

## Escondido Municipal Code

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[Chapter 17 OFFENSES—MISCELLANEOUS PROVISIONS](#)**ARTICLE 12. NOISE ABATEMENT AND CONTROL****Sec. 17-226. General provisions.**

(a) The city council of the City of Escondido finds and declares that:

- (1) Inadequately controlled noise presents a growing danger to the health and welfare of the residents of the City of Escondido;
- (2) The making and creating of disturbing, excessive, offensive or unusually loud noises within the jurisdictional limits of the City of Escondido is a condition which has persisted and the level and frequency of occurrence of such noises continue to increase;
- (3) The making, creation or continuance of such excessive noises which are prolonged or unusual in their time, place and use effect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of Escondido;
- (4) Every person is entitled to an environment in which the noise is not detrimental to his or her life, health and enjoyment of property; and
- (5) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared to be a matter of legislative determination and public policy and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in the pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, prosperity, peace and quiet of the City of Escondido and its inhabitants.

(b) As criteria for this article, Table 17-226A is a chart showing sound levels and their expected impact in terms of human response. Table 17-226B is a list of National Goals for Noise Reduction as set forth by the U.S. Environmental Protection Agency in their publication "Toward a National Strategy for Noise Control," April 1977.

(c) This article shall apply to all areas within the municipal limits of the City of Escondido, including public parks, unless otherwise provided. (Ord. No. 90-8, § 2, 3-28-90)

**Table 17-226A**  
**Sound Levels and Human Response**

Common Sounds	Noise Level (dB)	Effect
Carrier deck	140	Painfully loud
Jet operation		
Air raid siren		
Jet takeoff (200 feet)		
Thunderclap		
Discotheque	120	Maximum vocal effort
Auto horn (3 feet)		
Pile drivers	110	
Chain saw		
Garbage truck	100	
Power lawn mower (4 feet)		
Heavy truck (50 feet)	90	Very annoying

city traffic		Hearing damage (8 hours)
Alarm clock (2 feet)	80	Annoying
Hair dryer		
Vacuum cleaner (5 feet)		
Noisy restaurant	70	Telephone use difficult
Freeway traffic		
Air conditioning unit (20 feet)	60	Intrusive
Light auto traffic (100 feet)	50	Quiet
Living room	40	
Bedroom		
Quiet office		
Library	30	Very quiet
Soft whisper (15 feet)		
Broadcasting studio	20	
	10	Just audible
	0	Hearing begins

This decibel (dB) table compares some common sounds and shows how they rank in potential harm to hearing. Note that 70 dB is the point at which noise begins to harm hearing, that 60 dB is the threshold of stress response, and 45 dB disturbs sleep. To the ear, each 10 dB seems twice as loud.

**Table 17-226B**  
**List of National Goals for Noise Reduction**

- A. To take all practical steps to eliminate hearing loss from noise exposure;
- B. To reduce environmental noise exposure to an Ldn value of no more than 75 dB immediately;
- C. To reduce noise exposure levels to Ldn 65 dB by vigorous regulatory and planning actions;
- D. To strive for an eventual reduction of noise levels to an Ldn of 55 dB.

### **Sec. 17-227. Definitions.**

Whenever the following words and phrases are used in this article, unless otherwise defined herein, they shall have the meaning ascribed to them in this section:

Ambient sound level means the composite noise from all sources near and far. In this context, the ambient noise level constitutes a normal or existing level of environmental noise at a given location and time.

A-weighted sound level means the sound 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.

Average sound level means a sound level typical of the sound levels at a certain place during a given period of time, averaged by the general rule of combination for sound levels, said general rule being set forth in American National Standard Specifications for Sound Level Meters SI.4-1971. Average sound level is also called equivalent continuous sound level (Leq).

Commercial purpose, loud speaking amplifiers for advertising means and includes the use, operation or maintenance of any sound amplifying equipment for the purpose of advertising any business, or any goods, or any services, or for the purpose of attracting the attention of the public to or 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.

Construction means any site preparation, assembly, substantial repair, demolition, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar property or similar activity upon public or private structures or land.

Construction equipment means any tools, machinery or equipment used in connection with construction operations including all types of “special construction” equipment as defined in the pertinent sections of the California Vehicle Code when used in the construction process or any construction site, regardless of whether such construction site be located on-highway or off-highway.

Container shall mean any receptacle, regardless of contents, manufactured from wood, metal, plastic, paper or any other material including but not limited to any barrel, basket, box, crate, tub, bottle, can or refuse container.

Continuous sound means sound which is of a steady and uninterrupted nature of a specified time period. For the purposes of this article, the minimum time period shall be one hour.

Cumulative period means an additive period of time composed of individual time segments which may be continuous or interrupted.

Decibel means a unit for measuring the amplitude of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is (twenty) 20 microPascals.

Disturbing, excessive or offensive means:

- (1) Any sound or noise which constitutes a nuisance involving discomfort or annoyance to persons of normal sensitivity residing in the area.
- (2) Any sound or noise exceeding criteria standards, or levels as set forth in this article.

Emergency work means work made necessary to restore property to safe condition following a public calamity or work required to protect persons or property from imminent exposure to danger or work by public or private utilities when restoring utility service.

Enforcement officer means the city employee and/or police officer having lead responsibility for enforcing this article; and, the city employee having responsibility for making noise surveys, noise analyses, noise investigations and for the administration of this article.

Environmental noise (see “Noise disturbance—environmental”).

Fixed noise source means a stationary device which creates sounds while fixed or motionless, including but not limited to residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners, refrigeration equipment and cyclone blowers.

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.

Intermittent sound means sound which is not continuous or which is of a cyclic or repetitive nature.

Intrusive noise means that noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency and time of occurrence, and tonal or informational content as well as the prevailing ambient noise level.

Mobile noise source means any noise source other than a fixed noise source.

Motor vehicles shall mean any and all self-propelled vehicles as defined in the California Vehicle Code and shall specifically include, but not be limited to, “mini-bikes” and “go-carts.”

Multiple family dwelling or multi-residential means a building or portions therefor designed for or used exclusively for residence purposes by three (3) or more families or housekeeping units, living independently of one another.

Noise disturbance means any noise exceeding the noise level limits for a designated receiving land use category specified in Table 17-226B of this article shall be deemed to be a noise disturbance.

- (1) Noise Disturbance—Environmental. Those noise disturbances resulting from land use activity normally permitted under the land use code, but which exceed the noise level limits set by this code for that particular land use.

Environmental noise sources are specified in, but not limited by the list in Appendix 17-A, set out at the end of this article.

(2) Noise Disturbance—Nuisance. Those noise disturbances, other than environmental noise disturbances, which because of their unusual presence are considered harmful to health and well-being, annoying, obnoxious and unpleasant. Nuisance noise disturbances are specified in, but not limited to, the examples in Appendix 17-A, set out at the end of this article.

Noise level means “sound level” and the terms may be used interchangeably herein.

Noise sensitive zone means any area designated by the planning commission for the purpose of ensuring exceptional quiet.

Noncommercial purpose, loud speaking amplifiers for advertising means the use, operation or maintenance of any sound equipment for other than a “commercial purpose.” Noncommercial purpose means and includes, but shall not be limited to, philanthropic, political, patriotic and charitable purposes.

Person means a person, firm, association, copartnership, joint venture, corporation or any entity, public or private.

Powered model vehicles means, but shall not be limited to airborne, waterborne or landborne vehicles such as model airplanes, model boats and model vehicles of any type or size which are not designed for carrying persons or property and which can be propelled in any form other than manpower or windpower.

Pure tone means any sound which can be judged as audible as a single pitch or a set of single pitches by the enforcement officer or police officer.

Sound amplifying equipment means any machine or device, mobile or stationary used to amplify music, the human voice, or any sound.

Sound level (noise level) means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network as specified in American National Standards Institute specifications for sound level meters (ANSI SI.4-1971, or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting is implied.

Sound level meter means an instrument, including a microphone, an amplifier, readout and frequency weighting networks for the measurement of sound levels, which meets or exceeds the requirements pertinent for type S2A meters in the American National Standards Institute Specifications for Sound Level Meters, SI.4-1971 or the latest revision thereof.

Sound truck means any motor vehicle or other vehicle regardless of motive power whether in motion or stationary having mounted thereon, built-in or attached thereto any sound amplifying equipment other than a car radio or television.

Vibration perception threshold means the minimum ground-borne or structure-borne vibrational 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 visual observation of moving objects. The perception threshold shall be presumed to be a motion velocity of 0.01 in/sec over the range of 1 to 100 Hz.

Water craft means any boat, ship, barge, craft or floating thing designed for navigation in the water which is propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel possessing a valid marine document issued by the United States Bureau of Customs or any federal agency successor thereto.

Supplementary Definitions of Technical Terms. Definitions of technical terms not defined herein shall be obtained from the American National Standard, “Acoustical Terminology” SI.1-1961 (R-1971) or the latest revision thereof. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-228. Sound level measurement.**

(a) Any sound or noise measurement made pursuant to the provisions of this article shall be measured with a sound level meter using the A-weighting and “slow” response pursuant to applicable manufacturer’s instructions.

(b) The sound level meter shall be appropriately calibrated and adjusted as necessary by means of an acoustical calibrator of the coupler-type to assure meter accuracy within the tolerances set forth in American National Standards ANSI-SI.4-1971.

(c) For outside measurements, the microphone shall be not less than four (4) feet above the ground, at least four (4) feet distant from walls or other large reflecting surfaces and shall be protected from the effects of wind noises by the use

of appropriate wind screens and the location selected shall be at any point on the affected property. In cases when the microphone must be located within ten (10) feet of walls or similar large reflecting surfaces, the actual measured distances and orientation of sources, microphone and reflecting surfaces shall be noted and recorded. In no case shall a noise measurement be taken within five (5) feet of the noise source.

(d) For inside measurements, the microphone shall be at least three (3) feet distant from any wall, ceiling or partition, and the average measurement of at least three (3) microphone positions throughout the room shall be determined. (Ord. No. 90-8, § 2, 3-28-90)

**Sec. 17-229. Sound level limits.**

(a) Unless a variance has been applied for and granted pursuant to this article, it shall be unlawful for any person to cause or allow the creation of any noise to the extent that the one-hour average sound level, at any point on or beyond the boundaries of the property on which the sound is produced, exceeds the applicable limits set forth in the following table, except that construction noise level limits shall be governed by Section 17-234 of this article.

TABLE 17-229

<b>Zone</b>	<b>Time</b>	<b>Applicable Limit One-hour Average Sound Level (Decibels)</b>
Residential zones	7 a.m. to 10 p.m.	50
	10 p.m. to 7 a.m.	45
Multi-residential zones	7 a.m. to 10 p.m.	55
	10 p.m. to 7 a.m.	50
Commercial zones	7 a.m. to 10 p.m.	60
	10 p.m. to 7 a.m.	55
Light industrial/ Industrial park zones	Anytime	70*
General industrial zones	Anytime	75*

\*Subject to provisions of Section 17-229 (c)(5).

(b) Maximum Permissible Sound Levels by Receiving Land Use.

(1) The noise standards for the various categories of land use as presented in subsection (a) of this section shall, unless otherwise specifically indicated, apply to each property or portion of property substantially used for a particular type of land use reasonably similar to the land use types shown in subsection (a) of this section. Where two (2) or more dissimilar land uses occur on a single property, the more restrictive noise limits shall apply.

(2) Additional land use classifications may be added by action of the city council to reflect both lower and higher existing ambient levels than those shown.

(3) Where doubt exists when making identification of receiving land use, the city manager shall make an interpretation.

(4) No person shall operate or cause to be operated, any source of sound at any location within the city or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level to exceed the environmental and/or nuisance interpretation of the applicable limits given in subsection (a) of this section.

(5)(A) Environmental noise shall be measured by the equivalent sound level (Leq) for such hours as are specified.

(B) Nuisance noise shall be measured as a sound level not to be exceeded at any time.

(C) Sound levels by receiving land use shall be measured at the boundary or at any point within the boundary of the property affected.

(D) Fixed location public utility distribution or fixed transmission facilities, located on or adjacent to a property line shall be subject to noise level limits of this section measured at or beyond six (6) feet from the boundary of the easement upon which the equipment is located.

(c) Corrections to Exterior Noise Level Limits.

(1) If the noise is continuous, the Leq for any hour will be represented by any lesser time period within that hour. Noise measurements of a few minutes only will thus suffice to define the noise level.

(2) If the noise is intermittent, the Leq for any hour may be represented by a time period typical of the operating cycle. Measurement should be made of a representative number of noisy/quiet periods. A measurement period of not less than fifteen (15) minutes is, however, strongly recommended when dealing with intermittent noise.

(3) In the event the alleged offensive noise, as judged by the enforcement officer, contains a steady, audible sound such as a whine, screech or hum, or contains a repetitive impulsive noise such as hammering or riveting, the standard limits set forth in Table 17-229 shall be reduced by ten (10) dB or to the ambient noise level when such noises are not occurring.

(4) If the measured ambient level exceeds that permissible in subsection (a) of this section, the allowable noise exposure standard shall be the ambient noise level. The ambient level shall be measured when the alleged noise violations source is not operating.

(5) The sound level limit at a location on a boundary between two (2) land use classifications is the limit applicable to the receiving land use; provided, however, that the one-hour average sound level limit applicable to extractive industries including but not limited to borrow pits and mines, shall be seventy-five (75) decibels (dB) at the property line regardless of the zone where the extractive industry is actually located.

Fixed-location public utility distribution or transmission facilities located on or adjacent to a property line shall be subject to the noise level limits of this section, measured at or beyond six (6) feet from the boundary of the easement upon which the equipment is located. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-230. Motor vehicles.**

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(a) Repairs of Motor Vehicles. It shall be unlawful for any person within the city to repair, rebuild or test any motor vehicle in such a manner as to cause disturbing, excessive, or offensive noises as defined in section 17-227 (k) of this article.

(b) On-Highway. Violations for exceeding applicable noise level limits as to persons operating motor vehicles on a public street or highway in the city shall be prosecuted under applicable California Vehicle Code provisions and under federal regulation adopted pursuant to 42 U.S.C. 4905 (a)(1)(A), (B), and (C)(ii), (iii) for which enforcement responsibility is delegated to local governmental agencies.

(c) Off-Highway. Except as otherwise provided for in this article, it shall be unlawful to operate any motor vehicle of any type on any site other than on a public street or highway as defined in the California Vehicle Code in a manner so as to cause noise in excess of those noise levels permitted for on-highway motor vehicles as specified in the table "35 miles per hour or less speed limits" contained in Section 23130 of the California Vehicle Code.

(d) Emergency Vehicles. Nothing in this section shall apply to authorized emergency vehicles when being used in emergency situations.

(e) Urban Transit Buses. Buses as defined in the California Vehicle Code shall at all times comply with the requirements of this section. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-231. Powered model vehicles.**

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It shall be unlawful for any person to operate any powered model vehicle except between the hours of seven (7) a.m. and nine (9) p.m. and then only in such a manner so as not to emit noise in excess of those levels set forth in section 17-229; however, if powered model vehicles are operated in public parks at a point more than one hundred (100) feet from

the property line, the noise level shall be determined at a distance of one hundred (100) feet from the noise source instead of at the property line, and noises from powered model vehicles measured at that distance in excess of the noise limits specified in section 17-229 of this article are prohibited. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-232. Refuse vehicles and parking lot sweepers.**

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No person shall operate, or permit to be operated, a refuse compacting, processing, or collection vehicle or parking lot sweeper between the hours of ten (10) p.m. to six (6) a.m. in or adjacent to any residential zone unless a variance has been applied for and granted pursuant to this article. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-233. Reserved.**

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**Sec. 17-234. Construction equipment.**

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Except for emergency work, it shall be unlawful for any person, including the City of Escondido, to operate construction equipment as follows:

- (a) It shall be unlawful for any person, including the City of Escondido, to operate construction equipment at any construction site, except on Monday through Friday during a week between the hours of seven (7) a.m. and six (6) p.m. and on Saturdays between the hours of nine (9) a.m. and five (5) p.m., and provided that the operation of such construction equipment complies with the requirements of subsection (d) of this section.
- (b) It shall be unlawful for any person, including the City of Escondido, to operate construction equipment at any construction site on Sundays and on days designated by the president, governor or city council as public holidays.
- (c) A person may operate construction equipment at his/her residence or for the purpose of constructing or modifying a residence for himself/herself on Monday through Friday of a week between the hours of seven (7) a.m. and six (6) p.m., and on Saturdays, Sundays, and holidays between the hours of nine (9) a.m. and five (5) p.m.; provided, that such operation of construction equipment is not carried on for profit or livelihood and complies with the requirements of subsection (d) of this section.
- (d) No construction equipment or combination of equipment, regardless of age or date of acquisition, shall be operated so as to cause noise in excess of a one-hour average sound level limit of seventy-five (75) dB at any time, unless a variance has been obtained in advance from the city manager.
- (e) Persons engaged in construction for profit or as a business shall post signs at conspicuous places on a construction site, indicating hours of work as prescribed by this article or authorized by permit and the applicable noise level limits. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-235. Containers and construction material.**

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It shall be unlawful for any person to handle or transport or cause to be handled or transported in any public place, any container or any construction material in such a way as to create a disturbing, excessive or offensive noise as defined under section 17-227 (k) of this article. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-236. Signal device for food trucks.**

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No person shall operate or cause to have operated or used any sound signal device other than sound-amplification equipment attached to a motor vehicle wagon or manually propelled cart from which food or any other items are sold which emits a sound signal more frequently than once every ten (10) minutes in any one street block and with a duration of more than ten (10) seconds for any single emission. The sound level of this sound signal shall not exceed ninety (90) decibels at fifty (50) feet. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-237. Landscape equipment.**

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It shall be unlawful for any person, including the City of Escondido to use any motorized landscape equipment,

including but not limited to power blowers and vacuums, which causes a disturbing, excessive or offensive noise as defined under section 17-227 (k) of this article. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-238. Grading.**

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(a) It shall be unlawful for any person, including the City of Escondido, to do any authorized grading at any construction site, except on Mondays through Fridays during a week between the hours of seven (7) a.m. and six (6) p.m. and, provided a variance has been obtained in advance from the city manager, on Saturdays from ten (10) a.m. to five (5) p.m.

(b) For the purpose of this section, "grading" shall include but not be limited to compacting, drilling, rock crushing or splitting, bulldozing, clearing, dredging, digging, filling and blasting.

(c) In addition, any equipment used for grading shall not be operated so as to cause noise in excess of a one hour sound level limit of seventy-five (75) dB at any time when measured at or within the property lines of any property which is developed and used in whole or in part for residential purposes, unless a variance has been obtained in advance from the city manager. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-239. Multiple family dwelling units.**

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Notwithstanding any other provisions of this article, it shall be unlawful for any person to create, maintain, or cause to be maintained any sound within the interior of any multiple family dwelling unit which causes the noise level to exceed those limits set forth below in any other dwelling unit:

MISSING TABLE

The monitoring procedures outlined under section 17-228 shall be followed in enforcing this section. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-240. General noise regulations.**

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(a) General Prohibitions. In the absence of objective measurement by use of a sound level meter, it additionally shall be unlawful for any person to make, continue or cause to be made or continued, within the limits of said city, any disturbing, excessive or offensive noise which causes discomfort or annoyance to reasonable persons of normal sensitivity.

The characteristics and conditions which should be considered in determining whether a violation of the provisions of this section exists, include, but are not limited to, the following:

- (1) The level of noise;
- (2) Whether the nature of the noise is usual or unusual;
- (3) Whether the origin of the noise is natural or unnatural;
- (4) The level of the background noise;
- (5) The proximity of the noise to sleeping facilities;
- (6) The nature and zoning of the area within which the noise emanates;
- (7) The density of the inhabitation of the area within which the noise emanates;
- (8) The time of the day or night the noise occurs;
- (9) The duration of the noise;
- (10) Whether the noise is recurrent, intermittent or constant; and
- (11) Whether the noise is produced by a commercial or noncommercial activity.

(b) Disturbing, Excessive or Offensive Noises. The following acts are declared to be disturbing, excessive and offensive noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

(1) Horns, Signaling Devices, etc. Violations for disturbing, excessive or offensive noises associated with the use or operation of horns, signaling devices, etc., on automobiles, motorcycles, or any other vehicles, except as provided in section 17-232 shall be prosecuted under applicable provisions of the California Vehicle Code.

(2) Radios, Television Sets, Phonographs, and Similar Devices.

(i) Uses Restricted. The use, operation or permitting to be played, used or operated, any stereo receiver, radio, cassette tape player, compact disc player, musical instrument, phonograph, television set or other device for the production or reproduction of sound in such manner as to disturb the peace, quiet and comfort of neighboring residents or persons of normal sensitivity located in the area; or in a manner to exceed those levels set forth in section 17-229 when measured at a distance of twenty-five (25) feet from such device operating in a public right-of-way or public space, whether from a mobile or fixed source, except that subject to permit issued by the City of Escondido specifying time, location and other conditions, amplified sound may be permitted within city parks, provided that said sound does not exceed a level of ninety decibels (90 dB), fifty (50) feet from the source or exceed those levels set forth in section 17-229 at the park boundary.

(ii) Prima Facie Violations. The operation of any such stereo receiver, radio, cassette tape player, compact disc player, instrument, phonograph, television set, machine or similar device between the hours of ten (10) p.m. and eight (8) a.m. in such a manner and whether from a fixed or mobile source as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located, or the operation of any sound amplifier, which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette tape player or other similar device, when operated in such a manner and at any time and whether from a fixed or mobile source as to be plainly audible at a distance of fifty (50) feet, or when operated in such a manner as to cause a person to be aware of vibration accompanying the sound at a distance of fifty (50) feet from the source, shall be prima facie evidence of a violation of this section.

(iii) Enforcement of Prima Facie Violations.

(A) Any person who is authorized to enforce the provisions of this article and who encounters prima facie evidence of a violation of this section is empowered to confiscate and impound as evidence, any or all of the components amplifying or transmitting the sound.

(B) Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of the Penal Code, who encounters prima facie evidence of a violation of this section whereby the component(s) amplifying or transmitting the sound are attached to a vehicle may impound the vehicle, as containing evidence of a criminal offense, when the amplifying and/or transmitting component(s) cannot be readily removed from the vehicle without damaging the component(s) or the vehicle.

(3) Loud Speaking Amplifiers for Advertising. The use, operation, or the permitting to be played, used or operated of any sound production or reproduction device or machine including but not limited to radio receiving sets, phonographs, musical instruments, loudspeakers and sound amplifiers, for commercial or business advertising purposes in, upon, over or across any street, alley, sidewalk, park or public property in such a manner as to violate the provisions of this article is prohibited. This provision shall not be applicable to sound amplifying equipment mounted on any sound truck or vehicle for commercial or noncommercial purposes where the owner or operator complies with the following requirements:

(i) The only sounds permitted are music or human speech;

(ii) Operations are permitted between the hours of eight (8) a.m. and nine (9) p.m. or after nine (9) p.m. during public events and affairs of interest to the general public;

(iii) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour, except when said truck is stopped or impeded by traffic. Where stopped by traffic the said sound amplifying equipment shall not be operated for longer than one minute at each stop.

(iv) Sound shall not be issued within one hundred (100) yards of hospitals, schools, churches, or courthouses, or other noise-sensitive zones.

(v) The volume of sound shall be controlled so that said volume is not raucous, jarring, disturbing or a nuisance to persons within the area of audibility and so that the volume of sound shall not exceed a sound level of 65 decibels (on the "A" scale) at a distance of 60 feet from the sound amplifying equipment as measured by a sound level meter which meets the American National Standard ANSI SI.4-1971 or the latest revision thereof.

(vi) No sound amplifying equipment shall be operated unless the axis of the center of any sound reproducing equipment used shall be parallel to the direction of travel of the sound truck; provided, however, that any sound reproducing equipment may be so placed upon said sound truck as to not vary more than fifteen (15) degrees on either side of the axis of the center of the direction of travel.

(vii) No sound truck with its amplifying device in operation shall be driven on the same street past the same point more than twice in a period of one hour.

(4) Yelling, Shouting, etc. Disturbing or raucous yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of ten (10) p.m. and eight (8) a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of neighboring residents or persons of normal sensitivity within the area for whatever reason, is prohibited.

(5) Animals. The keeping or maintenance, or the permitting to be kept or maintained upon any premises owned, occupied or controlled by any person of any animal, which includes fowl, which by any frequent or long continued noise shall cause annoyance or discomfort to persons of normal sensitivity in the vicinity; provided, however, that nothing contained herein shall be construed to apply to occasional noises emanating from legally operated dog and cat hospitals, humane societies, pounds, farm or agricultural facilities, or areas where keeping of animals is permitted. The written affirmation by two (2) persons having separate residences in the vicinity of the alleged violation that such violation of this section disturbs the peace and quiet of said persons shall be prima facie evidence of a violation of this section.

(6) Schools, Courts, Churches, Hospitals. The creation of any noise on any street, sidewalk or public place adjacent to any school, institution of learning (except recreational areas of schools), church, court, library or other noise-sensitive zone, while the same are in use, or adjacent to a hospital, rest home, or long-term medical or mental care facility which noise interferes with the workings of such institution or which disturbs or annoys patients in the hospital, rest home, or long-term medical or mental care facility, provided conspicuous signs are displayed in such streets, sidewalks or public places indicating the presence of a school, institution of learning, church, court, library, rest home, long-term medical or mental care facility, or other noise-sensitive zones, is prohibited.

(7) Steam Whistles. The operation, use or causing to be operated or used of any steam whistle attached to any stationary boiler is prohibited except to give notice of the time to start or stop work or as a sound signal of imminent danger.

(8) Engines and Motor Vehicles. Any disturbing or raucous noises caused off streets or highways by racing or accelerating the engine of any motor vehicle while moving or not moving, by the wilful backfiring of any engine and exhaust from the engine tailpipe or muffler, or from the screeching of tires, is prohibited.

(9) Loading, Unloading Vehicles—Opening, Destroying Bales, Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers is a violation of this article.

(10) Transporting Metal Rails, Pillars, Columns. The loading or unloading or transportation of rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places is a violation of this article.

(11) Drums, Other Instruments to Attract Attention. No person shall use any drum or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show or sale.

(12) Pile Drivers, Pneumatic Hammers, etc. No person shall operate between the hours of six (6) p.m. and seven (7) a.m. on weekdays, or on Saturdays, Sundays or any legal holidays, any pile driver, pneumatic hammer, derrick, or other similar appliance, the use of which is attended by loud or unusual noise, unless a variance has been obtained in advance from the city manager.

(13) Peddlers, Hawkers, Vendors. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood is a violation of this article.

(14) Exhaust Emissions. No person shall discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, blower, power fan, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-241. Burglar alarms.**

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Any building burglar alarm must have an automatic cutoff, capable of terminating its operation within fifteen (15) minutes of the time it is activated. Notwithstanding the requirements of this provision, any member of the police department of the City of Escondido shall have the right to take such steps as may be reasonable and necessary to disconnect any such alarm during the period of its activation.

No owner of a motor vehicle shall have in operation an audible burglar alarm therein unless such burglar alarm shall be capable of terminating its operation within fifteen (15) minutes of the time it is activated. Notwithstanding the requirements of this provision, any member of the police department of the City of Escondido shall have the right to take such steps as may be reasonable and necessary to disconnect any such alarm installed on a motor vehicle at any time during the period of its activation. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-242. Exemptions.**

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(a) **Emergency Work.** The provisions of this article shall not apply to any emergency work as defined in section 17-227, provided that (1) a variance has been obtained from the city manager, and (2) any vehicle device, apparatus or equipment used, related to or connected with emergency work is designed, modified or equipped to reduce sounds produced to the lowest possible level consistent with effective operation of such vehicle, device, apparatus, or equipment.

(b) **Sporting, Entertainment, Public Events.** The provisions of this article shall not apply to:

(1) Those reasonable sounds emanating from authorized school bands, school athletic and school entertainment events.

(2) Sporting, entertainment and public events which are conducted pursuant to a license or permit issued by the building director for noise exceeding criteria, standards or levels as set forth in this article.

(3) Those reasonable sounds emanating from a sporting, entertainment or public event; provided, however, it shall be unlawful to exceed those levels set forth in section 17-229 when measured at or within the property lines of any property which is developed and used either in part or in whole for residential purposes unless a variance has been granted allowing sounds in excess of said levels.

(c) **Federal or State Preempted Activities.** The provisions of this article shall not apply to any activity to the extent regulation thereof has been preempted by state or federal law.

(d) **Minor Maintenance to Residential Property.** The provisions of section 17-229 shall not apply to noise sources associated with minor maintenance to property used either in part or in whole for residential purposes provided said activities take place between the hours of seven (7) a.m. and eight (8) p.m. on any day except Sunday, or between the hours of ten (10) a.m. and eight (8) p.m. on Sunday.

(e) **Agricultural Operations.** The provisions of section 17-229 shall not apply to equipment associated with agricultural operations, provided, that all equipment and machinery powered by internal-combustion engines is equipped with a proper muffler and air intake silencer in good working order, and provided further that:

(1) Operations do not take place between seven (7) p.m. and the following seven (7) a.m.; or

(2) Such operations and equipment are utilized for the preparation, planting, harvesting, protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions; or

(3) Such operations and equipment are associated with agricultural pest control, provided the application is made in accordance with regulations or procedures administered by the county department of agriculture; or

(4) Such operations and equipment are associated with the application of agricultural chemicals provided the application is made in accordance with acceptable agricultural practices or upon the recommendation of an agricultural specialist. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-243. Manner of enforcement.**

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(a) **Violations and Penalties.**

(1) It is a violation for any property owner(s) and/or person(s) in control of property to permit, or cause, a noise disturbance to be produced upon property owned by them or under their control.

(2) It is a violation for any person or persons to create or allow the making of noise disturbance as provided by this article at any location in the city.

(b) **Environmental Noise.**

(1) **Classification of Environmental Noise.** The enforcement officer shall determine that any given obtrusive noise condition that falls within the definition of environmental noise disturbance, is an environmental noise. The enforcement

officer may use Appendix 17-12-A, set out at the end of this article, as an aid in making such determinations. The city manager or his or her designee shall make determinations classifying noise sources not specifically mentioned in Appendix 17-12-A.

(2) Responsibility. The building director shall be responsible for investigation and enforcement of environmental noise disturbances.

(3) Guidelines. The building director may, from time to time, promulgate guidelines for administration and enforcement of the provisions of this title pertaining to noise violations.

(4) Abatement Shall Terminate Enforcement Action. No complaint or further action shall be taken in the event that the cause of the violation has been removed, the condition abated or fully corrected within the time period specified in a notice of violation issued by the enforcement officer.

(c) Nuisance Noise.

(1) Classification of Nuisance Noise. The chief of police shall determine that any given obtrusive noise condition that falls within the definition of nuisance noise disturbance is a nuisance noise. The chief of police may use Appendix 17-12-A, as an aid in making such determinations. At the request of the chief of police, the city manager or his or her designee shall make determinations for classifying nuisance noise sources not specifically mentioned in Appendix 17-12-A.

(2) Responsibility. The chief of police shall be responsible for investigation and enforcement of nuisance noise disturbances.

(3) Guidelines. The chief of police may, from time to time, promulgate guidelines for administration and enforcement of the provisions of this title pertaining to nuisance noise violations.

(4) Abatement Order. The officer responsible for enforcement of any provisions of this section may issue an order requiring abatement of a sound source alleged to be in violation within a reasonable time period and according to guidelines which the chief of police may prescribe. Such orders of abatement shall be administered in writing. Failure to comply may be held as a violation of this title.

(d) Enforcement of Noise Disturbances That are Both Environmental and Nuisance.

(1) Where investigation reveals that offending noise violates both the environmental noise regulations and the nuisance noise regulations, the offense shall be enforced as a nuisance noise violation unless the chief of police makes a specific finding that the environmental noise regulations more nearly apply, in which case the environmental noise regulations shall apply.

(2) Nothing contained in this provision shall limit the city's ability to prosecute noise violations as both environmental and nuisance noise. (Ord. No. 90-8, § 2, 3-28-90)

#### **Sec. 17-244. Violations—Misdemeanors.**

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Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned for a period not exceeding six (6) months, or by 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. 90-8, § 2, 3-28-90)

#### **Sec. 17-245. Violations—Additional remedies—Injunctions.**

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As an additional remedy the operation or maintenance of any device, instrument, vehicle, machinery, or other item in violation of any provision of this article for which operation or maintenance causes discomfort or annoyance to persons of normal sensitivity or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed and is declared to be a public nuisance and shall be subject to summary abatement in order to preserve or protect the public health, safety or welfare, abatement by a restraining order or injunction issued by a court of competent jurisdiction. (Ord. No. 90-8, § 2, 3-28-90)

#### **Sec. 17-246. False statement.**

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No person shall knowingly make a false statement or submit a false document to the city manager as to any matter

within his jurisdiction. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-247. Reproductions of permits, etc.**

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No person shall make, reproduce, alter, or cause to be made, reproduced, or altered a permit, certificate, or other document issued by the city manager or required by this article if the purpose of such reproduction or alteration is to evade or violate the provisions of this article. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-248. Display of permits.**

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Any permit, certificate, or other notice required herein shall be displayed or maintained on the premises designated in a conspicuous place. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-249. Variances.**

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(a) The city manager shall evaluate all applications for variances from the requirements of this article and may grant said variances with respect to time for compliance, subject to such terms, conditions, and requirements as he may deem reasonable to achieving compliance with the provisions of this article. Each such variance shall set forth in detail the approved method of achieving compliance and a time schedule for its accomplishment. If in the judgment of the city manager the time for compliance cannot be reasonably determined, a variance to cause the noise may be issued for a specified period of time, subject to revocation or modification after review by the city manager at interim times to be designated by the city manager in the variance. In determining the reasonableness of the terms of any proposed variance, said city manager shall consider the magnitude of nuisance caused by the offensive noise, the uses of property within the area of impingement by the noise, operations carried on under existing nonconforming rights or conditional use permits or zone variances, the time factors related to study, design, financing and construction of remedial work, the economic factors related to age and useful life of the equipment and general public interest and welfare.

(b) The city manager may grant a retroactive variance for emergencies provided an application for variance has been filed with the city manager within two (2) business days following the emergency. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-250. Applications for permits and variances.**

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(a) Every applicant for a permit or variance required by this article shall file with the city manager a written application on a form prescribed by the city manager.

(b) The application shall state the name and address of the applicant, the nature of the noise source involved, the area to be affected, the duration of the permit or variance, and such other information as the city manager may require.

(c) Concurrent with the application, the applicant shall cause notice to be made to property owners located within a radius of five hundred (500) feet of the exterior boundaries of the property identified in the application and submit proof of such notice to the city manager within five (5) days of the date the application is filed. Such notice shall identify the nature of the noise source involved, the area to be affected, the duration for which the applicant is making application, such other identifiable terms as may be required by the city manager, and further provide notification that written comment be made to the city manager within fifteen (15) days of the date of the application.

(d) Notice under this section shall be made by:

(1) Posting a notice conspicuously along the streets within the area of five hundred (500) feet of the exterior boundaries of the property identified in the application and at least once on each side of each block or fraction of block therein,

(2) Mailing to each owner of property within a five hundred (500) foot radius of the exterior boundaries of the property identified in the application notice of application for variance, and

(3) Publishing the notice of application for variance at least once in a newspaper of general circulation published and circulated in the community.

(e) Property owners within a five hundred (500) foot radius of the exterior boundaries of an area identified in an application for variance may provide written comments in favor of or in opposition to an application for variance under

this article. Such comments shall state in as concise a manner as possible reasons for approval of or opposition to the pending application or such conditions as may be perceived necessary to mitigate certain stated circumstances. Such comments shall be made within fifteen (15) days of the date of application. The city manager shall consider such comments with the information submitted by the applicant. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-251. Application fees.**

Every applicant, except any state or local governmental agency or public district, shall pay such fees as the city may from time to time by resolution establish, but not less than twenty-five dollars (\$25.00).

A request for a duplicate permit or variance shall be made in writing to the city manager within ten (10) days after the destruction, loss, or defacement of a permit or variance. A fee of five dollars (\$5.00) shall be charged, except to any state or local government agency or public district, for issuing a duplicate permit or variance. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-252. Actions on applications.**

(a) The city manager shall act within thirty (30) days, if possible, but no earlier than fifteen (15) days of the date of application, on an application for a permit or variance and shall notify the applicant in writing by mail or in person of the action taken, namely, approval, conditional approval or denial. Notice of the action taken shall be deemed to have been given when the written notification has been deposited in the mail, postpaid, addressed to the address shown on the application, or when personally delivered to the applicant or his representative.

(b) Before acting on an application for a variance or permit, the city manager may require the applicant to furnish further information or further plans or specifications. Failure of the applicant to provide such further information or further plans or specifications within ten (10) days shall be grounds for denial of the permit or variance.

(c) The city manager shall deny an application for variance if notice of the same has not been provided in accordance with section 17-250 of this article.

(d) In the event of denial of an application for a permit or variance, the city manager shall notify the applicant in writing of the reasons therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the persons served or affidavit of the person making the service. The city manager shall not accept a further application unless the applicant has complied with the objections specified by the city manager as his/her reasons for denial.

(e) If the city manager receives three (3) or more written objections to the grant of a particular application for variances and, after consideration of the contents of the objections grants a variance to the applicant, the city manager shall cause the application to be an item on the next succeeding agenda of the city council for its review of the city manager decision. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-253. Applications deemed denied.**

The applicant may at his option deem the permit or variance denied if the city manager fails to act on the application within thirty (30) days after filing, or within ten (10) days after applicant furnishes the further information, plans and specifications requested by the city manager, whichever is later. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-254. Provision of sampling and testing facilities.**

A person operating under a permit or variance shall provide and maintain such sampling and testing facilities as specified in the permit or variance. (Ord. No. 90-8, § 2, 3-28-90)

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**Sec. 17-255. Appeals.**

Within ten (10) days after notice, by the city manager, of denial or conditional approval of a variance or a permit, or within ten (10) days after the effective date of the revocation of a permit or variance by the city manager, the affected person may petition the city council, in writing, for a public hearing. The city council, after notice and a public hearing after filing the petition, may sustain, reverse or modify the action of the city manager; such order may be made subject to

specified conditions. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-256. Contents of petition.**

A petition to review a denial or conditional approval of a permit or variance shall include a copy of the permit or variance application, and a copy of the city manager's action setting forth the reasons for the denial or the conditions of the approval, and the reasons for appeal. A petition to review a permit or variance revocation shall include a copy of the permit or variance, the city manager's revocation notice, including his reasons for revocation, and the reasons for appeal. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-257. Dismissal of petition.**

The petitioner may dismiss his petition at any time before submission of the case to the city council, without a hearing or meeting of the city council. The city clerk shall notify all interested persons of such dismissal. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-258. Severability.**

If any provision, clause, sentence or paragraph of this article or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are hereby declared to be severable. (Ord. No. 90-8, § 2, 3-28-90)

### **Sec. 17-259. Appendix—Adoption.**

Appendix 17-12-A to this article is adopted concurrently with the adoption of the ordinance codified in this article.  
MISSING HN

#### **Appendix 17-12-A CLASSIFICATION OF NOISE SOURCES**

<b>ENVIRONMENTAL NOISE</b>	<b>NUISANCE NOISE</b>
Air-conditioning units (fixed)	Air conditioning units (improperly) maintained
Animal shelters	Animal, pets
Auto and vehicle repair in conjunction with permitted commercial or industrial activity	Auto and vehicle repairs on residential sites. Carbide igniters and similar devices producing impactive noise
Commercial activities normally found in connection with a permitted activity	Commercial activities, other than those permitted which are causing a nuisance. Also, outdoor commercial sales activities. Construction/ demolition activities (of a temporary nature)
Industrial activities normally found in conjunction with a permitted activity	Industrial activities, other than environmental and causing a nuisance
Loading and unloading in conjunction with permitted uses	Loading and unloading, other than environmental, and causing a nuisance
Loose shutters, squeaky gates, clattering drain covers, and other conditions resulting from inadequate property maintenance	

Machinery and compressors (fixed maintained in conjunction with a permitted activity)	Machinery and compressors other than environmental. Off-road vehicles. Outcrying, shouting, screaming, whistling, singing. Powered model toys, devices, vehicles and equipment
Power tools normally found in conjunction with permitted uses	Power tools, other than environmental. Also, hobby activities
Lawn mowers	
Pumps—Same as machinery and compressors	Pumps—Same as machinery and compressors. Private parties, gatherings, assemblages of limited duration
Public address and public assembly, indoor and outdoor, as permitted use	Public address and public assembly, indoor and outdoor, a “temporary use” or as an assembly other than environmental. Radios, stereos, televisions, sound amplifiers, musical instruments, drums
Signaling devices (non-emergency) stationary. Outside phone bells. School bells	Signaling devices (non-emergency) mobile utility truck radio speakers. Emergency: Burglar alarms, Auto theft alarms. Sound trucks

(Ord. No. 90-8, § 2, 3-28-90)

**Secs. 17-260—17-265. Reserved.**

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