

TITLE 18 NOISE CONTROL

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Chapter 18.02

TITLE

Sections:

- 18.02.010 Title.
- 18.02.020 Policy Statement.

18.02.010 Title.

(Amended by Ordinance No. 171455, effective August 29, 1997.) This Title shall be known as “Noise Control.”

18.02.020 Policy Statement.

(Added by Ordinance No. 175772, effective August 1, 2001.) 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 18.03

NUISANCE ABATEMENT

(Repealed by Ordinance No. 171455,
effective August 29, 1997.)

Chapter 18.04

STANDARDS AND DEFINITIONS

Sections:

- 18.04.010 Terminology and Standards.
- 18.04.020 Measurement of Sound.
- 18.04.040 Definitions.

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18.04.010 Terminology and Standards.

All terminology used in this Title not defined below shall be 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.

(Amended by Ordinance Nos. 159276 and 175772, effective August 1, 2001.)

- A.** If measurements are made with a sound level meter, the meter shall 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 shall 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 shall be carried out in such a manner that the overall accuracy shall 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 Noise Control Officer.
- D.** Procedures and tests required by this Title and not specified herein, shall be placed on file with the City Auditor.
- E.** For purposes of determining compliance with the measurable sound level requirements found in the Portland City Code, approved sound level meters shall utilize a Fast meter response setting. Slow sound level meter settings shall not be used for the purpose of determining compliance with the Portland City Code, unless directed by the Noise Control Officer.

18.04.040 Definitions.

(Amended by Ordinance Nos. 159276, 164010, and 175772, effective August 1, 2001.)
The following words shall 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.

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- C. City:** The City of Portland, Oregon, or the area within the territorial City limits of the City of Portland, Oregon, and such territory outside of this City over which the City has jurisdiction or control by virtue of ownership or any constitutional or Charter provisions, or any 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 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 which are attended by at least 250 people, and which 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 shall be considered a "lot." The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.

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- N. Motor vehicle:** Any land vehicle which 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 which: a) injures or endangers the safety or health of humans; or b) annoys or disturbs a reasonable person of normal sensitivities.
- R. Nonconforming use:** A use of structure, building or land which was established as a permitted use and which has been lawfully continued pursuant to Title 33 of this Code, but which is not a permitted use in the zone in which it is now located.
- S. 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 shall 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.
- T. Offroad vehicle:** Any motor vehicle operated off a public right-of-way.
- U. 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 of Portland.
- V. 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.
- W. 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.
- X. Public right-of-way:** Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public governmental entity.
- Y. Sound level:** In dBA, the frequency weighted sound pressure level measured on the A-scale of a sound level meter.

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- Z. 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 shall contain at least an A-scale and both fast and slow meter response.
- AA. 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.
- BB. Steady sound:** A sound which 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 shall apply only to sound sources which operate or can reasonably be expected to operate for at least 15 minutes out of any one hour period.
- CC. Use:** The purpose for which land or a building is arranged, designed, or occupied.
- DD. Watercraft:** Any vehicle operated upon or immediately above the surface of the water.
- EE. Zone:** A classification of area of the City of Portland 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:

<u>Category</u>	<u>Zones</u>
Open Space	Open Space
Residential	Residential Farm/Forest Residential 20,000 Residential 10,000 Residential 7,000 Residential 5,000 Residential 2,500 Residential 3,000 Residential 2,000 Residential 1,000 High Density Residential Central Residential Institutional Residential
Commercial	Neighborhood Commercial 1 Neighborhood Commercial 2 Office Commercial 1

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	Office Commercial 2
	Mixed Commercial Residential
	Storefront Commercial
	General Commercial
	Central Commercial
Industrial	General Employment 1
	General Employment 2
	Central Employment
	General Industrial 1
	General Industrial 2
	Heavy Industrial

Chapter 18.06

RESPONSIBILITIES AND AUTHORITY

Sections:

18.06.010	Noise Control Officer.
18.06.020	Noise Review Board.
18.06.030	Responsibilities.
18.06.040	Authority.

18.06.010 Noise Control Officer.

(Amended by Ord. No. 159276 effective Jan. 24, 1987.) The Noise Control Officer shall be designated by the Commissioner In Charge. The Commissioner may also designate persons to be deputy noise control officers, and the Noise Control Officer and the deputies shall be special police officers of the City and shall have authority to issue citations for the violations of this Title and to this extent shall exercise full police power and authority.

18.06.020 Noise Review Board.

(Amended by Ord. No. 159276 effective Jan. 24, 1987.) The Noise Review Board is hereby established, consisting of five members, each appointed by the Mayor, and approved by the Council. Among the members there shall be, one professional in acoustics, one representative of the construction industry, and three citizens at large. Appointments shall be made for a 3-year period, as vacancies occur. Members shall

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serve without remuneration. The Board shall elect its own chairperson at its first meeting of each fiscal year, and shall determine its own schedule of meetings. The Noise Control Officer shall serve as a nonvoting member of the Board. All decisions made by the Noise Review Board shall be by simple majority vote of a quorum.

18.06.030 Responsibilities.

(Amended by Ord. No. 159276 effective Jan. 24, 1987.)

A. The responsibilities of the Noise Control Officer shall 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. 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 Council.
4. Advising, consulting and cooperating with any public or private agency, including City bureaus, to implement the provisions of this Title.
5. The supplying of such technical assistance as the Board shall direct or require.
6. The reviewing of all applications for variances and the rendering of decisions within the time specified, according to Section 18.14.

B. The responsibilities of the Noise Review Board shall 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. The reviewing of applications for variances, and the rendering of decision within the time specified, according to Section 18.14.
3. Evaluating the effectiveness of this Title, and the developing of recommendations for amendments, additions, or deletions to this Title.

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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. The developing of rules relative to the conduct of its meetings and to other matters the Board considers appropriate to noise control.

18.06.040 Authority.

(Amended by Ord. No. 159276; and 165594, July 8, 1992.)

- A. The authority of the Noise Control Officer shall include:
 1. The issuance of citations for violation of this Title and City Code Section 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 shall include:
 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

Sections:

- | | |
|-----------|-----------------------------|
| 18.08.010 | Bureau Actions. |
| 18.08.020 | Compliance with Other Laws. |
| 18.08.030 | Product Selection. |

18.08.010 Bureau Actions.

All City bureaus shall, 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 shall 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 which result, or may result in the emission of sound, shall 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 which has the lowest sound level shall 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**

Sections:

- 18.10.010 Land Use Zones.
- 18.10.020 Motor Vehicles.
- 18.10.030 Home Equipment and Powered Tools.
- 18.10.035 Leaf Blowers.
- 18.10.040 Watercraft.
- 18.10.050 Motor Vehicle Racing Events.
- 18.10.060 Construction Activities and Equipment.
- 18.10.070 Parking Lot Sweepers.

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18.10.010 Land Use Zones.

(Amended by Ordinance Nos. 159276, 163608; 164010, and 175775, effective August 1, 2001.) Except as specifically provided for elsewhere in this Title, no person shall cause or permit sound to intrude into the property of another person which exceeds the limits set forth below in this Section. For purposes of this Section, “day hours” shall be between 7 a.m. and 10 p.m., and “night hours” shall be between 10 p.m. and 7 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 am-10 pm, otherwise minus 5 dBA)

		Zone Categories of Receiver (measured at property line)			
		Residential	Open Space	Commercial	Industrial
Zone Categories of Source	Residential	55	55	60	65
	Open Space	55	55	60	65
	Commercial	60	60	70	70
	Industrial	65	65	70	75

- B. Adjustments to Figure 1.

1. During the night hours, the sound levels of Figure 1 shall be reduced 5 dBA.
2. During all hours, the sound levels of Figure 1 shall be decreased 5 dBA for narrow band or steady sound (apply 1 only).
3. The adjustments provided herein are cumulative.

- C. If a dwelling unit or school is in a nonresidential zone of the City, the nonresidential standard shall normally apply, unless: 1) a complaint is received, and 2) the location of the dwelling unit or school predates that of the noise source. In that case, the permissible sound level, as measured at the lot line, shall be 65 dBA in a commercial zone, and 70 dBA in an employment or industrial zone, each subject to the adjustments of Section 18.10.010 B, F, and G.

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- D.** Nonconforming use: The maximum permissible sound level that may be emitted from any lot containing a nonconforming use shall be 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 shall apply at the boundaries between zones.
- F.** Impulse sound: Notwithstanding the sound levels of this Section, no person shall cause or permit the operation of an impulsive noise source which 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 shall be performed.
 - 1.** Octave-band measurements shall 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 shall be considered evidence of a violation of this Title.

FIGURE 2
PERMITTED OCTAVE BAND SOUND PRESSURE LEVELS
FOR GIVEN PERMISSIBLE dBA SOUND LEVELS

The Maximum Octave Band Sound Pressure Levels Shall Not Exceed:										
Octave Band Center Frequency, in Hz										
		31.5	63	125	250	500	1000	2000	4000	8000
When the permissible DBA level is:	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

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

18.10.020 Motor Vehicles.

(Amended by Ord. No. 159276 and 164010, Mar. 27, 1991.)

- A.** No person shall 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 hereby incorporated by reference and three copies of which are on file in the Office of the City Auditor.
 - 2.** All other vehicles shall 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 hereby adopted by reference.
 - 3.** No person shall 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 shall operate, and no owner of any motor vehicle shall 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 shall operate a motor vehicle on a street or highway with an exhaust system utilizing a cutout, bypass or similar device.
 - 2.** No person shall operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching, or other such noise from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, except that noise resulting from emergency action to avoid imminent danger shall be exempt from this provision.

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3. No person shall 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 shall operate and no owner of property shall permit the operation of an off-road vehicle so as to exceed the noise emission standards of:
1. OAR 35-030 (1)(b) and (d) three copies of which are on file with the Office of the City Auditor, and which are hereby adopted by reference.
 2. Section 18.10.010 or 18.10.020 of this Title.
- D. No person shall operate an off-road 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 shall issue a citation to the operator. The citation shall be accompanied by a written notice to the operator specifying the particular subsections found to be in violation.
1. The citation shall 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 shall not be less than 28 days after the citation was issued.
 2. The accompanying written notice shall 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 which are hereby adopted by reference, the citation shall be dismissed.
 3. Proof for the purpose of this Section shall 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.

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18.10.030 Home Equipment and Powered Tools.

(Amended by Ordinance Nos. 159276, 164010, and 175772, effective August 1, 2001.)

- A.** This Section shall apply to powered tools and equipment for home use or lawn and garden maintenance, except leaf blowers (see 18.10.035) or such tools and equipment used as part of a home occupation (see 18.10.030 E.).
- 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 shall 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 shall 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 5 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 shall not exceed those specified in Section 18.10.010.
- E.** Sound levels generated by tools and equipment as part of a home occupation shall not exceed 50 dBA, as measured at the lot line.

18.10.035 Leaf Blowers.

(Replaced by Ordinance No. 177767, effective September 1, 2003.)

- A.** For purposes of Section 18.10.035, “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” shall include any devices or machines that accept vacuum attachments.
- B.** General operating restrictions.
 - 1.** Commercial and other zones. No person shall operate a leaf blower in commercial, industrial, and open space zones, or in the adjoining public right-of-way, between the hours of 9:00 pm and 7:00 am the following morning, seven days a week, unless the leaf blower meets the requirements of Section 18.10.010 A. - F. and H.

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2. Residential zones. No person shall operate a leaf blower in residential zones, or in the adjoining public right-of-way, between the hours of 7:00 pm to 7:00 am the following morning, seven days a week.
3. For purposes of Section 18.10.035 B., right-of-way adjoining residential zones and any other zone shall be considered as being within residential zones.

C. Noise restrictions.

1. By August 1, 2006, the Noise Control Officer shall establish a list of the leaf blowers not exceeding a 65 dBA sound level at 50 feet. The Noise Control Officer's list shall include only leaf blowers certified by a third-party testing laboratory, using American National Standards Institute (ANSI) methodology, ANSI B175.2-2000. Thereafter, the Noise Control Officer shall update the certified list at least annually, or as it is informed of other certified leaf blowers.
2. By August 1, 2006, the Noise Control Officer shall establish a list of the leaf blowers not exceeding a 70 dBA sound level at 50 feet. The Noise Control Officer's list shall include only leaf blowers certified by a third-party testing laboratory, using American National Standards Institute (ANSI) methodology, ANSI B175.2-2000. Thereafter, the Noise Control Officer shall update the certified list at least annually, or as it is informed of other certified leaf blowers.
3. From March 1 through October 31st of each year, operation of any leaf blower within the City of Portland, which is not on the certified list of 65 dba , or quieter, leaf blowers as developed by the Noise Control Officer, shall constitute a violation of Title 18.
4. From November 1 through February 28th of each year, operation of any leaf blower within the City of Portland, which is not on the certified list of 70 dba , or quieter, leaf blowers as developed by the Noise Control Officer, shall 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 shall not exceed a 75 dBA sound level, using American National Standards Institute (ANSI) methodology, ANSI B175.2-2000.

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18.10.040 Watercraft.

(Amended by Ord. No. 164010, Mar. 27, 1991.)

- A.** No person shall operate a watercraft between the hours of 7:00 a.m. and 10:00 p.m. which exceeds 75 dBA as measured on shore. Between 10:00 p.m. and 7:00 a.m., this sound level shall be 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 shall 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.

(Amended by Ordinance Nos. 159276, 164010, and 175772, effective August 1, 2001.)

- A.** No person shall 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 shall be conducted in a manner approved by the Noise Control Officer and/or the Noise Review Board, or the City Council.
- C.** For purposes of determining permissible sound levels of motor vehicle racing only, the Portland International Raceway shall be 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 shall meet the standards defined in 18.10.010 A., Figure 1.

18.10.060 Construction Activities and Equipment.

(Amended by Ord. No. 159276 effective Jan. 24, 1987.)

- A.** Maximum sound levels: No person shall operate any equipment or appurtenances thereto in commercial construction activities which exceeds 85 dBA, when measured at 50 feet (15.2 meters) from the source. This standard shall 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 shall apply to all construction activities except by variance or for reasons of

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emergency. The exempted equipment of Section 18.10.060 A is not exempted during these hours. For purposes of this Subsection, construction activities on a public road within a zone shall be considered as taking place on private property within that zone.

- C.** The adjustments to permissible sound levels established in Section 18.10.010 B apply to Subsections A and B above.
- D.** All equipment used in commercial activities shall have sound control devices no less effective than those provided on the original equipment, and no equipment shall have an unmuffled exhaust.
- E.** All equipment used in commercial construction activities shall comply with pertinent standards of the U.S. Environmental Protection Agency.

18.10.070 Parking Lot Sweepers.

(Added by Ordinance No. 175772, effective August 1, 2001.) From 10:00 p.m. to 7:00 a.m., operation of commercial parking lot sweepers shall not exceed the sound levels for day hours set forth in 18.10.010. After July 1, 2004, operation of commercial parking lot sweepers shall not exceed the sound levels for night hours set forth in 18.10.010 A and 18.10.010 B.

Chapter 18.12

NOISES PROHIBITED

Sections:

- 18.12.010 Noise Disturbance Prohibited.
- 18.12.020 Specific Prohibitions.
- 18.12.030 Provisions if Measurement Is Made.

18.12.010 Noise Disturbance Prohibited.

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

18.12.020 Specific Prohibitions.

(Amended by Ord. No. 159276 and 166951, Sept. 15, 1993.) The following acts are declared to be violations of this Title, but this enumeration shall not be deemed to be exclusive, namely:

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- A.** Noisy animals. See Section 13.11.050(6) of the Code of the City of Portland. Enforcement of this Subsection shall be the responsibility of Multnomah County Animal Control, or such agency designated by Council.
- 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 p.m. and 7 a.m. so as to be plainly audible within any dwelling unit which 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 50 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 Commissioner In Charge of the Park Bureau shall 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 shall 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 shall supersede this Section and shall be used to determine if a violation of this Title exists.

Chapter 18.14

EXEMPTIONS AND VARIANCES

Sections:

- 18.14.010 Exemptions.
- 18.14.020 Variances.

18.14.010 Exemptions.

(Amended by Ord. No. 159276 effective Jan. 24, 1987.) 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 3 minutes or less.

18.14.020 Variances.

(Amended by Ordinance Nos. 159276, 162098, 164010, 174718, and 175772, effective August 1, 2001.) Any person who owns, controls, or operates any sound source which 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 shall be in a form acceptable to the Noise Review Board or the Noise Control Officer, and shall 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 shall 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 18.14.020 F.
- B.** The application shall 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 the Development Services Center.
- C.** All applications will be first sent to the Noise Control Officer who, with the Chair of the Noise Review Board, shall determine the appropriate reviewing body. The criterion for this determination shall 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

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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 his or her discretion, such delegation is in the City's interest.

- D.** Review of the application on its merit shall 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), and
 - 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.
- E.** Public notification. Notice of receipt of all applications to be reviewed by the Noise Review Board shall promptly be published in a newspaper of general circulation within the City. Notice shall 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 shall be decided within 10 business days of receipt of the completed application. Applications to be reviewed by the Noise Review Board shall 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 3 business days for review by the Noise Control Officer or 7 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 shall constitute automatic approval of the application, unless specifically waived by the applicant. If not waived, such approval shall expire within 180 days following such failure.

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- G.** Applications reviewed by the Noise Control Officer, or the Noise Review Board may be granted, denied, or granted with conditions.
- H.** All decisions shall be in writing, and those made by the Noise Review Board shall state the facts and reasons leading to the decision and shall 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, his 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 shall be in writing to the City Auditor's Office within 10 days of the effective date of the decision. The notice shall 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 shall 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 shall be provided to the variance holder, and shall state the date, time and place of the review. The permittee shall have the opportunity of hearing prior to any revocation. Decisions relative to the review of a variance shall follow the procedures specified in Sections 18.14.020 H, and I.
- K.** Violation of the terms of the variance shall be grounds for the revocation of the variance. The Noise Control Officer or any Police Officer of the City of Portland may summarily revoke or alter conditions of any variance. A request for an applicant or responsible parties to cease activities shall be considered an immediate request and does not allow the permittee or his/her agent to complete

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any additional work or activity. Activities in violation of the Portland City 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 shall be cumulative and non-exclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

Chapter 18.17

RULEMAKING

(New Chapter Added by Ordinance
No. 175772, effective August 1, 2001.)

18.17.010 Rulemaking.

(Amended by Ordinance No. 176955, effective October 9, 2002.)

- A.** The Director has the authority to adopt administrative rules and supplemental regulations related to the provisions of this Title. The rules and regulations must be in conformance with the intent and purpose of this Title. The Director has the authority to administer such rules and regulations. Rules will be adopted according to the procedures in this section.
- B.** Permanent rules.
 - 1.** Prior to the adoption of a permanent rule, the Director will:

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- a. Publish a notice in a newspaper of general circulation in the City. The notice must be published not less than thirty days before the hearing. The notice must identify the place, time and purpose for the hearing; a brief description of the subjects covered by the proposed rule; the final date for acceptance of written comments; the location to submit comments and the location where copies of the full set of the proposed rules may be obtained. A copy of the notice will be provided to the Office of Neighborhood Involvement at least thirty days before the hearing.
 - b. At the hearing, a designee of the Director will hear testimony and receive written comments regarding the proposed rules. The designee will provide a recommendation to the Director. The recommendation will take into consideration the comments received.
 - c. The Director will review the recommendation of the designee and may either adopt the proposed rule, modify or reject it.
 - d. If a substantial modification is made to the proposed rule, the Director may adopt the modification as an Interim Rule or provide additional public review prior to adoption.
 2. Unless otherwise stated, all rules will be effective two weeks after adoption by the Director.
- C. Interim rules.
1. An interim rule may be adopted by the Director without prior notice upon a finding that a failure to act promptly will result in a serious threat of injury or hazard to the public health or public or private property. The rule will include specific reasons for the finding.
 2. Interim rules will be effective for a period of not longer than 180 days.
 3. Not more than 30 days after adoption of an interim rule, public notice of interim rules must be given by publication in a newspaper of general circulation and notice sent to the Office of Neighborhood Involvement. Such notice must also identify the location at which copies of the full set of the interim rules may be obtained.
- D. All final and interim rules must be filed in the office of the Director. All final and interim rules will be available to the public at the Development Services Center.

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- E.** For the purposes of this Section, “Director” shall mean the Director of the Bureau of Development Services, or any duly authorized representative of the Director.

Chapter 18.18

ENFORCEMENT AND PENALTIES

Sections:

- 18.18.010 Authority for Enforcement.
- 18.18.020 Violations.
- 18.18.030 Civil Penalties and Fees.
- 18.18.040 Citations.
- 18.18.050 Review by the Director.
- 18.18.060 Institution of Legal Proceedings.

18.18.010 Authority for Enforcement.

(Amended by Ordinance Nos. 159276, 175772 and 176955, effective October 9, 2002.)
This Title shall be enforced by the Bureau of Development Services and by the Bureau of Police. Duly authorized agents of either of these bureaus shall have citation authority for purposes of enforcing this Title.

18.18.020 Violations.

(Replaced by Ordinance No. 175772, effective August 1, 2001.)

- 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 Director or any Police Officer.
- B.** Each specific incident and each day of non-compliance will be considered a separate violation of this Title.

18.18.030 Civil Penalties and Fees.

(Replaced by Ordinance No. 175772, effective August 1, 2001.) 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 Director 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;
 - f.** Any other applicable facts bearing on the nature and seriousness of the violation.

B. Administrative enforcement fees.

- 1.** The Director may charge a penalty in the form of a monthly enforcement fee 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.

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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 Director 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 Director 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 Director will file a statement with the City Auditor that identifies the property, the amount of the monthly fee, and the date from which the charges are to begin. The Auditor 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 City Auditor; and
 - d. Maintain lien records until:
 - (1) The lien and all associated interest, penalties and costs are paid in full; and
 - (2) The Director 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.

(Added by Ordinance No. 175772, effective August 1, 2001.)

- A. If the Director has reasonable belief that a violation has occurred, the Director may issue a citation. The citation may be personally delivered to the responsible party, or may be delivered by Registered or Certified Mail to the responsible party. The citation will include:

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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 Director.
- 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 Director. If, after review by the Director, the Director 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 Director.

(Added by Ordinance No. 175772, effective August 1, 2001.)

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

18.18.060 Institution of Legal Proceedings.

(Added by Ordinance No. 175772, effective August 1, 2001.) 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.

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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, shall not be affected.