

LFMC Chapter 11.16 Redline

Division I. Offenses By or Against Public Officers or Government

Division II. Offenses Against Public Peace

Chapter 11.16

NOISE CONTROL

Sections:

- 11.16.010 Declaration of policy.
- 11.16.020 Definitions.
- ~~11.16.025~~ 11.16.030 Measurement of noise levels.
- 11.16.040 Exterior noise standards.
- 11.16.050 ~~Interior Noise Standards~~ Exemptions.
- 11.16.060 ~~Exemptions~~ Prohibited noises.
- 11.16.070 ~~Schools, hospitals and churches—Special provisions~~ Loud noises.
- 11.16.080 Motor vehicle racing.
- 11.16.090 Construction.
- 11.16.100 ~~Variance Procedure~~ Vibration.
- 11.16.110 ~~Noise Variance Board~~ Enforcement.
- 11.16.120 Permit To Temporarily Exceed Noise Limits.

11.16.010 Declaration of policy.

In order to control unnecessary, excessive and annoying sounds, it is hereby declared to be the policy of the City to prohibit such sounds generated from all sources as specified in this chapter.

It is determined that certain sound levels are detrimental to the public health, welfare, and safety, and contrary to public interest. (Ord. 171 § 1, 2007)

11.16.020 Definitions.

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

“Ambient ~~n~~Noise ~~L~~Level” shall mean the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding ~~thean~~ alleged offensive noise, at ~~thea~~ location and approximate time at which a comparison with ~~thean~~ alleged offensive noise is to be made.

“A-weighted Decibel (dBA)” means the overall frequency-weighted sound level in Decibels that approximates the frequency response of the human ear as represented by the A-weighted network. The reference pressure is 20 micropascals.

“Chief” shall mean Chief of Police Services.

“Construction” shall mean demolition, building construction, and any excavating or filling of earth material, or any combination thereof, conducted at a site to prepare said site for construction or other improvements thereon.

~~“Cumulative period” shall mean an additive period of time composed of individual time segments which may be continuous or interrupted.~~ “Decibel (dB)” shall mean a unit which denotes the ratio between two quantities which are proportional to power: the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base ten of this ratio.

“Director” shall mean the Director of Community Development.

“Domestic Power Tool” means a mechanically powered saw, sander, drill, grinder, lawn or garden tool, snow blower, or similar device that is used in residential areas for work that is typically done by or for residential occupants.

“Dwelling ~~n~~Unit” shall have the same meaning as in Section 9.04.030(D).

“Emergency ~~m~~Machinery, ~~v~~Vehicle or ~~w~~Work” shall mean any machinery, vehicle or work used, employed or performed in an effort to protect, provide or restore safe conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.

“Equivalent Continuous Sound Level (Leq)” means the value of an equivalent, steady sound level which, in a stated time period, has the same sound energy as the time-varying sound. Thus, the Leq metric is a single numerical value that represents the equivalent amount of variable sound energy received at a location over the specified duration.

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

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

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

~~“Impact noise” shall mean the noise produced by the collision of one mass in motion with a second mass which may be either in motion or at rest.~~

~~“Impulsive Noise” shall mean noise of short duration, usually less than one second, with an abrupt onset and rapid decay, such as a sudden bang.~~

~~“Industrial Property” means a parcel of real property which is developed and used in part or in whole for manufacturing, storage and distribution, research and development, or other non-commercial, non-residential uses.~~

~~“Maintenance of Real Property” refers to the action of maintaining and the overall upkeep of a real property (i.e., fixed property, otherwise referred to as immovable property).~~

~~“Maximum Sound Level (dBA Lmax)” means the highest RMS sound level measured during the measurement period.~~

~~“Mobile ~~n~~Noise ~~s~~Source” shall mean any noise source other than a ~~fixed noise source~~Stationary Noise Source.~~

~~“Mixed-Use” shall mean the definition of “Mixed-Use” in Section 9.04.030.~~

~~“Noise ~~L~~Level” shall mean the “A” weighted ~~s~~Sound ~~p~~Pressure ~~L~~Level in ~~d~~Decibels obtained by using a ~~s~~Sound ~~L~~Level ~~m~~Meter at slow response with a reference pressure of 20 micronewtons per square meter. The unit of measurement shall be designated as dBA.~~

~~“Noise-Sensitive Land Use” includes residential uses, schools, hospitals, and places of worship.~~

~~“Person” shall mean a person, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.~~

~~“Residential ~~p~~Property” shall mean a parcel of real property that is developed and used either in part or in whole for residential purposes. This does not include hotels or motels, but ~~it~~ does include other transitory lodgings.~~

~~“Root-Mean-Square Sound Level (RMS)” means the square root of the average of the square of the sound pressure over the measurement period.~~

~~“Simple ~~t~~Tone ~~n~~Noise” shall mean a noise characterized by a predominant frequency or frequencies such that other frequencies cannot be readily distinguished.~~

~~“Sound Amplifying Equipment” means any machine or device used for the amplification of the human voice, music, or any other sound, excluding standard automobile stereos when used and heard only by the occupants of the vehicle and, as used in this chapter, warning devices on authorized Emergency Vehicles, or horns or other warning devices on any vehicle used for traffic safety purposes.~~

~~“Sound ~~L~~Level ~~m~~Meter” shall mean an instrument meeting American National Standard Institute’s Standard S1.4-1971 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.~~

~~“Sound ~~p~~Pressure ~~L~~Level” of a sound, in ~~d~~Decibels, shall mean 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated. (Ord. 335 § 13, 2020; Ord. 297 § 14, 2017; Ord. 171 § 1, 2007)~~

~~“Stationary Noise Source” shall mean a stationary device which creates sounds while fixed in place or motionless, including but not limited to industrial and commercial machinery and equipment, pumps, fans, compressors, generators, air conditioners, and refrigeration equipment.~~

~~“Vibration-Sensitive Land Use” means residential, hotels, motels, schools, hospitals and medical offices with vibration-sensitive equipment, churches, cultural land uses, commercial, office and government uses. Outdoor areas with no buildings and industrial and manufacturing uses are not considered vibration sensitive.~~

11.16.02530 Measurement of Noise Levels.

Any Noise Level measurements made pursuant to the provisions of this chapter shall be performed using a Sound Level Meter as defined in Section 11.16.020. While the exterior noise standards in Section 11.16.040 are applied at the property line of the receiving use, the location for measuring Noise Levels may shall be at any publicly accessible point on near the affected property line if it can be determined that the measurement point is acoustically similar to the property line. The measurement shall be made at a point at least four feet from reflective surfaces and at least four feet away from reflective surfaces, and for a duration of at least 15 minutes. The measurement shall be made using the A-weighting network (dBA) with "slow" meter response. Impulsive or impact noises shall be measured using "fast" meter response. The purpose of the measurement is to determine if the alleged noise violation exceeds the standards established in Section 11.16.040. If, for any reason, the alleged offending noise cannot be turned off, shut down, or temporarily eliminated from the area, then the Ambient Noise Level shall be estimated by performing a representative measurement in the same general area of the noise source but at a sufficient distance such that the noise is inaudible. Interior noise measurements shall be made within the affected dwelling unit. The measurement shall be made at a point at least four feet from the wall, ceiling, or floor nearest the alleged offensive noise source and may be made with the windows of the affected unit open. (Ord. 171 § 1, 2007)

11.16.030 Designated noise zone:

The entire territory of the City of Lake Forest is hereby designated as "Noise Zone 1." (Ord. 171 § 1, 2007)

11.16.040 Exterior noise standards.

A. The following exterior noise standards, unless otherwise specifically indicated, shall apply to all residential property within a designated noise zone set limits for noise that land uses are allowed to generate as received by other land uses. These standards may be used during Code enforcement of potential noise violations or used to determine potential project impacts during environmental impact review processes pursuant to the California Environmental Quality Act ("CEQA"). The standards shall apply to the corresponding land use in Residential and Mixed-Use zones only. It is unlawful for any person to create any noise either within or outside the City due to a Stationary Noise Source (or any Mobile Noise Source not pre-empted by State or Federal laws), or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the Noise Level when measured at the property line of any residential use in a residential or mixed use zone, to exceed the applicable noise standards listed in Table 1 – Exterior Noise Standards:

NOISE STANDARDS		
Noise Zone	Noise Level	Time Period
±	55 dBA	7:00 a.m.—10:00 p.m.
±	50 dBA	10:00 p.m.—7:00 a.m.

TABLE 1 – EXTERIOR NOISE STANDARDS

Land Use	Noise Level (dBA Leq)	Noise Level (dBA Lmax)	Time Period
Residential in Residential Zones	60	80	7:00 a.m.–10:00 p.m.
	50	70	10:00 p.m.–7:00 a.m.
Residential Portion of Mixed-Use in Mixed-Use Zones	65	85	7:00 a.m.–10:00 p.m.
	50	70	10:00 p.m.–7:00 a.m.
Churches, Hospitals, and Schools in Residential and Mixed-Use Zones	65	85	All Hours
Churches, Hospitals, and Schools in Commercial and Industrial Zones	70	90	All Hours

In the event the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five dba.

~~B. It shall be unlawful for any person at any location to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, when the foregoing causes the noise level, when measured on any other residential property, to exceed:~~

- ~~1. The noise standard for a cumulative period of more than 30 minutes in any hour; or~~
- ~~2. The noise standard plus five dba for a cumulative period of more than 15 minutes in any hour; or~~
- ~~3. The noise standard plus 10 dba for a cumulative period of more than five minutes in any hour; or~~
- ~~4. The noise standard plus 15 dba for a cumulative period of more than one minute in any hour; or~~
- ~~5. The noise standard plus 20 dba for any period of time.~~

~~C. In the event the ambient noise level exceeds any of the first four noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the fifth (5th) noise limit category, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.~~

~~(Ord. 171 § 1, 2007)~~

~~B. In the event the alleged offensive noise consists entirely of Impulsive Noise, Simple Tone Noise, amplified speech, music, or any combination thereof, each of the above Noise Levels shall be reduced by five dBA. Such noises are generally considered to be particularly annoying and are a primary source of noise complaints.~~

~~C. If the alleged offense affects a property outside the City's jurisdiction, the exterior noise standards shall be enforced at the City boundary.~~

~~D. In the event the measured Ambient Noise Level exceeds any of the noise limit categories above, the noise limit as applied shall be the Ambient Noise Level.~~

~~E. If the noise source and the affected property are within different land use categories, the noise standards of the affected property shall apply.~~

~~F. For Mixed-Use residential land uses affected by noise on the same property (e.g., commercial sources affecting the residential portion of the same property), the exterior noise standard shall be applicable at exterior areas provided for private or common usable open space purposes. Private usable open space is defined as usable open space intended for use of occupants of one Dwelling Unit, normally including yards, decks, and balconies. Common usable open space is defined as open space intended for common use by any/all residents of a development, including swimming pools, recreation courts, patios, open landscaped areas, and greenbelts with pedestrian walkways and bicycle trails, but not including off-street parking and loading areas or driveways.~~

~~**11.16.050 Interior noise standards.**~~

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

INTERIOR NOISE STANDARDS		
Noise Zone	Noise Level	Time Period
+	55 dBA	7:00 a.m.—10:00 p.m.
+	45 dBA	10:00 p.m.—7:00 a.m.

~~In the event the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five dBA.~~

~~B. It shall be unlawful for any person at any location to create any noise, or to allow the creation of any noise, on property owned, leased, occupied, or otherwise controlled by such person, when the foregoing causes the noise level, when measured within any other dwelling unit on any residential property, to exceed:~~

- ~~1. The interior noise standard for a cumulative period of more than five minutes in any hour; or~~
- ~~2. The interior noise standard plus five dBA for a cumulative period of more than one minute in any hour; or~~
- ~~3. The interior noise standard plus 10 dBA for any period of time.~~

~~— C. — In the event the ambient noise level exceeds either of the first two noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the third (3rd) noise limit category the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.~~

~~(Ord. 171 § 1, 2007)~~

11.16.0650 Exemptions.

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

A. ~~Activities, such as school bands, school athletics, and school entertainment events, not constituting “special events” (as defined in Section 5.05.020 of the Municipal Code) conducted on the grounds of any public or private nursery, elementary, intermediate, or secondary school or college.~~

B. ~~“Special events” as defined in Section 5.05.020 provided said events are conducted pursuant to a special event permit issued as described in Chapter 5.05. However, this exemption shall not preclude use of the standards set forth in Section 11.16.040 (“Exterior noise standards”) or Section 11.16.050 (“Interior noise standards”) as a guide for the application, review, or issuance of a special event permits.~~

C. ~~Any mechanical device, apparatus or equipment used, related to, or connected with eEmergency mMachinery, vVehicles, or wWork.~~

D. ~~Noise sources associated with eConstruction, repair, remodeling, or grading of any real property, provided that: (1) the City has issued a building permit, grading permit, or similar permit for such activities; (2) said activities do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, Monday through including Saturday, or at any time on Sunday or a legal City of Lake Forest holiday; and (3) the average Construction Noise Levels do not exceed 80 dBA Leq at nearby Noise-Sensitive Land Uses.~~

~~— E. — All mechanical devices, apparatus or equipment which are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions.~~

~~— F. — Mobile noise sources associated with agricultural operations, provided such operations do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a legal City of Lake Forest holiday.~~

~~— G. — Mobile noise sources associated with agricultural pest control through pesticide application, provided that the application is made in accordance with restricted material permits issued by or regulations enforced by the Agricultural Commissioner.~~

~~HE. Noise sources associated with the mMaintenance of rReal pProperty and use of Domestic Power Tools, provided said activities take place between 7:00 a.m. and 8:00 p.m. on any day except Sunday or a legal City of Lake Forest holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a legal City of Lake Forest holiday.~~

~~IF. Any activity to the extent regulation thereof has been preempted by State or Federal law.~~

~~JG. Noise sources associated with solid waste collection and removal, provided such activities take place between 6:00 a.m. and 6:00 p.m. Monday through Friday where audible in residential areas; or between 7:00 a.m. and 6:00 p.m. on Saturdays where audible in residential areas; or between 5:00 a.m. and 9:00 p.m. any day where such activity is not audible in residential areas; or as otherwise provided in an approved franchise agreement between a waste hauler and the City in accordance with LFMC Section 16.05.000(D). (Ord. 315 § 4, 2019; Ord. 300 § 7, 2017; Ord. 171 § 1, 2007)~~

11.16.060 Prohibited Noises

A. ~~It is unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.~~

B. ~~In determining whether a violation of the provisions of this section exists, the City will determine:~~

- ~~1. The level of the noise;~~
- ~~2. The level and intensity of background noise, if any;~~
- ~~3. The proximity of the noise to residences;~~
- ~~4. The zoning where the noise is received;~~
- ~~5. The density of the area within which the noise received;~~
- ~~6. The time the noise occurs;~~
- ~~7. The duration of the noise and its tonal content; and~~
- ~~8. Whether the noise is recurrent, intermittent, or constant.~~

~~11.16.070 Schools, hospitals and churches—Special provisions.~~

~~It is unlawful for any person to create any noise which causes the noise level at any school, hospital or church while the same is in use to exceed the noise limits as specified in Section 11.16.040 prescribed for the assigned noise zone in which the school, hospital or church is located, or which noise level unreasonably interferes with the use of such institutions or which unreasonably disturbs or annoys patients in the hospital, provided conspicuous signs are displayed in three separate locations within 1/10 of a mile of the institution indicating the presence of a school, church or hospital.~~

~~(Ord. 171 § 1, 2007)~~

~~11.16.070 Loud Noises~~

~~It is unlawful for any person to:~~

~~A. Use, operate, or permit to be operated any sound-amplifying equipment or speaker for producing or reproducing sound that exceeds the noise standards in section 11.16.040 or which violates the provisions of 11.16.060.~~

~~B. Make or allow to be made any noise which continues for more than a five-minute period between the hours of 10:00 p.m. and 7:00 a.m. if such noise is audible for 50 feet or more from the source of the noise.~~

~~C. Maintain, manage, or control any business or Residential Property in violation of subsection A or B of this section.~~

~~D. When within 200 feet of residences, load, unload, open, close, or other handling of boxes, crates, containers, building materials, refuse or similar objects, between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to exceed the noise standards in section 11.16.040. This includes, but is not limited to, noise disturbances related to commercial delivery operations, vehicle idling, vehicle queuing, vehicle backup alarms, and vehicle refrigeration equipment.~~

~~E. Repair, rebuild, modify, or test any motor vehicle or motorcycle in such a manner as to exceed the noise standards in section 11.16.040.~~

~~F. Operate, play, or permit the operation of any Sound Amplifying Equipment in any place of public entertainment (as defined in 5.36.010) at a sound level greater than 90 dBA as read by the slow response on a Sound Level Meter at any point that is normally occupied by customers, unless a conspicuous and legible sign is located immediately outside or near the public entrance stating, "Warning: Sound Levels Within May Cause Permanent Hearing Impairment."~~

~~G. Sound or permit the sounding of any amplified signal from a bell, chime, siren, whistle, vehicle horn or similar device, intended primarily for non-emergency purposes which exceeds the noise standards in section 11.16.040, or which violates the provisions of 11.16.060. Devices used in conjunction with schools and places of worship shall be exempt from this provision.~~

~~H. Operate or cause to be operated any motor vehicle or motorcycle not equipped with a legally compliant muffler or other sound dissipative device in good working order and in constant operation. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.~~

~~I. Own, maintain, control, or operate any premises or property where noise in violation of 11.16.040 and/or 11.16.060 continues after being informed, anytime within the preceding 30 days by the Police Department or Community Development Department that a violation of this chapter has been committed on said premises.~~

~~J. Violations of this section are hereby declared a nuisance per se.~~

11.16.080 Motor vehicle racing.

It is unlawful to conduct motor vehicle racing, testing, timing or similar noise-producing activities at raceways, speedways, off-road vehicle courses, drag strips or other similar places, including, but not limited to, the operation of midget race cars, drag cars, motorcycles, off-road vehicles, and specialty automobiles, between the hours of 11:30 p.m. and 8:00 a.m. (Ord. 171 § 1, 2007)

11.16.090 Construction.

The following regulations set hours, allowed noise levels, and best management practices for construction noise and vibration that occurs within the City of Lake Forest. These standards may be used during code enforcement of potential noise violations or used to determine potential project impacts during environmental review processes pursuant to the California Environmental Quality Act ("CEQA"). The following is required for construction:

A. Construction activities shall not take place between the hours of 8:00 p.m. and 7:00 a.m., Monday through Saturday, or at any time on Sunday or a City holiday; and the average Construction Noise Levels do not exceed 80 dBA Leq(1-hour) at nearby Noise-Sensitive Land Uses.

B. If construction noise has the potential to exceed the standards in 11.16.090.A, a Construction Noise Management Plan shall be prepared by a qualified acoustician and submitted by the applicant. The Construction Noise Management Plan shall include proper posting of construction schedules, appointment of a noise disturbance coordinator, and methods for assisting in noise reduction measures. The noise reduction measures shall be determined in the plan and shall be quantified to demonstrate that noise levels would not exceed the standards. Noise reduction measures may include, but are not limited to, the following:

1. Equipment and trucks used for project construction shall use the best available noise control techniques (e.g., absorptive mufflers, use of intake silencers, engine enclosures and acoustically attenuating shields or shrouds).

2. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler and/or sound attenuation barriers/blankets on the compressed air exhaust may be used. Quieter procedures may be used, such as drills rather than impact equipment.

3. Temporary power poles or use of the electrical grid shall be used instead of generators.

4. Stationary noise sources shall be located as far from adjacent properties as possible and shall be muffled or enclosed within temporary sheds, insulation barriers, or other measures as determined by the City.

5. Delivery of materials shall observe the hours of operation described in 11.16.090.A. Truck traffic shall avoid residential areas to the extent possible.

6. Temporary sound barriers/blankets to break the line-of-sight between construction equipment and nearby sensitive receptors shall be used. Barriers shall be constructed with solid material with a density of at least 1 pound per square foot with no gaps from the ground to the top of the barrier and shall be lined on the construction side with acoustical blanket.

11.16.100 Vibration

Operating or permitting the operation of any device that creates vibration that is distinctly perceptible to any person at a receiving Vibration-Sensitive Land Use is prohibited. For purposes of this section, distinctly perceptible means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

11.16.10190 Enforcement.

A. The Director or Chief and their duly authorized representatives shall enforce the provisions of this chapter. The Chief and their duly authorized representatives are authorized pursuant to Penal Code Section 836.5 to arrest any person without a warrant when they have reasonable cause to believe that such person has violated a provision of this chapter in their presence. No person shall interfere with, oppose, or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of his duty. The City's law enforcement personnel, the County Health Officer, and their duly authorized representatives are authorized, pursuant to Penal Code Section 836.5, to arrest any person without a warrant when they have reasonable cause to believe that such person has committed a misdemeanor in their presence.

B. If the Director or Chief and their duly authorized representatives conduct noise monitoring tests or other noise measurement readings for purposes of enforcement, and the Noise Level is found to exceed the limits specified in this chapter, the property owner or responsible party shall be required to pay the City's cost of the noise monitoring tests or readings. No person shall interfere with, oppose, or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of his duty. (Ord. 171 § 1, 2007)

11.16.100 Variance procedure.

The owner or operator of a noise source which violates any of the provisions of this chapter may file an application with the Health Officer for a variance from the provisions thereof wherein said owner or operator shall set forth all actions taken to comply with said provisions, the reasons why immediate compliance cannot be achieved, a proposed method of achieving compliance, and a proposed time schedule for its accomplishment. Said application shall be ac-

~~accompanied by a fee in the amount of \$75. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership, or several fixed sources on a single property may be combined into one application. Upon receipt of said application and fee, the Health Officer shall refer it with his recommendation thereon within 30 days to the Noise Variance Board for action thereon in accordance with the provisions of this chapter.~~

~~— An applicant for a variance shall remain subject to prosecution under the terms of this chapter until a variance is granted.~~

~~(Ord. 171 § 1, 2007)~~

~~11.16.110 Noise Variance Board.~~

~~— The City Council shall, by resolution, appoint the Noise Variance Board, which may be composed of the City Council, Planning Commission, or any other members the City Council may select. The City Council may adopt reasonable rules and regulations for procedures to be used by the Board in carrying out its functions under the provisions of this chapter, or may allow the Board to establish such rules and regulations.~~

~~— The Noise Variance Board shall evaluate all applications for variance from the requirements of this chapter and may grant said variances with respect to time for compliance, subject to such terms, conditions and requirements as it may deem reasonable to achieve maximum compliance with the provisions of this chapter. Said terms, conditions, and requirements may include but shall not be limited to limitations on noise levels and operating hours. Each such variance shall set forth in detail the approved method of achieving maximum compliance and a time schedule for its accomplishment. In its determinations said Board shall consider the magnitude of nuisance caused by the offensive noise; the uses of property within the area of impingement by the noise; the time factors related to study, design, financing and construction of remedial work; the economic factors related to age and useful life of equipment; and the general public interest and welfare. Any variance granted by said Board shall be by resolution and shall be transmitted to the Community Development Department and the Health Officer for enforcement. Any violation of the terms of said variance shall be unlawful.~~

~~— Meetings of the Noise Variance Board shall be held at such times and locations as said Board shall determine. All such meetings shall be open to the public.~~

~~— Traveling and other expenses incurred by each Board member in the performance of his or her official duties shall be reimbursed at a rate determined by resolution of the City Council.~~

~~(Ord. 171 § 1, 2007)~~

~~11.16.120 Permit To Temporarily Exceed Noise Limits~~

~~A. Applications. The owner or operator of a noise source may file an application for a permit to temporarily exceed the noise limits in this chapter. The application shall set forth: (1) all facts regarding the request, including a detailed description of the noise source and proposed dates and times the noise limits would be exceeded; (2) the reasons why compliance with the noise limits cannot be achieved and the basis for such a determination; (3) all actions the applicant has taken, intends to take, and any proposed methods to minimize noise during the temporary activity; and (4) any such additional information relevant to the request the Director may require.~~

~~B. Permit Fee. The application shall be accompanied by a fee in the current amount established by resolution of the City Council. A separate application shall be filed for each noise source; provided, however, that several Mobile Noise Sources under common ownership or several fixed sources on a single property may be combined into one application.~~

~~C. Permit Processing. Within five days of receipt of a complete application, the Director shall forward the application to the City Manager for a determination. An applicant shall remain subject to the terms of this chapter unless and until a permit to temporarily exceed noise limits is granted.~~

~~D. City Manager Review, Authority, and Decision. The City Manager shall consider the likely magnitude of nuisance caused by the proposed noise, the uses of property within the area of impingement by the noise, time of day factors related to potential impacts to surrounding property occupants, and any other relevant considerations including,~~

but not limited to, the fact that a noise generator in question commenced operations prior to the existence of a noise-sensitive use affected by noise from such facility, and the general public interest and welfare.

The City Manager is authorized to grant a permit to temporarily exceed the noise limits of this chapter for a period not to exceed 30 days if the City Manager finds such temporary waiver:

1. would be in the public interest and there is no feasible and prudent alternative to the activity, or the method of conducting the activity, for which the temporary waiver is sought; and
2. that strict compliance with the requirements of this chapter will cause practical difficulties, unnecessary hardship, or unreasonable expense.

After reviewing the application and all relevant facts and information, the City Manager shall render a decision on the application. Such decision shall be transmitted to the applicant in written form within ten days of the application submittal. The City Manager's decision shall be final.

Permit Requirements. A permit shall be for a limited period and may be subject to any terms, conditions, and requirements as the City Manager deems reasonable to achieve maximum compliance with the provisions of this chapter. Such terms, conditions and requirements may include, but shall not be limited to, limitations on Noise Levels and operating hours, and a requirement to implement noise attenuation measures.

DRAFT