

Memorandum

Date: July 13, 2012

To: West Linn Planning Commission

From: Zach Pelz, Associate Planner

Subject: Summary of initial research findings regarding municipal regulation of sports courts and other active use of yards and patios

Purpose

In recent years, the City Council has heard from a number of residents alleging that their neighbor's recreational use of property significantly affects their quality of life, impacts their home occupation and/or home office use and reduces their property's value. This memo and attached Table 1 summarizes the initial research from a few cities that have enacted land use regulations aimed at reducing the quality of life impacts that may be associated with active recreational uses of residential property.

Background

To understand the range of legislation currently in use by municipalities nationwide, staff assembled an inventory of cities and municipal jurisdictions that have adopted standards for the time, place and manner in which sport courts may be used in residential settings. The municipalities that comprise this inventory were selected after a "Google" search for the terms: *municipal regulation of sport courts; sport courts + planning; sport courts regulation; and, other similar search terms, revealed that such regulations were present in adopted zoning ordinances.*

The selected municipalities and their general demographic characteristics are summarized here:

Municipality	Population	Area	Median Income	Median Age
South Pasadena, CA	25,619	3.4 mi ²	\$73,648	41.6
Palos Verdes Estates, CA	13,438	4.77 mi ²	\$163,542	47.4
Woodlands Township, TX	100,670	43.75 mi ²	\$91,378	39.5
Wall Township, NJ	25,261	30.6 mi ²	\$41,476	40.7
Eagle Mountain City, UT	21,415	44.46 mi ²	\$62,963	28.8
Pinal County, AZ	375,770	5,366 mi ²	\$51,310	35.7
Medina, MN	4,872	25.6 mi ²	\$126,936	43.3
West Linn, OR ¹	25,109	7.39 mi ²	\$84,295	42.5

¹ For comparison purposes only; no explicit sport court regulations currently in place.

Findings

At their June 25, 2012, worksession, the Planning Commission identified noise, safety, light trespass and stormwater runoff as the principal impacts associated with active recreational use of residential properties. The Planning Commission also recognized that limits on the types of recreation activities, setbacks for recreation equipment and structures, equipment orientation, lot size limitations, increased fence heights, nets and screening may be useful in addressing the abovementioned quality of life impacts (see Table 1, attached). The impacts and potential regulations identified by the Planning Commission are similar to those identified by the seven study municipalities:

Noise. Land use regulations adopted by the study municipalities to mitigate noise impacts, placed limits on the number of courts on a given lot, limited the number and tenure of users, and one municipality required land contouring, stucco or sound absorbing materials (Table 1, pages 1-2). Additionally, the Township of Wall, New Jersey, prohibits private sports courts on residential lots smaller than 30,000 square feet.

Safety. Safety impacts are addressed by the study municipalities though the use of setbacks, fence height and type specifications, and screening and landscaping. Many of the study municipalities prohibit sport courts in front yard areas and require setbacks of 7- to 25-feet from side and rear property lines. Similarly, the City of Palos Verdes Estates requires a minimum separation of 50-feet between a proposed sport court and a residential building on an adjacent property. The Township of Wall, New Jersey, has discrete setback restrictions for tennis courts and other sport court activities (e.g., 25-foot side and rear yard setback for tennis courts as opposed to 15-foot side and rear setback for other sport courts).

Many of the study municipalities have specific regulations for fence height and type. Fence height maximums range from 6-feet to 12-feet above the surface of the court and some municipalities require reduced fence height where they are visible off-site. Eagle Mountain City, Utah, exempts sport court fencing from their standard fence height restrictions (Table 1, page 3). The predominant fence type is chain-link with some jurisdictions requiring black, vinyl-coated chain-link fencing.

A number of the study municipalities also require landscape screening of sport courts from abutting properties and public vantage points. The City of Palos Verdes Estates requires a mature planting screen around fences and walls visible to the public (Table 1, page 3).

Light trespass. Lighting standards for sport courts adopted by the study municipalities include limits on height, hours of illumination, light intensity and standards for the orientation and shielding of lighting. Maximum light pole heights ranged from 14- to 25-feet and many study municipalities require automatic timers or manual light switches nearby to ensure that lights are not turned on during non-use periods.

A majority of the study jurisdictions allow the use of lighting for private sport courts (Palos Verdes Estates and Wall Township do not), however, many have adopted daily curfews on the use of lighting; typically 10- 10:30 p.m. Additionally, many of these municipalities require either full cut-off shielding or some combination of shielding and orientation or setbacks to ensure that light trespass onto adjacent properties is minimal or eliminated altogether.

Stormwater runoff. Many of the study municipalities have also adopted specific standards to reduce stormwater runoff from new sport courts. The bulk of these regulations add sport courts to the total impervious area and or lot coverage calculations of the residential site to ensure that adequate pervious surface is available to accommodate stormwater runoff and infiltration. The

Township of Wall, New Jersey limits the area of sport courts to 4,000 square feet and 7,200 square feet for tennis courts. Finally, in many cases, applications for sport court approval must be accompanied by a stormwater drainage plan to demonstrate how stormwater will be conveyed off-site.

Additional

Attachment 2 contains sport court standards that were delivered to staff by Mrs. Mary Swanson on July 12, 2012. Although staff was unable to incorporate the specific regulations from LaFayette, California, into the research matrix above, these standards are substantially similar to those in the seven study municipalities from staff's research.

Table 1

REGULATION OF SPORT COURTS

Scope: Regulation of sport courts (e.g., basketball and tennis) and other active use of yards and patios (e.g., portable basketball backboards, lacrosse goals, batting cages, skateboard ramps, pools, etc) that can have offsite impacts that reduce the livability and safety of adjacent residences.

1. Overall regulatory approaches used in other jurisdictions:

- Nuisance ordinances
- Zoning ordinance

2. Specific regulatory approaches and regulations to address impacts:

Table 1 Matrix of Anticipated Impacts Associated with Private Residential Sport Courts

Impact	Type of regulation	Specific regulation
Noise (Balls hitting backboard, bats hitting balls, rocks, loud play, etc.) disrupting sleep, enjoyment of own property	Nuisance ordinance	<ul style="list-style-type: none"> • ORS 105.505. Any person whose property or personal enjoyment thereof is affected by a private nuisance may maintain an action for damages therefore. • WLMC 5.487 (1, 2e). The City Council finds that low and moderate ambient noise levels are a significant amenity to the City. It is unlawful to create any loud, disturbing or unnecessary noise in the City at any time of day. It is unlawful to gather any number of persons upon premises and create noise audible within a dwelling that is not the source of the sound at any time outside of the hours of 7am-7pm. • The maintenance, use or operation of a bicycle track, ice skating rink, a skate boarding, roller-skating or in-line skating track or course, and full basketball court with two hoops is prohibited (Munster, IN).
	Zoning Ordinance Use	<ul style="list-style-type: none"> • A private sports court shall not be rented or used as a private club, nor for the commercial instruction of players other than the property owners of the subject parcel (City of South Pasadena, CA). • The use of a sports court shall be limited to the occupants, or guests of the residential dwelling on the same lot (City of South Pasadena, CA). • Noise impacts shall be minimized through the use of land contours, stucco or other sound absorbing materials and wall coatings (City of Palos Verdes Estates, CA). • The sports court may not unreasonably interfere with the use and enjoyment or potential use and enjoyment of adjacent or nearby property (City of Palos Verdes Estates, CA). • Only one court may be constructed on any lot (Woodlands Township, TX).

Impact	Type of regulation	Specific regulation
<p>Safety and damage to property, people and landscaping – e.g., balls and objects (baseballs and rocks) coming into neighbor’s yard</p>	<p>Setback of hoops, goals, batting cages from property line shared with another residential use</p> <p>Orientation of equipment away from abutting residences</p>	<ul style="list-style-type: none"> Private sports courts shall not be located in the front yard or on top of buildings (City of South Pasadena, CA). A private sports court shall not be located less than 10-feet from any property line. In the event the elevation difference between abutting property lines is 12-feet or more, and the dwellings are located at a minimum distance of 50-feet from the private sports courts, the required setback can be reduced, and the court may be placed on the property line (City of South Pasadena, CA). Sports courts shall be setback 7-feet from any property line except if adjacent to city parkland then they may be 5-feet from the property line (City of Palos Verdes Estates, CA) A maximum distance of 50-feet from any part of an adjacent residential building is required (City of Palos Verdes Estates, CA). Courts must be located in the side or rear yard, and not within an easement or beyond any setback line or platted building line. Mass, scale, proportion and height to the lot must be considered when reviewing location (Woodlands Township, TX). May not be located in a front yard (Wall, NJ). Courts shall be located no closer than 15-feet from side and rear property lines except that tennis courts shall be located a minimum of 25-feet from side and rear property lines (Wall, NJ). No portion of outdoor game courts can be situated in the front yard of lots (Wildwood, MO)¹.
<p>Lot size</p>	<p>Tall fence or net to keep balls on site</p>	<ul style="list-style-type: none"> Sports courts shall be permitted only on single-family residential properties of 30,000 square feet or larger (Wall, NJ). The height of any fence enclosing the tennis court shall not exceed 12-feet above the finished surface of the tennis court and all portions of such fence shall be mesh, chain link type fencing. A sport court fence may include a retaining wall that does not exceed a maximum height of 6-feet (City of South Pasadena, CA). No retaining walls in excess of 8-feet on the downhill side of a slope, or more than 10-feet on the uphill side and that no fences surrounding sports courts located near public streets or adjacent residences exceed eight feet in height as measured from the court surface. In locations not readily visible off the site, a fence height of 10-feet may be permissible with city council approval (City of Palos Verdes Estates, CA). A 10-foot high (maximum), black vinyl coated chain link fence is permitted along edges of the sports court that are not within 15-feet of another residential lot (Woodlands Township, TX). Chain link fences must be located immediately adjacent to the court surface (Woodlands Township, TX).

¹ Wildwood, MO has proposed, but has not yet adopted, any sport court regulations.

Impact	Type of regulation	Specific regulation
<p>Amortization of nonconforming uses or some degree of compliance with new regulations tied to specified actions</p>	<p>Courts may be enclosed with a maximum 6-foot high fence of the open visibility variety, such as chain link, except that tennis courts may have such fences no more than 10-feet in height (Wall, NJ).</p> <ul style="list-style-type: none"> Fencing for sports courts may be chain link, and is exempt from the height restrictions of this chapter. Sport court fencing may not be used as exterior property line fencing (Eagle Mountain City, UT). Outdoor game courts will not be authorized without the proper netting, fencing and boarding as determined by the manufacturers' specifications. This element will not exceed 10-feet in height (Wildwood, MO). 	<ul style="list-style-type: none"> Administrative (City of South Pasadena, CA) Plan Review Committee (Woodlands Township, TX) Any game court in excess of 1,000 square feet is subject to Planning Commission Review (<i>pending</i> - Wildwood, MO) Accessory Structure (Wall, NJ)
<p>Screening</p>	<p>All private sports courts shall be landscaped and screened from abutting properties in every direction (City of South Pasadena, CA).</p> <p>Sports courts must include a mature screen planning around fence and/or walls which may be visible to the public and prohibit maintenance of screen planting lower than the height of the court fence any higher than 3-feet above the height of the court fence (City of Palos Verdes Estates, CA).</p> <ul style="list-style-type: none"> No windscreen shall be constructed (City of Palos Verdes Estates, CA). Tennis courts require a 10-foot high, black vinyl coated chain link fence along those sides of the court that are within 15-feet of another residential lot (Woodlands Township, TX). Outdoor game courts will require landscaping in accordance with the City's Tree Manual and Sustainable Plantings guide (Wildwood, MO). 	

Impact	Type of regulation	Specific regulation
<p>Light trespass onto neighboring property, high intensity flood light illuminating bedroom and other interior space, effectively extending daylight and allowing noisy activity in late evening/night, (e.g., 7:00 PM to 10:00PM)</p>	<p>Restrict light intensity, require shielding, limit height, limit hours of use/require timers</p>	<ul style="list-style-type: none"> • Any lighting proposed for an outdoor sports court shall comply with Section 16.300.090 (Outdoor lighting) (City of South Pasadena, CA). • A timer shall be installed on each sports court light such that it automatically shuts off within one hour of non-use. Private sports court lights shall be turned off after 10pm (City of South Pasadena, CA). • Lighting is prohibited (City of Palos Verdes Estates, CA). • Light poles for sports courts other than tennis courts may not exceed 14-feet in height as measured from natural grade (Woodlands Township, TX). • Except for tennis courts, sports courts may include a maximum of three freestanding pole lights, which may not exceed 1,000 watts (Woodlands Township, TX). • Sport court lighting must be shielded (Woodlands Township, TX). • Sports court light fixtures and freestanding poles must be muted shades (Woodlands Township, TX). • Additional vegetation may be required for screening purposes (Woodlands Township, TX). • Tennis court lighting fixtures may not exceed 20-feet in heights as measured from natural grade (Woodlands Township, TX). • Tennis court lights are limited to a maximum of 4 freestanding pole lights (Woodlands Township, TX). • Tennis court lights may not exceed 1,000 watts (Woodlands Township, TX). • Tennis court lighting should be designed to provide court lighting and minimize any glare or illumination beyond the tennis court itself (Woodlands Township, TX). • Courts shall not be illuminated or used for play after dark (Wall, NJ). • All sports courts shall be lighted with full cutoff luminaires, and are to utilize on and off user accessible pushbuttons so that the lighting does not operate unless the courts are in use. Automatic time-clocks or other programmable controllers are to be used (Pinal County, AZ). • Sport court lighting shall not exceed 25-feet in height, and all fixtures shall possess four sided shielding/skirting (Pinal County, AZ). • Sport lighting shall not operate after 10:30pm. Perimeter light spill shall not exceed 0.80 foot candles at any point along an adjacent residential property line, or 1.60 foot candles at any point along any property line not adjacent to a residential property (Pinal County, AZ). • Installation of lighting as part of any outdoor game court will be prohibited in all residential district zoned properties within Wildwood city boundaries. Lighting standards for non-urban zoned area will not exceed 16-feet in height (Wildwood, MO).

Impact	Type of regulation	Specific regulation
Excessive or uncontrolled storm water generation	Amortization of nonconforming lights use or some degree of compliance tied to specified actions	<ul style="list-style-type: none"> • Limit on impervious surface coverage, effectively precluding sports courts on small lots (but not portable basketball hoops, etc.) • No more than 30 percent of the lot shall be covered by permanent buildings, and no more than 25 percent of the lot shall be covered by a sports court (City of Palos Verdes Estates, CA). • No more than 65 percent of the lot shall be covered by any hardscape including permanent structures such as buildings, swimming pools, spas, gazebos, sports court, bath houses, patios and pool decking, as well as driveways and walkways (City of Palos Verdes Estates, CA). • A drainage plan shall demonstrate that drainage is conveyed away from adjacent structures and provides for the safe disposal of all drainage related to the sports court (City of Palos Verdes Estates, CA). • Sports courts are included in the impervious area calculations (Woodlands Township, TX). • Courts shall be limited to a maximum of 4,000 square feet in size except that tennis courts shall be no larger than 7,200 square feet (Wall, NJ). • All courts shall count toward the site's impervious area coverage (Wall, NJ). • All plans submitted for outdoor game courts shall indicate all in-place stormwater improvements and any easements that exist on the lot (Wildwood, MO).
	Required meeting /consent or some type of influence of neighbors prior to establishing the use	<ul style="list-style-type: none"> • Notification to all property owners within 300-feet of the sports court proposal. Decisions are made by the Planning Commission (City of Palos Verdes Estates, CA). • All sports courts must be reviewed and approved by the Plan Review Committee (Woodlands Township, TX). • Any outdoor game court that exceeds 1,000 square feet is required to receive approval of its location on the lot from the Wildwood Planning Commission (Wildwood, MO).
	Dispute resolution involving neighborhood association	<ul style="list-style-type: none"> • Trees larger than 6-inches diameter at breast-height may not be removed for the construction of a sports court (Woodlands Township, TX). • Sports courts shall be permitted only on single-family residential properties of 30,000 feet or larger (Wall, NJ).
	Prohibit uses that are not compatible with dwellings on small lots	<ul style="list-style-type: none"> • Trees larger than 6-inches diameter at breast-height may not be removed for the construction of a sports court (Woodlands Township, TX). • Sports courts shall be permitted only on single-family residential properties of 30,000 feet or larger (Wall, NJ).

Impact	Type of regulation	Specific regulation
	<p>Initial or ongoing permits? (i.e., can a permit be revocable if the permitted activity becomes a future problem?)</p>	

Attachment 2

Attachment 2

City of LaFayette Ca

Article 4 - Recreation Courts

6-570 - Purpose.

6-571 - Definitions.

6-572 - Courts subject to land use permit approval.

6-573 - Procedures for review.

6-574 - Development standards.

6-575 - Exceptions.

6-576 - Fees.

6-570 - Purpose.

The purpose of this article is to reduce the impacts of recreation courts and their appurtenant fencing and lighting in residential land use districts, and to implement the Lafayette general plan which envisions maintaining the semi-rural character of the city. This article is intended to:

- (a) Protect the health and welfare of residential neighborhoods;
- (b) Prevent nuisance situations that can change the nature of a residential neighborhood;
- (c) Minimize the impacts of noise and visual appearance of recreation courts;
and
- (d) Permit the use of reasonable recreational activity within the yards of properties within a residential land use district.

(Ord. 541 § 1 (part), 2004)

6-571 - Definitions.

In this article unless the context requires otherwise:

- (a) "Fence height" means the vertical distance from the court surface to the top of the fence at any given point;
- (b)

Attachment 2

"Recreation court" means an area primarily designed or intended to be used for a sport, athletic or game activity, such as but not limited to tennis, handball, volleyball, **basketball**, shuffleboard and ball batting. Recreation court encompasses such elements as fencing, lighting, overhead enclosure, netting, equipment and other structures designed, used or intended to be used in an activity conducted on a recreation court;

(c)

"Residential land use district" means both single family and multifamily land use districts.

(Ord. 541 § 1 (part), 2004)

6-572 - Courts subject to land use permit approval.

A recreation court in a residential land use district is subject to land use permit approval as provided in this article.

(Ord. 541 § 1 (part), 2004)

6-573 - Procedures for review.

The procedure for land use permit approval of a recreation court is as follows:

(a)

An application for a land use permit shall be submitted to the zoning administrator accompanied by the required fee;

(b)

If the zoning administrator finds that the proposed recreation court fully complies with the purpose, intent and development standards of this article and meets the findings required for a land use permit set forth in Section 6-215 of this code, the zoning administrator may issue a land use permit without the requirement for a public hearing;

(c)

If the zoning administrator determines that a public hearing is necessary to address potential impacts or to act on a request for an exception, written notice of an application shall be provided as prescribed in Section 6-211 of this code;

(d)

The zoning administrator may refer the application to the design review commission or to the planning commission, or both, for review and action;

(e)

The hearing authority may approve, conditionally approve or deny the application;

(f)

Attachment 2

The decision of the hearing authority is subject to the right of appeal in the manner as set forth in Chapter 6-2, Article 3.

(Ord. 541 § 1 (part), 2004)

6-574 - Development standards.

A recreation court shall comply with each of the following development standards.

- (a)
No court shall be sited closer than 50 feet to a residence on an adjacent parcel;
- (b)
No court shall be located within the **setbacks** governing main dwelling units in the zoning district in which it is proposed to be located;
- (c)
No court shall be located in the front yard area between the front property line and the primary residence;
- (d)
No court shall be illuminated with court lighting;
- (e)
No court shall adversely impact existing natural or manmade drainage systems of the neighborhood. The applicant shall implement on-site detention or other means to achieve zero net increase to peak storm water runoff. Offsite improvements may be required to mitigate an increase in runoff from the site;
- (f)
A recreation court shall be landscaped with plantings that provide mitigation screening for each side of the court which has the potential to have an adverse visual or aural impact on a neighboring property;
- (g)
A recreation court shall be used solely for the recreational use and enjoyment of the occupants of the property and their guests and may not be used for other uses such as but not limited to a commercial activity, parking lot, storage or other use not meeting the definition of a recreation court;
- (h)
Fencing and other court enclosures shall be dark in color and designed to be unobtrusive. The height shall be no taller than ten feet above the finished surface of the court.

(Ord. 541 § 1 (part), 2004)

6-575 - Exceptions.

- (a)

Attachment 2

If a recreation court does not comply with the development standards in Section 6-574 (1-4), an applicant may submit a request to the zoning administrator for an exception. The zoning administrator shall act on each request for an exception to Section 6-574 (1-3). The reviewing body for an exception to Section 6-574 (4) is the planning commission. The reviewing body for an exception shall make the following finding to grant an exception.

(b)

The grant of an exception will not result in a recreation court that has the potential to adversely impact a neighboring property, the local neighborhood, a street, a public walk-way, trail or other public space.

(Ord. 541 § 1 (part), 2004)

6-576 - Fees.

(a)

The fee for the exception authorized in Section 6-575 is the same as that required for a variance application, as fixed by city council resolution.

(b)

The fee for the land use permit authorized in Section 6-572 is the same amount required for a land use permit application by the zoning administrator or by the planning commission, as fixed by city council resolution.

(Ord. 541 § 1 (part), 2004)

Attachment 2

City of Lafayette CA Chapter 5-2 - **NOISE**

Sections:

- 5-201 - Declaration of policy.
- 5-202 - Definitions.
- 5-203 - **Noise** control officer (NCO).
- 5-204 - General **noise** regulation.
- 5-205 - Maximum permissible **noise** levels by receiving land use.
- 5-206 - **Noise** measurement procedure.
- 5-207 - Prohibited acts.
- 5-208 - Special provisions.
- 5-209 - Exception permits.

5-201 - Declaration of policy.

It is declared to be the policy of the city that the peace, health, safety and welfare of the citizens of Lafayette require protection from excessive, unnecessary, annoying and unreasonable **noises** from any and all controllable **noise** sources in the community. It is the intention of the city council to control the adverse effect of such **noise** sources on the citizen under any normal condition of use, especially those conditions of use which have the most severe impact upon any person.

(Ord. 177 § 1 (part), 1977)

5-202 - Definitions.

For the purposes of this chapter, certain terms are defined as follows:

- (a) "Ambient **noise** level" means the composite of **noise** from all sources, near and far. In this context, the ambient **noise** level constitutes the normal or existing average level of environmental **noise** at a given location, technically the level exceeded fifty percent of the time or L₅₀.
- (b) "A-weighted sound level" means the sound level, expressed in decibels, as measured with a sound level meter using the A-weighted network to approximate the frequency characteristics of human hearing, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved version thereof). The level so measured is designated "dBA."
- (c)

Attachment 2

"Commercial purpose" means the use, operation or maintenance of any sound-amplifying equipment for the purpose of advertising any business, or any goods, or any services, or for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage of customers to or for any performance, show, entertainment, exhibition or event, or for the purpose of demonstrating such sound equipment.

(d)

"Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

(e)

"Decibel" means a unit for measuring the amplitude of a sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

(f)

"Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage, which demands immediate action.

(g)

"Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(h)

"Fixed **noise** source" means a stationary device which produces sounds while fixed or motionless, including but not limited to residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

(i)

"Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, hammer impacts and the discharge of firearms.

(j)

"Local background **noise** level" means the minimum A-weighted sound level repeated during a six-minute period as measured on a sound level meter using "slow" meter response. The local background **noise** level shall be determined with the **noise** source at issue silent, and in the same location as the measurement of the **noise** level of the source or sources at issue.

(k)

Attachment 2

"Mobile **noise** source" means any **noise** source other than a fixed **noise** source.

(l)

"Motor vehicle" means any self-propelled vehicle as defined in the California Motor Vehicle Code, including all on-highway type motor vehicles subject to registration under said code, and all off-highway type motor vehicles subject to identification under said code.

(m)

"**Noise**" means any sound which annoys or disturbs human beings or which causes or tends to cause an adverse psychological or physiological effect on human beings.

(n)

"**Noise** control officer (NCO)" means the city manager or any other city employee or contractor designated by the city manager.

(o)

"**Noise** level" means the maximum continuous sound level or repetitive peak level produced by a source or group of sources, as measured with a type 2 general purpose sound level meter using the A-weighted scale and with the meter response function set to "slow."

(p)

"**Noise** zone" means any defined areas or regions of a generally consistent land use wherein the ambient **noise** levels are within a range of five dB.

(q)

"Pure tone" means any sound which can be distinctly heard as a single pitch or a set of single pitches.

(r)

"Real property boundary" means a line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

(s)

"Sound-amplifying equipment" means any device for the amplification of the human voice, music or any other sound, excluding (1) standard automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed, and (2) warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle, used only for traffic safety purposes.

(t)

"Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that

Attachment 2

cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

(u)

"Sound level meter" means an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels, complying with the requirements for type 2 or at least type S2A general purpose meters as delineated in American National Standards Institute specifications for sound level meters, S1-4.1971, or the most recent revision thereof.

(v)

"Weekdays" means every day, except Sundays and holidays.

(Ord. 177 § 1 (part), 1977)

5-203 - **Noise** control officer (NCO).

(a)

In order to implement and enforce this chapter and for the general purpose of **noise** abatement and control, the **noise** control officer shall have the authority to:

(1)

Investigate and pursue possible violations of this chapter;

(2)

Review public and private projects. On all public and private projects which are likely to cause **noise** in violation of this chapter and which are subject to mandatory review or approval by any city officer, employee or commission:

(A)

Review for compliance with the intent and provisions of this chapter,

(B)

Require sound analyses which identify existing and projected **noise** sources and associated **noise** levels,

(C)

Require usage of adequate measures to avoid violation of any provision of this chapter;

(3)

Perform inspections. After requesting permission to do so, and upon presentation of identification as the **noise** control officer, enter and/or inspect any private property, place, report or records at any time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be requested from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests;

Attachment 2

(4)

Develop measurement and enforcement procedures. In order effectively to implement and enforce this chapter, the **noise** control officer shall, within a reasonable time after the effective date of the ordinance codified in this chapter:

(A)

Develop measurement standards and procedures which will further the purposes of this chapter,

(B)

Develop administrative procedures which will provide for effective enforcement of this chapter.

(b)

In the enforcement of this chapter, it shall be the policy of the **noise** control officer to stress voluntary compliance with the provisions hereof, and to seek resolution of problems through cooperation and mutual agreement between those involved.

(Ord. 177 § 1 (part), 1977)

5-204 - General **noise** regulation.

(a)

Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person wilfully to make or continue, or cause to be made or continued, any loud, unnecessary or unusual **noise** which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to persons residing in the area.

(b)

The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following:

(1)

The sound level of the objectionable **noise**;

(2)

The ambient **noise** level;

(3)

Whether the nature of the **noise** is usual or unusual;

(4)

The proximity of the **noise** to residential sleeping facilities;

(5)

The nature and zoning of the area from which the **noise** emanates;

(6)

The density of the inhabitation of the area from which the **noise** emanates;

(7)

The time of day or night the **noise** occurs;

Attachment 2

- (8) The duration of the **noise** and its tonal, informational or musical content;
- (9) Whether the **noise** is continuous, recurrent or intermittent;
- (10) Whether the **noise** is produced by a commercial or noncommercial activity.

(Ord. 177 § 1 (part), 1977)

5-205 - Maximum permissible **noise levels by receiving land use.**

- (a) The **noise** standards for the various categories of land use identified by the **noise** control officer as presented in Table 5-205 shall, unless otherwise specifically indicated, apply to all such property within a designated zone.
- (b) No person shall produce, suffer or allow to be produced by any machine, animal or device, or any combination of same on any property owned, leased, occupied or otherwise controlled by such person, any **noise** which causes the **noise** level when measured on any other property to exceed:
 - (1) The **noise** standard for that land use as specified in Table 5-205 for a cumulative period of more than 30 minutes in any hour;
 - (2) The **noise** standard plus five dB for a cumulative period of more than 15 minutes in any hour;
 - (3) The **noise** standard plus ten dB for a cumulative period of more than five minutes in any hour;
 - (4) The **noise** standard plus 15 dB for a cumulative period of more than one minute in any hour; or
 - (5) The **noise** standard plus 20 dB for any period of time.
- (c) If the measured local background **noise** level exceeds that permissible for the applicable time period within any of the first four **noise** limit categories described in subsection (b), the allowable **noise** exposure standard shall be increased in five-dB increments in each category as appropriate to encompass or reflect said ambient **noise** level.

Table 5-205

Outdoor **Noise Limits**

Receiving Land	Time	Noise Level Limit
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Attachment 2

Use Category	Period	Standard—dBA
Single-family residential	10 p.m.—7 a.m.	45
	7 a.m.—10 p.m.	50
Multifamily residential schools, libraries, public spaces	10 p.m.—7 a.m.	50
	7 a.m.—10 p.m.	55
Commercial	10 p.m.—7 a.m.	55
	7 a.m.—10 p.m.	60

(d)

In the event the alleged offensive **noise** contains a steady, audible tone such as a whine, screech or hum, or is an impulsive **noise** such as hammering, or contains music or speech conveying informational content, the standard limits set forth in Table 5-205 shall be reduced by five dB.

(Ord. 177 § 1 (part), 1977)

5-206 - Noise measurement procedure.

(a)

Upon receipt of a complaint from a citizen, the **noise** control officer or his agent, equipped with sound-level measurement equipment satisfying the requirements specified in Section 5-202, shall investigate the complaint. If, in the opinion of the **noise** control officer, based upon the readily available and observable information and upon the detailed allegations of the complainant, there is probable cause to suspect a violation of this chapter, the **noise** control officer shall make and record sound level measurements and shall record all information pertinent to the complaint, including the following:

(1)

Type of **noise** source;

(2)

Location of **noise** source relative to complainant's property;

(3)

Time period during which **noise** source is considered by complainant to be intrusive;

(4)

Total duration of **noise** produced by **noise** source;

(5)

Date and time of **noise** measurement survey;

(6)

Height and location of the sound level meter microphone.

(b)

Utilizing the "A" weighting scale of the sound level meter and the "slow" meter response ("fast" response for impulsive type sounds), the **noise** control officer or his agent shall measure the **noise** level at a position or positions along the complainant's property line closest to the **noise** source or at the location along the boundary line

Attachment 2

where the **noise** level is at maximum. In general, the microphone shall be located five feet above the ground and six feet or more from the nearest reflective surface, where possible. However, in those cases where another elevation is deemed appropriate, the latter shall be utilized. Using an acoustic calibrator, calibration of the meter used shall be performed immediately prior to the measurements.

(Ord. 177 § 1 (part), 1977)

5-207 - Prohibited acts.

Except as may otherwise be provided in this chapter, it shall be unlawful for any person to do, or cause to be done, any of the following prohibited acts:

(a)

Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument or similar device which produces or reproduces sound:

(1)

Between the hours of ten p.m. and seven a.m. in such a manner as to create a **noise** disturbance across a residential or commercial real property line or at any time to violate the provisions of Section 5-205, or

(2)

In such a manner as to exceed the levels set forth for public space in Table 5-205, measured at a distance of at least 50 feet (15 meters) from such device operating on a public right-of-way or public space;

(b)

Loudspeakers (Amplified Sound). Using or operating for any purpose any loudspeaker, loudspeaker system or similar device between the hours of ten p.m. and seven a.m., such that the sound therefrom creates a **noise** disturbance across a residential real property line, or at any time violates the provisions of Section 5-205

(c)

Animals and Birds. Owning, possessing or harboring any animal or bird which frequently or for long duration **noises**, barks, meows, squawks or makes other sounds which create a **noise** disturbance across a residential or commercial real property line;

(d)

Loading and Unloading. Except for the regular collection of garbage and other refuse by a person franchised to engage in that activity, loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of ten

Attachment 2

p.m. and seven a.m. in such a manner as to cause a **noise** disturbance across a residential real property line or at any time to violate the provisions of Section 5-205

(e)

Construction. Operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work between the hours of ten p.m. and seven a.m. on weekdays, or at any time on Sundays or holidays, such that the sound therefrom creates a **noise** disturbance across a residential or commercial real property line or at any time violates the provisions of Section 5-205, except for emergency work of public service utilities. This subsection shall not apply to the use of domestic power tools for maintenance purposes;

(f)

Domestic Power Tools and Equipment.

(1)

Operating or permitting the operation of any portable, mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool for maintenance purposes between ten p.m. and seven a.m. so as to create a **noise** disturbance across a residential or commercial real property line,

(2)

Any stationary installed motor, machinery, pump, etc. shall be sufficiently enclosed or muffled and maintained as not to create a **noise** disturbance or at any time violate the provisions of Section 5-205

(g)

Warning Signals. Operating or permitting the operation of any vehicle horns or other devices intended primarily to create a loud **noise** for warning purposes, when the vehicle is at rest, or when a situation endangering life, health or property is not imminent;

(h)

Air-conditioning and Air-handling Equipment. Operating or permitting the operation of any air-conditioning or air-handling equipment in such a manner as to exceed the applicable sound levels contained in Table 5-207

(i)

Swimming Pool Equipment. Operating or permitting the operation of any residential swimming pool equipment between the hours of eight p.m. and eight a.m., except when below-freezing temperatures are predicted for the city, or on days of electric power shortages; or at other times in such a manner as to exceed the applicable sound levels contained in Table 5-207

Attachment 2

Table 5-207
Maximum Allowable Sound Levels
for Air-Conditioning, Air-Handling and Swimming Pool Equipment

Measurement Location	Units Installed	
	Before	Units Installed
	1-1-78	On or After 1-1-78
Any point on neighboring residential property line, 5 feet above grade level, no closer than 3 feet from any wall	50	45
Center of neighboring patio, 5 feet above grade level, no closer than 3 feet from any wall	45	40
Outside the neighboring living area window nearest the equipment location, not more than 3 feet from the window opening, but at least 3 feet from any other surface	45	40
At 50 feet from equipment if the above locations are at greater distance:		
Commercial zone	60	55
Residential zone	50	55

(Ord. 177 § 1 (part), 1977)

5-208 - Special provisions.

(a)

Daytime Exceptions. Any mobile **noise** source which does not produce a **noise** level exceeding 70 dBA at a distance of 25 feet under its most noisy condition of use shall be exempt from the provisions of Section 5-205 and 5-207 between the hours of eight a.m. and eight p.m. on weekdays, and between the hours of ten a.m. and six p.m. on Sundays and holidays.

(b)

Safety Devices. Aural warning devices which are required by law to protect the health, safety and welfare of the community shall not produce a **noise** level more than three dB above the standard or minimum level stipulated by law.

(c)

Emergencies. Emergencies and emergency work are exempt from the provisions of this chapter.

(d)

Construction and Maintenance. Notwithstanding any other provision of this chapter, between the hours of eight a.m. and eight p.m. on weekdays and between the hours of ten a.m. and six p.m. on Sundays and holidays, construction, alteration and repair activities which are authorized by a valid city permit; and maintenance activities such

Attachment 2

as lawn mowing, rotovating, tree trimming and painting, which require no city permit (but not including the operation of stationary, installed equipment, such as swimming pool and air-conditioning motors and devices), shall be allowed if they meet at least one of the following **noise** limitations:

(1)

No individual piece of equipment shall produce a **noise** level exceeding 83 dBA at a distance of 50 feet. If the device is housed within a structure on the property, the measurement shall be made outside the structure at a distance as close to 25 feet from the equipment as possible.

(2)

The **noise** level at the nearest affected property shall not exceed 80 dBA.

(e)

Sound Performances and Special Events. Sound performances and special events not exceeding 80 dBA measured at a distance of 50 feet are exempt from the provisions of this chapter when approval therefor has been obtained from the appropriate governmental entity.

(f)

Agricultural Operations. All mechanical devices, apparatus or equipment associated with agricultural operations conducted on agricultural property are exempt from the provisions of this chapter unless in the vicinity of residential land uses, in which case the following conditions shall apply:

(1)

Operations may take place only between six a.m. and eight p.m.;

(2)

Such operations and equipment are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions;

(3)

Such operations and equipment are associated with agricultural pest control through pesticide application, provided the application is made in accordance with applicable law and regulations; or

(4)

Such devices utilized for pest control which incorporate stationary or mobile **noise** sources are operated only by permit issued by the **noise** control officer. The allowable hours and days for operation of these devices will be specified in the permit.

(g)

Outdoor Activities. The provisions of this chapter shall not apply to occasional outdoor gatherings, public dances, shows and sporting and entertainment events,

Attachment 2

provided such events are conducted pursuant to a permit or license issued by the city.

(Ord. 177 § 1 (part), 1977)

5-209 - Exception permits.

If any person can prove to the **noise** control officer that a diligent investigation of available **noise** abatement techniques indicates that immediate compliance with the requirements of this chapter would be impractical or unreasonable, a permit to allow an exception from the provisions contained in all or a portion of this chapter may be issued, after appropriate notice and hearing, by the **noise** control officer, with suitable conditions to minimize the public detriment caused by such exception. Any such permit shall be of as short duration as reasonable, not exceeding six months, but renewable for additional six-month periods upon a showing of good cause; and shall be conditioned by a schedule for compliance and by details of methods therefor in appropriate cases. Any person aggrieved by the decision of the **noise** control officer may appeal to the city council pursuant to the appeal procedures provided in Sections 4-118 and 4-119 of this code.