

# CHAPTER 652

## Noise Control

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### CROSS REFERENCES

Disorderly persons - see MCLA Sec. 750.167

Disturbing meetings - see MCLA Secs. 750.169; 750.170

Noise from watercraft - see SU & PS 1062.04(f), (g)

Muffler noise - see MCLA Sec. 257.707(a) through (e)

### 652.01 FINDINGS; APPLICATION OF CHAPTER.

Excessive sound and vibration are a serious hazard to the public health, welfare, safety and quality of life, and a substantial body of science and technology exists by which excessive sound and vibration may be substantially abated. The people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, welfare or safety or degrade the quality of life. The damage and discomfort caused to the people arises both from stationary and from non-stationary sound and vibration and this chapter shall apply to both. (Ord. 505. Passed 8-7-00.)

### 652.02 DEFINITIONS.

All terminology used in this chapter and not defined in this section shall be in conformity with applicable publications of the American National Standards Institute (ANSI) or its successor body. In addition, as used in this chapter:

- A. **Commercial area** means land primarily being used as office, governmental, retail, or other commercial type uses.
- B. **Decibel (dB)** means a unit of measuring the volume of sound, equal to twenty times the logarithm of the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).
- C. **Industrial area** means land primarily being used as a manufacturing or industrial site, including airports.
- D. **Multi-Family area** means land primarily being used for structures housing three or more families. If a multiple family use occurs as a mixed use with commercial uses, the primary use of the property will be determined by the ground floor.
- E. **Noise Control Officer** means the Chief of Police and his or her agents who have lead responsibility for the enforcement of this chapter.
- F. **Noise disturbance** means any sound which either exceeds the maximum permissible sound levels of this chapter or which endangers or injures the safety or health of humans

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or animals, annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

- G. **Noise sensitive zone** means areas in the City which contain noise sensitive activities, such as schools, libraries, churches, hospitals and nursing homes, as designated by resolution of the City Commission.
- H. **Pure Tone** means a single or compact range of frequency that may be perceived as a whine, hum, squeal, or buzz. The measured sound levels must not fluctuate by more than plus or minus 3 dB. Such sound sources include, but are not limited to: heating, ventilating or air-conditioning units; refrigeration units; and transformers.
- I. **Real property boundary** means the imaginary line which represents the legal limits of property (including an apartment, condominium, room, or other dwelling unit) owned, leased, or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right of way, the "real property boundary" shall be the nearest boundary of the public right-of-way.
- J. **Residential area** means land primarily being used as a one or two family dwelling and located adjacent to or near other such residentially used land.
- K. **Sound level meter means** an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels and that meets the standards of ANSI S-14 1983 or its successor.
- L. **Weighted sound level** means 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.

(Ord. 505. Passed 8-7-00. Ord. 582. Passed 10-21-02.)

### **652.03 AUTHORITY OF NOISE CONTROL OFFICER.**

- (a) **Powers.** This chapter shall be administered and enforced by the Noise Control Officer. In order to implement and enforce this chapter, and for the general purpose of noise abatement and control, the Noise Control Officer shall have, in addition to any other authority vested in him or her, the power to:
  - 1. Conduct or cause to be conducted research, monitoring and other studies related to sound and vibration; and
  - 2. Upon presentation of proper credentials, enter and inspect any private property or place and inspect any report or record at any reasonable time when granted permission by the owner or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon a showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include the administration of any necessary tests.
  - 3. Promulgate rules and procedures to establish techniques for measuring noise, and to provide for clarification, interpretation, and implementation of this chapter; and
  - 4. Review at least every three (3) years the provisions of this chapter and recommend revisions consistent with technology to reduce noise, or to address new sound sources within the City.
- (b) **Duties.** In order to implement and enforce this chapter effectively, the Noise Control Officer shall, within a reasonable time after the effective date of this chapter:
  - 1. Investigate and pursue possible violations of this chapter;

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2. Delegate functions, where appropriate, under this chapter, to personnel within the Police Department and to other agencies or departments, subject to the approval of the City Manager; and
  3. Prepare recommendations, to be approved by the City Commission, for the designation of noise sensitive zones.
- (c) Enforcement. The administration and enforcement of noise control shall be controlled by the following standards:
1. The primary means of detection of a noise disturbance shall be by means of the Noise Control Officer's and other properly delegated enforcement officials' ordinary auditory senses of hearing not enhanced by any mechanical device, such as a microphone or hearing aid.
  2. An enforcing officer or other witness need not determine the particular words or phrases being produced or the name of any song or artist producing the sound.
  3. The detection of any rhythmic base or reverberating type of sound is sufficient to constitute a plainly audible sound which may constitute a noise disturbance.

(Ord. 505. Passed 8-7-00.)

### **652.04 PROHIBITIONS.**

- (a) Generally. No person shall unreasonably make or continue, or cause to be made or continued, any noise disturbance.
- (b) Radios, Musical Instruments and Similar Devices. No person shall operate or play, or permit 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:
  1. Create a noise disturbance on public property or streets, across a real property boundary, or within a noise sensitive zone. If such a device is plainly audible on the property of another or within a building other than that within which the device is located, and if a complaint is made to the Noise Control Officer regarding annoyance or disturbance as a result of such device, this shall serve as prima-facie evidence of a violation.
  2. Create a noise disturbance when operated in or on a motor vehicle on a public right of way, public space or space open to the general public, or in a boat on public waters. If such a device is plainly audible at a distance of 50 feet in any direction, between the hours of 10 p.m. and 7 a.m. or 100 feet in any direction between the hours of 7 a.m. and 10 p.m., this shall serve as prima facie evidence of a violation.
- (c) Loudspeakers. No person shall use or operate for any noncommercial purpose any loudspeaker, public address system or similar device between 10:00 p.m. and 7:00 a.m. of the following day so that the sound there from creates a noise disturbance across a residential area or multi-family area boundary or within a noise sensitive zone. No person shall use or operate for any commercial purpose any loudspeaker, public address system or similar device so that the sound there from creates a noise disturbance across a real property boundary or within a noise sensitive zone, or between 10:00 p.m. and 7:00 a.m. of the following day on a public right of way or public space.
- (d) Sound Amplifiers. No person shall operate any sound amplifying device for the purpose of advertising announcing an event, or attracting the attention of the public. However, a school, governmental unit, or bona fide nonprofit organization may secure a permit from the Noise Control Officer to use such a device. No permit will be granted for such use on

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a Sunday or at any other time or duration or under any other conditions which, in the opinion of the Noise Control Officer will constitute a nuisance.

- (e) Heavy Equipment. Except for work on essential services, no person shall use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or other construction apparatus between 10:00 p.m. and 7:00 a.m. of the following day, within 600 feet of a residential area, multi-family area, or noise sensitive zone.
- (f) Loading and Unloading. No person shall load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage trucks, garbage cans or similar objects between 11:00 p.m. and 6:00 a.m. of the following day in such a manner as to cause a noise disturbance across the boundary of a residential area or multi-family area, or within a noise sensitive zone.
- (g) Stationary Non-emergency Signaling Devices. No person shall permit the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes. Such devices, when used in conjunction with places of religious worship, shall be exempt from this subsection.
- (h) Maximum Permissible Sound Levels by Receiving Land Use. No person on private property shall create a continuous sound which exceeds the limits set forth for the receiving land category in the following table when measured at or within the property boundary of the receiving land which source of sound shall be deemed prima-facie to be a noise disturbance. "Continuous sound" means any sound having a duration of one second or more. For any source of sound which emits a pure tone, the maximum sound level limits set forth in the following table shall be reduced by five dBA.

**MAXIMUM SOUND LEVELS TABLE**

<u>Receiving Land Category</u>	<u>Sound Level Limit (dBA)</u>	<u>A-weighted Time</u>
Residential area	10:00 p.m. to 7:00 a.m.	60
Multi-Family area	7:00 a.m. to 10:00 p.m.	65
Commercial area	10:00 p.m. to 7:00 a.m.	65
	7:00 a.m. to 10:00 p.m.	70
Industrial area	10:00 p.m. to 7:00 a.m.	70
	7:00 a.m. to 10:00 p.m.	75
Noise sensitive areas	10:00 p.m. to 7:00 a.m.	Established by
Noise sensitive areas	7:00 a.m. to 10:00 p.m.	Resolution

- (i) Impulsive Sound. Impulse sounds may exceed the permissible limits in the above Table by ten decibels if they occur less than ten times in any hour between 7 a.m. and 10 p.m., or less than four times in any hour between 10 p.m. and 7 a.m. If any impulsive sound exceeds these frequencies, then the permissible limits in the Table apply. "Impulsive sound" means any sound having a duration of less than one second.

(Ord. 505. Passed 8-7-00. Ord. 581. 10-21-02.)

**652.05 EXCEPTIONS AND VARIANCES.**

- (a) Emergencies. This chapter shall not apply to creating sound for the purpose of alerting persons to the existence of an emergency or to creating sound in the performance of emergency work.

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- (b) Lawn Maintenance Equipment. Customary lawn maintenance equipment for residential use, such as lawn mowers, leaf blowers and chain saws, from 8:00 a.m. to 9:00 p.m., if in good working order and if used only as needed, may exceed the maximum sound levels established above.
- (c) Residential Snow Removal. Snowblowers for residential use if in good working order and if used only as needed may exceed the maximum sound levels established above.
- (d) Commercial Snow Removal. Snow removal from commercial or industrial property by any internal combustion device is permitted at all times if the snow removal equipment has a properly functioning muffler. However, commercial or industrial property within 600 feet of a residential area or multi-family area shall not have snow removal undertaken by commercial equipment in excess of 15,000GVW prior to 6:00 a.m., unless permission is granted by the owners of that residential or multi-family area.
- (e) Municipal, School District and Hospital Equipment. This chapter shall not apply to sound made by municipal street and sidewalk maintenance equipment or snow removal equipment used by the City, a school district, a hospital or their agents.
- (f) Special Variances.
  - 1. The Noise Control Officer may, consistent with this section, grant special variances which may be requested.
  - 2. Any person seeking a special variance pursuant to this section shall file an application with the Noise Control Officer. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons. Any individual who claims to be adversely affected by the allowance of the special variance may file a statement to that effect with the Noise Control Officer containing any information to support his or her claim. If the Noise Control Officer finds that a sufficient controversy exists regarding an application, a public hearing may be held.
  - 3. In determining whether to grant or deny an application, the Noise Control Officer shall balance the hardships of the applicant, the community and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impacts of granting the special variance. Applicants for a special variance and persons contesting the special variance may be required to submit any information the Noise Control Officer may reasonably require. In granting or denying an application, the Noise Control Officer shall place on public file a copy of the decision and the reasons for denying or granting the special variance.
  - 4. Special variances shall be granted by notice to the applicant containing all necessary conditions, including the time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to the provisions of this chapter regulating the source of sound or activity for which the special variance was granted.

(Ord. 505. Passed 8-7-00. Ord. 583. Passed 10-21-02.)

### **652.05.1 CONTINUOUS AND IMPULSIVE SOUND LEVELS THREATENING HEALTH AND WELFARE; ORDERS TO ABATE.**

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- (a) The Noise Control Officer shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subsection (b) hereof, to continuous sound levels or to impulsive sound levels which endanger or injures a person's health or safety. Following the issuance of such an order, the Noise Control Officer may remove or modify the source of the noise.
- (b) No order pursuant to subsection(a) here of shall be issued if the only person exposed to dangerous sound levels is exposed as a result of trespass, invitation upon private property by persons causing or permitting the sound or employment met by the person or by a contractor of the person causing or permitting the sound.
- (c) Any person subject to an order issued pursuant to subsection (a) hereof shall comply with such order until the sound is brought into compliance with the order, as determined by the Noise Control Officer, or until a judicial order has suspended the Noise Control Officer's order. No person shall violate an order issued pursuant to this section.

(Ord. 505. Passed 8-7-00.)

### **652.07 CIVIL ACTIONS.**

Any person aggrieved by a violation of this chapter may commence a civil action on his or her own behalf against any person who is alleged to be in violation of Section 652.04. No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this chapter or from other law.

(Ord. 505. Passed 8-7-00.)

### **652.08 TAMPERING WITH MEASURING DEVICES.**

No person shall damage, interfere with or tamper with any sound measuring device used to enforce this chapter.

(Ord. 505. Passed 8-7-00.)

### **652.09 RETALIATION.**

If there is any evidence of retaliation by any offender against any complainant or witness, such evidence shall be communicated to the District Court. When sentencing any violator, the District Court shall first examine the evidence of retaliation, and if such is shown, shall consider such acts and sentence the violator accordingly.

(Ord. 505. Passed 8-7-00.)

### **652.10 APPEARANCE TICKETS.**

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCL 764.9c(2); MSA 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 505. Passed 8-7-00.)

### **652.99 PENALTY.**

- (a) A person found in violation of this chapter shall be guilty of a civil infraction and shall be fined not less than \$100 nor more than \$500.
- (b) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

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(c) The minimum fine shall be doubled for a second violation and tripled for a third violation within any 90 day period.  
(Ord. 505. Passed 8-7-00.)