conditions shall be treated like applications for initial variances under subsection (b), except that the (NCO)/(Hearing Board) must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

(f) The (NCO)/(Hearing Board) may issue guidelines [approved by] defining the procedures to be followed in applying for a variance in time to comply and the criteria to be considered in deciding whether to grant a variance.

7.4 Appeals

Appeals of an adverse decision of the (NCO)/(Hearing Board) shall be made to the (appropriate court of law). Review of the court shall be (de novo)/ (limited to whether the decision is supported by substantial evidence)/(as specified by the).

ARTICLE VIII Sound Levels by Receiving Land Use

8.1 Maximum Permissible Sound Levels

No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the property boundary of the receiving land use.

TABLE 1
SOUND LEVELS BY RECEIVING LAND USE

Receiving Land Use Category	Time	Sound Level Limit (dBA)
R-1, R-2, etc.	(A) a.m. to (B) p.m.	L _{eq}
(Residential, Public Space, Open Space, Agricultural or Institutional)	(A) a.m. to (B) p.m.	L _{eq}
C-1, C-2, etc. B-1, B-2, etc. (Commercial or Business)	At All Times	L _{eq}
M-1, M-2, etc. (Industrial)	At All Times	L _{eq}

8.2 Correction for Character of Sound

For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in Section 8.1 shall be reduced by dBA.

8.3 Exemptions

The provisions of this article shall not apply to:

- (a) Activities covered by the following Sections: 6.2.6 (Construction), 6.2.8 (Aircraft and Airport Operations), 6.2.10 (Explosives, Firearms, and Similar Devices), 6.2.13 (Stationary Non-emergency Signaling Devices), 6.2.14 (Emergency Signaling Devices), 6.2.15 (Motorboats), 6.2.17 (Domestic Power Tools), 9.1.3 (Refuse Collection Vehicles), 9.2 (Recreational Motorized Vehicles Operating Off Public Rights-of-way);
- (b) the un-amplified human voice;
- (c) interstate railway locomotives and cars; and
- [(d) (non-stationary farming equipment)/(all agricultural activities)]

ARTICLE IX Motor Vehicle Maximum Sound Levels

9.1 Motor Vehicles and Motorcycles on Public Rights-of-way

No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table 2.

TABLE 2
MOTOR VEHICLE AND
MOTORCYCLE SOUND LIMITS
(MEASURED AT 50 FEET OR 15 METERS)

Vehicle Class	Sound Level Limit in dBA		
	Speed Limit 35 mph or Less	Over 35 mph	Stationary Run-up
Motor Carrier Vehicle engaged in interstate commerce of GVWR or GCWR of 10,000 lbs or more	86	90	88
All other motor vehicles of GVWR or GCWR of 10,000 lbs or more	A	B	-
Any Motorcycle	C	D	-
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	E	F	-

9.1.1 Adequate Mufflers or Sound Dissipative Devices

- (a) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation;
- (b) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle;
- (c) The NCO may, by (guidelines) (regulations subject to approval by), list those acts which constitute violation of this section.

9.1.2 Motor Vehicle Horns and Signaling Devices

The following acts and the causing thereof are declared to be in violation of this ordinance:

- (a) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except (as a warning of danger)/(as provided in the vehicle code).
- [(b) The sounding of any horn or other auditory signaling device which produces a sound level in excess of dBA at feet (meters).]

9.1.3 Refuse Collection Vehicles

No person shall;

- (a) On or after (2 years) following the effective date of this ordinance, operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse and which creates, during the compacting cycle, a sound level in excess of dBA when measured at feet (meters) from any point on the vehicle; or
- (b) Operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse, between the hours of p.m. and

..... a.m. the following day in a residential area or noise sensitive zone; or

- (c) Collect refuse with a refuse collection vehicle between the hours of p.m. and a.m. the following day in a residential area or noise sensitive zone.

9.1.4 Standing Motor Vehicles

No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within 150 feet (46 meters) of a residential area or designated noise sensitive zone. between the hours of p.m. and a.m. the following day.

9.2 Recreation Motorized Vehicles Operating Off Public Rights-of-way

(a) [Except as permitted in subsection (b) or (c),] no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted there from exceeds the limits set forth in Table 3 at a distance of 50 feet (15 meters) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats. [(b) Permits for new vehicle racing events may be obtained from the (appropriate authority) according to procedures and criteria set forth in] [(c) Special variances for may be obtained from. (appropriate authority) according to procedure and criteria set forth in]

TABLE 3
RECREATIONAL MOTORIZED
VEHICLE SOUND LIMITS
(MEASURED AT 50 FEET OR 15 METERS)

Vehicle Type	Sound Level, dBA
Snowmobile	A
Motorcycle	B
Any Other Vehicle	C

ARTICLE X Land Use

10.1 General Provisions

- (a) No owner of any land shall commence or cause to be commenced the construction of any structure covered by Sections 10.2. 10.3. 10.5 or 10.6 unless approved by the NCO as provided in this Article.
- (b) Any application for approval required by this Article shall be submitted in writing to the NCO,

with a copy to the (Building Department)/ (Appropriate Department), by the owner of the land on which the Structure is proposed to be constructed and shall contain the following information:

- (1) identification of the land on which the construction is proposed;
- (2) the section of this Article under which approval is requested;
- (3) information and data supporting the claim that the appropriate requirements will be met; and,
- (4) any other information which the NCO may reasonably require.

10.2 Construction Restrictions for Habitable and Institutional Structures

- (a) Except as provided in subsection (c), no new single family residential structure shall be approved for construction (excluding substantial repair or alteration) if the exterior day-night average sound level (L_{dn}) anywhere on the site of the proposed structure is projected to be in excess of dBA within years following the estimated completion date of the structure.
- (b) Except as provided in subsection (c), no new multiple-family residence, dormitory, mobile home park, transient lodging, school, hospital, nursing home or similar structure, or substantial modification of such existing structure, shall be approved for construction if the exterior day-night average sound level (L_{dn}) anywhere on the site of the proposed structure is projected to be in excess of dBA within years following the estimated completion date of the structure or modification.
- (c) Construction otherwise prohibited pursuant to subsections (a) or (b) shall be allowed if the exterior day-night average sound level (L_{dn}) on the site of the proposed structure is projected not to be in excess of dBA for years following construction, provided that there is incorporated into the design and construction of the structure such sound attenuation measures as are necessary to reduce the maximum interior day-night average sound level (L_{dn}) to dBA. Subsections (a) and (b) shall not apply to any site development plan or its equivalent on which four or fewer dwelling units are to be constructed.
- (d) Prior to issuance of any occupancy permit for any structure regulated pursuant to subsection (c), the owner of the structure shall submit for NCO review the report of an independent testing agency [approved by the NCO] certifying that sound attenuation measures have been properly incorporated into the design and construction of the structure and that the interior L_{dn} meets the criterion specified in subsection (c). Such report shall contain the results of simultaneous measurements of the exterior and interior day-night average sound levels for a representative sample of locations.
- (e) The NCO may conduct such inspections and measurements as are necessary to ensure the accuracy of any report submitted pursuant to subsection (d) and to ascertain compliance with this section. These may include on-site inspections by a certified independent testing agency during specified periods of construction.

10.3 Recreational Area Restrictions

- (a) Except as provided in subsections (b), (c), and (d) no land shall be designated or approved for construction or use as a public or private exterior recreational area, including, but not limited to, child playgrounds, outdoor theaters and amphitheaters, picnic grounds, tennis courts and swimming pools, if the exterior day-night average sound level (L_{dn}) anywhere on the site of the proposed recreational area is projected to be in the excess of dBA within years following the construction or designation of the site.
- (b) This section shall not apply to the designation or approval of any green belt or open space in any area in which the L_{dn} exceeds the level specified in subsection (a) regardless of whether such green belt or open space is open to public use, provided that no recreational improvement or facility is constructed thereon.
- (c) Designation or approval of exterior recreational areas otherwise prohibited under subsection (a) shall be allowed if the L_{dn} specified in that subsection can be achieved by appropriate means of sound attenuation, such as berms, barriers, or buildings, at the perimeter of or elsewhere on the site.
- (d) No new interior recreational facility, including, but not limited to, gymnasiums, ice or roller skating rinks, indoor swimming pools, and tennis courts, shall be approved for construction if the exterior day-night average sound level anywhere on the site is projected to be in excess of dBA within years following the estimated date of completion of the structure unless there is incorporated into the design and construction of the structure such sound attenuation measures as are necessary to reduce the maximum interior day-night average sound level (L_{dn}) to dBA.

10.4 Site Study Requirement

- (a) If the NCO has reason to believe that a full report is necessary to determine whether a proposed project is prohibited under Section 10.1 such report shall be made by the applicant prior to approval of any subdivision, zoning, or building permit application. (If a full report has not been made and the applicant believes the project was wrongfully prohibited under Section 10.1, he may file a full report within days of the NCO decision and request reconsideration by the NCO. A full report shall contain the following information and any other information which the NCO may reasonably require:
 - (1) the existing day-night average sound levels L_{dn} , including identification of the major sources of sound, for a representative sample of locations measured in accordance with guidelines published by the NCO;
 - (2) any projected or proposed new or expanded sources of sound which may affect exposure of the site during years following completion of the project and the projected future L_{dn} , at the site resulting from these new or expanded sources; and,
 - (3) where applicable, plans for sound attenuation measures on the site and/or of the structure proposed to be built and the amount of sound

attenuation anticipated as a result of these measures.
(b) In determining whether an applicant should be required to submit a full report pursuant to subsection (a), the EPO/NCO shall consider Circular 1390.2 (None Abatement and Control) and other publications of the U.S. Department of Housing and Urban Development.

10.5 Commercial and Industrial Construction

No new or substantially modified structure on land used or zoned as commercial or industrial shall be approved for construction unless the owner or developer of such land has demonstrated, in accordance with guidelines published by the NCO, that the completed structure and the activities associated with and on the same property as the structure, will comply with the provisions of Article VIII at the time for initial full-scale operation of such activities.

10.6 Sound From New Transportation Systems in Residential Areas or Noise Sensitive Zones

No plans for construction of new transportation systems or expansion of the capacity of existing transportation systems will be approved for location in or near residential areas or noise sensitive zones, regardless of the source of project funds, unless such plan includes all control measures necessary to ensure that the projected day-night average sound level (L_{dn}) due to the operation of the transportation system does not exceed dBA at any point on residential property within years after the expected completion of the project.

10.7 Equivalent Measurement Systems

For the purposes of this Article, all measurements and designations of sound levels shall be expressed in day-night average sound levels (L_{dn}) or in any other equivalent measurement system the NCO may reasonably approve.

10.8 Zoning Ordinance or Comprehensive Plan

(a) No proposed zoning ordinance or comprehensive plan shall be approved unless such plan includes a sound analysis which;
(1) identifies existing and projected noise sources and associated sound levels for years in and around the area under consideration, and
(2) ensures usage of adequate measures to avoid violation of any provision of this ordinance.
(b) No zoning change application shall be approved unless the site feasibility study submitted as required by the (Zoning Board of Appeals)/ (Planning Commission), contains an analysis which shows:
(1) the impact of existing and projected noise sources for years on the intended use, and
(2) the projected noise impact of the intended use, when completed, on surrounding areas. Such sites study shall ensure the use of adequate measures to avoid violation of any provision of this ordinance.

10.9 Truth in Selling or Renting

No person shall sell or rent, or cause to be sold or rented, any structure or property to be used for human habitation, where the structure or property is

exposed to sound levels regularly in excess of (an L_{eq} in any hour of dBA)/(an L_{dn} of dBA), without making full written disclosure to all potential buyers or renters of the existence of such sound levels and of the nature of the sources. The NCO shall develop a standard format for written disclosures, which shall include information on the effects of noise on human health and welfare.

10.10 Appeal

Any applicant may appeal an adverse decision by the NCO under the Article, in the (appropriate court of law), on the grounds that the NCO disapproval was arbitrary, capricious, or unreasonable.

Article XI Enforcement

11.1 Penalties

(a) Any person who violates any provision of this ordinance shall be fined for each offense not more than dollars.
(b) Any person who willfully or knowingly violates any provision of this ordinance shall be fined for each offense a sum of not less than dollars and not more than dollars.
(c) Each day of violation of any provision of this ordinance shall constitute a separate offense.

11.2 Abatement Orders

[(a) Except as provided in subsection (b) in lieu of issuing a notice of violation as provided for in Section 11.3, the NCO or other (agency/official) responsible for enforcement of any provision of this ordinance may issue an order requiring abatement of any source of sound or vibration alleged to be in violation of this ordinance within a reasonable time period and according to guidelines [to be approved by appropriate authority] which the NCO may prescribe.
(b) An abatement order shall not be issued:
(1) for any violation covered by Section 11.1 (b);
(2) for any violation of; or
(3) when the NCO or other enforcement (agency) / (official) has reason to believe that there will not be compliance with the abatement order.]

11.3 Notice of Violation

[Except where a person is acting in good faith to comply with an abatement order issued pursuant to Section 11.2 (a)], violation of any provision of this ordinance shall be cause for a (notice of violation)/ (summons)/(complaint)/(information or indictment) to be issued by the NCO or other responsible enforcement (agency official) according to procedures (which the NCO may prescribe)/ (set forth in).

11.4 Immediate Threats to Health and Welfare

(a) The NCO shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subsection (b), to continuous sound levels in excess of those shown in Table 4 or to impulsive sound levels in excess of those shown in Table 5. Within days following issuance of such an order, the NCO shall apply to the

appropriate court for an injunction to replace the order

(b) No order pursuant to subsection (a) shall be issued if the only persons exposed to sound levels in excess of those listed in Tables IV and V are exposed as a result of;

(1) trespass;

(2) invitation upon private property by the person causing or permitting the sound, or

(3) employment by the person or a contractor of the person causing or permitting the sound.

(c) Any person subject to an order issued pursuant to subsection (a) shall comply with such order until;

(1) the sound is brought into compliance with the order, as determined by the NCO, or

(2) a Judicial order has superseded the NCO order.

(d) Any person who violates an order issued pursuant to this section shall, for each day of violation, be fined not less than dollars nor more than dollars.

TABLE 4
CONTINUOUS SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE (Measured at 50 Feet or 15 Meters)¹

Sound Level Limit (dBA)	Duration
90	24 hours
93	12 hours
96	6 hours
99	3 hours
102	1.5 hours
103	45 minutes
108	22 minutes

¹ Use equal energy time-intensity trade-off if level varies; find energy equivalent over 24 hours.

TABLE 5
IMPULSIVE SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE (Measured at 50 Feet or 15 Meters)

Sound Level Limit (dBA)	Number of Repetitions per 24 Hour Period
145	1
135	10
125	100

11.5 Citizen Suits

(a) Any person, other than persons responsible for enforcement of this ordinance, may commence a civil action on his own behalf against:

(1) any person who is alleged to be in violation of any provision of this ordinance set forth in Table 6 below or

(2) the NCO where there is alleged a failure of the NCO to perform any act under this ordinance which is not discretionary. The court shall have Jurisdiction, without regard to the amount in

controversy, to grant such relief as it deems necessary.

(b) No action may be commenced:

(1) under Subsection (a)(1)

(A) prior to days after the plaintiff has given notice of the alleged violation to the NCO [and to the alleged violator] of such violation, or

(B) if the NCO has commenced and is diligently prosecuting an action against the alleged violator with respect to such violation, [but in such action any affected person may intervene as a matter of right], or

(2) under Subsection (a)(2), prior to days after the plaintiff has given notice to the NCO that he will commence such action. Notice under this subsection shall be given in a manner prescribed by the NCO.

(c) In any action under this section, the NCO, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a), may at its discretion award the costs of litigation to any party.

TABLE 6
Provisions Under Which Civil Actions May Be Commenced

6.2.1(a)	(Radios, Television Sets, Musical Instruments and Similar Devices)
6.2.2	(Loudspeakers/Public Address Systems)
6.2.3	(Street Sales)
6.2.5	(Loading and Unloading)
6.2.6	(Construction)
6.2.7	(Vehicle or Motorboat Repairs and Testing)
6.2.9	(Places of Public Entertainment)
6.2.10	(Explosives, Firearms, and Similar Devices)
6.2.11	(Powered Model Vehicles)
6.2.12	(Vibration)
[6.2.13	(Stationary, Non-Emergency Signaling Devices)
6.2.14	(Emergency Signaling Devices)
6.2.15	(Motorboats)
6.2.17	(Domestic Power Tools)
6.2.18	(Tampering)
8.1	(Maximum Permissible Sound Levels by Receiving Land Use)
9.1.3	(Refuse Collection Vehicles)
9.1.4	(Standing Motor Vehicles)
9.2(b)	(Motor Vehicle Racing Events)
9.2.1(b)	(Motor Vehicle Horns and Signaling Devices)
10.9	(Truth-in Selling or Renting)

11.6 Other Remedies

No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

11.7 Severability

If any provision of this ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

11.8 Effective Date

This law/ordinance shall take the effect on
.....