

ARTICLE II. - NOISE^[2]

Footnotes:

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Charter reference— Authority of city to prohibit disturbing noises on streets, § 2.05(j); authority to regulate noise, § 2.04(m).

Cross reference— Alcoholic beverages, ch. 10; aviation, ch. 18; public drunkenness, § 50-152.

DIVISION 1. - GENERALLY^[3]

Footnotes:

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Editor's note—Ord. No. 41 of 2011, adopted May 10, 2011, amended division 1 in its entirety to read as herein set out. Formerly, division 1 pertained to similar subject matter and derived from the Code of 1971, §§ 23-1—23-6, 23-8, 23-9; Ord. No. 36 of 1990, adopted May 22, 1990; Ord. No. 228 of 1995, adopted November 28, 1995, and Ord. No. 171 of 2010, adopted February 8, 2011.

Sec. 58-26. - Definitions.

Agricultural property means property used in cultivating the soil, producing crops (including timber), and raising livestock.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network which discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear. The level is designated dBA.

Ambient sound means all encompassing sound associated with a given environment composed of sound sources near and far.

Background sound means all encompassing sound associated with a given environment without contributions from the source(s) of interest. It combines long-term and short-term background sound.

Background sound level means the sound level defined by the long-term background sound level in an area which excludes the noise source of interest and short-term background noise.

C-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the C-weighting network which is more sensitive to low-frequency sounds than the A-weighting network. C-weighting is used to assess the low-frequency content of a complex sound environment. The level is designated dBC.

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

Daytime hours mean the hours between 7:00 a.m. on one day and 10:00 p.m. the same day.

Designated protected receiver means a property that is not residential where the owner has applied for and obtained approval from the city to reduce the maximum permissible sound levels below those established for properties designated as other receiver. All such applications shall be acted upon by the chief administrative officer following a public hearing thereon and the sending of specific notice to the owners of all property located within 500 feet of the proposed designated protected receiver.

Decibel (dB) means a unit for measuring the level of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency signaling device includes fire, burglar, civil defense alarm, siren, whistle, or similar device intended primarily for emergency purposes.

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Impulsive sound means a sound of short duration, usually less than two seconds, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, hammering, and the discharge of firearms.

Lasting activity means an activity that is associated with the intended long-term use of the property.

Long-term background sound means the background sound during a measurement period after removing the short-term background sound. It is considered to be approximately stationary during the measurement period and the sound sources captured can be described statistically over the measurement period.

Muffler or sound dissipative device means a properly functioning system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment.

Nighttime hours mean the hours between 10:00 p.m. on one day and 7:00 a.m. the following day.

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

Noise control officer (NCO) means the city employee having lead responsibility for this division.

Noise sensitive receiver includes, but is not limited to, a property where a school, hospital, nursing home, church, court, public library, or similar institution is located.

Other receiver means all property other than residential property, agricultural property, noise sensitive receivers and designated protected receivers.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties.

Property line means, with respect to single occupancy properties, the line along the ground surface and its vertical extension that separates the real property owned, leased, or occupied by one person or entity from that owned, leased, or occupied by another person or entity. With respect to shared occupancy properties the term shall mean the imaginary line that represents the legal limits of occupancy of any person or entity who owns, leases, or otherwise occupies an apartment, condominium, hotel or motel room, office, or any other type of occupancy from that of other occupants.

Pure tone means any sound which can be distinctly heard as a single pitch or a set of single pitches.

Qualified professional in environmental noise means an individual who has education or training in environmental noise measurement instruments and practices and has experience in the performance of environmental noise measurements. If necessary for the purposes of this article, the individual must also have experience in the assessment and mitigation of environmental noise.

Receiving property type means the property designations identified in this division for the purpose of determining the maximum permissible sound levels for a regulated receiver.

Receptor means an occupied structure or outdoor public space (e.g. park, playground, etc.) located on a regulated receiver property.

Regulated receiver means any real property designated as a residential property, designated protected receiver, noise sensitive receiver, or other receiver.

Residential property means any real property developed and used for human habitation that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.

Short-term background sound consists of one or more infrequent sound events and is relatively loud compared to the long-term background sound. The time of occurrence of these events cannot be described statistically over the full measurement period—e.g. barking dog, accelerating vehicle, aircraft flyover, etc.

Significant noise generators (SNG) mean those land uses that are known or may reasonably be expected to generate noise upon adjacent properties that exceeds the limits set forth in this division.

Sound level means the sound pressure level obtained by the use of a sound level meter. If a frequency-weighting network is used, such as A or C, then the level shall be indicated as dBA or dBC, respectively. If a frequency weighting is not used, then the un-weighted or flat level shall be indicated as dB(Flat). Frequency-weighted networks shall comply with the American National Standards Institute specifications for sound level meters (ANSI S1.4-1983 (R2006)) or the latest approved revision thereof.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averaging device, output meter, and weighting networks used to measure sound pressure levels. The instrument should meet requirements for a Type 1 or Type 2 sound level meter as specified in the American National Standards Institute specifications for sound level meters (ANSI S1.4-1983 (R2006)), or the latest approved revision thereof.

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

Sound pressure level means 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20 micronewtons per square meter). The sound pressure level is denoted L_p or SPL and is expressed in decibels (dB).

Temporary noise event means an activity that generates noise which could impact a protected receiver and occurs over the course of up to 14 consecutive days. The use of the term "temporary" is relative to the acoustic tolerance of a noisy activity and does not speak to whether that activity is associated with the intended long-term use of the property.

Temporary activity means an activity that is planned to occur for a pre-determined, finite length of time. Examples include but are not limited to construction, maintenance, and drilling of wells.

Utility means a business entity subject to government regulation that provides an essential commodity or service such as , but not limited to, water, electric, electric distribution, gas, gas distribution, gas transmission, gas gathering and telephone.

Workover operation is a term used in the oil and gas industry meaning work performed in a well after its initial completion.

(Ord. No. 41, 2011, 5-10-11)

Sec. 58-27. - Noise control officer.

- (a) This article shall be enforced by the noise control officer (NCO), who shall be an employee of the department of engineering and environmental services, in the division of environmental services, appointed by the director of engineering and environmental services. The director of engineering and environmental services may also appoint deputy noise control officers, who shall have the same powers of the NCO, subject to the supervisory authority of the NCO. The NCO and deputy NCO's shall be trained to perform noise enforcement activities. The NCO and deputy NCO's are hereby authorized to issue summonses for the enforcement of this article. The director of engineering and environmental services may also appoint employees of other departments as deputy noise control officers, with the approval of the employee's department head, subject to the same qualifications and requirements as deputy noise control officers who are employees of the department of engineering and environmental services.
- (b) The noise control officer shall have the power to:
- (1) Coordinate the noise control activities of all departments in the city and cooperate with all other public bodies and agencies to the extent practicable;
 - (2) Review the actions of the city and advise of the effect, if any, of such actions on noise control;
 - (3) Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this article;
 - (4) Issue permits;
 - (5) Investigate and pursue possible violations of this article for sound levels which equal or exceed the sound levels set forth in section 58-29, when measured at a receiving property located within the designated jurisdiction of the noise control officer, in accordance with section 58-31; and
 - (6) Cooperate with noise control officers of adjacent municipalities in enforcing one another's noise ordinances.
 - (7) Determine if a complaint is frivolous, duplicitous, or vexatious.
 - (8) Review and approve noise surveys.
 - (9) Review and approve noise management plans.
 - (10) Carry out all other duties set forth in this article.
 - (11) Prescribe rules and regulations to implement the provision of this article.
- (c) In addition to the enforcement powers stated above, members of the Shreveport Police Department are authorized to enforce any provision herein that does not require the measurement of sound level using a sound level meter, including specifically but not limited to subsections 58-30(5), 58-30(11) and 58-30(15)—(17).

(Ord. No. 41, 2011, 5-10-11; Ord. No. 72, 2012, 7-24-12)

Sec. 58-28. - Applicability.

- (a) This article applies to sound originating from or received at or within the property line of the following property types:
- (1) Residential property.
 - (2) Designated protected receiver.
 - (3) Noise sensitive receiver.
 - (4) Other receiver.
- (b)

All significant noise generators permitted or initiated on or after August 1, 2011 shall be subject to the regulations contained herein.

- (c) A noise generator existing prior to August 1, 2011 is subject to the regulations contained herein if the actions of the noise generator constitute a new use. A significant increase in acoustic conditions at a regulated receiver constitutes a new use for the noise generator if the conditions are due to the following:
 - (1) Changes in the operation of the noise generator;
 - (2) Modifications to or addition of equipment;
 - (3) Changes to the physical layout of the noise generating property;
 - (4) Facility expansion; or
 - (5) Any action on the part of owner or operator that leads to an increase in sound level, or an increase in the frequency or number of occurrences of temporary noise events, at a regulated receiver.

A significant increase in acoustic conditions at a regulated receiver includes an increase in sound level by more than five dBA or an increase to the applicable levels in Table 1, whichever is greater, or an increase in frequency (or number) of occurrences.

Notwithstanding the foregoing, a significant increase in acoustic conditions at a regulated received will not constitute a new use if caused solely by increased utilization of the noise generator, not to exceed its design or permitted capacity.

- (d) For a change in designation of a receiving property type that decreases the maximum permissible sound levels at a property, the regulated levels corresponding to the new designation shall only apply to noise generators beginning operation, or which constitute new uses for existing noise generators, on or after the date of approval of the new designation. Existing noise sources associated with lasting activities at the time of the change in property type designation shall be treated as part of the background sound at the receiving property.
- (e) All noise sources in existence prior to August 1, 2011 shall continue to be regulated by ordinances in effect prior to August 1, 2011.

(Ord. No. 41, 2011, 5-10-11)

Sec. 58-29. - Maximum permissible sound levels.

- (a) No person or entity shall cause, allow, or permit the operation of any source of sound which creates a sound level that exceeds the background sound level by more than five dBA or the applicable levels in Table 1 at a regulated receiver, whichever is greater, when measured in accordance with section 58-31. For compliance purposes, if the background sound level cannot be determined in accordance with section 58-31, the levels listed in Table 1 relative to the receiving property type shall be used. For planning and permitting purposes, a noise survey is required to determine the background sound level at the nearest or most impacted property, and the survey must be conducted in accordance with section 58-31. Once a noise survey has been reviewed and approved by the NCO, the established background sound level will apply to all properties considered by the noise survey until another noise survey is approved by the NCO. The sound level shall be measured at or within the receiving property line in accordance with section 58-31.

Table 1: Maximum Permissible A-Weighted Sound Levels (dBA) Listed by Receiving Property Type and Time of Day

Outdoor			
Receiving Property Type:	Noise Sensitive Receiver	Residential or Designated Protected Receiver	Other Receiver

Time:	7:00 a.m. —10:00 p.m.	10:00 p.m.— 7:00 a.m.	7:00 a.m. —10:00 p.m.	10:00 p.m.— 7:00 a.m.	7:00 a.m. —10:00 p.m.	10:00 p.m.— 7:00 a.m.
Maximum permissible A-weighted sound level, dBA*	50	45	55	50	60	60
*maximum permissible levels are subject to Sections 58-29.b, 58-29.c, 58-29.d, and 58-29.e.						

- (b) A temporary noise allowance can be applied to the levels determined in subsection (a). This allowance accounts for a receiver's added tolerance for known temporary noise events due to temporary activities of up to 14 days. The allowance requires that the party responsible for the noise source inform the potentially impacted recipients of the duration and nature of the noise. A temporary noise allowance can occur only once every 90 days for whatever duration of that activity consistent with the following:
- (1) For noise events lasting one day or less, a 15 dB increase in maximum permissible A-weighted sound level is permissible.
 - (2) For noise events lasting up to 14 consecutive days, a ten dB increase in A-weighted sound level is permissible.
 - (3) For any noise events lasting longer than 14 days, the noise associated with that temporary activity is not considered a temporary noise event.
- (c) Low frequency noise limit. No person or entity shall cause, allow, or permit the operation of any source of sound which creates low-frequency outdoor sound levels in the 31.5 and 63 Hz octave bands that exceed 65 dB(Flat) or exceeds the background sound levels in the 31.5 and 63 Hz octave bands by more than five dB(Flat), whichever is greater.
- (d) Impulsive noise limit. No person or entity shall cause, allow, or permit the operation of any source of sound which creates impulse sound levels that exceed the background sound level by 15 dBA at or within the receiving property line in accordance with the impulsive measurement requirements of section 58-31.
- (e) Tones. No person or entity shall cause, allow, or permit the operation of any source of sound which creates a pure tone where the one-third octave band sound pressure level in the band of interest exceeds the arithmetic average of the sound-pressure levels for the two adjacent one-third octave bands by the corresponding decibel (dB(Flat)) values as follows:
- (1) Five dB for center frequencies of 500 Hertz and above;
 - (2) Eight dB for center frequencies between 160 and 400 Hertz; and
 - (3) 15 dB for center frequencies less than or equal to 125 Hertz.

(Ord. No. 41, 2011, 5-10-11)

Sec. 58-30. - Exemptions and restricted uses.

The following standards shall apply to the associated activities or sound sources below:

- (1) Emergency signaling devices are exempt from section 58-29 in the case of an emergency and the following cases:
 - a.

Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

- b. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within 15 minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this section.
 - c. Testing of an emergency signaling device in accordance with state and federal regulations.
- (2) Nonemergency signaling devices operated by houses of religious worship, ice cream trucks, seasonal contribution solicitors, or by governmental entities or railroads for traffic control purposes are exempt from the operation of this provision.
 - (3) Operation and testing of emergency equipment and safety protection systems (for example, relief valves) are exempt from section 58-29.
 - (4) Accidents and emergency responses to accidents which pose a clear and immediate danger to life, health, or significant loss of property are exempt from section 58-29.
 - (5) Motor vehicles and motorcycles on traffic ways of the city are exempt from section 58-29 provided that:
 - a. No person shall sound a vehicle horn, signaling device, or similar device for more than five consecutive seconds, unless sounded as a danger warning.
 - b. Adequate mufflers or sound dissipative devices shall be properly installed such that:
 1. No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.
 2. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.
 - c. Use of engine brakes.
 1. The use or operation, without a muffler, of any engine brake, compression brake, mechanical exhaust device, or other similar device designed to aid in the braking or deceleration of any vehicle is prohibited on the following streets:
 - (a) Flournoy Lucas Road from Ellerbe Road to Youree Drive.
 - (b) Youree Drive from Bert Kouns Industrial Loop to Flournoy Lucas Road.
 2. This subsection shall not apply to the emergency use of such brakes in the event that the vehicle loses normal means to slow down or stop the vehicle.
 3. This subsection shall not apply to any vehicle of the city while engaged in any necessary public business, or to emergency vehicles while in use for emergency purposes.
 4. This provision is not intended to prohibit the passage of vehicles equipped with the brakes described above, but rather to prohibit the use of such brakes within the city limits on the designated streets.
 - (6) No person shall repair, rebuild, modify, or test any motor vehicle, motorcycle, or motorboat in such a manner as to exceed the limits set forth in section 58-29.
 - (7) Motor sports parks and recreational vehicles.
 - a. Except as permitted in the following subsection b., no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted there from exceeds the limits set forth in section 58-29 at or across the property line when operated on private property. This article shall apply to all recreational motorized vehicles, whether

or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats.

- b. Permits for vehicle racing events, where not otherwise prohibited by law, may be obtained from the NCO after submission of a noise management plan as required.
- (8) Airport and aircraft operations.
- a. The NCO shall consult with the airport proprietor to recommend changes in airport operations to minimize any noise disturbance which the airport owner may have authority to control in its capacity as proprietor.
 - b. Nothing in this article shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft which are in all respects, conducted in accordance with, or pursuant to applicable federal laws or regulations.
- (9) Any public performance, gathering or parade for which a permit has been obtained from the city is exempt from section 58-29.
- (10) Outdoor school and playground activities are exempt from section 58-29. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
- (11) Power tools.
- a. Commercial and industrial use of power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated in such a manner that the sound is plainly audible at a residential property line, or the property line of a noise sensitive receiver, between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 7:00 p.m. and 9:00 a.m. on weekends or federal holidays. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in section 58-29 do not apply.
 - b. Non-commercial or non-industrial use of power tools and landscaping and yard maintenance equipment shall not be operated in such a manner that the sound is plainly audible at a residential property line, or the property line of a noise sensitive receiver, between the hours of 8:00 p.m. and 8:00 a.m. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in section 58-29 do not apply.
- (12) Construction and demolition activity, excluding emergency work, shall not be performed between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 7:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in section 58-29. All motorized equipment used in construction and demolition activity shall be operated with a muffler. At all other times, the limits set forth in section 58-29 do not apply to construction and demolition activities.
- (13) Repairs or excavations of bridges, streets or highways by or on behalf of the city, state, or the federal government, are exempt from limits set forth in section 58-29 between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders its impractical to perform the work between 7:00 a.m. and 7:00 p.m.
- (14) Any government or utility construction or maintenance activities are exempt from section 58-29.
- (15) Music or sound amplification or reproduction equipment or other sound systems shall not be operated in such a manner that the sound is plainly audible at a residential property line or the property line of a noise sensitive receiver between the hours of 10:00 p.m. and 8:00 a.m. This provision specifically applies to but is not limited to any moving or standing vehicle.
- (16) Vehicular music or sound amplification or reproduction equipment or other sound systems shall not be operated in such a manner as to be plainly audible at a distance of more than 50 feet in any direction from the operator.

- (17) Within that portion of the B-4 District, Central Business District which is bounded by the south bank of Cross Bayou on the north, the north side of Lake Street on the south, the west bank of the Red River on the east, and the centerline of Commerce Street on the west, self-contained, portable, hand-held music or sound amplification or reproduction equipment shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible for at a distance of 100 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. In all other areas of the city, such equipment shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound from any such equipment in any area of the city shall not be plainly audibly by any person other than the operator.
- (18) Significant noise generators (SNG) shall submit a noise management plan (NMP) for approval by the city. Significant noise generators are those land uses that are known or may reasonably be expected to generate noise upon adjacent properties that exceeds the limits set forth in section 58-29, and may include but are not limited to oil and gas industry sites (e.g. wells heads, compressor stations, refineries, etc.), motor sports parks, machine shops, industrial plants, etc.
- a. No SNG shall create any noise that exceeds the limits set forth in section 58-29 subject to applicable exemptions in section 58-30.
 - b. Prior to the issuance of a SNG permit and the commencement of operations, the operator shall submit a noise management plan (NMP), approved by the NCO, detailing how the equipment, structures, site plan, and proposed activities on site complies with the maximum permissible sound levels of this article. At a minimum, the noise management plan must:
 1. Identify operation noise impacts;
 2. Provide documentation establishing the background sound level prior to construction. A noise survey must be conducted in accordance with section 58-31 for the nearest or most impacted property. Once a noise survey has been reviewed and approved by the NCO, the established background sound level will apply to all future development until another noise survey is approved by the NCO; and
 3. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
 - A. Location and acoustic characteristics of all noise sources that have the potential to exceed the limits set forth in section 58-29;
 - B. Nature and proximity of all adjacent development, location, and type;
 - C. Seasonal and prevailing weather patterns, including wind directions;
 - D. Vegetative cover on or adjacent to the site; and
 - E. Topography.
 - c. The operator shall be responsible for verifying compliance with this article and the noise management plan after the installation of the noise generation equipment.
 - d. The sound level meter used in conducting noise evaluations shall be in accordance with section 58-31.
 - e. Noise mitigation equipment, structures, products, and materials or other alternate methods as approved by the NCO may be used to ensure compliance.
 - f. The NCO may require continuous monitoring for up to 72 hours, or for such duration as the SNG is able to demonstrate is representative of the maximum sustained noise generation conditions, to ensure compliance with the noise limits of this article when the SNG is in within 1,000 feet of a regulated receiver. In the event of complaints, additional measurements may be required upon notification to proceed by the NCO. A minimum measurement period should be sufficient to ensure

that the sound levels measured are typical of the source of interest but in no event should the duration of the measurement period be less than 15 minutes, unless the duration or duty cycle of the sound source under observation is less than 15 minutes. The cost of such monitoring shall be borne by the operator of the SNG.

- g. If a complaint is received by either the operator or the city from any regulated receiver, the operator shall, within 24 hours of notice of the complaint and upon notification to proceed by the NCO, continuously monitor for up to 72-hour period the exterior sound level generated to ensure compliance. At the request of the NCO, the operator shall monitor the exterior sound level at the source of the complaint. A minimum measurement period should be sufficient to ensure that the sound levels measured are typical of the source of interest but in no event should the duration of the measurement period be less than 15 minutes, unless the duration or duty cycle of the sound source under observation is less than 15 minutes. The cost of such monitoring shall be borne by the operator of the SNG.
 - h. A citation may be immediately issued for a clear violation of the provisions of this article. However, if the operator of the SNG is in compliance with the approved noise management plan, and a violation still occurs, the operator will be given 24 hours from notice of non-compliance to correct the violation from an identified source before a citation is issued. Additional extensions of the 24-hour period may be granted in the event that the source of the violation cannot be identified after reasonable diligence by the operator or if the mitigation efforts require additional time for investigation and implementation.
- (19) Oil and gas wells, in addition to the requirements listed for significant noise generators in section 58-30.
- a. All workover operations shall not be performed between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 7:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless the operator demonstrates through a NMP that such activities can meet the limits set forth in section 58-29. Heavy vehicles associated with workover operations may not operate in residential areas between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 7:00 p.m. and 9:00 a.m. on weekends and federal holidays.
 - b. The exterior sound level generated by the drilling, redrilling or other operations of all gas wells located within 1,000 feet of a regulated receiver shall be continuously monitored for up to 72 hours, or for such duration as the SNG is able to demonstrate is representative of the maximum sustained noise generation conditions, to ensure compliance with the noise limits of this article. The cost of such monitoring shall be borne by the operator. If a complaint is received by either the operator or the city from any regulated receiver, the operator shall, within 24 hours of notice of the complaint and upon notification to proceed by the NCO, continuously monitor for up to 72-hour period the exterior sound level generated by the drilling, redrilling or other operations to ensure compliance. At the request of the NCO, the operator shall monitor the exterior sound level at the source of the complaint. A minimum measurement period should be sufficient to ensure that the sound levels measured are typical of the source of interest but in no event should the duration of the measurement period be less than 15 minutes, unless the duration or duty cycle of the sound source under observation is less than 15 minutes. The cost of such monitoring shall be borne by the operator of the SNG.
- (20) Loudspeakers/public address systems. No person or entity shall cause, allow, or permit for any purpose any loudspeaker, public address system, or similar device that produces, reproduces, or amplifies sound, such that the sound there from exceeds the levels stated in section 58-29 relative to the receiving property type without first obtaining a permit to do so. The permit shall be granted only for the amplification of music or human speech, or both. The permit:
- a. May be obtained by making application to the city.

- b. Requires payment of a \$10.00 fee for the administrative costs of issuing the permit or a sworn statement of inability to pay the fee.
 - c. Is valid for one 14-hour period between the hours of 8:00 a.m. and 10:00 p.m.
 - d. Shall not be issued to the same or any other person or entity for the same location more than twice during any 30-day period. In the case of a sound truck, location shall relate to the area traversed by the truck in one day.
 - e. Shall not authorize, allow, or otherwise permit the production, reproduction, or amplification of sound that exceeds 65 dBA when measured from the property line of the nearest receiving property.
 - f. Requires an application containing the following information:
 1. The date of the application and the date and hours for which the permit is requested.
 2. The name and address of the applicant.
 3. The name and address of the person who will have charge of the sound amplifying equipment.
 4. The purpose for which the sound equipment will be used.
 5. The address and a description of the location where the sound equipment will be used.
 6. A description of the type of sound amplifying equipment to be used.
- (21) Lawful discharge of firearms. The lawful discharge of firearms by law enforcement officers is exempt from section 58-29. The lawful discharge of firearms on the premises of bona fide rifle ranges and shotgun clubs in existence prior to August 1, 2011 is exempt from section 58-29. Section 58-29 shall apply to lawful and bona fide rifle ranges and shotgun clubs which begin operations after August 1, 2011.
- (22) Permits for variance.
- a. Any person who owns or operates any noise source may apply to the noise control officer for a variance from one or more of the provisions of this article.
 - b. Applications for a permit of variance shall supply information including, but not limited to:
 1. The nature and location of the noise source for which such application is made.
 2. The reason for which the permit of variance is requested.
 3. The level of noise at the nearest or most impacted receiver that will occur during the period of the variance.
 4. The section or sections of this article for which the permit of variance shall apply.
 5. A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom.
 6. A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time should the source continue after the variance period.
 - c. Applicants must bear the cost of a third-party review of their application by a qualified professional in environmental noise; the recommendation of the third-party review will be advisory to the noise control officer.
 - d. No variance shall be approved unless the applicant presents adequate proof that:
 1. Sound levels occurring during the period of the variance will not constitute a danger to public health.
 2. Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.
 - e. In making the determination of granting a variance, the noise control officer shall consider the following factors:
 1. The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused.

2. The social and economic value of the activity for which the variance is sought.
3. The ability of the applicant to apply the best practical noise control measures.
- f. If approved for a variance, the applicant shall within ten days of the approval decision send written notice, in a form approved by the NCO, of the duration and nature of the noise to all property owners within 500 feet of the noise source. Said notice shall include notice of the right to appeal the decision of the NCO to the city council. Said notice shall be sent not less than 30 days prior beginning operations allowed by the variance.
- g. If approved for a variance, the noise control officer shall determine the duration of the permit.
- h. A copy of the permit of variance must be kept on file by the city.
- i. Failure to supply the information required by the city shall be cause for rejection of the application.
- j. Any applicant aggrieved by the decision of the noise control officer regarding a variance may appeal the decision to the city council within ten days after such decision is rendered. Any other person aggrieved by the decision of the noise control officer regarding a variance may appeal the decision to the city council within ten days after notice of the variance is sent in accordance with subsection (22)f.
- k. The allowed by the variance until all time periods for appeal have passed, and if an appeal has been filed, the applicant shall not begin such operations until a final decision has been rendered by the city council.

(Ord. No. 41, 2011, 5-10-11; Ord. No. 72, 2012, 7-24-12; Ord. No. 134, 2014, 11-11-14)

Sec. 58-31. - Procedures for measuring noise.

- (a) Testing shall be conducted in accordance with methods set forth hereinafter. Alternative methods, procedures, or instruments may be used subject to approval and conditions prescribed by the NCO. The NCO may itself employ such alternatives when warranted by test conditions or other circumstances. Acceptable measurement methods [are as follows].
- (b) Measurements shall be conducted by the NCO or other qualified professional in environmental noise in accordance with methods set forth hereinafter.
- (c) Operating conditions of the noise source during the measurement will vary based on the noise source of interest. Insofar as practicable, measurements shall be conducted under representative conditions to those that initiated the investigation. Relevant operational conditions may include but are not limited to typical, design, maximum, and fluctuating conditions.
- (d) If short-term background sounds increase the monitored sound levels, the measurements should be postponed until these extraneous sounds do not increase the monitored sound levels of interest or these periods of noise should be removed during post-processing of the measurement data.
- (e) General requirements. The investigator shall, to the extent practicable, conduct all measurements in accordance with the following procedures and report related information:
 - (1) Identify all measurement equipment by manufacturer, model number, and serial number.
 - (2) Report the date, day of week, and time of day.
 - (3) Identify all sources contributing sound to the point of measurement—characterize and localize sound sources.
 - (4) Conduct measurements at or within the property line of any affected person or entity. Report the distance and direction to the noise source in question.
 - a. For noise due to temporary activities, measurements shall be conducted at least ten feet from the receptor on the side of the receptor where the sound levels are most representative of the noise source in question.
 - b.

For noise due to lasting activities, measurements shall be conducted at or within the property line as appropriate for the noise source in question.

- (5) The measurement session should consist of three individual measurement periods. A minimum measurement period should be sufficient to ensure that the sound levels measured are typical of the source of interest but in no event should the duration of the measurement period be less than five minutes, unless the duration or duty cycle of the sound source under observation is less than five minutes.
 - (6) Background sound level measurements intended for the purpose of planning or permitting shall be conducted for a minimum measurement period of three consecutive days (72 consecutive hours) and include at least 24 hours during either Saturday or Sunday. Measurements must be processed to eliminate the contributions of short-term background sounds as identified in section 58-31.
 - (7) Calibrate the measuring device before and after each series of readings. Report calibration results.
 - (8) Report environmental conditions during measurements including wind speed and direction.
 - (9) Describe relevant source operational condition(s).
 - (10) Outdoor sound measurements made under the following conditions shall not be used to determine compliance:
 - a. Measurements without a wind screen properly attached to the measuring device.
 - b. Measurements when the wind speed exceeds 11 miles per hour (including gusts).
 - c. Measurements under any condition which allows the measuring device to become wet, such as rain, snow, or condensation.
 - d. When the ambient temperature is below 14 degrees F (-10 degrees C) or above 122 degrees F (50 degrees C).
 - (11) Background sound level measurement values to be reported:
 - a. For the purpose of compliance, report the A-weighted, time-interval equivalent 15 minute sound pressure level, $L_{Aeq15min}$, measured in accordance with Section 58-31.
 - b. For the purpose of planning or permitting, report the A-weighted, time-interval equivalent three day sound pressure level, $L_{Aeq3day}$, after the measurements have been processed for removal of short-term background sounds and measured in accordance with section 58-31.
- (f) Measurement instrumentation.
- (1) The sound level meter must be able to measure the continuous energy equivalent sound level of steady, intermittent, and fluctuating sources. Any instrument used for sound pressure level measurement must be able to measure A-weighted sound pressure levels with a slow, exponential time-averaging setting and meet requirements for a Type 1 sound level meter as specified in the American National Standards Institute specifications for sound level meters (ANSI S1.4-1983 (R2006)), or the latest approved revision thereof.
 - (2) To investigate impulsive noise limits, the sound level meter must be able to measure A-weighted sound pressure levels with a fast, exponential time-averaging setting.
 - (3) To investigate the presence of tonal components, the sound level meter must be able to measure 1/3 octave band sound pressure levels. The meter must meet the minimum technical specification in the American National Standards Institute (ANSI) publication S1.11-2004 or latest revision for Class 2 filter sets.
 - (4) The calibrator must meet the requirements for ANSI S1.40-2006 or latest revision.
 - (5) The sound level meter must be recalibrated at least every two years and the field calibrator must be recalibrated at least once per year by the manufacturer or by a laboratory accredited for such calibrations by either the American Association for Laboratory Accreditation or the National Institute of

Standards and Technology. A copy of written documentation of such recalibration, in a form approved by the city, shall be kept with the equipment to which it refers.

(Ord. No. 41, 2011, 5-10-11)

Sec. 58-32. - Enforcement.

Any person or entity that violates any provision of this article shall, upon conviction be subject to a fine of not more than \$500.00, or a term of imprisonment of not more than 30 days, or both, for each offense. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense. Further, the city may enforce this article through all civil remedies available, including, but not limited to, injunctive relief.

(Ord. No. 41, 2011, 5-10-11; Ord. No. 72, 2012, 7-24-12)

Sec. 58-33. - Effective date.

The effective date of this division 1 of article II shall be August 1, 2011.

(Ord. No. 41, 2011, 5-10-11)

Secs. 58-34—58-45. - Reserved.

DIVISION 2. - SOLID WASTE TRUCKS^[4]

Footnotes:

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Cross reference— *Solid waste, collection and disposal, § 74-26 et seq.*

Sec. 58-46. - Garbage dumpster loading restrictions.

- (a) The use of vehicles equipped to pick up garbage dumpsters and load garbage onto the vehicle by dumping is hereby declared to cause loud and disturbing noise. It shall be unlawful for any person to allow any vehicle owned, leased or possessed by him to be operated in violation of this division. If the owner, lessor or possessor of any vehicle subject to this division is a corporation, it shall be unlawful for any officer, director, manager, agent or employee thereof to allow any such vehicle to be operated in violation of this division. It shall be unlawful for any person to permit the operation of any vehicle on premises owned, leased or possessed by him in violation of this division.
- (b) The operation of vehicles for garbage dumpster loading is hereby prohibited between the hours of 9:00 p.m. and 6:00 a.m., within 150 feet of any dwelling located on property zoned as a residential district under the city zoning ordinance.

(Ord. No. 190, 1989, 1-23-90; Ord. No. 115, 1990, §§ a, b, 6-26-90)

Sec. 58-47. - Complaints; prosecution.

- (a) Any person having a complaint that a garbage dumpster loading vehicle has been operated in violation of this division shall notify the director of the metropolitan planning commission or his designee. The complainant shall state the identity of the vehicle owner, the location at which the vehicle was operated in violation of this division, the time of the violation, and the location of the dwelling located on residentially zoned property within 150 feet of which the vehicle was operated. The director or his designee shall determine if the property on which the dwelling is located is residentially zoned and shall measure the distance from the dwelling to the dumpster at which the violation was reported.
- (b) If the director or his designee determines that the property on which the dwelling is located is residentially zoned and the distance from the dwelling to the dumpster is less than 150 feet, he shall notify the complainant so that the complainant may execute an affidavit for the institution of prosecution, in a form approved by the city attorney. The director shall also notify the owner, lessor, or possessor of the vehicle and the owner, lessor, or possessor of the premises on which the violation was reported, if known.

(Ord. No. 115, 1990, §§ c, d, 6-26-90)

Sec. 58-48. - Citations.

Nothing contained in this division shall be construed to prohibit law enforcement officers from issuing citations for violations of this division when they have the necessary information to do so.

(Ord. No. 190, 1989, 1-23-90; Ord. No. 115, 1990, § e, 6-26-90)

Secs. 58-49—58-60. - Reserved.

DIVISION 3. - RESERVED^[5]

Footnotes:

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Editor's note—Ord. No. 41 of 2011, adopted May 10, 2011, repealed the former division 3, §§ 58-61—58-71 in its entirety, which pertained to sound trucks and derived from the Code of 1971, §§ 23-21—23-34.

Secs. 58-61—58-90. - Reserved.