

10-2 - NOISE.

10-2.1 - Short title.

This section may be cited as the "Noise Ordinance".

(Ordained as Code 1973, § 31.2-1 by Ord. #1981-10, § 1; SFCC 1981, § 6-23-1)

10-2.2 - Intent.

It is the intent of the governing body of the city of Santa Fe to ensure its citizens an environment free from such excessive sound as may jeopardize their health, welfare and safety, or degrade the quality of life.

(Ordained as Code 1973, § 31.2-2 by Ord. #1981-10, § 2; SFCC 1981, § 6-23-2)

10-2.3 - Definitions.

All terminology used in this section and not defined below shall be in conformance with the American national standards institute publication, Acoustical Terminology, S1. 1-1960, revised 1971, or other American national standards institute publication. As used in this section:

A-weighted sound pressure level means the sound pressure level as measured with a sound level meter using the "A-weighting" network. The standard notation is db(A) or dBA.

Ambient sound pressure level means the sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources. It is also the "A-weighted" sound pressure level exceeded ninety percent (90%) of the time based on a measurement period which shall not be less than ten (10) minutes.

Boom box means a sound amplifier usually installed in motor vehicles or transported by hand or any other means of conveyance, which transmits excessive noise with a boom-like quality from recorded devices or live radio-transmitted sources and resulting in detectable reverberations.

Continuous sound means any sound which exists, essentially without interruption, for a period of ten (10) minutes or more.

Decibel means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. Decibel is denoted as dB.

Device means any mechanism which is intended to produce, or which actually produces noise when operated or handled.

Emergency vehicle means a motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

Emergency work means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.

Equivalent sound level (Leq) means a level of steady sound which in a stated time period and stated location, has the same A-weighted sound energy as the time varying sound. Leq shall be calculated using approved Federal Highway Administration noise projection models.

Motor vehicle means any vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated on rails.

Muffler means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

Noise means any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

Noise disturbance means any sound which annoys or disturbs reasonable persons with normal sensitivities, or which injures or endangers the public health, welfare or safety.

Noise sensitive zone means any land use, including but not limited to, dwellings, residentially zoned properties, schools, day cares, health care facilities, churches, recreational facilities, libraries or similar land use that may have a diminished use when subjected to excessive noise.

Percentile sound pressure level includes:

- A. *Tenth percentile noise level* which is the "A-weighted" sound pressure level that is exceeded ten percent (10%) of the time in any measurement period, such as the level that is exceeded for a total of over (1) minute in a ten-minute period, and is denoted L10; and
- B. *Ninetieth percentile noise level* which is the "A-weighted" sound pressure level that is exceeded ninety percent (90%) of the time in any measurement period, such as the level that is exceeded for a total of nine (9) minutes in a ten-minute period, and is denoted L90.

Person means any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.

Plainly audible noise means any noise for which the information content of that noise is unambiguously transferred to the listener, such as but not limited to understanding or spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

Property boundary means an imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, which separates the real property owned by one (1) person from that owned by another person.

Public right-of-way means any street, avenue, boulevard, highway or alley or similar place which is owned or controlled by a public governmental entity.

Retarder means any exhaust and/or engine device used as braking power, to slow down a motor vehicle's rate of speed.

Sound means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

Sound level meter means an instrument, including a microphone, amplifier, output meter and visual display and frequency weighting networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure level when properly calibrated and is of Type II or better, as specified in American National Standards Institute publication, Specifications for Sound Level Meters, ANSI S1. 4-1971.

Sound pressure means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

Sound pressure level means twenty (20) times the logarithm to the base ten (10) of the ratio of the root mean square to the reference pressure, which shall be twenty (20) micropascals, denoted pressure level (LP) or sound pressure level (SPL).

Stationary noise source means any device, fixed or movable, which is located or used on property other than a public right-of-way.

Zone district means those districts established by the city zoning ordinances.

(Ordained as Code 1973, § 31.2-23 by Ord. #1981-10, § 3; SFCC 1981, § 6-23-3; Ord. #1988-30, § 1; Ord. #1994-49, § 1; Ord. #2003-10, § 1)

10-2.4 - Noises prohibited.

- A. In addition to the specific prohibitions outlined in paragraph B. below and subsections 10-2.5 and 10-2.9 of this Code, it is unlawful for any person to make, continue, or cause to be made or continued any noise disturbance within the city limits.
- B. The following are in violation of this section:
 - (1) The sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place within the city, except as a danger warning signal as provided in the state Motor Vehicle Code, or the sounding of any such signaling device for an unnecessary period of time.
 - (2) The sounding of any device or piece of equipment, including but not limited to a retarder, which helps slow a motor vehicle's rate of speed (braking power). When activated, a retarder creates noise through the motor vehicle's exhaust system.
 - (3) Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound, except as provided for in subparagraph (4) below:
 - (a) Which violates the zone district noise levels set out in subsection 10-2.5, or causes a noise disturbance;
 - (b) Between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to be plainly audible at the property boundary of the source; or
 - 1) Is plainly audible at fifty feet (50') or fifteen (15) meters from such device when operated within a vehicle parked on a public right-of-way; or
 - 2) Is plainly audible through partitions common to two (2) occupants within a building or structure.
 - (4) Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons in a manner which violates subsection 10-2.5 or causes a noise disturbance, unless a permit is provided by subsection 10-2.8 has been obtained.
 - (5) Operating, or causing to be used or operated, any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto:
 - (a) In residential or commercial zone areas between the hours of 9:00 p.m. and 7:00 a.m. the following day; and
 - (b) In any other areas of the city where such operation exceeds the sound level limits for an industrial

land use as set forth in subsection 10-2.5.

- (6) Operating or permitting to be operated any power equipment rated five (5) horsepower or less used for home or building repair or grounds maintenance, including but not limited to power saws, sanders, lawn mowers, garden equipment or snow removal equipment, in residential or commercial zoned areas:
 - (a) Outdoors between the hours of 9:00 p.m. and 7:00 a.m. the following day; and
 - (b) Which emits a sound pressure level in excess of eighty (80) dBA measured at a distance of twenty-five feet (25') or seven and five-tenths (7.5) meters.
- (7) Operating or permitting to be operated any power equipment, except construction equipment used for construction activities, rated more than five (5) horsepower, including but not limited to chain saws, pavement breakers, log chippers and powered hand tools:
 - (a) In residential or commercial zoned areas between the hours of 9:00 p.m. and 7:00 a.m. the following day; and
 - (b) In any other areas of the city, if such equipment emits a sound pressure level in excess of eighty-eight (88) dBA measured at a distance of twenty-five feet (25') or seven and five-tenths (7.5) meters.
- (8) Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound which produces, at a point that is normally occupied by a customer, maximum sound pressure levels of one hundred (100) dBA as read with the slow response on a sound level meter, unless a conspicuous and legible sign at least two hundred twenty-five (225) square inches in area is posted near each public entrance stating: "WARNING: SOUND LEVELS MAY CAUSE HEARING IMPAIRMENT". This provision shall not be construed to allow the operation of any loudspeaker or other source of sound in such a manner as to violate subsection 10-2.5.
- (9) Operating or permitting to be operated or used any truck, automobile, motorcycle or other motor vehicle which, by virtue of disrepair or manner or time of operation, violates subsection 10-2.5 or causes a noise disturbance.
- (10) Operating or causing or permitting to be operated any refuse compacting vehicle which creates a sound pressure level in excess of seventy-nine (79) dBA at twenty-five feet (25') or seven and five-tenths (7.5) meters from the vehicle.
- (11) Operating or causing or permitting to be operated any motor vehicle or any auxiliary equipment attached thereto in a manner which violates subsection 10-2.5 or causes a noise disturbance for a consecutive period longer than ten (10) minutes during which such vehicle is stationary in a residential zone.
- (12) Creating noise in excess of the residential standard as defined in subsection 10-2.5 within the vicinity of any school, hospital, institution of learning, court or other designated area where exceptional quiet is necessary, while the same is in use, provided conspicuous signs are displayed in the streets indicating a quiet zone.
- (13) Sounding, operating or permitting to sound or operate an electronically amplified signal from any burglar alarm, bell, chime or clock, including but not limited to bells, chimes or clocks in schools, house of religious worship or governmental buildings, which fail to meet the standards set forth in subsection 10-2.5 for more than fifteen (15) minutes in any hour.
- (14) Operating a recreational vehicle or snowmobile in a manner which violates subsection 10-2.5 or causes a noise disturbance.
- (15) Playing, operating or permitting the playing or operation of any radio receiving set, musical instrument, tape recorder, cassette player, boom box or other electronic machine or device used for the production or reproduction of amplified sound whether located in a motor vehicle or transported by hand or any

other means of conveyance and is being operated in any public street, alley or park, or in commercial or residential parking facilities and which is audible by any person from a distance of twenty-five feet (25') constitutes a public nuisance and is hereby prohibited. Words or phrases need not be discernible.

- C. Violation of this section shall constitute a misdemeanor.
- D. A first offense shall be punishable by a fine not to exceed two hundred dollars (\$200.00) with each subsequent offense punishable by a fine not to exceed five hundred dollars (\$500.00).
- E. Each violation shall be a separate and distinct offense.

(Ordained as Code 1973, § 31.2-4 by Ord. #1981-10, § 4; SFCC 1981, § 6-23-4; Ord. #1988-30, § 2; Ord. #1994-49, § 2; Ord. No. 2003-10, § 2)

10-2.5 - Zone district noise levels; maximum; correction.

- A. It is a violation of this section for any person to operate or permit to be operated any stationary source of sound in such a manner as to create a ninetieth percentile sound pressure level (L90) for a measurement period of ten (10) minutes or more unless otherwise provided in this section, which exceeds the limits set forth for the following receiving zones. The location for measuring exterior sound levels shall be at least one foot (1') inside the property line of the affected property and three to six feet (3' to 6') above ground level and at least four feet (4') from walls and other reflective surfaces.

Zone District	9:00 p.m. to 7:00 a.m.	7:00 a.m. to 9:00 p.m.
Residential	50 dBA	55 dBA
R-1, R-2, R-3, R-4, R-5, R-7, RC-5, RC-8, RM, RAC, AC, PRC, PRRC, HZ, Mobile Home Park		
Commercial	55 dBA	60 dBA
C-1, C-2, C-4, SC, BCD		
Industrial-Agricultural	70 dBA	75 dBA
I-1, I-2, IP		

When a noise source can be identified and its noise measured in more than one (1) land use category, the limits of the more restrictive use shall apply at the boundaries between different zones.

- B. It is a violation of this section for any person to operate, or permit to be operated, any stationary source of sound within any area of the city which creates a tenth percentile sound pressure level (L10) of ten (10) dBA greater than the levels set forth for the receiving zones in paragraph A of this subsection for any measurement period. Such measurement period shall not be less than ten (10) minutes.
- C. Notwithstanding the provisions of paragraph B of this subsection, it is a violation of this section for any person

to operate or permit to be operated, any stationary source of sound within any area of the city which creates a tenth percentile sound pressure level (L10) greater than fifteen (15) dBA above the ambient sound pressure level (L90) of any measurement period. Such measurement period shall not be less than ten (10) minutes.

(Ordained as Code 1973, § 31.2-5 by Ord. #1981-10, § 5; SFCC 1981, § 6-23-5; Ord. #1988-30, § 3)

10-2.6 - Sound level measurement.

Sound level measurements shall be made with a sound level meter using the "A-weighting" scale, in accordance with standards promulgated by the American national standards institute or other reasonable standards adopted and tested by the city of Santa Fe city manager or appointed designee.

(Ordained as Code 1973, § 31.2-6 by Ord. 1981-10, § 6; SFCC 1981, § 6-23-6; Ord. #1988-30, § 4)

10-2.7 - Exemptions.

The following uses and activities shall be exempt from noise level regulations:

- A. Noise of safety signals, warning devices and emergency pressure relief valves;
- B. Noise resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- C. Noise resulting from emergency work;
- D. Noise resulting from lawful fireworks and noisemakers used for a celebration of an official holiday; and
- E. Noise resulting from activities of temporary duration permitted by law for which a license or permit has been approved by the city manager or appointed designee in accordance with subsection 10-2.8 of this Code.
- F. Noise resulting from the use of a retarder in an emergency situation.

(Ordained as Code 1973, § 31.2-7 by Ord. #1981-10, § 7; SFCC 1981, § 6-23-7; Ord. #1988-30, § 5; Ord. #1994-49, § 3)

10-2.8 - Permits.

- A. Application for a permit for relief from the noise restrictions in this section on the basis of undue hardship may be made to the city manager or appointed designee. The application shall be in writing and set forth the conditions as specified in paragraph A(1), (2) or (3) of this subsection entitling the appellant to the relief requested. Any permit granted by the city manager or appointed designee shall contain all conditions upon which the permit has been granted, including, but not limited to the effective dates, any time of day, location, sound pressure level or equipment limitation. The relief requested may be granted upon good and sufficient showing:
 - (1) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this section; or
 - (2) That the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this section; and
 - (3) That no reasonable alternative is available to the applicant.
- B. The city manager or appointed designee may prescribe reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.
- C. Any person denied a permit by the city manager or appointed designee shall have the right to appeal the

denial to the governing body. The appeal shall not be entertained unless it is in the form of a verified petition, in writing, filed with the city manager within five (5) calendar days of the denial, setting forth the condition, as specified in paragraph A(1), (2) or (3) of this subsection entitling the appellant to the relief requested.

(Ordained as Code 1973, § 31.2-8 by Ord. #1981-10, § 8, SFCC 1981, § 6-23-8; Ord. #1988-30, § 6)

10-2.9 - Motor vehicle noise.

- A. No persons shall drive, move, cause or knowingly permit to be driven or moved, a motor vehicle or combination of vehicles in a manner which exceeds the following noise limits for the category of motor vehicle shown below. Noise shall be measured at a distance of at least twenty-five feet (25') or seven and five-tenths (7.5) meters from the near side of the nearest lane being monitored and at a height of at least four feet (4') or one and two-tenths (1.2) meters above the immediate surrounding surface:

	Sound Pressure Level, dBA	
	Speed Limit 45 MPH or Less	Speed Limit Over 45 MPH
Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,000 pounds or more, or any combination of vehicles towed by such motor vehicle	90	94
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	77	81

- B. This subsection applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this section relating to motor vehicle mufflers for noise control.
- C. No person shall operate or cause to be operated any motor vehicle unless the exhaust system of such vehicle is:
- (1) Free from defects which affect sound reduction;
 - (2) Equipped with a muffler or other noise dissipative device;
 - (3) Not equipped with any cut-out, by-pass or similar device; and
 - (4) Not modified in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by a muffler of the type originally installed on the vehicle.
- D. The procedures for enforcing the provisions of this subsection are as follows:
- (1) A violation of this subsection shall be cause for a complaint to be filed with the municipal court of the city; and
 - (2) The violator may decide to effect a repair or bring the vehicle into compliance prior to appearance in court. It will be the responsibility of the violator to arrange retesting of vehicle for compliance and, if it is

found in compliance, the violator shall notify the court within twenty-four (24) hours of said compliance.

- E. In order to implement and enforce this subsection, and for the general purpose of noise abatement, a uniformed police officer shall have, in addition to any other authority vested in him, the power to stop a motor vehicle reasonably suspected of violating any provision of this subsection, and issue a notice of violation or abatement order which may require the motor vehicle to be inspected or tested as the enforcement officer may reasonably require.

(Ordained as Code 1973, § 31.2-9 by Ord. #1981-10, § 9; SFCC 1981, § 6-23-9; Ord. #1988-30, § 7)

10-2.10 - New development; street or highway.

- A. Public or private projects shall be subject to a review process by the city manager or appointed designee in order to determine compliance with this section if such projects are likely to cause sounds in violation of this section.
- B. Plans for construction of a new street or highway systems or expansion of the capacity of an existing street or highway systems will not be approved where the proposed project, using the twenty (20) year traffic projections, will create equivalent hourly sound level (Leq) readings at critical locations within residential areas or noise sensitive zones above sixty-four (64) dBA Leq, unless the project includes such noise mitigation measures as are determined to be technically and economically feasible and reasonable. Critical locations for noise measurement shall be at any location on residential property where frequent human use occurs or at a point of four feet (4') from the exterior of the building structure on property, other than residential but classified as in a noise sensitive zone. The mitigation measures proposed for the project shall be deemed to be reasonable and feasible if so determined and approved by the city council. Such review by the council will be based upon information submitted on costs, barrier effectiveness and public acceptance of the proposed measures. Provisions of this section shall apply only to streets classified as collector, secondary arterial, and major arterial as defined in subsection 14-1.1, Chapter XIV, Land Development.

(Ordained as Code 1973, § 31.2-10 by Ord. #1981-10, § 10; SFCC 1981, § 6-23-10; Ord. #1988-30, § 8)

10-2.11 - Contracts.

Any written agreement, purchase order, or instrument whereby the city is committed to the expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination of the foregoing, shall not be entered into unless such agreement, purchase order or instrument contains a provision that the contractor, contracting party, setter or other person agrees that all activity pursuant thereto will be performed, constructed, conducted or manufactured in accordance with the provisions of this section.

(Ordained as Code 1973, § 31.2-11 by Ord. #1981-10, § 11; SFCC 1981, § 6-23-11)

10-2.12 - Enforcement responsibility.

The city manager or appointed designee shall have primary, but not exclusive, enforcement responsibility with appropriate law enforcement agencies as it relates to vehicular sources.

(Ordained as Code 1973, § 31.2-12 by Ord. #1981-10, § 12; SFCC 1981, § 6-23-12; Ord. #1988-30, § 9)

10-2.13 - Method of enforcement.

Violation of this section in which the noise source is not self-propelled, or if self-propelled, not customarily used or designed for transportation upon a public right-of-way, shall be cause for summons and complaint to be issued forthwith; provided, however, that in lieu of summons and complaint, enforcement personnel may issue a twenty-four (24) hour notice, or other reasonable amount of time not to exceed five (5) days, signed by the city manager or duly authorized representative, in writing, which may be served personally or by certified mail to the last known address of the person to whom addressed, with return receipt requested, directed to the owner, occupant, person in charge of, or in control of the machine, device, building or other premises to abate the violation of this section. Failure to comply with the order so issued and served shall constitute a violation of this section.

(Ordained as Code 1973, § 31.2-13 by Ord. #1981-10, § 13; SFCC 1981, § 6-23-13)

10-2.14 - Violations and penalties.

- A. Any person violating any provisions of this section shall be punished by a fine of not more than three hundred dollars (\$300.00) or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment, except as provided in paragraph B of this subsection. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.
- B. With regard to persons operating motor vehicles and violating this section, the person shall, for the first offense, be fined thirty dollars (\$30.00); however, if repairs are effected on the motor vehicle prior to court appearance and the vehicle passes a compliance test as prescribed by the city manager or appointed designee, the fine shall be waived.

(Ordained as Code 1973, § 31.2-14 by Ord. #1981-10, § 14; SFCC 1981, § 6-23-14; Ord. #1988-30, § 10)

10-2.15 - Additional remedies.

Violations of subsections 10-2.4 through 10-2.10 SFCC 1987 are declared to be a nuisance and as such may be abated as set forth in Section 10-9 SFCC 1987.

(Ordained as Code 1973, § 31.2-15 by Ord. #1981-10, § 15; SFCC 1981, § 6-23-15; Ord. #2005-1, § 6)

10-2.16 - Advertising; amplification.

- A. *Advertising from Private Property; Use of Loudspeakers or Sound Amplifiers.*
 - (1) It is unlawful for any person to use, operate or permit to be played, used or operated any receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast on the public streets, from private property, for the purpose of commercial advertising or attracting the attention of the public to any building, structure, enterprise or activity.
 - (2) The governing body may, in its discretion, allow such operation.
- B. *Special Use Permit Required.* All applicants for advertising by use of loudspeakers or sound amplifiers from private property are required to obtain a special use permit from the office of the city clerk after approval and prior to the event or activity. The administrative service charge for issuing the permit is twenty dollars (\$20.00). The city may, at its discretion, require:
 - (1) A one hundred dollar (\$100.00) deposit;
 - (2) A state tax number;

(3) A city business number; and

(4) An environmental improvement agency food and drink permit number.

(Code 1953, § 3-1; Code 1973, § 19-1; SFCC 1981, §§ 9-10-1, 9-10-2)

State Law reference— Authority of city to regulate noise and any practice which tends to annoy persons on the streets or public grounds, Sec. 3-18-17 NMSA 1978.