

## Chapter 9.50 - NOISE CONTROL

### Sections:

#### 9.50.010 - Purpose and intent.

- A. It is the purpose of these regulations to implement the goals and objectives of the noise element of the city's general plan to establish community-wide noise standards and to serve as a reference for locating other city regulations relating to noise in the community. It is further the purpose of these regulations to recognize that the existence of excessive noise within the city is a condition that is detrimental to the health, safety, welfare and quality of life of the citizens and shall be regulated in the public interest.
- B. In furtherance of the foregoing purpose, it is found and declared as follows:
1. The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises that are prolonged, unusual, annoying, disturbing and unnatural in their time, place and use are a detriment to public health, comfort, convenience, safety, general welfare and the peace and quiet of the city and its inhabitants; and
  2. The public necessity for the provisions and prohibitions contained in and enacted by this chapter is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions set forth in and enacted by this chapter are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, general welfare and property and the peace and quiet of the city and its inhabitants.

(Ord. 1417 § 1 (part), 2008)

#### 9.50.020 - Definitions.

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

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

"Enforcement officer" means a city code enforcement officer or peace officer authorized to enforce the provisions and prohibitions of this chapter pursuant to Section 9.50.080.

"Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the investigating enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the vibration from the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

"Public right-of-way" means any street, avenue, boulevard, highway, sidewalk, alley or similar place, owned or controlled by a government entity.

"Public space" means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreation areas.

"Responsible person" means:

1. Any person who owns, leases or is lawfully in charge of the property or motor vehicle where the noise violation takes place; or
2. Any person who owns or controls the source of the noise or violation. If the responsible person is a minor, then the parent or guardian who has custody of the child at the time of the violation shall be the responsible person who is liable under this chapter.

(Ord. 1417 § 1 (part), 2008)

9.50.030 - Prohibited acts.

A. It is unlawful for any person to engage in the following activities:

1. Sounding any horn or signal device on any automobile, motorcycle, bus or other motor vehicle in any other manner or circumstances or for any other purpose than required or permitted by the Vehicle Code or other California laws.
2. Racing the engine of any motor vehicle while the vehicle is not in motion, except when necessary to do so in the course of repairing, adjusting or testing the same.
3. Operating or permitting the use of any motor vehicle on any public right-of-way or public place or on private property within a residential zone for which the exhaust muffler, intake muffler or any other noise abatement device has been modified or changed in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured.
4. Operating or permitting the use or operation of personal or commercial music or sound amplification or production equipment that is:
  - a. Plainly audible across property boundaries;
  - b. Plainly audible through partitions common to two residences within a building;
  - c. Plainly audible at a distance of fifty feet in any direction from the source of music or sound between the hours of eight a.m. and ten p.m.; or
  - d. Plainly audible at a distance of twenty-five feet in any direction from the source of music or sound between the hours of ten p.m. and eight a.m.
5. The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or any motor vehicle burglar alarm, except for emergency purposes or for testing, unless such alarm is terminated within fifteen minutes of activation.
6. Creating excessive noise adjacent to any school, church, court or library while the same is in use, or adjacent to any hospital or care facility, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, students in the school, users of the court or library, provided conspicuous signs are displayed in such streets indicating the presence of a school, institution of learning, church, court or hospital.
7. Making or knowingly and unreasonably permitting to be made any unreasonably loud, unnecessary or unusual noise that disturbs the comfort, repose, health, peace and quiet or which causes discomfort or annoyance to any reasonable person of normal sensitivity. The characteristics and conditions that may be considered in determining whether this section has been violated, include, but are not limited to, the following:
  - a. The level of noise;
  - b. Whether the nature of the noise is usual or unusual;
  - c. Whether the origin of the noise is natural or unnatural;
  - d. The level of the background noise;
  - e. The proximity of the noise to sleeping facilities;
  - f. The nature and zoning of the areas within which the noise emanates;
  - g. The density of the inhabitation of the area within which the noise emanates;

- h. The time of day or night the noise occurs;
  - i. The duration of the noise;
  - j. Whether the noise is recurrent, intermittent or constant; and
  - k. Whether the noise is produced by a commercial or noncommercial activity.
- B. A violation of this section is an infraction and a public nuisance.
- C. A violation of this section may result in the following:
1. Issuance of an infraction citation;
  2. Issuance of a notice of public nuisance;
  3. Imposition of criminal and civil penalties; and
  4. Confiscation and impoundment as evidence, of the components that are amplifying or transmitting the prohibited noise.
- D. An enforcement officer who encounters a violation of this section may issue a written notice to the responsible person demanding immediate abatement of the violation (written notice). The written notice shall inform the recipient that a second violation of the same provision within a seventy-two-hour period may result in the issuance of a criminal citation and/or notice of public nuisance, the imposition of criminal and civil penalties, and confiscation and impoundment as evidence, of the components that are amplifying or transmitting the prohibited noise.
- E. Any peace officer who encounters a second violation of this section within a seventy-two-hour period following issuance of a written notice is empowered to confiscate and impound as evidence, any or all of the components amplifying or transmitting the sound.
- F. Any person claiming legal ownership of the items confiscated and impounded under this section may request the return of the item by filing a written request with the police department within seven calendar days of the confiscation. Such requests shall be processed in accordance with the procedures adopted by the department.

(Ord. 1417 § 1 (part), 2008)

#### 9.50.040 - Excessive noise and vibration emanating from a motor vehicle.

- A. No person shall operating or occupy a motor vehicle on any public right-of-way, public place or private property, while operating or permitting the use or operation of any radio, stereo receiver, musical instrument, television, computer, compact disc player, tape recorder, cassette player or any other device for the production or reproduction of sound from within the motor vehicle so that the sound is plainly audible at a distance of fifty feet from such vehicle, or in the case of a motor vehicle on private property, beyond the property line.
- B. Pursuant to Section 9.50.130, a violation of this section is a misdemeanor offense and a public nuisance.
- C. A violation of this section may result in the following:
1. Issuance of a misdemeanor citation;
  2. Issuance of a notice of public nuisance;
  3. Imposition of criminal and civil penalties; and
  4. Immediate confiscation and impoundment as evidence, of the components that are amplifying or transmitting the prohibited noise or the immediate confiscation and impoundment of the motor vehicle to which the component is attached if the same may not be removed without causing harm to the vehicle or the component.
- D. Any person claiming legal ownership of a motor vehicle confiscated and impounded under this section may request the return of the vehicle by filing a written request with the police department within seven calendar days of the confiscation. Such requests shall be processed in accordance with the procedures adopted by the department.

- E. Any person claiming legal ownership of the items confiscated and impounded under this section, other than a motor vehicle, may request the return of the item by filing a written request with the police department, which shall be processed in accordance with the procedures adopted by the department.

(Ord. 1417 § 1 (part), 2008)

#### 9.50.050 - Controlled hours of operation.

It is unlawful for any person to engage in the following activities other than between the hours of seven a.m. and eight p.m. in all zones:

- A. Operate or permit the use of powered model vehicles and planes;
- B. Load or unload any vehicle, or operate or permit the use of dollies, carts, forklifts, or other wheeled equipment that causes any impulsive sound, raucous or unnecessary noise within one thousand feet of a residence;
- C. Operate or permit the use of domestic power tools, or machinery or any other equipment or tool in any garage, workshop, house or any other structure;
- D. Operate or permit the use of gasoline or electric powered leaf blowers, such as commonly used by gardeners and other persons for cleaning lawns, yards, driveways, gutters and other property;
- E. Operate or permit the use of privately operated street/parking lot sweepers or vacuums, except that emergency work and/or work necessitated by unusual conditions may be performed with the written consent of the city manager;
- F. Operate or permit the use of pile driver, steam or gasoline shovel, pneumatic hammer, steam or electric hoist or other similar devices;
- G. Operate or permit the use of electrically operated compressor, fan, and other similar devices;
- H. Perform ground maintenance on golf course grounds and tennis courts contiguous to golf courses that creates a noise disturbance across a residential or commercial property line;
- I. Operate or permit the use of any motor vehicle with a gross vehicle weight rating in excess of ten thousand pounds, or of any auxiliary equipment attached to such a vehicle, including but not limited to refrigerated truck compressors, for a period longer than fifteen minutes in any hour while the vehicle is stationary and on a public right-of-way or public space except when movement of the vehicle is restricted by other traffic;
- J. Repair, rebuild, reconstruct or dismantle any motor vehicle or other mechanical equipment or devices in a manner so as to be plainly audible across property lines.

(Ord. 1417 § 1 (part), 2008)

#### 9.50.060 - Exemptions.

The following activities and noise sources shall be exempt from the provisions of this chapter:

- A. Those noise events in the community (e.g., airport noise, arterial traffic noise, railroad noise) that are more accurately measured by application of the general plan noise element policy, utilizing the community noise equivalent level (CNEL) method;
- B. Activities conducted on the grounds of any public or private school during regular hours of operation;
- C. Outdoor gatherings, public dances, shows and sporting and entertainment events provided the events are authorized by the city;
- D. Activities conducted at public spaces during regular hours of operation;
- E. Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or work;
- F.

All mechanical devices, apparatus or equipment which are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions;

- G. Mobile noise sounds associated with agricultural operations provided such operations do not take place between the hours of eight p.m. and seven a.m. on weekdays, including Saturdays, or at any time on Sunday or a state holiday;
- H. Mobile noise sources associated with agricultural pest control through pesticide application;
- I. Warning devices necessary for the protection of the public safety, including, but not limited to, police, fire and ambulance sirens and train horns and sounds for the purpose of alerting persons to the existence of an emergency;
- J. Construction, repair or excavation necessary for the immediate preservation of life or property;
- K. Construction, operation, maintenance and repairs of equipment, apparatus or facilities of park and recreation departments, public work projects or essential public services and facilities, including trash collection and those of public utilities subject to the regulatory jurisdiction of the California Public Utilities Commission;
- L. Construction, repair or excavation work performed pursuant to a valid written agreement with the city or any of its political subdivisions which agreement provides for noise mitigation measures;
- M. Any activity to the extent regulation thereof has been preempted by state or federal law;
- N. Any activity or noise source governed elsewhere in this code. Such activities include but are not limited to:
  - 1. Security alarm systems (see Chapter 7.01 of this code),
  - 2. Animal noise (see Title 6 of this code),
  - 3. Sound trucks and advertising by sound (see Chapter 9 of this code),
  - 4. Performance standards for various commercial and industrial uses (see Title 18 of this code);
- O. Sounds generated in commercial and industrial zones that are necessary and incidental to the uses permitted therein;
- P. Sounds generated from or incidental to emergency repairs to any public works function; and
- Q. Sounds generated in connection with speech or communication protected by the U.S. Constitution or the California Constitution, except to the extent such sounds are subject to permissible time, manner and place restrictions.

(Ord. 1417 § 1 (part), 2008)

9.50.070 - Disturbances from construction activity.

- A. No person shall be engaged or employed, or cause any other person to be engaged or employed, in any work of construction, erection, alteration, repair, addition, movement, demolition, or improvement to any building or structure except within the hours provided for by subsection B of this section.
- B. The permitted hours for such construction work are as follows:
  - 1. October 1st through April 30th.

Monday—Friday	7:00 a.m. to 5:30 p.m.
Saturday	8:00 a.m. to 5:00 p.m.
Sunday	No permissible hours
State holidays	No permissible hours

## 2. May 1st through September 30th.

Monday—Friday	6:00 a.m. to 7:00 p.m.
Saturday	8:00 a.m. to 5:00 p.m.
Sunday	No permissible hours
State holidays	No permissible hours

## C. For purposes of this section, the following definitions shall apply:

1. "Building" means any structure used or intended for supporting or sheltering any use or occupancy.
2. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

## D. For purposes of this section, the following exceptions shall apply:

1. Emergency repair of existing installations, equipment, or appliances; and
2. Such work that complies with the terms and conditions of a written early work permit issued by the city manager or his or her designee upon a showing of a sufficient need and justification for the permit due to hot or inclement weather, the use of an unusually long process material, or other circumstances of an unusual and compelling nature.

(Ord. 1417 § 1 (part), 2008)

## 9.50.080 - Administration.

Except as otherwise provided, the provisions and prohibitions of this chapter shall be jointly administered by and the responsibility of the city's police department and department of development services, code enforcement division. The chief of police may adopt administrative rules and regulations which are consistent with the provisions of this chapter for the purpose of implementing the same.

(Ord. 1417 § 1 (part), 2008)

## 9.50.090 - Cost recovery for second response.

- A. Any and all personnel who may be deployed by the city pursuant to this chapter shall be deemed to be on regular duty under the general supervision of the chief of police, fire chief, the director of development services or other city department director, and any officer or employee 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 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 director, as the case may be, shall report to the chief financial officer 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 chief financial officer shall thereupon bill the person.
- B. Whenever any enforcement officer issues a written warning to a responsible person to discontinue a noise violation, the responsible person shall be liable for the actual cost of each subsequent response required to abate the violation within seventy-two hours of the issuance of the written warning (response charge).
- C.

The bill for the response charge shall be served upon the responsible person within thirty days after the violation. If the responsible person has no last known business or residence address, the location of the violation shall be deemed to be the proper address for service. The bill shall include a notice of the right of the person being charged to request a hearing to dispute the imposition of the response charge or the amount of the charge.

D. The response charge shall be deemed to be a civil debt to the city.

E. All responsible persons shall be jointly and severally liable for the response charge regardless of whether or not they received a written notice.

(Ord. 1417 § 1 (part), 2008)

#### 9.50.100 - Public nuisance.

A violation of this chapter by any person responsible for committing, causing or maintaining such violation shall constitute a public nuisance that shall be subject to the provisions of Chapters 9.39 and 9.42 of this title.

(Ord. 1417 § 1 (part), 2008)

#### 9.50.110 - Infraction violation.

A violation of Section 9.50.030, 9.50.050 or 9.50.070 of this chapter by any person responsible for committing, causing or maintaining such violation shall constitute an infraction violation and the violator shall be subject to the provisions set forth in Section 1.16.010 of this code, including but not limited to the imposition of any and all criminal penalties set forth therein.

(Ord. 1417 § 1 (part), 2008)

#### 9.50.120 - Misdemeanor violation.

A violation of Section 9.50.040 of this chapter by any person responsible for committing, causing or maintaining such violation shall constitute a misdemeanor violation which shall be subject to the provisions set forth in Section 1.16.010 of this code, including but not limited to the imposition of any and all criminal penalties set forth therein.

(Ord. 1417 § 1 (part), 2008)

#### 9.50.130 - Civil fines.

Any person convicted of an infraction or misdemeanor violation under this chapter shall, for each separate violation, be subject to: (A) a fine in an amount not to exceed two hundred fifty dollars for a first conviction of an offense; (B) a fine in an amount not to exceed five hundred dollars for a second conviction of the same offense within a twelve-month period from the date of the first offense; and (C) a fine in an amount not to exceed seven hundred fifty dollars for the third conviction of the same offense within a twelve-month period from the date of the first offense. The fine for a fourth and any subsequent convictions of the same offense within a twelve-month period from the date of the first offense shall be one thousand dollars.

(Ord. 1417 § 1 (part), 2008)

#### 9.50.140 - Additional penalties.

Nothing in this chapter shall preclude the city from pursuing any other legal remedies provided by this code or otherwise available to the city at law or in equity.

(Ord. 1417 § 1 (part), 2008)