

Chapter 230. Noise Control

230a Appendix A

Section 230.010. Title and Purpose.

[R.O. 2009 §97.01; CC 1981 §20-138; Ord. No. 83-58, 8-10-1983]

- A. This Chapter shall be known as the "Noise Control Ordinance" of the City.
- B. The purposes of this Chapter are to abate certain loud, unnecessary, unnatural and unusual noises and to establish maximum noise limits for motor vehicle and transportation noise, construction power equipment noise and other general environmental noise.

Section 230.020. Definitions.

[R.O. 2009 §97.02; CC 1981 §20-139; Ord. No. 83-58, 8-10-1983; Ord. No. 07-162, 6-11-2007]

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

ANSI

American National Standards Institute or its successor bodies. All acoustical terminology shall be that contained in ANSI S1.1 "Acoustical Terminology".

ARI

Air-Conditioning and Refrigeration Institute or its successor bodies.

ASHRAE

American Society of Heating Refrigerating and Air-Conditioning Engineers or its successor bodies.

ASTM

American Society for Testing Materials or its successor bodies.

DECIBEL

A logarithmic unit of measurement which indicates the ratio between two (2) quantities, commonly electrical or sound energy levels or pressure levels. See "SOUND PRESSURE LEVEL".

DISCRETE TONE

A sound wave whose instantaneous sound pressure varies essentially as a sinusoidal function of time.

ESSENTIAL SERVICES

The erection, construction, alteration or maintenance by public utilities, municipal departments or commissions or any governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution system, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of utility service by such public utilities, municipal departments, commissions or any governmental agencies or for the public health, safety or welfare.

FLUCTUATING NOISE

A noise whose sound pressure level varies significantly but does not equal the ambient environmental level more than once during the period of observation.

IEC

International Electrotechnical Commission or its successor bodies.

IMPULSE NOISE

Characterized by brief excursions of sound pressure which significantly exceed the ambient environmental sound pressure. The duration of a single impulse is usually less than one (1) second.

INTERMITTENT NOISE

A noise whose sound pressure level equals the ambient environmental level two (2) or more times during the period of observation. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient noise level is on the order of one (1) second or more.

ISO

International Organization for Standardization or its successor bodies.

MAYOR

The Mayor or duly authorized representative.

MOTOR VEHICLE

Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

OCTAVE BAND

A frequency band with lower and upper cut-off frequencies having a ratio of two (2). The cut-off frequencies of seven hundred seven (707) Hertz and one thousand four hundred fourteen (1,414) Hertz define an octave band in common use.

PERIOD OF OBSERVATION

The time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and should also be at least ten (10) times as long as the response time of the instrumentation. The greater the variance in indicated sound level, the longer must be the observation time for a given expected accuracy of the measurement.

PERSON

Every natural person, partnership, association or corporation which may own, operate or control those devices or facilities herein described.

REPETITIVE IMPULSE NOISE

More than five (5) impulses per hour.

SAE

Society of Automotive Engineers or its successor bodies.

SOUND LEVEL OR NOISE LEVEL

For airborne sound, a weighted sound pressure level obtained by the use of metering characteristics and A-weighting as specified in the referenced standards. When the A-weighting is employed, it must be indicated.

SOUND PRESSURE LEVEL

A sound, in decibels, is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of this sound to the reference sound pressure having the value of two (2) multiplied by 10⁻⁴ dynes per square centimeter.

STEADY NOISE

A noise whose level remains essentially constant.

ZONING DISTRICT

Districts established by the zoning ordinance of the City and found in Chapter 400 of this Code of Ordinances.

Section 230.030. Prohibited Uses.

[R.O. 2009 §97.03; CC 1981 §20-140(a—f); Ord. No. 83-58, 8-10-1983; Ord. No. 91-17, 2-7-1991; Ord. No. 97-427, 12-10-1997; Ord. No. 99-60, 2-17-1999; Ord. No. 01-170, 7-19-2001; Ord. No. 02-190, 7-26-2002; Ord. No. 03-122, 5-27-2003; Ord. No. 03-290, 11-12-2003; Ord. No. 05-174, 6-17-2005; Ord. No. 10-208 §1, 9-29-2010; Ord. No. 13-023 §1, 2-7-2013]

- A. No person shall make or cause, permit or allow to be made, upon a public way or in such close proximity to a public way as to be distinctly and loudly audible upon such public way, any noise of any kind by crying, calling or shouting or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound-amplifying or other similar electronic device; provided that a licensed peddler is not restricted or prohibited so long as he/she shall have met the requirements and conditions hereinafter specified in Subsection **(E)** below nor does this prohibition apply to bands and orchestras or similar musical bodies utilized as part of a parade or similar authorized musical production. The reasonable sounding of bells, chimes or similar devices by houses of religious worship and by ice cream trucks is exempt from the operation of this provision.
- B. No person shall use or perform any hand organ or other musical instrument or device in any public way or public street of the City before 7:00 A.M. or after 10:00 P.M. of any day.
- C. No person shall operate a gasoline-powered grass cutting device, lawn mower or similar mechanical apparatus normally used for cutting lawns, yards or fields before 7:00 A.M. or after 10:00 P.M. of any day.
- D. *Restricted Use Of Certain Equipment.*
1. No person shall use or operate any pile driver, shovel, fork lifts, trash compactors without a sound-attenuating cover, hammer, derrick, hoist, tractor, roller or any other mechanical apparatus in building or construction operations or for any other reason outdoors between the hours of 11:00 P.M. and 6:00 A.M., except for work on essential services, within six hundred (600) feet of a residence or hospital.
 2. No property owner, property manager, landlord or other person with any lawful property interest in a piece of property shall cause, allow the use or operation on of any pile driver, shovel, fork lift, trash compactor without a sound-attenuating cover, hammer, derrick, hoist, tractor, roller or any other mechanical apparatus in building or construction operations on any property under their control outdoors between the hours of 11:00 P.M. and 6:00 A.M., except for work on essential services, within six hundred (600) feet of a residence or hospital.
 3. Any property owner, property manager, landlord or other person with any lawful property interest in a piece of property or control over a piece of property shall be individually and strictly liable for any violation of Subsection **(D)** which occurs on such property.
- E. No person shall activate or cause or suffer to be activated any horn or audible signal device on any motor vehicle of any kind except as a warning of danger or peril as provided in Section **345.090**.
- F. No person shall operate or allow to be operated in any area zoned for commercial use any motor of a motor vehicle which weighs in excess of five (5) tons (ten thousand (10,000) pounds) for a consecutive period of longer than two (2) minutes while such vehicle is in a stationary location on private property located within one hundred fifty (150) feet of property devoted to residential uses; any property owner, property manager, landlord or other person with any lawful property interest in a piece of property or control over a piece of property shall be individually and strictly liable for any violation of Subsection **(F)** which occurs on such property. Except that the provisions of this Subsection shall not apply:
1. When the vehicle or motor is being used in the course of normal productive work; except during the hours of 11:00 P.M. in the evening to 6:00 A.M. the following day from Sunday evening to Friday morning; and except between the hours of 11:00 P.M. in the evening to 7:00 A.M. the following day from Friday evening to Sunday morning;
 2. When the vehicle or motor is being used by a public utility, municipal department, commission or other governmental agency to provide essential services as hereinbefore defined;
 3. To buses operated for the transportation of passengers while standing in established bus turnarounds,

terminals or storage yards; and

4. To any vehicle standing within a completely enclosed structure.
- G. No person shall operate an internal combustion powered street sweeping device, street vacuum or similar apparatus normally used for the cleaning of parking lots within one thousand two hundred (1,200) feet of an occupied residential structure between the hours of 11:00 P.M. in the evening to 6:00 A.M. the following day from Sunday evening to Friday morning and between the hours of 11:00 P.M. in the evening to 7:00 A.M. the following day from Friday evening to Sunday morning. The operation of City-owned street sweeping devices is exempt from this restriction. The operation of any snow removal equipment while engaged in snow removal is exempt from this restriction.
- H. *Noise Restrictions Dealing With Music.*
1. No person shall use, cause to be used or operate any musical instrument or electronic device for playing music in such a manner as to create an unreasonably loud noise or so as to be plainly audible at a distance of twenty-five (25) or more feet from the sound source by another person located on a residential property before 7:00 A.M. or after 10:00 P.M. of any day except for a college, university or school hosting a school-sponsored athletic or social event as a part of its regular course and curriculum on a Friday or Saturday in which case musical instruments or electronic devices for playing music may be used or operated on school property from 7:00 A.M. to 11:59 P.M.
 2. No person shall use, cause to be used or operate any mechanical device, engine, generator or tool used for auto repair or alteration in such a manner as to create an unreasonably loud noise or so as to be plainly audible at a distance of twenty-five (25) or more feet from the sound source by another person located on a residential property before 7:00 A.M. or after 10:00 P.M. of any day.
 3. For the purposes of this Subsection, "*plainly audible sound*" shall mean any sound that can be detected by a person using his/her unaided hearing faculties. Example: If the sound source under investigation is a portable sound amplification or reproduction device, the enforcement officer need not determine the title of the song, specific words or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.
 4. A variance from the provisions of this Subsection **(H)** may be granted in accordance with Section **230.110**.

Section 230.040. Noise Limits On Motor Vehicles.

[R.O. 2009 §97.04; CC 1981 §20-140(g—j)(r—t); Ord. No. 83-58, 8-10-1983; Ord. No. 91-17, 2-7-1991; Ord. No. 97-427, 12-10-1997; Ord. No. 99-60, 2-17-1999; Ord. No. 01-170, 7-19-2001; Ord. No. 02-190, 7-26-2002; Ord. No. 03-122, 5-27-2003; Ord. No. 03-217, 9-3-2003]

- A. No person shall sell or offer for sale any motor vehicle that produces a maximum noise exceeding the following noise limit at a distance of fifty (50) feet from the centerline of travel, under test procedures, standards and recommended practices as itemized below and with reference to Sections **230.060** and **230.070**. Such stock as is certified to the City on the effective date of this Chapter shall be exempt from the prohibition contained in this Section. Test procedures shall be in substantial conformity with standards and recommended practices established by the Society of Automotive Engineers, Inc., including SAE Recommended Practice J 184 and ANSI Standards S1.1 1960 and S1.4 1961.

Type of Vehicle	Date of Manufacture	Noise Limit
Motorcycle	Before January 1, 1980	84 dB(A)
	After January 1, 1980	80 dB(A)
Test procedures according to SAE Proposed Standard J 331		
Any motor vehicle with a gross vehicle weight of ten thousand (10,000) pounds or more	Before July 1, 1975	86 dB(A)
	After January 1, 1975	84 dB(A)
Test procedures according to SAE Standard J 336a		
Passenger car, motor-driven cycle and any other motor vehicle	Before January 1, 1975	84 dB(A)

Test procedures according to SAE Standard J 986a

B. *Noise Related To Operation Of Vehicle.*

1. *Noise limits as related to speed.*

- a. No person shall operate within the speed limits specified in this Section either a motor vehicle or combination of vehicles of a type subject to registration at any time or under any condition as to exceed the following noise limit for the category of motor vehicle, measured at a distance of not less than fifty (50) feet from the centerline of travel, under ANSI Standards S1.1 1960 and S1.4 1961 and SAE Standard J 184 with meter set for fast response and the A-weighted scale:

Type of Vehicle	Noise Limit in Relation to Posted Speed Limit	
	35 mph or less	Over 35 mph
Any motor vehicle with a manufacturer's GVW rating of ten thousand (10,000) pounds or more and any combination of vehicles towed by such motor vehicle	86 dB(A)	90 dB(A)
Any motorcycle	78 dB(A)	82 dB(A)
Any other motor vehicle and any combination of motor vehicles towed by such vehicle	73 4dB(A)	79 dB(A)

- b. This Subsection **(B)(1)** applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this Code relating to motor vehicle mufflers for noise control.

- 2. No person shall operate a motor vehicle or combination of vehicles, of a type subject to registration, at any time or under any condition when the noise limit set forth in **Appendix A** to this Chapter is exceeded under stationary test procedures as outlined for this Section by the regulations as promulgated under Section **230.100**.

C. No person shall sell, lease or agree to sell or lease any of the types of equipment herein enumerated which shall exceed the noise level herein established at a distance of fifty (50) feet, under test procedures and standards SAE J 184, SAE J 952b, ANSI S1.1 1960, ANSI S1.4 1961 and with reference to Sections **230.060** and **230.070**.

Type of Equipment

Construction and industrial machinery, such as crawlers-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, wagons, pavement breakers, compressors and pneumatic powered equipment, etc., but not including pile drivers:

Type of Equipment	Noise Limit
Manufactured before January 1, 1980	86 dB(A)
Manufactured after January 1, 1980	80 dB(A)

Type of Equipment

Agricultural tractors and equipment:

Type of Equipment	Noise Limit
Manufactured before January 1, 1980	86 dB(A)
Manufactured after January 1, 1980	80 dB(A)

Type of Equipment

Powered commercial equipment of twenty (20) hp or less intended for infrequent use in a residential area, such as chain saws, pavement breakers, log chippers, powered hand tools and the like:

Type of Equipment	Noise Limit
Powered commercial equipment of twenty (20) hp or less intended for infrequent use in a residential area, such as chain saws, pavement breakers, log chippers, powered hand tools and the like:	80 dB(A)

Type of Equipment

Powered equipment intended for repetitive use in residential areas. Such equipment includes lawn mowers, small lawn and garden tools, riding tractors, snow removal equipment:

	Noise Limit
Manufactured before January 1, 1978	70 dB(A)
Manufactured after January 1, 1978	65 dB(A)

- D. No person shall alter, modify or change any exhaust muffler, intake muffler or other equipment designed to abate noise on any motor equipment unless such alteration, modification or change shall reduce the noise emitted by such equipment. Nothing in this Section shall be interpreted to prohibit the replacement of worn noise abatement equipment certified as meeting or exceeding specifications of the manufacturer’s original equipment.
- E. No person shall sell or offer for sale any engine powered pleasure vessel, engine powered craft or motor boat which may exceed the following noise limit as measured at the distance of fifty (50) feet under test procedures per SAE J 952b and with reference to SAE J 184 and ANSI Standards S1.1 1960, S1.4 1961 and Sections **230.060** and **230.070**:

	Noise Limit
Manufactured before January 1, 1978	85 dB(A)
Manufactured after January 1, 1975	76 dB(A)

- F. No person shall sell or offer for sale a new power-driven recreational or off-highway vehicle including dune buggies and snowmobiles, go-karts and mini bikes that produce noise measured at the distance of fifty (50) feet exceeding the following, under test procedures per SAE J 952b and with reference to SAE J 184 and ANSI Standards S1.1 1960, S1.4 1961 and Sections **230.060** and **230.070**.

Type of Vehicle	Noise Limit
Snowmobile	73 dB(A)
Any other vehicle including dune buggy, all-terrain vehicle, mini-bike	73 dB(A)

This Subsection **(F)** shall not be interpreted to include motor homes, off-highway trucks, construction equipment and other equipment included under Subsections **(A)** and **(C)** above.

- G. No person shall operate a motor-driven vehicle of a type not subject to registration for road use at any time or under any condition of acceleration or deceleration as to exceed 82 dB(A) as measured from the distance of fifty (50) feet under ANSI Standards S1.1 1960 and S1.4 1961 and SAE Standard J 184 with meter set for fast response and the A-weighted scale. This Subsection **(G)** shall not be interpreted to include the operation of off-highway trucks and construction equipment regulated under Subsection **(C)** of this Section.

[1] *Cross Reference—As to penalty, §100.150.*

Section 230.050. Maximum Noise Levels in Certain Zoning Districts.

[R.O. 2009 §97.05; CC 1981 §20-140(k—q); Ord. No. 83-58, 8-10-1983; Ord. No. 98-398, 9-14-1998]

- A. In "I-1" Light Industrial zoning districts, at no point on the boundary of a residence, business or commercial district shall the sound pressure level of any individual operation or plant or the combined operations of any person, firm or corporation exceed the decibel levels in the designated octave bands shown below for the zoning districts indicted as measured using test equipment per ANSI Standards S1.1 1960, S1.4 1961, S1.11 1966 and S1.12 1967 and SAE J 184 and with reference to Sections **230.060** and **230.070**.

Octave Band Center Frequency (Hz)	Maximum Sound Pressure Levels (dB) Along District Boundaries (Daytime, Steady Noise)	
	Residence	Business — Commercial
31.5	72	79
63	71	78
125	65	72
250	57	64
500	51	58
1,000	45	52
2,000	39	46
4,000	34	41

8,000	32	39
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Maximum repetitive impulse noise sound pressure levels to be 10 dB lower than the values shown for steady noise.

1. For monitoring purposes, the A scale levels (slow response) of 55 dB(A) and 62 dB(A) respectively for residence and business-commercial districts may be used. Any noise levels in excess of these values constitute a violation of this Subsection.
2. Where noise levels below the above-mentioned 55 dB(A) and 62 dB(A) are measured, the octave band test is to be applied in order to determine compliance with this Section.
3. Maximum nighttime sound pressure levels 10:00 P.M. to 7:00 A.M. are to be seven (7) dB lower than the values shown for daytime steady noise for each octave band center frequency.

B. In "M-2" Heavy Industrial zoning districts, at no point either on the boundary of a residence, business or commercial district or at one hundred twenty-five (125) feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of any individual operation or plant or the combined operations of any person, firm or corporation exceed the decibel levels in the designated octave bands shown below for the zoning districts included, as measured using test equipment per ANSI Standards S1.1 1960, S1.4 1961, S1.11 1966 and S1.12 1967 and SAE J 184 and with reference to Sections **230.060** and **230.070**.

**Octave Band Center Frequency Maximum Sound Pressure Levels (dB) Along District Boundaries
(Hz) (Daytime, Steady Noise)**

	Residence	Business — Commercial
31.5	75	80
63	74	79
125	69	74
250	64	69
500	58	63
1,000	52	57
2,000	47	52
4,000	43	48
8,000	40	45

Maximum repetitive impulse noise sound pressure levels to be 10 dB lower than the values shown for steady noise.

1. For monitoring purposes, the A scale levels (slow response) of 61 dB(A) and 66 dB(A) respectively for residence and business-commercial districts may be used. Any noise levels in excess of these values constitute a violation of this Section.
2. Where noise levels below the above-mentioned 61 dB(A) and 66 dB(A) values are measured, the octave band test is to be applied in order to determine compliance with this Section.
3. Maximum nighttime sound pressure levels 10:00 P.M. to 7:00 A.M. are to be seven (7) dB lower than the values shown for daytime steady noise or each octave band center frequency.

- C. In business and commercial zoning districts, all activities involving the production, processing, cleaning, servicing, testing, repair of materials, goods or products or any property use shall conform with the performance standards stated in Subsection (A) above, provided that performance standards shall in every case be applied at the boundaries of the lot on which any such activities take place.
- D. In residential zoning districts, any property use shall conform with the performance standards stated in Section (A) above for residence district boundaries, provided that performance standards shall in every case be applied at the boundaries of the lot on which such use is established.
- E. The maximum sound pressure levels established in Subsections (A), (B), (C) and (D) to be applied to the boundaries of a lot shall not apply to construction sites. Construction site noise level shall be regulated by Section **230.030(D)**.
- F. In all instances in which a "I-2" Heavy Industrial District does not adjoin a residence, business or commercial

district, the performance standards governing noise for the "I-1" Light Industrial Districts shall apply at the nearest residence or commercial district boundary line, as these districts are defined and designated under the provisions of the zoning regulations set forth in Chapter 400.

- G. Any property uses established in an industrial, business or commercial district shall be so operated as to comply with the performance standards governing vibrations set forth:
1. In an "I-2" industrial zoning district, any property use creating intense or shaking vibrations such as are created by drop forges or heavy hydraulic surges shall be set back at least three hundred (300) feet from the zoning district line of any residence or commercial zoning district and at least one hundred fifty (150) feet from the zoning district line in any "I-1" industrial zoning district unless such operation is controlled in such manner as to prevent such transmission beyond the zoning district line of earth-shaking vibrations perceptible without the aid of instruments.
 2. In an "I-1" industrial zoning district, business or commercial zoning district any property use creating earth-shaking vibrations such as are created by drop forges or hydraulic surges shall be controlled in such manner as to prevent transmission beyond the lot lines of earth-shaking vibrations perceptible without the aid of instruments.

[1] *Cross Reference—As to penalty, §100.150.*

Section 230.060. Sae Standards and Recommended Practices.

[R.O. 2009 §97.06; CC 1981 §20-141; Ord. No. 83-58, 8-9-1983]

Test procedures as to noise levels emitted by motor vehicles and by engine powered equipment when offered for sale shall conform to SAE standards and recommended practices:

SAE J 184 Qualifying a Sound Data Acquisition System. SAE Recommended Practice.

SAE J 331 SAE Standard for Sound Levels for Motorcycles, as it is proposed on the effective date of this Chapter.

SAE J 366a Exterior Sound Level for Heavy Trucks and Buses. SAE Recommended Practice.

SAE J 952b Sound Levels for Engine Powered Equipment. SAE Standard.

SAE J 986a Sound Levels for Passenger Cars and Light Trucks. SAE Standard.

and such other and further standards as may be propounded in the code of recommended practices of the Director.

Section 230.070. Test Equipment Standards.

[R.O. 2009 §97.07; CC 1981 §20-142; Ord. No. 83-58, 8-9-1983]

Test equipment standards applicable to tests and measurements described and required herein are:

ANSI S1.1 1960 Acoustic Terminology (ISO R131) (IEC 50-08)

ANSI S1.4 1961 General Purpose Sound Level Meters (IEC 123-1961)

ANSI S1.11 1966 Octave, Half Octave and Third Octave Band Filter Sets (IEC 225-1966)

ANSI S1.12 1967 Laboratory Standard Microphones

IEC 179 1965 Precision Sound Level Meters

and such other and further standards as may be propounded in the code of recommended practices of the Director.

Section 230.080. Certification of Compliance.

[R.O. 2009 §97.08; CC 1981 §20-143; Ord. No. 83-58, 8-9-1983]

The Director may require, upon reasonable notice, that the manufacturer, distributor, importer or designated agent shall certify in writing to the City that his/her vehicles or equipment sold or offered for sale within the City comply with the applicable provisions of the appropriate Sections of this Chapter.

Section 230.090. Re-Evaluation of Noise Level Limits.

[R.O. 2009 §97.09; CC 1981 §20-144; Ord. No. 83-58, 8-9-1983]

It is the intent of the City to periodically re-evaluate the future noise level limits and other standards contained in

this Chapter and, if it is determined to be appropriate, to adjust such standards either upward or downward in light of future possible advances in technology or the state of the art.

Section 230.100. Enforcement of Regulations.

[R.O. 2009 §97.10; CC 1981 §20-145; Ord. No. 83-58, 8-10-1983]

- A. The Chief of Police may establish regulations for the implementation of enforcement. Any regulation promulgated under this Section shall pertain only to the means, manner or method of implementation of enforcement of the Chapter and shall not change, alter or amend the requirements of the Chapter. The regulations promulgated hereunder or amendments or changes thereof shall become effective upon review and approval by the City Council.
- B. Violation of the regulations promulgated under this provision shall be punished as provided for in Section **100.150**.
- C. Copies of the regulations promulgated under this Section shall be kept on file at the office of the City Clerk. These regulations shall be available for public inspection and copying during normal business hours.

[1] *Cross Reference—As to penalty, §100.150.*

Section 230.110. Noise Variances.

[R.O. 2009 §97.11; CC 1981 §20-146; Ord. No. 83-58, 8-10-1983; Ord. No. 07-162, 6-11-2007]

- A. The provisions of this Chapter shall not apply to those events, activities or locations which have been granted a variance, as hereinafter set out, by the City Council.
- B. The City Council shall have the authority to grant variances subject to the conditions and under the circumstances set out in this Section. These variances, to be known and entitled as noise variances, shall exclude the event, activity or location for which the permit is issued from the operation and requirement of this Chapter, subject to the provisions of this Section.
- C. Any person seeking a variance pursuant to this Section shall file an application with the City Clerk on a form prescribed by the Chief of Police. The application shall contain, in addition to such information as shall be required by the Chief of Police, information demonstrating that bringing the source of sound for which the variance is sought or the activity involved into compliance with this Chapter would cause an unreasonable hardship for the applicant, the community or for other persons. Upon receiving such an application, the Clerk shall submit it to the Mayor. Upon receipt of an application, the Mayor shall cause such investigation as he/she deems necessary to be made concerning the application. This investigation may include, but need not be limited to, consulting with such departments as he/she may deem necessary or desirable. The Mayor, subject to the provisions of Subsection **(D)** below may, in his/her discretion, cause a public hearing to be held on any application for a noise variance. If no public hearing is held, the Mayor, subject to the provisions of Subsection **(D)** below, shall allow interested parties to submit written comments concerning an application for a noise variance. The applicant shall, prior to the investigation of the application by the Mayor, cause a public notice of the application for a noise variance to be published at least twice in a daily newspaper of general circulation published in the City in a form prescribed by the City Clerk.
- D. The Mayor, in addition to such other investigation as he/she may deem necessary:
 - 1. Shall require applicant to show that the notice requirements herein provided for have been met;
 - 2. Shall permit applicant to offer such evidence as it desires to establish applicant's position that a variance should be granted;
 - 3. Shall permit those opposing applicant's request for a variance to offer evidence in opposition to the granting of a variance;
 - 4. May, in his/her discretion, refuse to receive or hear evidence that is cumulative and may reasonably limit

the time allowed to present evidence by those supporting and those opposing the application.

- E. The Mayor shall consider all evidence received pursuant to this Section and based upon this evidence and the results of his/her investigation shall make a recommendation to the City Council as to whether a noise variance should be granted. The Mayor shall make his/her recommendation based upon the factors set out in Subsection **(F)** and shall state the reasons for his/her recommendation in writing. The application and the recommendation of the Mayor shall be placed on the agenda of the City Council and shall be considered in due course according to the rules of the City Council. In deciding whether to grant the noise variance, the City Council shall consider the factors set out in Subsection **(F)** below. The City Council shall, by resolution, grant or deny the variance. If a resolution approving a noise variance is passed, the City Clerk shall issue a noise variance subject to the terms of this Section.
- F. The following factors shall be considered in determining whether to grant the variance:
1. The balance of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other adverse effects of the granting of the variance.
 2. The number, if any, of previous variances granted to the applicant or for the same location or activity.
 3. The nearness of any residence or residences or any other use which would be adversely affected by noise in excess of the limits prescribed by the Chapter.
 4. The sound level of the sound to be generated by the event or activity.
 5. Whether the type of noise to be produced by the event is usual or unusual for the location or area for which the variance is requested.
 6. The density of population of the area in which the event or activity is to take place.
 7. The time of day or night which the activity or event will take place.
 8. The nature of the sound to be produced including, but not limited to, whether the sound will be steady, intermittent or of a repetitive impulse nature.
- G. Neither the Mayor nor the City Council shall consider the communicative content of the activity or event in determining whether to grant or deny a variance. The rights of all interested persons to due process of law and equal protection of law shall not be denied.
- H. Variances shall only be granted subject to the following conditions:
1. The event or activity for which the permit is sought shall be held in a public place.
 2. The event or activity for which the permit is sought shall be open to the public. There shall be no discrimination on the basis of race, color, creed, national origin or sex.
 3. Variances issued shall be subject to such reasonable conditions as the City Council shall require including, but not limited to:
 - a. Limiting the days of the week for which the variance is valid.
 - b. Limiting the number of days for which the variance is valid.
 - c. Limiting the hours of the day or days for which the variance is valid. Such conditions shall be noted on the variance issued to the applicant and non-compliance with any condition of the variance shall terminate the variance and subject the applicant, event or activity to the provisions of this Chapter. The variance shall not be valid unless all conditions thereof are agreed to by the applicant or its duly authorized officer or agent, in writing.
- I. Any variance issued pursuant to this Section shall be kept at the site of the event or activity for which the variance was obtained. The variance shall be displayed, on request, to any Law Enforcement Officer, environmental protection department employee or park patrol officer. The requirements of this Chapter are made express conditions of the granting of the variance and failure to comply with these conditions shall cause

the variance to terminate as provided for in Subsection **(H)** of this Section.

- J. The City Council, in granting or denying a variance pursuant to this Section, shall be an administrative body, acting in a quasi-judicial capacity, subject to review as provided in State Statutes pertinent to administrative proceedings.

Section 230.120. Noise Control in The New Town At St. Charles.

[R.O. 2009 §97.12; Ord. No. 09-195, 11-3-2009]

- A. Pursuant to Ordinances 03-172 and 03-174, the Urban Code for New Town at St. Charles was adopted. Section 1.3.9.b of the Urban Code sets forth the general ambient noise standards which shall apply within the New Town at St. Charles as follows:
Sound levels in Zones T₁, T₂, T₃ and T₄ shall not exceed seventy-five (75) decibels between 6:00 A.M. and 12:00 A.M. Midnight and sixty-five (65) decibels between 12:00 A.M. Midnight and 6:00 A.M. Sound levels in Zones T₅ and T₆ shall not exceed eighty-five (85) decibels between 6:00 A.M. and 12:00 A.M. Midnight and seventy-five (75) decibels between 12:00 A.M. Midnight and 6:00 A.M. The sound level shall be measured at the property line of the property producing the noise with a sound level meter set to the A frequency rating.
- B. Within the New Town at St. Charles, no person shall make, cause, permit or allow to be made any noise of any kind which exceeds the decibel level set forth in Subsection **(A)**.
- C. Violation of this Section shall be punished as provided in Section **100.150**.