

## Chapter 8.24

### NOISE CONTROL ORDINANCE

#### Sections:

- 8.24.010 Citation of Ordinance.**
- 8.24.020 Policy.**
- 8.24.030 Purpose.**
- 8.24.040 Scope.**
- 8.24.050 Definitions.**
- 8.24.060 Administration of Noise Control Program.**
- 8.24.070 Duties of Health Officer.**
- 8.24.080 Periodic Reports.**
- 8.24.090 Noise Disturbances Prohibited.**
- 8.24.100 Motorized Vehicles and Motorcycles on Public Right-of-way.**
- 8.24.110 Recreational Motorized Vehicles Operating Off Public Right-of-way.**
- 8.24.120 Racing Events.**
- 8.24.130 Rail Carrier Operation.**
- 8.24.140 Exception.**
- 8.24.150 Variances.**
- 8.24.160 Abatement Orders.**
- 8.24.170 Penalty.**
- 8.24.180 Additional Remedy; Injunction.**

#### **8.24.010 Citation of Ordinance.**

This chapter may be cited and shall be known as the "Noise Control Ordinance" of the City of Lincoln. (Ord. 15558 §1; May 14, 1990: P.C. §8.62.010: Ord. 12722 §1; October 29, 1979).

#### **8.24.020 Policy.**

Whereas excessive sound is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound and vibration may be substantially abated; and, whereas the people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize the health and welfare or safety of its citizens or degrade the quality of life. It is therefore the policy of the City of Lincoln to prevent excessive sound and vibration which will jeopardize the health and welfare or safety of its citizens or degrade the quality of life. (Ord. 15558 §2; May 14, 1990: P.C. §8.62.020: Ord. 12722 §2; October 29, 1979).

#### **8.24.030 Purpose.**

It is found and declared that:

(a) The making and creation of excessive, unnecessary, or unusually loud noises within the limits of the City of Lincoln and within three miles of the city is a condition which has existed for some time, and the extent and volume of such noises are increasing;

(b) The making, creation, or maintenance of such excessive unnecessary, unnatural, or unusually loud noises which are prolonged, unusual, and unnatural in their time, place, and use affect and are a detriment to public health, comfort, convenience, safety, and welfare and prosperity of the residents of the City of Lincoln; and

(c) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy; and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the inhabitants of the City of Lincoln and the area within its jurisdiction. (Ord. 15558 §3; May 14, 1990; P.C. §8.62.030; Ord. 12722 §3; October 29, 1979).

#### **8.24.040 Scope.**

This ordinance shall apply to the control of all sound originating within the limits of the City of Lincoln and the area within three miles of the city. No local regulation shall exceed the applicable state or federal standard. (Ord. 15558 §4; May 14, 1990; P.C. §8.62.040; Ord. 12722 §4; October 29, 1979).

#### **8.24.050 Definitions.**

All terminology used in this ordinance, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. A copy of the applicable ANSI standards shall be filed with the City Clerk and shall be available during normal working hours. For the purposes of this chapter only, certain words and phrases used herein are defined as follows:

**Ambient noise** shall mean the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

**A-weighted sound level** shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

**Commercial area** shall mean any area in the H-1, H-2, H-3, H-4, B-1, B-2, B-3, B-4, B-5, O-1, O-2, and O-3 zoning districts as designated pursuant to Title 27 of this code.

**Construction** shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action on public or private property.

**Decibel (dB)** shall mean a logarithmic and dimensionless unit for measuring the volume 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).

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

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

**Equivalent A-weighted sound level (Leq)** shall mean the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound.

**Gross vehicle weight rating (GVWR)** shall mean the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

**Health officer** shall mean the Director of the Lincoln-Lancaster County Health Department, or a representative, agent, or employee thereof.

**Impulsive sound** shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

**Industrial area** shall mean any area in the I-1, I-2, and I-4 zoning districts as designated pursuant to Title 27 of this code.

**Motor vehicle** shall mean any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, but not including motorcycles.

**Motorboat** shall mean any vessel which operates on water which is propelled by a motor, including, but not limited to, boats, barges, amphibious craft, water ski towing devices and hover craft.

**Motorcycle** shall mean an unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters, mini-bikes, and motor-driven cycles.

**Muffler** shall mean a device for diminishing the sound of projected noise from an internal combustion engine.

**Noise** shall mean any sound not occurring in the natural environment which causes or tends to cause an adverse psychological or physiological effect on humans.

**Noise disturbance** shall mean any sound not occurring in the natural environment which would tend to annoy or disturb humans with reasonable sensitivities, or which injures or endangers the comfort, health, welfare, hearing, peace, or safety of other persons.

**Noise sensitive zone** shall mean any area designed pursuant to Subsection 8.24.070(a) for the purpose of ensuring exceptional quiet. The following have been designated as noise sensitive zones: churches, except residential dwelling units, synagogues, mosques; libraries; public and private schools, day care centers, preschools; health care facilities; housing for the elderly; mobile home courts; auditoriums, concert halls, and music shells; except that this designation shall apply only to structures constructed after the effective date of this ordinance.

**Powered model vehicle** shall mean any self-propelled airborne, water-borne, or landborne plane, vessel, or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.

**Public right-of-way** shall mean any street, avenue, boulevard, highway, sidewalk, or alley or similar place which is owned or controlled by a governmental entity.

**Public space** shall mean real property or structures thereon which are owned or controlled by a governmental entity.

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

**Real property boundary** shall mean an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

**Residential area** shall mean any area in the R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts as designated pursuant to Title 27 of this code.

**RMS sound pressure** shall mean the square root of the time-averaged square of the sound pressure, denoted Prms.

**Sound** shall mean an oscillation in pressure, particle displacement, particle velocity, or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

**Sound level** shall mean the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, C, flat, or linear as specified in American National Standards Institute specifications for sound level meters (ANSI § 1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

**Sound level meter** shall mean an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

**Sound pressure** shall mean the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

**Sound pressure level** shall mean 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ( $20 \times 10^{-6}$  N/m<sup>2</sup>). The sound pressure level is denoted Lp or SPL and is expressed in decibels.

**Vibration** shall mean an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference.

**Weekday** shall mean any day Monday through Friday. (Ord. 15558 §5; May 14, 1990: P.C. §8.62.050: Ord. 13499 §1; December 6, 1982: prior Ord. 12722 §5; October 29, 1979).

#### **8.24.060 Administration of Noise Control Program.**

The noise control program established by this ordinance shall be administered by the Lincoln-Lancaster County Health Department. In order to implement and enforce this ordinance and for the general purpose of sound and vibration abatement and control, the health officer shall have, in addition to any other authority vested in it, the power to:

(a) Conduct, or cause to be conducted, research, monitoring, and other studies related to sound and vibration.

(b) Conduct programs of public education regarding the causes, effects, and general methods of abatement and control of noise and vibration, or regarding the actions prohibited by this ordinance or by any applicable state or federal regulations.

(c) Work to coordinate the noise and vibration control activities of all municipal departments, and cooperate with all appropriate local, state, or federal agencies, or private persons or organizations to promote compliance with this ordinance, and to promote uniform noise and vibration standards.

(d) Consult with any other department or agency responsible for any proposed or final standard, regulation, or similar action on the advisability of revising such action if the health officer has reason to believe that such action is not consistent with this ordinance.

(d) Review public projects which are subject to mandatory review or approval by other departments for compliance with this ordinance, if such projects are likely to cause sound or vibration in violation of this ordinance.

(f) Conduct inspections, surveys, and examinations of properties for the purpose of determining compliance with or violation of this ordinance. All such inspections, surveys, and examinations conducted pursuant to this ordinance shall be conducted in accordance with the provisions of the Uniform Inspection Code.

(g) Delegate functions, where appropriate under this ordinance, to personnel within the Health Department and to other agencies or departments. (Ord. 15558 §6; May 14, 1990: P.C. §8.62.060: Ord. 12722 §6; October 29, 1979).

#### **8.24.070 Duties of Health Officer.**

In order to implement and enforce this ordinance effectively, the health officer shall within a reasonable time after the effective date of this ordinance:

(a) Prepare recommendations, to be approved by the City Council, for the designation of noise-sensitive zones which contain noise-sensitive activities. Noise-sensitive activities include operations of schools, libraries open to the public, churches (except residential dwelling units), synagogues, mosques, housing for the elderly, health care facilities, mobile home courts, auditoriums, concert halls, and music shells.

(b) Investigate and pursue possible violations of this ordinance, and take any legal and proper action necessary to abate such violations.

(c) Study the existing transportation systems, such as truck routes within the community; determine areas with sensitivity to sound and vibration caused by transportation; recommend changes or modifications to transportation systems to minimize the sound and vibration impact on residential areas and noise-sensitive zones; and assist in or review the total transportation planning of the community, including planning for new roads, highways, bus routes, airports, and other systems for public transportation, to ensure that the impact of sound and vibration receives adequate consideration.

(d) Develop a generalized sound level map of the city, a long-term plan for achieving quiet in the city, and integrate this plan into the planning process of the city.

(e) Administer noise program grants and other funds and gifts from public and private sources, including the state and federal governments. (Ord. 15558 §7; May 14, 1990: P.C. §8.62.070: Ord. 13499 §2; December 6, 1982: prior Ord. 12722 §7; October 29, 1979).

#### **8.24.080 Periodic Reports.**

The health officer shall evaluate and report, every fiscal year following the effective date of this ordinance, on the effectiveness of the city noise control program and make recommendations for any legislative or budgetary changes necessary to improve the program. Such report shall then be submitted to the Lincoln-Lancaster County Board of Health for approval. (Ord. 19824 §1; January 28, 2013: prior Ord. 15558 §8; May 14, 1990: P.C. §8.62.080: Ord. 12722 §8; October 29, 1979).

#### **8.24.090 Noise Disturbances Prohibited.**

(a) No person shall make, continue, or cause to be made or continued, any noise disturbance. For sources of noise other than those specifically listed in this subsection, determinations of noise disturbances may be made through application of the sound level limits listed at Table 1. The sound level limits listed at Table 1 may be applied to the noise sources specifically listed in this subsection for the purpose of determining noise disturbances where the receiving land uses are other than residential or noise sensitive zones. Without limiting the foregoing, the following acts, and the causing thereof, are declared to be in violation of this prohibition:

(1) Radios, television sets, musical instruments, and similar devices: Operating, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in such a manner as to create a noise disturbance across a residential real property boundary or within a noise-sensitive zone, except for activities open to the public and for which any required permit has been issued. For those activities requiring a permit, a property line noise limit and/or time limit will be established that is agreeable to the permit grantor, the health officer, and the grantee.

In all other cases, property line noise standards for the residential receiving land use or noise-sensitive zone may be applied to determine the existence of noise disturbance. The standards are 60 db(a), maximum three minute Leq, for the time period 7:00 a.m. to 10:00 p.m.; and 50 db(a), maximum three minute Leq, for the time period 10:00 p.m. to 7:00 a.m.

(2) Loudspeakers/public address systems: Using or operating for any purpose any loudspeaker, public address system, or similar device in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone. The following property line noise standards may be applied to the residential receiving land use or noise-sensitive zone to determine the existence of a noise disturbance: 60 db(a), maximum one minute Leq, for the time period 7:00 a.m. to 10:00 p.m.; and 50 db(a), maximum one minute Leq, for the time period 10:00 p.m. to 7:00 a.m.

(3) Animals and birds: Owning, possessing, or harboring any animal or bird which makes sounds which create a noise disturbance across a residential real property boundary or within a noise-sensitive zone. The following property line noise standards may be applied to the residential receiving land use or noise-sensitive zone to determine the existence of a noise disturbance: 65 db(a), maximum one minute Leq, for the time period 7:00 a.m. to 10:00 p.m.; and 55 db(a), maximum one minute Leq, for the time period 10:00 p.m. to 7:00 a.m. This provision shall not apply to public zoos, the humane society, or licensed veterinarians.

(4) Loading and unloading: Loading, unloading, opening, closing, or other handling of boxes, carts, containers, building materials, or similar objects in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone. The following property line noise standards may be applied to the residential receiving land use or noise-sensitive zone to determine the existence of a noise disturbance, except as noted in subsection (c): 65 db(a), maximum five minute Leq, for the time period 7:00 a.m. to 10:00 p.m.; and 55 db(a) maximum five minute Leq, for the time period 10:00 p.m. to 7:00 a.m.

(5) Construction: Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:

(i) Between the hours of 10:00 p.m. and 6:00 a.m. the following day on any day in such a manner as to create a noise disturbance across a residential real property boundary or noise-sensitive zone, except for emergency work of public service utilities or by variance issued pursuant to this ordinance.

(ii) This section shall not apply to the use of domestic power tools of a type normally found in the home.

(6) Vehicle or motorboat repairs and testing: Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone. The following property line noise standards may be applied to the residential receiving land use or noise-sensitive zone to determine the existence of a noise disturbance, except as noted in subsection (c): 65 db(a), maximum five minute Leq, for the time period 7:00 a.m. to 10:00 p.m.; and 55 db(a), maximum five minute Leq, for the time period 10:00 p.m. to 7:00 a.m.

(7) Powered model vehicles: Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space, or within a noise-sensitive zone. Maximum sound levels in a public space, as measured at a distance of 50 feet (15 meters) from the source, or within residential property or noise-sensitive zones shall be as follows: 65 db(a), maximum three minute Leq, for the time period 7:00 a.m. to 10:00 p.m.; and 55 db(a), maximum three minute Leq, for the time period 10:00 p.m. to 7:00 a.m.

(8) Stationary nonemergency signaling devices: Sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle, or similar device intended primarily for nonemergency purposes, from any place, in such a manner as to create a noise disturbance across a residential real property boundary or within a noise-sensitive zone. The following property line noise standards may be applied to the residential receiving land use or noise-sensitive zone to determine the existence of a noise disturbance: 65 db(a), maximum one minute Leq, for the time period 7:00 a.m. to 10:00 p.m.; and 55 db(a), maximum one minute Leq, for the time period 10:00 p.m. to 7:00 a.m.

Devices used in conjunction with a religious worship service, public and private educational institutions, and railroad grade crossing warning devices shall be exempt from the operation of this provision. Additionally, any device used solely for the purpose of signaling a specific clock time at a place of religious worship shall be exempt from the operation of this provision.

(9) Within noise-sensitive zones:

(i) Creating or causing the creation of any sound within any noise-sensitive zone designated pursuant to Section 8.24.070, so as to disrupt the activities normally conducted within the zone or interfere with the functions of such activity; provided, that conspicuous signs are displayed indicating the presence of the zone; or

(ii) Creating or causing the creation of any unnecessary or unusually loud sound within any noise-sensitive zone designated pursuant to Section 8.24.070 while such zone is in use for any of the activities for which exceptional quiet is necessary; provided, that conspicuous signs are displayed indicating the presence of the zone.

(10) Tampering: Removing, impairing, or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement of any muffler, or noise-control device, or noise label of any product, or use of a product which has had a muffler or noise-control device or noise label removed or rendered inoperative, with knowledge that such action has occurred. The penalty for violation of this subpart is set forth in Section 8.24.170(b).

(11) Horns, signaling devices, etc.: The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the city so as to create a noise disturbance across a residential real property or noise-sensitive zone except as a danger warning.

(12) Portable air compressors: No person shall operate a portable air compressor manufactured after January 1, 1978, with maximum rated capacity of less than or equal to 250 cubic feet per minute (cfm) which produces an average sound level in excess of 76 dBA. No person shall operate a portable air compressor manufactured after July 1, 1978, with maximum rated capacity greater than 250 cfm which produces an average sound level in excess of 76 dBA. All measurements shall be taken at 23 feet (7 meters) and shall follow test procedures outlined in 41 Federal Register 2175 published January 14, 1976.

(13) Tampering with sound monitoring equipment: The removing or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the health officer; provided, such device or the immediate area is clearly labeled to warn of the potential illegality.

(14) Adequate exhaust system: No person shall operate a motor vehicle or motorcycle equipped with an exhaust system that emits excessive or unusual noise. A motor vehicle or motorcycle owner/operator may request from the Lincoln-Lancaster County Department of Health that a stationary noise level test be made to determine whether the exhaust system emits excessive or unusual noise. Said request must be made within ten days from the date the operator is cited for operating a motor vehicle or motorcycle equipped with an exhaust system that emits excessive or unusual noise. The exhaust system will be considered adequate if the sound level limits set forth in Table 3 are not exceeded. The penalty for violation of this subpart is set forth in Section 8.24.170(c).

(15) Refuse collection vehicles:

(i) No person shall operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse between the hours of 7:00 o'clock p.m. and 6:00 o'clock a.m. the following day in a residential area or noise-sensitive zone; or

(ii) Collect refuse with a refuse collection vehicle between the hours of 7:00 p.m. and 6:00 a.m. the following day in a residential area or noise-sensitive zone.

(iii) Collect refuse with a refuse collection vehicle or operate or permit the operation of a refuse compacting mechanism between the hours of 7:00 p.m. and 6:00 a.m. the following day in a commercial or industrial land area where the point of collection or compaction is within 100 feet (30.5 meters) of a residential area or noise-sensitive zone.

(16) Standing motor vehicles:

(i) No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, within 150 feet (46 meters) of a residential area or designated noise-sensitive zone in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone except as noted in subsection (c). For periods exceeding five minutes, the property line noise standards listed at Table 1 shall be used to determine the existence of a noise disturbance. Emergency vehicles in the performance of their duty shall be exempt from this section.

(ii) No person shall operate or permit the operation of any motorcycle or any motor vehicle with a gross vehicle weight rating (GVWR) of less than 10,000 pounds, while the vehicle is stationary, in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone, provided, however, that no measurements shall be made less than twenty-five feet from the property line of the property on which the vehicle is located. The following property line noise standards may be applied to determine the existence of



a noise disturbance: 65 db(a), maximum fifteen second Leq, for the time period 7:00 a.m. to 10:00 p.m.; and 55 db(a) maximum fifteen second Leq, for the time period 10:00 p.m. to 7:00 a.m.

(17) Impulsive sound: No person shall cause or allow the emission of impulsive sound from any noise source which exceeds the peak level limits specified in Table 2; provided, however, that no measurements shall be made less than twenty-five feet from the property line of the source from which the noise emanates.

(b) Measurements to determine whether a noise disturbance exists shall be made at or within the property boundary of the receiving land use. The measurements shall be made with a sound level meter meeting the standards of the American National Standards Institute (ANSI), or its successor body, for a minimum of a Type II meter.

(c) All activities within a commercial or industrial land area shall be exempt from any of the general or specific provisions in subparts (4), (6), and (16)(i) of subsection (a) between the hours of 6:00 a.m. and 10:00 p.m. of the same day on any day.

(d) If a noise level limit has been established by another city department for a specific noise source or activity, that limit shall be used to determine the existence of noise disturbance if different from a level in subsection (a) or Table 1 that may be applicable.

(e) Farms or farming operations in excess of ten acres in area that were in existence prior to changes in surrounding land use, or prior to occupancy of land in and about the locality of such farms or farming operations, shall be exempt from the provisions of this section; provided, however, that the farms or farming operations were not creating noise disturbances to surrounding land before the change in land use or occupancy of land.

**Table 1. Sound Levels by Receiving Land Use**

<u>Receiving Land-Use Category</u>	<u>Time</u>	Sound Level Limit, in dBA
		<u>Maximum Ten-Minute* Leq Level**</u>
Residential	7:00 a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	55
Noise-sensitive zone, or agricultural residential	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m.	50
Commercial or business	At all times	70
Industrial	At all times	75
Agricultural	6:00 a.m. to 10:00 p.m.	75
	10:00 p.m. to 6:00 a.m.	50

**Notes:**

\* Unless a different time period has been specified for the specific types of noise disturbances listed under 8.24.090(a).

\*\* Slow meter response or use meter with Leq function.

**Table 2. Peak Sound Level Limits by  
Receiving Land Use for Impulsive Sound**

<u>Receiving Land-Use Category</u>	<u>Time</u>	<u>Maximum No. of Peaks/Hr.</u>	<u>Peak Level Limit,* in dBA</u>
Residential, Noise-Sensitive Zones, or Agricultural Residential	7:00 a.m. to 10:00 p.m.	1	85
		2	79
	10:00 p.m. to 7:00 a.m.**	4	73
		8	67
		16+	61
Commercial	At all times	1	90
		2	84
		4	78
		8	72
		16+	66
Industrial Agricultural	At all times	1	95
		2	89
	6:00 a.m. to 10:00 p.m. 10:00 p.m. to 6:00 a.m.***	4	83
		8	77
		16+	71

**Notes:**

- \* Fast-hold meter function only.
- \*\* Reduce limits listed by 10 dBA for this period.
- \*\*\* Reduce limits listed by 20 dBA for this period.

**Table 3. Motor Vehicle and Motorcycle Noise Emission Standards for Determining Adequacy of Exhaust System, Stationary Limits\***

<u>Vehicle Type</u>	<u>Maximum Level</u>
Automobiles, Vans Light Trucks (GVWR < 10,000 lbs.)	
Front Engine	95 (93 + 2) dBA
Rear and Mid-Engined	99 (97 + 2) dBA
Motorcycles	102 (100 + 2) dBA
Heavy Trucks** (GVWR ≥ 10,000 lbs.)	90 (88 + 2) dBA

Notes:

- \* Measurement at 20 inches (0.5 meters) and at 45° angle from exhaust outlet with engine rpm at 3,000 for automobiles, vans, and light trucks; and at one-half indicated engine red line for motorcycles. Slow meter response will be used. For vehicles equipped with dual exhausts, compliance will be determined from the highest side measurement. For exhaust outlets located beneath the vehicle, measurements will be taken 8 inches (0.2 meters) from the side of the vehicle. These limits apply only to those vehicles licensed to operate on public right-of-way.
- \*\* Measurement at 50 feet (15 meters) with transmission in neutral and engine revved from idle to wide-open throttle (applies to vehicles with engine governor only). Fast meter response will be used.

(Ord. 15558 §9; May 14, 1990: P.C. §8.62.090: Ord. 13499 §3; December 6, 1982: prior Ord. 12722 § 9; October 29, 1979).

**8.24.100 Motorized Vehicles and Motorcycles on Public Right-of-way.**

(a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table 4. All measurements shall be taken with a sound level meter meeting the standards of ANSI, or its successor body, for a Type II instrument as a minimum and shall be taken with a fast meter response.

This section shall apply to the total noise from a vehicle or combination of attached vehicles and shall not be construed as limiting or precluding the enforcement of any other provision of the Lincoln Municipal Code relating to motor vehicle mufflers.

**Table 4. Motor Vehicle and Motorcycle Sound Limits**

<u>Type of Motor Vehicle</u>	<u>Sound Level Limit, in dBA, in Relation to Posted Speed Limit Measured at 50 Feet or 15 Meters</u>		
		<u>35 mph or less</u>	<u>Over 35 mph</u>
(1) Any motor vehicle carrier of GVWR or GCWR of 10,000 lbs. or more		86	90
	<u>25 mph or less</u>	<u>Greater than 25 mph to 40 mph</u>	<u>Over 40 mph</u>
(2) Any motorcycle	76	80	84
(3) Any other motor vehicle or any combination of vehicles towed by any motor vehicle	70	76	79

(b) For the purpose of enforcing the above levels, the standard measurement distance may be shortened to no less than twenty-one feet or increased to no more than 100 feet, applying the following correction factors, to be added to or subtracted from the permitted sound level:

<u>Measurement Distance (Feet)</u>	<u>Correction to Limit of Sound Level, in dBA</u>
21 or more but less than 29	+7
29 or more but less than 32	+6
32 or more but less than 35	+5
35 or more but less than 39	+3
39 or more but less than 43	+2
43 or more but less than 48	+1
48 or more but less than 58	0
58 or more but less than 70	-1
70 or more but less than 83	-2
83 or more but less than 99	-3
99 or more but less than 118	-4

(c) The penalties for exceeding the limits in table 4 are set forth in Section 8.24.170(d), Table 10. (Ord. 15558 §10; May 14, 1990: P.C. §8.62.100: Ord. 13499 §4; December 6, 1982: prior Ord. 12722 §10; October 29, 1979).

**8.24.110 Motorized Vehicles and Motorcycles Operating Off Public Right-of-way.**

No person shall operate or cause to be operated any motor vehicle or motorcycle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth in Table 5 at a distance of 50 feet (15 meters) or more from the path of the vehicle when operated on a public space, or at or across the real property boundary when operated on private property. This section shall apply to all motor vehicles and motorcycles, whether or not duly licensed and registered.

**Table 5. Recreational Motorized Vehicle Sound Limits**

<u>Vehicle Type</u>	<u>Sound Level Limit, in dBA</u>
Snowmobile	78
Motorcycle	78
Any other vehicle	78

(Ord. 15558 §11; May 14, 1990: P.C. §8.62.110: Ord. 13499 §5; December 6, 1982: prior Ord. 12722 §11; October 29, 1979).

**8.24.120 Racing Events.**

(a) No person shall conduct, or permit the conducting of, any part of an organized racing event which involves a contest between or among motor vehicles or motorcycles on public or private property after 10:00 p.m. or before 10:00 a.m. When an emergency condition occurs as a result of an accident or absence of an emergency vehicle during a racing event that results in a delay in finishing by 10:00 p.m., the time period for ending the event may be extended by one-half hour. The health officer shall be notified as to the specific reason for the extension within twelve hours after the conclusion of the event.

(b) For periods other than those associated with scheduled racing events, no person shall permit the operation of motor vehicles or motorcycles used in organized racing events which involves tuning of motor vehicles or motorcycles, practice sessions, or other related activities on the property of a public or private racing facility after 9:30 p.m. or before 10:00 a.m.

(c) As directed by the health officer, the owner or operator of a racing facility for motor vehicles or motorcycles shall implement a plan approved by the health officer for the reduction of noise levels from the facility. The approved plan shall be implemented by the owner or operator of the racing facility no later than May 1, 1983.

(d) The provisions of subsections (a), (b), and (c) above shall not apply to any racing event held at a race track lawfully operated under a special permit granted pursuant to Section 27.63.570 of the Lincoln Municipal Code. Said subsections shall apply, however, to any racing event held at a race track which constitutes a nonconforming use outside of the I-1 Industrial or AG Agriculture zoning districts. (Ord. 15558 §12; May 14, 1990: P.C. §8.62.111: Ord. 14954 §1; August 22, 1988: prior Ord. 13499 §6; December 6, 1982).

**8.24.130 Rail Carrier Operation.**

(a) No rail carrier shall operate any locomotive, when connected to a load cell under stationary conditions, in such a manner that the sound level emitted by the locomotive exceeds the level set forth in Table 6 below. All readings shall be taken at 100 feet (30 meters).

**Table 6. Rail Carrier Sound Limits and Stationary Conditions**

	<u>Sound Level Limit, in dBA</u>	
	<u>Throttle Setting at Idle</u>	<u>Throttle Setting at any other Setting</u>
Manufactured on or before December 31, 1979	73 dBA	93 dBA
Manufactured after December 31, 1979	70 dBA	87 dBA

(b) No rail carrier shall operate any locomotive or combination of locomotives when moving at any time under any condition of grade, load, acceleration, or deceleration in such a manner that the sound level emitted by the locomotive exceeds the level set forth in Table 7. All readings shall be taken at 100 feet (30 meters) from the centerline of any section of track which exhibits less than a two-degree curve or a radius of curvature greater than 2,865 feet (873 meters).

**Table 7. Rail Carrier Operations Under Moving Conditions**

	<u>Sound Level Limit, in dBA</u>
Manufactured on or before December 31, 1979	96 dBA
Manufactured after December 31, 1979	90 dBA

No rail carrier shall operate any rail car or combination of rail cars which while in motion produce sound levels in excess of (1) 88 dBA at rail car speeds up to and including 45 mph (72 km/hr.); or (2) 93 dBA at rail car speeds greater than 45 mph (72 km/hr.). All measurements shall be taken in accordance with procedures outlined in this section and on any section of track which is free of special track work or bridge or trestles.

(c) Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin, or in any other manner regulate the movement of rail carriers which are in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations. (Ord. 15558 §13; May 14, 1990: P.C. §8.62.120: Ord. 13499 §7; December 6, 1982: prior Ord. 12722 §12; October 29, 1979).

#### **8.24.140 Exception.**

The provisions of this ordinance shall not apply to (a) the emission of sound for the purpose of alerting persons to the existence of an emergency, or (b) the emission of sound in the performance of emergency work, or (c) the emission of sound in the performance of governmental services including, but not limited to, training activities. Nothing in this section, however, shall be construed to permit law enforcement, ambulance, fire, or other emergency personnel, or persons performing governmental services to make excessive noise in the performance of their duties when such noise is clearly unnecessary. (Ord. 19824 §2; January 28, 2013: prior Ord. 15558 §14; May 14, 1990: P.C. §8.62.130: Ord. 12722 §13; October 29, 1979).

#### **8.24.150 Variances.**

(a) The health officer shall have the authority to grant an initial variance to the strict application of Section 8.24.090 for a period of not to exceed fifteen calendar days. Any person seeking such a variance shall file an application with the health officer and shall submit a permit fee as the City Council may, by resolution, from time to time establish or revise. The application shall contain the information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this ordinance would constitute an unreasonable hardship on the applicant, on the community, or on other persons.

(b) The health officer shall have the authority to grant an extension to any variance. Any person seeking such an extension shall file an application with the health officer. Notice of an application for an extension shall be posted by a sign placed in a conspicuous place on or near the property upon which action is pending. No extension shall be granted for a period of two days from and after posting of the property.

(c) Any individual who claims to be adversely affected by allowance of any requested extension of a variance may, prior to the end of the two-day period after posting of the property, file a statement with the health officer containing any information to support the claim. If the health officer finds that a sufficient controversy exists regarding an application, a public hearing shall be held. All such hearings shall be held within five days after the period for filing claims under this subsection has ended.

In determining whether to grant or deny any application, the health officer shall balance the hardship to the applicant, the community, and other persons of not granting the variance or extension against the adverse impact to the health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the variance or extension. Applicants for variances or extensions and persons contesting extensions may be required to submit any information the health officer may reasonably require. In granting or denying an application, the health officer shall place on public file a copy of the decision and the reasons for denying or granting the variance or extension and the criteria to be considered in deciding whether to grant variances and extensions.

Variances or extensions shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The variance or extension shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance or extension shall terminate such variance or extension and subject the applicant to those provisions of this ordinance regulating the source of sound or activity for which the variance or extension was granted.

The health officer may issue guidelines defining the procedures to be followed in applying for a variance or extension and the criteria to be considered in deciding whether to grant variances and extensions.

(d) Any person who is aggrieved by a decision or order of the health officer under this ordinance may appeal such decision or order to the district court as provided by law. (Ord. 20075 §1; August 18, 2014: prior Ord. 19934 §1; October 21, 2013: Ord. 19824 §3; January 28, 2013: Ord. 19788 §10; October 8, 2012: Ord. 19611 §6; September 12, 2011: Ord. 19447 §7; September 13, 2010: Ord. 19302 §12; September 14, 2009: Ord. 19141 §9; September 15, 2008: Ord. 18983 §11; August 27, 2007: Ord. 18800 §9; September 18, 2006: Ord. 18598 §6; August 22, 2005: Ord. 15558 §15; May 14, 1990: P.C. §8.62.140: Ord. 12722 §14; Oct. 29, 1979).

**8.24.160 Abatement Orders.**

(a) The health officer or other agency responsible for enforcement of any provision of this ordinance may issue an order requiring abatement of any source of sound alleged to be in violation of this ordinance within a reasonable time period and according to the guidelines which the health officer may prescribe. Such abatement orders may be issued in lieu of prosecution for violation, and failure to comply with any abatement order shall be a violation of this ordinance.

(b) The health officer shall order an immediate halt to any sound which exposes any person to continuous sound levels in excess of those shown in Table 8 below or to impulsive sound levels in excess of those shown in Table 9 below; provided, that no such order shall be issued if the only persons exposed to sound levels in excess of those listed in Tables 8 and 9 are exposed as a result of (1) trespass, (2) invitation upon private property by the person causing or permitting the sound, or (3) employment by the person or contractor of the person causing or permitting the sound.

(c) Any person who violates an order issued pursuant to this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100.00 and not more than \$500.00, and in addition thereto may be imprisoned in the county jail for a period of not exceeding six months. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

**Table 8. Continuous Sound Levels Which Pose An Immediate Threat to Health and Welfare\***

<u>Sound Level Limit, in dBA</u>	<u>Duration</u>
90	24 hours
93	12 hours
96	6 hours
99	3 hours
102	1.5 hours
105	45 minutes
108	22 minutes

\* Use equal energy time-intensity trade-off if level varies, find energy equivalent over 24 hours.



**Table 9. Impulsive Sound Levels Which Pose an Immediate Threat to Health and Welfare**

<u>Sound Level Limit, in dBA</u>	<u>Number of Repetitions per 24-Hour Period</u>
145	1
135	10
125	100

(Ord. 15558 §16; May 14, 1990: P.C. §8.62.150: Ord. 13499 §8; December 6, 1982: prior Ord. 12722 §15; October 29, 1979).

**8.24.170 Penalty.**

(a) Any person violating any of the provisions of this chapter, except Subsections 8.24.090(a)(10), 8.24.090(a)(14), and Section 8.24.100, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$500.00 or be imprisoned in the county jail for a period of not exceeding six months, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

(b) Any person violating Subsection 8.24.090(a)(10) of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not exceeding \$100.00.

(c) Any person violating Subsection 8.24.090(a)(14) of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not less than \$35.00, nor more than \$100.00.

(d) Any person violating Section 8.24.100 of this chapter shall be deemed guilty of a misdemeanor and upon conviction hereof shall be fined according to the schedule set forth in Table 10.

**Table 10. Fine Schedule for Violations of Sound Level Limits for Motorized Vehicles and Motorcycles Operating on Public Right-of-Way**

<u>Number of Decibels (dBA) in Excess of Limit</u>	<u>Minimum Fine (\$) to be Assessed</u>
1-4	\$ 20
5-9	35
10-14	50
15-19	75
20+	100

(Ord. 15558 §17; May 14, 1990: P.C. §8.62.160: Ord. 13499 §9; December 6, 1982: prior Ord. 12722 §16; October 29, 1979).

**8.24.180 Additional Remedy; Injunction.**

The health officer or a police officer of the City of Lincoln shall take such action as necessary and legal to enforce the provisions of this ordinance. As an additional remedy, the operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provisions hereof and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or

which endangers the comfort, repose, health, or peace of residents in the area 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. No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this ordinance or from other law. (Ord. 15558 §18; May 14, 1990: P.C. §8.62.170: Ord. 12722 §17; October 29, 1979).