

2329.11 Community noise.

A. Definitions. All definitions/terminology used in this chapter, not defined below, shall be in conformance with applicable standards of the American National Standards Institute (ANSI) or its successor body. For the purpose of this chapter certain words and phrases used herein are defined as follows:

- 1) "Auditory device" means any device that can be used to create a sound that can be heard.
- 2) "Average sound level" means a sound level typical of the sound levels observed at a certain place during a given period of time averaged by the general rule of combination for sound levels, said general rule being set forth in ANSI specifications for sound level meters. Average sound level is also called equivalent continuous sound level.
- 3) "Building and Zoning Services director" means the director of the department of building and zoning services of the City of Columbus or authorized representative.
- 4) "dBA" means a sound meter reading taken over a minimum of a one hour period producing an average reading emitted from any stationary sound source, auditory device, or sound amplification system.
- ~~(3)~~(5) "Decibel" means a unit for measuring the intensity of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals. Decibel is denoted as "dB."
- ~~(4)~~(6) "Device" means any system or machine devised or constructed to perform one or more tasks.
- ~~(5)~~(7) "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.
- ~~(6)~~(8) "Health commissioner" means the health commissioner of the City of Columbus or an authorized representative.
- ~~(7)~~ "Musical instrument" means any device designed to produce music.
- ~~(8)~~(9) "Land use category" means those land uses defined and established by the Zoning Code and all subsequent changes and additions.
- ~~(9)~~(10) "Loud or raucous noise" means any noise or sound that emanates in such manners and/or volume and is of such intensity, character and duration to be offensive or disturbing to a person of ordinary sensibilities.
- ~~(10)~~(11) "Machine" means any system or device together with its power source and auxiliary equipment used to accomplish a specific objective.
- (12) "Musical instrument" means any device designed to produce music.
- (13) "Non-residential property" means any area zoned or utilized for purposes other than residential, including but not limited to commercial, manufacturing, and institutional.

~~(11)~~(14) "Person" means any public corporation, private corporation, individual, firm, partnership, association or other entity.

~~(12)~~(15) "Property line" means the line along the ground surface, and its vertical extension, which separates the real property owned, rented, leased or occupied by one or more persons from that owned, rented, leased or occupied by another person and the imaginary line which represents the legal limits of property of any person who owns, rents, leases, or otherwise occupies an apartment, condominium, hotel or motel room or any other type of Residential Unit occupancy.

~~(13)~~(16) "Residential Unit" means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation including, but not limited to, any residential units located within Planned Unit Development Districts, Planned Community Districts, or any other area zoned for mixed use.

~~(13)~~ "Property zoned residential" means any area zoned or utilized for residential purposes. ~~(14)~~

(17) "Safety director" means the director of the department of public safety of the City of Columbus or authorized representative.

~~(16)~~(18) "Sound amplification system" means any device used for the amplification of the human voice, music, or other sound and includes, but is not limited to, any radio, tape player, compact disc player or loud speaker.

~~(17)~~(19) "Stationary sound source" means a machine or device capable of creating a noise level at the property upon which it is regularly located, including, but not limited to standing motor vehicles, industrial and commercial process machinery and equipment, pumps, fans, air-conditioning apparatus or refrigeration machines.

~~(18)~~(20) "Warning device" means any device, which signals an unsafe or potentially dangerous situation.

B. Sound levels for land use districts.

1) The maximum allowable hourly average sound level shall not exceed the limits set forth in Table I for the respective categories of receiving land use. The actual sound level shall be determined during any measurement period, which shall not be less than sixty (60) consecutive minutes, and shall be measured ~~at the property boundary~~ from within the building or structure affected by the sound.

Table I

Receiving Land Use Category	Time		1 hr. Average Sound Level (dBA)
Institutional	10:00 p.m.	7:00 a.m.	60

	7:00 a.m.	10:00 p.m.	65
Residential (all categories)	10:00 p.m.	7:00 a.m.	60
	7:00 a.m.	10:00 p.m.	65
Commercial	10:00 p.m.	7:00 a.m.	70
	7:00 a.m.	10:00 p.m.	75
Manufacturing	Anytime		80

- 1) ~~New Structures and Development. Prior to the approval of a zoning change, the noise impact of the zoning change may be reviewed by the director of the department or his designee, identifying existing and projected noise sources and their associated sound level. Such review shall include, but is not limited to, air transportation and land transportation noise sources as well as stationary noise sources. Adequate control measures may be recommended to mitigate the impact of those identified noise sources to effect compliance with this code.~~

C. Prohibited sounds:

- 1) No person shall make or allow to be made any unreasonably loud and/or raucous noise in such a manner or at such a volume as to disturb the quiet, comfort, or repose of a person of ordinary sensibilities. Strict liability is intended to be imposed for a violation of this section division.
- 2) In addition to the prohibition set out in (C)(1), the following specific acts are declared to be in violation of this ordinance:
 - a) No person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source from a residential unit ~~real property that is zoned residential~~ in a manner as to be heard audible at a distance of fifty (50) feet beyond the property line of the property from which the sound emanates. Strict liability is intended to be imposed for a violation of this section division.
 - b) Where there are two (2) or more residential units contained within one (1) structure, or adjoining properties each with a residential unit within fifty (50) feet of one another, ~~within a property zoned residential,~~ no person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source from a residential unit in a manner as to be heard audible within said structure at a distance of twenty-five (25) feet ~~beyond the property line of the~~ away from the residential unit from which the sound emanates. Strict liability is intended to be imposed for a violation of this section division.

- c) ~~Where there are adjoining properties that are zoned residential, each of which has a residential unit, and where the residential units are located within fifty (50) feet of one another, no person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source in a manner as to be heard at a distance of twenty-five (25) feet onto the adjoining residential property. Strict liability is intended to be imposed for this section.~~

(c) Between the hours of 10:00 p.m. and 7:00am, no person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source from non-residential property in a manner as to be audible at the property line of a residential unit that is one hundred (100) feet or more beyond the property line of the property from which the sound emanates. Strict liability is intended to be imposed for a violation of this division.

D. Special provisions (exemptions).

- 1) The provisions of Section 2329.11 shall not apply to the following:
- a) 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.
 - b) Warning devices necessary for the protection of public safety.
 - c) Outdoor gatherings, public dances, shows, ~~and sporting events, concerts, and~~ entertainment events and other temporary events that may emanate noise in violation of the provisions of this Chapter, provided these events are conducted pursuant to a permit or license issued by the ~~of~~ License Section of the Department of ~~Public Safety Building and Zoning Services~~ or The Special Events Section of The Department of Recreation and Parks.
 - d) Public works projects as authorized by the state and/or other political subdivisions
 - e) The emission of sound ~~from property zoned residential~~ that is periodically generated by activities required to maintain the property in compliance with housing, building, zoning, fire, safety, health or sanitation codes and which occurs between the hours of 7:00 a.m. to 10:00 p.m.

E. New Structures and Development. Prior to the approval of a zoning change, the noise impact of the zoning change may be reviewed by the director of the department of building and zoning services, or designee, identifying existing and projected noise sources and their associated sound level. Such review shall include, but is not limited to, air transportation and land transportation noise sources, as well as stationary sound sources.

- 1) Adequate control measures may be required by the director of the department of building and zoning services to be installed in the receiving land use any new structure or project in order to mitigate the impact of those identified noise sources.
- 2) Properties with an established use that complies with this chapter shall remain subject to the receiving land use categories of surrounding properties existing at the time the use was established and shall not be impacted by any subsequent zoning changes that may change the receiving land use categories of surrounding properties.

F. ~~(E)~~ Inspection.

- 1) The appropriate authority may inspect upon consent, at any reasonable time and in a

reasonable manner, any device or mechanism, which creates any disturbing noise, including but not limited to the premises where such device or mechanism is used.

- 2) If entry to the premises is denied or refused, the appropriate authority shall obtain an inspection warrant from a court of competent jurisdiction.

G. ~~(F)~~ Variance Procedure.

- 1) Any person who receives a notice of violation of ~~violates~~ any provision of Section 2329.11(B) ~~(1) and (2)~~ not covered by permit or license, may file an application with the Columbus Board of Health for a variance.

The board of health may grant a variance in a specific case and from a specific provision of any regulation, order or notice subject to appropriate conditions and provided the board makes specific findings of fact based on evidence relating to the following:

- a) That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any regulation, order or notice; and
- b) That the effect of the application of the provisions would be arbitrary in the specific case; and
- c) That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships and this arbitrary effect; and
- d) That such variance is in harmony with the general purpose and intent of the board in securing the public health, safety and general welfare.

In determining whether there are practical difficulties or unnecessary hardships in carrying out the strict letter of any regulation, order, or notice, the Board shall take into consideration whether strict compliance would result in practical difficulties, unnecessary hardships or closing down of an existing business, plant or operation due to a change in the allowable dBA at the property boundary occasioned by an alteration in the receiving land use category of an adjoining or adjacent property.

The application shall be accompanied by a fee in the amount of one hundred (\$100.00) dollars. A separate application shall be filed for each noise source; however, several mobile sources under common ownership, or several fixed sources on a single property may be combined into one (1) application. Upon receipt of said application and fee, the board will render a decision within thirty (30) calendar days.

- 2) ~~Any person who violates any provision of Section 2329.11 other than those specified in Section 2329.11(F)(1) which is not covered by permit or license may file an application with the director of public safety building and zoning services for a variance from the provisions of Section 2329.11 other than those specified in Section 2329.11(F)(1). Any person applying for a variance on behalf of a property zoned for manufacturing for which an adjoining or adjacent property has or will change zoning use to a non-manufacturing use, shall detail how strict compliance would result in practical difficulties, unnecessary hardships or closing down of an existing business, plant or operation due to a change in the noise emitted at the property boundary occasioned by an alteration in the receiving land use category of an adjoining or adjacent property. Any applicant on behalf of a property zoned for a non-manufacturing use shall set forth all actions taken to comply with said provision, the reasons why compliance cannot be achieved, the proposed method for achieving compliance, and the proposed time schedule for its accomplishment. Any application shall be accompanied by a fee in the amount of one hundred (\$100.00) dollars to be set by the director of building and zoning services. A separate application shall be filed for each noise source; however, several mobile sources under common ownership, or several fixed sources on a single property~~

~~may be combined into one (1) application. Upon receipt of said application and fee, the safety building and zoning services director will render a decision within thirty (30) calendar days.~~

H. ~~(G)~~ Issuance of notices and orders.

- 1) The health commissioner, safety director, and building and zoning services director or their designee may issue notices and orders requiring the abatement of all violations of this chapter and the correction of any condition, which may result in a violation of this chapter. Failure to act upon such notice or order within the time limit set forth therein or within the time extension granted by the commissioner, director or their designee, may result in revocation of any existing permit issued under this chapter.

I. Enforcement

- 1) The Department of Public Health, the Division of Police, and the Department of Building and Zoning Services shall have the power to effect compliance with this Section.
- 2) Employees of these departments may use sound level meters to gather evidence in effecting compliance with this section.
- 3) The director of the department of building and zoning services may adopt such rules and regulations as deemed necessary to carry out the provisions of this Chapter.

~~(H)~~(J) Severability.

If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.

~~(H)~~(K) Penalty.

- 1) Whoever violates division (C)(1) of this section is guilty of unreasonably loud and/or raucous noise. Except as otherwise provided in this division, unreasonably loud and/or raucous noise is a minor misdemeanor. If the offender persists in making or allowing to be made unreasonably loud and/or raucous noise after reasonable warning or request to desist within a twelve-hour period, unreasonably loud and/or raucous noise is a misdemeanor of the fourth degree.
- 2) Whoever violates division (C)(2) of this section is guilty of prohibited sound. Except as otherwise provided in this division, prohibited sound is a minor misdemeanor. If the offender persists in operating or permitting the operation of a sound amplification system, auditory device, or stationary sound source in violation of the prohibitions contained in division (C)(2) after reasonable warning or request to desist within a twelve-hour period, prohibited sound is a misdemeanor of the fourth degree.
- 3) If the offender has previously been convicted of a violation of C.C.C. Section 2329.11, a violation of this section is a misdemeanor of the fourth degree.
- 4) In accordance with section 2301.23 of the Columbus City Codes, organizational criminal liability is intended to be imposed for a violation of this section.
- 5) The owner of a Non-Residential Property that is the source of sounds emitted in violation of the prohibitions contained in division (c)(2) may be served notice of a civil infraction and fined as follows: \$500 for the first violation, \$1,000 for the second violation and \$5,000 for the third, and each subsequent, violation occurring within a one-year period.
 - a. Affirmative defenses. The owner of the Non-Residential Property shall not be liable for a fine under this division where, on appeal, sufficient evidence of one of the following conditions is proven:
 1. At the time of the violation, the Non-Residential Property was in the

possession of someone other than its owner pursuant to a written lease or rental agreement and the owner provides a copy of the lease or rental agreement along with the name and address of the lessee or renter.

2. At the time of the violation, the Non-Residential Property was occupied in violation of law and the owner provides a copy of a police report alleging that the Non-Residential Property had been the subject of an unlawful entry.
- b. Appeal. An owner may appeal their civil infraction to the property maintenance appeals board by filing a notice of appeal, on a form and in a manner prescribed by the department, within fifteen (15) days of service of the notice of civil infraction.
 1. Upon the filing of a timely notice of appeal, the property maintenance appeals board shall conduct a hearing on the appeal within forty-five (45) days unless a continuance is requested by either party and granted by the chair of the board.
 2. At such hearing, the burden shall be on the director to prove the violation by a preponderance of substantial, reliable, and probative evidence.
 3. The property maintenance appeals board shall render its decision in writing, including findings of fact and conclusions of law, within five (5) days of the date of the hearing. The decision of the property maintenance appeals board may reverse, modify or affirm the order and action of the director.
 4. Decisions of the property maintenance appeals board issued pursuant to this section may be appealed to the environmental division of the Franklin County Municipal Court pursuant to Ohio Revised Code Chapter 2506.
- 6) In addition to any other remedy available by law, the director of the department of building and zoning services may file a civil action in the environmental division of the Franklin County Municipal Court seeking a court order to recover any accumulated civil fines and/or for injunctive relief, or a criminal misdemeanor complaint.