



# Title 5: Police Regulations

Public Draft Dated  
October 31,  
2011

## Chapter 6: Noise

This chapter establishes the city's regulations and enforcement procedures for noise generated in the city.

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## Chapter 6: Noise

### Sections:

- 5-6-1 Purpose, Intent, and Applicability
- 5-6-2 Definitions
- 5-6-3 Enforcement, Violations, and Penalties
- 5-6-4 Sound Amplifiers

### **Draft Code Changes:**

- *This chapter relocates the existing regulations and procedures found in existing chapter 9-17. No substantive changes to the text have been made.*

### 5-6-1 Purpose, Intent, and Applicability

#### A. Purpose and Intent

The purpose and intent of this chapter is to establish regulations and enforcement procedures for noise generated in the city. In adopting this chapter, the city council declares that:

1. That the making, creation or maintenance of loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the city; and
2. That the necessity in the public interest for the provisions and prohibitions set forth in this chapter is declared as a matter of legislative determination and public policy, and it is further declared that the provisions of this chapter are in pursuance of, and for the purpose of, securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.

#### B. Applicability

This chapter shall be applicable to all uses and activities conducted within the city except as provided in subsection C (exceptions) below.

#### C. Exceptions

The provisions of this chapter shall not apply to the following:

1. The operation of "emergency machinery", as defined in section 5-6-2 of this chapter.
2. The operation of an "emergency vehicle" as defined in section 5-6-2 of this chapter.
3. The conducting of "emergency work", as defined in section 5-6-2 of this chapter.
4. The operation on days other than Sunday of construction equipment or of a construction vehicle, or the performance on days other than Sunday of construction work, between the hours of seven o'clock (7:00) A.M. and eight o'clock (8:00) P.M., provided that all required permits for

the operation of such construction equipment or construction vehicle or the performance of such construction work have been obtained from the appropriate city department.

5. Activities conducted on the grounds of any public or private nursery school, elementary school, intermediate school, secondary school or college.
6. Outdoor gatherings, public dances and shows, provided said events are conducted pursuant to a license/permit issued by the city.
7. Activities conducted on any park or playground, provided such park or playground is owned and operated by a public entity and the activity complies with that public entity's noise regulations.
8. All mechanical devices, apparatus or equipment which are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions.
9. Mobile noise sources associated with agricultural operations provided such operations do not take place between the hours of eight o'clock (8:00) P.M. and seven o'clock (7:00) A.M. on weekdays, including Saturday, or at any time on Sunday or a federal holiday.
10. Mobile noise sources associated with agricultural pest control through pesticide application, provided that the application is made in accordance with restricted material permits issued by or regulations enforced by the agricultural commissioner.
11. Any activity to the extent regulation thereof has been preempted by state or federal law.
12. Industrial uses and activities conducted in industrial zones.
13. Any act or activity prohibited by this code or any law of the state of California or the United States.

### 5-6-2 Definitions

The following words, when used in this chapter, shall have the meanings ascribed to them in this section:

**Chief.** The chief of police of the city of Lemoore, or his/her designee.

**Decibel (dB).** Decibel (dB) means a unit of sound level when the base of the logarithm is the tenth root of ten and the quantities concerned are proportional to power.

**Emergency Machinery:** Machinery used or employed in an effort to protect, provide or restore safe conditions in the community or for the citizenry.

**Emergency Vehicle.** A vehicle used or employed to transport people or machinery while engaged in an effort to protect, provide or restore safe conditions in the community or for the citizenry, or in the conduct of work by private or public utilities when restoring utility service.

**Emergency Work.** Work or labor performed in an effort to protect, provide or restore safe conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.

**Frequency.** "Frequency" of a function periodic in time means the reciprocal of the primitive period. The unit is the hertz and shall be specified.

**Hertz.** Hertz shall mean the complete sequence of values of a periodic quantity which occurs during a period.

**Lawfully Conducted Activities.** Any and all activities conducted by the city for public health, safety or welfare reasons.

**Loud or Unruly Gathering.** A gathering of two (2) or more persons on private property or a permitted gathering of two (2) or more persons on public property whose loud or unruly conduct constitutes a threat to public health, safety or general welfare. This term excludes incidents of domestic violence.

**Offensive Noise.** Any sound or vibration caused by sound which occurs with such intensity, frequency or in such a manner as to annoy, disturb, injure or endanger the comfort, health, repose, peace or safety of other persons within the city, and includes, but is not limited to, noise produced by pets and livestock, by an individual alone or by a group of people engaged in any business, meeting, gathering, game, dance, or amusement, or by industrial equipment, construction, motor vehicles, home appliances, electrical motors, combustion engines and any other noise producing objects. It shall specifically mean any noise exceeding the ambient noise level at the property line of any person offended thereby by more than ten decibels (10 dB).

**Period.** Period means the smallest increment of time for which the function repeats itself.

**Responsible Person(s).** A person(s) with a right of possession in the property on which a loud or unruly gathering is conducted, including, but not limited to, an owner or tenant of the property if the gathering is on private property, or a permittee if the gathering is a permitted gathering on public property, or any person(s) accepting responsibility for such a gathering.

**Sound Level.** Sound level (noise level), in decibels (dB) is the sound pressure level as measured with the "A" weighting and slow response by a sound level meter.

**Sound Level Meter.** Sound level meter means an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels which satisfies the pertinent specifications published by the American National Standards Institute, New York, New York, in "American Standard Sound Level Meters for Measurement of Noise and Other Sounds," S1.4-1971, or the most recent revision thereof.

**Special Security Services.** The provision of any police, fire, or other emergency response to a loud or unruly gathering within twelve (12) hours of the initial response as provided in this chapter.

### 5-6-3 Enforcement, Violations, and Penalties

#### A. Enforcement

The provisions of this chapter are enforceable without reference to any other regulations concerning noise set forth in this chapter and the fact that the city officer issuing a citation has not obtained a scientific noise measurement prior to issuing the citation shall not constitute a defense.

## **B. Noise Measurement**

The following procedures shall be employed for monitoring and evaluating noise in the community unless otherwise specified in this chapter:

1. The evaluation shall be conducted any time of the day or night when the offending noise source is being operated.
2. For outside measurements, the location selected for monitoring shall be at a point at least ten feet (10') from any building, wall, or obstruction (trees, bushes, etc.) whenever possible. In cases where no point on the property line satisfies this criteria, readings will be taken as far as possible from the nearest obstruction and such distance will be noted. For inside measurements, the monitoring location shall be at least three feet (3') from any wall.
3. The sound level meter shall be equipped with an omnidirectional microphone.
4. No individual other than the operator shall be within ten feet (10') of the sound level meter during the sample period.
5. The ambient noise level shall be determined with the offending noise source not in operation, in the following manner:
  - a. Calibrate the sound level meter in accordance with the manufacturer's instructions.
  - b. Set the sound level meter on the "A" weighted network at slow response.
  - c. Without the offending noise source in operation, set the microphone in a vertical position on the complaining party's property with the microphone head approximately four feet above the ground or floor. The operator shall face the noise source and record the meter's instantaneous response (reading) observed at fifteen second intervals for a period of fifteen minutes. The arithmetical average (mean) reading is interpreted as the ambient noise level of that sampling point.
6. With the offending noise source in operation, the operator shall again record the instantaneous response at the same location at fifteen second intervals for a fifteen (15) minute period, or, for a noise source of less than fifteen (15) minutes, the operator shall record the instantaneous response at fifteen (15) second intervals for the time the offending noise source is in operation. The arithmetical average (mean) response level recorded while the offending noise source is in operation is interpreted as the offending noise level.

## **C. Violations and Penalties**

1. No person shall make, cause, suffer or permit to be made any offensive noises that disturb or annoy people of ordinary sensitiveness or which are so harsh or so prolonged or unnatural or unusual in their use, time, or place as to cause physical discomfort to any person, and which are not necessary in connection with any lawfully conducted activities.
2. No person shall, between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M., make, cause, suffer or permit to be made any offensive noise within the vicinity of any building or place regularly used for sleeping purposes.
3. Except as provided hereinafter, a violation of this chapter shall be an infraction. Any person who violates any section of this chapter and is cited for such a violation, and who within forty eight (48) hours after receiving such a citation again violates the same section, shall be guilty of a misdemeanor. A person is cited for a violation when he or she is issued and signs an infraction or

misdemeanor citation, or when he or she is arrested and booked, or when a complaint is filed and the person is notified of the filing of such a complaint.

## 5-6-4 Sound Amplifiers

### A. Permit Required

No person shall use or cause to be used at any place in the city whether on public property or private property any sound amplifying device or equipment without first having secured a permit to do so from the city.

1. **Application for Permit.** Any person desiring to obtain an amplification permit shall submit a written application to the city. The application shall describe in detail the activity proposed to be conducted for which the sound amplification permit is requested, shall describe the amplification equipment or devices to be used, shall set forth the steps that the applicant will take to ensure that the sound amplification will not unreasonably disturb other people within the vicinity, shall describe the location where the sound amplification is to take place, shall describe the neighborhood surrounding the location where the sound amplification is to take place, shall include the name of the person who shall be responsible for monitoring and ensuring compliance with the terms of any permit that is granted, and shall include such other information as the city may require.
2. **Granting or Denial of Permit.** The chief may conditionally grant the sound amplification permit only if: 1) he/she determines that the sound amplification will be conducted in such a manner as not to unreasonably disturb neighbors or other persons in the vicinity of the sound amplification, and 2) that if actually implemented, the steps to be taken by the applicant to minimize or avoid such disturbances will be adequate. In making the determination whether to grant the permit, the chief may impose such conditions as may be appropriate or necessary in order to protect the public peace and safety.
3. **Revocation of Permit.** Any permit granted pursuant to this section shall be revocable at any time by the chief for a violation of the conditions of the permit or a violation of this chapter.
4. **Appeal.** Any person aggrieved by any decision rendered by the chief pursuant to this chapter shall have the right to appeal the decision to the city council.

### B. Exceptions to Permit Requirements

The sound amplifier permit required by this chapter shall not be required for sound amplifying equipment or devices under the following circumstances:

1. Sound amplification equipment or devices used on privately owned property, whether indoors or outdoors, where the sound produced does not carry beyond the property line or does not unreasonably disturb the person outside the property where the sound is generated;
2. Sound amplification equipment or devices used in conformity with an entertainment permit issued by the city;
3. Radios, record players, televisions and tape players wherever used, when the volume does not exceed the level of normal conversational speech;
4. Sound amplification equipment or devices used on emergency vehicles or by government employees in connection with any activity undertaken for the protection of the public welfare or safety;

5. When a permit has been issued by the city for sound amplification in a city park.

### **C. Violations**

Any person who uses or causes to be used any sound amplifying equipment or device in violation of the provisions of this chapter, whether by failing to obtain a permit when required or by failing to comply with the terms and conditions of a permit when issued, is guilty of an infraction.