

**ORDINANCE NO. 1-14**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE APPROVING AN AMENDMENT TO CHAPTER 8.24 OF THE ORANGE MUNICIPAL CODE TO UPDATE THE CITY'S NOISE ORDINANCE TO BE CONSISTENT WITH THE 2010 GENERAL PLAN NOISE ELEMENT.**

**WHEREAS**, the City's Noise Ordinance was originally adopted in 1974, following the State's enactment of the California Noise Control Act of 1973; and

**WHEREAS**, incremental amendments to the City's Noise Ordinance were made in 1974, 1980, and 1996, but a comprehensive update has not been undertaken since its adoption; and

**WHEREAS**, in 2010, the City adopted a Comprehensive General Plan Update which included an update of the Noise Element; and

**WHEREAS**, the City's Noise Element establishes policies, defines noise standards, and identifies strategies for maintaining an acceptable noise environment in the community; and

**WHEREAS**, the 2010 General Plan Implementation Program I-30 (Noise Ordinance) specifically calls for the City to update the Noise Ordinance to reflect the noise policies and standards identified in the Noise Element; and

**WHEREAS**, in addition to maintaining consistency with the Noise Element, the City also desires to update the Noise Ordinance so that it is more user-friendly and reflects current industry standards and noise conditions in the community; and

**WHEREAS**, the City Council having conducted a public hearing on July 8, 2014 including review of the staff report and receiving public testimony on the item, has determined that the proposed amendment is justified and approves thereof.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION I:**

Chapter 8.24 of the Orange Municipal Code is hereby amended to read in full as follows:

## **“Chapter 8.24**

### **Noise Control**

#### **Sections:**

- 8.24.010 Policy.
- 8.24.020 Definitions.
- 8.24.030 Noise Level Measurement Criteria.
- 8.24.040 Exterior Standards.
- 8.24.050 Exemptions from Chapter Provisions.
- 8.24.060 Special Provisions for Hospitals, Schools, and Churches.
- 8.24.070 Measurement of Noise Levels.
- 8.24.080 Enforcement Authority.
- 8.24.090 Violation—Public Nuisance.
- 8.24.100 Alternative Noise Prohibition.
- 8.24.110 Violation—Misdemeanor.

#### **Chapter 8.24- NOISE CONTROL**

##### **8.24.010 - Policy.**

- A. In order to control unnecessary, excessive and annoying sounds emanating from the City, it is the policy of the City to regulate such sounds generated from all sources as specified in this chapter. The intent of this chapter is to protect residential land uses from unnecessary, excessive and annoying sounds.
- B. It is determined that certain sound levels are detrimental to the public health, welfare and safety, and contrary to public interest.  
*(Ords. 49-74; 17-74: Prior Code 9500.1)*

##### **8.24.020 - Definitions.**

The following words, phrases and terms as used in this chapter shall have the meaning as indicated below:

- A. "Ambient noise level" means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.
- B. "Adjusted ambient noise level" means the measured ambient noise level plus 3 dB (A). Three (3) dB (A) is the industry-accepted threshold of human perceptibility for a change in the noise environment.

- C. "Decibel (dB)" means a unit which denotes the ratio between two quantities which are proportional to power: the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base ten of this ratio.
- D. "Emergency machinery, vehicle or work" means any machinery, vehicle or work used, employed or performed in an effort to protect, provide or restore safe conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.
- E. "Fixed noise source" means a stationary noise source which creates sounds while fixed or motionless, including but not limited to construction equipment, industrial and commercial machinery and equipment, pumps, fans, compressors, generators, air conditioners and refrigeration equipment.
- F. "Grading" means any excavating or filling of earth material or any combination thereof conducted to prepare a site for construction or other improvements thereon.  
(Ord. 49-74)
- G. "Hourly Average" ( $L_{eq}$ ) means the energy mean or average sound level over a one hour period of time.
- H. "Impact noise" means the noise produced by the collision of one mass in motion with a second mass which may be either in motion or at rest.
- I. "Mobile noise source" means any noise source other than a fixed noise source.
- J. "Noise level" means the "A" weighted sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of twenty micronewtons per square meter. The unit of measurement shall be designated as dB(A).
- K. "Person" means a person, firm, association, co-partnership, joint venture, corporation or any entity, public or private in nature.
- L. "Recurring impulsive noise" means a noise of short duration, usually less than one second, with an abrupt onset and rapid decay, which occurs repeatedly or in a cyclical manner. Examples include jack hammering, pile driving, or operational noise from a generator or other mechanical equipment that is cyclical in nature.
- M. "Residential property" means a parcel of real property which is developed and used either in part or in whole for residential purposes, other than transient uses such as hotels and motels.
- N. "Simple tone noise" means a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished.

- O. "Sound level meter" means an instrument meeting American National Standard Institute's Standard SI.4- 1983 for Type 1 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.
- P. "Sound pressure level" of a sound, in decibels, means twenty times the logarithm to the base ten of the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated.  
(Ord. 17-74: Prior Code 9500.2)

**8.24.030 - Noise Level Measurement Criteria.**

Any noise level measurements made pursuant to the provisions of this chapter shall be performed using a sound level meter as defined in Section 8.24.020P.  
(Ord. 17-74: Prior Code 9500.3)

**8.24.040 - Exterior Noise Standards.**

- A. The following noise standards for fixed noise sources, unless otherwise specifically indicated, shall apply to all residential property:

**Table 8.24.040 Exterior Noise Standards**

	Noise Level	Time Period
Hourly Average ( $L_{eq}$ )	55 dB (A)	7:00 a.m.—10:00 p.m.
	50 dB (A)	10:00 p.m.—7:00 a.m.
Maximum Level	70 dB (A)	7:00 a.m.—10:00 p.m.
	65 dB (A)	10:00 p.m.—7:00 a.m.

- B. It is unlawful for any person at any location within the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other residential property to exceed the noise standards identified in Table 8.24.040. For multi-family residential or mixed use developments located within the City's Urban Mixed Use, Neighborhood Mixed Use, Old Towne Mixed Use or Medium Density Residential General Plan land use districts, exterior noise standards shall apply to common recreation areas only and shall not apply to private exterior space (such as a private yard, patio, or balcony).
- C. In the event the ambient noise level exceeds the noise standards identified in Table 8.24.040 of this section, the "adjusted ambient noise level" shall be applied as the noise standard. In cases where the noise standard is adjusted due to a high ambient noise level, the noise standard shall not exceed the "adjusted ambient noise level", or 70 dB (A), whichever is less. In cases where the ambient noise level is already greater than 70 dB (A), the ambient noise level shall be applied as the noise standard.

- D. Each of the noise limits specified in Table 8.24.040 shall be reduced by 5 dB(A) for impact or simple tone noises, recurring impulsive noises, or for noises consisting of speech or music.

*(Ord. 17-74: Prior Code 9500.5)*

**8.24.050 - Exemptions from Chapter Provisions.**

The following activities shall be exempted from the provisions of this chapter:

- A. School bands, school athletic and school entertainment events;
- B. Outdoor gatherings, public dances, shows, and sporting and entertainment events provided such events are conducted pursuant to any permit requirements established by the City;
- C. Activities conducted on public parks, public playgrounds, and public or private school grounds;
- D. Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or work;
- E. Noise sources associated with construction, repair, remodeling, or grading of any real property, provided said activities take place between the hours of 7:00 a.m. and 8:00 p.m. on any day except for Sunday or a Federal holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a Federal holiday. Noise generated outside of the hours specified are subject to the noise standards identified in Table 8.24.040;
- F. All mechanical devices, apparatus or equipment which are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions;
- G. Noise sources associated with agricultural operations provided such operations take place between the hours of 7:00 a.m. and 8:00 p.m. on any day except Sunday or a Federal holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a Federal holiday;
- H. Noise sources associated with agricultural pest control through pesticide application, provided that the application is made in accordance with restricted material permits issued by or regulations enforced by the Agricultural Commissioner;
- I. Noise sources associated with the maintenance of real property, provided such activities take place between the hours of 7:00 a.m. and 8:00 p.m. on any day except Sunday or a Federal holiday, or between the hours of 9:00 a.m. and 8:00 p.m. on Sunday or a Federal holiday. Operation of leaf blowers are regulated under OMC Chapter 8.26;

- J. Industrial or commercial noise affecting residential units, when the residential unit is associated with said industrial or commercial use (e.g. caretaker's dwellings);
- K. Any maintenance or construction activity undertaken by a public agency or utility within street right of way;
- L. Mobile noise sources including but not limited to operational noise from trains, or automobiles or trucks traveling on roadways. Transportation noise as related to noise/land use compatibility is subject to the City's General Plan Noise Element;
- M. Any activity to the extent regulation thereof has been preempted by State or Federal Law.  
(Ords. 49-74; 17-74: Prior Code 9500.7)

**8.24.060 - Special Provisions for Schools, Hospitals and Churches.**

It is unlawful for any person to create any noise which causes the noise level at any school, hospital or church, while the same is in use, to exceed the noise limits as specified in Section 8.24.040, or which noise level unreasonably interferes with the use of such institutions.  
(Ord. 17-74: Prior Code 9500.8)

**8.24.070 - Measurement of Noise Levels.**

The location selected for measuring exterior noise levels shall be the point closest to the noise source along the perimeter of the outdoor activity area (such as a private yard, patio, balcony, or common recreation area, as applicable pursuant to Section 8.24.040B. of this chapter) of the affected residential receiving property. If the location of the outdoor activity area is unknown or unclear, the noise standard shall be applied at the point closest to the noise source along the property line of the affected residential receiving property.  
(Ords. 49-74; 17-74: Prior Code 9500.10)

**8.24.80 – Enforcement Authority.**

- A. The Chief Building Official or his/her designee are directed to enforce the provisions of this chapter. The Chief Building Official or his/her designee are authorized, pursuant to Penal Code Section 836.5, to arrest any person without a warrant when they have reasonable cause to believe that such person has committed a misdemeanor in their presence.
- B. No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of his duty.  
(Ord. 17-74: Prior Code 9500.11)

**8.24.090 - Violation—Public Nuisance.**

Any violation of this chapter is a public nuisance and may be abated in accordance with law. The expense of such abatement may, by resolution of the City Council, be declared to be a lien against the property on which such nuisance is maintained, and such lien shall be made a personal obligation of the property owner.  
*(Ords. 1-80; 49-74; 17-74: Prior Code 9500.16)*

**8.24.100 - Alternative Noise Prohibition.**

Notwithstanding any other provisions of this chapter and in addition thereto, it is unlawful for any person to willfully make, continue, maintain, permit or cause to be made, continued, maintained, or permitted, any loud, unnecessary and unusual noise which disturbs the peace or quiet of any residential property or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area. It shall be a prima facie violation of this section if any power tool, radio, receiving set, television, music amplifier, tape player, record player, compact disc player, musical instrument or similar device is played, used or permitted to be played or used between the hours of 10:00 p.m. and 7:00 a.m. when audible from a distance of one hundred feet from the property line of the noise source or from a distance of one hundred fifty feet from any non-stationary noise source. For the purpose of this ordinance, these prohibitions shall also be applied to stationary vehicles parked on the street or on private property. The determination may be made by a peace officer or may be proven by the testimony of any other person. Furthermore, and in addition to the provisions of this chapter, noise prohibitions pursuant to Penal Code Section 415 and Orange Municipal Code Chapter 9.39 may also be applied.  
*(Ord. 26-96)*

**8.24.110 - Violation—Misdemeanor.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. The provisions of this chapter shall not be construed as permitting conduct not prescribed herein and shall not affect the enforceability of any other applicable provisions of law.  
*(Ords. 1-80; 17-74: Prior Code 9500.15)*

**SECTION II: ENVIRONMENTAL REVIEW**

This Ordinance establishes consistency between the noise policies and standards in the General Plan Noise Element (adopted in 2010) and the noise standards contained in the City's Municipal Code. The Program Environmental Impact Report (PEIR) for the 2010 Comprehensive General Plan Update (State Clearinghouse No. 2006031117, certified on March 9, 2010) analyzed the environmental effects of the 2010 General Plan, including the updated Noise Element policies and standards. In fact, 2010 General Plan Implementation Program I-30 (Noise Ordinance) specifically calls for the City to update the Noise Ordinance

to reflect the noise policies and standards identified in the Noise Element. As such, this Ordinance was contemplated at the time of the General Plan and EIR adoption, and any environmental effects resulting from the Ordinance were already analyzed and disclosed in the prior EIR. Therefore, this Ordinance falls within the scope of the previously-approved General Plan and the previously-certified Program EIR.

Since this Ordinance incorporates the policies and standards of the 2010 General Plan Noise Element into the City's Code, there is no potential for new significant impacts or a substantial increase in the severity of impacts (beyond those already analyzed in the earlier EIR). As such, no new mitigation measures are required. Therefore, pursuant to CEQA Guidelines Sections 15168 and 15162, no further documentation is warranted or required in order to comply with CEQA.

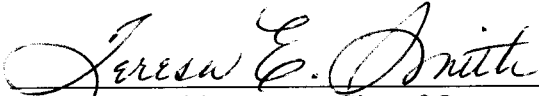
**SECTION III:**

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**SECTION IV:**

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least fifteen (15) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after its passage in a newspaper of general circulation in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933.

**ADOPTED** this 12<sup>th</sup> day of August, 2014.

  
\_\_\_\_\_  
Teresa E. Smith, Mayor, City of Orange

**ATTEST:**

  
\_\_\_\_\_  
Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA )  
COUNTY OF ORANGE )  
CITY OF ORANGE )

I, MARY E. MURPHY, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 8<sup>th</sup> day of July, 2014, and thereafter at the regular meeting of said City Council duly held on the 12<sup>th</sup> day of August, 2014, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Alvarez, Whitaker, Smith, Murphy, Bilodeau  
NOES: COUNCILMEMBERS: None  
ABSENT: COUNCILMEMBERS: None  
ABSTAIN: COUNCILMEMBERS: None

  
Mary E. Murphy, City Clerk, City of Orange