

## *St. Louis City Ordinance 64566*

FLOOR SUBSTITUTE

BOARD BILL NO. [98] 121

INTRODUCED BY ALDERMAN PHYLLIS YOUNG

An ordinance pertaining to noise regulation; providing for a comprehensive noise control procedure to be implemented and enforced by the Health Commissioner; creating a Board of Noise Control Appeals; providing for a procedure by which the Board of Appeals may grant variances to the provisions of this ordinance and to hear appeals from rulings of the Health Commissioner; containing definitions, exceptions, a penalty clause and an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. For purposes of this ordinance the following words and phrases are herein defined:

- (1) A-weighted sound pressure level: A weighted sound pressure level as measured with the A-weighting network of a sound level meter. The unit of measurement is dB(A).
- (2) Ambient noise level: The A-weighted sound pressure level of all the encompassing noise associated with a given environment, being usually a composite of sounds from many sources.
- (3) A.N.S.I: The American National Standards Institute or its successor bodies.
- (4) Board: The Appeal Board established by Section Eight of this ordinance.
- (5) Boundary: The line of demarcation which separates the real property owned by one person from that owned by another person.
- (6) Construction activity: Any or all activity necessary or incidental to the erection, demolition, assembling, repairing, altering, installing or equipping of public or private buildings, private or public parks, premises, utility lines, and private or public highways, roads or streets, including land clearing, grading, excavating and filling.
- (7) Construction device: Any device used in construction including, but not limited to, any air compressor, pile driver, manual tool, bulldozer, pneumatic hammer, steam shovel, derrick, crane, steam or electric hoist.

(8) Daytime hours: 7:00 o'clock a.m. to 10:00 o'clock p.m., prevailing local time.

(9) Director: The Director of the Department of Health and Hospitals or his duly authorized agents.

(10) Discrete tone: A noise measured on a one-third octave band analyzer which is ten (10) decibels greater than each of the adjacent one-third octave bands.

(11) Emergency work: Work necessary to restore property to a safe condition following a public calamity, or work required to protect person or property from an imminent exposure to danger.

(12) Emergency signal device: Any gong, siren, whistle or any air horn or similar device when used on any vehicle designated as an emergency vehicle by ordinance or by Missouri statute, or used in connection with an emergency warning system, or used in connection with a warning system intended to produce a sound signal upon unauthorized entrance by a person into a building or motor vehicle.

(13) Impulsive noise: A noise, containing excursions usually of no more than one second, the A-weighted sound pressure level of which exceeds the ambient noise level by more than twenty (20) dB(A), when measured by the fast meter characteristic of a sound level meter.

(14) Motor vehicle: Any self-propelled vehicle not operated exclusively on rails.

(15) Nighttime hours: 10:00 o'clock p.m., to 7:00 o'clock a.m., prevailing local time.

(16) Perception threshold: The minimum vibrational motion necessary to cause awareness of the existence of the vibration by direct means, including but not limited to, sensation by touch or visual observations. Any vibration which produces more than five-tenths (0.5) inch/second root mean square vertical velocity shall be deemed sufficient to cause the awareness of the existence of the vibration by direct means.

(17) Period of measurement: Any continuous sixty-minute period during which observations of stationary noise sources are made and measurements of noise levels are taken.

(18) Person: Any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner, or operator and shall include any municipal corporation or its officers or employees.

(19) Sound: An audible oscillation of pressure in air.

(20) Sound level meter: Any instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound pressure levels in a specified manner which complies with Type 2 or better standards established in the A.N.S.I. S1.4-1971 ♦ Specification for Sound Level Meters. ♦

(21) Sound pressure level: Twenty times the logarithm to the base 10 of the ratio of the root mean square pressure of a sound to the standard reference pressure which is twenty (20) micropascals. The unit of measurement is the decibel (dB).

(22) Stationary noise source: Any equipment, motor vehicle, aircraft, or facility, fixed or movable, capable of emitting audible sound.

(23) Vehicular way: A paved or unpaved area used by motor vehicles including, but not limited to roads, streets, highways, alleys and parking lots.

**SECTION TWO. APPLICABILITY OF STANDARDS ESTABLISHED BY A.N.S.I.** Unless otherwise specified herein, or specified in regulations promulgated by the Director under this Code, the acoustical terminology, the reference pressure, instrument specifications, and calibrations and methods for measurements of sound pressure levels shall be in conformance with the definitions and provisions contained in the documents designated as A.N.S.I. S1.1-971, S.4-1971, S1.11-1966 (R1971 and S1.13-1971, of which one copy of each document is filed in the office of the Register of the City of St. Louis.

**SECTION THREE. Permissible Noise Levels - Standards.**

1. No person shall operate or permit to be operated any stationary noise source which emits noise in such a manner that the level of the noise emitted, when measured at any point outside the boundary of the property upon which the stationary noise source is located using the slow meter characteristic and the A-weighting network of the sound level meter, exceeds the levels set forth in Table I below or exceeds the limit set forth in this ordinance. When the noise emitted is measured upon property which is located in a different land use

category than the property upon which the stationary noise source is located, the levels applicable to the property where the noise emitted is measured shall be used to determine if a violation exists. If more than one use exists on the property where the noise emitted is measured such that more than one land use category would be applicable to the property, then the levels set forth in the least restrictive applicable land use category of Table I shall be used to determine if a violation exists.

2. If the stationary noise source emits noise containing a discrete tone, the permissible levels shall be 5dB lower than the applicable levels of Table I.

3. If the stationary noise source emits impulsive noise the levels of Table I shall be lowered by 5dB. A violation of this Code shall exist if the level of the impulsive noise emitted exceeds the applicable levels of Table I, as modified by this subsection, when the measurement is made using the fast meter characteristic and the A-weighting network of the sound level meter or if the level of the impulsive noise emitted exceeds the limit set forth in Section 625.0550.6.

4. In the event the stationary noise source emits impulsive noise containing a discrete tone, the modifications of Table I set forth in subsections 2. and 3. herein shall be cumulative.

5. If the ambient noise level exceeds the level of the noise emitted from the stationary noise source for one or more periods of time during the period of measurement, then for any such period of time the level of the noise emitted from the stationary noise source shall be deemed to be lower than the level which is permitted for sixty (60) minutes during the period of measurement in the applicable land use category and for the applicable time of day.

6. If, during the period of measurement, noise shall be emitted from a stationary noise source for periods of time at two (2) or more different levels, a violation of this Code shall exist if the sum of the following fractions  $C1/T1 + C2/T2 + \dots Cn/Tn$  exceeds the unit number 1. For purposes of this calculation  $Cn$  shall equal the actual time period that noise is emitted at each measured noise level and  $Tn$  shall equal the period of time that noise is permitted under Table I to be emitted at each measured noise level. Provided, however, if: (1) the ambient noise level exceeds the level of noise emitted from the stationary noise source for one or more periods of time during the period of measurement; or, (2) the level of the noise emitted from the stationary noise source is lower than the level of noise which is permitted in Table I for sixty (60) minutes during the period of measurement in the applicable land use category and for the

applicable time of day for one or more periods of time during the period of measurement, then for the purpose of the calculation set forth in this subsection, for each such period of time, the term Cn shall be deemed to be zero (0) and the fraction Cn/Tn shall be zero(0).

Table I

A. Zoning Districts Zoned A-E

Daytime Hours

Tn\* (dB(A))\*\*

60 55 or less

30 56-58

15 59-61

8 62-64

4 65-67

2 68-70

0 71 or greater

Nighttime Hours

60 50 or less

30 51-53

15 54-56

8 57-59

4 60-62

2 63-65

0 66 or greater

\*Total Duration of Time Noise To Be Emitted From Noise Source During Period of Measurement (Minutes).

\*\* A-Weighted Sound Pressure Level.

B. Zoning Districts Zoned F+G

Daytime Hours

Tn (dB(A))\*\*

60 65 or less

30 66-68

15 69-71

8 72-74

4 75-77

2 78-80

0 81 or greater

#### Nighttime Hours

60 60 or less

30 61-63

15 64-66

8 67-69

4 70-72

2 73-75

0 76 or greater

\*Total Duration of Time Noise To Be Emitted From Noise Source During Period of Measurement (Minutes).

\*\* A-Weighted Sound Pressure Level.

#### C. Zoning Districts Zoned H-I

##### All Hours

60 70 or less

30 71-73

15 74-76

8 77-79

4 80-82

2 83-85

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0 86 or greater

\*Total Duration of Time Noise To Be Emitted From Noise Source During Period of Measurement (Minutes).

\*\* A-Weighted Sound Pressure Level.

#### D. Zoning Districts Zoned J-K

##### All Hours

60 80 or less

30 81-83

15 84-86

8 87-89

4 90-92

2 93-95

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0 96 or greater

\*Total Duration of Time Noise To Be Emitted From Noise Source During Period of Measurement (Minutes).

\*\* A-Weighted Sound Pressure Level.

SECTION FOUR. Exceptions. -To the extent provided in this section the provisions of this ordinance shall not apply to:

(1) The operation of construction devices, with sound control devices equivalent to or better than the original equipment, used in construction activities during daytime hours.

(2) The repair, maintenance or construction of public facilities of the state of Missouri or the City of St. Louis, or such public or quasi-public municipal corporations as may be established under the constitution or laws of the State of Missouri.

(3) Emergency work to repair or maintain private utility facilities.

- (4) Emergency work to repair equipment or facilities damaged or rendered inoperable as a direct result of unavoidable upset conditions providing such occurrence is reports to the Director within twenty-four (24) hours after the occurrence.
- (5) The operation of motor vehicles on a vehicular way with such control devices equivalent to or better than the original equipment.
- (6) The operation of railway equipment and vehicles operated exclusively on rails.
- (7) The necessary operation of emergency signal devices.
- (8) Electric power distribution transformers within a distance of fifty (50) feet from the base of the support pole or from the fence line. In addition, electric power distribution transformers shall not be subject to the provisions of Section One (2).
- (9) The operation of lawn care maintenance equipment with sound control devices equivalent to or better than original equipment form 7:00 a.m., prevailing local time to sunset.
- (10) The enforcement of the provisions of Chapter 15.50 and Chapter 17.78 of the Revised Code of the City of St. Louis.

SECTION FIVE. Notice of Violation. - Whenever the Health Commissioner determines that a violation of any provision of this Code exists, he shall issue a written notification to the person responsible for the alleged violation. The notification shall set forth the nature of the violation and shall direct that the violation must be abated within the time period specified by the Health Commissioner, which time period shall not exceed sixty (60) days from the date the notice is sent; provided, however, if the violation cannot be abated within the time period specified, the Health Commissioner may extend the time period for compliance for a reasonable period of time upon submission of an acceptable abatement plan by the person responsible for the violation. In determining whether the abatement plan is acceptable, the Health Commissioner's consideration shall include, but shall not be limited to:

- a. the sufficiency of all construction plans to reduce noise or vibrations levels;
- and

- b. the sufficiency of the design criteria for any equipment changes to reduce noise vibration levels; and
- c. the length of time necessary to perform all work to abate the violation.

SECTION SIX. Any violation which is not abated within the time period specified by the Health Commissioner, including any extensions, shall be referred to the City Counselor for prosecution, unless such violation has been appealed to the Board of Noise Control Appeals and Variance Review as provided in Section Seven. Each day that a non-abated violation continues after the date it has been referred to the City Counselor shall constitute a separate violation of this ordinance.

SECTION SEVEN. A. The Mayor shall appoint a Board of Noise Control Appeals and Variance Review consisting of three members. One member shall be an attorney licensed in the State of Missouri and one shall be a professional engineer registered in the State of Missouri. The members shall be residents of the City. The members shall be appointed for terms of four years and shall be compensated as prescribed by the Civil Service Commission. To the maximum extent possible, the members should not have a substantial interest in any business either subject to regulation by this ordinance or engage in the manufacture, sale or distribution of air pollution control devices.

B. The Mayor shall designate one of the members of the Board to serve as Chairman. The Health Commissioner shall serve as Secretary of the Board, but shall have no vote on the Board.

C. The Board shall advise the Health Commissioner on standards, rules and regulations and such other matters as are submitted to it by him.

D. The Board shall conduct hearings on appeals from actions and orders of the Health Commissioner. Notice of appeal from an order or decision of the Commissioner shall be filed within 10 days from the date of said order or decision. Fifty Dollars (\$50.00) shall accompany the notice of appeal which shall be paid to the Secretary of the Board for deposit with the Treasurer of the City.

E. 1. The Board member shall have authority to administer oaths and do all other necessary and proper duties in the conducting of a hearing.

2. At a Board hearing the parties involved and the Commissioner may appear with counsel, may file written arguments and may make oral arguments, offer

testimony or cross examine witnesses, or take any combinations of such actions. The Board shall have authority to make such rules and regulations as are necessary to perform its functions and duties under this chapter. A copy of such rules and regulations shall be available to the general public.

3. All testimony taken before the Board shall be under oath and recorded stenographically, except that the Board may require the submission of voluminous or detailed or technical testimony in writing under oath. The transcript of records shall be made available to any member of the public or to any party upon payment of the fair charges therefor.

4. Upon the request of any parties, or on the motion of any member of the Board, the Board shall issue subpoenas requiring the attendance and testimony of witnesses and the production of books and records relevant to any matter involved. Every subpoena shall be served by the City Marshal and shall be obeyed.

F. 1. The Board may affirm, modify, or rescind any action of the Commissioner, if it finds that there is error in an order or decision of the Commissioner. The concurrence of any two members who were present at the hearing or who have read the transcript of the hearing shall be necessary for such decision regarding the order or decision of the Commissioner.

2. The Board shall notify all parties of record and their counsel in writing by United States mail of its decision. The Commissioner may issue appropriate orders requiring compliance with the decision of the Board. Any decision of the Board rendered pursuant to this section shall be final and any appeal therefrom shall be made pursuant to the Administrative Procedures Act as set out in Chapter 536 RSMo..

#### SECTION EIGHT. Variances.

A. Any person who owns or is in control of any plant, building, structure, process or equipment may submit a petition to the Health Commissioner for a variance from the provisions of this ordinance pertaining to sound levels . The petition shall be accompanied by a fee of \$50.00 and shall include the following information:

1. The name, address and telephone number of the petitioner, or other person authorized to receive service of notices;

2. The type of business or activity involved in the application and the street address at which it is conducted;
3. A brief description of the article, machine, equipment or other contrivance or process involved in the sound level emissions occurring therefrom;
4. Each petition shall be signed by the petitioner or by some person on his behalf, and where the person signing is not the petitioner it shall set forth his authority to sign;
5. The section, rule or order complained of;
6. The facts showing why compliance with the section, rule or order is unreasonable;
7. For what period of time the variance is sought and why;
8. The damage or harm resulting or which would result to petitioner from compliance with such section, rule or order;
9. The requirements which petitioner can meet and the date when petitioner can comply with such requirements including the sound levels which will result;
10. The advantages and disadvantages to the residents of the area resulting from requiring compliance or resulting from granting a variance;
11. Whether operations under such variance, if granted, would constitute a nuisance;
12. Such other information and data required by rule or regulation of the Board enacted in conformity with the terms, conditions, and limitations of this chapter.

The Health Commissioner or his authorized representative shall promptly investigate such petition and submit it with a recommendation to the Board as to the disposition thereof.

B. The Board may grant such variance if it finds that:

1. The granting of such variance would constitute an immediate hazard to public health or safety; and

2. Compliance with the terms, conditions, and limitations of this ordinance from which variance is sought would result in an arbitrary and unreasonable taking of property or in the practical closing and eliminating of any lawful business, occupation or activity, in either case without sufficient corresponding benefit or advantage to the people.

C. No variance shall be granted pursuant to this section except after public hearing on due notice and until the Health Commissioner has considered the relative interests of the applicant, other owners of property likely to be affected by the proposed sound levels and the general public.

D. Variances may be granted for such period of time and under such terms and conditions as shall be specified by the Board. Variances may be renewed by the Board upon application made at least sixty (60) days prior to the expiration of the term. Renewal application shall be considered in the same manner as the initial petition for variance was considered by the Board.

E. A variance or renewal thereof shall not be a vested right of the applicant or holder thereof.

F. Such a variance may require gradual decrease of the sound levels during the variance period and the making of periodic reports of the improvement program and on compliance with the terms and conditions attached to the variance, and such a variance may be revoked or modified for failure to comply with the terms and conditions attached thereto or with any improvement program or for failure to make a periodic report, if such is required.

G. Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of this ordinance.

#### SECTION NINE. Penalty Clause.

(1) Any person found guilty or who enters a plea of guilty to a violation of any of the provisions of this ordinance shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than Ninety (90) days or both such fine and imprisonment. Each day upon which any violation of this ordinance occurs shall constitute a separate offense.

(2) The City Counselor is authorized to seek equitable relief in the Circuit Court to require any person in violation of the provisions of this ordinance to comply with the standards set forth herein.

**SECTION TEN. Emergency Clause.**

This being an ordinance for the preservation of public peace, health, and safety, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the mayor.

<b>Legislative History</b>				
<b>1ST READING</b>	<b>REF TO COMM</b>	<b>COMMITTEE</b>	<b>COMM SUB</b>	<b>COMM AMEND</b>
<b>07/17/98</b>	<b>07/17/98</b>	<b>H&amp;H</b>		
<b>2ND READING</b>	<b>FLOOR AMEND</b>	<b>FLOOR SUB</b>	<b>PERFECTN</b>	<b>PASSAGE</b>
<b>12/18/98</b>			<b>01/22/98</b>	<b>01/22/98</b>
<b>ORDINANCE</b>	<b>VETOED</b>		<b>VETO OVR</b>	
<b>64566</b>				