

Chapter 10.26

COMMUNITY NOISE CONTROL

Sections:

- 10.26.005 Declaration of Policy.
- 10.26.010 Definitions.
- 10.26.015 Decibel Measurement Criteria.
- 10.26.020 Designated Noise Zones.
- 10.26.025 Exterior Noise Standards.
- 10.26.030 Interior Noise Standards.
- 10.26.035 Exemptions.
- 10.26.040 Schools, Day Care Centers, Churches, Libraries, Museums, Health Care Institutions—Special Provisions.
- 10.26.045 Heating, Venting and Air Conditioning—Special Provisions.
- 10.26.050 Sound-Amplifying Equipment.
- 10.26.055 Noise Level Measurement.
- 10.26.065 Proposed Developments.
- 10.26.070 Prima Facie Violation.
- 10.26.075 Violations.
- 10.26.080 Violations—Additional Remedies—Injunctions.
- 10.26.085 City Manager Waiver.
- 10.26.090 Noise Abatement Programs.
- 10.26.095 Manner of Enforcement.
- 10.26.100 Severability.

10.26.005 Declaration of Policy.

A. In order to control unnecessary, excessive and annoying noise in the City of Newport Beach, it is declared to be the policy of the City to prohibit such noise generated from or by all sources as specified in this chapter.

B. It is determined that certain noise levels are detrimental to the public health, welfare and safety and contrary to public interest, therefore, the City Council of the City of Newport Beach does ordain and declare that creating, maintaining, causing or allowing to be created, caused or maintained, any noise in a manner prohibited by, or not in conformity with, the provisions of this chapter, is a public nuisance and may be punished as a public nuisance. The ordinance codified in this chapter is effective thirty (30) days from adoption, however, all fixed noise sources existing at the date of adoption shall have ninety (90) days from the date of adoption to achieve compliance with this chapter. (Ord. 95-38 § 11 (part), 1995)

10.26.010 Definitions.

The following words, phrases and terms as used in this chapter shall have the meanings as indicated here:

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

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

“A-weighted sound level” means the total sound level meter with a reference pressure of twenty (20) micropascals using the A-weighted network (scale) at slow response. The unit of measurement shall be defined as DBA.

“Code Enforcement Officer” means the Code Enforcement Officer of the City or his duly authorized deputy.

“Commercial property” means a parcel of real property which is used as either in part or in whole for commercial purposes.

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

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

“Dwelling unit” means any area within a structure on any parcel which:

1. Contains separate or independent living facilities for one or more persons, with an area or equipment for sleeping, sanitation and food preparation, and which has independent exterior access to ground level; or
2. Is being utilized for residential purposes by one or more persons separately or independently from occupants of other areas within the structure.

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

“Equivalent, noise, level, leq.” means the sound level corresponding to a steady state noise level over a given measurement period with the same amount of acoustic energy as the actual time varying noise level. Also known as the energy average noise level during the measurement period. The measurement period shall be fifteen (15) minutes under the terms of this chapter.

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

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

“Health care institution” means any hospital, convalescent home or other similar facility excluding residential.

“Hertz (HZ)” means the unit which describes the frequency of a function periodic in time which is the reciprocal of the period.

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

“Industrial property” means a parcel of real property which is used either in part or in whole for manufacturing purposes.

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

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

“Major roadway” means any street, avenue, boulevard or highway used for motor vehicle traffic which is owned or controlled by a public government entity.

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

“Person” means any individual, firm, partnership, association, corporation, company or organization of any kind, including public agencies.

“Residential property” means a parcel of real property which is used either in part or in whole for residential purposes, other than transient uses such as hotels and motels, and residential care facilities. Residential property includes the residential portion of mixed use properties.

“Simple tone noise” means a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished. If measured, simple tone noise shall exist if the one-third octave band sound pressure levels in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two continuous one-third octave bands as follows: five Db for frequencies of five hundred (500) Hertz (Hz) and above or, by fifteen (15) Db for frequencies less than or equal to one hundred twenty-three (123) Hz.

“Sound level meter” means an instrument meeting American National Standard Institute’s Standard S1.4-1971 or most recent revision thereof for Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

“Sound pressure level” of a sound, in decibels, means twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound to a reference pressure which shall be explicitly stated.

“Vibration” means any movement of the earth, ground or other similar surface created by a temporal and spatial oscillation device or equipment located upon, affixed in conjunction with that surface. (Ord. 95-38 § 11 (part), 1995)

10.26.015 Decibel Measurement Criteria.

Any decibel measurement made pursuant to the provisions of this chapter shall be based on a reference sound pressure of twenty (20) micropascals as measured with a sound level meter using the A-weighted network (scale) at slow response. (Ord. 95-38 § 11 (part), 1995)

10.26.020 Designated Noise Zones.

The properties hereinafter described assigned to the following noise zones:

- Noise Zone I — All single-, two- and multiple-family residential properties;
- Noise Zone II — All commercial properties;
- Noise Zone III — The residential portion of mixed-use properties;
- Noise Zone IV — All manufacturing or industrial properties;

The actual use of the property shall be the determining factor in establishing whether a property is in Noise Zone I, II, III or IV provided that the actual use is a legal use in the City of Newport Beach. (Ord. 95-38 § 11 (part), 1995)

10.26.025 Exterior Noise Standards.

A. The following noise standards, unless otherwise specifically indicated, shall apply to all property with a designated noise zone:

NOISE ZONE	TYPE OF LAND USE	ALLOWABLE EXTERIOR NOISE LEVEL (Equivalent Noise Level, Leq)	
		7 a.m. to 10 p.m.	10 p.m. to 7 a.m.
I	Single-, two- or multiple-family residential	55 DBA	50 DBA
II	Commercial	65 DBA	60 DBA
III	Residential portions of mixed-use properties	60 DBA	50 DBA

IV	Industrial or manufacturing	70 DBA	70 DBA
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If the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

B. It is unlawful for any person at any location within the incorporated area of the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property, to exceed either of the following:

1. The noise standard for the applicable zone for any fifteen-minute period;
2. A maximum instantaneous noise level equal to the value of the noise standard plus twenty (20) DBA for any period of time (measured using A-weighted slow response).

C. In the event the ambient noise level exceeds the noise standard, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

D. The Noise Zone III standard shall apply to that portion of residential property falling within one hundred (100) feet of a commercial property, if the intruding noise originates from that commercial property.

E. If the measurement location is on boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply. (Ord. 95-53 § 1, 1995; Ord. 95-38 § 11 (part), 1995)

10.26.030 Interior Noise Standards.

A. The following noise standard, unless otherwise specifically indicated, shall apply to all residential property within all noise zones:

NOISE ZONE	TYPE OF LAND USE	ALLOWABLE INTERIOR NOISE LEVEL (Equivalent Noise Level, Leq)	
		7 a.m. to 10 p.m.	10 p.m. to 7 a.m.
I	Residential	45 DBA	40 DBA
III	Residential portions of mixed-use properties	45 DBA	40 DBA

If the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

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

1. The noise standard for the applicable zone for any fifteen-minute period;
2. A maximum instantaneous noise level equal to the value of the noise standard plus twenty (20) DBA for any period of time (measured using A-weighted slow response).

C. In the event the ambient noise level exceeds the noise standard, the noise standard applicable to said category shall be increased to reflect the maximum ambient noise level.

D. The Noise Zone III standard shall apply to that portion of residential property falling within one hundred (100) feet of a commercial property, if the intruding noise originates from that commercial property.

E. If the measurement location is on a boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply. (Ord. 95-53 § 2, 1995; Ord. 95-38 § 11 (part), 1995)

10.26.035 Exemptions.

The following activities shall be exempted from the provisions of this chapter:

- A. Any activity conducted on public property, or on private property with the consent of the owner, by any public entity, or its officers, employees, representatives, agents, subcontractors, permittees, licensees, or lessees, which are consistent with, and in furtherance of, the governmental functions or services the public entity has authorized, or responsible, to perform, activities which are exempt from the provisions of this chapter include, without limitation, sporting and recreational activities which are sponsored or co-sponsored by the City of Newport Beach or the Newport Mesa Unified School District;
- B. Occasional outdoor gatherings, public dances, show, sporting and entertainment events, provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events;
- C. Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle, work or warning alarm or bell, provided the sounding of any bell or alarm on any building or motor vehicle shall terminate its operation within forty-five (45) minutes in any hour of its being activated;
- D. Noise sources associated with construction, repair, remodeling, demolition or grading of any real property. Such activities shall instead be subject to the provisions of Chapter 10.28 of this title;
- E. Noise sources associated with construction, repair, remodeling, demolition or grading of public rights-of-way or during authorized seismic surveys;
- F. All mechanical devices, apparatus or equipment associated with agriculture operations provided that:
 - 1. Operations do not take place between eight p.m. and seven a.m. on weekdays, including Saturday, or at any time Sunday or a federal holiday, or
 - 2. Such operations and equipment are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions, or
 - 3. Such operations and equipment are associated with agricultural pest control through pesticide application, provided the application is made in accordance with permits issued by or regulations enforced by the California Department of Agriculture;
- G. Noise sources associated with the maintenance of real property. Such activities shall instead be subject to the provisions of Chapter 10.28 of this title;
- H. Any activity to the extent regulation thereof has been preempted by state or federal law. NOTE: Preemption may include motor vehicle, aircraft in flight, and railroad noise regulations;
- I. Any noise sources associated with people and/or music associated with a party at a residential property. Such noise is difficult to measure under the terms of this chapter and instead shall be subject to the provisions of Chapters 10.28 and 10.58 of this title;
- J. Any noise sources associated with barking dogs or other intermittent noises made by animals on any property within the City of Newport Beach. Such noise is difficult to measure under the terms of this chapter and instead shall be subject to the provisions of Chapter 7.20 of this Code;
- K. Any noise sources associated with the operation of a permanently installed heating, venting and air conditioning (HVAC) equipment on a residential property permitted under the provisions of Section 10.26.045(B) and (C);
- L. Any noise sources specifically identified and mitigated under the provisions of a use permit, modification permit, development agreement or planned community district development plan adopted prior to the date of adoption of this chapter. (Ord. 95-53 § 3, 1995; Ord. 95-38 § 11 (part), 1995)

10.26.040 Schools, Day Care Centers, Churches, Libraries, Museums, Health Care Institutions—Special Provisions.

It is unlawful for any person to create any noise which causes the noise level at any school, day care center, hospital or similar health care institution, church, library or museum while the same is in use, to exceed the noise standards specified in Section 10.26.025 prescribed for the assigned Noise Zone I (residential uses). (Ord. 95-38 § 11 (part), 1995)

10.26.045 Heating, Venting and Air Conditioning—Special Provisions.

A. **New HVAC Equipment.** New permits for heating, venting and air conditioning (HVAC) equipment in or adjacent to residential areas shall be issued only where installations can be shown by computation, based on the sound rating of the proposed equipment, not to exceed an A-weighted sound pressure level of fifty (50) dBA or not to exceed an A-weighted sound pressure level of fifty-five (55) dBA and be installed with a timing device that will deactivate the equipment during the hours of ten p.m. to seven a.m. The method of computation used shall be that specified in “Standard Application of Sound Rated Outdoor Unitary Equipment,” Standard 275, Air conditioning and Refrigeration Institute, 1984 or latest revision thereof.

B. Existing HVAC Equipment.

1. HVAC equipment legally installed prior to April 22, 1981, shall be permitted to operate with an exterior noise limit of sixty-five (65) dBA until January 1, 1998.
2. HVAC equipment legally installed prior to April 22, 1981, shall be exempted from the interior noise level standard as specified in Section 10.26.030 of this chapter until January 1, 1998.
3. HVAC equipment legally installed after April 22, 1981, and prior to the date of adoption of this chapter shall not exceed a maximum exterior noise limit of fifty-five (55) dBA during the ninety-day compliance period set forth in Section 10.26.005.

C. In the event that HVAC equipment cannot meet the requirements set forth in this chapter, then the exterior noise limit for such equipment may be raised to sixty-five (65) dBA and exempted from the interior noise level standard as specified in Section 10.26.030 of this chapter, provided that the applicant obtains the written consent of all the owners of the affected properties. (Ord. 95-38 § 11 (part), 1995)

10.26.050 Sound-Amplifying Equipment.

Loudspeakers, sound amplifiers, public address systems or similar devices used to amplify sounds shall be subject to the provisions of Chapter 10.32 of this title. Such sound-amplifying equipment shall not be construed to include electronic devices, including but not limited to, radios, tape players, tape recorders, compact disc players, electric keyboards, music synthesizers, record players or televisions, which are designed and operated for personal use, or used entirely within a building and are not designed or used to convey the human voice, music or any other sound to an audience outside such building, or which are used in vehicles and heard only by occupants of the vehicle in which installed, which shall be subject to the provisions of Chapter 10.28 of this title. (Ord. 95-38 § 11 (part), 1995)

10.26.055 Noise Level Measurement.

A. The location selected for measuring exterior noise levels in a residential area shall be at any part of a private yard, patio, deck or balcony normally used for human activity and identified by the owner of the affected property as suspected of exceeding the noise level standard. This location may be the closest point in the private yard or patio, or on the deck or balcony, to the noise source, but should not be located in nonhuman activity areas such as trash container storage areas, planter beds, above or contacting a property line fence, or other areas not normally used as part of the yard, patio, deck or balcony. The location selected for measuring exterior noise levels in a nonresidential area shall be at the closest point to the noise source. The measurement microphone height shall be five feet above finish elevation or, in the case of a deck or balcony, the measurement microphone height shall be five feet above the finished floor level.

B. The location selected for measuring interior noise levels shall be made within the affected residential unit. The measurements shall be made at a point at least four feet from the wall, ceiling or floor, or within the frame of a window opening, nearest the noise source. The measurements shall be made with windows in an open position. (Ord. 95-38 § 11 (part), 1995)

10.26.065 Proposed Developments.

Each department whose duty it is to review and approve new projects or changes to existing projects that result or may result in the creation of noise shall consult with the Code Enforcement Officer prior to any such approval. If at any time the Code Enforcement Officer has reason to believe that a standard, regulation, action, proposed standard, regulation or action of any department respecting noise does not conform to the provisions as specified in this chapter, the Code Enforcement Officer may request such department to consult with him on the advisability of revising such standard or regulation to obtain uniformity. (Ord. 95-38 § 11 (part), 1995)

10.26.070 Prima Facie Violation.

Any noise exceeding the noise level standard as specified in Section 10.26.025 and 10.26.030 of this chapter, shall be deemed to be prima facie evidence of a violation of the provisions of this chapter. (Ord. 95-38 § 11 (part), 1995)

10.26.075 Violations.

Any persons violating any of the provisions of this chapter shall be deemed guilty of an infraction. (Ord. 95-38 § 11 (part), 1995)

10.26.080 Violations—Additional Remedies—Injunctions.

A. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this chapter which operation or maintenance causes or creates sound levels exceeding the allowable standards as specified in this chapter shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

B. Any violation of this chapter is declared to be a public nuisance and may be abated in accordance with law. The expense of this chapter is declared to be public nuisance and may be by resolution of the City Council declared to be a lien against the property on which such nuisance is maintained, and such lien shall be made a personal obligation of the property owner. (Ord. 95-38 § 11 (part), 1995)

10.26.085 City Manager Waiver.

The City Manager is authorized to grant a temporary waiver to the provisions of this chapter for a period of time not to exceed thirty (30) days if such temporary waiver would be in the public interest and there is no feasible and prudent alternative to the activity, or the method of conducting the activity, for which the temporary waiver is sought. (Ord. 95-38 § 11 (part), 1995)

10.26.090 Noise Abatement Programs.

A. In circumstances which adopted community-wide noise standards and policies prove impractical in controlling noise generated from a specific source, the City Council may establish a noise abatement program which recognizes the characteristics of the noise source and affected property and which incorporates specialized mitigation measures.

B. Noise abatement programs shall set forth in detail the approved terms, conditions and requirements for achieving maximum compliance with noise standards and policies. Said terms, conditions and requirements may include, but shall not be limited to, limitations, restrictions, or prohibitions on operating hours, location of operations, and the types of equipment. (Ord. 95-38 § 11 (part), 1995)

10.26.095 Manner of Enforcement.

A. The City Code Enforcement Officer is directed to enforce the provisions of this chapter and may issue citations for any violation of the provisions of this chapter or violations of this chapter may be prosecuted or enforced in the same manner as other infractions pursuant to this Code; provided, however, that in the event of an initial violation of the provisions of this chapter, a written notice may be given to the alleged violator which specifies the time by which the condition shall be corrected.

B. No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of his/her duty.

C. In the event the alleged violator cannot be located in order to serve any notice, the notice shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred in which event the specified time period for abating the violation or

applying for a variance shall commence at the date of the day following the mailing of such notice. (Ord. 95-38 § 11 (part), 1995)

10.26.100 Severability.

If any provision, clause, sentence, or paragraph of this chapter, or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provisions or application and, to this end, the provisions of this chapter are hereby declared to be severable. (Ord. 95-38 § 11 (part), 1995)

Chapter 10.28

LOUD AND UNREASONABLE NOISE*

Sections:

- 10.28.005 Policy.
- 10.28.007 Loud and Unreasonable Noise is Prohibited.
- 10.28.010 Loud and Unreasonable Noise.
- 10.28.020 Loud and Raucous Noise from Sound-Making or Amplifying Devices Prohibited.
- 10.28.040 Construction Activity—Noise Regulations.
- 10.28.045 Real Property Maintenance—Noise Regulations.
- 10.28.050 Exceptions.

* Sound-amplifying equipment—See Chapter 10.32.

Prior history: 1949 Code § 4208; Ords. 1191, 1802, 87-11, 87-17 and 93-7.

10.28.005 Policy.

It is found and declared as follows:

- A. The making, allowing, creation or maintenance of loud and unreasonable, unnecessary, or unusual noises which are prolonged, unusual, annoying, disturbing and/or unreasonable 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.
- B. The necessity in the public interest for the provisions and prohibitions contained and enacted is to declare as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained and enacted 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. 2001-4 § 1, 2001)

10.28.007 Loud and Unreasonable Noise is Prohibited.

It is unlawful for any person or property owner to make, continue, cause or allow to be made any loud, unreasonable, unusual, penetrating or boisterous noise, disturbance or commotion which annoys, disturbs, injures or endangers the comfort, repose, health, peace and quiet within the limits of the City, and the acts and things listed in this chapter, among others, are declared to be loud, disturbing, injurious and unreasonable noises in violation of this Chapter, but shall not be deemed to be exclusive. (Ord. 2001-4 § 2, 2001)

10.28.010 Loud and Unreasonable Noise.

It is unlawful for any person or property owner to willfully make, allow, continue or cause to be made, allowed, or continued, any loud and unreasonable, unnecessary, or disturbing noise, including, but not limited to, yelling, shouting, hooting, whistling, singing, playing music, or playing a musical instrument, which disturbs the peace, comfort, quiet or repose of any area or which causes discomfort or annoyance to any reasonable person of normal sensitivities in the area, after a peace or code enforcement officer has first requested that the person or property owner cease and desist from making or continuing, or causing to make or continue, such loud, unreasonable, unnecessary, excessive or disturbing noise.

The factors, standards, and conditions which should be considered in determining whether a violation of the provisions of this section has been committed, include, but are not limited to, the following:

- A. The level of the 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 and intensity of the background (ambient) noise, if any;

- E. The proximity of the noise to residential or commercial sleeping areas;
- F. The nature and zoning of the area within which the noise emanates;
- G. The density of inhabitation of the area within which the noise emanates;
- H. The time of day and night the noise occurs;
- I. The duration of the noise;
- J. Whether the noise is constant, or recurrent or intermittent; and
- K. Whether the noise is produced by a commercial or noncommercial activity;
- L. If the noise is produced by a commercial activity, whether the use is lawful under the provisions of Title 20 of this Code and whether the noise is one that could reasonably be expected from the commercial activity.
- M. Penalties. Any person who violates any provision of this section is guilty of a misdemeanor, unless the violation is deemed an infraction pursuant to the provisions of Section 1.04.010 of this Code. (Ord. 2001-4 § 3 (part), 2001: Ord. 95-38 § 3 (part), 1995)

10.28.020 Loud and Raucous Noise from Sound-Making or Amplifying Devices Prohibited.

A. It is unlawful for any person to cause, allow or permit the emission or transmission of any loud or raucous noise from any sound-making or sound-amplifying device in his possession or under his control:

1. Upon any private property; or
2. Upon any public street, alley, sidewalk or thoroughfare; or
3. In or upon any public park, beach or other public place or property.

B. The words “loud and raucous noise,” as used herein, shall mean any sound or any recording thereof when amplified or increased by any electrical, mechanical or other device to such volume, intensity or carrying power as to unreasonably interfere with the peace and quiet of other persons within or upon any one or more of such places or areas, or as to unreasonably annoy, disturb, impair or endanger the comfort, repose, health, or safety of other persons within or upon any one or more such places or areas.

C. The word “unreasonably,” as used herein, shall include, but not be limited to, consideration of the hour, place, nature and circumstances of the emission or transmission of any such loud and raucous noise.

D. Penalties. Any person who violates any provision of this section is guilty of a misdemeanor unless the violation is deemed an infraction pursuant to the provisions of Section 1.04.010 of this Code. (Ord. 2001-4 § 3 (part), 2001: Ord. 95-38 § 3 (part), 1995)

10.28.040 Construction Activity—Noise Regulations.

A. Weekdays and Saturdays. No person shall, while engaged in construction, remodeling, digging, grading, demolition, painting, plastering or any other related building activity, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any weekday except between the hours of seven a.m. and six-thirty p.m., nor on any Saturday except between the hours of eight a.m. and six p.m.

B. Sundays and Holidays. No person shall, while engaged in construction, remodeling, digging, grading, demolition, painting, plastering or any other related building activity, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any Sunday or any federal holiday.

C. No landowner, construction company owner, contractor, subcontractor, or employer shall permit or allow any person or persons working under their direction and control to operate any tool, equipment or machine in violation of the provisions of this section.

D. Exceptions.

1. The provisions of this section shall not apply to emergency construction work performed by a private party when authorized by the Community Development Director or his or her designee.

2. The maintenance, repair or improvement of any public work or facility by public employees, by any person or persons acting pursuant to a public works contract, or by any person or persons performing such work or pursuant to the direction of, or on behalf of, any public agency; provided, however, this exception shall not apply to the City of Newport Beach, or its employees, contractors or agents, unless:

a. The City Manager or department director determines that the maintenance, repair or improvement is immediately necessary to maintain public services;

b. The maintenance, repair or improvement is of a nature that cannot feasibly be conducted during normal business hours;

c. The City Council has approved project specifications, contract provisions, or an environmental document that specifically authorizes construction during hours of the day which would otherwise be prohibited pursuant to this section.

E. Penalties. Any person who violates any provision of this section is guilty of a misdemeanor unless the violation is deemed an infraction pursuant to the provisions of Section 1.04.010 of this Code. (Ord. 2013-11 § 35, 2013; Ord. 2001-4 § 3 (part), 2001; Ord. 95-38 § 3 (part), 1995)

10.28.045 Real Property Maintenance—Noise Regulations.

A. Weekdays and Saturdays. No person shall, while engaged in maintenance of real property, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, except between the hours of seven a.m. and six-thirty p.m., Monday through Friday, nor on any Saturday, except between the hours of eight a.m. and six p.m.

B. Sundays and Holidays. No person shall, while engaged in maintenance of real property, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any Sunday or any federal holiday.

C. No landowner, gardener, property maintenance service, contractor, subcontractor or employer shall permit or allow any person or persons working under their direction and control to operate any tool, equipment or machine in violation of the provisions of this section.

D. After January 1, 1996, mechanical blowers, as defined in Section 6.04.055, shall not be operated at a noise level that exceeds an A-weighted sound pressure level of seventy (70) dBA, as measured at a distance of fifty (50) feet. After January 1, 1999, such equipment shall not be operated at a noise level that exceeds an A-weighted sound pressure level of sixty-five (65) dBA, as measured from a distance of fifty (50) feet.

E. Exceptions. The provisions of this section shall not apply to the following:

1. Emergency property maintenance authorized by the Building Director;

2. The maintenance, repair or improvement of any public work or facility by public employees, by any person or persons acting pursuant to a public works contract, or by any person or persons performing such work or pursuant to the direction of, or on behalf of, any public agency; provided, however, this exception shall not apply to the City of Newport Beach, or its employees, contractors or agents, unless:

a. The City Manager or department director determines that the maintenance, repair or improvement is immediately necessary to maintain public service,

b. The maintenance, repair or improvement is of a nature that cannot feasibly be conducted during normal business hours,

c. The City Council has approved project specifications, contract provisions, or an environmental document that specifically authorizes construction during hours of the day which would otherwise be prohibited pursuant to this section;

3. Greens maintenance on golf courses conducted between the hours of six a.m. and eight p.m. and all other types of golf course maintenance between the hours of seven a.m. and eight p.m., provided no maintenance activity commences before six a.m.

F. Penalties. Any person who violates any provision of this section is guilty of a misdemeanor unless the violation is deemed an infraction pursuant to the provisions of Section 1.04.010 of this Code. (Ord. 2001-4 § 3 (part), 2001: Ord. 95-38 § 3 (part), 1995)

10.28.050 Exceptions.

The provisions of Sections 10.28.040 and 10.28.045 shall not be construed to prohibit such work at different hours by or under the direction of any other public agency in cases of necessity or emergency. (Ord. 2001-4 § 3 (part), 2001: Ord. 95-38 § 3 (part), 1995)

Chapter 10.32

SOUND-AMPLIFYING EQUIPMENT*

Sections:

- 10.32.010 Definitions.
- 10.32.020 Permit Required.
- 10.32.030 Application for Permit.
- 10.32.040 Issuance of Permit.
- 10.32.050 Sound-Amplification Equipment Prohibited on Public Beaches.
- 10.32.060 Regulations for Use.
- 10.32.070 Possession and Display of Permit.
- 10.32.080 Revocation of Permit.
- 10.32.090 Exceptions.

* Prior history: 1949 Code §§ 4500—4508; Ords. 1084, 1361, 1645 and 1691.

10.32.010 Definitions.

As used in this chapter:

“Sound-amplifying equipment” means any machine or device for the amplification of the human voice, music or any other sound. Sound-amplifying equipment shall not be construed to include electronic devices, including but not limited to radios, tape players, tape recorders, compact disc players, electric keyboards, music synthesizers, record players or televisions, which are designed and operated for personal use, or which are used entirely within a building and are not designed or used to convey the human voice, music or any other sound to an audience outside such building, or which are used in vehicles and heard only by occupants of the vehicle in which installed.

“Sound truck” means any vehicle having mounted thereon or attached thereto any sound-amplifying equipment. (Ord. 95-38 § 4 (part), 1995)

10.32.020 Permit Required.

No person shall use or cause to be used any sound-amplifying equipment or sound truck with its sound-amplifying equipment in the City without first having applied for and obtained a permit from the Finance Director as provided in this chapter. (Ord. 95-38 § 4 (part), 1995)

10.32.030 Application for Permit.

Applications for permits for the use of sound-amplifying equipment or sound trucks shall be filed with the Finance Department on forms supplied by the City. The application shall contain the following information:

- A. Name and home address of the applicant;
- B. Business address of the applicant;
- C. If the application is for the use of a sound truck, it shall contain the names of the legal and registered owners of the sound truck, and the year, make, and license number of the truck;
- D. The address or location where the sound amplifying equipment is to be used; or, if the application is for a sound truck, then a general statement as to the section or sections of the City in which the sound truck will be used;
- E. The name and address of the person who will have direct charge of the operation of the sound-amplifying equipment or sound truck;
- F. The purpose for which the sound-amplifying equipment or sound truck will be used;
- G. The proposed hours of operation of the sound-amplifying system or sound truck;
- H. The number of days of proposed operation of the sound-amplifying equipment or sound truck;

- I. A general description of the sound-amplifying equipment to be used;
- J. The maximum sound-producing power of the sound-amplifying equipment to be used, including:
 - 1. The wattage to be used,
 - 2. The volume in decibels of the sound which shall be produced,
 - 3. The approximate maximum distance sound will be projected from the sound-amplifying equipment. (Ord. 95-38 § 4 (part), 1995)

10.32.040 Issuance of Permit.

A. Upon receiving a complete application for a permit for the use of sound-amplifying equipment or a sound truck, the Finance Director or designee shall conduct an investigation within ten (10) days of receipt of a complete application to determine whether to approve the application. Unless the application is denied pursuant to subsection (B) of this section, the Finance Director or designee shall approve or conditionally approve the application for a permit if it is determined that all the requirements of this chapter are met and if it appears from the information contained in the application and such additional information as may be presented to the Finance Director or designee that the proposed use of the sound-amplifying equipment or sound truck complies with the regulations contained in Section 10.32.060. The permit shall be nontransferable and valid for a period not to exceed six months.

B. Denial of Application. An application for a permit for the use of sound-amplifying equipment or a sound truck may be denied under any of the following circumstances:

- 1. The City has revoked a permit obtained by the applicant pursuant to Section 10.32.080 within eighteen (18) months of the date of the application for a permit under this chapter;
- 2. The applicant has received a citation for violating Chapter 10.28, this chapter or Chapter 10.66 within eighteen (18) months of the date of the application for a permit under this chapter; or
- 3. The City has issued a citation under Chapter 10.28, this chapter or Chapter 10.66 to the address or location where the sound-amplifying equipment or sound truck is sought to be used by the applicant within eighteen (18) months of the date of the application for a permit under this chapter.

C. Specification of Hours. If a permit is granted, the Finance Director or designee shall specify the hours during which the sound-amplifying equipment or sound truck may be used after considering the needs of the applicant, the area or areas in which the sound will be emitted, and the effects of such use on the public's health, safety and welfare.

D. Appeals. Actions by the Finance Director or designee may be appealed by any interested party to the City Manager by filing a written statement with the City Clerk setting forth the facts and circumstances regarding the action by the Finance Director or designee. The City Manager shall notify the appellant and applicant in writing of the time and place of the hearing on the appeal. The hearing on appeal shall be heard and determined by the City Manager within ten (10) days of receipt of a written appeal. The decision of the City Manager shall be final. (Ord. 2014-5 § 1, 2014; Ord. 95-38 § 4 (part), 1995)

10.32.050 Sound-Amplification Equipment Prohibited on Public Beaches.

A. Policy Statement. The City Council makes the following findings:

- 1. The public beaches adjacent to the waters of the Pacific Ocean and Newport Harbor are a unique recreational resource which the City holds in trust under a legislative grant from the State of California.
- 2. These public beaches are intensively used for swimming, surfing and sunbathing by a diverse group of people which includes City residents, tourists and persons residing throughout Orange County and Southern California.
- 3. The use of sound trucks and sound-amplification equipment by groups and organizations who wish to hold concerts, meetings or public assemblies on or near these public beaches is disturbing to the vast majority

of the people using the beaches for recreation and to local residents whose homes are in close proximity to the beaches.

B. No permit shall be issued for and no person shall use any sound truck or sound-amplification equipment on any public beach. (Ord. 95-38 § 4 (part), 1995)

10.32.060 Regulations for Use.

The use of sound-amplifying equipment and sound trucks in the City shall be subject to the following regulations:

- A. The only sounds permitted are music and human speech.
- B. Sound shall not be emitted within one hundred (100) yards of hospitals, churches, and the City Hall.
- C. The human speech and music amplified shall not be profane, lewd or slanderous.
- D. The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) feet from the sound-amplifying equipment or sound truck, and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the range of allowed audibility.
- E. The sound amplifying equipment or sound truck shall not be used between the hours of eight p.m. and eight a.m. (Ord. 95-38 § 4 (part), 1995)

10.32.070 Possession and Display of Permit.

Any person operating the sound-amplifying equipment or sound truck shall keep the permit granted in his possession at all times while operating the equipment or sound truck and shall promptly display the permit to any Police Officer of the City upon request. (Ord. 95-38 § 4 (part), 1995)

10.32.080 Revocation of Permit.

- A. The Finance Director may revoke any permit issued pursuant to this chapter on any of the following grounds:
 - 1. The sound-amplifying equipment or sound truck has been used contrary to the regulations contained in Section 10.32.060 or the terms of the permit;
 - 2. The applicant has made a misrepresentation of a material fact in the application;
 - 3. The use of the sound-amplifying equipment or sound truck results in traffic congestion, or threatens public traffic safety.
- B. Notice of the revocation shall be given to the permit holder in writing. If the notice is personally served upon the permit holder, it shall be effective immediately upon service. If the notice of revocation is delivered by mailing, it shall be effective on the third day following the deposit of the notice in the United States mail. The permit holder may appeal the action of the Finance Director to the City Manager by filing a notice of appeal with the City Clerk within ten (10) days after the effective date of the revocation. If a notice of appeal is not filed within the ten (10) day period, the revocation shall become final. (Ord. 95-38 § 4 (part), 1995)

10.32.090 Exceptions.

The provisions of this chapter shall not apply to the use of sound trucks or sound-amplifying equipment in conducting the following activities:

- A. Any activity conducted on public property, or on private property with the consent of the owner, by any public entity, or its officers, employees, representatives, agents, subcontractors, permittees, licensees, or lessees, which is consistent with, and in furtherance of, the governmental functions or services the public entity is authorized, or responsible, to perform. Activities which are exempt from the provisions of this chapter include, without limitation, sporting and recreational activities which are sponsored or co-sponsored by the City of Newport Beach or the Newport Mesa Unified School District;
- B. Activities conducted on property of churches or private clubs where the sound is confined within the boundaries of such property;

- C. Licensed sightseeing or excursion vessels operating on the waters of Newport Harbor;
- D. Activities conducted within the boundaries of City-licensed amusement centers where the sound is confined within the boundaries of such amusement centers;
- E. Activities regulated by a use permit or other land use control under the provisions of Title 20, planning and zoning;
- F. Activities regulated by a special events permit under the provisions of Chapter 11.03, special events. (Ord. 95-38 § 4 (part), 1995)