



United City of Yorkville

800 Game Farm Road

Yorkville, Illinois 60560

Telephone: 630-553-4350

www.yorkville.il.us

SPECIAL PLANNING & ZONING COMMISSION

AGENDA

Wednesday, January 18, 2017

Yorkville City Hall Council Chambers

800 Game Farm Road

Meeting Called to Order: 7:00 p.m.

Roll Call:

Previous meeting minutes: November 9, 2016

Citizen's Comments

Public Hearings

1. **PZC 2016-04** The United City of Yorkville, Kendall County, Illinois, petitioner, is proposing a text amendment to Chapter 13: Manufacturing Districts, to revise the performance standards section to reference the building regulations as the new noise ordinance standards.
2. **PZC 2016-05** The United City of Yorkville, Kendall County, Illinois, petitioner, is proposing a text amendment to several Chapters of the United City of Yorkville Zoning Ordinance including Chapter 2: Definitions; Chapter 6: Permitted and Special Uses; and Chapter 15: Nonconforming Buildings, Structures, and Uses. The amendments to Chapter 2 define a semi-truck, semi-truck repair, and clarify the commercial school/trade school definition. The Chapter 6 amendment will provide that semi-truck repair is only allowed as a permitted use in the M-1 Manufacturing District and M-2 Manufacturing District. The Chapter 15 amendment will provide clarification for nonconforming land uses within the City.

Old Business

New Business

1. **PZC 2016-04** The United City of Yorkville, Kendall County, Illinois, petitioner, is proposing a text amendment to Chapter 13: Manufacturing Districts, to revise the performance standards section to reference the building regulations as the new noise ordinance standards.

- Action Item

Text Amendment

2. **PZC 2016-05** The United City of Yorkville, Kendall County, Illinois, petitioner, is proposing a text amendment to several Chapters of the United City of Yorkville Zoning Ordinance including Chapter 2: Definitions; Chapter 6: Permitted and Special Uses; and Chapter 15: Nonconforming Buildings, Structures, and Uses. The amendments to Chapter 2 define a semi-truck, semi-truck

repair, and clarify the commercial school/trade school definition. The Chapter 6 amendment will provide that semi-truck repair is only allowed as a permitted use in the M-1 Manufacturing District and M-2 Manufacturing District. The Chapter 15 amendment will provide clarification for nonconforming land uses within the City.

- **Action Item**

Text Amendment

Additional Business

1. Year in Review
 - a. Comprehensive Plan Updates

Adjournment

DRAFT

Special Meeting of the PLANNING & ZONING COMMISSION & THE PARK BOARD

City Council Chambers
800 Game Farm Road, Yorkville, IL
Wednesday, November 9, 2016 6:00pm

Planning & Zoning Commission Members in Attendance:

Randy Harker	Bill Gockman
Reagan Goins	Deb Horaz
Richard Vinyard	Jeff Olson
Don Marcum (arr. 6:52pm)	

Park Board Members in Attendance:

Gene Wilberg	Deb Horaz
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Absent: Amy Cesich, Mark Dilday, Sash Dumanovic, Dan Lane,

Other City Staff

Erin Wilrett, Interim Assistant City Administrator (left 7pm)
Krysti Barksdale-Noble, Community Development Director
Jason Engberg, Senior Planner
Tim Evans, Director of Parks and Recreation

Other Guests

Courtney Kashima, ILAPA	Michael Blue, ILAPA
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Meeting Called to Order

Planning and Zoning Commission Chairman Randy Harker called the meeting to order at 6:02pm.

Roll Call

Roll call was taken and a quorum was established.

Previous Meeting Minutes September 14, 2016

The minutes of the previous Planning and Zoning Commission meeting were approved on a motion and second by Commissioners Goins and Gockman, respectively.

Roll call: Gockman-yes, Goins-yes, Horaz-yes, Olson-yes, Vinyard-yes, Harker-yes.

Passed 6-0.

Citizen's Comments None

Public Hearings None

New Business

(out of sequence)

2. Planning and Zoning Commission Meeting Schedule

Chairman Harker asked Commission members to notify Ms. Noble of any conflict with the meeting schedule.

1. Presentation

Mr. Blue and Ms. Kashima introduced themselves and shared their credentials and work experience with the meeting participants. They showed and discussed the “Citizen Planner Training Workshop” PowerPoint presentation at this meeting. Each of the Board/Commission members introduced themselves and gave a brief background of their time on their respective commissions.

Some of the highlights included:

1. Ms. Kashima presented a history of planning
2. Illinois does not mandate plans, however, if trying for a grant, the requestor will be asked if there is a Comprehensive Plan in place. This provides a more compelling case and can help prevent lawsuits
3. Planning and Zoning are 2 different subjects
4. The City will be updating the Subdivision Control Ordinance in the near future
5. Having no market analysis is a common error in municipalities
6. Variances should be rare
7. Next year the City will address 18 parcels that are completely surrounded by the City
8. Annexation Agreement, SSA's and covenants were discussed
9. Information was shared for conducting the respective meetings and procedure of hearings and taking testimony
10. Board members should refrain from sending texts during meetings as they may be “discoverable” and become public
11. When Board members will be absent, but wish to attend via phone, they must secure prior permission and give notice of the hardship such as illness or out of town for business (vacations are not recognized as valid excuses)
12. Deputy City Clerk will be asked to email refreshers on Open Meeting Act
13. Plan Commission members can add items to agenda
14. Was recommended to ask questions/get clarifications prior to meetings

The presentation concluded at 8:30pm.

Old Business – None

Additional Business None

Adjournment

There was no further business and the meeting was adjourned at 8:35pm on a motion by Mr. Vinyard and second by Mr. Gockman.

Respectfully submitted by Marlys Young, Minute Taker



Memorandum

To: Planning and Zoning Commission
From: Jason Engberg, Senior Planner
CC: Bart Olson, City Administrator
Krysti J. Barksdale-Noble, Community Development Director
Date: January 11, 2017
Subject: **PZC 2016-04** - Noise Ordinance Text Amendment

Summary

This memo shall provide information regarding the recent history of the City's noise ordinance, existing requirements, Soundscape Engineering consultant recommendations, and zoning ordinance performance standard discrepancies.

Background

The City's Noise Ordinance was last amended in December of 2014. At that time, the code was comprehensively rewritten based on staff's research of surrounding municipalities. The main reason for the rewrite was due to a proposed downtown amphitheater.

In 2015, the City responded to multiple instances of noise complaints for the area surrounding Pinheadz Bar at 1211 N Bridge Street. The City responded, during work hours and non-work hours, to the complaints of noise originating inside and outside the building. Residents voiced their concern at a City Council meeting and asked the City to restudy the noise ordinance in light of the complaints at Pinheadz.

Staff toured the property with the owner and was told that the owner had fixed some structural and mechanical issues which may have been producing the excessive noise. The owner had measured sound levels outside the building within the limits of the existing Noise Ordinance. However, the property owners directly behind Pinheadz stated that the noise issue was not improved.

Due to the continued nuisance, the City retained an experienced acoustical consultant, Soundscape Engineering, in 2016 to provide services to assist the City in evaluating its Noise Ordinance Standards. Soundscape Engineering reviewed the existing regulations, conducted a site visit to Pinheadz to determine sound levels at night, and reviewed the City's sound measuring equipment.

Soundscape Engineering Recommendations

Soundscape Engineering has rewritten the entire Noise Ordinance to better clarify how to measure noise, how loud noises should be in certain areas, and provide simpler regulations to enforce. They also provided the City with a list of sound measuring devices which would be useful for measuring and enforcing the new ordinance. The existing Noise Ordinance and a revised version illustrating the changes made to it (redline copy) have been attached to this memo for review. Soundscape Engineering believes these revisions and the proper equipment to enforce them, that the sound nuisance at Pinheadz will be resolved.

Proposed Regulations Summary

The proposed Noise Ordinance revisions have been updated to reflect the new equipment that will be used by the Yorkville Police Department to measure sound and vibration. A section has been added to clarify the correct settings for the meter. Additionally, allowable location for sound measurement has been thoroughly updated. The table providing example decibel levels, as well as

the table containing maximum decibel levels for various locations and uses, have been eliminated. These tables have been replaced with two tables containing allowable decibel level by time and land use, as well as allowable adjustments for certain scenarios or sound characteristics. Construction activity was also added as an allowable exception to these sound limitations.

Zoning Ordinance

The proposed Noise Ordinance revisions were written to amend the text in “Title 4 Chapter 4 Noise Ordinance” of the Yorkville City Code. There are additional regulations regarding noise in “Title 10 Chapter 13 Article C Performance Standards” which will also need to be amended to coexist with the proposed changes. The existing Performance Standards as well as a revised version illustrating the changes made to it (redline copy) have been attached to this memo for review.

The noise performance standards reference outdated measuring equipment and are not consistent with the proposed Noise Ordinance in the Public Health and Safety Code. This section of the Zoning Ordinance has been updated to reference the new Noise Ordinance for all matters regarding sound measurement and limitations and exceptions. Vibration, while mentioned in the Zoning Ordinance (10-13C-2), is not explicitly mentioned in the updated Noise Ordinance; therefore the sections regarding vibration have remained unchanged.

Staff Comments and Recommendations

Regulations regarding noise are located within the Public Health and Safety Ordinance of the City Code, which is not under the purview of the Planning and Zoning Commission (PZC). However, the pending changes to the City’s current Noise Ordinance affects certain standards within the Zoning Ordinance. Since the PZC is authorized to review and make recommendations to the City Council on proposed amendments to the Zoning Ordinance, staff is requesting approval of a text amendment to the Performance Standards regarding noise within the Zoning Ordinance which would provide consistency between the two (2) regulations.

Staff believes that the changes to the Performance Standards regarding noise will improve the enforcement of the ongoing nuisance at Pinheadz Bar as well as provide the needed clarity in the regulation of varying types of sounds (vibration, frequency, etc...). Additionally, the proposed changes to the performance standards within the Zoning Ordinance will not inhibit current manufacturing standards or uses.

Proposed Motion for Amendment

In consideration of testimony presented during a Public Hearing on January 18, 2017, the Planning and Zoning Commission recommends approval to the City Council of a request to amend the performance standards regarding noise contained in Section 10-13C-2 of the United City of Yorkville Zoning Ordinance as presented by staff in a memorandum dated January 11, 2017 and further subject to {insert any additional conditions of the Planning and Zoning Commission}...

Attachments

1. Existing Regulations (4-4 Noise Ordinance)
2. Proposed Revisions to 4-4 Noise Ordinance (Redline)
3. Zoning Ordinance Performance Standards (10-13-C)
4. Proposed Revisions to Zoning Ordinance Performance Standards (Redline)
5. Soundscape Engineering Report
6. Sound Level Meters
7. Public Hearing Notice

NOISE ORDINANCE

4-4-1: DEFINITIONS:

All terminology used in this chapter shall be in conformance with applicable publications of the American National Standard Institute (ANSI) or its successor body. (Ord. 2001-10, 3-22-2001)

4-4-2: WEIGHTED SOUND LEVEL:

Sound pressure decibel levels shall be measured on a sound level meter using the "A" weighing network and designated as dB(A) or dBA. The following table provides examples of sound pressure decibel levels:

Sound Environment	Typical Sound Pressure Decibel Levels Generated
Threshold of hearing	0 dBA
Broadcast studio	20 dBA
Library	30 dBA
Quiet office	40 dBA
Light auto traffic (100 feet)	50 dBA
Air conditioning unit (20 feet)	60 dBA
Freeway traffic	70 dBA
Vacuum cleaner (5 feet)	80 dBA
Passing car at 10 feet	90 dBA
Passing bus or truck at 10 feet	100 dBA
Passing subway train at 10 feet	110 dBA
Nightclub with band playing	120 dBA
Jet takeoff (200 feet)	130 dBA
Air raid siren	140 dBA

(Ord. 2014-80, 12-9-2014)

4-4-3: HOURS AND LEVELS:

- A. Day Hours: No person shall cause or allow the emission of sound decibel levels during daytime hours from seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M. from any noise source which exceeds the following levels:

Land Use	Outdoor Space Within The Property Boundaries Of Property Where The Sound Originates From - Max. Decibel Level (dB)	Outdoor Space Not Closer Than The Property Line Of The Receiving Residential Property - Max. Decibel Level (dB)	Indoor Space In A Structure - Max. Decibel Level (dB)
Residential - single-family and multi-family, detached and attached	70	65	65
Office buildings, businesses, commercial and professional	70	70	70
Sports arena, outdoor spectator sports	110	100	100
Theaters, auditoriums, concert halls, outdoor music venues, amphitheaters	110	90	100
Parks, neighborhood playgrounds, ball fields	70	70	-
Golf courses, water recreations, gun/shooting ranges	75	70	70
Industrial, manufacturing, utilities, agriculture	80	75	80

B. Night Hours: No person shall cause or allow the emission of sound decibel levels during nighttime hours (10:01 P.M. to 6:59 A.M.) from any noise source to any receiving residential land which exceeds fifty five (55) dBA when measured at any point within such receiving residential land provided that the point of measurement shall not be closer than on the property line of the complainant. (Ord. 2014-80, 12-9-2014)

4-4-4: EXEMPTIONS:

A. Emergency Operations: Emergency short term operations which are necessary to protect the health and welfare of the citizens, such as, emergency utility and street repair, fallen tree removal or emergency fuel oil delivery shall be exempt, provided that reasonable steps shall be taken by those in charge of such operations to minimize noise emanating from the same.

B. Noises Required By Law: The provisions of this section shall not apply to any noise required specifically by law for the protection or safety of people or property.

C. Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

D. Community Events: The term "community events" shall include such things as parades, festivals, drum corps shows, sports events, Fourth Of July celebrations, sanctioned or sponsored in whole or in part by local governments, schools or charitable or service organizations. (Ord. 2001-10, 3-22-2001)

4-4-1: DEFINITIONS:

All terminology used in this chapter shall be in conformance with applicable publications of the American National Standard Institute (ANSI) or its successor body. (Ord. 2001-10, 3-22-2001)

4-4-2: WEIGHTED SOUND LEVEL:

Sound level meter meeting Class 1 or Class 2 requirements as defined by IEC 61672 or ANSI S1.4 and which is specified by the meter manufacturer to have a Measurement Level Range that encompasses the noise level to be measured. When the sound level measurement is to be made indoors, a Class 1 meter may be required to check for conformance with the sound level limits because most Class 2 meters do not have a Measurement Level Range that extends low enough.

~~Sound pressure decibel levels shall be measured on a sound level meter using the "A" weighing network and designated as dB(A) or dBA. The following table provides examples of sound pressure decibel levels:~~

Sound Environment	Typical Sound Pressure Decibel Levels Generated
Threshold of hearing	0 dBA
Broadcast studio	20 dBA
Library	30 dBA
Quiet office	40 dBA
Light auto traffic (100 feet)	50 dBA
Air conditioning unit (20 feet)	60 dBA
Freeway traffic	70 dBA
Vacuum cleaner (5 feet)	80 dBA
Passing car at 10 feet	90 dBA

Passing bus or truck at 10 feet	100 dBA
Passing subway train at 10 feet	110 dBA
Nightclub with band playing	120 dBA
Jet takeoff (200 feet)	130 dBA
Air raid siren	140 dBA

(Ord. 2014-80, 12-9-2014)

4-4-3: SOUND LEVEL METER SETTINGS

- A. Sound level meter shall be set to A-weighting (frequency weighting).
- B. Sound level meter shall be set to Slow meter response (1-second exponential time averaging).
- C. Measured sound level shall be the maximum (L_{max}) sound level, attributable to the source under investigation, which is measured during the measurement period.

4-4-4: MEASUREMENT LOCATION:

- A. Measurement may be made anywhere within receiving property, but must be made at least 3 feet from any building façade or other surface.
- B. Measurement may be made at any height above grade, at or near locations that are regularly occupied by people. For example, a measurement may be made at a position 3 feet to the exterior of a 2nd floor window since people can be expected to occupy the 2nd floor room.
- C. Measurement may be made inside a structure on the receiving property, in any space that is classified as inhabitable and constructed with necessary City construction permits.
- D. If measurement is to be made within a building on the receiving property, then measurement shall be made with windows, doors, and other openings to the exterior

closed and measurement shall be made at least 3 feet from floor, ceiling, and all other partitions or surfaces.

- E. If sound source is in Public Park or Other Public Open Space and sound level measurement is to be in Public Park or Other Public Open Space then measurement location shall be no closer than 50 feet from the source.

4-4-5: HOURS AND LEVELS:

- A. A. Day Hours: No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the sound level limits in Table 1, as adjusted according to Table 2.

Table 1: Sound Level Limits

<u>Time of Day</u>	<u>Receiving Property Land Use</u>		
	<u>Residential</u>	<u>Commercial</u>	<u>Public Parks and other Public Open Spaces</u>
<u>Daytime (7:00 AM – 10:00 PM)</u>	<u>60 dBA</u>	<u>67 dBA</u>	<u>67 dBA</u>
<u>Nighttime (10:00 PM – 7:00 AM)</u>	<u>50 dBA</u>	<u>67 dBA</u>	<u>67 dBA</u>

Table 2: Adjustments to Sound Level Limits

	<u>Adjustment to Sound Level Limit</u>
<u>1. DURATION of noise in any one-hour period (use one adjustment only):</u> <u>a. 12 minutes and longer</u> <u>b. Under 12 minutes but over 3 minutes</u> <u>c. Under 3 minutes but over ½ minute</u> <u>d. Under ½ minute</u>	<u>Add 0 dBA</u> <u>Add 5 dBA</u> <u>Add 10 dBA</u> <u>Add 15 dBA</u>
<u>2. Noise is IMPULSIVE in character (e.g. hammering, firearms discharge, explosions)</u>	<u>Subtract 5 dBA</u>
<u>3. Content of noise includes electronically amplified, reinforced, or reproduced voice or music</u>	<u>Subtract 5 dBA</u>
<u>4. Noise is TONAL in character (e.g. hum, screech)</u>	<u>Subtract 10 dBA</u>
<u>5. If measured within a building on the receiving property per Paragraph 4-4-4.C and 4-4-4.D</u>	<u>Subtract 20 dBA</u>

cause or allow the emission of sound decibel levels during daytime hours from seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M. from any noise source which exceeds the following levels:

Land Use	Outdoor Space Within The Property Boundaries Of Property Where The Sound Originates From -- Max. Decibel Level (dB)	Outdoor Space Not Closer Than The Property Line Of The Receiving Residential Property -- Max. Decibel Level (dB)	Indoor Space In A Structure -- Max. Decibel Level (dB)
Residential--single family and multi-family, detached and attached	70	65	65
Office buildings, businesses, commercial and professional	70	70	70
Sports arena, outdoor spectator sports	110	100	100
Theaters, auditoriums, concert halls, outdoor music venues, amphitheaters	110	90	100
Parks, neighborhood playgrounds, ball fields	70	70	—
Golf courses, water recreations, gun/shooting ranges	75	70	70
Industrial, manufacturing, utilities, agriculture	80	75	80

~~B. Night Hours: No person shall cause or allow the emission of sound decibel levels during nighttime hours (10:01 P.M. to 6:59 A.M.) from any noise source to any receiving residential land which exceeds fifty five (55) dBA when measured at any point within such receiving residential land provided that the point of measurement shall not be closer than on the property line of the complainant. (Ord. 2014-80, 12-9-2014)~~

B. All Table 2 adjustments which are relevant to the noise shall be applied. For example, if the noise source is tonal and has a duration of less than 12 minutes in any one hour period then the Sound Level Limit shall be increased by 5 dBA for the Duration adjustment and decreased by 10 dBA for the Tonal adjustment.

4-4-46: EXEMPTIONS:

A. Emergency Operations: Emergency short term operations which are necessary to protect the health and welfare of the citizens, such as, emergency utility and street repair, fallen tree removal or emergency fuel oil delivery shall be exempt, provided that reasonable steps shall be taken by those in charge of such operations to minimize noise emanating from the same.

B. Noises Required By Law: The provisions of this section shall not apply to any noise required specifically by law for the protection or safety of people or property.

C. Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

D. Community Events: The term "community events" shall include such things as parades, festivals, drum corps shows, sports events, Fourth Of July celebrations, sanctioned or sponsored in whole or in part by local governments, schools or charitable or service organizations. (Ord. 2001-10, 3-22-2001)

E. Noise generated by construction or maintenance activities, performed for the improvement or maintenance of real property, from 7:00 AM to 7:00 PM.

ARTICLE C. PERFORMANCE STANDARDS

10-13C-1: COMPLIANCE WITH PERFORMANCE STANDARDS:

Any use established in a manufacturing district after the effective date hereof shall be so operated as to comply with the performance standards set forth hereinafter for the district in which such use shall be located. No use lawfully established on the effective date hereof shall be so altered or modified as to conflict with, or further conflict with, the performance standards established for the district in which such use is located. (Ord. 2014-73, 11-25-2014)

10-13C-2: NOISE AND VIBRATION:

A. Noise: Noise shall be measured at any adjacent lot line and/or district boundary, as indicated in table 1 of this section. At the specified points of measurement, the sound pressure level of any activity or operation (except those not under the direct control of the industrial use, such as transportation facilities) shall not exceed the values tabulated in tables 1, 2, 3 and 4 of this section between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M. The instruments used for these measurements shall conform to all current American National Standards Institute specifications. Impact noises are those whose peak values are more than three (3) dB higher on the fast response than the r.m.s. values indicated on the sound level meter.

B. Vibration: Vibration shall be measured at any adjacent lot line and/or district boundary as indicated in table 4 of this section. At the specified points of measurements, the vibration shall not exceed the limits listed in table 5 of this section. The instrument used for these measurements shall be a three (3) component recording system.

C. Tables:

TABLE 1
REFERENCE

Manufacturing District	Adjacent Lot Line	Commercial District Boundary	Residential District Boundary
M-1	A	-	B
M-2	-	A	C

Between the hours of seven o'clock (7:00) P.M. and seven o'clock (7:00) A.M., the permissible sound levels across residential district boundaries shall be reduced by five (5) dB in each octave band, or in the overall band for impact noises.

TABLE 2
MAXIMUM PERMITTED SOUND
LEVELS, PREFERRED FREQUENCY OCTAVE BANDS

Preferred Center Frequency Cycles/Second	A	B	C
31 .5	88	83	86
63	79	71	75
125	69	59	64
250	62	52	57
500	58	47	53
1,000	54	44	49
2,000	51	40	46
4,000	49	37	44
8,000	47	35	41

Measurement of the sound levels may also be made using an A-weighted scale sound level meter. The levels in table 2 of this section shall be considered to have been met if the A-weighted levels are not greater than the following:

TABLE 3
MAXIMUM PERMITTED SOUND
LEVELS, dB(A), FOR SCREENING PURPOSES

Required Level	Sound Level, dB(A)
A	60
B	50
C	55

TABLE 4
REFERENCE

Manufacturing District	Adjacent Lot Lines	Commercial District Boundary	Residential District Boundary
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M-1	A	-	B
M-2	-	A	B

Particle velocity as specified in table 5 of this section may be measured directly, or if computed on the basis of displacement and frequency, measurements shall be computed from the formula $6.28 FD$, where F is the frequency of the vibration in cycles per second and D is the single amplitude displacement of the vibration in inches.

TABLE 5
MAXIMUM PERMISSIBLE PARTICLE
VELOCITY OF THE GROUND VIBRATION

Applicable Limit	Particle Velocity	
	Steady State Inches/Second	Impact Inches/Second
A	0.10	0.20
B	0.02	0.24

The maximum particle velocity shall be the vector sum of three (3) simultaneous mutually perpendicular components recorded.

For the purpose of this title, steady state vibrations are vibrations which are continuous, or vibrations in discrete impulses more frequent than one hundred (100) per minute. Discrete impulses which do not exceed one hundred (100) per minute shall be considered impact vibrations. (Ord. 2014-73, 11-25-2014)

10-13C-1: COMPLIANCE WITH PERFORMANCE STANDARDS:

Any use established in a manufacturing district after the effective date hereof shall be so operated as to comply with the performance standards set forth hereinafter for the district in which such use shall be located. No use lawfully established on the effective date hereof shall be so altered or modified as to conflict with, or further conflict with, the performance standards established for the district in which such use is located. (Ord. 2014-73, 11-25-2014)

10-13C-2: NOISE AND VIBRATION:

A. Noise: ~~Noise shall be measured at any adjacent lot line and/or district boundary, as indicated in table 1 of this section. At the specified points of measurement, the sound pressure level of any activity or operation (except those not under the direct control of the industrial use, such as transportation facilities) shall not exceed the values tabulated in tables 1, 2, 3 and 4 of this section between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M. The instruments used for these measurements shall conform to all current American National Standards Institute specifications. Impact noises are those whose peak values are more than three (3) dB higher on the fast response than the r.m.s. values indicated on the sound level meter. Noise Measurement Equipment shall conform to the requirements and settings outlined in Sections 4-4-2 and 4-4-3 of the Public Health and Safety Code Noise Ordinance. Measurement Location must follow the guidelines set forth in Section 4-4-4 of the Noise Ordinance. Sound level limits are as stated in Section 4-4-5 of the Noise Ordinance. The only exemptions to the aforementioned may be found in Section 4-4-6 of the Noise Ordinance.~~

B. Vibration: Vibration shall be measured at ~~the same measurement location parameters for sound, which can be found in Section 4-4-4 of the Public Health and Safety Code Noise Ordinance.~~ ~~any adjacent lot line and/or district boundary as indicated in table 4 of this section.~~ At the specified points of measurements, the vibration shall not exceed the limits listed in ~~T~~table ~~15~~ of this section. The instrument used for these measurements shall be a three (3) component recording system.

C. Tables:

~~TABLE 1-
REFERENCE~~

Manufacturing District	Adjacent Lot Line	Commercial District Boundary	Residential District Boundary
M-1	A	—	B

M-2	—	A	G
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Between the hours of seven o'clock (7:00) P.M. and seven o'clock (7:00) A.M., the permissible sound levels across residential district boundaries shall be reduced by five (5) dB in each octave band, or in the overall band for impact noises:

TABLE 2
MAXIMUM PERMITTED SOUND-
LEVELS, PREFERRED FREQUENCY OCTAVE BANDS

Preferred Center Frequency Cycles/Second	A	B	C
31.5	88	83	86
63	79	71	75
125	69	59	64
250	62	52	57
500	58	47	53
1,000	54	44	49
2,000	51	40	46
4,000	49	37	44
8,000	47	35	41

Measurement of the sound levels may also be made using an A-weighted scale sound level meter. The levels in table 2 of this section shall be considered to have been met if the A-weighted levels are not greater than the following:

TABLE 3

~~MAXIMUM PERMITTED SOUND-
LEVELS, dB(A), FOR SCREENING PURPOSES~~

Required Level	Sound Level, dB(A)
A	60
B	50
C	55

~~TABLE 4
REFERENCE~~

Manufacturing District	Adjacent Lot Lines	Commercial District Boundary	Residential District Boundary
M-1	A	—	B
M-2	—	A	B

Particle velocity as specified in table 5 of this section may be measured directly, or if computed on the basis of displacement and frequency, measurements shall be computed from the formula 6.28 FD , where F is the frequency of the vibration in cycles per second and D is the single amplitude displacement of the vibration in inches.

TABLE 15
MAXIMUM PERMISSIBLE PARTICLE
VELOCITY OF THE GROUND VIBRATION

Applicable Limit	Particle Velocity	
	Steady State Inches/Second	Impact Inches/Second
A	0.10	0.20
B	0.02	0.24

The maximum particle velocity shall be the vector sum of three (3) simultaneous mutually perpendicular components recorded.

For the purpose of this title, steady state vibrations are vibrations which are continuous, or vibrations in discrete impulses more frequent than one hundred (100) per minute. Discrete impulses which do not exceed one hundred (100) per minute shall be considered impact vibrations. (Ord. 2014-73, 11-25-2014)

April 21, 2016

Krysti J. Barksdale-Noble AICP
Community Development Director
(630) 553-8573
knoble@yorkville.il.us

United City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

Subject: Recommended revisions to noise ordinance

Dear Ms. Barksdale-Noble:

I have completed my review of the existing City noise ordinance (Title 4, Chapter 4). As we discussed previously, my professional opinion is that the existing ordinance is poorly written. I have, therefore rewritten the ordinance rather than try to markup the existing text. Prior to rewriting the ordinance, I obtained and reviewed the ordinance for the nearby Cities of Joliet, Aurora, and Naperville. I also reviewed the ordinance for the City of Grand Rapids, Michigan, and considered the City of Chicago ordinance. Much of the general approach in the rewritten ordinance emulates the ordinances for the Village of Lakemoor and City of McHenry.

My goals in rewriting the ordinance were to (1) create an ordinance that is as simple or more simple than the existing Yorkville noise ordinance, (2) accounts for the character of the noise, (3) is very specific in describing how the noise is to be measured, and (4) places the limits on the amount of noise transmitted to receiving properties rather than on the amount of noise produced on the source property.

Maintaining the brevity of the ordinance, means that there is much not included that is included in some other noise ordinances. One such item is a noise limit(s) specifically for vehicles. There are also no limits on the noise level or duration produced specifically by animals (such as a limit on how long dogs are allowed to bark).

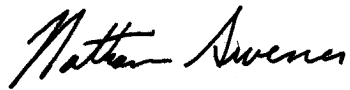
I added only one exemption to the exemptions in the existing noise ordinance. This additional exemption is for construction activities. There are many exemptions included in other communities' ordinances which you may wish to consider. Accompanying this cover letter and the rewritten ordinance, are all of the noise ordinances mentioned above. Also included is the "Model Community Noise Control Ordinance" from the U.S. Environmental Protection Agency. You may wish to review this model ordinance to determine if it contains anything that you believe would be beneficial to include in the Yorkville ordinance.

Finally, I must point out that I am acoustical engineer, not an attorney. What I have included in the ordinance is what I believe to be appropriate from that perspective. I leave it to the City attorney or other counsel to address any legal issues associated with the ordinance.

Sincerely,

Soundscape Engineering LLC

Per:

A handwritten signature in black ink, appearing to read "Nathan Sevens". The script is fluid and cursive.

Nathan Sevens, Principal Consultant
PE, LEED AP, INCE Bd. Cert.

nsevens@SoundscapeEngineering.com
(312) 436-0032 x100

Chapter 4

NOISE ORDINANCE

4-4-1: DEFINITIONS:

- A. All terminology used in this chapter shall be in conformance with applicable publications of the American National Standard Institute (ANSI) or its successor body.

4-4-2: MEASUREMENT EQUIPMENT:

- A. Sound level meter meeting Class 1 or Class 2 requirements as defined by IEC 61672 or ANSI S1.4 and which is specified by the meter manufacturer to have a Measurement Level Range that encompasses the noise level to be measured. When the sound level measurement is to be made indoors, a Class 1 meter may be required to check for conformance with the sound level limits because most Class 2 meters do not have a Measurement Level Range that extends low enough.

4-4-3: SOUND LEVEL METER SETTINGS:

- A. Sound level meter shall be set to A-weighting (frequency weighting).
- B. Sound level meter shall be set to Slow meter response (1-second exponential time averaging).
- C. Measured sound level shall be the maximum (L_{max}) sound level, attributable to the source under investigation, which is measured during the measurement period.

4-4-4: MEASUREMENT LOCATION:

- A. Measurement may be made anywhere within receiving property, but must be made at least 3 feet from any building façade or other surface.
- B. Measurement may be made at any height above grade, at or near locations that are regularly occupied by people. For example, a measurement may be made at a position 3 feet to the exterior of a 2nd floor window since people can be expected to occupy the 2nd floor room.
- C. Measurement may be made inside a structure on the receiving property, in any space that is classified as inhabitable and constructed with necessary City construction permits.
- D. If measurement is to be made within a building on the receiving property, then measurement shall be made with windows, doors, and other openings to the exterior

closed and measurement shall be made at least 3 feet from floor, ceiling, and all other partitions or surfaces.

- E. If sound source is in Public Park or Other Public Open Space and sound level measurement is to be in Public Park or Other Public Open Space then measurement location shall be no closer than 50 feet from the source.

4-4-5: SOUND LEVELS:

- A. No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the sound level limits in Table 1, as adjusted according to Table 2.

Table 1: Sound Level Limits

Time of Day	Receiving Property Land Use		
	Residential	Commercial	Public Parks and other Public Open Spaces
Daytime (7:00 AM – 10:00 PM)	60 dBA	67 dBA	67 dBA
Nighttime (10:00 PM – 7:00 AM)	50 dBA	67 dBA	67 dBA

Table 2: Adjustments to Sound Level Limits

	Adjustment to Sound Level Limit
1. DURATION of noise in any one-hour period (use one adjustment only): a. 12 minutes and longer b. Under 12 minutes but over 3 minutes c. Under 3 minutes but over ½ minute d. Under ½ minute	Add 0 dBA Add 5 dBA Add 10 dBA Add 15 dBA
2. Noise is IMPULSIVE in character (e.g. hammering, firearms discharge, explosions)	Subtract 5 dBA
3. Content of noise includes electronically amplified, reinforced, or reproduced voice or music	Subtract 5 dBA
4. Noise is TONAL in character (e.g. hum, screech)	Subtract 10 dBA
5. If measured within a building on the receiving property per Paragraph 4-4-4.C and 4-4-4.D	Subtract 20 dBA

- B. All Table 2 adjustments which are relevant to the noise shall be applied. For example, if the noise source is tonal and has a duration of less than 12 minutes in any one hour period then the Sound Level Limit shall be increased by 5 dBA for the Duration adjustment and decreased by 10 dBA for the Tonal adjustment.

4-4-6: EXEMPTIONS:

- A. Emergency Operations: Emergency short term operations which are necessary to protect the health and welfare of the citizens, such as, emergency utility and street repair, fallen tree removal or emergency fuel oil delivery shall be exempt, provided that reasonable steps shall be taken by those in charge of such operations to minimize noise emanating from the same.
- B. Noises Required By Law: The provisions of this section shall not apply to any noise required specifically by law for the protection or safety of people or property.
- C. Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.
- D. Community Events: The term "community events" shall include such things as parades, festivals, drum corps shows, sports events, Fourth Of July celebrations, sanctioned or sponsored in whole or in part by local governments, schools or charitable or service organizations. (Ord. 2001-10, 3-22-2001)
- E. Noise generated by construction or maintenance activities, performed for the improvement or maintenance of real property, from 7:00 AM to 7:00 PM.

4-4-7: ENFORCEMENT:

- A.

Chapter 4 NOISE ORDINANCE

4-4-1: DEFINITIONS:

4-4-2: WEIGHTED SOUND LEVEL:

4-4-3: HOURS AND LEVELS:

4-4-4: EXEMPTIONS:

4-4-1: DEFINITIONS:

All terminology used in this chapter shall be in conformance with applicable publications of the American National Standard Institute (ANSI) or its successor body. (Ord. 2001-10, 3-22-2001)

4-4-2: WEIGHTED SOUND LEVEL:

Sound pressure decibel levels shall be measured on a sound level meter using the "A" weighing network and designated as dB(A) or dBA. The following table provides examples of sound pressure decibel levels:

Sound Environment	Typical Sound Pressure Decibel Levels Generated
Threshold of hearing	0 dBA
Broadcast studio	20 dBA
Library	30 dBA
Quiet office	40 dBA
Light auto traffic (100 feet)	50 dBA
Air conditioning unit (20 feet)	60 dBA
Freeway traffic	70 dBA
Vacuum cleaner (5 feet)	80 dBA
Passing car at 10 feet	90 dBA
Passing bus or truck at 10 feet	100 dBA
Passing subway train at 10 feet	110 dBA
Nightclub with band playing	120 dBA
Jet takeoff (200 feet)	130 dBA

United City of Yorkville, IL

Air raid siren

140 dBA

(Ord. 2014-80, 12-9-2014)

4-4-3: HOURS AND LEVELS:

A. Day Hours: No person shall cause or allow the emission of sound decibel levels during daytime hours from seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M. from any noise source which exceeds the following levels:

Land Use	Outdoor Space Within The Property Boundaries Of Property Where The Sound Originates From - Max. Decibel Level (dB)	Outdoor Space Not Closer Than The Property Line Of The Receiving Residential Property - Max. Decibel Level (dB)	Indoor Space In A Structure - Max. Decibel Level (dB)
Residential - single-family and multi-family, detached and attached	70	65	65
Office buildings, businesses, commercial and professional	70	70	70
Sports arena, outdoor spectator sports	110	100	100
Theaters, auditoriums, concert halls, outdoor music venues, amphitheaters	110	90	100
Parks, neighborhood	70	70	-

United City of Yorkville, IL

playgrounds, ball fields			
Golf courses, water recreations, gun/shooting ranges	75	70	70
Industrial, manufacturing, utilities, agriculture	80	75	80

B. Night Hours: No person shall cause or allow the emission of sound decibel levels during nighttime hours (10:01 P.M. to 6:59 A.M.) from any noise source to any receiving residential land which exceeds fifty five (55) dBA when measured at any point within such receiving residential land provided that the point of measurement shall not be closer than on the property line of the complainant. (Ord. 2014-80, 12-9-2014)

4-4-4: EXEMPTIONS:

A. Emergency Operations: Emergency short term operations which are necessary to protect the health and welfare of the citizens, such as, emergency utility and street repair, fallen tree removal or emergency fuel oil delivery shall be exempt, provided that reasonable steps shall be taken by those in charge of such operations to minimize noise emanating from the same.

B. Noises Required By Law: The provisions of this section shall not apply to any noise required specifically by law for the protection or safety of people or property.

C. Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

D. Community Events: The term "community events" shall include such things as parades, festivals, drum corps shows, sports events, Fourth Of July celebrations, sanctioned or sponsored in whole or in part by local governments, schools or charitable or service organizations. (Ord. 2001-10, 3-22-2001)

Village of Lakemoor Zoning Ordinance

SECTION #12: PERFORMANCE STANDARDS

A. Purpose

The requirements herein are intended to provide a basis for determining the compatibility of land uses that may produce measurable adverse environmental effects on their surroundings.

B. Applicability

The Performance Standards herein shall apply as follows:

Performance Standard For:

1. Heavy Industrial Uses
2. Other Uses
3. (Unspecified)

Applies To:

Conditional Uses in I-1
Conditional Uses in All
Districts Except I-1
Permitted Uses in All Districts
Permitted Uses in All Districts
Conditional Uses in All Districts

C. Noise

1. Maximum Sound Levels

No operation or activity shall cause or create noise above the sound pressure levels in Tables 22 and 23 at the locations specified therein.

2. Measurement

A sound-level meter and associated octave band analyzer shall be employed to measure the intensity and frequency of sound. The flat network slow meter response of the sound level meter shall be used.

3. Exemptions

The following shall be exempt from noise performance standards:

- a. Noises of construction or maintenance activities from 7AM to 7PM.
- b. Noises of safety signals, warning devices, and emergency relief valves.
- c. Transient noises of moving sources such as transportation vehicles.
- d. Noises associated with snow plowing, street sweeping, and mosquito abatement.
- e. Church bells, chimes, and carillons.
- f. Other noises not under the direct control of the property user.

Village of Lakemoor Zoning Ordinance

Table 22: Permitted Sound Levels

Preferred Center Frequency in Hertz	Maximum Permitted Sound Pressure Level in Decibels at Boundaries of Nearest Residentially Zoned Lot
31.5	75
63	74
125	69
250	64
500	58
1,000	52
2,000	47
4,000	43
8,000	40

Above figures for octave band analyzers calibrated with Preferred Frequencies (American Standards Association S1.6-1960, Preferred Frequencies for Acoustical Measurement)
Sound Levels above shall be modified where applicable by the adjustments in Table 23.

Table 23: Adjustments to Permitted Sound Levels

	Adjustment in Decibels
1. DURATION of noise in any one-hour period (use one adjustment only): a. Under 12 minutes b. Under 3 minutes c. Under ½ minute	Add 5 dB Add 10dB Add 15dB
2. At boundaries of nearest Office or COMMERCIAL zoned lot	Add 5dB
3. Noise is IMPULSIVE in character (e.g. hammering)	Subtract 5dB
4. Noise is PERIODIC in character (e.g. hum, screech)	Subtract 5dB
5. Noise may be heard between hours of 7:00PM and 7:00AM	Subtract 5dB

D. Vibration

1. Maximum Vibration

Ground-transmitted vibration shall not exceed the maximum permitted Particle Velocities in Table 24 at the locations specified therein.

2. Measurement

A seismograph or other three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions shall be used to measure vibration.

Particle Velocity may be measured directly or computed by the following formula:

$$PV = 6.28 \times F \times D$$

Village of Lakemoor Zoning Ordinance

- PV: Particle Velocity in inches per second
F: Vibration frequency in cycles per second
D: Single amplitude displacement of the vibration in inches

The maximum Particle Velocity shall be the maximum vector sum of the three mutually perpendicular components recorded simultaneously.

Table 24: Maximum Ground Transmitted Vibration

Use	Maximum Permitted Particle Velocity*	
	At Adjacent Lot Line	At Nearest Residentially Zoned Lot Boundary **
Heavy Industrial	0.2	0.02
Other	0.1	0.02

*Where vibration is produced as discrete impulses (impact vibrations) not exceeding 100 per minute, maximum permitted velocities may be doubled.

**Between 7:00 AM and 7:00PM, maximum permitted velocity at residentially zoned lot boundaries shall be reduced 50 percent.

E. Smoke

1. Maximum Emissions

Emissions of smoke shall not exceed the maximum permitted smoke units as defined herein and Ringelmann Number ratings in Table 25.

Table 25: Maximum Smoke Emissions

	During 1 Hour Per 24-Hour Day*		All Other Times	
	Heavy Industrial	Other	Heavy Industrial	Other
Maximum Permitted Smoke Units *** Per Hour Per Stack	32	16	16	8
Highest Ringelmann Number Permitted	3**	2**	2	1

*When blowing soot or cleaning fires

**For a maximum duration of 3 minutes

***The number of Smoke Units is the product of the Ringelmann Number and the number of minutes the smoke is visible.

XII. PERFORMANCE STANDARDS**A. PURPOSE**

The requirements herein are intended to provide a basis for determining the compatibility of land uses that may produce measurable adverse environmental effects on their surroundings.

B. APPLICABILITY

The Performance Standards herein shall apply as follows:

<u>Performance Standard For</u>	<u>Applies To</u>
1. Heavy Industrial Uses	Conditional Uses in I-1
2. Other Uses	Conditional Uses in All Districts Except I-1 Permitted Uses in All Districts
3. (Unspecified)	Permitted Uses in All Districts Conditional Uses in All Districts

C. NOISE**1. MAXIMUM SOUND LEVELS**

No operation or activity shall cause or create noise above the sound pressure levels in Tables 22 and 23 at the locations specified therein.

2. MEASUREMENT

A sound-level meter and associated octave band analyzer shall be employed to measure the intensity and frequency of sound. The flat network slow meter response of the sound level meter shall be used.

3. EXEMPTIONS

The following shall be exempt from noise performance standards:

- a. Noises of construction or maintenance activities from 7 AM to 7 PM.
- b. Noises of safety signals, warning devices, and emergency pressure relief valves.
- c. Transient noises of moving sources such as transportation vehicles.
- d. Noises associated with snow plowing, street sweeping, and mosquito abatement.
- e. Church bells, chimes, and carillons.
- f. Other noises not under the direct control of the property user.
- g. Use of generators during periods of power loss and/or outage on residentially-zoned property only. (MC-12-1044)*

*Cross reference – Municipal Code Chapter 14 Offenses – Miscellaneous Article I In General, Section Noise, Sec. 14-8.

Table 22: Permitted Sound Levels

<u>Preferred Center Frequency in Hertz</u>	<u>Maximum Permitted Sound Pressure Level in Decibels at Boundaries of Nearest Residentially Zoned Lot</u>
31.5	75
63	74
125	69
250	64
500	58
1,000	52
2,000	47
4,000	43
8,000	40

Above figures for octave band analyzers calibrated with Preferred Frequencies (American Standards Association S1.6-1960, Preferred Frequencies for Acoustical Measurement)

Sound levels above shall be modified where applicable by the adjustments in Table 23.

Table 23: Adjustments to Permitted Sound Levels

	<u>Adjustment in Decibels</u>
1. DURATION of noise in any one-hour period (use one adjustment only):	
a. under 12 minutes	Add 5 dB
b. under 3 minutes	Add 10 dB
c. under 1/2 minute	Add 15 dB
2. At boundaries of nearest Office or COMMERCIAL zoned lot	Add 5 dB
3. Noise is IMPULSIVE in character (e.g., hammering)	Subtract 5 dB
4. Noise is PERIODIC in character (e.g., hum, screech)	Subtract 5 dB
5. Noise may be heard between hours of 7:00 PM and 7:00 AM	Subtract 5 dB

D. VIBRATION**1. MAXIMUM VIBRATION**

Ground-transmitted vibration shall not exceed the maximum permitted Particle Velocities in Table 24 at the locations specified therein.

2. MEASUREMENT

A seismograph or other three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions shall be used to measure vibration.

Particle Velocity may be measured directly or computed by the following formula:

$$PV = 6.28 \times F \times D$$

PV: Particle Velocity in inches per second

F: Vibration frequency in cycles per second

D: Single amplitude displacement of the vibration in inches

The maximum Particle Velocity shall be the maximum vector sum of the three mutually perpendicular components recorded simultaneously.

Table 24: Maximum Ground Transmitted Vibration

Maximum Permitted Particle Velocity *

<u>Use</u>	<u>At Adjacent Lot Line</u>	<u>At Nearest Residentially Zoned Lot Boundary **</u>
Heavy Industrial	0.2	0.02
Other	0.1	0.02

* Where vibration is produced as discrete impulses (impact vibrations) not exceeding 100 per minute, maximum permitted velocities may be doubled.

** Between 7:00 AM and 7:00 PM, maximum permitted velocity at residentially zoned lot boundaries shall be reduced 50 percent.

The Environmental Protection Agency's Model Community Noise Control Ordinance

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ARTICLE I Short Title

This ordinance may be cited as the "Noise Control Ordinance of the (City/County) of _____"

ARTICLE II Declarations of Findings and Policy & Scope

- 2.1 Declaration of Findings and Policy**
 WHEREAS excessive sound and vibration are a serious hazard to the public health and welfare, safety, and the quality of life: and WHEREAS a substantial body of science and technology exists by which excessive sound and vibration may be substantially abated: and, WHEREAS the people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or welfare or safely or degrade the quality of life: and NOW, THEREFORE, it is the policy of the (City/County) of _____ to prevent excessive sound and vibration which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.
- 2.2 Scope**
 This ordinance shall apply to the control of all sound and vibration originating within the limits of the (City/County) of _____

ARTICLE III Definitions

- 3.1 Terminology**
 All terminology used in this ordinance not defined below, shall be in conformance with applicable publications of the American National Standards institute (ANSI) or its successor body.
- 3.2.1 "A-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.
- 3.2.2 "Commercial Area" Means**
 [(As defined in the community (comprehensive plan)/ (zoning ordinance)].
- 3.2.3 "Construction" Means**
 Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.
- 3.2.4 "Day-Night Average Sound Level (L_{dn})" Means**
 The 24-hour energy average of the A-weighted sound pressure level, with the levels during the period 10:00 p.m. to 7:00 a.m. the following day increased by 10 dBA before averaging.
- 3.2.5 "Decibel (dB)" Means**
 A unit for measuring the volume of a sound, equal to 20 times (the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
- 3.2.6 "Demolition" Means**
 Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.
- 3.2.7 "Emergency" Means**
 Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- 3.2.8 "Emergency Work" Means**
 Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- 3.2.9 " Noise Control Officer" Means**
 The municipal agency or department having lead responsibility for this ordinance. (If no such agency is designated, the term shall mean the municipal official having lead responsibility for this ordinance.)
- 3.2.10 "Equivalent A-Weighted Sound Level (L_{eq})" Means**
 The constant sound level that in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. [For the purposes of this ordinance, a time period of 24

hours shall be used, unless otherwise specified.]

3.2.11 "Gross Vehicle Weight Rating (GVWR) Means

The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle shall be used.

3.2.12 "Impulsive Sound" Means

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

3.2.13 "Industrial Area" Means

[(As defined in the community (comprehensive plan)/ (zoning ordinance)].

3.2.14 "Motor Carrier Vehicle Engaged in Interstate Commerce" Means

Any **** for which regulations **** pursuant to Section 18 of the Federal Noise Control Act of 1972(P.L. 72-***), as amended, pertaining to motor carriers engaged in interstate commerce.

3.2.15 "Motor Vehicle" Means

As defined in the motor vehicle code of this state. [Any vehicle which is propelled or drawn on land by a motor, such is, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, amphibious craft on land, **** **, or racing vehicles, but **** ** motorcycles.]

3.2.16 "Motorboat" Means

Any vessel which operates on water and **** is propelled by a motor, including but not limited to, boats, barges, amphibious craft, water ski **** devices and hover craft.

3.2.17 "Motorcycle" Means

As defined in the motor vehicle code of this state. [An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including but not limited to, motor scooters and mini-bikes.]

3.2.18 "Muffler or Sound Dissipative Device" Means

A device for abating sound of escaping gases of an internal combustion engine.

3.2.19 "Noise" Means

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

3.2.20 "Noise Disturbance" Means

Any sound which (a) endangers or **** the safety or health of humans or animals; or (b) annoys or disturbs a reasonable person of normal sensitivities; or (c) endangers or injures personal or real property.

3.2.21 "Noise Sensitive Zone" Means

Any area designated pursuant to Section **** of this ordinance for the purpose of ensuring exceptional quiet.

3.2.22 "Person" Means

Any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a State or any political subdivision of a State.

3.2.23 "Powered Model Vehicle" Means

Any self-propelled airborne, waterborne, or land borne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to any model airplane, boat, car, or rocket.

3.2.24 "Public Right-of-Way" Means

Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

3.2.25 "Public Space" Means

Any real property or structures thereon which are owned or controlled by a governmental entity.

3.2.26 "Pure Tone" Means

Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this ordinance, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

3.2.27 "Real Property Boundary" Means

An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

3.2.28 "Residential Area" Means

[(As defined in the community (comprehensive plan)/ (zoning ordinance)].

3.2.29 "RMS Sound Pressure" Means

The square root of the time averaged square of the sound pressure, denoted P_{rms}

3.2.30 "Sound" Means

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

3.2.31 "Sound Level" Means

The weighted sound pressure level obtained by the use of a sound level meter and frequency-weighting

network, such as A or C, as specified in the American National Standards Institute specifications for sound level meters (ANSI S1.4-1971), or the latest approved revision thereof. If the frequency weighting employed is not indicated, the A-weighting shall apply.

3.2.32 "Sound Level Meter" Means

An instrument which includes a microphone, amplifier, RMS detector, integrator or time averaging device, output meter, and weighting networks used to measure sound pressure levels.

3.2.33 "Sound Pressure" Means

The instantaneous difference between the actual pressure and the average or barometric pressure of a given point in space, as produced by sound energy.

3.2.34 "Sound Pressure Level" Means

20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20x10 μ N/m). The sound pressure level is denoted L_p, or SPL and is expressed in decibels.

3.2.35 "Vibration" Means

An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

3.2.36 "Weekday" Means

Any day Monday through Friday which is not a legal holiday.

ARTICLE IV Powers and Duties of the Noise Control Officer (NCO)

4.1 Lead (Agency/Official)

The noise control program established by this ordinance shall be administered by (title of municipal agency or lead official).

4.2 Powers of the Noise Control Officer (NCO)

In order to implement and enforce this ordinance and for the general purpose of sound and vibration abatement and control, the NCO shall have, in addition to any other authority vested in it, the power to:

4.2.1 Studies

Conduct, or cause to be conducted, research, monitoring, and other studies related to sound and vibration.

4.2.2 Education

(a) Conduct programs of public education regarding:
(1) the causes, effects and general methods of abatement and control of noise and vibration; and,
(2) the actions prohibited by this ordinance and the procedures for reporting violations; and
(b) encourage the participation of public interest groups in related public information efforts.

4.2.3 Coordination and Cooperation

(a) Coordinate the noise and vibration control activities of all municipal departments;
(b) Cooperate to the extent practicable with all appropriate State and Federal agencies;
(c) Cooperate or combine to the extent practicable with appropriate county and municipal agencies; and,
(d) Enter into contracts [with the approval of the (appropriate authority)] for the provision of technical and enforcement services.

4.2.4 Review of Actions of Other Departments

Request any other department or agency responsible for any proposed or final standard, regulation or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this ordinance.

4.2.5 Review of Public and Private Projects

Review public and private projects, subject to mandatory review or approval by other departments, for compliance with this ordinance, if such projects are likely to cause sound or vibration in violation of this ordinance.

4.2.6 Inspections

(a) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records 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 showing of probable cause to believe that a violation of this ordinance may exist. Such inspection may include administration of any necessary tests.
(b) Stop any motor vehicle, motorcycle, or motorboat operated on a public right-of-way, public space, or public waterway reasonably suspected of violating any provision of this ordinance, and issue a notice of violation or abatement order which may require the motor vehicle, motorcycle or motorboat to be inspected or tested as the Noise Control Officer may reasonably require.]

4.2.7 Records

Require the owner or operator of any commercial or industrial activity to establish and maintain records and make such reports as the NCO may reasonably prescribe.

4.2.8 Measurements by the Owner or Operator

Require the owner or operator of any commercial or industrial activity to measure the sound level of or the vibration from any source in accordance with the [published] methods and procedures and at such locations and times as the NCO may reasonably prescribe and to furnish reports of the results of such measurements to the NCO. The NCO may require the measurements to be conducted in the presence of its enforcement officials.

4.2.9 Product Performance Standard Recommendations

(a) Develop and recommend for promulgation (to the appropriate authority) provisions regulating the use and operation of any product, including the specification of maximum allowable sound emission levels of such product.

((b) Develop and recommend for promulgation (to the appropriate authority) provisions prohibiting the sale of products which do not meet specified sound emission levels, where the sound level of the product is not regulated by the United States Environmental Protection Agency under Section 6 of the Noise Control Act of 1972.]

4.2.10 Noise Sensitive Zone Recommendations

Prepare recommendations, to be approved by (the appropriate authority), for the designation of noise sensitive zones which contain noise sensitive activities. Existing quiet zones shall be considered noise sensitive zones until otherwise designated. Noise sensitive activities include, but are not limited to, operations of schools, libraries open to the public, churches, hospitals, and nursing homes.

4.3 Duties of Noise Control Officer (NCO)

In order to implement and enforce this ordinance effectively, the NCO shall within a reasonable time after the effective date of the ordinance:

4.3.1 Standards, Testing Methods, and Procedures

Develop, [recommend to the appropriate authority.] and promulgate standards, testing methods and procedures.

4.3.2 Investigate and Pursue Violations

In consonance with Section 4.2.6, Article XI, and other provisions of this ordinance, investigate and pursue possible violations of this ordinance.

4.3.3 Delegation of Authority

Delegate functions, where appropriate under this ordinance, to personnel within the NCO and to other agencies or departments, (subject to approval of).

4.3.4 Truck Routes and Transportation Planning

(a) Study the existing transportation systems, such as truck routes within the community; determine areas with sensitivity to sound and vibration caused by transportation; recommend changes or modifications to transportation systems to minimize the sound and vibration impact on residential areas and noise sensitive zones

(b) Assist in or review the total transportation planning of the community, including planning for new roads and highways, bus routes, airports, and other systems for public transportation, to ensure that the impact of sound and vibration receives adequate consideration.

4.3.5 Capital Improvement Guidelines

Establish noise assessment guidelines for the evaluation of proposed improvements for the capital improvements budget and program pursuant to Section 5.5. These guidelines shall assist in the

determination of the relative priority of each improvement in terms of noise impact.

4.3.6 State and Federal Laws and Regulations

(a) Prepare and publish [with the approval of] a list of those products manufactured to meet specified noise emission limits under Federal, State, or community law for which "tampering" enforcement will be conducted; and.

(b) Make recommendations for modifications or amendments to this ordinance to ensure consistency with all State and Federal law; and regulations.

4.3.7 Planning to Achieve Long Term Noise Goals

[Develop a generalized sound level map of the (city/county), a long term plan for achieving quiet in the (city/county), and [with the approval of] integrate this plan into the planning process of the (city/county).]

4.3.8 Administer Grants, Funds and Gifts

Administer noise program grants and other funds and gifts from public and private sources, including the State and Federal governments.

4.3.9 Periodic Report

[Evaluate and report, every year(s) following the effective date of this ordinance, on the effectiveness of the (city/county) noise control program and make recommendations for any legislative or budgetary changes necessary to improve the program. This report shall be made to the (Noise Control Advisory Board)/ (appropriate authority) which may amend it after consultation with the NCO, and then submit it to the (appropriate authority), for approval.]

ARTICLE V Duties and Responsibilities of Other Departments

5.1 Departmental Actions

All departments and agencies shall, to the fullest extent consistent with other law, carry out their programs in such a manner as to further the policy of this ordinance.

5.2 Departmental Cooperation

All departments and agencies shall cooperate with the NCO to the fullest extent in enforcing this ordinance.

5.3 Departmental Compliance with Other Laws

All departments and agencies shall comply with Federal and State laws and regulations and the provisions and intent of this ordinance respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.

5.4 Project Approval

All departments whose duty it is to review and approve new projects or changes to existing projects that result, or may result, in the production of sound or vibration shall consult with the NCO prior to any such approval.

5.5 Contracts

Any written contract, agreement, purchase order, or other instrument whereby the (city/county) a committed to the expenditure of dollars or more in return for goods or services shall contain provisions requiring compliance with this ordinance.

5.6 Low Noise Emission Products

Any product which has been certified by the Administrator of the United States Environmental Protection Agency pursuant to Section 15 of the Noise Control Act as a low noise emission product and which he determines is suitable for use as a substitute, shall be procured by the city/county and used in preference to any other product, provided that such certified product is reasonably available and has a procurement cost which is not more than (125) percent of the least expensive type of product for which it is certified as a substitute.

5.7 Capital Improvement Program

All departments responsible for a capital improvements budget and program shall prepare an analysis of the noise impact of any proposed improvements in accordance with noise assessment guidelines established by the NCO pursuant to Section 4.3.5. Proposed capital improvements include land acquisition, building construction, highway improvements, and utilities and fixed equipment installation.

ARTICLE VI Prohibited Acts

6.1 Noise Disturbances Prohibited

No person shall unreasonably make, continue, or cause to be made, or continued, any noise disturbance. Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this Section.

6.2 Specific Prohibitions

The following acts, and the causing thereof, are declared to be in violation of this ordinance:

6.2.1 Radios, Television Sets, Musical Instruments and, Similar Devices

Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:

- (a) Between the hours ofp.m. and a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone. [Except for activities open to the public and for which a permit has been issued by (appropriate authority) according to criteria set forth in];
- (b) In such a manner as to create a noise disturbance at 50 feet (15 meters) from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public

waters, or;

- (c) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;

(d) This section shall not apply to non-commercial spoken language covered under Section 6.2.2.

6.2.2 Loudspeakers/Public Address Systems

(a) Using or operating for any non-commercial purpose any loudspeaker public address system, or similar device between the hours of 10:00 p.m. and 8:00 a.m. the following day, such that the sound there from creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(b) Using or operating for any commercial purpose any loudspeaker, public address system, or similar device ***** such that the sound there from creates a noise disturbance across a real property boundary or within a noise sensitive zone: or (2) between the hours of p.m. and a.m. the following day on a public right-of-way or public space.

6.2.3 Street Sales

Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the ***** county (except by permit issued by (appropriate authority) according to criteria set forth in and/or except between the hours of ... a.m. and p.m.].

6.2.4 Animals and Birds

Owning possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, ***** squawks, or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone. [This provision shall not apply to public zoos.]

6.2.5 Loading and Unloading

Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of p.m. and a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

6.2.6 Construction

Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:

- (a) Between the hours of p.m. and a.m. the following day on weekdays or at any time on (Sundays/weekends) or holidays, such that the sound there from creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities or by special variance issued pursuant to Section 7.2;
- (b) At any other time such that the sound level at or across a real property boundary exceeds an L_{eq} of dBA for the daily period of operation.
- (c) This section shall not apply to the use of domestic power tools subject to Section 6.2.17.

6.2.7 Vehicle or Motorboat Repairs and Testing

Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

6.2.8 Airport and Aircraft Operations

(a) The NCO shall consult with the airport proprietor to recommend changes in airport operations to minimize any noise disturbance which the airport owner may have authority to control in its capacity as proprietor.

(b) Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft which are in all respects, conducted in accordance with, or pursuant to applicable Federal Laws or regulations.

6.2.9 Places of Public Entertainment

Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, slating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."

6.2.10 Explosives, Firearms, and Similar Devices

The use or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way, without first obtaining a special variance issued pursuant to Section 7.2. [Such permit need not be obtained for licensed game-hunting activities on property where such activities are authorized.]

6.2.11 Powered Model Vehicles

Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of p.m. and a.m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in Table 1 of Section 8.1 and shall be measured at a distance of feet (meters) from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by Section 8.1 and Section 6.2.16, respectively.

6.2.12 Vibration

Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond

the property of the source if on private property or at feet (meters) from the source if on a public space or public right-of-way. For the purposes of this section, "vibration perception threshold" means the minimum ground or structure-borne vibratory 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 usual observation of moving objects.

6.2.13 Stationary Non-Emergency Signaling Devices

(a) Sounding or permitting the 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 minutes in any hourly period.)

[(b) Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision.]

[(c) Sound sources covered by this provision and not exempted under subsection (b) shall be exempted by (appropriate authority) using criteria set forth in Section 7.2.]

6.2.14 Emergency Signaling Devices

(a) The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in Subsection (b).

(b)(i) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before a.m. or after p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed seconds.

(b)(ii) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before a.m. or after p.m. The time limit specified in subsection (i) shall not apply to such complete system testing.

[(c) Sounding or permitting the sounding of any exterior burglar [or fire] alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within minutes of activation. [This action shall not be interpreted to apply to alarms.]]

6.2.15 Motorboats

Operating or permitting the operation of any motorboat in any lake, river, stream, or other waterway in such manner as to exceed a sound level of dBA at 50 feet (15 meters) or the nearest shoreline, whichever distance is less.

6.2.16 Noise Sensitive Zones

(a) Creating or causing the creation of any sound within any noise sensitive zone designated pursuant to Section 4.2.10, so as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the

presence of the zone; or

(b) Creating or causing the creation of any sound within any noise sensitive zone, designated pursuant to Section 4.2.10, containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.

6.2.17 Domestic Power Tools

Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, snow blower, or similar device used outdoors in residential areas between the hours of p.m. and a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

6.2.18 Tampering

The following acts or the causing thereof are prohibited:

(a) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any noise control device or element of design or noise label of any product identified under Section 4.3.6. The NCO may, by regulation, list those acts which constitute violation of this provision.

[(b) The (intentional) moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the NCO, provided such device or the immediate area is clearly labeled, in accordance with NCO regulations, to warn of the potential illegality.]

(c) The use of a product, identified under Section 4.3.6, which has had a noise control device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

ARTICLE VII Exceptions and Variances

7.1 Emergency Exception

The provisions of this ordinance shall not apply to;

(a) the emission of sound for the purpose of alerting persons to the existence of an emergency, or
(b) the emission of sound in the performance of emergency work

7.2 Special Variances

(a) The (NCO)/(Hearing Board) shall have the authority, consistent with this section, to grant special variances which may be requested pursuant to Sections 6.2.6 (Construction) and 6.2.10 (Explosives, Firearms, and Similar Devices).

(b) Any person seeking a special variance pursuant to this section shall file an application with the (NCO)/(Hearing Board). 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 ordinance would constitute an unreasonable hardship on the applicant, on the community, or on other persons. [Notice of an application for a special

variance shall be published according to (Jurisdictional procedure).] Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the (NCO)/(Hearing Board) containing any information to support his claim. If the (NCO)/(Hearing Board) finds that a sufficient controversy exists regarding an application, a public hearing may be held.

(c) In determining whether to grant or deny the application, the (NCO)/(Hearing Board) shall balance the hardship to 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 special variances and persons contesting special variances may be required to submit any information the (NCO)/(Hearing Board) may reasonably require. In granting or denying an application, the (NCO)/(Hearing Board) shall place on public file a copy of the decision and the reasons for denying or granting the special variance.

(d) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a 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 those provisions of this ordinance regulating the source of sound or activity for which the special variance was granted, including enforcement actions.

(e) Application for extension of time limit specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under subsection (b).

(f) The (NCO)/(Hearing Board) may issue guidelines [approved by] defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

7.3 Variances for Time to Comply

(a) Within days following the effective date of this ordinance, the owner of any commercial or industrial source of sound may apply to the (NCO)/(Hearing Board) for a variance in time to comply with Section 6.2.12 (Vibration) or Article VIII. The (NCO)/(Hearing Board) shall have the authority, consistent with this section, to grant a variance, not to exceed days from the effective date of this ordinance.

(b) Any person seeking a variance in time to comply shall file an application with the (NCO)/(Hearing Board). The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this ordinance prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons. [Notice of an application for a variance in time to comply shall be published

according to (jurisdictional procedure).] Any individual who claims to be adversely affected by allowance of the variance in time to comply may file a statement with the (NCO)/(Hearing Board) containing any information to support their claim. If the (NCO)/(Hearing Board) finds that a sufficient controversy exists regarding an application, a public hearing may be held.

(c) In determining whether to grant or deny the application, the (NCO)/(Hearing Board) shall balance the hardship to the applicant, the community, and other persons of not granting the variance in time to comply, against the adverse impact on health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the variance. Applicants for variances in time to comply and persons contesting variances may be required to submit any information the (NCO)/(Hearing Board) may reasonably require. In granting or denying an application, the (NCO)/(Hearing Board) shall place on public file a copy of the decision and the reasons for denying or granting the variance in time to comply.

(d) Variances in time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The variance in time to comply shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this ordinance for which the variance was granted.

(e) Application for extension of time limits specified in variances in time to comply or for modification of other substantial conditions shall be treated like applications for initial variances under subsection (b), except that the (NCO)/(Hearing Board) must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

(f) The (NCO)/(Hearing Board) may issue guidelines [approved by] defining the procedures to be followed in applying for a variance in time to comply and the criteria to be considered in deciding whether to grant a variance.

7.4 Appeals

Appeals of an adverse decision of the (NCO)/(Hearing Board) shall be made to the (appropriate court of law). Review of the court shall be (de novo)/ (limited to whether the decision is supported by substantial evidence)/(as specified by the).

ARTICLE VIII Sound Levels by Receiving Land Use

8.1 Maximum Permissible Sound Levels

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

TABLE 1
SOUND LEVELS BY RECEIVING LAND USE

Receiving Land Use Category	Time	Sound Level Limit (dBA)
R-1, R-2, etc.	(A) a.m. to (B) p.m.	L_{eq}
(Residential, Public Space, Open Space, Agricultural or Institutional)	(A) a.m. to (B) p.m.	L_{eq}
C-1, C-2, etc. B-1, B-2, etc. (Commercial or Business)	At All Times	L_{eq}
M-1, M-2, etc. (Industrial)	At All Times	L_{eq}

8.2 Correction for Character of Sound

For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in Section 8.1 shall be reduced by dBA.

8.3 Exemptions

The provisions of this article shall not apply to:

- (a) Activities covered by the following Sections: 6.2.6 (Construction), 6.2.8 (Aircraft and Airport Operations), 6.2.10 (Explosives, Firearms, and Similar Devices), 6.2.13 (Stationary Non-emergency Signaling Devices), 6.2.14 (Emergency Signaling Devices), 6.2.15 (Motorboats), 6.2.17 (Domestic Power Tools), 9.1.3 (Refuse Collection Vehicles), 9.2 (Recreational Motorized Vehicles Operating Off Public Rights-of-way);
- (b) the un-amplified human voice;
- (c) interstate railway locomotives and cars; and
- [(d) (non-stationary farming equipment)/(all agricultural activities)]

ARTICLE IX Motor Vehicle Maximum Sound Levels

9.1 Motor Vehicles and Motorcycles on Public Rights-of-way

No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table 2.

TABLE 2
MOTOR VEHICLE AND
MOTORCYCLE SOUND LIMITS
(MEASURED AT 50 FEET OR 15 METERS)

Vehicle Class	Sound Level Limit in dBA		
	Speed Limit		
	35 mph or Less	Over 35 mph	Stationary Run-up
Motor Carrier Vehicle engaged in interstate commerce of GVWR or GCWR of 10,000 lbs or more	86	90	88
All other motor vehicles of GVWR or GCWR of 10,000 lbs or more	A	B	-
Any Motorcycle	C	D	-
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	E	F	-

9.1.1 Adequate Mufflers or Sound Dissipative Devices

- (a) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation:
 (b) 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;
 (c) The NCO may, by (guidelines) (regulations subject to approval by), list those acts which constitute violation of this section.

9.1.2 Motor Vehicle Horns and Signaling Devices

- The following acts and the causing thereof are declared to be in violation of this ordinance:
 (a) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except (as a warning of danger)/(as provided in the vehicle code).
 [(b) The sounding of any horn or other auditory signaling device which produces a sound level in excess of dBA at feet (meters).]

9.1.3 Refuse Collection Vehicles

- No person shall;
 (a) On or after (2 years) following the effective date of this ordinance, operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse and which creates, during the compacting cycle, a sound level in excess of dBA when measured at feet (meters) from any point on the vehicle: or
 (b) Operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse, between the hours of p.m. and

..... a.m. the following day in a residential area or noise sensitive zone: or
 (c) Collect refuse with a refuse collection vehicle between the hours of p.m. and a.m. the following day in a residential area or noise sensitive zone.

9.1.4 Standing Motor Vehicles

No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within 150 feet (46 meters) of a residential area or designated noise sensitive zone. between the hours of p.m. and a.m. the following day.

9.2 Recreation Motorized Vehicles Operating Off Public Rights-of-way

- (a) [Except as permitted in subsection (b) or (c),] no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted there from exceeds the limits set forth in Table 3 at a distance of 50 feet (15 meters) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats.
 [(b) Permits for new vehicle racing events may be obtained from the (appropriate authority) according to procedures and criteria set forth in]
 [(c) Special variances for may be obtained from. (appropriate authority) according to procedure and criteria set forth in]

TABLE 3
RECREATIONAL MOTORIZED
VEHICLE SOUND LIMITS
(MEASURED AT 50 FEET OR 15 METERS)

Vehicle Type	Sound Level, dBA
Snowmobile	A
Motorcycle	B
Any Other Vehicle	C

ARTICLE X Land Use

10.1 General Provisions

- (a) No owner of any land shall commence or cause to be commenced the construction of any structure covered by Sections 10.2. 10.3. 10.5 or 10.6 unless approved by the NCO as provided in this Article.
 (b) Any application for approval required by this Article shall be submitted in writing to the NCO,

with a copy to the (Building Department)/ (Appropriate Department), by the owner of the land on which the Structure is proposed to be constructed and shall contain the following information:

- (1) identification of the land on which the construction is proposed;
- (2) the section of this Article under which approval is requested;
- (3) information and data supporting the claim that the appropriate requirements will be met; and,
- (4) any other information which the NCO may reasonably require.

10.2 Construction Restrictions for Habitable and Institutional Structures

- (a) Except as provided in subsection (c), no new single family residential structure shall be approved for construction (excluding substantial repair or alteration) if the exterior day-night average sound level (L_{dn}) anywhere on the site of the proposed structure is projected to be in excess of dBA within years following the estimated completion date of the structure.
- (b) Except as provided in subsection (c), no new multiple-family residence, dormitory, mobile home park, transient lodging, school, hospital, nursing home or similar structure, or substantial modification of such existing structure, shall be approved for construction if the exterior day-night average sound level (L_{dn}) anywhere on the site of the proposed structure is projected to be in excess of dBA within years following the estimated completion date of the structure or modification.
- (c) Construction otherwise prohibited pursuant to subsections (a) or (b) shall be allowed if the exterior day-night average sound level (L_{dn}) on the site of the proposed structure is projected not to be in excess of dBA for years following construction, provided that there is incorporated into the design and construction of the structure such sound attenuation measures as are necessary to reduce the maximum interior day-night average sound level (L_{dn}) to dBA. Subsections (a) and (b) shall not apply to any site development plan or its equivalent on which four or fewer dwelling units are to be constructed.
- (d) Prior to issuance of any occupancy permit for any structure regulated pursuant to subsection (c), the owner of the structure shall submit for NCO review the report of an independent testing agency [approved by the NCO] certifying that sound attenuation measures have been properly incorporated into the design and construction of the structure and that the interior L_{dn} meets the criterion specified in subsection (c). Such report shall contain the results of simultaneous measurements of the exterior and interior day-night average sound levels for a representative sample of locations.
- (e) The NCO may conduct such inspections and measurements as are necessary to ensure the accuracy of any report submitted pursuant to subsection (d) and to ascertain compliance with this section. These may include on-site inspections by a certified independent testing agency during specified periods of construction.

10.3 Recreational Area Restrictions

- (a) Except as provided in subsections (b), (c), and (d) no land shall be designated or approved for construction or use as a public or private exterior recreational area, including, but not limited to, child playgrounds, outdoor theaters and amphitheaters, picnic grounds, tennis courts and swimming pools, if the exterior day-night average sound level (L_{dn}) anywhere on the site of the proposed recreational area is projected to be in the excess of dBA within years following the construction or designation of the site.
- (b) This section shall not apply to the designation or approval of any green belt or open space in any area in which the L_{dn} exceeds the level specified in subsection (a) regardless of whether such green belt or open space is open to public use, provided that no recreational improvement or facility is constructed thereon.
- (c) Designation or approval of exterior recreational areas otherwise prohibited under subsection (a) shall be allowed if the L_{dn} specified in that subsection can be achieved by appropriate means of sound attenuation, such as berms, barriers, or buildings, at the perimeter of or elsewhere on the site.
- (d) No new interior recreational facility, including, but not limited to, gymnasiums, ice or roller skating rinks, indoor swimming pools, and tennis courts, shall be approved for construction if the exterior day-night average sound level anywhere on the site is projected to be in excess of dBA within years following the estimated date of completion of the structure unless there is incorporated into the design and construction of the structure such sound attenuation measures as are necessary to reduce the maximum interior day-night average sound level (L_{dn}) to dBA.

10.4 Site Study Requirement

- (a) If the NCO has reason to believe that a full report is necessary to determine whether a proposed project is prohibited under Section 10.1 such report shall be made by the applicant prior to approval of any subdivision, zoning, or building permit application. (If a full report has not been made and the applicant believes the project was wrongfully prohibited under Section 10.1, he may file a full report within days of the NCO decision and request reconsideration by the NCO. A full report shall contain the following information and any other information which the NCO may reasonably require:
 - (1) the existing day-night average sound levels L_{dn} , including identification of the major sources of sound, for a representative sample of locations measured in accordance with guidelines published by the NCO;
 - (2) any projected or proposed new or expanded sources of sound which may affect exposure of the site during years following completion of the project and the projected future L_{dn} , at the site resulting from these new or expanded sources; and,
 - (3) where applicable, plans for sound attenuation measures on the site and/or of the structure proposed to be built and the amount of sound

attenuation anticipated as a result of these measures.
(b) In determining whether an applicant should be required to submit a full report pursuant to subsection (a), the EPO/NCO shall consider Circular 1390.2 (None Abatement and Control) and other publications of the U.S. Department of Housing and Urban Development.

10.5 Commercial and Industrial Construction

No new or substantially modified structure on land used or zoned as commercial or industrial shall be approved for construction unless the owner or developer of such land has demonstrated, in accordance with guidelines published by the NCO, that the completed structure and the activities associated with and on the same property as the structure, will comply with the provisions of Article VIII at the time for initial full-scale operation of such activities.

10.6 Sound From New Transportation Systems in Residential Areas or Noise Sensitive Zones

No plans for construction of new transportation systems or expansion of the capacity of existing transportation systems will be approved for location in or near residential areas or noise sensitive zones, regardless of the source of project funds, unless such plan includes all control measures necessary to ensure that the projected day-night average sound level (L_{dn}) due to the operation of the transportation system does not exceed dBA at any point on residential property within years after the expected completion of the project.

10.7 Equivalent Measurement Systems

For the purposes of this Article, all measurements and designations of sound levels shall be expressed in day-night average sound levels (L_{dn}) or in any other equivalent measurement system the NCO may reasonably approve.

10.8 Zoning Ordinance or Comprehensive Plan

(a) No proposed zoning ordinance or comprehensive plan shall be approved unless such plan includes a sound analysis which;

(1) identifies existing and projected noise sources and associated sound levels for years in and around the area under consideration, and

(2) ensures usage of adequate measures to avoid violation of any provision of this ordinance.

(b) No zoning change application shall be approved unless the site feasibility study submitted as required by the (Zoning Board of Appeals)/ (Planning Commission), contains an analysis which shows:

(1) the impact of existing and projected noise sources for years on the intended use, and

(2) the projected noise impact of the intended use, when completed, on surrounding areas. Such sites study shall ensure the use of adequate measures to avoid violation of any provision of this ordinance.

10.9 Truth in Selling or Renting

No person shall sell or rent, or cause to be sold or rented, any structure or property to be used for human habitation, where the structure or property is

exposed to sound levels regularly in excess of (an L_{eq} in any hour of dBA)/(an L_{dn} of dBA), without making full written disclosure to all potential buyers or renters of the existence of such sound levels and of the nature of the sources. The NCO shall develop a standard format for written disclosures, which shall include information on the effects of noise on human health and welfare.

10.10 Appeal

Any applicant may appeal an adverse decision by the NCO under the Article, in the (appropriate court of law), on the grounds that the NCO disapproval was arbitrary, capricious, or unreasonable.

Article XI Enforcement

11.1 Penalties

(a) Any person who violates any provision of this ordinance shall be fined for each offense not more than dollars.

(b) Any person who willfully or knowingly violates any provision of this ordinance shall be fined for each offense a sum of not less than dollars and not more than dollars.

(c) Each day of violation of any provision of this ordinance shall constitute a separate offense.

11.2 Abatement Orders

[(a) Except as provided in subsection (b) in lieu of issuing a notice of violation as provided for in Section 11.3, the NCO or other (agency/official) responsible for enforcement of any provision of this ordinance may issue an order requiring abatement of any source of sound or vibration alleged to be in violation of this ordinance within a reasonable time period and according to guidelines [to be approved by appropriate authority] which the NCO may prescribe.

(b) An abatement order shall not be issued:

(1) for any violation covered by Section 11.1 (b);

(2) for any violation of, or

(3) when the NCO or other enforcement (agency) / (official) has reason to believe that there will not be compliance with the abatement order.]

11.3 Notice of Violation

[Except where a person is acting in good faith to comply with an abatement order issued pursuant to Section 11.2 (a)], violation of any provision of this ordinance shall be cause for a (notice of violation)/ (summons)/(complaint)/(information or indictment) to be issued by the NCO or other responsible enforcement (agency official) according to procedures (which the NCO may prescribe)/ (set forth in).

11.4 Immediate Threats to Health and Welfare

(a) The NCO shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subsection (b), to continuous sound levels in excess of those shown in Table 4 or to impulsive sound levels in excess of those shown in Table 5. Within days following issuance of such an order, the NCO shall apply to the

appropriate court for an injunction to replace the order

(b) No order pursuant to subsection (a) shall be issued if the only persons exposed to sound levels in excess of those listed in Tables IV and V are exposed as a result of;

(1) trespass;

(2) invitation upon private property by the person causing or permitting the sound, or

(3) employment by the person or a contractor of the person causing or permitting the sound.

(c) Any person subject to an order issued pursuant to subsection (a) shall comply with such order until;

(1) the sound is brought into compliance with the order, as determined by the NCO, or

(2) a Judicial order has superseded the NCO order.

(d) Any person who violates an order issued pursuant to this section shall, for each day of violation, be fined not less than dollars nor more than dollars.

TABLE 4

CONTINUOUS SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE (Measured at 50 Feet or 15 Meters)¹

Sound Level Limit (dBA)	Duration
90	24 hours
93	12 hours
96	6 hours
99	3 hours
102	1.5 hours
103	45 minutes
108	22 minutes

¹ Use equal energy time-intensity trade-off if level varies; find energy equivalent over 24 hours.

TABLE 5

IMPULSIVE SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE (Measured at 50 Feet or 15 Meters)

Sound Level Limit (dBA)	Number of Repetitions per 24 Hour Period
145	1
135	10
125	100

11.5 Citizen Suits

(a) Any person, other than persons responsible for enforcement of this ordinance, may commence a civil action on his own behalf against:

(1) any person who is alleged to be in violation of any provision of this ordinance set forth in Table 6 below or

(2) the NCO where there is alleged a failure of the NCO to perform any act under this ordinance which is not discretionary. The court shall have Jurisdiction, without regard to the amount in

controversy, to grant such relief as it deems necessary.

(b) No action may be commenced:

(1) under Subsection (a)(1)

(A) prior to days after the plaintiff has given notice of the alleged violation to the NCO [and to the alleged violator] of such violation, or

(B) if the NCO has commenced and is diligently prosecuting an action against the alleged violator with respect to such violation, [but in such action any affected person may intervene as a matter of right], or

(2) under Subsection (a)(2), prior to days after the plaintiff has given notice to the NCO that he will commence such action. Notice under this subsection shall be given in a manner prescribed by the NCO.

(c) In any action under this section, the NCO, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a), may at its discretion award the costs of litigation to any party.

TABLE 6

Provisions Under Which Civil Actions May Be Commenced

6.2.1(a)	(Radios, Television Sets, Musical Instruments and Similar Devices)
6.2.2	(Loudspeakers/Public Address Systems)
6.2.3	(Street Sales)
6.2.5	(Loading and Unloading)
6.2.6	(Construction)
6.2.7	(Vehicle or Motorboat Repairs and Testing)
6.2.9	(Places of Public Entertainment)
6.2.10	(Explosives, Firearms, and Similar Devices)
6.2.11	(Powered Model Vehicles)
6.2.12	(Vibration)
[6.2.13	(Stationary, Non-Emergency Signaling Devices)
6.2.14	(Emergency Signaling Devices)
6.2.15	(Motorboats)
6.2.17	(Domestic Power Tools)
6.2.18	(Tampering)
8.1	(Maximum Permissible Sound Levels by Receiving Land Use)
9.1.3	(Refuse Collection Vehicles)
9.1.4	(Standing Motor Vehicles)
9.2(b)	(Motor Vehicle Racing Events)
9.2.1(b)	(Motor Vehicle Horns and Signaling Devices)
10.9	(Truth-in Selling or Renting)

11.6 Other Remedies

No provision of this ordinance 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 ordinance or from other law.

11.7 Severability

If any provision of this ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

11.8 Effective Date

This law/ordinance shall take the effect on
.....

ARTICLE VIII. - NOISE ABATEMENT

Sec. 29-200. - Purpose.

This article is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the city through the reduction, control, and prevention of unreasonably loud and raucous sounds, or any noise that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity. Nothing in this article shall be construed as preventing the lawful exercise of right of free speech protected by the Constitutions of the United States or the State of Illinois.

(Ord. No. 004-57, § 1, 5-25-04)

Sec. 29-201. - Savings.

A prosecution which is pending on the effective date of this article and which arose from a violation of an ordinance repealed by this article, or a prosecution which is started within six (6) months after the effective date of this article, arising from a violation of an ordinance repealed by this article, shall be tried and determined exactly as if the ordinance had not been repealed.

(Ord. No. 004-57, § 1, 5-25-04)

Sec. 29-202. - Scope.

This article applies to the control of all sound originating within the jurisdictional limits of the city.

(Ord. No. 004-57, § 1, 5-25-04)

Sec. 29-203. - Definitions.

When used in this article:

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency work means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

Noise sensitive area includes, but is not limited to, the land on which a school, hospital, nursing home, church, court, public library, or similar institution is located and the area within two hundred fifty (250) feet of a school, hospital, nursing home, church, court, public library, or similar institution.

Person means any individual, firm, association, partnership, joint venture, or corporation.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public that is owned or controlled by a government entity.

Public space means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

Residential area means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the city's zoning ordinance.

(Ord. No. 004-57, § 1, 5-25-04)

Sec. 29-204. - General prohibition.

- (a) No person or property owner, shall make, allow, permit, continue, or cause to be made or continued, the following:
- (1) Any unreasonably loud or raucous noise; or
 - (2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City of Aurora; or
 - (3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.
- (b) Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:
- (1) The proximity of the sound to sleeping facilities, whether residential or commercial;
 - (2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
 - (3) The time of day or night the sound occurs;
 - (4) The duration of the sound; and
 - (5) Whether the sound is recurrent, intermittent, or constant.

(Ord. No. 004-57, § 1, 5-25-04; Ord. No. 009-88, § 1, 11-10-09)

Sec. 29-205. - Noises prohibited.

The following acts are declared to be per se violations of this article. This list does not constitute an exclusive list.

- (1) *Unreasonable noises*: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of residences or which will not detrimentally affect the operators of other places of business are exempted from this provision.
- (2) *Non-emergency signaling devices*: Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period.

The reasonable sounding of such devices by houses of religious worship, seasonal contribution solicitors, or by the city for traffic control purposes are exempt from the operation of this provision.

- (3) *Emergency signaling devices:* The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsection a. below. Local, state, and federal governments are exempt from this prohibition.
 - a. Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
- (4) *Radios, televisions, boom boxes, phonographs, stereos, musical instruments and similar devices:* The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of seventy-five (75) feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings. This subsection shall not apply to violations of 5/12-611 of the Illinois Vehicle Code.
- (5) *Loudspeakers, amplifiers, public address systems, and similar devices:* The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound, except as may be permitted by section 29-22 of the City of Aurora Code of Ordinances, between the hours of 10:00 p.m. and 7:00 a.m. of the following day on weekdays, and 10:00 p.m. and 10:00 a.m. of the following day on weekends and holidays (holidays shall consist of Christmas Day, Thanksgiving Day, New Year's Eve, New Year's Day, Memorial Day, and Independence Day) in the following areas:
 - a. Within or adjacent to residential or noise-sensitive areas;
 - b. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous. This shall not apply to any public performance, gathering, or parade or which a permit has been obtained from the local government.
- (6) *Yelling, shouting, and similar activities:* Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m. of the following day, or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.
- (7) *Animals and birds:* Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls, or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, veterinary hospitals, pet shops, or pet kennels [licensed under, and in compliance

with, licensing and permitting provisions set forth in this Code and which use reasonable measures to minimize such sounds emanating from their property] are exempt from this subsection.

- (8) *Loading or unloading merchandise, materials, equipment:* The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence between the hours of 10:00 p.m. and 6:00 a.m. of the following day.
- (9) *Construction or repair of buildings, excavation of streets and highways:* The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 6:00 a.m. and 9:00 p.m., on weekdays and 8:00 a.m. and 6:00 p.m. on weekends. Local, state, and federal governments are exempt from this prohibition. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the following shall apply:
 - a. The director of property standards may, at his discretion, issue written permission, upon application, if he determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings between the hours of 6:00 p.m. and 9:00 a.m. of the following day, will not be impaired, and if he further determines that loss or inconvenience would not result to a party in interest. The written permission shall grant permission in non-emergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less.
 - b. The director of public works may, at his discretion, issue written permission, upon application, if he determines that the public health and safety, as affected by loud and raucous noise caused by construction or excavation of roadways and sidewalks between the hours of 6:00 p.m. and 9:00 a.m. of the following day, will not be impaired, and if he further determines that loss or inconvenience would not result to a party in interest. The written permission shall grant permission in non-emergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less.
- (10) *Noise sensitive areas—schools, courts, churches, hospitals, and similar institutions:* The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which unreasonably disturbs the persons in these institutions.
- (11) *Blowers, and similar devices:* In residential or noise sensitive areas, between the hours of 9:00 p.m. and 6:00 a.m. of the following day, the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases, fuels, or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates. This subsection shall not apply to snow blowers and other snow removal machinery nor to landscaping operations conducted on golf courses.
- (12) *Commercial establishments.* Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 6:00 a.m. of the following day which is plainly audible at a distance of fifty (50) feet from any residential property.

(Ord. No. 004-57, § 1, 5-25-04; Ord. No. 004-68, § 1, 6-29-04)

Sec. 29-206. - Exemptions.

Sounds caused by the following are exempt from the prohibitions set out in section 29-204 and are in addition to the exemptions specifically set forth in section 29-205:

- (1) Repairs of utility structures, which are damaged, in disrepair, or out of service and such condition, pose a clear and immediate danger to life, health, or significant loss of property.
- (2) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition(s) in subsection 29-205(d) continues to apply.
- (3) Repairs or excavations of bridges, streets, or highways by or on behalf of the City of Aurora, the State of Illinois, or the federal government, between the hours of 10:00 p.m. and 6:00 a.m. of the following day, when public welfare and convenience renders it impractical to perform the work between 6:00 a.m. and 10:00 p.m.
- (4) Outdoor school and playground activities. Reasonable activities conducted on public playgrounds and public or private school/university grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school/university athletic and school/university entertainment events.
- (5) Other outdoor events. Outdoor gatherings, public dances, shows, parades, festivals, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.
- (6) Any event that is sponsored by and directly controlled by the city or its designee.
- (7) Outdoor church activities that cannot be heard from a distance of more than one hundred (100) feet beyond the church property boundaries between 10:00 p.m. and 6:00 a.m. of the following day, except that a church may sound chapel bells periodically so long as each said ringing does not continue for an unreasonable amount of time.

(Ord. No. 004-57, § 1, 5-25-04)

Sec. 29-207. - Enforcement and violation notice.

- (a) The chief of police, or his designees, will have primary responsibility for the enforcement of the noise regulations herein. Nothing in this article shall prevent the police chief, or his designees, from obtaining voluntary compliance by way of warning, notice, or education.
- (b) If a person's conduct would otherwise violate this article and consists of any of the following: 1) speech or communication protected by the Constitution of the United States or the State of Illinois; 2) of a gathering with others to hear or observe speech or communication protected by the Constitution of the United States or the State of Illinois; 3) or of a gathering with others to lawfully picket or otherwise express, in a non-violent manner, a position on a social, economic, political, or religious questions, then the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.
- (c) Every ticket or citation issued pursuant to this article shall contain, but not necessarily be limited to, the following information:
 - (1) The date and time of the violation.
 - (2) The address where the violation took place.
 - (3) The particular regulation violated.
 - (4) The penalty which may be assessed for the violation.

- (5) A section entitled "Request for Hearing" which shall clearly set forth that the person or property owner may request and appear at an administrative hearing to contest the violation on its merits, by:
 - a. Checking or placing a mark in a space provided and clearly identified, "Request for Hearing."
 - b. Placing his/her name and current address in the place provided.
 - c. Signing his/her name in the appropriate indicated place.
 - d. Filing the violation notice, with the "Request for Hearing" section fully completed, with the law department in person not later than seven (7) business days after the citation or ticket including the date the ticket or citation was issued. Such filing shall be deemed completed upon receipt by the law department.
 - (6) That payment of the indicated fine shall operate as a final disposition of the violation without necessity of attendance at any hearing.
 - (d) Service of the ticket or citation shall be made by the person issuing same by:
 - (1) Handing it to the person or property owner, if present, or
 - (2) Affixing the original or a facsimile of the ticket or citation to an entryway door of the property where the violation took place if the person or property owner is not present.
 - (e) The correctness of facts contained in the ticket or citation shall be certified by the person issuing said notice by:
 - (1) Signing his/her name to the ticket or citation at the time of service, or
 - (2) In the case of a notice produced by a computer device, by signing a single certificate, to be kept by the police department, attesting to the correctness of all notices produced by the device while under the signatory's control.
 - (f) The original or a facsimile of the ticket or citation shall be retained by the police department and kept as a record in the ordinary course of business.
 - (g) Any ticket or citation issued, signed and served in accordance herewith, or a copy of the ticket or citation, shall be prima facie evidence of the correctness of the facts shown on the notice.
 - (h) The ticket or citation or a copy shall be admissible in any subsequent administrative or judicial proceeding to the extent permitted by law.
- (Ord. No. 004-57, § 1, 5-25-04; Ord. No. 009-88, § 2, 11-10-09)

Sec. 29-208. - Penalties.

- (a) Any violation of the provisions of this article is punishable by a ticket or citation carrying a fine of not less than two hundred fifty dollars (\$250.00). However, this subsection shall not be construed as requiring the Aurora Police Department to cite a person or property owner for violation of this article if, in its discretion, the department determines that it is in the best interest of the community to utilize other lawful means to gain compliance.
- (b) A second violation of this article by the same person or at the same property, which occurs within one year (365 days) of receiving a previous ticket, is punishable by a ticket carrying a fine of not less than five hundred dollars (\$500.00). A third or subsequent violation of this article by the same person or at the same property at any time thereafter is punishable by a ticket carrying a fine of not less than one thousand dollars (\$1,000.00). Any ticket issued and remaining unpaid shall be a lien upon, and run with the land, of the property where the violation was cited.

- (c) Each occurrence of a violation of this article or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately. (Ord. No. 004-57, § 1, 5-25-04; Ord. No. 004-68, § 2, 6-29-04; Ord. No. 009-88, § 3, 11-10-09)

Sec. 29-209. - Procedure.

Any person issued a ticket or citation under this section shall have the right to seek a hearing in front of the administrative hearing officer subject to the following provisions:

- (1) For purposes of this section, the administrative hearing officer shall be the individual who holds administrative hearings involving violations of the city's property maintenance code under chapter 12 of this Code of Ordinances and violations of the city's criminal nuisance ordinance under this chapter.
- (2) Any person seeking a hearing by the administrative hearing officer shall file a written request within fourteen (14) calendar days after receipt of the ticket or citation. The written request must be received by the city's law department prior to the expiration of the fourteen-day period, or on the first date the law department is open for business after such period if the law department is closed on the fourteenth day. Mailing the request on such date is insufficient. If the petition is not received during this time period, then the ticket/citation shall become final and not subject to further review, and the city may proceed with collection of the fine or other such penalties as enumerated above.
- (3) The written request shall state the reason(s) why the ticket is invalid and state the relief sought from the hearing officer. Upon receipt of the written request, the law department shall promptly set a time and date for a hearing on the petition and shall notify the petitioner of the same not less than seven (7) days prior to the date set for hearing. A hearing date may be continued by the administrative hearing officer for good cause.
- (4) At such hearing, the administrative hearing officer shall give the petitioner an opportunity to be personally heard and to present witnesses and information relevant to the issue. The hearing officer shall also hear from the city and its witnesses and information. Upon conclusion of such hearing, and after consideration of any information presented by the petitioner and the city, a decision shall be made by the hearing officer either canceling or affirming the ticket/citation.
- (5) The decision of the administrative hearing officer, reached at the conclusion of such hearing, shall be final. If applicable, the city may enforce such decision in any manner available by law or ordinance.

(Ord. No. 004-68, § 3, 6-29-04)

Sec. 29-210. - Severability.

A determination of the invalidity or unconstitutionality of any clause, sentence, paragraph, section, or part of this article, by a court of competent jurisdiction, shall not affect the validity of the remaining parts of this article.

(Ord. No. 004-57, § 1, 5-25-04; Ord. No. 004-68, § 4, 6-29-04)

Secs. 29-211—29-299. - Reserved.

ARTICLE IX. - NOISE POLLUTION CONTROL^[9]

Footnotes:

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Editor's note—Ord. No. 7278, §§ 1—8, enacted Apr. 1, 1980, did not specifically amend the Code, but is codified herein as superseding §§ 21-131—21-134 and 21-136 which were derived from a nonamendatory Ord. No. 7144, §§ 1—6, adopted July 17, 1979, and set out herein as Art. IX, §§ 21-131—21-136.

Cross reference— Loud or unnecessary noises prohibited generally, § 21-7; sound-amplifying devices used in advertising, § 3-13 et seq.; muffler requirements for motor vehicles, § 19-214; building, generally, Ch. 8.

Sec. 21-131. - Title.

This article shall be known as the Noise Pollution Control Ordinance.

(Ord. No. 7144, § 1, 7-17-79; Ord. No. 7278, § 1, 4-1-80)

Sec. 21-132. - Definitions.

Antique vehicle. A motor vehicle that is more than twenty-five (25) years of age or a bona fide replica thereof and which is driven on the highways only going to and returning from an antique auto show or an exhibition, or for servicing or demonstration, or a fire-fighting vehicle more than twenty (20) years old which is not used as fire-fighting equipment but is used only for the purpose of exhibition or demonstration.

Common carrier by motor vehicle. Any person who holds himself out to the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of passengers or property or any class or classes thereof for compensation, whether over regular or irregular routes.

Contract carrier by motor vehicle. Any person who engages in transportation by motor vehicle of passengers or property in interstate or foreign commerce for compensation (other than transportation referred to in the definition of "common carrier by motor vehicle") under continuing contracts with one person or a limited number of persons either:

- (a) For the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served; or
- (b) For the furnishing of transportation services designed to meet the distinct need of each individual customer.

dB(A). Sound level in decibels determined by the A-weighting of a sound level meter.

Dealer. Every person engaged in the business of selling vehicles to persons who purchase such vehicles for purposes other than resale, and who has an established place of business for such activity in this state.

Decibel (dB). A unit of measure, on a logarithmic scale to the base 10, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which, for purposes of this chapter, shall be twenty (20) micronewtons per square meter (uN/m²).

Exhaust system. The system comprised of a combination of components which provides for the enclosed flow of exhaust gas from engine parts to the atmosphere.

Farm tractor. Every motor vehicle designed and used primarily as a farm implement for drawing wagons, plows, moving machines and other implements of husbandry, and every implement of husbandry which is self-propelled (sic).

Fast meter response. As specified by American National Standards Institute in document S1.4-1971, or subsequent revisions.

Gross vehicle weight (gvw). The maximum loaded weight for which a motor vehicle is registered or, for vehicles not so registered, the value specified by the manufacturer as the loaded weight of the vehicle.

Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Interstate commerce. The commerce between any place in a state and any place in another state or between places in the same state through another state, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, water or air. This definition of "interstate commerce" is in Section 203(a) of the Interstate Commerce Act (49 U.S.C. Section 303(a)).

Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

Motor carrier. A common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of property by motor vehicle, as those terms are defined by paragraphs (14), (15), and (17) of Section 203(a) of the Interstate Commerce Act (49 U.S.C. 303(a)). The term "motor carrier" includes those entities which own and operate the subject motor vehicles, but not the drivers thereof, unless said drivers are independent truckers who both own and drive their own vehicles.

Motor-driven cycle. Every motorcycle, motor scooter, or bicycle with motor attached, with less than one hundred fifty (150) cubic centimeter piston displacement.

Motor vehicle. Every vehicle which is self-propelled and any combination of vehicles which are propelled or drawn by a vehicle which is self-propelled.

Muffler. A device for abating the sounds of escaping gases of an internal combustion engine.

New motor vehicle. A motor vehicle the equitable or legal title to which has never passed to a person who purchases it for purposes other than resale.

Open site. An area that is essentially free of large sound-reflecting objects, such as barriers, walls, board fences, signboards, parked vehicles, bridges or buildings.

Passenger car. A motor vehicle designed for the carrying of not more than ten (10) persons, including a multipurpose passenger vehicle, except any motor vehicle of the second division as defined in I.R.S. Ch. 95½, Section 1-146, and except any motorcycle or motor-driven cycle.

Person. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof or any legal successor, representative, agent or agency of the foregoing.

Private carrier of property by motor vehicle. Any person, not included in terms "common carrier by motor vehicle" or "contract carrier by motor vehicle," who transports in interstate or foreign commerce by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for sale, lease, rent or bailment, or in furtherance of any commercial enterprise.

Registered. A vehicle is registered when a current registration certificate or certificates and registration plates have been issued for it under the laws of any state pertaining to the registration of vehicles.

Snowmobile. A self-propelled device designed for travel on snow or ice or natural terrain steered by skis or runners, and supported in part by skis, belts, or cleats.

Sound. An oscillation in pressure in air.

Sound level. In decibels, a weighted sound pressure level, determined by the use of metering characteristics and frequency weightings specified in ANSI S1.4-1971 "Specification for Sound Level Meters."

Sound pressure level. In decibels, twenty (20) times the logarithm to the base 10 of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is twenty (20) micronewtons per square meter.

Special mobile equipment. Every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to ditch digging apparatus, well boring (sic) apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors, other than truck tractors, levelling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels, and drag lines, and self-propelled cranes and other earthmoving equipment.

Tactical military vehicle. Every vehicle operated by any federal or state military organization and designed for use in field operations, but not including vehicles such as staff cars and personnel carriers designed primarily for normal highway use.

Used motor vehicle. A motor vehicle that is not a new motor vehicle.

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway.

(Ord. No. 7144, § 4, 7-17-79; Ord. No. 7278, § 2, 4-1-80)

Sec. 21-132.1. - Measurement procedures.

The measurement procedures to be used by the City of Joliet to determine whether the emissions of sound from motor vehicles comply with section 19½-4 shall be in accordance with procedures adopted by the Illinois Environmental Protection Agency on file with the Illinois Secretary of State, Index Division, as amended from time to time.

(Ord. No. 7278, § 3, 4-1-80)

Sec. 21-133. - Construction noise.

It shall be unlawful for any person to use any piledriver, shovel, hammer derrick, hoist tractor, roller or other mechanical apparatus operated by fuel or electric power in building or construction operations between the hours of 9:30 p.m. and 7:00 a.m. except for work on public improvements and work of public service utilities, within six hundred (600) feet of any building used for residential or hospital purposes.

(Ord. No. 7144, § 2, 7-17-79; Ord. No. 7278, § 5, 4-1-80; Ord. No. 10361, § 1, 1-19-94)

Sec. 21-134. - Sound emission standards and limitations for motor vehicles.

(a) *Equipment standards applicable to motor vehicles:*

- (1) *Exhaust system.* Except for motor carriers engaged in interstate commerce regulated under federal standards contained in 40 Code of Federal Regulations Part 202 (40 CFR Part 202), no person shall operate or cause or allow the operation of a motor vehicle on a public right-of-way unless it is at all times equipped with an adequate muffler or other sound dissipative device which is:
 - a. In constant operation and properly maintained to prevent any excessive or unusual noise;
 - b. Free from defects which affect sound reduction; and
 - c. Not modified in a manner which will amplify or increase the noise of such muffler or other sound dissipative device above that emitted by the muffler originally installed on the vehicle so as to produce excessive or unusual noise.
- (2) *Exhaust system of motor carrier engaged in interstate commerce.* No motor carrier engaged in interstate commerce regulated under 40 CFR Part 202, as amended from time to time, shall operate or cause or allow the operation of a subject motor vehicle unless the exhaust system of such motor vehicle is:
 - a. Equipped with a muffler or other noise dissipative device;
 - b. Free from defects which affect sound reduction, and
 - c. Not equipped with any cutout, bypass or similar device.
- (3) *Visual tire inspection.* No person shall operate any motor vehicle on a tire or tires having a tread pattern which as originally manufactured, or as newly retreaded, is composed primarily of cavities in the tread (excluding sipes and local chunking) which are not vented by grooves to the tire shoulder or circumferentially to each other around the tire. This subparagraph (3) shall not apply to any motor vehicle which is demonstrated to be in compliance with the noise emission standards specified in section 21-134(b) for operation on highways with speed limits of more than thirty-five (35) mph if the demonstration is conducted at the highway speed limit in effect at the inspection location or, if speed is unlimited, the demonstration is conducted at a speed of sixty-five (65) mph.

(b) *Operational standards:*

- (1) Standards applicable to all passenger cars and to other motor vehicles with gvw of eight thousand (8,000) pounds or less:
 - a. *Applicability.* Subsection (b)(1) shall apply to all passenger cars regardless of weight and to other motor vehicles with a gross vehicle weight of eight thousand (8,000) pounds or less, except motorcycles and motor driven cycles.
 - b.

Standards for highway operation. No person shall operate or cause or allow the operation of a motor vehicle subject to subsection (b)(1) at any time under any conditions of highway grade, load, acceleration or deceleration in such a manner as to exceed the following limits:

1. On highways with speed limits of thirty-five (35) miles per hour or less, seventy-four (74) dB(A), or seventy-six (76) dB(A) when operating on a grade exceeding three (3) per cent, measured with fast meter response at fifty (50) feet from the centerline of lane of travel, or an equivalent sound level limit measured in accordance with procedures adopted by the Illinois Environmental Protection Agency on file with the Illinois Secretary of State, Index Division, as amended from time to time.
 2. On highways with speed limits of more than thirty-five (35) miles per hour, eighty-two (82) dB(A), or eighty-five (85) dB(A) if the vehicle is equipped with two (2) or more snow or mud/snow tires, measured with fast meter response at fifty (50) feet from the centerline of lane of travel, or an equivalent sound level limit measured in accordance with procedures adopted by the Illinois Environmental Protection Agency on file with the Illinois Secretary of State, Index Division, as amended from time to time.
- (2) Standards applicable to motor vehicles with gvw in excess of eight thousand (8,000) pounds, including motor vehicles operated by motor carriers engaged in interstate commerce as regulated under federal standards contained in 40 CFR Part 202, as amended from time to time:
- a. *Applicability.* Subsection (b)(2) shall apply to the total sound produced by motor vehicles with gvw in excess of eight thousand (8,000) pounds, including motor vehicles operated by motor carriers engaged in interstate commerce as regulated by 40 CFR Part 2 when operated under the hereinbelow specified conditions, including the sound produced by auxiliary equipment mounted on such motor vehicle; but, shall not apply to auxiliary equipment (e.g. cranes, asphalt spreaders, ditch diggers, liquid slurry pumps, air compressors, welders, refuse compactors, etc.,) which is normally operated only when the motor vehicle is stationary or is moving at a speed of five (5) miles per hour or less.
 - b. *Standards for highway operation.* No person shall operate any motor vehicle of a type with respect to which subsection (b)(2) is applicable and which at any time or under any condition of highway grade, load, acceleration or deceleration generates a sound level in excess of eighty-six (86) dB(A) measured on an open site with fast meter response at fifty (50) feet from the centerline of lane of travel on highways with speed limits of thirty-five (35) mph or less; or ninety (90) dB(A) measured on an open site with fast meter response at fifty (50) feet from the center line of lane of travel on highways with speed limits of more than thirty-five (35) mph.
 - c. *Standard for operation under stationary test.* No person shall operate any motor vehicle of a type with respect to which subsection (b)(2) is applicable, and which is equipped with an engine speed governor, which generates a sound level in excess of eighty-eight (88) dB(A) measured on an open site with fast meter response at fifty (50) feet from the longitudinal centerline of the vehicle, when its engine is accelerated from idle with wide open throttle to governed speed with the vehicle stationary, transmission in neutral, and clutch engaged.

(3) Standards applicable to motorcycles and motor driven cycles:

- a. *Applicability.* Subsection (b)(3) shall apply to all motorcycles and motor driven cycles.
- b. *Standards for highway operation.* No person shall operate or cause or allow the operation of a motor vehicle subject to subsection (b)(3) at any time or under any conditions of highway grade, load, acceleration or deceleration in such a manner as to exceed the following limits:
 1. On highways with speed limits of thirty-five (35) miles per hour or less, eighty (80) dB (A), or eighty-two (82) dB(A) when operating on a grade exceeding three (3) per cent, measured with fast meter response at fifty (50) feet from the centerline of lane of travel, or an equivalent sound level limit measured in accordance with procedures adopted by the Illinois Environmental Protection Agency on file with the Illinois Secretary of State, Index Division, as amended from time to time.
 2. On highways with speed limits of more than thirty-five (35) miles per hour, eighty-six (86) dB(A) measured with fast meter response at fifty (50) feet from the centerline of travel, or an equivalent sound level limit measured in accordance with procedures adopted by the Illinois Environmental Protection Agency on file with the Illinois Secretary of State, Index Division, as amended from time to time.
- c. No person shall at any time operate or cause or allow the operation of a motor vehicle subject to subsection (b)(3) which is not subject to registration for road use, on any property zoned for business or residential use, under any condition of load, acceleration or deceleration in such a manner as to exceed 82dB(A) measured with fast meter response at fifty (50) feet from the centerline of travel, or an equivalent sound level limit measured in accordance with procedures adopted by the Illinois Environmental Protection Agency on file with the Illinois Secretary of State, Index Division, as amended from time to time.

- (c) *Horns and other warning devices.* No person shall sound a horn when upon a highway, except when reasonably necessary to insure safe operation. No person shall sound any horn on any motor vehicle for an unreasonable period of time or in a manner so as to circumvent enforcement of the operational standards contained herein.

No person shall sound any siren, whistle or bell of any motor vehicle except as provided in I.R.S. Ch. 95½, Section 12-601(b). (Ord. No. 7278, § 6, 4-1-80)

- (d) *Tire noise.* No person shall operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such noise from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, except that noise resulting from emergency operation to avoid imminent danger shall be exempt from this provision.

Exceptions:

- (1) The standards and limitations of this subsection shall not apply to:
 - a. Any vehicle moved by human or animal power;
 - b. Any vehicle moved by electric power;
 - c. Any vehicle used exclusively upon stationary rails or tracks;
 - d. Any farm tractor;

- e. Any antique vehicle, if licensed under Section 3-804 of the Illinois Vehicle Code;
 - f. Any snowmobile;
 - g. Any special mobile equipment;
 - h. Any vehicle while being used lawfully for racing competition or timed racing events; and
 - i. Any lawn care maintenance equipment.
- (2) Section 21-134(a)(3) shall not apply to any person who can show that a tread pattern as described in that section was the result of wear and that the tire was not originally manufactured or newly retreaded with such a tread pattern.
- (3) The operational standards contained in section 21-134(b) shall not apply to warning devices, such as horns and sirens; or to emergency equipment and vehicles such as fire engines, ambulances, police vans, and rescue vans, when responding to emergency calls; to snow plows when in operation; or to tactical military vehicles.

(Ord. No. 7144, § 3, 7-17-79; Ord. No. 7278, §§ 4, 6, 7, 4-1-80)

Sec. 21-135. - Testing procedures.

Test procedures to determine whether maximum noise emitted by motor vehicles in use meets the noise limits stated in this article shall be in substantial conformity with standards and recommended practice established by the Society of Automotive Engineers, Inc., including SAE Standard J986; SAE Standard J331; Recommended Practice J366; Recommended Practice J184; and such other and further standards as may be propounded by the enforcing department of the City of Joliet as designated by the Joliet City Council.

(Ord. No. 7144, § 5, 7-17-79)

Sec. 21-136. - Construction of article; penalty.

- (a) *Article not to impair action or remedy.* Nothing in this article shall be construed to impair any cause of action, or legal remedy therefore, of any person or the public for injury or damage arising from the emission or release into the atmosphere from any source whatever of noise in such place or manner, or at such level so as to constitute a common-law nuisance.
- (b) *Penalty.* Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this article, except when otherwise specifically provided, upon conviction thereof shall be punished in accordance with section 1-8 of the Code of Ordinances of the City of Joliet.

(Ord. No. 7144, § 6, 7-17-79; Ord. No. 7278, § 8, 4-1-80)

CHAPTER 14 - PERFORMANCE STANDARDS

SECTION:

6-14-1: - INTENT:

It is the intent of this Chapter to provide that businesses, utilities, light industry, research, offices, residential uses, and related activities shall be constructed, maintained, and operated with a proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by controlling the emission of noise, odor, exterior lighting, vibration, smoke, particulate matter, gases, and wastes.

It is further the intent of this Chapter to state the conditions of construction and operation with which uses will be expected to comply. In many cases, the relation of a prospective use to all performance standards cannot be judged properly at the time of building permit issuance. In such cases, the recipient of the building permit should note that these standards, like all other provisions of this Title, are continuing obligations and that all uses shall be expected to operate in compliance with these standards. The building plans shall bear the signature of a qualified professional stating that all performance standards will be complied with based upon the submitted building plans. the City retains the right to conduct its own investigation to determine compliance with the performance standards at any time.

(Ord. 01-68, 4-4-2001)

6-14-2: - COMPLIANCE:

The performance standards set forth in Section 6-14-4 of this Chapter shall be complied with and any use which fails to comply with these standards shall be in violation of this Chapter and shall be subject to penalties provided for such violation.

(Ord. 01-68, 4-4-2001)

6-14-3: - MEASUREMENT:

Each measurable standard shall be measured at the appropriate indicated location in accordance with the provisions of Section 6-14-4 of this Chapter.

(Ord. 01-68, 4-4-2001)

6-14-4: - STANDARDS:

The following performance standards shall be applicable to all uses in all zoning districts:

1. Noise: The decibels generated from a use shall not exceed the exterior noise limitations set forth in table 1 of this Section as measured at the property line of the parcel from which the noise is generated. The decibels typically generated by particular uses are given in table 2 of this Section.
 - 1.1. Measurement Of Noise: Noise shall be measured at the property line of the parcel from which the noise is generated. Noise shall be muffled so as not to become violative of applicable standards due to intermittence, beat frequency, shrillness, or intensity. The sound pressure level shall be measured with a sound level meter and an octave band analyzer that

conforms to ANSI S1.4-1983 (American national standards institute) specifications, or any successor standard promulgated by ANSI. Preferred frequencies for acoustical measurements shall be used.

TABLE 1

Land Use	7:00 a.m. To 7:00 p.m.	7:00 p.m. To 7:00 a.m.
Residential	55 dBA	50 dBA
Commercial	62 dBA	55 dBA
Light industrial	70 dBA	70 dBA
Industrial	80 dBA	80 dBA

TABLE 2

Sound Environment	Typical Sound Pressure Levels Generated (dBA)
Threshold of hearing	0 dBA
Broadcast studio	20 dBA
Library	30 dBA
Quiet office	40 dBA
Light auto traffic (100 feet)	50 dBA
Air-conditioning unit (20 feet)	60 dBA
Freeway traffic	70 dBA
Vacuum cleaner (5 feet)	80 dBA
Passing car at 10 feet	90 dBA
Passing bus or truck at 10 feet	100 dBA
Passing subway train at 10 feet	110 dBA

Nightclub with band playing	120 dBA
Jet takeoff (200 feet)	130 dBA
Air-raid siren	140 dBA

1.2. Exceptions:

- 1.2.1. Nighttime Building Or Construction Operations: It shall be unlawful to allow or permit any building or construction operations (including construction related noises, such as the delivery of equipment or material or the operation of tools, machinery, or apparatus) on private property between the hours of seven o'clock (7:00) p.m. and seven o'clock (7:00) a.m. within one thousand (1,000) feet of any residence and between ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. in all other districts. Work occurring in the public right-of-way, on public property, or within public utility easement areas shall be exempt from these restrictions.
- 1.2.2. Daytime Building Or Construction Operations: Between the hours of seven o'clock (7:00) a.m. and seven o'clock (7:00) p.m., noises customarily resulting from construction work and from the maintenance of grounds shall be exempt from the limitations listed in table 1 of this Section.

(Ord. 01-68, 4-4-2001)

- 1.2.3. Amplifiers: Noise generated by an amplifier or other device for which a permit has been obtained in accordance with Title 3, Chapter 9, "Amplifiers", of this Code shall be exempt from limitations listed in table 1 of this Section.

(Ord. 01-68, 4-4-2001; amd. Ord. 08-086, 5-6-2008)

1.2.4. Other Exemptions:

- 1.2.4.1. Valves, warning devices, aircraft and railroads, emergency generators, snowplowing, mosquito abatement, and emergency equipment/vehicles used only during times of emergency.
- 1.2.4.2. Church bells, chimes, and carillons.
- 1.2.4.3. The authorized use of recreational facilities within the property of schools, colleges, and public parks between the hours of seven o'clock (7:00) a.m. and ten o'clock (10:00) p.m.
- 1.2.4.4. Substations for public utilities.

(Ord. 01-68, 4-4-2001)

- 1.2.5. The City Manager shall have the authority to approve requests for construction activities not in compliance with the regulations provided in this Section provided that said requests do not have a significant adverse impact on the public health, safety and general welfare.

(Ord. No. 14-193, § 2, 12-16-2014)

Editor's note— Ord. No. 14-193, § 2, adopted December 16, 2014, enacted provisions intended for use as Subsection 1.2.3. Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as Subsection 1.2.5.

1.3. External Speaker Systems: External speaker systems shall not generate noise that is heard beyond the property line.

1.3.1. External speakers and audible external paging systems are prohibited for businesses conducting motor vehicle sales. Existing nonconforming speakers at automotive dealerships shall be brought into compliance within six (6) months from the date of adoption of this Subsection 6-14-4.1.3.1.

(Ord. 04-122, 7-20-2004)

2. Odors: At a point along or outside any property line, the emission of odorous matter in such quantity as to be offensive or in excess of the odor threshold shall not be permitted.

2.1. The measurement of odor threshold shall be in accordance with the American society for testing and materials method D1391-57 "Standard Method For Measurement Of Odor In Atmosphere (Dilution Method)" (Philadelphia: American Society Of Testing And Materials, 1957).

2.2. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.

(Ord. 01-68, 4-4-2001)

3. Exterior Lighting: All public and private outdoor lighting installed in the City of Naperville shall be in conformance with the requirements set forth in this Section.

3.1. Definitions:

EXTERIOR LIGHTING:	The illumination of an outside area or object by any manmade device that produces light by any means.
FIXTURE:	The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.
FLAT LENSES:	A glass or plastic element used in luminaires that is flush or inside the bottom edge of the luminaire.
FOOT-CANDLE (fc):	A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one standard candle.

FOOT-CANDLE HORIZONTAL MEASUREMENT (hfc):	The measurement of foot-candles utilizing a direct reading, portable light meter mounted on a horizontal position.
GLARE:	The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.
HEIGHT OF LUMINAIRE, CAR DEALERSHIPS:	The maximum height of a luminaire at car dealerships shall be twenty-five (25) feet and shall be measured as provided herein. The maximum height of twenty-five (25) feet shall be measured from the ground directly below the centerline of the luminaire to the top of the pole or luminaire, whichever is higher.
LIGHT LOSS FACTOR (LLF):	A factor applied to lamps which estimates the lumen output of a lamp sometime after installation. (For example, a lamp with an initial lumen rating of 10,000 which has a light loss factor of 0.8 is estimated to put out 8,000 lumens. A lamp with an initial lumen rating of 10,000, which has a light loss factor of 1.0, is estimated to put out 10,000 lumens.)
LUMINAIRE:	A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.
SAG LENSES:	A glass or plastic element used in luminaires that extends below the bottom edge of the luminaires.
UNIFORMITY RATIO:	Describes the average level of illumination in relation to the lowest level of illumination for a given area.

(Ord. 01-68, 4-4-2001; amd. Ord. 05-060, 4-6-2005)

3.2. Luminaire Design Factors:

- 3.2.1. The style of the light and light standard shall be consistent with the architectural style of the principal building.
- 3.2.2. Pathways, sidewalks, and trails shall be lighted with low level fixtures not to exceed eight (8) feet in pole height.
- 3.2.3.

All building lighting for security or aesthetics shall include glare controls and shall be shielded. Floodlighting is discouraged, and if used, shall be shielded to prevent disability glare for drivers or pedestrians, light trespass beyond the property line, and light above a 90-degree horizontal plane. Wallpack type fixtures shall not be permitted.

3.2.4. All parking area lighting shall include glare controls and shall be shielded.

3.2.5. Poles supporting lights shall be no taller than twenty-three (23) feet in a residential district, twenty-five (25) feet in a commercial district, a commercial part of a residential planned unit development, or in office/business park districts, and thirty-two (32) feet in any industrial district.

(Ord. 01-68, 4-4-2001)

3.3. Standards And Requirements:

3.3.1. Height Of Luminaire At Automotive Dealerships: The maximum height of a luminaire at automotive dealerships shall be twenty-five (25) feet and shall be measured as provided in the definition of "height of luminaire, car dealerships". All existing dealerships that have luminaires on their sites in excess of the 25-foot maximum at the time of adoption hereof will be grandfathered and considered legal nonconforming luminaires for the sole purpose of its height and only until such time as the pole or base are removed or replaced.

3.3.2. Standards; Exception: Lighting shall be provided in accordance with the standards of the Illuminating Engineering Society of North America (IESNA) as follows for all uses, with the exception of automotive dealerships as specified in Subsection 6-14-4.3.3.2.1 of this Section:

IESNA Parking Lot Levels Of Activity	IESNA Maintained Horizontal Illuminance Standards (Foot-Candles)					
	General Parking And Pedestrian Area			Vehicle Use Area (Only)		
	Ave.	Min.	Uniformity Ratio	Ave.	Min.	Uniformity Ratio
High	3.6	0.9	4:1	2.0	0.67	3:1
Major athletic events						
Major cultural events						
Regional shopping centers (retail space above 300,000 square feet)						

Fast food facilities (;gt;40 seats)						
Entertainment theaters						
Medium	2.4	0.6	4:1	1.0	0.33	3:1
Community shopping centers (retail space to 299,999 square feet)						
Office parks						
Hospital parking						
Multi-family residential complex						
Low	0.8	0.2	4:1	0.5	0.13	4.1
Neighborhood shopping centers (retail space of less than 5,000 square feet)						
Industrial employee parking						
Educational facilities						
Church parking						

3.3.2.1. Lighting shall be provided in accordance with the standards of the Illuminating Engineering Society of North America (IESNA) as follows for automotive dealerships:

<u>Areas Of Activity</u>	<u>Description</u>	<u>Standards (Foot-Candles) - Target Maintained Levels</u>
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Feature display area	<p>The first row of vehicles adjacent to a major/minor arterial, including the area in front of the vehicle up to the property line and behind the vehicle up to the merchandise area and/or the circulation area including drive aisles. Car dealerships shall comply with this provision no later than April 5, 2007. However, compliance with the provision related to security lighting, below, is required from 10:00 P.M. until sunrise.</p>	75 foot-candles - maximum
Merchandise area	<p>All other rows of vehicles on a lot used for general auto sales, including all areas surrounding the vehicle up to the defined circulation area including related drive aisles. Car dealerships shall comply with this provision no later than April 5, 2007. However, compliance with the provision related to security lighting, below, is required from 10:00 P.M. until sunrise.</p>	50 foot-candles - maximum

Circulation area	Includes all portions of the lot dedicated to customer parking, employee parking, site entrance areas and inventory areas including related drive aisles. Car dealerships shall comply with this provision no later than April 5, 2007. However, compliance with the provision related to security lighting, below, is required from 10:00 P.M. until sunrise.	10 foot-candles - average
Security lighting, Monday—Sunday	The average amount of light found on site within each of the areas of activity, including the feature display area, merchandise area, and circulation area from 10:00 p.m. until sunrise. Car dealerships shall comply with this provision no later than October 5, 2005.	10 foot-candles - average

3.3.2.2. In determining the maximum foot-candle standard provided above, all foot-candle measurements shall be taken from the ground at any point within the areas of activity or at the property line.

3.3.2.3. In determining the average foot-candle standard, all foot-candle measurements shall be taken from the ground at ten-foot increments throughout the areas of activity.

3.3.2.4. Sag lenses are prohibited from use on all car dealership luminaries. All existing dealerships using sag lenses at the time of adoption date hereof, will be grandfathered and considered legal nonconforming for the sole purpose of its lens type until the dealership replaces greater than ten percent (10%) of their existing fixtures on site during any 12-month period at which time full compliance shall be required. All new fixtures shall have flat lenses.

3.3.2.5. Light shields used by car dealerships to control light and reduce glare shall be made of nonreflective material. Car dealerships must comply with this provision no later than October 5, 2005.

(Ord. 05-060, 4-6-2005)

3.3.3. Exterior lighting shall be designed at or below the following average maintained foot-candles at the property line:

Location	Maximum Foot-Candles At Property Line - Horizontal Measurement
Residential to residential	Horizontal fc: 0.10
Nonresidential to nonresidential	Horizontal fc: 2.0
Nonresidential to residential	Horizontal fc: 0.10
Intensity at adjoining right-of-way, except as noted below for automotive dealerships	Horizontal fc: 0.50
Intensity at adjoining major/minor arterial rights-of-way for automotive dealerships	Horizontal fc: 10.0

(Ord. 04-122, 7-20-2004; amd. Ord. 05-060, 4-6-2005)

3.3.4. The light loss factor (LLF) shall be a minimum of 0.75 to a maximum of 0.8 for all uses.

(Ord. 05-060, 4-6-2005)

3.4. Measuring Light Levels:

3.4.1. Metering Equipment: Light levels of both direct and indirect light shall be measured in foot-candles with a direct reading, portable light meter. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading.

3.4.2. Method Of Measurement: Foot-candle horizontal measurements shall be taken at a height of three and one-half (3.5) feet aboveground.

3.5. Exceptions And Variances:

3.5.1. Because of their unique requirement for nighttime visibility and their limited hours of operation, ball diamonds, playing fields, tennis courts, and other outdoor recreational facilities shall be exempted from the general standards of this Section. Lighting for outdoor recreational facilities shall be shielded to minimize light and glare from spilling onto adjacent residential properties. The maximum permitted illumination at adjoining residential property lines shall be one foot-candle. The maximum permitted illumination at adjoining nonresidential property lines shall be two (2) foot-candles.

- 3.5.2. Luminaires used for public roadway illumination by a public transportation agency shall be exempt from the requirements of this Section but may be subject to the regulations of federal or State agencies or by intergovernmental agreements.
- 3.5.3. Decorative seasonal lighting shall be limited to a power rating of less than or equal to seventy-five (75) watts.
- 3.5.4. Temporary emergency lighting used by police, firefighters, and other emergency services, as well as all vehicular luminaires shall be exempt.
- 3.5.5. Hazard warning lights that are required by local or federal regulatory agencies shall be exempt.
- 3.5.6. Transportation facilities shall be exempt.
- 3.5.7. Public walkways shall be exempt.
- 3.5.8. When site characteristics are unique and the requirements of this Section cannot be met, the Zoning Administrator has the authority to approve nonconforming lighting designs if the illumination levels and/or uniformity ratios are within twenty percent (20%) of the values set forth in this Section. All other nonconforming designs shall be subject to approval of the City Council through the variance procedure or by annexation agreement or development agreement.

(Ord. 01-68, 4-4-2001)

- 3.6. Nonconforming Luminaires: Exterior lighting luminaires in existence on the effective date of this Section shall be exempt from the standards of this Section and shall be considered legally nonconforming. Such fixtures may be repaired and maintained. However, if any legal nonconforming luminaire is moved or damaged by any means to an extent that its total replacement is necessary, the luminaire, or replacement, shall comply with this Section. For development activity involving improved property, luminaires shall be required to comply with this Section when the floor area of any building or structure, or parking areas, or any combination thereof, is increased by ten percent (10%) or greater. This Section shall not apply to car dealerships which are governed by Subsection 6-14-4.3.3 of this Section.

(Ord. 05-060, 4-6-2005)

3.7. Exterior Lighting Plan Required:

- 3.7.1. A lighting plan shall be required any time exterior lighting is proposed, or modified, that is associated with a residential use of greater density than a one- or two-family dwelling or with any commercial, office, industrial or other use. The lighting plan shall be submitted with the site plan information as required in this Title.
- 3.7.2. The lighting plan shall include a site plan indicating location of light fixtures and intensity of foot-candles at various points on the site, catalog cuts of the proposed fixtures, and a summary table containing average foot-candles, minimum foot-candles, maximum foot-candles, uniformity ratio (average/minimum), foot-candles at the property line, pole height, and light loss factor (LLF). The plan shall also contain a certification by the property owner or agent and the preparer of the plan that the exterior lighting depicted on the plan complies with the requirements of this Chapter. Once the plan is approved, the exterior lighting of the property shall conform to the plan.

4.

Vibration: Vibration shall not be discernible at any property line to the human sense of feeling for three (3) minutes or more duration in any one hour. Vibration at any time shall not produce at any time an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of table 7 United States Bureau of Mines bulletin no. 442 "Seismic Effects Of Quarry Blasting", on any structure. The methods and equations of bulletin no. 442 shall be used to compute all values for the enforcement of this provision.

5. Smoke And Particulate Matter: Measurement of smoke and particulate matter shall be taken from the point of emission.
 - 5.1. The emission of particulate matter containing more than five percent (5%) by weight, of particles having a particle diameter larger than forty-four (44) microns, is prohibited.
 - 5.2. The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed a net figure of one-half (½) pound per acre of lot size during any one hour.
 - 5.3. Smoke not darker or more opaque than no. 0 on the Ringelmann smoke chart (as published by the United States Bureau of Mines) may be emitted except that smoke not darker or more opaque than no. 1 on said chart may be emitted for periods not longer than four (4) minutes in any thirty (30) minutes. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.
 - 5.4. Dust or other types of air pollution borne by the wind from such sources as storage areas, trash enclosures, and yards within the boundaries of any lot shall be kept to a minimum by appropriate landscaping, screening, paving, oiling, wetting, or other acceptable means.
6. Gases: Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive. The values given in table 1 (industrial hygiene standards — maximum allowable concentration for 8 hour day, 5 days per week), table III (odor thresholds), table IV (concentrations of substances causing pain in the eyes), and table V (exposures to substances causing injury to vegetation) in the latest revision of Chapter 5, "Physiological Effect", that contains such tables, in the "Air Pollution Abatement Manual", by the Manufacturing Chemists' Association, Inc., Washington, D.C., are hereby established as guides for the determination of permissible concentration or amounts. Detailed plans for the elimination of fumes or gases may be required before the issuance of a building permit.
7. Hazard: Any operation of an industrial nature shall be carried on with reasonable precautions against fire and explosion hazards.
8. Waste: All sewage and industrial wastes shall be treated and disposed of in such manner as to comply with the water quality standards applicable to the classification assigned to the receiving waters by the City, the State of Illinois, and the USEPA. Approval of the Illinois Environmental Protection Agency of all plans for waste disposal facilities shall be required before issuance of any building permit.

(Ord. 01-68, 4-4-2001)

ARTICLE 5. - NOISE CONTROL^[6]

Footnotes:

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Cross reference— *Noise control in Monroe Center Mall, § 3.111.*

Sec. 9.61. - Title and Purpose.

- (1) Article 5 of Chapter 151 shall be known as the "Noise Control Ordinance" of the City of Grand Rapids.
- (2) The purposes of this Article are to abate certain loud, unnecessary, unnatural an unusual noises and to establish maximum noise limits from motor vehicle and transportation noise, construction power equipment noise, and other general environmental noise.

(Ord. No. 73-8, 2-6-73)

Sec. 9.62. - Definitions.

For the purpose of this Article, certain terms are defined as follows:

- (1) *ANSI* shall mean American National Standards Institute or its successor bodies. All acoustical terminology shall be that contained in ANSI S1.1 "Acoustical Terminology."
- (2) *ARI* shall mean Air Conditioning and Refrigeration Institute or its successor bodies.
- (3) *ASHRAE* shall mean American Society of Heating, Refrigerating and Air Conditioning Engineers or its successor bodies.
- (4) *ASTM* shall mean American Society for Testing Materials or its successors bodies.
- (5) *Director* shall mean the Environmental Protection Director or his or her duly authorized representative.
- (6) *Decibel* shall mean a logarithmic unit of measurement which indicates the ratio between two (2) quantities (commonly electrical or sound energy levels, or pressure levels). (See Sound pressure level)
- (7) *Discrete Tone* shall mean a sound wave whose instantaneous sound pressure varies essentially as a sinusoidal function of time.
- (8) *Essential Services* shall mean the erection, construction, alteration or maintenance by public utilities, municipal Departments or Commissions, or any governmental agencies of street or right-of-way facilities, underground or overhead gas, electrical, steam, water, or other transmission or distribution system, collection, communication, supply or disposal system, including poles, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of utility service by such public utilities, municipal Departments, Commission or any governmental agencies, or for the public health, safety or welfare. Essential Services in this Chapter shall also mean Michigan Department of Transportation work including: capital preventive maintenance, light duty rehabilitation, rotomilling and resurfacing, pavement restriping, asset management related repairs, alterations or improvements, emergency repairs that are essential to the operational functionality, safety and maintenance of the transportation network and such other activities approved in writing by the City Engineer.

- (9) *Fluctuating Noise* shall mean a noise whose sound pressure level varies significantly but does not equal the ambient environmental level more than once during the period of observation.
- (10) *IEC* shall mean International Electrotechnical Commission or its successor bodies.
- (11) *Impulse Noise* is characterized by brief excursions of sound pressure which significantly exceed the ambient environmental sound pressure. The duration of a single impulse is usually less than one (1) second.
- (12) *Intermittent Noise* shall mean a noise whose sound pressure level equals the ambient environmental level two (2) or more times during the period of observation. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient noise level is on the order of one (1) second or more.
- (13) *ISO* shall mean International Organization for Standardization or its successor bodies.
- (14) *Motor Vehicle* shall mean any passenger vehicle, truck, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.
- (15) *Octave Band* shall mean a frequency band with lower and upper cut-off frequencies having a ratio of 2. The cut-off frequencies of 707 Hertz and 1414 Hertz define an octave band in common use.
- (16) *Period of Observation* shall mean the time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and should also be at least ten (10) times as long as the response time of the instrumentation. The greater the variance in indicated sound level, the longer must be the observation time for a given expected accuracy of the measurement.
- (17) *Person* shall mean every natural person, partnership, association or corporation which may own, operate or control those devices or facilities herein described.
- (18) *Repetitive Impulse Noise* shall mean more than five (5) impulses per hour.
- (19) *SAE* shall mean Society of Automotive Engineers or its successor bodies.
- (20) *Sound Level* or *Noise Level* shall mean, for airborne sound, a weighted sound pressure level, obtained by the use of metering characteristics and A-weighting as specified in the referenced standards. When the A-weighting is employed it must be indicated.
- (21) *Sound Pressure Level* of a sound, in decibels, is twenty (20) times the logarithm to the base 10 of the ratio of the pressure of this sound to the reference sound pressure having the value of 2×10^{-4} dynes per square centimeter.
- (22) *Steady Noise* shall mean a noise whose level remains essentially constant.
- (23) *Zoning District* shall mean districts established by the Zoning Ordinance of the City of Grand Rapids and found in Chapter 61 of Title V of this Code.
- (24) *Helicopter* shall mean an aircraft which has its support in the air derived chiefly from the aerodynamic forces acting on one or more rotors turning about a substantially vertical axis.
- (25) *Emergency Landings and Takeoffs* shall mean rescue and ambulance missions and other landings and takeoffs necessary to deal with unforeseeable occurrences or sudden and urgent occasions requiring specific evacuation measures in which a helicopter would be needed.

(Ord. No. 73-8, 2-6-73; Ord. No. 83-56, 9-27-83; Ord. No. 99-65, § 1, 11-23-99; Ord. No. 2013-74, § 1, 11-19-13)

Sec. 9.63. - Prohibited Noise.

- (1) No person shall make, or cause, permit or allow to be made, upon a public way, or in such close proximity to a public way as to be distinctly and loudly audible upon such public way, any noise of any kind by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound amplifying or other similar electronic device; provided that a licensed peddler is not hereby restricted or prohibited so long as he or she shall have met the requirements and conditions hereinafter specified in subsection (5) nor does this prohibition apply to all bands and orchestras or similar musical bodies utilized as part of a parade or similar authorized musical production.
- (2) No person shall use or perform any hand organ or other musical instrument or device, in any public way or public place of the City before 7:00 a.m. or after 10:00 p.m. of any day.
- (3) No person shall use any premises or suffer any premises under his or her care or control to be used which shall destroy the peace and tranquility of the surrounding neighborhood.
- (4) No person shall use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or any other mechanical apparatus in building or construction operations between the hours of 10:00 p.m. and 7:00 a.m. except for work on essential services, within six hundred (600) feet of a residence or hospital.
- (5) No person shall activate or cause or suffer to be activated any horn or audible signal device on any motor vehicle of any kind except as a warning of danger or peril as provided in the Traffic Ordinance.
- (6) No person shall operate or allow to be operated any motor of a motor vehicle which weighs in excess of five (5) tons (ten thousand (10,000) pounds) for a consecutive period of longer than two (2) minutes while such vehicle is in a stationary location on private property located within one hundred fifty (150) feet of property devoted to residential uses.

Except that, the provisions of this subsection shall not apply:

- (a) When the vehicle or motor is being used in the course of normal productive work,
 - (b) When the vehicle or motor is being used by a public utility, municipal department, Commission or other governmental agency to provide essential services as hereinbefore defined.
 - (c) To buses operated for the transportation of passengers while standing in established bus turnarounds, terminals or storage yards,
 - (d) To any vehicle standing within a completely enclosed structure.
- (7) No person shall sell, or offer for sale, a new motor vehicle that produces a maximum noise exceeding the following noise limit at a distance of fifty (50) feet from the center line of travel, under test procedures, standards and recommended practices as itemized below and with reference to Sections 9.64 and 9.65 of this Article. Such stock as is certified to the Director on the effective date of this Article shall be exempt from the prohibition contained in this subsection. Test procedures shall be in substantial conformity with standards and recommended practices established by the Society of Automotive Engineers, Inc., including SAE Recommended Practice J 184, and ANSI Standards S1.1 1960 and S1.4, 1961.

1. <u>Type of Vehicle</u>	Date of <u>Manufacture</u>	Noise Limit <u>dB(A)</u>
Motorcycle	Before 1 July 1973	88
Same	After 1 July 1973	86
Same	After January 1975	84
Same	After 1 January 1980	80
Test procedures according to SAE Proposed Standard J-331.		

2. <u>Type of Vehicle</u>	Date of <u>Manufacture</u>	<u>Noise Limit dB(A)</u>
Any motor vehicle with a gross vehicle weight of 10,000 pounds or more	Before 1 July 1973	88
Same	After 1 July 1973	86
Same	After 1 January 1975	84
Test procedures according to SAE Standard J-366a.		

3. <u>Type of Vehicle</u>	Date of <u>Manufacture</u>	<u>Noise Limit dB(A)</u>
Passenger car, motor driven cycle and any other motor vehicle	Before 1 January 1973	86
Same	After 1 January 1973	84
Same	After 1 January 1975	80
Test procedures according to SAE Standard J-986a.		

- (8) (a) No person shall operate within the speed limits specified in this Section either a motor vehicle or combination of vehicles of a type subject to registration at any time or under any condition as to exceed the following noise limit for the category of motor vehicle, measured at a distance of not less than fifty (50) feet from the centerline of travel, under ANSI Standards S1.1, 1960, and S1.4, 1961, and SAE Standard J-184 with meter set for fast response and the A-weighted scale.

<u>Type of Vehicle</u>	Noise Limit in Relation to <u>Posted Speed Limit</u>	
1. Any motor vehicle with a manufacturer's GVW rating of 10,000 lbs. or more, and any combination of vehicles towed by such motor vehicle	35 mph or less	Over 35 mph

Before 1 July 1973	88 dB(A)	90 dB(A)
After 1 July 1973	86 dB(A)	90 dB(A)
2. Any motorcycle		
Before 1 July 1978	82 dB(A)	86 dB(A)
After 1 July 1978	78 dB(A)	82 dB(A)
3. Any other motor vehicle and any combination of motor vehicles towed by such vehicle		
Before 1 July 1978	78 dB(A)	82 dB(A)
After 1 July 1978	73 dB(A)	79 dB(A)

This Section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this Code relating to motor vehicle mufflers for noise control.

- (8) (b) No person shall operate a motor vehicle or combination of vehicles, of a type subject to registration, at any time or under any condition when the noise limit herein established is exceeded under stationary test procedures as outlined for this Section by the regulations as promulgated under Section 9.68.

<u>Type of Vehicle</u>	<u>Stationary Engine Speed</u>	<u>Microphone Distance From Vehicle</u>	<u>Noise Limit dB (A)</u>
1. Any motor vehicle with a manufacturer's GVW rating of 10,000 lbs. or more, and any combination of vehicles towed by such motor vehicle	Maximum Governor speed (not applicable to vehicles without Governors). Ungoverned vehicles of this class shall be tested as provided for in <u>Section 9.63(8)</u> (a).	35 ft. from center line of vehicle	<u>93</u>
2. Any motorcycle	75 percent of motor speed at maximum developed horsepower	75 inches from near side of vehicle	
Before 1 July 1978			<u>99</u>
After 1 July 1978			<u>95</u>
3. Any other motor vehicle and any combination of motor vehicles towed by such vehicle	3000 Revolutions Per Minute (RPM)	20 inches from end of tailpipe	
Before 1 July 1978			<u>94</u>
After 1 July 1978			90

- (9) No person shall sell, lease or agree to sell or lease any of the types of equipment herein enumerated which shall exceed the noise level herein established at a distance of fifty (50) feet, under test procedures and Standards SAE J-184, SAE J-952b, ANSI S1.1, 1960, ANSI S1.4, 1961, and with reference to Sections 9.64 and 9.65 of this Article.

<u>Type of Equipment</u>	<u>Noise Limit dB(A)</u>
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1. Construction and industrial machinery, such as crawlers-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, wagons, pavement breakers, compressors, and pneumatic powered equipment, etc., but not including pile drivers:	
Manufactured after 1 July 1973	88
Manufactured after 1 January 1975	86
Manufactured after 1 January 1980	80
2. Agricultural tractors and equipment:	
Manufactured after 1 July 1973	88
Manufactured after 1 January 1975	86
Manufactured after 1 January 1980	80
3. Powered commercial equipment of 20 hp or less intended for infrequent use in a residential area, such as chainsaws, pavement breakers, log chippers, powered hand tools, etc.:	
Manufactured after 1 July 1973	84
Manufactured after 1 January 1980	80
4. Powered equipment intended for repetitive use in residential area (such equipment includes lawn mowers, small lawn and garden tools, riding tractors, snow removal equipment):	
Manufactured after 1 July 1973	74
Manufactured after 1 January 1975	70
Manufactured after 1 January 1978	<u>65</u>

- (10) No person shall alter, modify or change any exhaust muffler, intake muffler or other equipment designed to abate noise on any motor equipment unless such alteration, modification or change shall reduce the noise emitted by such equipment. Nothing in this Section shall be interpreted to prohibit the replacement of worn noise abatement equipment certified as meeting or exceeding specifications of the manufacturer's original equipment.
- (11) In I-1 Light Industrial Zoning Districts and PID, Planned Industrial Districts, at no point on the boundary of a Residence, Business, or Commercial district shall the sound pressure level of any individual operation or plant, or the combined operations of any person, firm or corporation, exceed the decibel levels in the designated octave bands shown below for the zoning districts indicated as measured using test equipment per ANSI Standards S1.1—1960, S1.4—1961, S1.11—1966, and S1-12—1967, and SAE J-184, and with reference to Sections 9.64 and 9.65 of this Article.

Octave Band Center Frequency (Hz)	Maximum Sound Pressure Levels (dB) Along District Boundaries (<u>Daytime, Steady Noise</u>)	
	<i>Residence</i>	<i>Business and Commercial</i>
31.5	<u>72</u>	79
<u>63</u>	<u>71</u>	78
125	<u>65</u>	<u>72</u>
250	57	<u>64</u>
500	<u>51</u>	58
1000	<u>45</u>	<u>52</u>
2000	39	<u>46</u>
4000	<u>34</u>	<u>41</u>
8000	<u>32</u>	39
	Maximum repetitive impulse noise sound pressure levels to be 10 (dB) lower than the values shown for steady noise.	

For monitoring purposes, the A scale levels (slow response) of 55 dB(A) and 62 dB(A), respectively, for Residence and Business-Commercial districts may be used. Any noise level in excess of these values constitute a violation of this subsection of the Article.

Where noise levels below the abovementioned 55 dB(A) and 62 dB(A) are measured, the octave band test is to be applied in order to determine compliance with this subsection.

Maximum nighttime sound pressure levels (10:00 p.m. to 7:00 a.m.) are to be 7 (db) lower than the values shown for daytime steady noise for each octave band center frequency.

- (12) In I-2 Heavy Industrial Zoning Districts, at no point either on the boundary of a Residence, Business or Commercial district, or at one hundred twenty-five (125) feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of any individual operation or plant, or the combined operations of any person, firm or corporation, exceed the decibel levels in the designated octave bands shown below for the zoning districts included, as measured using test equipment per ANSI Standards S1.1—1960, S1.4—1961, S1.11—1966, and S1.12—1867, and SAE J-184, and with reference to Sections 9.64 and 9.65 of this Article.

<i>Octave Band Center Frequency (Hz)</i>	Maximum Sound Pressure Levels (dB) Along District Boundaries (Daytime, Steady Noise)	
	<i>Residence</i>	<i>Business and Commercial</i>
31.5	75	80
<u>63</u>	74	79
125	<u>69</u>	74
250	<u>64</u>	<u>69</u>
500	58	<u>63</u>
1000	<u>52</u>	57
2000	<u>47</u>	<u>52</u>
4000	<u>43</u>	48
8000	40	45
	Maximum repetitive impulse noise sound pressure levels to be 10 (db) lower than the values shown for steady noise.	

For monitoring purposes the A scale levels (slow response) of 61 dB(A) and 66 dB(A), respectively, for Residence and Business-Commercial districts may be used. Any noise levels in excess of these values constitute a violation of this subsection of the Article. Where noise levels below the abovementioned 61 dB(A) and 66 dB(A) values are measured, the octave band test is to be applied in order to determine compliance with this subsection.

Maximum nighttime sound pressure levels (10:00 p.m. to 7:00 a.m.) are to be 7 (db) lower than the values shown for daytime steady noise for each octave band center frequency.

- (13) In Business and Commercial zoning districts, all activities involving the production, processing, cleaning, servicing, testing, repair of materials, goods or products, or any property use shall conform with the performance standards stated in subsection (11), above, provided that performance standards shall in every case be applied at the boundaries of the lot on which any such activities take place.
- (14) In Residential zoning districts, any property use shall conform with the performance standards stated in subsection (11) above, for Residence district boundaries, provided that performance standards shall in every case be applied at the boundaries of the lot on which such use is established.
- (15) The maximum sound pressure levels established in subsections (11), (12), (13) and (14) to be applied to the boundaries of a lot shall not apply to construction sites. Construction site noise level shall be regulated by subsection (4) above.
- (16) In all instances in which an I-2 Heavy Industrial District does not adjoin a Residence, Business or Commercial district, the performance standards governing noise for the I-1 Light Industrial Districts shall apply at the nearest Residence or Commercial district boundary line, as these districts are defined and designated under the provisions of the Grand Rapids Zoning Ordinance.
- (17) Any property uses established in an Industrial, Business or Commercial district shall be so operated as to comply with the performance standards governing vibrations set forth:
 - (a) In an I-2 Heavy Industrial Zoning District any property use creating intense or shaking vibrations such as are created by drop forges or heavy hydraulic surges shall be set back at least three hundred (300) feet from the zoning district line of any Residence or Commercial zoning district and at least one hundred fifty (150) feet from the zoning district line in any I-1 or PID Industrial zoning district unless such operation is controlled in such manner as to prevent such transmission beyond the zoning district line of earth shaking vibrations perceptible without the aid of instruments.
 - (b) In an I-1, PID Industrial Zoning District, Business or Commercial zoning district, any property use creating earth-shaking vibrations such as are created by drop forges or hydraulic surges shall be controlled in such manner as to prevent transmission beyond the lot lines of earth-shaking vibrations perceptible without the aid of instruments.
- (18) No person shall sell or offer for sale any engine powered pleasure vessel, engine powered craft or motorboat which may exceed the following noise limit as measured at the distance of fifty (50) feet under test procedures per SAE J-952b and with reference to SAE J-184 and ANSI Standards S1.1, 1960, S1.4, 1961, and Sections 9.64 and 9.65 of this Article.

	<u>Noise Limit</u>
Manufactured before 1 January 1975	85 dB(A)
Manufactured after 1 January 1975	76 dB(A)

- (19) No person shall sell or offer for sale a new power driven recreational or off-highway vehicle including dune buggies and snowmobiles, go-karts, and minibikes that produce noise measured at the distance of fifty (50) feet exceeding the following, under test procedures per SAE J-952b and with reference to SAE J-184 and ANSI Standards S1.1, 1960, S1.4, 1961, and Sections 9.64 and 9.65 of this Article.

<u>Type of Vehicle</u>	<u>Date of Manufacture</u>	<u>Noise Limit dB(A)</u>
Snowmobile	After 1 July 1973	82
Same	After 1 July 1974	73
Any other vehicle including dune buggy,		
all-terrain vehicle,	After 1 July 1973	82
go-kart, mini bike	After 1 July 1975	73

This subsection shall not be interpreted to include motor homes, off-highway trucks, construction equipment and other equipment included under subsections (7) and (9), above.

- (20) No person shall operate a motor driven vehicle of a type not subject to registration for road use, at any time or under any condition of acceleration or deceleration as to exceed the following noise limits as measured from the distance of fifty (50) feet under ANSI Standards S1.1, 1960, and S1.4, 1961, and SAE Standard J-184 with meter set for fast response and the A-weighted scale.

<u>Date of Manufacture</u>	<u>Noise Limit</u>
Before 1 July 1973	86 dB(A)
After 1 July 1973	82 dB(A)

This subsection shall not be interpreted to include the operation of off-highway trucks and construction equipment, regulated under subsection 9.63(9) of this Article.

(21) Landing and Takeoff Limitations.

- (a) No person shall cause or permit a helicopter to land or take off in a CBD Zoned District between the hours of 11:00 p.m. and 7:00 a.m., nor shall any person cause or permit more than fifteen (15) landings and fifteen (15) takeoffs a month from any one (1) site, nor more than two (2) landings and two (2) takeoffs per day from any one (1) site.
- (b) The City Manager may grant written permission for additional landings and takeoffs in conjunction with special events of community importance.

(22) Helicopter Landing and Takeoff Noise Limitations. No person shall operate a helicopter or permit a helicopter to be operated so as to exceed the following noise limit:

(a) <i>Microphone Distance from <u>Helicopter</u></i>	<i>Maximum dB(A) Slow Meter <u>Response</u></i>	<i>Maximum <u>Duration</u></i>
Meter used at perimeter of structure or property containing landing site at the public right-of-way level	110 dB(A)	30 seconds

- (b) A helicopter shall not remain in operation at a landing site for a duration of more than three (3) minutes.

(23) Exemption. The provisions of this Article shall not apply to emergency landings and takeoffs. (Ord. No. 73-8, 2-6-73; Ord. No. 75-36, 4-29-75; Ord. No. 76-2, 1-6-76; Ord. No. 78-27, 4-18-78; Ord. No. 83-56, 9-27-83)

Sec. 9.64. - Test Procedures.

Test procedures as to noise levels emitted by motor vehicles and by engine powered equipment when offered for sale shall conform to SAE Standards and Recommended Practices:

SAE J-184	Qualifying a Sound Data Acquisition System, SAE Recommended Practice
SAE J-331	SAE Standard for Sound Levels for Motorcycles, as it is proposed on the effective date of this Article
SAE J-366a	Exterior Sound Level for Heavy Trucks and Buses, SAE Recommended Practice
SAE J-952b	Sound Levels for Engine Powered Equipment, SAE Standard

SAE J-986a	Sound Levels for Passenger Cars and Light Trucks, SAE Standard
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and such other and further standards as may be propounded in the Code of Recommended Practices of the Director.

(Ord. No. 73-8, 2-6-73)

Sec. 9.65. - Test Equipment Standards.

Test equipment standards applicable to tests and measurements described and required herein are:

ANSI S1.1, 1960	Acoustic Terminology (ISO R131) (IEC 50-08)
ANSI S1.4, 1961	General Purpose Sound Level Meters (IEC-123-1961)
ANSI S1.11, 1966	Octave, Half Octave and Third Octave Band Filter Sets (IEC 225-1966)
ANSI S1.12, 1967	Laboratory Standard Microphones
IEC 179, 1965	Precision Sound Level Meters

and such other and further standards as may be propounded in the Code of Recommended Practices of the Director.

(Ord. No. 73-8, 2-6-73)

Sec. 9.66. - Certification of Compliance.

The Director may require, upon reasonable notice, that the manufacturer, distributor, importer, or designated agent shall certify in writing to the City that his or her vehicles or equipment sold or offered for sale within the City comply with the applicable provisions of the appropriate subsections of this Article.

(Ord. No. 73-8, 2-6-73)

Sec. 9.67. - Adjustment of Standards.

It is the intent of the City of Grand Rapids to periodically reevaluate the future noise level limits and other standards contained in this noise control ordinance, and, if it is determined to be appropriate, to adjust such standards either upward or downward in light of future possible advances in technology or the state of the art.

(Ord. No. 73-8, 2-6-73)

Sec. 9.68. - Regulations.

- (1) The City Manager may establish regulations for the implementation or enforcement of Article 5, Chapter 151, of Title IX of the Code of the City of Grand Rapids. Any regulation promulgated under this Section shall pertain only to the means, manner or method of implementation or enforcement of the Article and shall not change, alter or amend the requirements of the Article. The regulations promulgated hereunder, or amendments or changes thereof, shall become effective upon review and approval by the City Commission.
- (2) Violation of the regulations promulgated under this provision shall be punished as provided for in Section 1.13 of this Code.
- (3) Copies of the Regulations promulgated under this Section shall be kept on file at the Office of the City Clerk and at the Office of the Director. These regulations shall be available for public inspection and copying during normal business hours.

(Ord. No. 75-36, 4-29-75)

Sec. 9.69. - Variances.

- (1) The provisions of this Article shall not apply to those events, activities or locations which have been granted a variance, as hereinafter set out, by the City Commission.
- (2) The City Commission shall have the authority to grant variances subject to the conditions and under the circumstances set out in this Section. These variances, to be known and entitled as Noise Variances, shall exclude the event, activity or location for which the permit is issued from the operation and requirements of this Article, subject to the provisions of this Section.
- (3) Any person seeking a variance pursuant to this Section shall file an application with the City Clerk on a form prescribed by the City Manager. The application shall contain, in addition to such information as shall be required by the City Manager, information demonstrating that bringing the source of sound for which the variance is sought or the activity involved into compliance with this Article, would cause an unreasonable hardship for the applicant, the community or for other persons. Upon receiving such an application, the Clerk shall submit it to the City Manager. Upon receipt of an application, the City Manager shall cause such investigation as he or she deems necessary to be made concerning the application. This investigation may include, but need not be limited to, consulting with such City Departments as he or she may deem necessary or desirable. The City Manager, subject to the provisions of subsection (4) of this Section may, in his or her discretion, cause a public hearing to be held on any application for a Noise Variance. If no public hearing is held, the City Manager, subject to the provisions of subsection (4) of this Section, shall allow interested parties to submit written comments concerning an application for a Noise Variance. The applicant shall, prior to the investigation of the application by the City Manager, cause a public notice of said application for a Noise Variance to be published at least twice in a daily newspaper of general circulation published in the City of Grand Rapids, in a form prescribed by the City Manager.
- (4) The City Manager, in addition to such other investigation as he or she may deem necessary:

- (a) Shall require applicant to show that the notice requirements herein provided for have been met;
 - (b) Shall permit applicant to offer such evidence as it desires to establish applicant's position that a variance should be granted;
 - (c) Shall permit those opposing applicant's request for a variance to offer evidence in opposition to the granting of a variance;
 - (d) May, in his or her discretion, refuse to receive or hear evidence that is merely cumulative, and may reasonably limit the time allowed to present evidence by those supporting and those opposing the application.
- (5) The City Manager shall consider all evidence received pursuant to this Section and based upon this evidence and the results of his or her investigation, shall make a recommendation to the City Commission as to whether a Noise Variance should be granted. The City Manager shall make his or her recommendation based upon the factors set out in subsection (6), and shall state the reasons for his or her recommendation in writing. The application and the recommendation of the City Manager shall be placed on the agenda of the City Commission and shall be considered in due course according to the Rules of the City Commission. In deciding whether to grant the Noise Variance, the City Commission shall consider the factors set out in subsection (6) of this Section. The City Commission shall, by resolution, grant or deny the Variance. If a resolution approving a Noise Variance is passed, the City Clerk shall issue a Noise Variance subject to the terms of this Section.
- (6) The following factors shall be considered in determining whether to grant the variance;
- (a) The balance of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other effects of the granting of the variance.
 - (b) The number, if any, of previous variances granted to the applicant, or for the same location or activity.
 - (c) The nearness of any residence or residences, or any other use which would be adversely affected by noise in excess of the limits prescribed by this Article.
 - (d) The sound level of the sound to be generated by the event or activity.
 - (e) Whether the type of noise to be produced by the event is usual or unusual for the location or area for which the variance is requested.
 - (f) The density of population of the area in which the event or activity is to take place.
 - (g) The time of day or night which the activity or event will take place.
 - (h) The nature of the sound to be produced, including but not limited to whether the sound will be steady, intermittent or of a repetitive impulse nature.
- (7) Neither the City Manager nor the City Commission shall consider the communicative content of the activity or event in determining whether to grant or deny a variance. The rights of all interested persons to due process of law and equal protection of law shall not be denied.
- (8) Variances shall only be granted subject to the following conditions:
- (a) That the event or activity for which the permit is sought shall be held in a public place.
 - (b) That the event or activity for which the permit is sought shall be open to the public. There shall be no discrimination on the basis of race, color, creed, national origin or sex.
 - (c) Variances issued shall be subject to such reasonable conditions as the City Commission shall

require, including, but not limited to, conditions:

- (i) Limiting the days of the week for which the variance is valid.
- (ii) Limiting the number of days for which the variance is valid.
- (iii) Limiting the hours of the day, or days, for which the variance is valid.

Such conditions shall be noted on the variance issued to the applicant and noncompliance with any condition of the variance shall terminate the variance and subject the applicant, event or activity to the provisions of this Article. The variance shall not be valid unless all conditions thereof are agreed to by the applicant, or its duly authorized officer or agent, in writing.

- (9) Any variance issued pursuant to this Section shall be kept at the site of the event or activity for which the variance was obtained. The variance shall be displayed, on request, to any law enforcement officer, Environmental Protection Department employee or park patrol officer. The requirements of this subsection are hereby made express conditions of the granting of the variance and failure to comply with these conditions shall cause the variance to terminate as provided for in subsection (8).
- (10) The City Commission, in granting or denying a variance pursuant to this Section, shall be an administrative body acting in a quasi-judicial capacity, subject to review as provided in Article 6, Section 28, of the Michigan Constitution of 1963.

(Ord. No. 76-20, 3-23-76)

Sec. 9.70. - Sound Systems in Vehicles.

No person operating or in control of a stopped or moving motor vehicle shall operate or permit the operation of a sound system in the vehicle so as to produce sound that is clearly audible at a distance of fifty (50) feet from the vehicle between the hours of 7:00 a.m. and 7:00 p.m., or clearly audible at a distance of twenty-five (25) feet from the vehicle between the hours of 7:00 p.m. and 7:00 a.m.; provided, however, this section shall not apply to the sound system of a police, fire or other public service vehicle while the public service vehicle is being used in the performance of public service work. Notwithstanding any other provision of this Code, a person convicted of violation of this Section shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00) in addition to other penalties provided for by law and by this Code.

(Ord. No. 95-67, § 1, 11-14-95)

From: [Nathan Sevenser](#)
To: [Krysti Barksdale-Noble](#)
Cc: [Mandy Kachur](#)
Subject: Sound Level Meters
Date: Tuesday, April 26, 2016 10:18:47 AM

Hello Krysti,

Here are a list of sound level meters that your police department may want to consider for purchase. I have listed them in order of what I think will work the best for you. My goals in making this list were minimum necessary functionality (i.e., the meter doesn't do too much more than what you need it to do) and a simple user interface, ability to measure low noise levels in case it is necessary to make indoor measurements, long battery life, and minimizing the cost.

Bruel & Kjaer model 2240 (Class 1)

<http://www.bksv.com/Products/handheld-instruments/sound-level-meters/sound-level-meters/type-2240>

Cost \$2,446

Bruel & Kjaer, commonly referred to as B&K, is generally considered the premium brand in our industry. My company owns 9 sound level meters and none of them are B&K because B&K meters tend to be more expensive than other brands. However, I think that the B&K model 2240 is better suited to your needs than any other meter that I came across. I highly recommend that you consider it in spite of the price tag. Also, you should consider that B&K sound level meters are usually very durable and should work for many years. And, they provide good customer service. The Chicago area technical representative for B&K should be willing to arrange a demonstration.

Tim Nosal (B&K Technical Representative for Chicago area)
(847) 841-9237
Tim.nosal@bksv.com

This Ono Sokki meter and the Rion meter that follow are both Class 2 meters (not as accurate as a Class 1 meter). They have relatively simple user interfaces. They are less expensive than the B&K meter, but neither, in my opinion is nearly as good. Both companies will probably try to sell you one of their more expensive models as an equivalent to the B&K meter, but I don't think that either company has a more expensive model that will have only the minimum necessary functionality and be as simple to use. Never the less, I am providing them as options in case you cannot afford the B&K meter.

Ono Sokki model 1410 (Class 2)

<https://www.onosokki.net/catalog/viewProduct.cfm?ProductID=253&a=1&CategoryIDTrail=3,12>

Cost: \$1,500

Ono Sokki USA

(630) 627-9700

Rion model NL-27 Sound Level Meter (Class 2)

<http://scantekinc.com/brands/rion/sound-level-meters/nl-27-sound-level-meter>

Cost \$1,300

Scantek Inc. (U.S. Sales Representative)

(410) 290-7726

Let me know if I can be of any more help in selecting sound level meters.

Best Regards,

Nate

Nate Sevenser, Principal Consultant
PE, LEED AP, INCE Board Certified



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PUBLIC NOTICE OF A HEARING BEFORE
THE UNITED CITY OF YORKVILLE
PLANNING AND ZONING COMMISSION

NOTICE IS HEREWITH GIVEN THAT the United City of Yorkville, Kendall County, Illinois, petitioner, is proposing a text amendment to several Chapters of the United City of Yorkville Zoning Ordinance including Chapter 2: Definitions; Chapter 6: Permitted and Special Uses; Chapter 13: Manufacturing Districts; and Chapter 15: Nonconforming Buildings, Structures, and Uses. The amendments to Chapter 2 define a semi-truck, semi-truck repair, and clarify the commercial school/trade school definition. The Chapter 6 amendment will provide that semi-truck repair is only allowed as a permitted use in the M-1 Manufacturing District and M-2 Manufacturing District. The Chapter 13 amendment will revise the performance standards section to reference the building regulations as the new noise ordinance standards. The Chapter 15 amendment will provide clarification for nonconforming land uses within the City.

NOTICE IS HEREWITH GIVEN THAT the Planning and Zoning Commission for the United City of Yorkville will conduct a public hearing at a special meeting on said amendments on Wednesday, January 18, 2017 at 7 p.m. at the Yorkville City Hall, located at 800 Game Farm Road, Yorkville, Illinois 60560.

The public hearing may be continued from time to time to dates certain without further notice being published.

All interested parties are invited to attend the public hearing and will be given an opportunity to be heard. Any written comments should be addressed to the United City of Yorkville Community Development Department, City Hall, 800 Game Farm Road, Yorkville, Illinois, and will be accepted up to the date of the public hearing.

By order of the Corporate Authorities of the United City of Yorkville, Kendall County, Illinois.

BETH WARREN
City Clerk

BY: Lisa Pickering
Deputy Clerk



Memorandum

To: Planning and Zoning Commission
From: Jason Engberg, Senior Planner
CC: Bart Olson, City Administrator
Krysti J. Barksdale-Noble, Community Development Director
Date: January 11, 2017
Subject: **PZC 2016-05** - Text Amendments to Yorkville Zoning Ordinance
Semi-Truck/Repair, Commercial/Trade Schools, Non-Conforming Land Use

Summary

Over the course of the past year, the City of Yorkville has noticed several written sections within the Zoning Ordinance that require clarification. Rather than addressing each section individually, we are addressing them here collectively. All of these additions and clarifications to the Zoning Ordinance are driven by staff and legal counsel.

Semi-Truck and Semi-Truck Repair

Semi-trucks are not distinguished from automobiles in the Zoning Ordinance. As a result, semi-truck automobile repair businesses may operate in a commercial district which is not an appropriate use for this district. To correct this, we propose creating separate definitions for Semi-trucks and Semi-truck Auto Repair in Section 10-2-3 of the Zoning Ordinance.

Current Zoning Ordinance Definitions:

AUTOMOBILE REPAIR: Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair and painting of vehicles. Incidental repairs, replacement of parts, and motor service to automobiles.

MOTOR VEHICLE: A passenger vehicle, truck, truck trailer, trailer or semitrailer propelled or drawn by mechanical power.

Proposed Zoning Ordinance Definition Clarifications and Additions (10-2-3):

AUTOMOBILE REPAIR: Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair and painting of vehicles. Incidental repairs, replacement of parts, and motor service to automobiles. **Automobile Repair excludes Semi-trucks. For Semi-Truck Repair, please see 'SEMI- TRUCK REPAIR'.**

SEMI- TRUCK: A tractor unit which is used to tow one or more semi-trailers. A semi-truck typically has two or three axles and is built for hauling large amounts of products, goods, and heavy machinery.

SEMI-TRUCK REPAIR: Engine rebuilding or major reconditioning of worn or damaged semi-trucks; collision service, including body, frame or fender straightening or repair and painting of tractor. Incidental repairs, replacement of parts, and motor service to semi-trucks.

*Additionally, Semi-truck Repair will become permitted uses in the M-1 and M-2 districts (Table 10.06.03)

Originally staff had removed the word ‘trailers’ from the definition of AUTOMOBILE REPAIR. However, during the Economic Development Committee (EDC) meeting, it was brought to staff’s attention that by excluding trailers, smaller passenger towed cargo vehicles such as utility trailers, boat trailers and horse trailers would not be allowed to be repaired in the Business Districts where auto repair is permitted. Therefore, we have kept the word “trailers” within that definition.

Commercial School/Trade School

The current definition of a Commercial School could be interpreted to include traditional schools as well. If traditional schools were allowed to develop in commercial districts, the City would be losing out on potential tax revenue from commercial real estate – as traditional schools are tax exempt. To solve this, we propose clarifying the existing definitions of Commercial Schools and traditional Schools.

Current Zoning Ordinance Definitions:

COMMERCIAL SCHOOL, TRADE SCHOOL: A school established to provide for the teaching of academic, industrial, clerical, managerial, artistic skills or alternative education. This definition applies to schools that are owned and operated privately for profit or not for profit and that may offer a complete education curriculum.

SCHOOL: Elementary, high school or college, public or private, or nonprofit junior college, college or university, other than trade and business schools, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees.

Proposed Zoning Ordinance Definition Clarifications (10-2-3):

COMMERCIAL SCHOOL, TRADE SCHOOL: A school established to provide for the teaching of ~~academic~~, industrial, clerical, managerial, artistic skills or alternative education. This definition applies to schools that are owned and operated privately for profit or not for profit ~~and that may offer a complete education curriculum~~. Such schools may not contain an auditorium, gymnasium, or any other sort of recreational facilities.

SCHOOL: Elementary, high school or college, public or private, or nonprofit junior college, college or university, other than trade, ~~commercial~~ and business schools, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees. ~~These schools typically contain an auditorium, gymnasium, cafeteria, or other recreational facilities.~~

Non-Conforming Land Use

Currently, agricultural uses of land may be subject to elimination upon expiration of an annexation agreement. There are several properties within the City which have been annexed into the City with an approved plan but have not been developed. These existing agricultural lands have become legal nonconforming uses. To fix this issue, we propose adding the following to Section 10-15-5 of the Zoning Ordinance:

Proposed Zoning Ordinance Addition (10-15-5):

“F. In any district, unless otherwise limited or restricted by an annexation agreement, agricultural uses that exist upon annexation of the property and become legal nonconforming

shall continue to be legal nonconforming uses and shall not be subject to elimination by abandonment or amortization”

Staff Recommendations

Staff is requesting recommendation for approval by the Planning and Zoning Commission on these proposed text amendments to the Zoning Ordinance. It is staff’s opinion that the proposed nuanced modifications will more clearly explain the intent of these regulations in the Zoning Ordinance.

Proposed Motion for Amendments

In consideration of testimony presented during a Public Hearing on January 18, 2017, the Planning and Zoning Commission recommends approval to the City Council of a request to amend the United City of Yorkville Zoning Ordinance as presented by staff in a memorandum dated January 11, 2017 and further subject to {insert any additional conditions of the Planning and Zoning Commission}...

Attachments

1. Current Section of Zoning Ordinance regarding Definitions and Non-Conforming Land Uses
2. Public Hearing Notice

AMPHITHEATER: A commercial structure with tiers of spectator seating rising around a field or court, intended primarily for use of viewing musical, theatrical, sporting or other similar entertainment events and specifically designed as a place of assembly.

AMUSEMENT PARK: A commercially operated facility which may include structures and buildings, with a predominance of outdoor games and activities for entertainment, including motorized rides, water slides, miniature golf, batting cages and similar activities.

ANIMAL HOSPITAL: Any building, or portion thereof, designed or used for the care, observation or treatment of domestic animals.

ANTIQUE SALES: A building or areas within a building to provide space for the sale of antiques by antique dealers, for items such as clocks, lamps, clothing, rugs, toys, furniture, and similar household goods.

AUCTION HOUSE: A structure, area, or areas within a building used for the public sale of goods, wares, merchandise, or equipment to the highest bidder.

AUTOMOBILE RENTAL: Leasing or renting of automobiles, motorcycles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. This definition excludes commercial truck and trailer rental.

AUTOMOBILE REPAIR: Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair and painting of vehicles. Incidental repairs, replacement of parts, and motor service to automobiles.

BAKERY, RETAIL: An establishment primarily engaged in the retail sale of baked products. The products may be prepared either on or off site.

BAKERY, WHOLESALE: A bakery in which there is permitted the production and/or wholesaling of baked goods, excluding retail bakery.

BANK: A building for the custody, loan, or exchange of money, for the extension of credit and for facilitating the transmission of funds. This definition includes credit unions, savings and loan facilities, payday loans, personal loan agencies.

BASEMENT: That portion of a building that is partly or completely below grade.

BED AND BREAKFAST INN (B&B): A private, owner/operator occupied residence with guestrooms, providing overnight accommodations and a morning meal for compensation to transients/travelers. A bed and breakfast inn is operated primarily as a business.

BILLIARD PARLOR: A business establishment for a principal use as a billiard facility.

BLOCK: A tract of land bounded by streets or, in lieu of a street or streets, by public parks, cemeteries, railroad rights of way, bulkhead lines or shorelines of waterways or corporate boundary lines of municipalities.

BOAT SALES AND RENTAL: A marine retail sales and service use in which boats are rented or sold.

BOAT STORAGE: A facility where boats are stored including indoor and outdoor. Outdoor facilities shall be enclosed by an opaque fence or wall a minimum six feet (6') in height.

BUILDING, TEMPORARY: Any building not designed to be permanently located in the place where it is, or where it is intended to be placed or affixed.

BULK: The term used to describe the size and mutual relationships of buildings and other structures, as to size, height, coverage, shape, location of exterior walls in relation to lot lines, to the centerlines of the streets, to other walls of the same buildings, and to other buildings or structures, and to all open spaces relating to the building or structure.

BUSINESS: Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials, or where services are offered for compensation.

CAMPGROUND: Any area that is occupied or intended or designed or improved for occupancy by transients using recreational vehicles, travel trailers, and/or tents.

CAR WASH: A building or portion thereof containing facilities for washing more than two (2) motor vehicles, using production line methods. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. Coin operated devices operated on a self-service basis shall be construed to be the same.

CARPORT: An automobile shelter with two (2) or more sides open.

CEMETERY: Land used or dedicated to the interment of human or animal remains or cremated remains, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries shall be included when operating within the boundary of such cemetery.

CITY: The United City Of Yorkville or the city of Yorkville.

CITY COUNCIL: The city council of the city of Yorkville.

CLUB OR LODGE, PRIVATE: A for profit or nonprofit association of persons who are bona fide members paying annual dues which owns, hires or leases a building, or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises provided that adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed in conjunction with the operation of a dining room for the purpose of serving food and meals, though such beverages may be served in a separate room or rooms, and provided that such sale of alcoholic beverages is in compliance with the applicable local, federal and state laws, and county ordinances¹.

COLLEGE: A private or public college or technical institution which provides full time or part time education beyond high school that grants associate, baccalaureate, or higher degrees.

COMMERCIAL FEEDING: A land use or facility used for the confined feeding operation for fish, poultry, swine or livestock.

COMMERCIAL SCHOOL, TRADE SCHOOL: A school established to provide for the teaching of academic, industrial, clerical, managerial, artistic skills or alternative education. This definition applies to schools that are owned and operated privately for profit or not for profit and that may offer a complete education curriculum.

COMMUNITY CENTER: A building or structure used as a place of meeting, recreation or social activity, generally open to the public and designed to accommodate and serve significant segments

Chapter 15

NONCONFORMING BUILDINGS, STRUCTURES AND USES

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10-15-1: CONTINUANCE OF USES AND STRUCTURES:

- A. Any lawfully established use of a building or land on March 28, 1974, including any use which is rendered nonconforming by a subsequent amendment to this title, that does not conform to the use regulations for the district in which it is located shall be deemed to be a legal nonconforming use and may be continued subject to the provisions of this chapter.
- B. Any lawfully established building or structure on March 28, 1974, including any building or structure which is rendered nonconforming by a subsequent amendment to this title, that does not conform to the regulations for the district in which it is located shall be deemed to be a legal nonconforming building or structure and may be continued in use subject to the provisions of this chapter. (Ord. 2014-73, 11-25-2014)

10-15-2: NONCONFORMING USES:

- A. Relocation: A nonconforming use shall not be relocated in whole or in part to any other location on the same property or to any other property unless the nonconforming use complies with all of the regulations of the zoning district into which it relocates.
- B. Change In Use: A nonconforming use of land shall not be changed to any other use except to a land use, specifically enumerated in the list of permitted uses for the zoning district in which the land is located. Whenever any part of a building, structure or land occupied by a nonconforming use is changed to or replaced by a conforming use, such premises shall not thereafter be used or occupied by a nonconforming use.
- C. Expansion: A nonconforming use shall not be extended, expanded, enlarged or increased in any manner including, but not limited to, the following:

1. A nonconforming use that does not involve a structure or which is accessory to the nonconforming use of a structure shall not be expanded or extended to any land area not occupied by such nonconforming use.

2. A nonconforming use shall not be expanded within a structure to any portion of the floor area that was not occupied by such nonconforming use. A use permitted in the district in which it is located may expand in a nonconforming structure.

D. Abandonment: A nonconforming use of any land or structure, including any accessory uses, shall not be reestablished subsequent to abandonment as follows:

1. Whenever a nonconforming use of a building or structure, or part thereof, has been discontinued for a period of twelve (12) consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a nonconforming use, such use shall not, after being discontinued or abandoned, be reestablished, and the use of the premises thereafter shall be in conformity with the regulations of the district.

2. Where there is a change in use, regardless of whether or not such change was made in compliance with all applicable codes and ordinances, the nonconforming use of any land or structure shall not be reestablished. Any subsequent use of such land or structure shall comply with the regulations of the zoning district in which it is located and with the provisions of the other titles of this code.

3. Where no building or structure is involved, discontinuance of a nonconforming use for a period of six (6) months shall constitute abandonment, and shall not thereafter be used in a nonconforming manner. (Ord. 2014-73, 11-25-2014)

10-15-3: NONCONFORMING STRUCTURES:

A. Relocation: A nonconforming structure shall not be relocated in whole or in part to any other location on the same property or to any other property unless the nonconforming structure complies with all of the provisions of this code.

B. Maintenance, Repair, Alteration And Enlargement:

1. A nonconforming structure which is designed or intended for a use that is not permitted in the zoning district in which it is located may be maintained or repaired, not including structural alterations, subject to compliance with all of the regulations of the zoning district in which it is located and with the provisions of the other titles of this code, but such nonconforming structure shall not be altered or enlarged, unless such alteration or enlargement and the use thereof, conform to all of the regulations of the zoning district in which it is located, and does not extend or intensify the nonconforming use.

2. No structural alteration shall be made in a building or other structure containing a nonconforming use, except in the following situations:

a. When the alteration is required by law, or

- b. When the alteration will actually result in elimination of the nonconforming use, or
 - c. When a building is in a residential district containing residential nonconforming uses, it may be altered in any way to improve livability, provided no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.
3. A nonconforming structure which is nonconforming only with respect to the bulk regulations for the zoning district in which it is located may be maintained, repaired, altered, or enlarged, provided that the maintenance, repair, alteration, or enlargement does not establish any additional nonconformity and complies with all of the regulations of the zoning district in which it is located and the provisions of the other titles of this code.

C. Damage And Destruction:

1. If a building or other structure containing a nonconforming use is damaged or destroyed by any means to the extent of fifty percent (50%) or more of its fair market value prior to such damage, the building or other structure can be rebuilt or used thereafter only for conforming principal and accessory uses and in compliance with the provisions of the district in which it is located.
2. In the event the damage or destruction is less than fifty percent (50%) of its market value, the building or structure may then be restored to its original condition and the occupancy or use of such building or structure may be continued which existed at the time of such partial destruction.
3. In either event, restoration or repair of the building or other structure must be started within a period of six (6) months from the date of damage or destruction and completed within twenty four (24) months.
4. The methodology for determining the extent of damage with regard to fair market value shall be as recommended by the community development director and approved by the city administrator. (Ord. 2014-73, 11-25-2014)

10-15-4: ELIMINATION OF NONCONFORMING BUILDINGS, STRUCTURES AND USES:

The period of time during which the following nonconforming uses, buildings, or structures may continue or remain nonconforming shall be limited from March 28, 1974, or when any use, building or structure is rendered nonconforming by a subsequent amendment to this title. Every such nonconforming use, building or structure shall be completely eliminated or removed from the premises at the expiration of the period of time specified below:

- A. Any nonconforming use of a building or structure having an assessed valuation not in excess of five hundred dollars (\$500.00) shall be removed after two (2) years.
- B. All nonconforming advertising devices, such as pennants, flags, movable signs or portable outdoor displays in any business district shall be removed after two (2) years.

- C. Any nonconforming signs and any and all billboards and outdoor advertising structures shall be removed after five (5) years.
- D. Any nonconforming use of land where no enclosed building is involved, or where the only buildings employed are accessory or incidental to such use, or where such use is maintained in connection with a conforming building, shall be removed after a period of two (2) years.
- E. In all residence districts uses permitted only in the B-2 and B-3 districts or the manufacturing districts, and which use is located in a building, all or substantially all of which is designed or intended for a residential accessory purpose, shall be entirely discontinued and shall thereafter cease operation in accordance with the following amortization schedule:

TABLE 10.15.01
AMORTIZATION PERIODS

Description Of Use	Amortization Period
Uses permitted in the B-2 and B-3 districts	15 years
Uses permitted only in the manufacturing districts	15 years

- F. Requests for extensions to the elimination period may be sought before the city council. In no case shall an extension be granted for a period longer than two (2) years. (Ord. 2014-73, 11-25-2014)

10-15-5: EXEMPTED BUILDINGS, STRUCTURES AND USES:

Wherever a lawfully existing building or other structure otherwise conforms to the use regulations of the district in which it is located, but is nonconforming only in the particular manner thereafter specified, the building and use thereof shall be exempt from the requirements of section [10-15-4](#) and subsection [10-15-3B](#) of this chapter as follows:

- A. In any residence district where a dwelling is nonconforming only as to the number of dwelling units it contains, provided no such building shall be altered in any way so as to increase the number of dwelling units therein.
- B. Legally nonconforming duplex units zoned R-2, single-family traditional residence district are exempt from subsection [10-15-3C](#) of this chapter; however if the total structure containing both units of the duplex building is damaged or destroyed by any means to the extent of seventy five

percent (75%) or more of its fair market value prior to such damage, the building shall be rebuilt or used only for conforming principal and accessory uses in compliance with the R-2, single-family traditional residence district.

C. In any residence district where a use permitted in the B-1 district occupies ground floor space within a multiple-family dwelling located on a corner lot.

D. In any business or manufacturing district where the use is less distant from a residence district than that specified in the regulations for the district in which it is located.

E. In any district where an established building, structure or use is nonconforming with respect to the standards prescribed herein for any of the following:

1. Floor area ratio;
2. Lot area per dwelling unit;
3. Yards - front, side, rear or transitional;
4. Off street parking and loading;
5. Lot area;
6. Building height;
7. Gross floor area. (Ord. 2014-73, 11-25-2014)

PUBLIC NOTICE OF A HEARING BEFORE
THE UNITED CITY OF YORKVILLE
PLANNING AND ZONING COMMISSION

NOTICE IS HEREWITH GIVEN THAT the United City of Yorkville, Kendall County, Illinois, petitioner, is proposing a text amendment to several Chapters of the United City of Yorkville Zoning Ordinance including Chapter 2: Definitions; Chapter 6: Permitted and Special Uses; Chapter 13: Manufacturing Districts; and Chapter 15: Nonconforming Buildings, Structures, and Uses. The amendments to Chapter 2 define a semi-truck, semi-truck repair, and clarify the commercial school/trade school definition. The Chapter 6 amendment will provide that semi-truck repair is only allowed as a permitted use in the M-1 Manufacturing District and M-2 Manufacturing District. The Chapter 13 amendment will revise the performance standards section to reference the building regulations as the new noise ordinance standards. The Chapter 15 amendment will provide clarification for nonconforming land uses within the City.

NOTICE IS HEREWITH GIVEN THAT the Planning and Zoning Commission for the United City of Yorkville will conduct a public hearing at a special meeting on said amendments on Wednesday, January 18, 2017 at 7 p.m. at the Yorkville City Hall, located at 800 Game Farm Road, Yorkville, Illinois 60560.

The public hearing may be continued from time to time to dates certain without further notice being published.

All interested parties are invited to attend the public hearing and will be given an opportunity to be heard. Any written comments should be addressed to the United City of Yorkville Community Development Department, City Hall, 800 Game Farm Road, Yorkville, Illinois, and will be accepted up to the date of the public hearing.

By order of the Corporate Authorities of the United City of Yorkville, Kendall County, Illinois.

BETH WARREN
City Clerk

BY: Lisa Pickering
Deputy Clerk



Memorandum

To: Planning and Zoning Commission
From: Krysti J. Barksdale-Noble, Community Development Director
CC: Bart Olson, City Administrator
Jason Engberg, Senior Planner
Date: January 12, 2017
Subject: **The Year in Review 2016**

Summary

Over the past year, the Community Development Department, which serves as the liaison between the City Council and the City's appointed boards/commissions that are tasked with reviewing development proposals and requests for certain relief of zoning standards, has had several major accomplishments to share. We also have worked to proactively address challenges that may have previously impeded the efficiency of the approval process for developers and remedy inconsistent or unduly burdensome regulations for our residents.

All efforts were done with an eye towards encouraging future growth and orderly development within Yorkville. Therefore, this memo will provide a brief summary of the role the Planning and Zoning Commission, and the former Plan Commission and Zoning Board of Appeals, had in achieving those accomplishments as well as an introduction of goals for the year ahead.

2016 Departmental Updates & Accomplishments

Below are some highlights from the Community Development Department in calendar year 2016:

- Hired Jason Engberg, Senior Planner, with a start date of August 1, 2016.
- Hired new Part-time Code Inspector, Poornima Ramesh, with a start date of December 1, 2016.
- Building permit figures:
 - 151 new housing starts
 - 900 total applications submitted and 855 total permits issued in calendar year 2016.
 - Total permit fees collected (all types) \$1,843,802
 - Total Construction Value \$36,639,237
 - Average BUILD permit home construction value \$183,049
 - Average Single Family permit (non-BUILD) construction value \$139,310
- Revised and extended the Sugar Grove and Yorkville planning boundary agreement until April 2020.
- Approved an economic development incentive policy resolution to cost share application fees for commercial and industrial projects that meet the criteria for the Upper Illinois River Valley Development Authority's (UIRVDA) enterprise zone program.
- Completed the scanning, digitizing and archiving of over 22,000 sheets of the oversized commercial and residential building plans stored in the Community Development offices.
- Implemented the first annual occupancy audit program where approximately 300 letters to all commercial property owners and their tenants making them aware that any rental/leased space that has changed occupancy is required to notify the City and complete an application for occupancy.

- Authorized the extension of a special use for the approved Heartland Meadows Planned Unit Development for an additional two (2) years or until May 2019 for the project located at the southwest corner of Freemont and Jackson Streets.
- Approved the extension of a fee lock until April 2021 for the remaining lots left to be built within the Autumn Creek Subdivision.
- Approved a clarification and restatement of the Caledonia subdivision and approved a dormant/backup special service area (SSA) for the common areas of the development.
- Approval of the extension of the BUILD Program until December 31, 2017.

2016 Applications & Petitions

As you know, in June 2016, the City Council approved an ordinance combining the duties and responsibilities of the City's Plan Commission and Zoning Board of Appeals into the current Planning and Zoning Commission (PZC). During the year of 2016, the United City of Yorkville's Plan Commission, Zoning Board of Appeal and now the Planning and Zoning Board reviewed a total of **twelve (12)** applications for various planning and zoning related requests. Following is a summary list and outcomes of the petitions heard by each of the aforementioned bodies:

	Case #	Project Name	Type of Request	Plan Commission Vote	City Council Final Action
1	PC 2016-02	Law Offices	Special Use	6-yes/0-no	Approved
2	PC 2016-03	Unified Faith in Christ Church	Special Use	5-yes/1-present	Approved
3	PC 2016-05	BBB Farms LLC (Silver Fox)	Rezoning	4-yes/0-no	Approved
4	PC 2016-06	Commercial/Trade Schools	Text Amendment	4-yes/0-no	Approved
5	PC 2016-07	Lot 19 Commercial Drive	Special Use	4-yes/0-no	Approved
6	PC 2016-09	County Case 16-05 (13889 Hughes Road)	1.5 Mile Review	No objection	No objection
7	PC 2016-10	County Case 16-09 (Lisbon Road)	1.5 Mile Review	No objection	No objection
8	PC 2016-11	County Case 16-10 (Whitetail Ridge)	1.5 Mile Review	No objection	No objection
9	PC 2016-12	Grace Holistic Center for Education	Special Use	4-yes/0-no	Approved
10	PZC 2016-01	Comprehensive Plan Update	Text Amendment	6-yes/1-abstention	Approved
11	PZC 2016-02	County Case 16-22 (Jet's Towing)	Special Use/PUD	Objection	Objection
12	PZC 2016-03	Kendall Marketplace Sign	Variance	5-yes/0-no (Final Authority)	----

Progress of 2016 Planning Direction

In last year's "Year in Review" memo dated February 3, 2016, staff indicated that the adoption of the Comprehensive Plan Update may necessitate further refinements to the Zoning Ordinance in order to implement the recommendations for future development. While significant text amendments had not occurred by December 2016 to the Zoning Ordinance after the adoption

of the Comprehensive Plan a few months prior (September), several minor text amendments were on the agenda for the January 2017 Planning and Zoning Commission.

Furthermore, staff anticipates significant amendments, such as the inclusion of an overlay district in the downtown with specific design standards, to be presented to the Planning and Zoning Commission at a later date. The form of the revisions may occur on a chapter-by-chapter basis or may be presented all at once. In the meantime, staff will continue to monitor any other incidental changes to the text of the Zoning Ordinance that will need to be addressed and bring them before the commission.

Comprehensive Plan Update Implementation Strategy

As part of the recently adopted Comprehensive Plan Update, one of the primary goals identified by staff, the public during the civic engagement workshops and the City Council was to enhance the visual appearance, functionality and pedestrian environment of Downtown Yorkville. The City's downtown, as defined in the Comprehensive Plan Update, includes the area bounded by Van Emmon Park to the east, Orange and East Fox Streets on the south, Morgan Street on the west, and the Fox River on the north. However, the historic commercial core of Downtown Yorkville is mostly bounded by the Fox River on the north, Fox Street to the south, Mill Street to the east and Main Street to the west. A repositioning of the downtown, from a north-south direction flanking South Bridge Street to an east-west orientation along Hydraulic Street, has also been planned in the Comprehensive Plan Update due to the recent widening of IL Route 47.

As envisioned, the Downtown Yorkville plan will consist of mixed-use developments including shopping, dining, entertainment, recreational and living opportunities which capitalize on the existing historic building stock and location adjacent to the Fox River. To accomplish this, the Comprehensive Plan Update provided several short term (1-2 years) planning implementation strategies for policy making which includes facilitating investments in streetscape and pedestrian environments and addressing parking through pro-active efforts led by the City.

To that end, please see the following link to a memo dated December 28, 2016 prepared by staff to the Economic Development Committee (EDC) which focuses on the next steps to realizing these initial efforts of solid downtown revitalization through three (3) proposed projects: <http://www.yorkville.il.us/ArchiveCenter/ViewFile/Item/1915>.

The projects include: landscape/streetscape improvements along IL Route 47 between Van Emmon and Fox Streets on the west side; proposed placemaking through gateway and wayfinding signage throughout the downtown; and identification of on-street and off-street public parking opportunities. This memo was presented to the EDC at their January 3rd meeting and preliminary feedback was provided. *Staff is also seeking the Planning and Zoning Commission's input.*

2017 Planning Goals

As staff moves into the full swing of implementing the goals of the Comprehensive Plan Update, we propose to provide an annual report on the status of each identified implementation strategy and any goals that have been completed.

Should the Planning and Zoning Commission have any questions regarding the accomplishments or goals of the Community Development Department as outlined in this memorandum, staff will be available at Wednesday night's meeting to discuss in detail.