

CHAPTER 10.26 COMMUNITY NOISE CONTROL

§ 10.26.005. Declaration of Policy.

- A. In order to control unnecessary, excessive and annoying noise in the City of Newport Beach, it is declared to be the policy of the City to prohibit such noise generated from or by all sources as specified in this chapter.
- B. It is determined that certain noise levels are detrimental to the public health, welfare and safety and contrary to public interest; therefore, the City Council does ordain and declare that creating, maintaining, causing or allowing to be created, caused or maintained, any noise in a manner prohibited by, or not in conformity with, the provisions of this chapter, is a public nuisance and may be punished as a public nuisance.

(Ord. 95-38 § 11 (part), 1995; Ord. 2023-22 § 447, 2023)

§ 10.26.010. Definitions.

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

“Agricultural property” means a parcel of real property which is undeveloped for any use other than agricultural purposes.

“Ambient noise level” means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

“A-weighted sound level” means the total sound level meter with a reference pressure of twenty (20) micropascals using the A-weighted network (scale) at slow response. The unit of measurement shall be defined as DBA.

“Code Enforcement Officer” means the Code Enforcement Officer of the City or his duly authorized deputy.

“Commercial property” means a parcel of real property which is used as either in part or in whole for commercial purposes.

“Cumulative period” means an additive period of time composed of individual time segments which may be continuous or interrupted.

“Decibel (Db)” means a unit which denotes the ratio between two quantities which are proportional to power: the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base ten of this ratio.

“Dwelling unit” means any area within a structure on any parcel which:

1. Contains separate or independent living facilities for one or more persons, with an area or equipment for sleeping, sanitation and food preparation, and which has independent exterior access to ground level; or

2. Is being utilized for residential purposes by one or more persons separately or independently from occupants of other areas within the structure.

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

“Equivalent, noise, level, leq.” means the sound level corresponding to a steady state noise level over a given measurement period with the same amount of acoustic energy as the actual time varying noise level. Also known as the energy average noise level during the measurement period. The measurement period shall be fifteen (15) minutes under the terms of this chapter.

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

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

“Health care institution” means any hospital, convalescent home or other similar facility excluding residential.

“Hertz (HZ)” means the unit which describes the frequency of a function periodic in time which is the reciprocal of the period.

“Impulsive noise” means a noise of short duration usually less than one second and of high intensity, with an abrupt onset and rapid decay.

“Industrial property” means a parcel of real property which is used either in part or in whole for manufacturing purposes.

“Intruding noise level” means the total sound level, in decibels, created, caused, maintained or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

“Licensed” means the issuance of a formal license or permit by the appropriate jurisdictional authority, or where no permits or licenses are issued, the sanctioning of the activity by the jurisdiction as noted in public record.

“Major roadway” means any street, avenue, boulevard or highway used for motor vehicle traffic which is owned or controlled by a public government entity.

“Mobile noise source” means any noise source other than a fixed noise source.

“Residential property” means a parcel of real property which is used either in part or in whole for residential purposes, other than transient uses such as hotels and motels, and residential care facilities. Residential property includes the residential portion of mixed use properties.

“Simple tone noise” means a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished. If measured,

simple tone noise shall exist if the one-third octave band sound pressure levels in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two continuous one-third octave bands as follows: five Db for frequencies of five hundred (500) Hertz (Hz) and above or, by fifteen (15) Db for frequencies less than or equal to one hundred twenty-three (123) Hz.

“Sound level meter” means an instrument meeting American National Standard Institute’s Standard S1.4-1971 or most recent revision thereof for Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

“Sound pressure level” of a sound, in decibels, means twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound to a reference pressure which shall be explicitly stated.

“Vibration” means any movement of the earth, ground or other similar surface created by a temporal and spatial oscillation device or equipment located upon, affixed in conjunction with that surface.

(Ord. 95-38 § 11 (part), 1995; Ord. 2023-22 § 448, 2023)

§ 10.26.015. Decibel Measurement Criteria.

Any decibel measurement made pursuant to the provisions of this chapter shall be based on a reference sound pressure of twenty (20) micropascals as measured with a sound level meter using the A-weighted network (scale) at slow response.

(Ord. 95-38 § 11 (part), 1995)

§ 10.26.020. Designated Noise Zones.

The properties hereinafter described assigned to the following noise zones:

Noise Zone I — All single-, two-and multiple-family residential properties;

Noise Zone II — All commercial properties;

Noise Zone III — The residential portion of mixed-use properties;

Noise Zone IV — All manufacturing or industrial properties.

The actual use of the property shall be the determining factor in establishing whether a property is in Noise Zone I, II, III or IV provided that the actual use is a legal use in the City of Newport Beach.

(Ord. 95-38 § 11 (part), 1995)

§ 10.26.025. Exterior Noise Standards.

- A. The following noise standards, unless otherwise specifically indicated, shall apply to all property with a designated noise zone:

NOISE ZONE	TYPE OF LAND USE	ALLOWABLE EXTERIOR NOISE LEVEL (Equivalent Noise Level, Leq)	
		7 a.m. to 10 p.m.	10 p.m. to 7 a.m.
I	Single-, two-or multiple-family residential	55 DBA	50 DBA
II	Commercial	65 DBA	60 DBA
III	Residential portions of mixed-use properties	60 DBA	50 DBA
IV	Industrial or manufacturing	70 DBA	70 DBA

If the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

- B. It is unlawful for any person at any location within the incorporated area of the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property, to exceed either of the following:
1. The noise standard for the applicable zone for any fifteen-minute period;
 2. A maximum instantaneous noise level equal to the value of the noise standard plus twenty (20) DBA for any period of time (measured using A-weighted slow response).
- C. In the event the ambient noise level exceeds the noise standard, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.
- D. The Noise Zone III standard shall apply to that portion of residential property falling within one hundred (100) feet of a commercial property, if the intruding noise originates from that commercial property.
- E. If the measurement location is on boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.
- (Ord. 95-38 § 11 (part), 1995; Ord. 95-53 § 1, 1995)

§ 10.26.030. Interior Noise Standards.

- A. The following noise standard, unless otherwise specifically indicated, shall apply to all residential property within all noise zones:

NOISE ZONE	TYPE OF LAND USE	ALLOWABLE INTERIOR NOISE LEVEL (Equivalent Noise Level, Leq)	
		7 a.m. to 10 p.m.	10 p.m. to 7 a.m.
I	Residential	45 DBA	40 DBA
III	Residential portions of mixed-use properties	45 DBA	40 DBA

If the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

- B. It shall be unlawful for any person at any location within the incorporated area of the City to create any noise or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such a person which causes the noise level when measured on any other property, to exceed either of the following:
 - 1. The noise standard for the applicable zone for any fifteen-minute period;
 - 2. A maximum instantaneous noise level equal to the value of the noise standard plus twenty (20) DBA for any period of time (measured using A-weighted slow response).
 - C. In the event the ambient noise level exceeds the noise standard, the noise standard applicable to said category shall be increased to reflect the maximum ambient noise level.
 - D. The Noise Zone III standard shall apply to that portion of residential property falling within one hundred (100) feet of a commercial property, if the intruding noise originates from that commercial property.
 - E. If the measurement location is on a boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.
- (Ord. 95-38 § 11 (part), 1995; Ord. 95-53 § 2, 1995)

§ 10.26.035. Exemptions.

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

- A. Any activity conducted on public property, or on private property with the consent of the owner, by any public entity, or its officers, employees, representatives, agents, subcontractors, permittees, licensees, or lessees, which are consistent with, and in furtherance of, the governmental functions or services the public entity has authorized, or responsible, to perform, activities which are exempt from the provisions of this chapter include, without limitation, sporting and recreational activities which are sponsored or co-sponsored by the City of Newport Beach or the Newport Mesa Unified School District;
- B. Occasional outdoor gatherings, public dances, show, sporting and entertainment events, provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events;
- C. Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle, work or warning alarm or bell, provided the sounding of any bell or alarm on any building or motor vehicle shall terminate its operation within forty-five (45) minutes in any hour of its being activated;
- D. Noise sources associated with construction, repair, remodeling, demolition or grading of any real property. Such activities shall instead be subject to the

provisions of Chapter 10.28 of this title;

- E. Noise sources associated with construction, repair, remodeling, demolition or grading of public rights-of-way or during authorized seismic surveys;
- F. All mechanical devices, apparatus or equipment associated with agriculture operations provided that:
 - 1. Operations do not take place between eight p.m. and seven a.m. on weekdays, including Saturday, or at any time Sunday or a federal holiday, or
 - 2. Such operations and equipment are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions, or
 - 3. Such operations and equipment are associated with agricultural pest control through pesticide application, provided the application is made in accordance with permits issued by or regulations enforced by the California Department of Agriculture;
- G. Noise sources associated with the maintenance of real property. Such activities shall instead be subject to the provisions of Chapter 10.28 of this title;
- H. Any activity to the extent regulation thereof has been preempted by state or federal law. NOTE: Preemption may include motor vehicle, aircraft in flight, and railroad noise regulations;
- I. Any noise sources associated with people and/or music associated with a party at a residential property. Such noise is difficult to measure under the terms of this chapter and instead shall be subject to the provisions of Chapters 10.28 and 10.58 of this title;
- J. Any noise sources associated with barking dogs or other intermittent noises made by animals on any properly within the City of Newport Beach. Such noise is difficult to measure under the terms of this chapter and instead shall be subject to the provisions of Chapter 7.20 of this Code;
- K. Any noise sources associated with the operation of a permanently installed heating, venting and air conditioning (HVAC) equipment on a residential property permitted under the provisions of Section 10.26.045(B) and (C);
- L. Any noise sources specifically identified and mitigated under the provisions of a use permit, modification permit, development agreement or planned community district development plan adopted prior to the date of adoption of this chapter.
(Ord. 95-38 § 11 (part), 1995; Ord. 95-53 § 3, 1995)

§ 10.26.040. Schools, Day Care Centers, Churches, Libraries, Museums, Health Care Institutions – Special Provisions.

It is unlawful for any person to create any noise which causes the noise level at any school, day care center, hospital or similar health care institution, church, library or

museum while the same is in use, to exceed the noise standards specified in Section 10.26.025 prescribed for the assigned Noise Zone I (residential uses).
(Ord. 95-38 § 11 (part), 1995)

§ 10.26.045. Heating, Venting and Air Conditioning – Special Provisions.

- A. New HVAC Equipment. New permits for heating, venting and air conditioning (HVAC) equipment in or adjacent to residential areas shall be issued only where installations can be shown by computation, based on the sound rating of the proposed equipment, not to exceed an A-weighted sound pressure level of fifty (50) dBA or not to exceed an A-weighted sound pressure level of fifty-five (55) dBA and be installed with a timing device that will deactivate the equipment during the hours of ten p.m. to seven a.m. The method of computation used shall be that specified in “Standard Application of Sound Rated Outdoor Unitary Equipment,” Standard 275, Air conditioning and Refrigeration Institute, 1984 or latest revision thereof.
- B. Existing HVAC Equipment.
1. HVAC equipment legally installed prior to April 22, 1981, shall be permitted to operate with an exterior noise limit of sixty-five (65) dBA until January 1, 1998.
 2. HVAC equipment legally installed prior to April 22, 1981, shall be exempted from the interior noise level standard as specified in Section 10.26.030 of this chapter until January 1, 1998.
 3. HVAC equipment legally installed after April 22, 1981, and prior to the date of adoption of this chapter shall not exceed a maximum exterior noise limit of fifty-five (55) dBA during the ninetyday compliance period set forth in Section 10.26.005.
- C. In the event that HVAC equipment cannot meet the requirements set forth in this chapter, then the exterior noise limit for such equipment may be raised to sixty-five (65) dBA and exempted from the interior noise level standard as specified in Section 10.26.030 of this chapter, provided that the applicant obtains the written consent of all the owners of the affected properties.
(Ord. 95-38 § 11 (part), 1995)

§ 10.26.050. Sound-Amplifying Equipment.

Loudspeakers, sound amplifiers, public address systems or similar devices used to amplify sounds shall be subject to the provisions of Chapter 10.32 of this title. Such sound-amplifying equipment shall not be construed to include electronic devices, including but not limited to, radios, tape players, tape recorders, compact disc players, electric keyboards, music synthesizers, record players or televisions, which are designed and operated for personal use, or used entirely within a building and are not designed or used to convey the human voice, music or any other sound to an audience outside such building, or which are used in vehicles and heard only by occupants of the vehicle in

which installed, which shall be subject to the provisions of Chapter 10.28 of this title.
(Ord. 95-38 § 11 (part), 1995)

§ 10.26.055. Noise Level Measurement.

- A. The location selected for measuring exterior noise levels in a residential area shall be at any part of a private yard, patio, deck or balcony normally used for human activity and identified by the owner of the affected property as suspected of exceeding the noise level standard. This location may be the closest point in the private yard or patio, or on the deck or balcony, to the noise source, but should not be located in nonhuman activity areas such as trash container storage areas, planter beds, above or contacting a property line fence, or other areas not normally used as part of the yard, patio, deck or balcony. The location selected for measuring exterior noise levels in a nonresidential area shall be at the closest point to the noise source. The measurement microphone height shall be five feet above finish elevation or, in the case of a deck or balcony, the measurement microphone height shall be five feet above the finished floor level.
- B. The location selected for measuring interior noise levels shall be made within the affected residential unit. The measurements shall be made at a point at least four feet from the wall, ceiling or floor, or within the frame of a window opening, nearest the noise source. The measurements shall be made with windows in an open position.

(Ord. 95-38 § 11 (part), 1995)

§ 10.26.065. Proposed Developments.

Each department whose duty it is to review and approve new projects or changes to existing projects that result or may result in the creation of noise shall consult with the Code Enforcement Officer prior to any such approval. If at any time the Code Enforcement Officer has reason to believe that a standard, regulation, action, proposed standard, regulation or action of any department respecting noise does not conform to the provisions as specified in this chapter, the Code Enforcement Officer may request such department to consult with him on the advisability of revising such standard or regulation to obtain uniformity.

(Ord. 95-38 § 11 (part), 1995)

§ 10.26.070. Prima Facie Violation.

Any noise exceeding the noise level standard as specified in Section 10.26.025 and 10.26.030 of this chapter, shall be deemed to be prima facie evidence of a violation of the provisions of this chapter.

(Ord. 95-38 § 11 (part), 1995)

§ 10.26.075. Violations.

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

(Ord. 95-38 § 11 (part), 1995)

§ 10.26.080. Violations – Additional Remedies – Injunctions.

- A. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this chapter which operation or maintenance causes or creates sound levels exceeding the allowable standards as specified in this chapter shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- B. Any violation of this chapter is declared to be a public nuisance and may be abated in accordance with law. The expense of this chapter is declared to be public nuisance and may be by resolution of the City Council declared to be a lien against the property on which such nuisance is maintained, and such lien shall be made a personal obligation of the property owner.

(Ord. 95-38 § 11 (part), 1995)

§ 10.26.085. City Manager Waiver.

The City Manager is authorized to grant a temporary waiver to the provisions of this chapter for a period of time not to exceed thirty (30) days if such temporary waiver would be in the public interest and there is no feasible and prudent alternative to the activity, or the method of conducting the activity, for which the temporary waiver is sought.

(Ord. 95-38 § 11 (part), 1995)

§ 10.26.090. Noise Abatement Programs.

- A. In circumstances which adopted community-wide noise standards and policies prove impractical in controlling noise generated from a specific source, the City Council may establish a noise abatement program which recognizes the characteristics of the noise source and affected property and which incorporates specialized mitigation measures.
- B. Noise abatement programs shall set forth in detail the approved terms, conditions and requirements for achieving maximum compliance with noise standards and policies. Said terms, conditions and requirements may include, but shall not be limited to, limitations, restrictions, or prohibitions on operating hours, location of operations, and the types of equipment.

(Ord. 95-38 § 11 (part), 1995)

§ 10.26.095. Manner of Enforcement.

- A. The City Code Enforcement Officer is directed to enforce the provisions of this chapter and may issue citations for any violation of the provisions of this chapter or violations of this chapter may be prosecuted or enforced in the same manner as other infractions pursuant to this Code; provided, however, that in the event of an initial violation of the provisions of this chapter, a written notice may be given to

the alleged violator which specifies the time by which the condition shall be corrected.

- B. No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of his/her duty.
- C. In the event the alleged violator cannot be located in order to serve any notice, the notice shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice.

(Ord. 95-38 § 11 (part), 1995)