

Downey Municipal Code[Up](#) [Previous](#) [Next](#) [Main](#) [Collapse](#) [Search](#) [Print](#) [No Frames](#)[ARTICLE IV – PUBLIC WELFARE, MORALS, AND POLICY](#)**Chapter 6 – UNNECESSARY NOISES**

SECTION 4600. NOISES.

No person within the City shall make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise; nor shall any person race the motor of any motor vehicle, needlessly bring to a sudden start or stop any motor vehicle, or operate any motor vehicle (including any motorcycle, trail bike, dune buggy, motor scooter, or jeep) or the motor thereof on any place other than a highway so as to disturb the peace or quiet of any neighborhood or person by noise, dust, smoke, or fumes caused by such motor vehicle; nor shall any person make any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others. (Added by Ord. 214, adopted 12-10-62; amended by Ord. 390, adopted 2-8-71)

SECTION 4600.1. NOISES: PRIMA FACIE VIOLATIONS.

Any noise in excess of one hundred (100) decibels at a point twenty-five (25') feet or more from the source of the noise shall be deemed to be a prima facie violation of the provisions of Section 4600 of this chapter. (Added by Ord. 390, adopted 2-8-71)

SECTION 4600.2. NOISES: EQUIPMENT AND MACHINERY.

(a) No person shall use, operate, or permit to be used or operated within any R-1, R-2, or R-3 Zone, as defined in Chapter 1 of Article IX of this code, any power tool, machine, or equipment, or any other tool, machine, or equipment, between the hours of 10:00 p.m. and 7:00 a.m. in such a manner that the noise therefrom disturbs or interferes with the peace, comfort, or welfare of the neighboring inhabitants.

(b) No person shall use, operate, or permit to be used or operated within any commercial (C) or manufacturing (M) Zone, as defined in Chapter 1 of Article IX of this code, which is within three hundred (300') feet of a residential use, any power tool, machine, or equipment, or any other tool, machine, or equipment, between the hours of 10:00 p.m. and 7:00 a.m. in such a manner that the noise therefrom disturbs or interferes with the peace, comfort, or welfare of the neighboring residential inhabitants. (Added by Ord. 323, adopted 12-12-66; renumbered by Ord. 393, adopted 4-12-71; amended by Ord. 508, adopted 6-22-76; amended by Ord. 08-1225, adopted 2-12-08)

SECTION 4600.3. NOISES: MOTOR VEHICLES.

It shall be unlawful for any person within any residential area of the City of within one hundred (100') feet of any residentially zoned property, to repair, rebuild, or test any motor vehicle or operate or run the engine thereof in any manner to produce sounds which would disturb or interfere with the peace, comfort, or welfare of the neighboring inhabitants. For purposes of this section, the term “motor vehicles” shall include, but not be limited to, automobiles, trucks, recreation vehicles, off-road vehicles, mini-bikes, and go-carts. (Added by Ord. 778, adopted 12-18-84)

SECTION 4601. POLICE DEPARTMENT SECOND RESPONSE.

(a) Legislative findings and authorization. The City Council hereby finds that there exists and has existed an increasing trend toward large parties and gatherings both at rental facilities and private homes within the City of Downey. Said parties, on many occasions, disturb the public peace, safety, and welfare thereby requiring police services over and above those normally provided. Therefore, the Council hereby further finds that it is in the best

interest of the City as well as in fairness to its citizens to require those persons utilizing the additional police services to defray the City's expense for providing the same.

(b) Second response – Fee. When a party or gathering occurs at a premises and a police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the person in charge of the premises and the person responsible for the event, or if either of those persons is a minor, then the parents or guardians of that minor, will be held jointly and severally liable for the cost of providing police personnel on special security assignment over and above the services normally provided by the department. The police personnel utilized during a second response within twelve (12) hours after the first warning, to control the threat to the public peace, health, safety or general welfare, shall be deemed to be on special security assignment over and above the services normally provided. The costs of such special security assignment includes all personnel costs as well as damages to City property and/or injuries to City personnel. The City reserves the right to elect any other legal remedies available to it in connection with the matter.

(c) Accounting and billing procedures. Any and all personnel who may be deployed the City pursuant to this section shall be deemed to be on regular duty under the general supervision of the Chief of Police or the Chief of the Fire Department, and any officer in charge under their respective commands, and shall be entitled to any and all benefits provided by law or ordinance for such personnel as employees of the City, except that the rate of pay for such special security services shall be as set forth herein. The pay for each employee thus employed during such employment shall be at his or her actual rate of pay. The Chief of Police, or other department head, as the case may be, shall report to the Director of Finance the name of the person, firm, organization or corporation requiring such personnel, the names of the employees so employed and the number of hours of employment of each. The Director of Finance shall thereupon bill the person, firm, or corporation employing such personnel for the amount paid to each plus the cost of workers' compensation charges and other administrative costs. The minimum service fee shall be fifty dollars (\$50.00). Any failure of the person, firm or corporation billed for services of such personnel to make payment therefor shall constitute a debt due solely to the City. (Added by Ord. 967, adopted 8-24-93)

SECTION 4602. RADIOS, PHONOGRAPHS, AND THE LIKE.

No person shall use or operate, or permit to be played, used, or operated, when under his control or direction, any radio, receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto. No person shall use or operate, or permit to be used, operated, or played, while under his control any radio, receiving set, musical

instrument, phonograph, or other machine or device for the producing or reproducing of sound between the hours of 10:00 p.m. and 7:00 a.m. in such a manner that the sound therefrom is plainly audible at a distance of fifty (50') feet from the building, structure, or vehicle in which it is located. (Added by Ord. 96, adopted 5-26-58; amended by Ord. 508, adopted 6-22-76)

SECTION 4603. LOUDSPEAKERS AND AMPLIFIERS FOR ADVERTISING.

No person shall use or operate, or permit to be played, used, or operated, while under his/her control, any radio, receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets. (Added by Ord. 96, adopted 5-26-58; amended by Ord. 1098, adopted 4-24-01)

SECTION 4604. OUTDOOR PAGING SYSTEMS.

- (a) For the purposes of this section, “outdoor paging system” shall mean any sound amplifying system used in connection with any place of business for which a business license is required and used for the purpose of calling, paging, or communicating with any person outside of any building or enclosure.
- (b) No person shall install, maintain, or operate any outdoor paging system without a permit therefor first having been issued by the City in accordance with rules and procedures as promulgated by the City Manager.
- (c) No permit shall be issued for an outdoor paging system which is capable of producing a sound level of five (5) decibels “A” scale db(A) above the ambient sound level at the property line of adjacent property.
- No speaker having a rated output in excess of that allowed by the permit shall be installed or used, and in no case shall the sound amplifying equipment be operated with an excess of fifteen (15) watts of power in the last stage of amplification.
- (d) No outdoor paging system shall be operated between the hours of 9:30 p.m. and 8:00 a.m. of the next succeeding day if the sound therefrom is audible upon residential property.
- (e) No outdoor paging system shall be used in such a manner as to create a sound upon any residential property at any time, which sound is of such tone or volume as to be annoying or disturbing to persons of normal sensibility upon any residential property.
- (f) Any permit issued pursuant to the provisions of this section may be revoked by the appropriate City department or office as set forth in the rules and procedures providing for the issuance of such permit upon the satisfactory showing that such outdoor paging system is being used and operated in violation of the provisions of any law or is being used in such a manner as to constitute a nuisance, public or private. Such revocation shall be by delivering a notice of revocation, with the reasons therefor, to the person applying for the permit in person or by mailing such notice to the address of the applicant as set forth in his application. Such revocation shall be effective within five (5) days following the date of delivery or the date of mailing, unless within such period of time the applicant files with the City Manager a demand for a hearing.

If such a demand for a hearing is filed, the City Manager shall set the matter for a hearing before him and, at the conclusion of such hearing, shall make his determination as to whether there was good cause for the revocation, and the decision of the City Manager shall be final. (Added by Ord. 423, adopted 7-25-72)

SECTION 4605. ANIMALS, BIRDS, AND FOWL.

No person shall keep, maintain, or permit upon any lot or parcel of land under his control any dog, animal, or fowl which by any sound, bark, or cry disturbs the peace or comfort of the neighboring inhabitants or interferes with any person for the reasonable and comfortable enjoyment of life and property. (Added by Ord. 96, adopted 5-26-58; renumbered by Ord. 423, adopted 7-25-72)

SECTION 4606. NOISE REGULATIONS.

(Added by Ord. 508, adopted 6-22-76)

SECTION 4606.1. DECLARATION OF POLICY.

The Council finds and declares that noise is a major source of environmental pollution which represents a threat to the

serenity and quality of life in the City. Excess noise often has an adverse physiological and psychological effect on human beings, thus contributing an economic and social loss to the community. Accordingly, it is the policy of the Council to establish standards for noise level limits for the various time periods and areas within the City. Noise in excess of the limits provided in this chapter shall constitute a public nuisance. (Added by Ord. 508, adopted 6-22-76)

SECTION 4606.2. DEFINITIONS.

As used in this chapter, unless the context otherwise clearly indicates, the following words and phrases are defined to mean and include:

- (a) “A-weighted sound level”. The total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of twenty (20) microPascals per square meter using the A-weighted network (scale at slow response). The unit of measurement shall be defined as db(A).
- (b) “Ambient noise”. The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.
- (c) “Commercial land use”. A parcel of real property which is developed and used, either in part or in whole, for commercial purposes.
- (d) “Cyclically varying noise”. A steady or nonsteady noise which varies in amplitude, while the same sound pressure level is obtained at reasonable uniform intervals of time.
- (e) “Decibel”. A unit which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio of two (2) amounts of power is ten (10) times the logarithm to the base ten (10) of this ratio.
- (f) “Impulsive noise”. A noise that is repeated at sufficiently slow rates such that a sound level meter set at “fast” meter response will show changes in sound pressure level greater than 100 db(A).
- (g) “Manufacturing land use”. A parcel of real property which is developed and used, either in part or in whole, for manufacturing purposes.
- (h) “Noise level”. The maximum continuous sound level or repetitive peak level produced by a source or group of sources, as measured with a precision sound level meter, using the A-weighting scale, and with the meter response function set at “slow”.
- (i) “Person”. An individual, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.
- (j) “Property boundary”. An imaginary line at the ground surface, and its vertical extension, which separates the real property owned or leased by one person from that owned or leased by another person. This shall include multiple units, with the property boundary being the wall separating the adjoining units.
- (k) “Pure tone”. A sound wave whose instantaneous pressure varies essentially as a simple sinusoidal function of time.

- (l) “Residential land use”. A parcel of real property which is developed and used, either in part or in whole, for residential purposes, other than transient uses, such as hotels and motels.

- (m) “Sound level meter”. An instrument meeting the American National Standard Institute’s Standard S1. 4-1971 or most recent revision thereof for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

- (n) “Sound pressure level”. A sound, in decibels, shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated.

- (o) “Steady Noise”. A noise whose sound pressure level remains within a +6 db range during the fifteen (15) minute measurement period, with the sound level meter set at “slow” response. (Added by Ord. 508, adopted 6-22-76)

SECTION 4606.3. MAXIMUM PERMISSIBLE NOISE LEVELS BY SOUND SOURCES ACROSS PROPERTY BOUNDARIES.

(a) All activities to which this chapter is applicable shall be conducted in such a manner that any noise produced shall not create a disturbance. The maximum permissible sound pressure level measured at the property boundary of any land use in Subsection (b) of this section from any noise source not operating on a public right-of-way shall constitute prima facie evidence of a public nuisance when such noise level exceeds five (5) db(A) above the ambient noise level at any period during the course of a twenty-four (24) hour day.

(b) If the alleged noise source is of a continuous nature and cannot reasonably be discontinued for a time period wherein the ambient noise level can be determined, the maximum permissible steady noise level by sound sources across the property boundary of any land use cited below may be less, but not greater than:

Land Use	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
Residential	55 db(A)	45 db(A)
Commercial	65 db(A)	65 db(A)
Manufacturing	70 db(A)	70 db(A)

(c) If any parcel of real property is developed and used for multiple land uses, the lower land use noise level standard shall apply.

(d) In the hours between 7:00 a.m. to 10:00 p.m., the noise levels permitted in Subsection (b) of this section may be adjusted by the inclusion of the following factors when applicable:

- (1) Noise source operated 12 minutes per hour or less + 5 db(A)

- (2) Noise source operated 3 minutes per hour or less + 10 db(A)

(3) Noise source operated 1 minute per hour or less + 15 db(A)

(e) Impulsive sounds, pure tone, or sounds with a cyclically varying amplitude shall be considered a public nuisance when such noises are at a sound pressure level of five (5) db(A) less than those listed in Subsection (b) of this section, with the inclusion of the corrective factors listed in Subsection (d) of this section, when applicable. (Added by Ord. 508, adopted 6-22-76; amended by Ord. 551, adopted 7-25-78)

SECTION 4606.4. EXEMPTIONS.

The standards established in this chapter shall not apply to any of the following noise sources:

- (a) Any activity to the extent preempted from regulation by State or Federal law;
- (b) Bells, chimes, or carillons while being used in conjunction with religious services;
- (c) Emergency energy release devices;
- (d) Emergency work authorized by the City;
- (e) Special events authorized by the City;
- (f) The unamplified human voice; and
- (g) Warning systems used to protect the public health, safety, or welfare. (Added by Ord. 508, adopted 6-22-76)

SECTION 4606.5. CONSTRUCTION PROJECTS.

Construction, repair or remodeling equipment and devices and other related construction noise sources shall be exempted from the provisions of this chapter provided a valid permit for such construction, repair, or remodeling shall have been obtained from the City. In any circumstance other than emergency work, no repair or remodeling shall take place between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day, and no repair or remodeling shall exceed eighty-five (85) db(A) across any property boundary at any time during the course of a twenty-four (24) hour day. (Added by Ord. 508, adopted 6-22-76)

SECTION 4606.6. NOISE MEASUREMENT PROCEDURES.

The following procedures shall be used for measuring and evaluating noise in the community, unless otherwise specified in this chapter:

- (a) The location of the microphone of the measurement system shall be on the receptor's property boundary at a point approximately ten (10') feet from any obstruction (building walls, trees, bushes, automobiles) for the measurement of exterior noise. In the event such locational criteria cannot be achieved, a location other than the property boundary may be selected provided it permits conformance with the provisions stated herein.
- (b) The measurement of interior noise shall be in a central location of the receptor's room or space.

- (c) No person, other than the operator, shall be within ten (10') feet of the microphone used with the sound measurement system during the measurement period.
- (d) The sound measurement system shall be calibrated in accordance with the manufacturer's instructions. An acoustic calibrator or pistonphone with a pure tone of 1,000 hertz shall be used to calibrate the sound measurement system prior to, and immediately after, the measurement program. The calibration instrument shall be certified as having been calibrated within the previous 365 days of the measurement date.
- (e) Prior to conducting a noise measurement, the City will prepare a noise measurement data sheet comprising the following information:
- (1) The name of the property owner where the measurement is being conducted;
 - (2) The location of the alleged noise source and the address of its owner;
 - (3) A description of the noise source and the nature of the alleged violation;
 - (4) The name of the operator conducting the measurement;
 - (5) A diagram of microphone placement on the subject site;
 - (6) The date, time, and duration of the measurement;
 - (7) The calibration value at the start and completion of the measurement (two (2) calibrations);
 - (8) The temperature and relative humidity;
 - (9) The wind direction and estimated velocity; and
- (10) A list of all equipment used for the survey, including the name, model, serial number, and calibration date of each piece of equipment.
- (f) During the execution of the noise measurement program, the City shall abide by the following procedures;
- (1) The equipment shall comply with the provisions of this section.
 - (2) The calibration of the equipment shall comply with the provisions of this section.
 - (3) All measurements shall be conducted with the sound level meter set on the A-weighted scale "fast" response reading level.
 - (4) A series of 360 events shall be taken. Each event shall be no less than and no more than one second, with each interval between events not to exceed ten (10) seconds. The minimum measurement period shall be fifteen (15) minutes.

- (5) A series of ambient noise level measurements shall be taken when the alleged noise source is not in operation in accordance with the procedure outlined in Subsection (4) of this subsection.
- (6) A series of measurements shall be taken when the alleged noise source is operating in accordance with the procedure outlined in Subsection (4) of this subsection.
- (7) The difference between the averages in Subsections (5) and (6) of this subsection shall be recorded on the data sheet.
- (8) If the alleged noise source is found to exceed the average identified in Subsection (5) of this subsection by five (5) A-weighted decibel units, the alleged noise source shall be found in violation of the provisions of this chapter.
- (9) If the alleged noise source cannot be turned off for the purpose of making a measurement as prescribed in Subsection (5) of this subsection under the provisions of Subsection (6) of this subsection shall be compared with the standards in Subsection (b) of Section 4606.3 of this chapter.
- (10) If the measured value in Subsection (6) of this subsection is one A-weighted decibel greater than in Subsection (5) of this subsection (as adjusted for day or night measurements), the source shall be found in violation of this chapter.
- (11) The noise level created by equipment, such as air-conditioning, refrigeration, heating, pumping, and filtering, installed prior to the effective date of the noise ordinance enacting this chapter may exceed the presumed ambient noise levels but in no event by more than eight (8) dBA for a period not exceeding five (5) years from June 22, 1976 (said effective date of this subsection).
- (12) In the event any complainant requests that a noise measurement test be performed for any claimed violation of this chapter and for which claimed violation a noise measurement test has been performed within six (6) months previous to the request and found to not be in violation, such complainant shall deposit with the City the amount of One Hundred and no/100ths (\$100.00) Dollars. If the noise source is found not to be in violation of this chapter, the costs of the noise measurement test will be deducted and the balance returned to the complainant. If the noise source is in violation under this chapter, the entire deposit will be returned. Such deposit shall be non-interest bearing. (Added by Ord. 508, adopted 6-22-76; amended by Ord. 551, adopted 7-25-78)

SECTION 4606.7. VARIANCE PROCEDURES.

The owner or operator of a noise source which violates any of the provisions of this chapter may file an application with the Director of Community Development for a variance from the provisions thereof wherein such owner or operator shall set forth all actions taken to comply with such provisions, the reasons why immediate compliance cannot be achieved, a proposed method of achieving compliance, and a proposed time schedule for its accomplishment. The application shall be accompanied by a fee of Fifty and no/100ths (\$50.00) Dollars. A separate application shall be filed for each noise source; provided, however, several mobile sources under a common ownership, or several fixed sources on a single property, may be combined into one application. Upon the receipt of such application and fee, the Director of Community Development shall refer it, with his recommendations thereon, within thirty (30) days to the Board of Fire and Building Appeals for action thereon in accordance with the provisions of this chapter.

An applicant for a variance shall remain subject to prosecution under the terms of this chapter until a variance is granted.

The Board of Fire and Building Appeals shall evaluate all applications for variances from the requirements of this chapter and may grant such variances with respect to time for compliance, subject to such terms, conditions, and requirements as it may deem reasonable to achieve maximum compliance with the provisions of this chapter. Such terms, conditions, and requirements may include, but shall not be confined to, limitations on noise levels and operating hours. Each such variance shall set forth in detail the approved method of achieving maximum compliance and a time schedule for its accomplishment. In its determinations, the Board shall consider the following:

- (a) The magnitude of nuisance caused by the offensive noise;
- (b) The uses of property within the area of impingement by the noise;
- (c) The time factors related to the study, design, financing, and construction of the remedial work;
- (d) The economic factors related to the age and useful life of the equipment; and
- (e) The general public interest, welfare, and safety.

Any variance granted by the Board shall be transmitted to the Director of Community Development for administration. Any violation of the terms of such variance shall be unlawful. (Added by Ord. 508, adopted 6-22-76)

SECTION 4606.8. APPEALS.

Within fifteen (15) calendar days following the decision of the Building Appeals Board on an application, the applicant or any other interested person may appeal the decision through the Council by filing a notice of appeal with the City Clerk. In the case of an appeal for a variance, the notice of appeal shall be accompanied by a fee of Fifty and no/100ths (\$50.00) Dollars. The City Clerk shall transmit one copy of the notice of appeal to the Director of Community Development. The Director shall forward to the Council one copy of the application for the variance, the staff reports, the recommendation of the Building Appeals Board, the notice of appeal, and all evidence with the application received by the Board. In addition, any person may file with the Council written arguments supporting or attacking the decision of the Board and the Council, at its discretion, may hear oral arguments thereon.

The hearing shall be held not less than ten (10) calendar days, and not more than forty (40) calendar days, after the time of filing the appeal. The City Clerk shall mail to the applicant a notice of the date set for the hearing at least ten (10) calendar days prior to the hearing date.

Within sixty (60) calendar days following its receipt of the notice of appeal, the Council shall either affirm, modify, or reverse the decision of the Building Appeals Board. Such decision shall be based on the Council's evaluation of the matters submitted to the Council and the factors to be considered as enumerated in Section 4606.7 of this chapter. As part of its decision, the Council may direct the Board to conduct further proceedings on the application. Failure of the Council to affirm, modify or reverse the decision of the Building Appeals Board within such sixty (60) day period shall constitute affirmation of the Board's decision. (Added by Ord. 508, adopted 6-22-76)

SECTION 4606.9. VIOLATIONS: ADDITIONAL REMEDIES: INJUNCTIONS.

As an additional remedy, any violation of Sections 4606.3 and 4606.5 of this chapter shall be deemed and is declared to be a nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Added by Ord. 508, adopted 6-22-76)

SECTION 4606.10. MANNER OF ENFORCEMENT.

Violations of this chapter shall be prosecuted in the same manner as other misdemeanor violations of this Code, provided, however, in the event of violations of Sections 4606.3 and 4606.5 of this chapter, a written notice of intention to prosecute will be given to the alleged violator not less than fifteen (15) calendar days prior to the issuance of a misdemeanor complaint. No complaint shall be issued in the event the cause of the violation is removed or the condition is abated or fully corrected within such fifteen (15) 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 fifteen (15) day period shall commence at the date of the day following the mailing of such notice. In the event of any conflict between the provisions of this chapter, the most restrictive shall be applicable. (Added by Ord. 508, eff. 6-22-76)

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