

CHAPTER 97: NOISE

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GENERAL PROVISIONS

§ 97.01 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(B) All terminology used in this chapter not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

AMBIENT NOISE LEVEL. The sound pressure level of all the encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

CHIEF. CHIEF OF THE POLICE DEPARTMENT or **CHIEF OF THE AIR POLLUTION CONTROL DEPARTMENT**, or their duly authorized representative.

DECIBEL. A logarithmic (dimensionless) unit of measure often used in describing the amplitude of sound. **DECIBEL** is denoted as **dB**.

DEVICE. Any radio, tape recorder, cassette player, compact disk player, stereo, television or musical instrument.

EMERGENCY VEHICLE. A motor vehicle used to respond to a public calamity or to protect persons or property from imminent danger.

EMERGENCY WORK. Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from an imminent exposure to danger.

MOTOR VEHICLE. Any vehicles, such as, but not limited to a passenger cars, trucks, truck-trailers,

semi-trailers, campers, motorcycles, minibikes, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles, which are propelled by mechanical power.

MUFFLER. Any apparatus consisting of baffles, chambers or acoustical absorbing material whose primary purpose is to transmit liquids or gases while causing a reduction in sound emission at 1 end. To qualify, the apparatus must cause a reduction in sound pressure level (x) dB (A) upon insertion into the system for which it is intended.

NOISE. Any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

NOISE DISTRIBUTION. Any sound or vibration which annoys, disturbs or perturbs reasonable persons with normal sensitivities, or any sound which injures or endangers the comfort, repose, health, hearing, peace or safety of other persons.

PLAINLY AUDIBLE. Any noise for which the information content of that noise is unambiguously communicated to the listener, such as, but not limited to understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensive musical rhythms or vocal song.

POWERED MODEL VEHICLE. Any powered vehicles, either airborne, waterborne or landborne, such as, but not limited to, model airplanes, boats, cars or rockets, which can be propelled by mechanical means, and which are not designed to carry persons or property.

PUBLIC RIGHT-OF-WAY and **PUBLIC SPACE.** Any street, avenue, boulevard, highway, parkway, sidewalk, alley or public space which is owned or controlled by a public governmental entity.

PUBLIC SPACE. See **PUBLIC RIGHT-OF-WAY.**

SOUND LEVEL METER.

(a) An instrument, including a microphone, amplifier RMS detector and integrator or time averager, output meter and weighing networks, that is sensitive to pressure fluctuations.

(b) The output meter reads sound pressure level when properly calibrated and the instrument is of Type 2 or better as specified in American National Standard Institute Publication Sl. 4-1971, or its successor publication.

WEIGHTED SOUND PRESSURE LEVEL. The sound's pressure level as measured on a sound level meter using the A-weighting network. The level so read shall be designated db (A) or dBA. (Prior Code, § 97.01) (Ord. 4083, passed 3-24-1975; Am. Ord. 8060, passed 3-31-1998)

§ 97.02 COMPLIANCE WITH OTHER REGULATIONS.

All departments engaged in any activities which result or may result in the emission of noise, shall comply with federal and state laws and regulations, as well as the provisions of this chapter, respecting the control and abatement of noise to the same extent that any person is subject to the laws and regulations.

(Prior Code, § 97.02) (Ord. 4083, passed 3-24-1975) Penalty, see § 97.99

§ 97.03 EMERGENCY WORK EXEMPTED FROM REGULATION.

Noise caused in the performance of emergency work for the immediate safety, health or welfare of the community or individuals of the community, or to restore property to a safe condition following a public calamity shall not be subject to the provisions of this chapter. Nothing in this section shall be construed to permit law enforcement, ambulance, fire or other emergency personnel to make excessive noise in the performance of their duties when the noise is clearly unnecessary.

(Prior Code, § 97.03) (Ord. 4083, passed 3-24-1975)

§ 97.04 EXEMPTION FOR TIME TO COMPLY.

(A) Upon good cause shown by the owner of any noise source, the Chief of the Department of Air Pollution Control shall have the power to grant an exemption from the operation of this chapter in order to allow sufficient time for installation of needed control equipment, facilities or modifications to achieve compliance not to exceed 30 days. The exemption may be renewed for an additional like period, but only if satisfactory progress toward compliance is shown.

(B) Any person seeking an exemption shall file a petition with the Chief. The Chief shall promptly give written notice of the petition to any person who has in writing requested notice of the exemption petitions, and shall publish notice of the petition in a newspaper of general circulation within this municipality. If the

Chief, in his or her discretion, concludes that a hearing would be advisable, or if any person files a written request for a hearing or a written objection to the grant of the exemption within 10 days of the notice provided herein, a hearing shall be held on the petition. A written transcript shall be kept of any hearing.

(C) In granting or denying an exemption, the Chief shall file and publish a written order, stating the facts and reasons leading to his or her decision.

(D) A decision by the Chief may be appealed to the Air Pollution Control Board, which shall render a decision binding on all parties subject to the appeal. The appeal hearing shall be open to the public. Any person may testify at the hearing, either in person or by duly authorized representative or attorney. All testimony shall be given under oath.

(Prior Code, § 97.04) (Ord. 4083, passed 3-24-1975)

NOISE DISTURBANCES

§ 97.20 NOISE DISTURBANCE PROHIBITED.

It shall be unlawful for any person to make, continue, cause to be made or continued, cause any excessive, unnecessary or unusually loud noise, or create a noise disturbance within the limits of the city. (Prior Code, § 97.10) (Ord. 4083, passed 3-24-1975) Penalty, see § 97.99

§ 97.21 PROHIBITED ACTS.

The following acts among others, are declared to be loud, disturbing or excessive noise in violation of this chapter but this enumeration shall not be deemed to be exclusive.

(A) The sounding of any horn or signaling device of any motor vehicle on any public right-of-way, except as a danger warning signal or as provided in the vehicle code of the state, or the sounding of any device for an unnecessary and unreasonable period of time, at any place.

(B) Operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other device for the production or reproduction of sound, in such a manner as to cause noise disturbance, or operating such a device in a manner so as to be plainly audible across property boundaries, or through partitions common to 2 parties within a building, or plainly audible at 25 feet from the device when operated within a motor vehicle parked on a public right-of-way.

(C) Using or operating any mechanical device or loudspeaker in a fixed or movable position exterior to any building, in a manner so that the sound therefrom is plainly audible and causes a noise disturbance beyond the property boundary of work. Emergencies are exempt from this provision.

(D) Selling anything by outcry within any area of the city zoned primarily for residential uses, except between the hours of 9:00 a.m. and 6:00 p.m.

(E) Owning, keeping, possessing, or harboring any animal which, by frequent or habitual howling, barking, meowing, squawking or other noisemaking, causes a noise disturbance. The provisions of this division shall also apply to all private or public facilities, including any animal pounds, which hold or treat animals.

(F) Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage cans, containers or other similar objects between the hours of 7:00 p.m. and 7:00 a.m. the following day, in a manner as to cause noise disturbance.

(G) Repairing, rebuilding, modifying, or testing any motor vehicle or off road vehicles or motorboat in or near a residential use district in a manner as to cause noise disturbance.

(H) Operating or permitting the operation of powered model vehicles or power lawnmowers between the hours of 9:00 p.m. and 7:00 a.m. the following morning, in a manner as to cause a noise disturbance.

(I) The operating or permitting to be operated, of any motor vehicle which can compact or collect refuse between the hours of 7:00 p.m. and 7:00 a.m. the following day in a residential district or directly adjacent to a residential district.

(J) Operating or permitting the operation of the motor of any motor vehicle whose manufacturer's gross weight is in excess of 10,000 pounds, or any attached auxiliary equipment for a period longer than 3 minutes in any hour while the vehicle is stationary on public or private property and is not within a completely enclosed structure. This section shall not apply to buses and taxis operated for the transportation of passengers while standing in established bus or taxi turnarounds, terminals, lots or storage yards.

(K) Using or causing the use of any device that creates a vibration which is above the perception threshold of an individual beyond the property boundary of the source, on private property, and causes a noise disturbance.

(1) It shall be unlawful to discharge into the open air, the exhaust of any stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(2) No person shall modify or change the exhaust muffler, intake muffler or any other noise abatement device of a motor vehicle in a manner that the noise emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured.

(M) Creating a noise disturbance within the vicinity of any school or other institution of learning, hospital, nursing home, court or other designated area where exceptional quiet is necessary, while the same are in use; provided, that conspicuous signs are displayed in adjacent or contiguous streets, indicating that the vicinity is a quiet zone.

(N) (1) The squealing of automobile or truck tires in a manner as to create a noise disturbance.

(2) Emergency accelerating, stopping or swerving shall be exempt from this provision.

(O) No person within the city shall play, use, operate or permit to be played, used or operated, any radio, CD player, tape recorder, cassette player, digital satellite system or any other device for sending or receiving a broadcast sound or for recorded sound if the device is located:

(1) In, on or associated with any motor vehicle on the public right-of-way or on public spaces; and if the sound generated by the device is plainly audible to a person at a distance of greater than 50 feet from that motor vehicle in any direction;

(2) In addition to a citation written under this section, a motor vehicle that is used in violation of supra, may be considered a public nuisance and is subject to seizure, towing and impoundment by the Police Department;

(3) Whenever a police officer has probable cause to believe that a vehicle is subject to seizure, towing and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle to a facility approved by the Board of Public Works;

(4) The motor vehicle will be held at the approved towing facility and may be repossessed by the registered owner upon paying all expenses of towing, impoundment and storage; and (Unclaimed vehicles will be disposed of as per the provisions of § 98.24 of this code.)

(5) All penalty provisions as set out under § 97.99 shall also apply.

(Prior Code, § 97.11) (Ord. 4083, passed 3-24-1975; Am. Ord. 7619, passed 9-27-1993; Am. Ord. 8060, passed 3-31-1998; Am. Ord. 8583, passed 7-26-2004) Penalty, see § 97.99

§ 97.22 MAXIMUM PERMISSIBLE NOISE LEVEL FOR VEHICLES; PREEMPTION.

(A) No person shall operate a motor vehicle on a public right-of-way at any time in a manner that the sound pressure level emitted by the vehicle exceeds the levels set forth in Table 1 following this section, when measured at the location established by division (B) below. This section shall apply to all motor vehicles, whether publicly or privately owned, that are duly licensed.

(B) For the purposes of division (A) above, the standard measurement height shall be four feet and the standard horizontal measurement distance from the center line of the traffic lane being monitored shall be 25 feet.

(C) No person shall operate a motorized vehicle or recreational device off a public right-of-way in a manner that the sound pressure level emitted therefrom exceeds the limits set forth in Table 2 following this section, when measured at the locations set forth in division (D) below. This section shall apply to all motorized vehicles and recreational devices, whether publicly or privately owned, duly licensed or not, including, but not limited to trailers, motorcycles, minibikes, go-carts, snowmobiles, amphibious craft, dune buggies, racing vehicles, water ski towing devices and watercraft.

(D) For the purposes of division (C) above, the standard measurement height shall be 4 feet and the standard horizontal measurement distance from the center line of travel of the vehicle shall be 50 feet.

(E) At any time the Administrator of the United States Environmental Protection Agency establishes noise

standards applicable to the operation of licensed interstate motor carriers pursuant to section 18 of the Federal Noise Control Act of 1972 (Pub. Law No. 92-574), those standards and measurement techniques shall be incorporated herein by reference and the motor vehicle noise limits and measurement location set forth in this section shall be superseded with respect to those classes of motor vehicle operators covered by the federal standards.

(Prior Code, § 97.11) (Ord. 4083, passed 3-24-1975) Penalty, see § 97.99

TABLE 1*				
Speed Class			Vehicle Class	
Posted Speed Limit (mph Inclusive)	Trucks Over 10,000 Pounds Gross Vehicle Weight	Trucks Under 10,000 Pounds Gross Vehicle Weight	Passenger Cars	Motorcycles and Other Non-Highway Vehicles
0-30	92 db (A)	86 db (A)	82 db (A)	86 db (A)
31-55	96 db (A)	90 db (A)	86 db (A)	90 db (A)

NOTE TO TABLE:
 *Standard Measurement height shall be 4 feet and the standard horizontal measurement distance from the center line of the traffic lane being monitored shall be 25 feet.

TABLE 2	
Noise Limits on Vehicles Operating off Public Right-of-ways at 50 Feet from Centerline of Travel	
All off public right-of-way vehicles	82 db (A)

§ 97.23 EXCEPTIONS.

The provisions of § 97.21(O) shall not apply to any person participating in a parade or public assembly that has received a permit from the City of Hammond Board of Public Works and Safety. (Prior Code, § 97.13) (Ord. 8060, passed 3-31-1998)

ADMINISTRATION AND ENFORCEMENT

§ 97.40 AIR POLLUTION CONTROL DEPARTMENT, POLICE DEPARTMENT TO CONTROL.

(A) The noise control program required by this chapter shall be administered by the Air Pollution Control Department and the Police Department.

(B) In order to implement the purposes of this chapter, the Air Pollution Control Department and the Police Department shall have the power to do the following.

- (1) Conduct, or cause to be conducted, studies, research and monitoring related to noise;
- (2) Conduct programs of public education regarding the causes and effects of noise but not giving specific advice for its abatement, and to encourage the participation of public interest groups in related public information efforts;
- (3) Coordinate the noise control activities of all municipal departments and cooperate where practicable with all appropriate municipal, county, state and federal agencies to best enforce the regulations of this chapter;
- (4) Review projects subject to review by any other department for compliance with the intent and provisions of this chapter; and (This shall include the review of all licensing applications where noise may be an important factor.)
- (5) For reasonable cause and upon presentation of proper credentials, enter any building, property, premises or place with the owner's, occupant's or tenant's approval to inspect any noise source for the purpose of ascertaining the compliance or noncompliance with any provisions of this chapter.

(Prior Code, § 97.20) (Ord. 4083, passed 3-24-1975)

§ 97.41 NOISE ENFORCEMENT OFFICERS.

In order to enforce the regulations of this chapter, the Chief of the Air Pollution Control Department and the Police Chief, shall be required to do the following.

- (A) Develop measurement methods and standards which will further the purposes of this chapter;

- (B) Develop a truck route map of the community for the purpose of reducing truck noise;
- (C) Develop administrative procedures which will provide for effective enforcement of this chapter;
- (D) Make recommendations for changes to this chapter so that it is consistent with all preemptive state and federal regulations, and provide for effective enforcement of those changes; and
- (E) Develop a generalized noise map of the community, develop long term objectives for achieving quiet in the community and develop a means for implementing these objectives into the long range planning process.

(Prior Code, § 97.21) (Ord. 4083, passed 3-24-1975)

§ 97.42 OTHER CITY DEPARTMENTS TO COOPERATE.

All departments shall, to the fullest extent consistent with their authorities under other ordinances administered by them, carry out their program in a manner as to further the enforcement of the noise regulations of this chapter. All departments shall cooperate with the Air Pollution Control Department and the Police Department to the fullest extent in enforcing the noise regulations of this chapter.

(Prior Code, § 97.22) (Ord. 4083, passed 3-24-1975)

§ 97.43 CITY CONTRACTS.

Any written agreement, purchase order or instrument whereby the city is committed to the expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination of the foregoing, shall not be entered into unless the agreement, purchase order or instrument contains provisions requiring that any equipment or activities which are subject to the provisions of this chapter will be operated, constructed, conducted or manufactured without causing violation of the chapter.

(Prior Code, § 97.23) (Ord. 4083, passed 3-24-1975) Penalty, see § 97.99

§ 97.44 PERMIT ISSUANCE.

The Chief of the Air Pollution Control Department is authorized to review permits as required by any provision of this chapter and as subject to the limitations as to area, noise levels, time limits and other terms and conditions which it determines are appropriate to protect public health, safety and welfare from the noise emanating therefrom. This section shall in no way affect the duty to obtain any other permit or license required by law for these activities.

(Prior Code, § 97.24) (Ord. 4083, passed 3-24-1975)

VIOLATIONS

§ 97.60 VIOLATION NOTICE.

(A) If the Chief of the Air Pollution Control Department has reason to believe that noise from any source violates the provisions of this chapter, he or she may, instead of acting under § 97.63, issue to the owner or operator of the source in question a violation notice.

(B) Any person who is issued a violation notice may, within 30 days from the date of receipt of the notice, submit data to the Chief indicating reasons why he does not believe he or she was in violation of §§ 97.20 or 97.21. The Chief shall review the data submitted and within 15 days affirm or withdraw the violation notice by informing, in writing, the person receiving the notice of the decision to affirm or withdraw. Where the data is not submitted to the Chief within the 30 days stipulated, the violation shall be considered still in force and affirmed.

(C) In the case of a violation of § 97.22, the person cited, within ten days of receipt of the Chief's decision to affirm the violation notice as provided for (or within ten days of a decision of the Air Pollution Control Board, should appeal be taken from the Chief's decision to affirm the violation notice), may ask that noise tests be performed to determine the extent of noise being emitted from the operation which is the subject of the violation notice. If the noise tests indicate that the amount of noise exceeds the maximum allowable under § 97.22, the violation shall be considered substantiated. If the noise tests indicate that the amount of noise is equal to or less than the standard applicable to the operation under § 97.22, then the violation notice shall be considered void.

(Prior Code, § 97.30)

§ 97.61 SEALING OF VIOLATING EQUIPMENT.

(A) After previous notification of 3 or more violations of this chapter within a 12-month period, in respect

to emitting excessive amounts of noise, a violator shall be notified by registered mail to show cause before the Chief of the Air Pollution Control Department within 10 days why the offending equipment shall not be sealed. The notice shall be directed to the last address of the person to be notified or if the person or his or her whereabouts is unknown, then the notice shall be posted on or near the premises at which the violations have occurred.

(B) If upon the hearing, at which the violator or his or her agent or attorney may appear and be heard, the Chief finds that adequate corrective measures have not been taken, he or she shall seal the equipment until the time corrective measures are taken. The decision may be appealed to the Air Pollution Control Board, and the appeal shall stay the sealing until Air Pollution Control Board renders a decision. It shall be unlawful for any person to break the seal that has been duly affixed by the Chief or his or her authorized representative unless authorized in writing by the Chief to do so.

(Prior Code, § 97.31) (Ord. 4083, passed 3-24-1975) Penalty, see § 97.99

§ 97.62 LIABILITY.

All persons owning, operating or in charge or control of any equipment or premises who shall cause, suffer, allow, permit or participate in any violation of this chapter shall be individually and collectively liable for any penalties imposed by this chapter. This liability shall include any person who shall refuse to comply with, or who shall assist in the violation of any of the provisions of this chapter.

(Prior Code, § 97.32) (Ord. 4083, passed 3-24-1975)

§ 97.63 PARTIES TO CLAIMS.

All claims or actions filed by or against the Chief of the Air Pollution Control Department, the Air Pollution Control Board or the Police Department shall be brought in the name of or filed against the city. (Prior Code, § 97.33) (Ord. 4083, passed 3-24-1975)

§ 97.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than \$2,500 per day per violation. Each day a violation occurs, shall constitute a separate offense. A first violation of any provision of this chapter, within any 12 month period, shall include a mandatory fine of not less than \$100. A second violation of this chapter, within any 12 month period, shall include a mandatory fine of not less than \$300. Any third, or subsequent violation of this chapter within a 12-month period, shall include a mandatory fine of not less than \$1,000.

(Prior Code, § 97.99) (Ord. 4083, passed 3-24-1975; Am. Ord. 8060, passed 3-31-1998)