

Exhibit B

Title 18 Noise Control

(Title replaced by Ordinance _____, effective January 1, 2025.)

Chapter 18.02 Title

18.02.010 Title.

This Title is known as “Noise Control.”

18.02.020 Policy Statement.

It is the intent of the City Council to minimize the exposure of citizens to the potential negative physiological and psychological effects of excessive noise and protect, promote and preserve the public health, safety and welfare. It is the intent of the City Council to control the level of noise in a manner that promotes the use, value, and enjoyment of property, conduct of business, sleep and repose and reduces unnecessary and excessive sound in the environment.

Chapter 18.04 Standards and Definitions

18.04.010 Terminology and Standards.

All terminology used in this Title not defined below is in accordance with applicable publications of the American National Standards Institute (ANSI) in effect on the effective date of this Title.

18.04.020 Measurement of Sound.

- A.** If measurements are made with a sound level meter, the meter must be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified by ANSI Standard 1.4-1971. For purposes of this Title, a sound level meter must contain at least an A-weighted scale, and both fast and slow meter response capacity.
- B.** If measurements are made with other instruments, the procedure must be carried out in such a manner that the overall accuracy must be at least that called for ANSI standard 1.4-1971 for Type II instruments.
- C.** When the location or distance prescribed in this Title for measurement of sound is impractical or would provide misleading or inaccurate results, measurements

may be taken at other locations or distances using appropriate correction factors specified in this Title or in other rules promulgated by the City Administrator.

- D. Procedures and tests required by this Title and not specified herein will be placed on file with the City Auditor.
- E. For purposes of determining compliance with the measurable sound level requirements found in this Code, approved sound level meters must utilize a fast meter response setting. Slow sound level meter settings may not be used for the purpose of determining compliance with this Code, unless directed by the Noise Control Officer.

18.04.040 Definitions.

The following words have the meanings ascribed to them in this Section:

- A. **A-scale (dBA).** The sound level in decibels measured using the A-weighting network as specified in ANSI S 1.4-1971 for sound level meters.
- B. **Ambient noise.** The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.
- C. **City.** The municipal government of the City of Portland, Oregon, or the area within the territorial City limits of the City of Portland, Oregon, and the territory outside of Portland over which the City has jurisdiction or control by virtue of ownership or any constitutional or Charter provisions or law.
- D. **Construction.** Any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair or equipping of buildings, roadways, or utilities, including land clearing, grading, excavating and filling.
- E. **Decibel (dB).** A unit of measure of sound (See sound pressure level).
- F. **Dwelling unit.** A building or portion thereof intended for and regularly used for residential occupancy.
- G. **Dynamic braking device.** A device, used primarily on trucks and buses to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.
- H. **Emergency work.** Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger.

- I. **Frequency.** The time of repetition of a periodic phenomenon, measured in Hertz (Hz) (formerly cps or cycles per second).
- J. **High noise impact events.** Events or activities that are attended by at least 250 people, and that may reasonably be assumed to cause increases of 15 dBA or more in the ambient noise level of a residential or commercial use area.
- K. **Impulse sound.** A single pressure peak or a single burst (multiple pressure peaks) for a duration of not more than one second as measured on a peak unweighted sound pressure measuring instrument, as specified in ANSI S1.4-1971.
- L. **Legal holidays.** The days on which New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas day are fixed by State law.
- M. **Lot.** Any area, tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting "platted lots" under the same ownership are considered a "lot." The lot line or boundary is an imaginary line at ground level that separates a lot and its vertical extension owned by one person from that owned by another.
- N. **Motor vehicle.** Any land vehicle that is, or is designed to be, self-propelled or is designed or used for transporting persons or property.
- O. **Motor vehicle racing.** Any motor vehicular activity conducted at a recognized auto racing facility, involving motor vehicles participating in, but not limited to practice, qualifying and racing sessions, tests, training, and all other competitive and non-competitive displays, whether by individual vehicles, or by groups of vehicles.
- P. **Narrow band sound.** A sound whose frequencies occupy an octave band or less.
- Q. **Noise disturbance.** Any sound that: a) injures or endangers the safety or health of humans; or b) annoys or disturbs a reasonable person of normal sensitivities.
- R. **Noise sensitive receiver.** A person receiving noise at any residential use or dwelling place, schools, churches, hospitals and libraries.
- S. **Nonconforming use.** A use of structure, building or land that was established as a permitted use and that has been lawfully continued pursuant to Title 33 of this Code, but that is not a permitted use in the zone in which it is now located.
- T. **Octave band.** An interval in Hertz between two frequencies having a ratio of 2:1. For purposes of this Title, octave band sound pressure levels must be measured

at any of the following center frequencies: 31.5, 63, 125, 250, 500, 1,000, 2,000, 4,000 and 8,000 Hz.

- U. Offroad vehicle.** Any motor vehicle operated off a public right-of-way.
- V. Person.** Any individual, association, partnership, or corporation including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of that state, including the City.
- W. Physical characteristics of sound.** A descriptive term, encompassing the steady, impulsive or narrow band property of the sound, the level of the sound, and the extent to which it exceeds the background sound level.
- X. Plainly audible (sound).** Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.
- Y. Public right-of-way.** Any street, avenue, highway, boulevard, alley, easement or public space that is owned by or controlled by a public governmental entity.
- Z. Sound level.** In dBA, the frequency weighted sound pressure level measured on the A-scale of a sound level meter.
- AA. Sound level meter.** A sound level measuring device, either Type I or Type II, as defined by ANSI specification S 1.4-1971. A sound level meter for the purpose of this Title must contain at least an A-scale and both fast and slow meter response.
- BB. Sound pressure level.** In decibels (dB), is 20 times the logarithm to the base 10 of the ratio of the pressure of a given sound to the reference pressure. The reference pressure is 20 micropascals per square meter.
- CC. Steady sound.** A sound that remains essentially constant (± 2 dB) during a two-minute period of observation when measured with the fast response of the sound level meter. "Steady sound" applies only to sound sources that operate or can reasonably be expected to operate for at least 15 minutes out of any one-hour period.
- DD. Use.** The purpose for which land or a building is arranged, designed, or occupied.
- EE. Watercraft.** Any vehicle operated upon or immediately above the surface of the water.

FF. Zone. A classification of area of the City as described in Title 33 of the City Code, relating to the use to which property may be put. For the purposes of this Title, the zones are based upon the Land Use Zones, as defined in Title 33 as follows:

Category	Zones
Open Space	Open Space
Residential	Residential Farm/Forest
-	Residential 20,000
-	Residential 10,000
-	Residential 7,000
-	Residential 5,000
-	Residential 2,500
-	Residential Multi-Dwelling 1
-	Residential Multi-Dwelling 2
-	Residential Multi-Dwelling 3
-	Residential Multi-Dwelling 4
-	Central Residential
-	Residential Manufactured Dwelling Park
-	Commercial Residential
-	Institutional Residential
-	Campus Institutional 1
Commercial/ Mixed Use	Commercial/Mixed Use 1
-	Commercial/Mixed Use 2
-	Commercial/Mixed Use 3
-	Commercial Employment
-	Central Commercial
-	Campus Institutional 2
Industrial	General Employment 1
-	General Employment 2
-	Central Employment
-	General Industrial 1
-	General Industrial 2
-	Heavy Industrial

Chapter 18.06 Responsibilities and Authority

18.06.010 Noise Control Officer.

The Noise Control Officer is designated by the City Administrator.

The City Administrator may also designate persons to be deputy noise control officers, and the Noise Control Officer and the deputies are special police officers of the City and

have authority to issue citations for the violations of this Title and to this extent may exercise full police power and authority.

18.06.020 Noise Review Board.

The Noise Review Board is established, consisting of five members, each appointed by the Mayor. Among the members there will be one professional in acoustics, one representative of the construction industry, and three citizens at large. Appointments are for a three-year term. Noise Review Board members may serve no more than two complete three-year terms unless authorized by the City Administrator. Members must serve without remuneration. The Board must elect its own chairperson at its first meeting of each fiscal year, and must determine its own schedule of meetings. The Noise Control Officer serves as a nonvoting member of the Board. All decisions made by the Noise Review Board are by simple majority vote of a quorum.

18.06.030 Responsibilities.

A. The responsibilities of the City Administrator include:

1. Investigating citizen complaints of violations of this Title, making all necessary inspections and observations upon reasonable cause, with presentation of proper credentials, and enforcing the provisions of this Title.
2. Promulgating rules and procedures to be used in the measurement of sound.
3. Reviewing all applications for variances and the rendering decisions within the time specified by and in accordance with Chapter 18.14.

B. The responsibilities of the Noise Control Officer include:

1. Conducting or participating in studies, research and monitoring relating to sound and noise, including joint cooperative investigation with public or private agencies; and the application for, and acceptance of, grants and contracts, with the approval of the City Administrator.
2. Advising, consulting, and cooperating with any public or private agency, including City bureaus, to implement the provisions of this Title.
3. Supplying such technical assistance as the Board may direct or require.

C. The responsibilities of the Noise Review Board include:

1. Instituting a public education program regarding sound and noise, including the collection, publication and dissemination of appropriate literature and information, and the enlisting of cooperation by public, civic, scientific, and educational groups.

2. Reviewing applications for variances and rendering decisions within the time specified by and in accordance with Chapter 18.14.
3. Evaluating the effectiveness of this Title and the developing of recommendations for amendments, additions, or deletions to this Title.
4. Developing long-term objectives for achieving reduction of sound levels in the community, and developing a means for implementing these objectives into the long-range planning process.
5. Developing rules relative to the conduct of its meetings and to other matters the Board considers appropriate to noise control.

18.06.040 Authority.

A. The authority of the City Administrator includes:

1. The issuance of citations for violation of this Title and Portland City Code Subsection 16.20.120 A.
2. Acting on variances, according to procedures specified in Chapter 18.14 of this Title.
3. Requiring the cooperation of the owner or operator of any noise source in the reasonable operation, manipulation or shutdown of various equipment or operations as needed to ascertain the source of sound and measure its emission.

B. The authority of the Noise Review Board includes:

1. Acting on variances according to the procedures specified in Chapter 18.14 of this Title.
2. Holding hearings to obtain information relative to its responsibilities.
3. Recommending amendments, additions, or deletions to this Title.

Chapter 18.08 City Bureaus

18.08.010 Bureau Actions.

All City bureaus will, to the fullest extent consistent with their authorities under other Titles administered by them, carry out their programs in such a manner as to further the provisions of this Title, and will cooperate to the fullest extent in enforcing the provisions of this Title.

18.08.020 Compliance with Other Laws.

All bureaus engaged in any activities that result or may result in the emission of sound will comply with federal and state regulations and the provisions of this Title respecting the control and abatement of sound to the same extent that any person is subject to such laws and regulations.

18.08.030 Product Selection.

When two or more products, including supplies, materials and equipment, are being considered for purchase by a City bureau and excessive sound levels are a factor, the product that has the lowest sound level will be selected for purchase, provided that

- A.** Fitness and quality are judged to be equal, and
- B.** The procurement cost of such product not exceed the total cost required to purchase a competing product and to reduce the sound emission level of that competing product to the lowest level of the product being considered, and
- C.** The total cost of the purchase being considered not exceed 110 percent of the cost, prior to silencing, of the most advantageous product of the types being considered.

Chapter 18.10 Maximum Permissible Sound Levels

18.10.010 Land Use Zones.

Except as specifically provided for elsewhere in this Title, no person may cause or permit sound to intrude into the property of another person that exceeds the limits set forth below in this Section. For purposes of this Section, “day hours” are between 7:00 a.m. and 10:00 p.m., and “night hours” are between 10:00 p.m. and 7:00 a.m.

- A.** The sound levels established are as set forth in Figure 1 before any adjustments are applied:

FIGURE 1

PERMISSIBLE SOUND LEVELS
(7:00 a.m.-10:00 p.m., otherwise minus five dBA)

Zone Categories of Source	Zone Categories of Receiver (measured at property line)			
-	Residential	Open Space	Commercial/ Mixed Use	Industrial
Residential	55	55	60	65
Open Space	55	55	60	65
Commercial/ Mixed Use	60	60	70	70

Industrial	65	65	70	75
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B. Adjustments to Figure 1.

1. During night hours, the sound levels of Figure 1 must be reduced five dBA.
2. During all hours, the sound levels of Figure 1 must be decreased five dBA for narrow band or steady sound (apply 1 only).
3. The adjustments provided herein are cumulative.

C. If a dwelling unit or noise sensitive receiver is in a nonresidential zone of the City, the nonresidential standard normally applies unless:

1. a complaint is received, and
2. the dwelling unit or noise sensitive receiver type use predates that of the noise source. In that case, the permissible sound level, as measured at the lot line of the dwelling unit or other noise sensitive receiver, is 65 dBA in a commercial/mixed use zone and 70 dBA in an employment or industrial zone, each subject to the adjustments of Subsections 18.10.010 B., F., and G.

D. Nonconforming use: The maximum permissible sound level that may be emitted from any lot containing a nonconforming use is the same as that permitted for the most restrictive zone in which the use would be conforming.

E. When a sound source can be identified and its sound measured in more than one zone, each of the appropriate Sections applies at the boundaries between zones.

F. Impulse sound: Notwithstanding the sound levels of this Section, no person may cause or permit the operation of an impulsive noise source that has a peak sound pressure level in excess of 100 dB during day hours or 80 dB during night hours.

G. Octave band measurements: When the Noise Control Officer makes a finding that the frequency characteristics of the sound are such that the A-scale levels specified in Section 18.10.010 are inadequate to protect the public health, welfare, or safety, octave-band sound pressure level measurements must be performed.

1. Octave-band measurements must be compared to the appropriate values indicated in Figure 2 for equivalent permissible dBA land use values; octave-band sound pressure in excess of these standards will be considered evidence of a violation of this Title.

FIGURE 2

**PERMITTED OCTAVE BAND SOUND PRESSURE LEVELS
FOR GIVEN PERMISSIBLE dBA SOUND LEVELS**

When the permissible dBA level is:	The Maximum Octave Band Sound Pressure Levels May Not Exceed:								
-	Octave Band Center Frequency, in Hz								
-	31.5	63	125	250	500	1000	2000	4000	8000
45	64	58	51	46	42	39	36	33	30
50	65	62	56	50	46	43	40	37	34
55	68	65	61	55	52	49	46	43	40
60	72	68	64	60	56	54	51	48	45
65	76	72	68	64	61	59	56	53	50
70	79	76	72	69	66	64	61	58	55
75	82	79	76	73	71	69	66	63	60

- H. When property of the receiver is unoccupied, as in the case of any undeveloped lot, sound levels in excess of those specified herein will be considered only as a technical violation of the standard. No citation will be issued in such instances, nor is corrective action required by the noise source.

18.10.020 Motor Vehicles.

- A. No person may operate any motor vehicle registered for use on public roads at any time, or under any condition of grade, load, acceleration or deceleration in such a manner as to violate the maximum permissible sound levels or equipment standards for the category of vehicle as indicated in this Subsection.
1. Vehicles of 10,000 pounds GCWR (Gross Combination Weight Rating) or more, engaged in interstate commerce as regulated by 40 C.F.R., part 202, (1986), the provisions of which are incorporated by reference and three copies of which are on file in the Office of the City Auditor.
 2. All other vehicles may not exceed the vehicular noise emission levels or equipment standards permitted by OAR 340-35-030 (1) (a) and (c), three copies of which are on file in the Office of the City Auditor and which are adopted by reference.
 3. No person may drive a motor vehicle on a public highway unless it is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.
- B. No person may operate, and no owner of any motor vehicle may permit to be operated upon any public road, street, or highway, any motor vehicle so as to

cause any greater noise or sound than is reasonably necessary for the proper operation of such motor vehicle.

1. No person may operate a motor vehicle on a street or highway with an exhaust system utilizing a cutout, bypass or similar device.
 2. No person may 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 action to avoid imminent danger is exempt from this provision.
 3. No person may operate any motor vehicle in excess of 10,000 pounds GCWR, in any residential zone of the City or within 200 feet of any dwelling unit, school, hospital or library, with a dynamic braking device engaged except to avoid imminent danger.
- C. No person may operate and no owner of property may permit the operation of an off-road recreational vehicle so as to exceed the noise emission standards of:
1. OAR 340-35-030 (1)(b) and (d) three copies of which are on file with the Office of the City Auditor, and which are adopted by reference.
 2. Section 18.10.020 of this Title.
- D. No person may operate an off-road recreational vehicle on private or public property unless the property has been designated for off-road recreational vehicle use pursuant to Title 33, Planning and Zoning of this Code.
- E. A police officer, or noise control officer, who finds a vehicle or operator to be in violation of Subsection A of this Section will issue a citation to the operator. The citation will be accompanied by a written notice to the operator specifying the particular Subsections found to be in violation.
1. The citation will require the violator to appear at court to answer for the violation and present evidence that the violation has been corrected. The date for court appearance on the face of the citation will not be less than 28 days after the citation was issued.
 2. The accompanying written notice will specify that if the violator presents proof to the clerk of the district court that the vehicle complies with the standards described in OAR 340-35-030 (1), (a) and (c) (1983), for the control of motor vehicle noise emissions, three copies of which are on file with the Office of the City Auditor and that are adopted by reference, the citation will be dismissed.

3. Proof for the purpose of this Section will be a certificate of compliance issued or approved by the Department of Environmental Quality. If said certificate is received by the clerk of the district court not less than 5 days prior to the date set for the violator's appearance before the court, the citation will be dismissed without the necessity of the violator personally appearing before the court.

18.10.030 Home Equipment and Powered Tools.

- A. This Section applies to powered tools and equipment for home use or lawn and garden maintenance, except leaf blowers (see Section 18.10.035) or such tools and equipment used as part of a home occupation (see Subsection E. below).
- B. When used inside a dwelling unit, between the hours of 7:00 a.m. and 10:00 p.m., the sound levels generated by such equipment may not exceed 60 dBA, when measured at the lot line.
- C. When used outside a dwelling unit, between the hours of 7:00 a.m. and 10:00 p.m., the sound levels generated by such equipment may not exceed the following levels, for equipment of the appropriate class, when measured at a distance of 25 feet (7.6 meters) or at the lot line, whichever is further from the source:
 1. Five HP or less, such as, but not limited to, lawnmowers, riding tractors and small garden tools: 80 dBA;
 2. More than five HP, such as, but not limited to, powered hand tools and snow removal equipment: 85 dBA.
- D. When used inside or outside a dwelling between the hours of 10:00 p.m. and 7:00 a.m., the sound levels generated by all such equipment may not exceed those specified in Section 18.10.010.
- E. Sound levels generated by tools and equipment as part of a home occupation may not exceed 50 dBA, as measured at the lot line.

18.10.035 Leaf Blowers.

- A. For purposes of this Section, **leaf blower** means any portable device designed or intended to blow, vacuum, or move leaves or any other type of debris or material by generating a concentrated stream of air. Leaf blower includes any devices or machines that accept vacuum attachments.
- B. General operating restrictions.

1. Commercial/Mixed Use and other zones. No person may operate a leaf blower in commercial/mixed use, industrial, and open space zones, or in the adjoining public right-of-way, between the hours of 9:00 p.m. and 7:00 a.m. the following morning, seven days a week, unless the leaf blower meets the requirements of Subsections 18.10.010 A. - F. and H.
2. Residential zones. No person may operate a leaf blower in residential zones, or in the adjoining public right-of-way, between the hours of 7:00 p.m. to 7:00 a.m. the following morning, seven days a week.
3. For purposes of Subsection B. above, right-of-way adjoining residential zones and any other zone is considered as being within residential zones.

C. Noise restrictions.

1. The Noise Control Officer will maintain a list of the leaf blowers not exceeding a 65 dBA sound level at 50 feet. The Noise Control Officer's list must include only leaf blowers certified by a third-party testing laboratory, using American National Standards Institute (ANSI) methodology, ANSI B175.2-2000. The Noise Control Officer will update the certified list at least annually or as the Noise Control Officer is informed of other certified leaf blowers.
2. The Noise Control Officer will maintain a list of the leaf blowers not exceeding a 70 dBA sound level at 50 feet. The Noise Control Officer's list must include only leaf blowers certified by a third-party testing laboratory, using American National Standards Institute (ANSI) methodology, ANSI B175.2-2000. The Noise Control Officer will update the certified list at least annually or as the Noise Control Officer is informed of other certified leaf blowers.
3. From March 1 through October 31 of each year, operation of any leaf blower within the City that is not on the certified list of 65 dba or quieter leaf blowers as developed by the Noise Control Officer will constitute a violation of Title 18.
4. From November 1 through February 28 of each year, operation of any leaf blower within the City that is not on the certified list of 70 dba or quieter leaf blowers as developed by the Noise Control Officer will constitute a violation of Title 18.

D. Leaf blower use on large open spaces

1. Leaf blowers operated on Open Space land use zones at a distance of 200 feet or greater from the property line must not exceed a 75 dBA sound level, using American National Standards Institute (ANSI) methodology, ANSI B175.2-2000.

18.10.040 Watercraft.

- A. No person may operate a watercraft between the hours of 7:00 a.m. and 10:00 p.m. that exceeds 75 dBA as measured on shore. Between 10:00 p.m. and 7:00 a.m., this sound level may not exceed 65 dBA.
- B. Exemptions: normal docking and undocking operations of all vessels, and operations of vessels licensed by the federal government for purposes of commerce on interstate waters are exempted from the provisions of this Section.
- C. Motorboats may not be operated on public waterways within the City limits, unless equipped with a functioning underwater exhaust or muffler, or, unless such motorboat has the discharge water continuously piped into the exhaust line.

18.10.050 Motor Vehicle Racing Events.

- A. No person may operate or permit to be operated any motor vehicle racing within the City except at an area approved by the City.
- B. All motor vehicle racing must be conducted in a manner approved by the Noise Control Officer and/or the Noise Review Board or the City Administrator.
- C. For purposes of determining permissible sound levels of motor vehicle racing only, the Portland International Raceway is deemed an industrial land use zone of source, which use was in operation before January 1, 1977. Sound levels generated by any other use of the Portland International Raceway must meet the standards defined in Subsection 18.10.010 A., Figure 1.

18.10.060 Construction Activities and Equipment.

- A. Maximum sound levels: No person may operate any equipment or appurtenances in commercial construction activities that exceeds 85 dBA, when measured at 50 feet (15.2 meters) from the source. This standard does not apply to trucks (see Section 18.10.020), pile drivers, pavement breakers, scrapers, concrete saws and rock drills.
- B. Night, weekend, and legal holidays limitation: From 6:00 p.m. to 7:00 a.m. the following morning, and 6:00 p.m. Saturday to 7:00 a.m. the following Monday, and on legal holidays, the permissible sound levels of Section 18.10.010 apply to all construction activities except by variance or for reasons of emergency. The exempted equipment of Subsection A. above is not exempted during these hours. For purposes of this Subsection, construction activities on a public road within a zone will be considered as taking place on private property within that zone.
- C. The adjustments to permissible sound levels established in Subsection 18.10.010 B. apply to Subsections A. and B. above.

D. All equipment used in commercial activities must have sound control devices no less effective than those provided on the original equipment, and no equipment may have an unmuffled exhaust.

E. All equipment used in commercial construction activities must comply with pertinent standards of the U.S. Environmental Protection Agency.

F. Pile drivers:

1. Notwithstanding Subsection B. above, the permissible sound levels of Section 18.10.010 apply to pile drivers from 6:00 p.m. to 8:00 a.m. the following morning, and 6:00 p.m. Friday to 8:00 a.m. the following Monday, and on legal holidays.
2. The owner of a site on which pile driving will occur must cause a notice to be mailed to all residences within 500 feet of the site. Mailing will occur no fewer than 30 days prior to the commencement of pile driving. The notice must list the expected starting and ending dates for pile driving and give a telephone number for further information.

18.10.070 Parking Lot Sweepers.

From 10:00 p.m. to 7:00 a.m., operation of commercial parking lot sweepers may not exceed the sound levels for day hours set forth in 18.10.010. After July 1, 2004, operation of commercial parking lot sweepers may not exceed the sound levels for night hours set forth in Subsections 18.10.010 A. and B.

Chapter 18.12 Noises Prohibited

18.12.010 Noise Disturbance Prohibited.

It is unlawful for any person to willfully make, continue, cause or permit to be made or continued any noise disturbance within the City.

18.12.020 Specific Prohibitions.

The following acts are declared to be violations of this Title, but this enumeration may not be deemed to be exclusive, namely:

A. Noisy animals.

1. It is a violation for any animal to unreasonably cause annoyance, alarm, noise disturbance at any time of the day or night by repetitive barking, whining, screeching, howling, braying or other like sounds that may be heard beyond the boundary of the owner's property or keeper's property under conditions

wherein the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of ten minutes or repeated episodes of intermittent noise lasting for a minimum period of thirty minutes. This provision is not applicable to any animals located in a specified animal facility or to livestock owner or keeper, kennel or similar facility, wherein the presence of livestock or the operation of a kennel or similar facility is authorized under the applicable land use and zoning laws and regulations. Enforcement of this Subsection is the responsibility of Multnomah County Animal Control.

2. Animals located in an authorized or permitted animal facility. It is a violation for any animal located in a facility subject to a specified animal facility permit, as defined in Subsection 13.10.020 J. of this Code, or to any lawful livestock owner or keeper, kennel or similar facility, wherein the presence of livestock or the operation of a kennel or similar facility is authorized under the applicable land-use and zoning laws and regulations to unreasonably cause annoyance, alarm, noise disturbance at any time of the day or night by repetitive barking, whining, screeching, howling, braying or other like sounds that may be heard beyond the boundary of the owner's or keeper's property under conditions wherein the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of ten minutes or repeated episodes of intermittent noise lasting for a minimum period of thirty minutes. Enforcement of this Subsection is the responsibility of Portland Permitting & Development or another City entity designated by the City Administrator.

B. Sound producing or reproducing equipment. Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or operating or permitting the operating or use of any such device between the hours of 10:00 p.m. and 7:00 a.m. so as to be plainly audible within any dwelling unit that is not the source of sound; or operating any such device on public property or on a public right of way so as to be plainly audible 100 feet or more from such device provided that a person operating any such device in a City park pursuant to a permit granted by the City Administrator will be in violation only if the device is plainly audible at any point along the park boundary.

C. Parked motor vehicles. The parking of any motor vehicle of 10,000 pounds GCWR, or more, with the motor or attached auxiliary equipment in operation:

1. On a public right-of-way, except for reasons of an emergency nature, or
2. On private property in such a manner as to be plainly audible within any dwelling unit between the hours of 10:00 p.m. and 7:00 a.m.

3. This Subsection C does not apply to: commercial construction equipment, the normal operation of vehicles designed and used for commercial transportation of passengers, and vehicles being loaded or unloaded.

18.12.030 Provisions if Measurement is Made.

If measurement is taken of a sound source, the provisions of Chapter 18.10 supersede this Section and will be used to determine if a violation of this Title exists.

Chapter 18.14 Exemptions and Variances

18.14.010 Exemptions.

The following sounds are exempted from the provisions of this Title.

- A. Sounds caused by the performance of emergency work, or by the ordinary and accepted use of emergency apparatus and equipment.
- B. Sounds caused by sources regulated as to sound production by federal law.
- C. Sounds not electronically amplified, created by athletic and entertainment events other than motor vehicle racing events.
- D. Sounds caused by agricultural and forestry operations within an FF zone of the City.
- E. Blasting, under permit.
- F. Sounds made by warning devices operated continuously for three minutes or less.

18.14.020 Variances.

Any person who owns, controls, or operates any sound source that does not comply with provisions or standards of this Title may apply for a variance from such standard(s) or provision(s).

- A. Application. The application must be in a form acceptable to the Noise Review Board or the Noise Control Officer, and must state the date, time, and location of the event or activity and the reasons for which the variance is being sought. The applicant may be required to supply additional information. The application will not be considered received until all information has been supplied. It is the responsibility of the applicant to submit the application in proper form, and to allow sufficient time for review, as specified in Subsection F. below.

- B.** The application will not be considered until the application fee is received. All required fees are stated in the Fee Schedule adopted by City Council. Fees will be updated annually or on an as needed basis. The approved Fee Schedule will be available at Portland Permitting & Development.
- C.** All applications will be first sent to the Noise Control Officer who, with the Chair of the Noise Review Board, will determine the appropriate reviewing body. The criterion for this determination will be: whether the noise impact is deemed significant in level or in numbers of persons or property affected. If the potential noise impact is judged not to be significant, the application will be reviewed by the Noise Control Officer. If the potential noise impact is judged to be significant, the review will be made by the Noise Review Board. The Chair of the Noise Review Board may delegate Board review and action to the Noise Control Officer if, in the exercise of their discretion, such delegation is in the City's interest.
- D.** Review of the application on its merit will include consideration of at least the following:

 - 1. The physical characteristics, times and durations of the emitted sound;
 - 2. The geography, zone, and population density of the affected area;
 - 3. Whether the public health, safety or welfare is impacted;
 - 4. Whether the sound source predates the receiver(s);
 - 5. Whether compliance with the standard(s) or provision(s) from which the variance is sought would produce hardship without equal or greater benefit to the public; and
 - 6. Applicant's previous history, if any, of compliance or noncompliance.
- E.** Public notification. Notice of receipt of all applications to be reviewed by the Noise Review Board will promptly be published in a newspaper of general circulation within the City. Notice will also be given to affected neighborhood association(s), or owners and residents of property likely to be affected by the application, and to any person who has in writing requested notice of such application.
- F.** Time for review and decision. Applications to be reviewed by the Noise Control Officer will be decided within 10 business days of receipt of the completed application. Applications to be reviewed by the Noise Review Board will be decided within 45 business days of receipt of the completed application. Should the applicant require more accelerated review than that provided above, the process may be shortened to no more than three business days for review by the Noise Control Officer or seven business days for review by the Noise Review

Board, upon payment of an additional surcharge in the amount of the original application fee, and provided the Chair of the Noise Review Board and the Noise Control Officer conclude that such accelerated review is sufficient for evaluation, and in the City's interest.

1. Failure to reach decision within the times specified will constitute automatic approval of the application, unless specifically waived by the applicant. If not waived, such approval will expire within 180 days following such failure.
- G.** Applications reviewed by the Noise Control Officer, or the Noise Review Board may be granted, denied, or granted with conditions.
- H.** All decisions will be in writing, and those made by the Noise Review Board will state the facts and reasons leading to the decision and will be made available to the applicant, and any other person who has requested such decision.
- I.** Appeals to City Council. A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the City Council as follows:
1. Eligibility to appeal. A variance decision may be appealed by the applicant, their legal representative, any affected neighborhood association, or any person who has submitted oral or written testimony on the application.
 2. Appeal acceptance criteria. Notice of intent to appeal must be in writing to the City Auditor's Office within 10 days of the effective date of the decision. The notice must identify the decision that is being appealed, and include the appellant's name, address, and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including any alleged misapplication of City Codes.
 3. Upon receipt of such appeal, the Auditor will then place the matter upon the calendar of the City Council.
 4. At the time of the hearing, the City Council may consider such new matter as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision.
- J.** All variances are subject to review upon complaint. Notice of review will be provided to the variance holder and will state the date, time, and place of the review. The permittee will have the opportunity of hearing prior to any revocation. Decisions relative to the review of a variance will follow the procedures specified in Subsections 18.14.020 H., and I.
- K.** Violation of the terms of the variance will be grounds for the revocation of the variance. The Noise Control Officer or any police officer of the City may

summarily revoke or alter conditions of any variance. A request for an applicant or responsible parties to cease activities will be considered an immediate request and does not allow the permittee or their agent to complete any additional work or activity. Activities in violation of this Code or an approved Noise Variance must cease immediately upon notification of the Noise Variance revocation.

Chapter 18.16 Ordinance Additional to Other Law

18.16.010 Ordinance Additional to Other Law.

The provisions of this Title are cumulative and nonexclusive and do not affect any other claim, cause of action, or remedy nor, unless specifically provided, will it be deemed to repeal, amend, or modify any law, ordinance, or regulation relating to noise or sound but will instead be deemed additional to existing legislation and common law on such subject.

Chapter 18.17 Rulemaking

18.17.010 Rulemaking.

The City Administrator may adopt administrative rules as authorized by Charter.

Chapter 18.18 Enforcement and Penalties

18.18.010 Authority for Enforcement.

This Title is enforced by the City Administrator.

18.18.020 Violations.

A. The following constitute violations of this Title:

- 1.** Any failure, refusal or neglect to comply with any provision of this Title;
- 2.** Allowing or causing a condition that threatens to injure the public health or safety, or threatens to damage public or private property; or
- 3.** Any failure, refusal or neglect to correct or cease any noise that does not comply with the provisions of this Title, after being required to do so by the City Administrator or any police officer.

B. Each specific incident and each day of noncompliance will be considered a separate violation of this Title.

18.18.030 Civil Penalties and Fees.

A violation of this Title may result in assessment of civil penalties or enforcement fees, as provided below:

A. Civil penalties.

1. For each separate violation, a civil penalty of up to \$5,000 may be assessed.
2. In determining the amount of any civil penalty to be assessed, the City Administrator will consider the following:
 - a. The nature and extent of the responsible party's involvement in the violation;
 - b. The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;
 - c. Whether the violation was isolated and temporary, or repeated and continuing;
 - d. The magnitude and seriousness of the violation;
 - e. The City's cost of investigation and remedying the violation; and
 - f. Any other applicable facts bearing on the nature and seriousness of the violation.

B. Administrative enforcement fees.

1. The City Administrator may charge a penalty in the form of a monthly enforcement fee as established by the Council for any violation that meets the following conditions:
 - a. A citation, as described in Section 18.18.040, has been issued;
 - b. A response period of at least 30 days has passed since the citation or stop work order became final; and
 - c. The violation, as described in the initial citation of violation or any subsequent citation, has not been corrected, inspected and approved.
2. If the responsible party does not have all violations corrected, inspected and approved within six months from the date of the initial citation, then monthly enforcement fees will double.

3. Once the monthly enforcement fees begin, they will continue until all violations identified in the initial citation, or any subsequent citations, have been corrected, inspected and approved.
4. The responsible party must notify the City Administrator when the responsible party believes that all violations listed in the initial citation or any subsequent citations have been corrected. Upon confirmed receipt of such notice, the City Administrator will promptly schedule an inspection of the violation and will notify the responsible party if any violations remain uncorrected.
5. When a violation meets the conditions for charging an enforcement fee as described in this Section, the City Administrator will file a statement with the Revenue Division that identifies the property, the amount of the monthly fee, and the date from which the charges are to begin. The Revenue Division will then:
 - a. Notify the responsible party of enforcement fees;
 - b. Record a property lien in the Docket of City Liens;
 - c. Bill the responsible party monthly for the full amount of the enforcement fee owing, plus additional charges to cover the administrative costs of the Revenue Division; and
 - d. Maintain lien records until:
 - (1) The lien and all associated interest, penalties and costs are paid in full; and
 - (2) The City Administrator certifies that all violations listed in the initial and any subsequent citations or stop work orders have been corrected, inspected and approved.

18.18.040 Citations.

- A. If the City Administrator has reasonable belief that a violation has occurred, the City Administrator may issue a citation. The citation may be personally delivered to the responsible party, or may be served by Registered or Certified Mail to the responsible party. For purposes of this Subsection, service by registered or certified mail is complete and effective when a correctly addressed notice is deposited with the postal service after being either certified or registered by the postal service. The citation will include:
 1. A reference to the particular Section or Sections of this Title that have been or are being violated;

2. A short and plain statement of the matters asserted or charged;
 3. A statement of the amount of the applicable penalties; and
 4. A reference to the process by which the responsible party may request review by the City Administrator.
- B.** The responsible party cited as violating this Title must, within 15 days of receiving the citation, pay to the City the stated penalty or request review by the City Administrator. If, after review by the City Administrator, the City Administrator upholds the civil penalty, payment of the penalty must be received by the City or postmarked no later than 15 days after the review determination becomes final.

18.18.050 Review by the City Administrator.

- A.** If a responsible party has received a written citation as described in this Chapter and the responsible party believes the citation has been issued in error, the responsible party may request that the citation be reviewed by the City Administrator. The responsible party must submit a written request to the City Administrator within 15 days of the date of the citation. The written request must be submitted together with all evidence that supports the responsible party's request. The City Administrator's determination will be served on the responsible party by regular mail.
- B.** A responsible party may appeal the City Administrator's written determination to the Code Hearings Officer in accordance with Chapter 22.10 of this Code.
- C.** Nothing in this Chapter limits the authority of the City Administrator to initiate a code enforcement proceeding under Portland City Code Title 22, Hearings Officer for any violations of this Title.

18.18.060 Institution of Legal Proceedings.

The City Attorney, acting in the name of the City, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Title as additional remedy.

Chapter 18.20 Severability Provision

18.20.010 Severability Provision.

If any provision of this Title, or its application to any person, or circumstances, is held to be invalid, the remainder of this Ordinance, or the application of the provision to other persons or circumstances, will not be affected.