

## ARTICLE VII. - NOISE AND VIBRATION CONTROL

## Sec. 18-301. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agricultural property* means a parcel of real property which is undeveloped for any use other than agricultural purposes.

*Ambient noise level* means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources excluding alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

*A-weighted sound level* means the total level meter in decibels of all sounds as measured with a sound level meter with a reference pressure of 20 micropascals using the A-weighted network (scale) at slow response. The unit of measurement shall be defined as dB(A).

*Commercial property* means a parcel of real property that is developed and used either in part or in whole for a commercial purpose.

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

*Decibel (dB)* means a unit which denotes the ratio between two quantities which are proportional to power: The number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm of the base ten of this ratio.

*Dwelling unit* means a single unit providing complete independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking, and sanitation.

*Emergency machinery, vehicle, work, or alarm* means machinery, vehicle, work, or an alarm used, employed, performed, or operated in an effort to protect, provide, or restore safety conditions in the community or for the citizenry or work performed by private or public utilities when restoring utility service.

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

*Grading* means any excavating or filling of earth material or any combination thereof conducted at a site to prepare such site for construction or other improvements thereon.

*Health care institution* means any hospital, convalescent home or other similar facility which provides health care, medical treatment, room, board or other services for the ill, retarded, or convalescent.

*Hertz (Hz)* means the unit that describes the frequency of a function periodic in time, which is the reciprocal of the period.

*Impulsive noise level* means a noise of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.

*Industrial property* means a parcel of real property that is developed and used either in part or in whole for manufacturing purposes.

*Intruding noise level* means the total sound level, in decibels, created, caused, maintained, or originated from an alleged offensive source at a specified location while the alleged offensive source is in operation.

*Licensed* means the issuance of a formal license or permit by the appropriate jurisdictional authority or, where no permits or licenses are issued, the sanctioning of the activity by the jurisdiction as noted in the public record.

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

*Plainly audible* means clearly heard by a person using his unaided hearing faculties.

*Residential property* means a parcel of real property that is developed and used either in part or in whole for residential purposes, other than transient uses such as hotels and motels.

*Simple tone noise* means a noise characterized by a predominant frequency so that other frequencies can not be readily distinguished. If measured, simple tone noise shall exist if the one-third octave band sound pressure levels in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands as follows: by five dB for frequencies of 500 hertz (Hz) and above or by 15 dB for frequencies less than or equal to 125 hertz.

*Sound level meter* means an instrument meeting American 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.

*Sound pressure level* of a sound, in decibels, means 20 times the logarithm to the base 20 of the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated.

*Vibration* means any movement of the earth, ground, or other similar surface created by temporal and special oscillation of displacement, velocity, or acceleration in any mechanical device or equipment located upon, attached to, affixed to, or in conjunction with that surface.

(Code 1959, § 14.9-2; Ord. No. 3120, § 1 (part); Ord. No. 3939, § 1)

**Cross reference**— Definitions generally, § 1-2.

Sec. 18-302. - Declaration of policy.

- (a) In order to control unnecessary, excessive and annoying noise and vibration in the city, it is hereby declared to be the policy of the city to prohibit such noise and vibration generated from or by all sources as specified in this article.
- (b) It is determined that certain noise levels and vibration are detrimental to the public health, welfare and safety and contrary to public interest. Therefore, the city council declares that creating, maintaining, causing or allowing to be created, caused or maintained any noise or vibration in a manner prohibited by or not in conformity with this article is a public nuisance and shall be punishable as such.

(Code 1959, § 14.9-1; Ord. No. 3120, § 1 (part))

Sec. 18-303. - Penalties for violation.

Any person violating or causing the violation of any of the sections of this article shall be deemed guilty of a misdemeanor or an infraction at the discretion of the city attorney or the district attorney of the county.

(Code 1959, § 14.9-15; Ord. No. 3120, § 1 (part); Ord. No. 3949, § 1, 3-4-2002)

Sec. 18-304. - Public nuisance; additional remedies.

- (a) As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any section of this article, which operation or maintenance causes or creates sound levels or vibration exceeding the allowable standards as specified in this article, shall be deemed and is hereby declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- (b) Any violation of this article is declared to be a public nuisance and may be abated in accordance with the law. The expense of such abatement may be by resolution of the city council declared to be a lien against the property on which the nuisance is maintained, and such lien shall be made a personal obligation of the property owner.

(Code 1959, § 14.9-16; Ord. No. 3120, § 1 (part))

Sec. 18-305. - Exemptions.

The following activities shall be exempted from this article:

- (1) Occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided such events are conducted pursuant to a permit or license issued by the city relative to the staging of such events. Notwithstanding the forgoing, any conditional use permit or other permit issued by the City of Pomona requiring the permittee to abide by this article shall not be entitled to an exemption under this section without express action of such exemption.
- (2) Except as provided in section 14-399, any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle, work or warning alarm or bell, provided the sounding of any bell or alarm on any building or motor vehicle shall terminate its operation within 30 minutes in any hour of its being activated.
- (3) Noise sources associated with or vibration created by construction, repair, remodeling or grading of any real property or during authorized seismic surveys, provided such activities do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday, and provided the noise level created by such activities do not exceed the noise standard of 65 dB(A) plus the limits specified in section 18-311(b) as measured on residential property and any vibration created does not endanger the public health, welfare and safety.
- (4) All mechanical devices, apparatus or equipment associated with agricultural operations, provided:
  - a. Operations do not take place between 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a federal or state holiday;
  - b. Such operations and equipment are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions; or
  - c. Such operations and equipment are associated with agricultural pest control through pesticide application, provided the application is made in accordance with permits issued by or regulations enforced by the county department of agriculture.
- (5) Noise sources associated with the maintenance of real property, provided such activities take place between the hours of 7:00 a.m. and 8:00 p.m. on any day except Sunday or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday.
- (6) Any activity to the extent regulation thereof has been preempted by state or federal law.

(Code 1959, § 14.9-7; Ord. No. 3120, § 1(part); Ord. No. 4110, § 1, 11-17-2008)

Sec. 18-306. - Variances.

- (a) The owner or operator of a noise or vibration source which violates any of the sections of this article may file an application with the chief of police for a variance from the sections of this article wherein such owner or operator shall set forth all actions taken to comply with such sections, 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 set by resolution of the city council. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership or several fixed sources on a single property may be combined into one application. An application for a variance shall remain subject to prosecution under the terms of this article until a variance is granted.

(b) The chief of police shall evaluate all applications for variance from the requirements of this article and may grant such variances with respect to time for compliance, subject to such terms, conditions and requirements as he may deem reasonable to achieve maximum compliance with this article. Such terms, conditions and requirements may include but shall not be limited to 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 his determination the chief of police shall consider the following:

- (1) The magnitude of nuisance caused by the offensive noise.
- (2) The use of the property within the area of impingement by the noise.
- (3) The time factors related to study, design, financing and construction of remedial work.
- (4) The economic factors related to age and useful life of the equipment.
- (5) The general public interest, welfare and safety.

(c) Any violation of the terms of such variance shall be unlawful. The decision of the chief of police shall be final. (Code 1959, §§ 14.9-12, 14.9-13; Ord. No. 3120, § 1 (part))

Sec. 18-307. - Decibel measure criteria.

Any decibel measurement made pursuant to this article shall be based on a reference sound pressure of 20 micropascals as measured with a sound level meter using the A-weighted network (scale) at slow response.

(Code 1959, § 14.9-3; Ord. No. 3120, § 1 (part))

Sec. 18-308. - Proposed developments.

Each department whose duty it is to review and approve new projects or changes to existing projects that result or may result in the creation of noise shall consult with the chief of police prior to any such approval. If at any time the chief of police has reason to believe that a standard, regulation or action or proposed standard, regulation or action of any department respecting noise does not conform to this article, the chief of police may request such department to consult with him on the advisability of revising such standard or regulation to obtain uniformity.

(Code 1959, § 14.9-11; Ord. No. 3120, § 1 (part))

Sec. 18-309. - Vibration.

Notwithstanding other sections of this article, it shall be unlawful for any person to create, maintain or cause any ground vibration which is perceptible without instruments at any point on any affected property adjoining the property on which the vibration source is located. For the purpose of this article, the perception threshold shall be presumed to be more than 0.05 inch per second RMS vertical velocity.

(Code 1959, § 14.9-10; Ord. No. 3120, § 1 (part))

Sec. 18-310. - Designated noise zones.

The properties described in this article are hereby assigned to the following noise zones:

Noise zone 1	Single-family residential properties
Noise zone 2	Multiple-family residential properties

Noise zone 3	Commercial properties
Noise zone 4	Industrial properties
Noise zone 5	High traffic corridors

(Code 1959, § 14.9-4; Ord. No. 3120, § 1 (part); Ord. No. 3939, § 2)

Sec. 18-311. - Exterior noise standards.

(a) The following noise standards, unless otherwise specifically indicated, shall apply to all property within a designated noise zone:

Noise Zone	Time Interval	Allowable Interior Noise Level
1	10:00 p.m. to 7:00 a.m.	<u>50</u> dB(A)
	7:00 a.m. to 10:00 p.m.	60 dB(A)
2	10:00 p.m. to 7:00 a.m.	<u>50</u> dB(A)
	7:00 a.m. to 10:00 p.m.	65 dB(A)
3	10:00 p.m. to 7:00 a.m.	60 dB(A)
	7:00 a.m. to 10:00 p.m.	65 dB(A)
4	Any	<u>70</u> dB(A)
5	Any	<u>70</u> dB(A)

(b) It shall be unlawful for any person at any location within the incorporated area of the city to create any noise or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person which causes the noise level, when measured on any other property, to exceed the following:

- (1) The noise standard for a cumulative period of more than 30 minutes in any hour;
- (2) The noise standard plus five dB(A) for a cumulative period of more than 15 minutes in any hour;
- (3) The noise standard plus ten dB(A) for a cumulative period of more than five minutes in any hour;
- (4) The noise standard plus 15 dB(A) for a cumulative period of more than one minute in any hour; or
- (5) The noise standard plus 20 dB(A) for any period of time.

(c) If the ambient noise level exceeds any of the noise limit categories in subsections (b)(1) through (4) of this section, the cumulative period applicable to such category shall be increased to reflect such ambient noise level. If the ambient noise level exceeds the noise limit category in subsection (b)(5) of this section, the maximum allowable noise level under such category shall be increased to reflect the maximum ambient noise level.

- (d) If the measurement location is on a boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.
- (e) If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be determined, the measured noise level obtained while the source is in operation shall be compared directly to the allowable noise level standards as specified respective to the measurement location's designated land use and for the time of day the noise level is measured. The reasonableness of temporarily discontinuing the noise generation by an intruding noise source shall be determined by the chief of police for the purpose of establishing the existing ambient noise level at the measurement location.

(Code 1959, § 14.9-5; Ord. No. 3120, § 1 (part); Ord. No. 3861, § 1; Ord. No. 3939, § 3)

Sec. 18-312. - Interior noise standards.

- (a) The following noise standard, unless otherwise specifically indicated, shall apply to all residential property within all noise zones:

Noise Zone	Type of Land Use	Time Interval	Allowable Interior Noise Level in dB(A)
All	Residential	10:00 p.m. to 7:00 a.m.	40
		7:00 a.m. to 10:00 p.m.	<u>50</u>

Each of the noise limits specified shall be reduced by five dB(A) for impulse or simple tone noises or for noises consisting of speech or music; provided, however, that if the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

- (b) It shall be unlawful for any person at any location within the incorporated area of the city to create any noise or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such a person which causes the noise level, when measured within any other residential dwelling unit in any noise zone, to exceed the following:
- (1) The noise standard for a cumulative period of more than five minutes in any hour;
  - (2) The noise standard plus five dB(A) for a cumulative period of more than one minute in any hour; or
  - (3) The noise standard plus ten dB(A) for any period of time.
- (c) If the ambient noise level exceeds any of the limit categories in subsection (b)(1) or (2) of this section, the cumulative period applicable to such category shall be increased to reflect the maximum ambient noise level. If the ambient level exceeds the noise category in subsection (b)(3) of this section, the maximum allowable noise level under such category shall be increased to reflect the maximum ambient noise level.
- (d) If the measurement location is on a boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.
- (e) If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be determined, the same procedures specified in section 18-311(e) shall be deemed proper to enforce this section.

(Code 1959, § 14.9-6; Ord. No. 3120, § 1 (part))

Sec. 18-313. - Schools, churches, libraries and health care institutions.

It shall be unlawful for any person to create a noise which causes a noise level at any school, hospital or similar health care institution, church, or library, while such is in use, to exceed the noise standards specified in [section 18-311](#) prescribed for the assigned noise zone in which the school, hospital, church or library is located or which noise level unreasonably interferes with the use of such institutions or which unreasonably disturbs or annoys patients in a hospital, convalescent home or other similar health care institution, provided conspicuous signs are displayed in three separate locations within one-tenth mile of the institution or facility indicating a quiet zone.

(Code 1959, § 14.9-8; Ord. No. 3120, § 1 (part))

Sec. 18-314. - Noise level measurement.

The location selected for measuring exterior noise levels shall be at any point on the affected property. Interior noise measurements shall be made within the affected residential unit. The measurements shall be made at a point at least four feet from the wall, ceiling or floor nearest the noise source with windows in an open position, depending on the normal seasonal ventilation requirements.

(Code 1959, § 14.9-9; Ord. No. 3120, § 1 (part))

Sec. 18-315. - Animal noise.

- (a) It shall be unlawful for an owner to keep or harbor any dog or other animal that, by frequent or habitual howling, yelping, barking, or the making of other noise, shall annoy or disturb a neighborhood of two or more persons who are residents of separate households.
- (b) Upon documentation of three or more violations of this section, any such dog or animal shall be deemed a nuisance and may be seized and impounded.

(Code 1959, § 14.9-18; Ord. No. 3939, § 4 (part))

**Cross reference—** Animals, [ch. 6](#).

Sec. 18-316. - Residential property nuisance noise.

- (a) It shall be unlawful for any person upon a residential property or a property with a residential use to make or continue or cause to be made, within the city limits, any disturbing, excessive, or offensive noise that causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.
- (b) Disturbing, excessive, or offensive noises include, but are not limited to, the playing, use, operation or the permitting of playing, use or operation of any sound production or reproduction device, radio receiving set, musical instrument, drums, stereo, television set, loudspeakers and sound amplifiers, 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 any reasonable person of normal sensitivity in any residential area.
- (c) This section shall not apply to any participant in a duly licensed parade or to any person who or organization that has been otherwise duly authorized by the city to engage in such conduct. Notwithstanding the forgoing, any conditional use permit or other permit issued by the City of Pomona requiring the permittee to abide by this article shall not be entitled to such exemption under this section without express action of such exception.
- (d) The operation on a residential property of any such set, instrument, stereo, television set, machine, loudspeaker, or similar device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- (e) The operation on a residential property of any such set, instrument, stereo, television set, machine, loudspeaker, or similar device between the hours of 7:00 a.m. and 10:00 p.m. in such a manner as to be plainly audible at a distance of 150 feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(Code 1959, § 14.9-19; Ord. No. 3939, § 4(part); Ord. No. 4110, § 2, 11-17-2008)

Secs. 18-317—18-350. - Reserved.