

ORDINANCE NO. 1175

**AN ORDINANCE AMENDING CHAPTER 34, SECTION 179 (UNLAWFUL NOISES.)
OF THE TOWN OF SILVER CITY MUNICIPAL CODE**

INTRODUCED BY: COUNCILOR MICHAEL S. MORONES

WHEREAS, the Town Council has the power and authority to make regulations to secure the general health and public welfare of the Town pursuant to its Charter, specifically Section 5, 10, 11, and 12, and pursuant to State of New Mexico Statutes §3-18-1, §3-18-8 and §3-18-17; and

WHEREAS, the Town Council of the Town of Silver City (the “Town Council”), after due consideration and consultation with the Town Manager, Chief of Police and Town Attorney, and consideration of the report of a citizen’s advisory committee, finds that unreasonable, loud, disturbing, annoying and unnecessary noise degrades the environment of the community to a degree that is harmful to the health, welfare, and safety of its inhabitants and visitors; and

WHEREAS, the Town Council finds that such unreasonable noise interferes with the comfortable enjoyment of life and property, interferes with the well being, tranquility and privacy of the home, both causes and aggravates health problems and disrupts business which may lead to less commerce; and

WHEREAS, the Town Council finds that both the effective control and elimination of unreasonably loud, disturbing, annoying and unnecessary noise are essential to the health and welfare of the Town’s inhabitants and visitors, and to the conduct of the normal pursuits of life including recreation, work and communication; and

WHEREAS, the Town Council finds that adoption of this Ordinance is necessary for the health, safety and welfare of the Town and will promote the enjoyment of public rights;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, that:

Chapter 34, §179 is deleted in its entirety and replaced as follows:

§ 34-179.1 SHORT TITLE.

§34-179.1 et seq. may be cited as the “Noise Control Ordinance.”

§ 34-179.2 DEFINITIONS.

Definitions:

"A" level means the total sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit of measurement is the dB(A).

Ambient noise means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.

Animal Owner means the person or persons caring for or responsible for an animal, including one who voluntarily assumes such responsibility.

Animal Noise includes, but is not limited to, barking dogs and fowl making noise continuously or incessantly for 10 minutes or intermittently for half an hour or more to the disturbance of any person at any time day or night and regardless of whether the animal is physically situated in or upon private property.

Apparatus means any mechanism which prevents, controls, detects, measures, or records the production of sound.

Authorized Town Official means any employee of the Town who is authorized by the Town Manager to perform noise enforcement activities, who is acting within his/her designated jurisdiction, and who is authorized to issue a citation.

Business District means any area within the Town where the predominant zoning is commercial.

"C" level means the total sound level of all noise as measured with a sound level meter using the "C" weighting network. The unit of measurement is the dB(C)).

Construction means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

Daytime hours are defined as 8:00 a.m. to 8:00 p.m.

Decibel is a unit of measurement for sound pressure level at a specified location.

Decibel standard means noise that is objectively measured by an appropriate device at a specific receiving location.

Demolition means any dismantling, destruction or removal of buildings, structures, or roadways.

Department means the police department of the Town.

Dwelling means any building occupied in whole or in part as the temporary or permanent residence of one or more natural persons.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency signal device means any gong, whistle, siren, or any air horn, or any similar device the use of which by an authorized emergency vehicles is permitted.

Emergency work means any work or action necessary to deliver essential public services

including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

Fast response speed corresponds to a time constant of 0.125 s and is intended to approximate the time constant of the human hearing system.

Fireworks means explosives or combustibles used for display to produce noises or brilliant lighting effects.

Impulsive noise or impulsive sound is a sound having a duration of less than one second with an abrupt onset and rapid decay.

LAeq: The constant level that over a given period transmits to the receiver the same amount of acoustic energy as the actual time-elapsed sound. (This unit can also be written at dBA Leq).

Motor vehicle means any self-propelled (propelled other than by human or animal power) vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails.

Muffler means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment.

Multi-dwelling unit building means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

Multi purpose property means any district parcel of land that is used for more than one category of activity. Examples include but are not limited to:

(1) A commercial, residential, industrial, or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility rooms, utility provisions, or health and recreational facilities, or other facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or

(2) A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

Nighttime hours are defined as 8:00 p.m. to 8:00 a.m.

Noise means any sound which is excessive, offensive or otherwise disturbing to persons of normal sensitivities; includes vibration.

Noise Sensitive Area includes, but is not limited to, a posted area where a school, hospital, nursing home, church, court, public library, or similar institution is located.

Owner means and includes the owner of the freehold of the premises or lesser estate therein, or mortgages thereof, a lessee or agent of any of the above persons, a lessee of a device or his/her agent, a tenant, operator, or any person who has regular control of a device or an apparatus.

Person means any individual, partnership, company, corporation, association, firm, organization, governmental organization, administration or department, or any other group of individuals, or any officer or employer thereof.

Plainly audible means any sound that can be detected by a person using his or her unaided

hearing facilities. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic base component of the music is sufficient to verify plainly audible sound. The noise control officer or police officer need not determine the title, specific words, or the artist performing the song.

Property line means the boundary of a lot, parcel, tract or plot of land as shown by the land records on file with the Grant County recorders office, where appropriate, it is also either the boundary line of an area leased or rented when such an area is not shown on a separate parcel plot, tract or plot of land on the Local Governments land records, or the line demarking separate ownership in any condominiums.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned or leased or controlled by a governmental entity.

Public space means any real property or structure thereon that is owned, leased or controlled by a governmental entity.

Real property line means either (1) the imaginary line including the vertical extension that separates one parcel of real property from another (2) the vertical and horizontal boundaries of a dwelling unit that is part of a multi dwelling unit building or (3) or a multi-use property, the interface between two portions of the property on which different categories of activity are being performed (e.g. if the multi-use property is a building which is residential upstairs and commercial downstairs) then the real property line would be the interface between the residential and the commercial area.

Reasonable Persons Standard means the conduct of a reasonable person acting prudently and with due care under the circumstances.

Receiving property means that property at which sound levels are measured.

Sound level means the sound emanating from any source or combination of sources as measured with a sound level meter meeting or exceeding the specifications of the American National Standards Institute (ANSI) for Type II sound level meters.

Sound level meter means an instrument meeting specifications of the ANSI for a Type I or Type II sound level meter which uses the A-weighting network.

Sound source or sound source property means an instrument, machine, apparatus, person, or property which is producing sound or from which sound is emanating.

Weekday means any day that is not a federal holiday, and beginning on Monday at 8:00 a.m. and ending on the following Friday at 8:00 p.m.

Weekend means beginning on Friday at 8:00 p.m. and ending on the following Sunday at 8:00 p.m.

§34-179.3 NOISES PROHIBITED, GENERALLY.

The following acts are declared to be per se violations of this Ordinance. This enumeration does not constitute an exclusive list:

(a) Unreasonable Noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of places of business located in a commercially zoned area when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences, or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

(b) Vehicle Horns, Signaling Devices, and Similar Devices: The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of within the Town, for more than ten (10) consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.

(c) Non-Emergency Signaling Devices: Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the Town for traffic control purposes are exempt from the operation of this provision.

(d) Emergency Signaling Devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in Subsections (1) and (2), below.

(1) Testing of an emergency signaling device shall occur between 8:00 a.m. and 8:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month. This paragraph shall not apply to the testing of signaling devices of emergency vehicles operated by law enforcement, fire, and emergency medical services (EMS).

(2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen (15) minutes of activation unless an emergency exists.

(e) Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices: The use or operation of a radio, television, boombox, stereo, musical instrument, or

similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings.

(f) Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices:

(1) The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 8:00 p.m. and 8:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays in the following areas:

- (a) Within or adjacent to residential or noise-sensitive areas;
- (b) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous. This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the Town.

(2) The making, causing or permitting of any music originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound of such music, as measured inside any receiving property unit is in excess of either:

- (a) 45 dB(A) as measured with a sound level meter; or
- (b) 45 dB in any one-third octave band having a center frequency between 63 hertz and 500 (ANSI bands numbers 18 through 27, inclusive), in accordance with American National Standards standard S1.6-1984.

(g) Yelling, Shouting, and Similar Activities: Yelling, shouting, hooting, whistling, or

singing in residential or noise sensitive areas or in public places at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.

(h) Animals and Birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, commercial kennels, veterinary hospitals, pet shops or pet kennels, [licensed under and in compliance with licensing and permitting provisions set forth in this Code] are exempt from this subsection.

(i) Loading or Unloading Merchandise, Materials, Equipment: The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.

(j) Construction or Repair of Buildings, Excavation of Streets and Highways: The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 8:00 a.m. and 8:00 p.m. on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, a Building Inspector/Town Manager may issue a permit, upon application, if the Building Inspector/Town Manager determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 8:00 a.m. and 8:00 p.m. will not be impaired, and if the Building Inspector/Town Manager further determines that loss or inconvenience would result to a party in interest. The permit shall grant permission in non-emergency cases for a period to be determined by the Town Manager.

(k) Noise Sensitive Areas - Schools, Courts, Churches, Hospitals, and Similar Institutions: The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the

persons in these institutions; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.

(l) Blowers, and Similar Devices: In residential or noise sensitive areas, between the hours of 8:00 a.m. and 8:00 p.m. the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.

(m) Sound(s) that exceed the maximum permissible decibel levels as described in Tables 1 and 2 herein when measured at or within the real property line of any of the receiving properties listed in Tables 1 and 2, except as otherwise exempted by provisions of this Chapter.

(1) When measuring “total sound” or “residual sound” within a multi-use property, or within a residential unit when the property line between it and the source property is a common wall, all exterior doors and windows must be closed and the measurements must be taken in the center of the room most affected by the noise. When measuring total sound or residual sound, all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements must not be taken in areas which receive only casual use such as hallways, closets, and bathrooms.

(2) Indoor measurements may only be taken if the sound source is on or within the same property as the receiving property, as in the case of a multi-use property (e.g., sound generated within a commercial unit of a multi-use property building and received within a residential unit of the same building) or multi-dwelling unit building. Indoor measurements must be taken if the property line between the receiving property and the source property is a common wall, such as in a multi-dwelling unit building. The allowable sound level standards for indoors are as shown in Table 1 of this Chapter.

(3) Impulsive sound may not equal or exceed 80 decibels at any times.

§34-179.4 RESTRICTED USES AND ACTIVITIES.

(a) The non-commercial or non-industrial use of power tools and landscaping and yard maintenance equipment may not occur between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Table 1. At all other times, the limits set forth in Table 1 does not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment.

(b) The commercial or industrial use of power tools and landscaping and yard maintenance equipment, excluding emergency work, may not occur on a residential property or within 250 feet of a residential property line, between the hours of 8:00 p.m. and 8:00 a.m. the following day, unless such activities can meet the limits set forth in Table 1. In addition, the commercial or industrial use of power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property will meet the limits set forth in Table 1 of this Article between the hours of 8:00 p.m. and 8:00 a.m. the following day. At all other times, the limits set forth in Table 1 does not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

(c) Construction and demolition activity, excluding emergency work, may not be performed between the hours of 8:00 p.m. and 8:00 a.m. the following day on weekdays, or between the hours of 8:00 p.m. and 10:00 a.m. the following day on weekends and federal holidays, unless such activities can meet the limits set forth in Table 1. At all other times, the limits set forth in Table 1 does not apply to construction and demolition activities.

(d) Motorized snowblowers, snow throwers, and lawn equipment with attached snow plows will be operated at all permitted times with a muffler.

(e) An exterior burglar alarm of a building or motor vehicle must be operated so that, upon activation, it terminates its operation within five minutes for continuous airborne sound or within fifteen minutes for impulsive sound.

(f) Operating or causing to be operated a motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table 2 of this Article when measured at 25 feet or more, except that vehicles are allowed to exceed the noise limits contained herein when performing acceleration maneuvers for safety purposes. In addition, no person may operate or cause or allow to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound-dissipative device in good working order and in constant operation. No person may remove or render inoperative or cause or allow to be removed or rendered inoperative other than for purposes of maintenance, repair, or replacement, any muffler or sound-dissipative device on a motor vehicle or motorcycle. No person may sound any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger or as otherwise specifically required by federal or state law or title. No person may sound any horn or other auditory signaling device that produces a sound level in excess of 90 dB(A) at 100 feet (30.5 meters).

(1) Personal or commercial vehicular music amplification or reproduction equipment may not be operated in such a manner that it is plainly audible at a residential property line between the hours of 8:00 p.m. and 8:00 a.m. the following day.

(2) Personal vehicular music amplification equipment may not be operated in such a manner so as to exceed the decibel limits described in Table 2 between the hours of 8:00 a.m. and 8:00 p.m.

(g) Self-contained, portable, hand-held music or sound amplification or reproduction equipment may not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 25 feet in any direction from the operator.

(h) The sound of the ignition of any ground audible or aerial firework shall not exceed 80 db as received at a distance of 50 feet or more.

- (i) Sound levels exceeding the limits set forth in Table 1 is prohibited between residential units within the same multi-dwelling unit building. Measurements will be taken indoors as per Table 3.

§34-179.5 EXEMPTIONS.

- (a) Sounds caused by the following are exempt from the prohibitions set out in §34-179.3:

- (1) Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.
- (2) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in Section 34-179.3(d) continues to apply.
- (3) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.
- (4) Repairs or excavations of bridges, streets or highways by or on behalf of the Town, the State, or the federal government, between the hours of 8:00 p.m. and 8:00 a.m., when public welfare and convenience renders it impractical to perform the work between 8:00 a.m. and 8:00 p.m.
- (5) Outdoor School and Playground Activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
- (6) Other Outdoor Events. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.
- (7) The ignition of fireworks, including ground audibles as may be permitted for Town sponsored events, school sponsored sporting events, and other Town permitted outdoor events.

§34-179.6 VARIANCES PROCEDURE.

(1) The Town Manager or his/her delegate may grant individual variances beyond the limitations prescribed in these criteria and standards whenever it is found, upon presentation of adequate proof, that compliance with any of the criteria and standards, or with any related regulation or order, would impose unreasonable hardships or is necessary in the interest of public welfare. In granting a variance, the Town Manager or his/her authorized delegate may impose such conditions as he or she may determine are necessary or desirable to carry out the policies of this Article.

(2) Any variance granted pursuant to this Section will be granted for the period of time as specified by the Town Manager or his/her delegate in the variance and upon the condition that the person who receives the variance will comply with all conditions thereof.

(3) Any person seeking a variance must file an application in a form acceptable to the Town Manager, and must submit an assessment of the noise impact to be caused by the activity for which the variance is requested.

(a) The application required to be filed pursuant to this section shall contain the following information:

(1) The date of the application and the date and hours for which the variance is requested.

(2) The name and address of the applicant.

(3) The name and address of the person who will have charge of the sound amplifying equipment.

(4) The address and a description of the location where the sound amplifying equipment is to be used.

(5) A description of the type of sound amplifying equipment to be used.

(6) Anticipated impact upon the neighborhood.

(4) Issued permits will be surrendered to any governmental police officer, noise control officer or any department representative authorized to enforce this ordinance upon request when it is determined that any requirement contained in this permit has been violated.

(5) A subsequent permit application may be denied upon substantial complaint(s) by a resident(s) or business in the locality of the permitted activity or if an applicant has, in the past been required to surrender a permit as described in paragraph four.

(6) Any person aggrieved by the disposition of an application for a temporary permit may appeal such disposition by filing a written petition with the manager of the Local Government within 30 days of this disposition.

§34-179.7 ENFORCEMENT.

(a) The Police Chief will have primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this Ordinance shall prevent the Police Chief from obtaining voluntary compliance by way of warning, notice or education.

(b) The Town will enforce this Chapter with regard to unreasonable noise created by animals as follows:

(1) Complaints must be submitted to the Grant County Regional Dispatch Authority (Central Dispatch) and include the address, to the extent known, of the person responsible for the animal or bird, and a description of the noise.

(2) Upon receiving a complaint, Central Dispatch will assign an officer to investigate the complaint. If the officer witnesses the unreasonable noise, he/she shall take immediate steps to cause the owner to abate the noise, and may issue a citation for violation of this ordinance.

(3) If the officer does not witness the alleged unreasonable noise, but determines that the complaint has merit based upon witness statements, he/she shall issue a Notice to Abate to the person responsible for the animal or bird, advising that person of the alleged noise and requesting that immediate steps be taken to abate the noise, allowing a 7 day period within which to correct the problem.

(4) Failure of the owner to correct the problem within the time allotted shall result in the issuance of a citation for violation of this ordinance and be subject to all the penalties

permitted by the Town's Municipal Code.

(c) The Town Attorney is empowered to seek equitable relief by petitioning the District Court for an injunction seeking to remedy the unlawful conduct, which shall be cumulative to any other remedies provided for herein.

(d) Each occurrence of a violation of any provision of this Chapter, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

PASSED, ADOPTED AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this 11th day of January, 2011.

TOWN OF SILVER CITY

/s/

James R. Marshall, Mayor

ATTEST:

/s/

Ann L. Mackie, Town Clerk

TABLE 1

	Daytime Hours	Nighttime Hours
	8 a.m. to 8 p.m.	8 p.m. to 8 a.m.
Commercial	75	60
Industrial	85	70
Residential	65	50
Mixed use indoor	65	40

All limits expressed in dba. Measurements to be taken at real property line of the receiving property.

*(Decibel levels are close approximations-levels to be set after enforcers are educated and multi-week noise level recordings are reviewed.)

TABLE 2

MOTOR VEHICLES.

Sound Level Limit

These requirements apply to the total sound from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this article relating to motor vehicle mufflers for noise control.

(A) Motorcycles. No person shall operate a motorcycle: which exceeds 99 dB, measured in accordance with SAE stationary test method J1287 or similar Department-approved method.

(B) No person shall operate a motor vehicle having a manufacturer's gross vehicle rating of less than 6,000 lb., except a motorcycle, which exceeds 95 dB measured 20 in. (508 mm) from the exhaust outlet. The measured exhaust system sound level of a stationary vehicle shall be the highest reading obtained during the test, disregarding unrelated peaks due to extraneous ambient noise. When there is more than one exhaust outlet, the reported sound level shall be for the loudest outlet. When there is more than one exhaust outlet extending from a single muffler, separated by less than 12 in. (305 mm), measurements shall not be made on the outlet furthest from the side of the vehicle.

(C) No person shall operate a motor vehicle having a manufacturer's gross vehicle weight rating of at least 6,000 lb. which exceeds 93 dB, measured 25 ft. (7.6m) from the side of the vehicle. The sound level meter shall be observed during the full cycle of engine acceleration-deceleration, and the measured sound level reading shall be the highest value obtained during this cycle, excluding unrelated peaks due to extraneous ambient noise. When there is more than one outlet, the sound level for each side of the vehicle shall be measured, and the reported sound level shall be the average of the two highest readings within 1 dB of each other on the louder side.

(D) All motor vehicles shall have a ninety-day grace period from the date of publication of this ordinance to comply with the vehicle noise emission regulations herein.

TABLE 3

Method of sound measurement:

Indoor / Outdoor

Whenever portions of this chapter prohibit sound over a certain decibel limit, measurement shall be made with a Type 1 or Type 2 calibrated sound level meter utilizing the A-weighting scale and the slow meter response as specified by the American Standards Association. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound.. A windscreen for the microphone shall be used. Traffic, aircraft, and other transportation noise shall not be considered in taking measurements except where such background noise interferes with the noise being measured and cannot reasonably be distinguished from the primary noise. Measurements of sound generated shall be taken from the curb line of the nearest public street to the property where the sound is generated and taken toward the source of the sound. In the event that there is not at least fifty (50') feet of distance from the building in which sound is being generated and from which sound is being measured, then measurements shall be taken from the Town curb line opposite the said building of the nearest public street to the property where the sound is generated.

With regard to Motor Vehicles to include motorcycles. Measurements to be taken by SPL meter:

- a. at idle speed
- b. at specified RPM
- c. distance of 4 feet from where exhaust exits the tailpipe.
- d. or per SPL meter manufacture recommendations.