

CHAPTER 95C: NOISE CONTROL

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§ 95C.01 PURPOSE.

It is the purpose of this chapter to implement regulations and general administrative procedure to control and abate unnecessary, excessive and annoying noise and vibration. It is further the purpose of this chapter to recognize that the existence of excessive noise and vibration within the city is a condition that is detrimental to the peace, health, safety, welfare and quality of life of the citizens and shall be regulated in the public interest.

(Ord. 1267, passed 4-5-00)

§ 95C.02 DEFINITIONS.

As used in this chapter, the following terms have the meanings given:

AMBIENT NOISE LEVEL. The all-encompassing noise associated with a given environment being a composite of all sources.

AVERAGE SOUND LEVEL. A sound level typical of the sound levels at a certain place during a given period of time; also, an equivalent continuous sound level.

COMMERCIAL PURPOSES. The use, operation or maintenance of any sound amplifying equipment mounted on a sound truck for the purpose of advertising any business, or any goods, wares, merchandise, or services, and for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage of customers to or for any performance, show, entertainment, exhibition, or event, or for the purpose of demonstrating any such sound equipment.

CONSTRUCTION EQUIPMENT. Tools, machinery or equipment used in connection with construction operations, including all types of "special construction" equipment as defined in the pertinent sections of California Vehicle Code when used in the construction process on any construction site, home improvement site or property maintenance site, regardless of whether such site is located on highway or off-highway.

DISTURBING, EXCESSIVE OR OFFENSIVE NOISE. Any sound or noise in excess of the sound levels or noise levels set forth in this chapter for permissible noises.

FIXED NOISE SOURCE. A stationary device which creates sound, which is fixed or motionless including, but not limited to, industrial and commercial machinery and equipment, pumps, fans, compressors, generators, air conditioners and refrigeration equipment.

MOBILE NOISE SOURCE. Any noise source other than fixed noise source.

NOISE LEVEL. Is interchangeable with **SOUND LEVEL**.

NONCOMMERCIAL. The use of, operation or maintenance of any sound equipment for other than a commercial purpose. **NONCOMMERCIAL PURPOSES** means and includes, but is not limited to, philanthropic, patriotic, charitable, political or community promotion purposes.

SIMPLE TONE NOISE. Noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished.

SOUND AMPLIFYING EQUIPMENT. Any machine or device for the amplification of the human voice, music or any other sound. **SOUND AMPLIFYING EQUIPMENT** shall not be construed as including standard automobile radios when used and heard only by the occupants of the vehicle in which installed or warning devices on authorized emergency vehicles.

SOUND TRUCK. Any motor vehicle or other vehicle regardless of motive power whether in motion or stationary having mounted thereon, built-in or attached thereto any sound amplifying equipment.

(Ord. 1267, passed 4-5-00)

§ 95C.03 GENERAL PROHIBITIONS.

(A) It shall be unlawful for any person to make, continue, or cause to be made or continued, within the city limits or within 200 feet thereof, any disturbing excessive or offensive noise or vibration which causes discomfort or annoyance to any reasonable person of normal sensitivity in the area or that is plainly audible at a distance greater than 50 feet from the source point for any purpose.

(B) The characteristics and conditions which should be considered in determining whether a violation of the provisions of this section exists should include, but are not limited to the following:

- (1) The level of the noise;
- (2) Whether the nature of the noise is usual or unusual;
- (3) Whether the origin of the noise is natural or unnatural;
- (4) The level of the ambient noise;
- (5) The proximity of the noise to sleeping facilities;
- (6) The nature and zoning of the area from which the noise emanates and the area where it is received;
- (7) The time of day or night the noise occurs;
- (8) The duration of the noise; and
- (9) Whether the noise is recurrent, intermittent, or constant.

(Ord. 1267, passed 4-5-00)

§ 95C.04 DISTURBING, EXCESSIVE, OFFENSIVE NOISES; DECLARATION OF CERTAIN ACTS CONSTITUTING.

The following activities, among others, are declared to cause disturbing, excessive or offensive noises in violation of this chapter and Chapter 95A and are unlawful, namely:

(A) *Horns, Signaling Devices, and the like.* Unnecessary use or operation of horns, signaling devices, or other similar devices, on automobiles, motorcycles, or any other vehicle.

(B) *Radios, Television Sets, Phonographs, Loud Speaking Amplifiers and Similar Devices.*

(1) *Uses Restricted.* The use or operation of any sound production or reproduction device, radio receiving set, musical instrument, drums, phonograph, television set, loud speakers, sound amplifier or other similar machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, or comfort of any reasonable person of normal sensitivity in any area of the city is prohibited.

(2) *Prima Facie Violations.* Any of the following shall constitute evidence of a prima facie violation of this section:

(a) The operation of any such sound production or reproduction device, radio receiving set, musical instrument, drum, phonograph, television set, machine, loud speaker and sound amplifier or similar machine or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which located, or from the source point.

(b) The operation of any sound amplifier, which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette tape player, or other similar device when operated in such a manner as to be plainly audible at a distance of 50 feet from the source point or when operated in such a manner as to cause a person to be aware of vibration at a distance of 50 feet from the source point.

(3) *Enforcement of Prima Facie violations.*

(a) Any person who is authorized to enforce the provisions of this chapter and who encounters evidence of a prima facie violation of this section is empowered to confiscate and impound as evidence, any or all of the components amplifying or transmitting the sound.

(b) Any peace officer, as defined in Cal. Penal Code, Ch. 4.5 §§ 830 et seq., who encounters evidence of a prima facie violation of this section whereby the component(s) amplifying or transmitting the sound are attached to a vehicle may, in accordance with the provisions of Cal. Veh. Code § 22655.5, impound the vehicle, as containing evidence of a criminal offense, when the amplifying and/or transmitting component(s) cannot be readily removed from the vehicle without damaging the component(s) or vehicle.

(C) *Animals.*

(1) Notwithstanding the provisions of § 92.08 (E) of this code, it shall be unlawful for any person having charge, care, custody, or control of any animal to keep, maintain, or to permit to be kept or maintained upon any premises owned, occupied, or controlled by any person to permit such animal to emit any excessive noise which is disturbing or offensive. Excessive noise includes, but is not limited to, loud persistent or habitual dog barking, howling, or yelping.

(2) No person, after being informed orally or in writing that his dog or other animal has by barking or other noise or sound disturbed any other person's peace and quiet, shall fail, refuse or neglect to take whatever steps or use whatever means are necessary to assure that the dog or animal does not again disturb the other person's peace and quiet.

(3) The Noisy Animal Petition shall include a description of the noisy animal(s), the name, address, and telephone number of the complainant, as well as the address of the animal owner, person having charge of the animal, or custodian of the animal and a description of the noise.

(4) The city shall enforce this chapter as follows:

(a) Upon receiving a Noisy Animal Petition complaint involving whining, barking, howling, screeching or similar animal noise, the city shall cause the following to be performed:

1. The Enforcement Officer will advise the owner or person in charge of the animal by mail or personal service, to quiet the animal within 72 hours of the notification, and failure to comply with the order may result in the matter being referred to the District Attorney or City Attorney for litigation.

2. 72 hours after the notification has been made the Enforcement Officer shall re-contact the complainant who filed the Noisy Animal Petition to see if the problem has been resolved.

a. If the problem has been resolved there shall be no further action and the Noisy Animal Petition shall be kept on file for a period of one year.

b. If the noisy animal has not been quieted and the situation has not been resolved at the end of this 72 hour period, a citation shall be issued to either the animal owner, person having charge of the animal, or custodian of the animal.

(b) Upon receipt of a subsequent Noisy Animal Petition being filed within six months to the same animal owner, person having charge of the animal, or custodian of the animal for the same violation, the Animal Control Officer shall issue a citation to either the animal owner, person having charge of the animal, or custodian of the animal for violation of this chapter.

(5) A habitually barking dog or other animal may be ordered removed from the incorporated area of the city as a public nuisance, in accordance with Chapter 95A of this code, by the Police Department, Animal Control Supervisor, Code Enforcement Supervisor or his or her designee if he or she has such evidence to show that the animal is a threat to the health, safety, general welfare or peace and quiet of the general public.

(D) *Hospitals, Schools, Libraries, Rest Homes, Long-Term Medical or Mental Care Facilities.* To make noise adjacent to a hospital, school, library, rest home, or long-term medical or mental care facility, which noise reasonably interferes with the workings of such institutions or which disturbs or unduly annoys occupants in said institutions.

(E) *Playing of Radios on Buses, Public Transportation.* The operation of any radio, phonograph, or tape player on an urban transit bus or trolley so as to emit noise that is audible to any other person in the vehicle is prohibited.

(F) *Leaf Blowers.*

(1) A **LEAF BLOWER** means any portable, hand held or back pack, engine powered device with a nozzle that creates a directable airstream which is capable of and intended for moving leaves and light materials.

(2) Leaf blowers shall only be operated between the hours of 7:00 a.m. and 8:00 p.m. on any day except on Sunday when they may only be operated between the hours of 10:00 a.m. and 8:00 p.m.

(3) Leaf blowers shall be equipped with functional mufflers and an approved sound limiting device required to ensure that the leaf blower is not capable of generating a sound level exceeding any limit prescribed in this chapter.

(G) *Yelling, Shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets or on any publicly owned property between the hours of 10:00 p.m. and 8:00 a.m., or at any time or place so as to disturb the quiet comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence or persons in the close proximity shall be considered a violation of this section.

(Ord. 1267, passed 4-5-00)

§ 95C.05 BURGLAR ALARMS.

(A) Audible burglar alarms for structures or motor vehicles are prohibited unless the operation of such burglar alarm will be terminated within ten minutes of being activated.

(B) Notwithstanding the requirements of this chapter, any member of the Police Department of the city shall have the right to take such steps as may be reasonable and necessary to disconnect any such alarm installed in any building, dwelling, or motor vehicle at any time during the period of its activation. This section does not preclude the towing and storage of vehicles in accordance with the procedures set forth in the Cal. Veh. Code § 22651.5.

(Ord. 1267, passed 4-5-00)

§ 95C.06 SOUND TRUCK-COMMERCIAL AND NONCOMMERCIAL.

(A) No person shall use, or cause to be used, a sound truck with its sound amplifying equipment in operation for commercial or noncommercial purposes in the city, before filing a written Sound Truck Registration statement with the city Business Licensing Department.

(B) Preexisting commercial and non-commercial sound trucks operating in the city prior to the date of adoption of the ordinance codified in this chapter shall be granted a 60 day period from the date of adoption within which to comply with the provisions of this chapter and file a Sound Truck Registration form with the city Business Licensing Clerk.

(C) This Sound Truck Registration statement shall be filed in duplicate and shall state the following:

- (1) Name and home address of the applicant;
- (2) Address of place of business of applicant;
- (3) License number and motor number of the sound truck to be used by applicant;
- (4) Name and address of person who owns the sound truck;
- (5) Name and address of person having direct charge of the sound truck;
- (6) Names and addresses of all persons who will use or operate the sound truck;
- (7) The purpose for which the sound truck will be used;
- (8) A general statement as to the section or sections of the city in which the sound truck will be used;
- (9) The proposed hours of operation of the sound truck;
- (10) The number of days of proposed operation of the sound truck;
- (11) Proof of current liability insurance;
- (12) A general description of the sound amplifying equipment which is to be used;
- (13) The maximum sound producing power of the sound amplifying equipment to be used in or on the

sound truck as follows:

- (a) The wattage to be used;
- (b) The volume in decibels of the sound which will be produced;
- (c) The approximate maximum distance which sound will be thrown from the sound truck.

(D) All persons using, or causing to be used, sound trucks for commercial and noncommercial purposes shall amend any registration statement filed pursuant to division (A) within 48 hours after any change in the information therein furnished.

(E) The Business Licensing Clerk shall return to each applicant under division (A) herein, one copy of the registration statement duly certified as a correct copy of the application. The certified copy of the application shall be in the possession of any person operating the sound truck at all times while the sound truck's sound amplifying equipment is in operation and the copy shall be presented to any enforcement officer of the city upon request.

(F) Noncommercial and commercial use of sound trucks in the city with sound amplifying equipment in operation shall be subject to the following regulations:

- (1) The only sounds permitted are music or human speech;
- (2) Operations are permitted during daylight hours each day. No sound amplifying equipment shall be used during hours of darkness. **DARKNESS** is defined as any time from one-half hour after sunset to one-half hour before sunrise and any other time when visibility is not sufficient to render clearly discernable any person or vehicle on the roadway at a distance of 1,000 feet;
- (3) Sound amplifying equipment shall only be operated when the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour. When stationary the sound amplifying equipment shall not be operated;

(4) Sound amplification equipment shall not be operated within 100 yards of hospitals, schools, churches, courthouses, or polling places;

(5) The human speech and music amplified shall not be profane, lewd, indecent, or slanderous;

(6) The volume of sound shall be controlled so that it will not be plainly audible for a distance in excess of 50 feet from the sound truck and so that the volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility;

(7) No sound amplifying equipment shall be operated with an excess of 15 watts of power in the last state of amplification; and

(8) Sound amplifying equipment shall not exceed a threshold sound output of 70 decibels when measured at a distance of ten feet. The measurement is to be taken directly in front of the primary output source.

(Ord. 1267, passed 4-5-00)

§ 95C.07 PROHIBITED CONDUCT FOR COMMERCIAL SOUND TRUCKS; FOOD VENDORS.

Notwithstanding the provisions of Chapter 114 of this code, it shall be unlawful for any person including, but not limited to vending truck operators to sound, blow or operate any music, chimes or bells, or any similar sound device amplified or otherwise, that can be heard for a distance greater than 50 feet for any purpose.

(Ord. 1267, passed 4-5-00)

§ 95C.08 DISTURBING, EXCESSIVE, OFFENSIVE NOISES OR VIBRATION CREATED BY VEHICLE(S), TOOLS, MACHINERY; DECLARATION OF CERTAIN ACTS CONSTITUTING.

The following activities, among others, are declared to cause disturbing, excessive or offensive noises or vibration in violation of this section but such enumeration shall not be deemed to be exclusive, namely:

(A) *Standing motor vehicles.* No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, including but not limited to refrigerated truck compressors, for a period longer than 15 minutes in any hour while the vehicle is stationary and on a public right-of-way or public space, within 150 feet of a residential area between the hours of 7:00 p.m. and 7:00 a.m., except when movement of said vehicle is restricted by other traffic.

(B) *Controlled hours of operation.* Notwithstanding the provisions of Chapter 151 of this code it shall be unlawful for any person to operate, permit, use or cause to operate, any of the following:

(1) Powered model vehicles/planes;

(2) Loading and unloading of vehicles, operating of fork lifts or cranes within 1,000 feet of a residence [exempted if distance from residential area exceeds 1,000 feet or as it may be reduced by the Planning Commission subject to design review or conditional use permit]; and

(3) Construction tools and machinery.

Other than between the hours of:

(1) *Pacific Standard Time.*

(a) Monday through Friday, 7:00 a.m. through 6:00 p.m.

(b) Saturday, 8:00 a.m. through 6:00 p.m.

(c) Sunday, 9:00 a.m. through 5:00 p.m.

(d) Government Holidays, 9:00 a.m. through 5:00 p.m.

(2) *Pacific Daylight Time.*

(a) Monday through Friday, 6:00 a.m. through 6:00 p.m.

(b) Saturday, 7:00 a.m. through 6:00 p.m.

(c) Sunday, 9:00 a.m. through 5:00 p.m.

(d) Government Holidays, 9:00 a.m. through 5:00 p.m.

(Ord. 1267, passed 4-5-00; Am. Ord. 1477, passed 9-20-06)

§ 95C.09 SPECIAL PROVISIONS; EXEMPTIONS.

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

(A) Those noise events in the community (e.g. arterial traffic noise, railroad noise) that are more accurately measured by application of the general plan noise element policy, utilizing the community noise equivalent level (CNEL) method.

(B) School bands, school athletic and school entertainment events.

(C) Outdoor gatherings, public dances, shows and sporting and entertainment events provided said events

are authorized by the city via permit, or previously approved development agreement.

(D) Activities conducted in public parks and public playgrounds with a valid city permit.

(E) Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or work.

(F) 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.

(G) Mobile noise sounds 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 Federal holiday.

(H) Mobile noise sources associated with agricultural pest control through pesticide application.

(I) The provisions of this chapter shall not preclude the construction, operation, maintenance and repairs of equipment, apparatus or facilities of park and recreation departments, public work projects or essential public services and facilities, including trash collection and those activities of public utilities subject to the regulatory jurisdiction of the California Public Utilities Commission.

(J) The provisions of this chapter shall not apply to noise sources associated with minor maintenance or improvement of property used either in part or in whole for residential purposes provided said activities take place between the hours of 7:00 a.m. and 8:00 p.m. on any day except Sunday or between the hours of 10:00 a.m. and 8:00 p.m. on Sunday.

(K) The provisions of this chapter shall not apply to any activity to the extent regulation thereof has been preempted by state or federal law or which is necessary or appropriate means of complying with health or safety requirements imposed by state or federal law.

(L) If at the time the enforcement officer investigates a noisy animal(s) complaint, and determines that the cause of the noise is the result of a person, other than the animal's owner or caretaker, committing or attempting to commit an illegal act, such as trespass or theft, no violation of § 95C.04 shall have taken place. (Ord. 1267, passed 4-5-00)

§ 95C.10 ENFORCEMENT PROCEDURES.

The city shall enforce this chapter as follows:

(A) Upon receiving a complaint of a violation or evidence of a prima facie violation of this chapter the city shall cause the following to be performed:

(1) The Enforcement Officer shall respond to the complainant's location and verify if the disruptive noise is still occurring. If the disruptive noise is present, the Enforcement Officer shall serve as a witness to the violation. If the noise has ceased, the Enforcement Officer shall have the complainant complete and sign a Declaration of Violation statement.

(2) The Enforcement Officer will advise the owner or person causing the disturbing noise and advise him or her of the complaint. The Enforcement Officer will advise the owner or person causing the noise that he or she is in violation of the City of Indio Noise Ordinance.

(3) The Enforcement Officer will issue a written Noise Warning Notice to abate the disturbing noise. The Noise Warning Notice will be in writing and will contain the following:

Notice: Noise Complaint Response By The City of Indio. This notice of violation given to (NAME) (DOB) at (LOCATION) on (DATE) (TIME) (PHONE NUMBER) is the result of a disruptive noise complaint in accordance with the City of Indio Code of Ordinance Chapter 95A and/or Chapter 95C. You are asked to cease and desist from making any disruptive noises in violation of the City of Indio Code of Ordinances. A second response to this location within thirty (30) days for the same violation may result in a citation being issued and can also result in a service charge to you for the City's actual costs expended in personnel and equipment for a subsequent return to the location.

(4) If the problem has been resolved there shall be no further action and the Noise Warning Notice shall be kept on file for a period of 30 days.

(5) If after issuing the Noise Warning Notice an Enforcement Officer has prima facie evidence of a violation or upon receiving a complaint is required to respond to the same location a second time for the same violation within 30 days the owner or person causing the disturbing noise shall be issued a citation. The owner or person causing the disturbing noise may be held liable for the service fee charge of the city's actual costs expended in personnel and equipment for the second and subsequent responses.

(B) *Second response costs and joint and several liability.* The costs for the second response may include damage to city property and/or injuries to city personnel, and shall be computed as outlined in § 33.100et

seq., as amended from time to time, but shall in no case be less than \$100. The costs charged pursuant to this section shall be a personal obligation of the owner or person causing the disturbing noise, or if that person is a minor, then the parent(s) or guardian(s) of that minor.

(Ord. 1267, passed 4-5-00)

§ 95C.11 ENFORCEMENT AUTHORITY.

The Police Department, the Building Department and/or Business Licensing Department shall have the power and authority and duty to enforce any and all provisions of this chapter.

(Ord. 1267, passed 4-5-00)

§ 95C.12 VIOLATION; INFRACTIONS.

Any person violating any of the provisions of this chapter shall be deemed guilty of an infraction.

(Ord. 1267, passed 4-5-00)

§ 95C.13 CONTINUING OR SUBSEQUENT VIOLATIONS; MISDEMEANOR.

Any person having been convicted of a violation of any provisions of this chapter who thereafter commits a violation of the same provisions of this chapter may be prosecuted, at the discretion of the City Attorney, as either an infraction or as a misdemeanor, punishable by a fine not exceeding \$1,000, or imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

(Ord. 1267, passed 4-5-00)

§ 95C.14 EXCESSIVE NOISE AND VIBRATION FROM VEHICLES.

(A) Notwithstanding anything to the contrary in this chapter, when the source point of the excessive noise and/or vibration is located in or emanates from a vehicle, any violation of § 95C.04(B)(2) of this chapter shall constitute a misdemeanor.

(B) This section shall not apply to vehicles exempted by § 95C.09 of this chapter.

(Ord. 1299, passed 8-1-01)