

CHAPTER 53

NOISE AND NOISE LIMITS

53.01 Definitions

53.02 Noise Prohibitions and Limited Sound Sources

53.03 Enforcement

53.04 Permits to Exceed Limits

53.01 DEFINITIONS. For use in this chapter, the following terms are defined.

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 dBA.
2. “Commercial” or “commercial district” means any property which is zoned for any commercial use as defined in the Zoning Ordinance.
3. “Construction equipment” means the implements used in an operation or activity, or everything except personnel needed to build, to repair, or to erect.
4. “Decibel” 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).
5. “Exhaust system” means the device or combination of devices that collects the exhaust from the engine or motor, delivers the exhaust to the atmosphere and reduces the noise emissions. “Exhaust system” includes manifold or headers, exhaust pipe, muffler, and tail pipe.
6. “Farm equipment” means the implements used in an operation or activity, or everything except personnel needed for cultivation or production of crops of any nature, or raising of any type of animal embraced within the term “livestock.”
7. “Gross vehicle weight rating” means the value specified by the manufacturer as the recommended maximum weighted load of a single motor vehicle. When trailers and tractors are separable, the gross combination weight rating is the value specified by the manufacturer as the recommended maximum loaded weight of the combined vehicle.
8. “Industrial” or “industrial district” means any property zoned for any industrial use as defined in the Zoning Ordinance.
9. “Motor vehicle” means every vehicle which is self-propelled.
10. “Noise disturbance” for purposes of this chapter, means any transmission of sound across a real property boundary from a source specifically limited by this chapter, which exceeds the sound level limits set forth in Table 1 entitled *Maximum Permissible Sound Levels From Limited Sources by Receiving Land Use*.

11. “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.
12. “Receiving land use” means, for purposes of this chapter, the use or occupancy of the property which receives the transmission of sound.
13. “Residential” or “residential district” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes. This definition does not include park custodial residences or school or college dormitories.
14. “Sound level meter” means an instrument used to measure sound pressure.
15. “Sound level” means the weighted sound pressure level contained by the use of the sound level meter and A-weighting network, such as a, b, or c as specified in *American National Standards Institute Specifications for Sound Level Meters*, ANSI S1.4-1971. If the frequency weighting employed is not indicated, the A-weighting shall apply.
16. “Sound pressure level” means twenty times the logarithm to the base 10 of the ratio of the root mean squared sound pressure to the reference pressure of 20 micropascals.
17. “Sound pressure” means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.
18. “Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces which cause compression and rarefaction of that medium. The description of sound may include any characteristic of sound, including duration, density, and frequency.
19. “Used” or “occupied,” for purposes of this chapter, where either word appears, shall be deemed to include the words “intended, designed, or arranged to be used or occupied.”

TABLE 1		
Maximum Permissible Sound Levels From Limited Sources By Receiving Land Use		
Zoning Category of Receiving Land Use	Legal Time	Sound Level Limit (dBA)
Residence District	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m.	50
Commercial District	At all times	65

Industrial District	At all times	75
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53.02 NOISE PROHIBITIONS AND LIMITED SOUND SOURCES. The following sound sources are limited by this chapter:

1. No person shall perform, create, cause or permit a radio, television set, musical instrument or any other device to produce, reproduce or amplify sound to create a noise which is audible at a distance of two hundred (200) feet from such device when operated on or in a motor vehicle.
2. No person shall operate a motor vehicle radio or other equipment to emit sound through a motor vehicle radio or other sound system if the sound emitted is plainly audible for more than two hundred (200) feet from the vehicle.
3. Every motor vehicle must at all times be equipped with a muffler and exhaust system in good working order and in constant operation to prevent excessive noise or annoying smoke.
4. The following constitutes evidence of rebuttable presumption of a violation of this section:
 - A. The use of a muffler cutout, bypass, non-original equipment exhaust system without a muffler, or other similar device upon a motor vehicle upon a street;
 - B. Equipment marked with either "off road use" or "not for street use";
 - C. Excessive revving and/or acceleration which can be heard at a distance of at least 200 feet (200'); or
 - D. The operation of a vehicle making excessive noise so as to be audible at a distance of at least two hundred (200) feet from the motor vehicle.
(Ord. 17-19 – Nov. 17 Supp.)
5. **Animals and Birds.** No person shall own, possess or harbor any animal or bird which frequently or for continued duration emits sounds native to the species which are a noise disturbance.
6. **Radios, Televisions, Phonographs, Etc.** No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound at a sound level which creates a noise disturbance. Church or clock carillons, bells or chimes, parades or processions (provided the conditions of the permit are met), mobile radio or telephone signal devices and sanctioned racing events are all excepted from the provisions of this subsection.
7. **Lawn Equipment.** No person shall use or operate or permit the use or operation of a power lawn mower, power trimmer, leaf blower, leaf vacuum, garden tiller or other gasoline or electric-powered device intended for mowing, trimming or working on a lawn or garden between the hours of ten o'clock (10:00) p.m. and

seven o'clock (7:00) a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter. No person shall use or operate or permit the use or operation of a gasoline-powered lawn or garden equipment which does not have a muffler if such use or operation creates a noise disturbance as defined by this chapter. *(Ord. 04-17 – Feb. 05 Supp.)*

8. Chain Saws. No person shall use or operate or permit the use or operation of a power chain saw between the hours of (10:00) p.m. and seven o'clock (7:00) a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter.

9. Solid Waste Collection and/or Hauling Equipment. No person shall use, operate or permit the use or operation of any solid waste collection and/or hauling equipment between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter.

10. Official Vehicles. Governmental, Police Department and Fire Department equipment, public utility company equipment, railroad company equipment and emergency vehicles such as ambulances and helicopters are exempt from the provisions of this chapter.

11. Construction Equipment. The operation of construction equipment between the hours of seven o'clock (7:00) a.m. to ten o'clock (10:00) p.m. shall not be subject to the limitations set out in Table 1 of this chapter. However, no person shall use or operate or permit the use or operation of construction equipment between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter.

(Ord. 04-14 – Nov. 04 Supp.)

12. Exempt Equipment. Persons operating the following equipment are exempt from the provisions of this chapter: farm equipment, snow blowers and snow plows.

(Ord. 04-17 – Feb. 05 Supp.)

13. Portland Cement Concrete Joint Sawing Equipment. A contractor performing duties in connection with an approved subdivision plan or a City of Marion public improvement project may perform necessary joint sawing of pavement upon approval of the City Engineer and shall be exempt from this chapter.

(Ord. 01-32 – Nov. 01 Supp.)

53.03 ENFORCEMENT.

1. The provisions of this chapter which prohibit the making, continuing, or causing the making or continuance of a noise disturbance shall be enforced only upon receipt of a complaint made or filed with City officials by a person disturbed by such noise disturbance, with the exception of violations of Section 53.02(1), (2), (3), and (4). Certification by an official charged with enforcement of the provisions

of this chapter that such complaint was made shall be sufficient to establish a rebuttable presumption that a violation of this statute has occurred.

2. Peace officers may enforce violations of Section 53.02(1), (2), (3), or (4) of this chapter without necessity of such complaint. The following scheduled fines are fixed for violations of Section 53.02(1), (2), (3) or (4):

Each Offense	\$25.00
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(Ord. 17-19 – Nov. 17 Supp.)

53.04 PERMITS TO EXCEED LIMITS. The Council, on written application, for good cause shown, may grant a special permit to exceed the sound and/or time limits established in Section 53.01 for specific activities generally or for limited times and/or dates provided that the sound level does not exceed 75 dBA at the receiving land use.

(Ord. 02-22 – Aug. 02 Supp.)