

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ANTIOCH DELETING TITLE 5, CHAPTER 17 OF THE
ANTIOCH MUNICIPAL CODE IN ITS ENTIRETY AND ADDING A
NEW CHAPTER 17 RELATING TO COMMUNITY NOISE**

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Title 5, Chapter 17 of the Antioch Municipal Code is DELETED in its entirety and a new Chapter 5-17 is added to read as follows:

SECTION 2. Section 5-17.010. **COMMUNITY NOISE ORDINANCE.**

Sections

5-17.010	Title
5-17.020	Finding and Purpose
5-17.030	General Prohibition
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Sec. 5-17.020. Findings and purpose.

It is declared to be the policy of the City Council that the peace, health, safety and welfare of the citizens of the City require protection from excessive, unnecessary, loud, raucous, unreasonable, intrusive and annoying noises from any and all sources in the community. In order to control unnecessary, excessive, loud, raucous, unreasonable, intrusive and annoying sounds emanating from all areas of the City, including motor vehicles, it is hereby declared to be the policy of the City to prohibit such sound generated from all sources as specified in this Chapter.

It is determined that certain noise levels are detrimental to the public health, welfare, and safety and contrary to the public interest; therefore, the Council does ordain and declare that creating, maintaining, or causing, or allowing to create, maintain, or cause, any noise in a manner prohibited by, or not in conformance with, the provisions of this Chapter is a public nuisance and it shall be unlawful for any person to create, maintain or allow to be created or maintained any excessive, unnecessary intrusive, unreasonable, loud, raucous or annoying noise as defined in this Chapter

Sec. 5-17.030. General prohibition.

Notwithstanding any other provision of the Antioch Municipal Code, and in addition to any such provision, it shall be unlawful for any person, corporation, firm or association to make, create or continue, or cause, permit or suffer to be made or continued any noise disturbance or any loud, raucous, unnecessary, excessive, annoying, intrusive or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area or that violates any provision of this Chapter. The standard, which may be considered in determining whether a violation of the provisions of this Chapter exists, may include, but not be limited to, the following:

- (a) The volume, level and intensity of the noise;
- (b) Whether the nature of the noise is usual or unusual;
- (c) Whether the origin of the noise is natural or unnatural for the specific environment;
- (d) The level and intensity of the background, if any;
- (e) The proximity of the noise to residential dwellings;
- (f) The proximity of the noise to residential sleeping facilities;
- (g) The nature and zoning of the area within which the noise emanates;
- (h) The density of the inhabitation of the area within which the noise emanates;
- (i) The time of day or night the noise occurs;
- (j) The duration of the noise;
- (k) Whether the noise is recurrent, intermittent, a cumulative period, or constant;
- (l) Whether the noise is produced by a commercial or non-commercial activity;
- (m) Whether the noise can be heard more than twenty-five (25) feet away from any adjoining property boundary line in a residential district;
- (n) The intrusiveness of the noise;
- (o) Whether it is a mobile noise source; and
- (p) The number of persons affected by the noise.

Sec. 5-17.040. Definitions.

“Annoying noise” means a noise disturbance with a repetitive pattern, shrill frequencies, and/or static-like sounds, including loud music and noise attributable to, but not limited to, leaf blowers, alarms, engines, machinery, radios, stereo equipment, motor vehicles, barking dogs, crowing roosters and other animal noises.

“Cumulative period” shall mean an additive period of time composed of individual time segments that may be continuous or interrupted.

“Excessive noise” means a noise disturbance that persists for ten minutes or more; such period of noise need not be witnessed by enforcement personnel if the occupants of two or more separate housing or commercial units certify that they have experienced such period of noise and describe the source with particularity.

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

“Heavy construction equipment” shall mean equipment used in grading and earth movement, including diesel engine equipped machines used for that purpose, excluding pickup trucks of one (1) ton or less.

“Impulsive sound” shall mean a noise disturbance of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms or fireworks.

“Intrusive noise” shall mean a noise disturbance that intrudes over and above the existing normal background noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency, time of occurrence, and tonal or informational content, as well as the prevailing background noise level.

“Mobile noise source” shall mean any noise source other than a fixed noise source as defined herein.

“Motor vehicle” shall mean any and all self-propelled vehicles as defined in the Vehicle Code of the State, including all on-highway type motor vehicles subject to registration under said Code and all off-highway type motor vehicles subject to identification under said Code.

“Muffler or sound dissipative device” shall mean a device for abating the sound of escaping gases of an internal combustion engine.

“Noise disturbance” shall mean any sound which (1) endangers or injures the safety or health of humans or animals; (2) annoys, disturbs, causes, or tends to cause an adverse psychological or physiological effect on a reasonable person of normal sensitivity; (3) is so harsh or prolonged as to be injurious to the health, peace and comfort of any reasonable person of normal sensitivity residing in the area, or (4) which causes excessive noise vibrations that endangers or injures personal or real property. Noise disturbance includes an annoying noise, excessive noise and intrusive noise.

“Street” means any “highway”, “road”, “roadway” or “street” as defined by the Vehicle Code of the State of California, or any other public right-of-way, which is used or may be used for purposes of vehicular traffic. The term “street”, however, shall be limited to any street, or portion thereof, which is located within the boundaries of the City of Antioch.

Sec. 5-17.050. Specific prohibitions.

In addition to and separate from any provision of this Code, the following acts, and the causing, suffering or permitting thereof, shall be considered excessive and annoying noises creating a nuisance and disturbing the peace and shall constitute a violation of this Code. The

listing of the following specific prohibited acts is not intended to limit the City's authority to regulate any and all loud, raucous, unnecessary, intrusive and unusual noises and even if not included, such noise disturbances shall be subject to regulation pursuant to Section 5-17.030 of this Code.

(a) Mechanical or Electronic Devices. Using any mechanical or electronic device for the intensification of any sound or noise into the public streets.

(b) Advertisement. Using any instrument, whistle drum, bell, or making any other noise for the purpose of advertising, announcing, or otherwise calling attention to any goods, wares, merchandise, or to any show, entertainment, or event. The provisions of the section shall not be construed to prohibit the selling by outcry of merchandise, food, or beverages at licensed sporting events, parades, fairs, circuses or other similar licensed public entertainment events.

(c) Animals and Birds. Owning, possessing, or harboring any animal or bird that howls, barks, squawks, crows or makes other annoying noises continuously and/or incessantly, or intermittently for an unreasonable period of time so as to create a noise disturbance across a real property line. For the purpose of this Chapter, the animal or bird noise shall not be deemed a noise disturbance if a person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated, or is using any other means to tease or provoke the animal or bird. This provision shall not apply to public zoos or licensed animal parks.

(d) Emergency Signaling Device. The intentional sounding or permitted sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device not in compliance with subsection (d)(1) or (2) unless occurring for emergency purposes or directed by a public agency.

(1) The testing of a stationary emergency signaling device shall not occur before seven (7:00) a.m. or after seven (7:00) p.m. Any such testing shall use only the minimum cycle test time, in no case shall such test time exceed sixty (60) seconds.

(2) The testing of the complete emergency signaling system, including the functioning of the signaling device, and personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before seven (7:00) a.m. or after seven (7:00) p.m. The time limit specified in subsection (d)(1) of this section shall not apply to such complete system testing.

(e) Stationary Non-emergency Signaling Devices. Sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place, for more than ten seconds in any one-hour period. Churches, schools, and bell towers shall be exempt from the operation of this provision.

(f) Burglar or Fire Alarm. Sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm that is not terminated within fifteen (15) minutes of activation.

(g) Loading and Unloading. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, refuse, or similar objects between the hours of nine (9:00) p.m. and six (6:00) a.m. in such a manner as to cause a noise disturbance across a residential real property line or at any time to violate the applicable noise provisions of this Code. This subsection shall not apply to the collection and disposal of garbage and recyclable materials by the City's franchises.

(h) Domestic Power Tools, Machinery. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, leaf blower, lawn or garden tool, or similar tool between nine (9:00) p.m. and seven (7:00) a.m. during weekdays, so as to create a noise disturbance across a residential real property line or at any time to violate any applicable noise provisions of this Code. Power tools and/or machinery or other tools creating noise associated with construction, manufacturing or gardening activities prior to nine (9:00) a.m. or after seven (7:00) p.m. on Saturdays and Sundays if the noise from such tools or machinery creates a noise disturbance across a residential property line or at any time violates any noise provisions of this Code.

(i) Sensitive Uses. Creation of any noise disturbance adjacent to or within one-thousand (1,000) feet of a hospital or medical care facility, nursing home, school during school hours, courthouse during hours of operation, day care facility, religious institutions during hours of worship services, or similar facility, so as to interfere with the functions of such activity.

(1) Where construction activities on a construction project which is adjacent to any noise sensitive use(s) are anticipated to last for a year or more, temporary noise barriers shall be constructed that break the line of sight between the noise-sensitive use(s) and the construction project, and that minimize noise impacts..

(j) Noise resulting from construction and demolition activities, the operation of commercial refrigeration units, air conditioning systems, compressors, commercial exhaust systems, ventilation units, use of any instrumentality that results in impulsive sound, and other commercial or industrial noises associated with land use activities, shall be regulated pursuant to standards contained within the noise regulations of this Code.

(k) Vehicular Attachments. Attaching any accessory or device to any motor vehicle that results in the creation of a noise disturbance.

(l) Radios, television sets, stereos, musical instruments or similar devices. Operating, playing, or permitting the operation or playing of any radio, television set, compact disc player, stereo, drum, musical instrument or similar device which reproduces sound so as to create a noise disturbance or cause any violation of this Chapter.

(m) Sound amplifier. Using or operating or permitting or allowing the using or operating for any purpose a sound amplifier so as to create a noise disturbance or cause any violation of this Chapter, except the use of a sound amplifier in compliance with and under permit issued pursuant to this Code.

(n) Places of public entertainment. Operating or permitting or allowing the operation or playing of any loudspeaker, musical instrument, motorized racing vehicle, or other source of sound in any place of public entertainment as to create a noise disturbance or which can be heard more than five-hundred (500) feet from the property line of the property on which the public entertainment is located after nine (9:00) p.m. or before eight (8:00) a.m., except if the public entertainment is permitted or occurs on property that is not located within one-thousand (1,000) feet of any residential dwelling.

(o) Tampering. The removal or rendering inoperative, other than for purposes of maintenance, repair or replacement, or any noise control device, muffler, or other sound dissipative device or element thereof; as required under federal, state or local law, and the use of said product after its noise control device has been removed or rendered inoperative, other than for purpose of maintenance, repair or replacement.

Sec. 5-17.060. Prohibited Persistent noises

Failure to comply with the following provisions shall constitute a nuisance:

(a) All construction equipment powered by internal combustion engines shall be properly muffled and maintained.

(b) Unnecessary idling of internal combustion engines is prohibited.

(c) All stationary noise-generating construction equipment such as tree grinders and air compressors are to be located as far as is practical from existing residences.

(d) Quiet construction equipment, particularly air compressors, are to be selected whenever possible.

(e) Use of pile drivers, sources of impulsive sound and jackhammers shall be prohibited on Sundays and City holidays, except for emergencies and as approved in advance by the Building Official.

(f) Use of heavy construction equipment when the noise or sound from such equipment can be heard beyond the perimeter of the premises where such heavy construction equipment is being used shall not be permitted during the following times:

(1) On weekdays prior to seven (7:00) a.m. and after six (6:00) p.m.

(2) On weekdays within three hundred (300) feet of any occupied dwelling, prior to eight (8:00) a.m. and after five (5:00) p.m.

(3) On weekends and City holidays, prior to nine (9:00) a.m. and after five (5:00) p.m. regardless of the distance from occupied dwellings.

Sec. 5-17.070. Prohibited Noise from stereos, etc. in motor vehicles.

(a) It shall be unlawful for any person to use or operate a radio, tape player, stereo, tape recorder, DVD or CD player, television or similar device in a motor vehicle on a street, which is audible to a person of normal hearing sensitivity more than twenty-five (25) feet from said motor vehicle.

(b) The provisions of this section shall be enforced by the Antioch Police Department or authorized peace officer.

(c) Provisions of this subsection are to be supplementary and complementary to all of the provisions of this Code, the laws of the State of California and any other applicable law, and nothing in this Chapter shall be read, interpreted or construed in any manner so as to limit any existing right or power of the City of Antioch to control or limit excessive noise caused by radios or other devices in motor vehicles.

Sec. 5-17.080. Noises, exceptions.

Nothing in this Chapter shall apply to the playing of music by a band or the blowing of a bugle, or the announcing of any show, entertainment, or event upon the public streets for which band music, bugle blowing or privilege or announcing, the Chief of Police has granted a special permit specifying the time and place when and where such music may be played or such bugle blown, or shall apply to the blowing of any whistle or horn or the ringing of any bell or other noise necessary as a vehicular or pedestrian traffic warning or signal; or to any regularly licensed peddler calling his or her wares in an ordinary tone of voice.

Emergency vehicles, including police vehicles, fire vehicles and ambulances, are exempt from the requirements of this Chapter.

Sec. 5-17.090. Noise enforcement procedures.

(a) If it is determined that a noise in violation of this Chapter exists at a fixed location, the following procedures shall be followed:

(1) The investigating official or his or her agent shall issue a written or verbal warning to the person(s) responsible for the event causing the noise disturbance.

(2) If the noise disturbance persists following the issuance of a written or verbal warning, or reoccurs within a sixty (60) day period from the date of the issuance of such warning, then the person responsible for the event causing the noise disturbance shall be guilty of a violation of this Chapter. If the person responsible for causing the noise event is not the owner of the subject property, the owner of the property shall also be provided with written or verbal notice of the noise disturbance and advised to take all necessary measures to abate and prevent future noise violations.

(b) If the noise disturbance is on real property and reoccurs as described in (a)(2), in addition to the person responsible for the event causing the noise disturbance, the property owner shall also be guilty of a violation of this Chapter if the owner fails to take all necessary measures to abate the noise violations after being advised in the manner provided for in subsections 5-17.090(a)(1) and (a)(2).

(c) If the noise violation occurs in a motor vehicle in violation of section 5-17.070, the procedures in subsection (a)(1) and (a)(2) herein do not apply and those violations are enforced pursuant to the procedures set forth in section 5-17.070.

Sec. 5-17.100. Violations and penalties.

Any person who violates or causes or permits or suffers another person to violate any provision of this Chapter is subject to, but not limited to, all fines and penalties specified in this Code, including civil penalties, civil and/or criminal proceedings and/or administrative citations as authorized in this Code. In addition to the penalties herein provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to the public health, safety and welfare, and is declared and deemed a public nuisance and shall be punishable as such.

(a) Continuing violation. Unless otherwise provided, a person shall be deemed guilty of a separate offense for every day, or portion thereof, for which the violation of this Chapter is committed, continued or permitted by the person and shall be punished accordingly as therein provided.

(b) Remedies not exclusive. Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil and/or criminal. The remedies provided for herein shall be cumulative and not exclusive.

SECTION 3. Any provisions of the Antioch Municipal Code, or appendices thereto, or any other ordinance of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 4. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions are severable.

SECTION 5. This Ordinance is not a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 15061(b)(3) because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment. If there is any effect, it would be a positive one for the protection of the environment and thus exempt under CEQA Guideline 15308

SECTION 6. This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption and shall be published once within fifteen (15) days upon passage and adoption in the East County Times, a newspaper of general circulation printed and published in the City of Antioch.

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I HEREBY CERTIFY that the foregoing ordinance was introduced at an adjourned regular meeting of the City Council of the City of Antioch, held on the ____ day of _____, 2007, and passed and adopted at a regular meeting thereof, held on the ____ day of _____, 2007.

AYES:

NOES:

ABSENT:

MAYOR OF THE CITY OF ANTIOCH

ATTEST:

CITY CLERK OF THE CITY OF ANTIOCH