

§ 12-22 Noise control.

(a) *Short title.* This section may be known and cited as the “Cape Coral Noise Control Ordinance”.

(b) *Declaration of necessity.* It is found and declared that:

(1) The making and creation of excessive, unnecessary or unusually loud noises within the city is a condition which has existed for some time and the amount and intensity of the noises are increasing;

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

(3) 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, safety, welfare and repose of city and its inhabitants.

(c) *Definitions.* The words and phrases used in this section are defined as follows.

A-WEIGHTED LEVEL (dBA). The total broadband sound level of the noise spectrum as measured using the “A-weighted network” of a sound level meter. The unit of measurement is the dBA. Sound level meter settings shall be for slow response.

AMBIENT NOISE. The all encompassing noise associated with a given environment, being usually a composite of sound from many sources near and far.

COMMERCIAL ZONE. Any geographic area designated for commercial or professional activities by the zoning authority having jurisdiction over the area.

CONTINUOUS NOISE. A noise which remains essentially constant in level during the period of observation.

DECIBEL (dB). A division of a logarithmic scale used to express the ratio of two like quantities proportional to power or energy. The ratio is expressed in decibels by multiplying its common logarithm by ten.

EMERGENCY. An occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

EMERGENCY WORK. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

IMPULSIVE SOUND. A sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of **IMPULSIVE SOUND** include explosions, and drop forge impacts.

INDUSTRIAL ZONE. Any geographic area designated for industrial or manufacturing activities by the zoning authority having jurisdiction over the area.

INTERMITTENT NOISE. A noise whose sound pressure level exceeds the ambient noise level at either regular or irregular intervals.

NOISE. Any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological effect on humans.

NOISE DISTURBANCE. One or a group of loud, harsh, nonharmonious sounds or vibrations that are unpleasant and irritating to the ear which is or may be harmful or injurious to the health or welfare of a reasonable person with normal sensitivities or unreasonably interferes with the enjoyment of life, property or outdoor recreation. Any sound exceeding the permissible sound pressure levels established in this chapter is noise disturbance.

(Ord. 82-93, 11-22-1993)

NOISE LEVEL. As referenced in this subsection, means the noise level is the sound pressure level as measured in dBA unless otherwise specified. A measurement of noise must be at least five dB above the ambient noise level.

PERSON. Any individual, natural person, public or private corporation, firm, association, joint venture, partnership or any other entity whatsoever or any combination of such, jointly and severally.

PURE TONE. Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a **PURE TONE** shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetical value of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies between 160 and 400 Hz and by 15 dB for center

frequencies less than or equal to 125 Hz.

REAL PROPERTY LINE. An imaginary line along the ground surface, and its vertical plane extension, which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person, excluding intrabuilding real property division.

RESIDENTIAL ZONE. Any geographic area designated for single- or multi-family dwelling by the zoning authority having jurisdiction over the area.

RMS SOUND PRESSURE. The square root of the time averaged square of the sound pressure, denoted Prms.

SOUND LEVEL METER. An instrument to measure the sound pressure level of relatively continuous and broadband noises. The **SOUND LEVEL METER** used to determine compliance with this subsection shall meet or exceed the requirements for type 2 sound level meter in accordance with ANSI Standard S1.4.

SOUND PRESSURE LEVEL. Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20×10^{-6} N/m²). The sound pressure level is denoted Lp or SPL and is expressed in decibels.

(Ord. 58-11, 9-26-2011)

(d) *Certain noises and noise disturbances prohibited.* It shall be unlawful for any person to make, continue or cause to be made or continued any noise disturbance, or any loud, disturbing and unnecessary noise, or any excessively loud and raucous noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.

(Ord. 82-93, 11-22-1993)

(e) *Loud, disturbing and unnecessary noises.* The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but the enumeration shall not be deemed to be exclusive:

(1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle anywhere in the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(Ord. 82-93, 11-22-1993)

(2) *Radios, phonographs and the like.* The use or operation of any television, radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants or at any time, with louder volume than is necessary for convenient hearing for the person, or persons who are in the room, vehicle, chamber or area in which the machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. to 7:00 a.m. in such manner as to be plainly audible at a distance of 50 feet from the building, structure, vehicle or area in which it is located shall be prima facie evidence of a violation of this section.

(Ord. 82-93, 11-22-1993)

(3) *Loudspeakers, amplifiers for advertising.* The use or operation of, or permitting to be played, used or operated, any television, radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is case upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(Ord. 82-93, 11-22-1993)

(4) *Yelling, shouting and the like.* Yelling, shouting, hooting, whistling, singing or the making of similar noises, other than normal conversation at reasonable levels, in any public space between the hours of 11:00 p.m. to 7:00 a.m., or at any time or place as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling unit or house of worship, or of any persons in the vicinity.

(Ord. 82-93, 11-22-1993)

(5) *Animals, birds and the like.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(Ord. 82-93, 11-22-1993)

(6) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(Ord. 82-93, 11-22-1993)

(7) *Defect in vehicle or load.* The use of any automobile, motorcycle or other vehicle so out of repair, or so loaded, or in such manner, as to create loud and unnecessary grating, grinding, rattling or other noise.

(Ord. 82-93, 11-22-1993)

(8) *Hawkers and peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of any residential zone.

(Ord. 82-93, 11-22-1993)

(9) *Drums and the like.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale. This section shall not apply to bands and the like which are practicing outdoors in preparation for a scheduled outdoor performance.

(Ord. 82-93, 11-22-1993)

(10) *Pile driver, hammers and the like.* The operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance the use of which is attended by loud or unusual noise, except between the hours of 7:00 a.m. and 7:00 p.m., Mondays through Saturdays.

(Ord. 82-93, 11-22-1993)

(11) *Blowers, internal combustion engines.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from the blower or fan is muffled or the engine is equipped with a muffler device sufficient to deaden the noise.

(Ord. 82-93, 11-22-1993)

(12) *Outdoor performances, shows, fairs and the like.* The performance of any show, concert or exhibition, or the conduct at any fair, exposition or other outdoor event, in such manner as to be plainly audible in any residential zone or public space, except between the hours of 9:00 a.m. to 11:00 p.m.

(Ord. 82-93, 11-22-1993)

(13) *Construction, repair or demolition of buildings in or adjacent to residential areas.*

a. *Weekdays.* The erection, demolition, alteration or repair of any building, or any excavation, within a residential area or on property abutting a residential area, other than between the hours of 7:00 a.m. and 7:00 p.m., on Monday through Saturday inclusive, is prohibited.

(Ord. 82-93, 11-22-1993)

b. *Sundays and holidays.* The erection, demolition, alteration or repair of any building, or any excavation, on Sundays or on New Year's Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas, within a residential area or on property directly abutting a residential area, except during a time of extreme emergency duly declared, is prohibited.

(Ord. 82-93, 11-22-1993)

c. *Emergency and special types of construction.*

1. Where ordinary and necessary trade and engineering practices or an emergency requires the continuous operation of pumps, well points, dredges, draglines and other machinery of a like nature during the otherwise prohibited hours, a permit shall be required and the operation shall not constitute a violation of this section.

(Ord. 82-93, 11-22-1993)

2. The City Council may vote to temporarily suspend or modify any and all of the prohibitions contained in this section when it finds that emergency circumstances, such as those resulting from hurricane(s) or other natural disaster(s), exist and that repair and reconstruction work necessitated by the emergency should be permitted within or abutting residential areas.

(Ord. 3-04, 8-23-2004)

d. *Applicability.* The foregoing restriction on construction or repairing of buildings, or other excavation, in or adjacent to residential areas shall be limited to activities requiring a building permit and shall not apply to routine household maintenance.

(Ord. 82-93, 11-22-1993)

(f) *Noise disturbances.*

(1) *Sound levels by receiving land use.*

a. *Maximum permissible sound levels by receiving land use.* No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the property line of the receiving

land use, as specified in *Cape Coral Code of Noise Enforcement Practices*, which establishes uniform guidelines for measuring and recording sound levels for the enforcement of this subsection.

TABLE 1		
SOUND LEVELS BY RECEIVING LAND USE		
Receiving Land Use Category	Time	Sound Level Limit dBA
Residential, public space, agricultural or institutional	7:00 a.m.—10:00 p.m.	66
	10:00 p.m.—7:00 a.m.	60
Commercial or business	7:00 a.m.—10:00 p.m.	72
	10:00 p.m.—7:00 a.m.	65
Manufacturing or industrial	At all times	75

b. *Correction for character of sound.*

1. For any source of sound which emits a pure tone, the maximum sound level limits set forth in Table 1 shall be reduced by five dBA.

2. For any source of impulsive sound which is of short duration with an abrupt onset, the maximum sound level limits set forth in Table 1 above shall be increased by ten dBA from 7:00 a.m. to 10:00 p.m.

c. *Multi-family dwellings.* In the case of multi-family units, it shall be unlawful to create or permit to be created any noise that exceeds 55 dBA, during the hours between 7:00 a.m. and 10:00 p.m., or 50 dBA during the hours between 10:00 p.m. and 7:00 a.m. daily, measured from a neighbor's dwelling within said multi-family dwelling unit.

d. *Construction noise.* No person shall operate or permit to be operated any power driven construction equipment without muffler or other noise reduction device at least as effective as that recommended by the manufacturer or provided as original equipment. Construction equipment that must be operated near a residentially zoned area on a 24 hour per day basis (e.g. pumps, well tips, generators, compressors and the like) shall be shielded by a barrier to reduce the noise during the hours of 6:00 p.m. to 7:00 a.m. unless the unshielded noise level is less than 60 dBA, measured at the closest adjacent residentially zoned property line. The prohibitions of this section are in addition to those found in § 12-22(e) of the City Code.

e. *Waivers.* An exception to the noise levels listed in Table 1 may be permitted by the granting of a waiver, under circumstances in which the activity creating the noise is of such importance to the public welfare, health or safety that the activity cannot be shut down, even though its noise levels exceed those given in Table 1. Responsibility for the granting of the waivers shall lie with the City Council or its designee.

(2) *Exceptions.* The following shall be permitted:

a. The operation of warning or emergency signal devices such as sirens, horns and bells when utilized for their intended purpose;

b. Noises resulting from equipment or operations incidental to the installation, maintenance or repair of facilities or restoration of services such as public utilities or other emergency activities in the public interest;

c. Noises consistent with cultural, sporting, historical or traditional observances, holidays and ceremonies, parades and concerts, provided that any event being operated for profit shall obtain a permit prior to such event, from the City Council, or its designee, and any other applicable permit to operate the event as required;

d. Operation of equipment or conduct of activities normal to residential or agricultural communities such as lawn care, soil cultivation, domestic power tools, lawnmowers, maintenance of trees, hedges, gardens, refuse collection, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb

chipping and other normal community operations, between the hours of 7:00 a.m. to 10:00 p.m.; and

e. Residential air conditioners.

(3) *Waivers.* Applications for a waiver for relief from the maximum allowable noise level limits designated in this subsection shall be made in writing. The applications for waivers shall be made to the City Council or its designee. Any waiver granted by the Council, or its designee, must be in writing and shall contain all conditions upon which the permit shall be effective. The Council, or its designee, may grant the waiver as applied for under the following conditions.

a. The City Council, or its designee, in granting a permit, may prescribe any reasonable conditions or requirements they deem necessary to minimize adverse effects upon the community or the surrounding neighborhood.

b. Waivers may be issued for no longer than 30 days, renewable by further application to the Council, or its designee.

c. Any party feeling aggrieved by the denial of its application for waiver by the Council's designee may appeal the denial to the City Council, the appeal to be filed no later than 30 days from the date of denial.

(4) *Penalties.* Any person or persons, firm or corporation, or any agent thereof, who violates any of the provisions of this subsection shall upon conviction be subject to a fine not exceeding the sum of \$500 or imprisonment in the County Jail for a period not exceeding 60 days, or by both the fine and imprisonment. Each day that the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(5) *Civil remedies.* In addition to the criminal penalties provided herein, the City Council is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to prevent or abate violations of this subsection.

(6) *Areas embraced.* All territory located within the incorporated area of the City of Cape Coral, Florida, shall be embraced by the provisions of this subsection.

(Ord. 50-76, §§ 1, 2, 6-14-1976; Ord. 90-76, § 1, 11-15-1976; Ord. 11-84, §§ 1—10, 3-19-1984; Ord. 59-86, 9-22-1986; Ord. 82-93, 11-22-1993)

Cross-reference:

Land use and development regulations, regulation of excavations and borrow pits generally, see §§ 3.22, 3.23

Editor's note:

Ord. 50-76, adopted June 14, 1976, did not expressly amend this code; hence, inclusion of §§ 1 and 2 thereof as § 12-22(a), (b) was at the discretion of the editor. At the direction of the city, nonamendatory Ord. 11-84 has been added as subsection (c).