

ORDINANCE NO. 2004-16
ADDING CHAPTER 7.30 TO THE
SAN MATEO MUNICIPAL CODE
ESTABLISHING "NOISE REGULATIONS"

The City Council of the city of San Mateo does ordain as follows:

Section 1. Chapter 7.30 of the San Mateo Municipal Code is hereby added to read:

"CHAPTER 7.30: NOISE REGULATIONS"

Sections:

7.30.010 Intent and Purpose

7.30.020 Definitions

7.30.030 Designated Noise Zones

7.30.040 Maximum Permissible Sound Levels

7.30.050 Interior Noise Limits

7.30.060 Special Provisions

7.30.070 Exception Permits

7.30.080 Amplified Sound-Permit Required

7.30.090 Amplified Sound-Regulations

7.30.100 Entertainment Sound-Regulations

7.30.110 Nuisances Declared

7.30.120 Enforcement Responsibility-Complaint Investigation

7.30.130 Penalty for Violation

7.30.010 INTENT AND PURPOSE. The intent and purpose of the provisions of this chapter are to protect the inhabitants of the City against all forms of nuisances, public or private, not specifically prohibited by State laws, growing out of any action, activity, condition, circumstance, or situation existing or permitted to exist within the City and caused or produced by any person, animal, or mechanical or other contrivance, and which are injurious to health, or detrimental to the public safety, morals, or general welfare, or indecent, or offensive to the senses, or an obstruction to the free use of property to such an extent as to interfere with the comfortable enjoyment of life or property by the entire community or neighborhood, or by any considerable number of persons.

7.30.020 DEFINITIONS.

(a) "Sound level," expressed in decibels (dB), means a logarithmic indication of the ratio between the acoustic energy present at a given location and the lowest amount of acoustic energy audible to sensitive human ears and weighted by frequency to account for characteristics of human hearing, as given in the American National Standards Institute Standard S1.1, "Acoustic Terminology," paragraph 2.9, or successor reference. All references to dB in this chapter utilize the A-level weighting scale.

(b) "Noise level" means the maximum sound level by a source or group of sources as measured with a precision sound level meter, conforming to the

American National Standards Institute Standard S1.4-1983, for type 1 meters (or successor reference), using the "A" weighted, slow sound pressure level scale, five feet above the ground.

(c) "Ambient" means the average sound level during a six-minute period as measured with a precision sound level meter, using slow response and "A" weighting. The sound 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. If for any reason the alleged offending noise source cannot be shut down, the ambient noise must be estimated by performing a measurement in the same general area of the source but at a sufficient distance that the noise from the source is at least ten dB below the ambient so that only the ambient level is measured. If the difference between the ambient and the noise source is five to nine dB, then the level of the ambient itself can be determined by subtracting a one dB correction to account for the contribution of the source.

(d) "Vehicle" means any device by which any person or property may be propelled, moved or drawn upon a highway or street.

(e) "Property plane" means a vertical plane including the property line, which determines the property boundaries in space.

(f) "Emergencies" means essential activities necessary to restore, preserve, protect or save lives or properties from imminent danger or loss or harm.

7.30.030 DESIGNATED NOISE ZONES. The properties hereinafter described are hereby assigned the following noise zones:

Noise Zone 1 All property in any single family residential zone (including adjacent parks and open space) as designated on the City's zoning map prepared pursuant to the provisions of Title 27, or any revisions thereto.

Noise Zone 2 All property in any commercial/mixed residential, multi-family residential, specific plan district or PUD as designated on the City's zoning map prepared pursuant to the provisions of Title 27, or any revisions thereto.

Noise Zone 3 All property in any commercial or central business district as designated on the City's zoning map prepared pursuant to the provisions of Title 27, or any revisions thereto.

Noise Zone 4 All property in any manufacturing or industrial zone as designated on the City's zoning map prepared pursuant to the provisions of Title 27, or any revisions thereto.

7.30.040 MAXIMUM PERMISSIBLE SOUND LEVELS.

(a) It is unlawful for any person to operate or cause to be operated any source of sound at any location within the city or allow the creation of any

noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property to exceed:

- (1) The noise level standard for that property as specified in Table 7.30.040 for a cumulative period of more than thirty minutes in any hour;
- (2) The noise level standard plus five dB for a cumulative period of more than fifteen minutes in any hour;
- (3) The noise level standard plus ten dB for a cumulative period of more than five minutes in any hour;
- (4) The noise level standard plus fifteen dB for a cumulative period of more than one minute in any hour; or
- (5) The noise level standard or the maximum measured ambient level, plus twenty dB for any period of time.

(b) If the measured ambient level for any area is higher than the standard set in Table 7.30.040, then the ambient shall be the base noise level standard for purposes of subsection (a)(1) of this section. In such cases, the noise levels for purposes of subsections (a)(2) through (a)(5) of this section shall be increased in five dB increments above the ambient.

Table 7.30.040
NOISE LEVEL STANDARDS*

Noise Zone	Time Period	Noise Level (dB)
Noise Zone 1	10 p.m.--7 a.m.	50
	7 a.m.--10 p.m.	60
Noise Zone 2	10 p.m.--7 a.m.	55
	7 a.m.--10 p.m.	60
Noise Zone 3	10 p.m.--7 a.m.	60
	7 a.m.--10 p.m.	65
Noise Zone 4	Anytime	70

*Source: Adapted from "The Model Community Noise Control Ordinance," Office of Noise Control, California Department of Health.

7.30.050 INTERIOR NOISE LIMITS. It is unlawful for any person to operate or cause to be operated any source of sound, on multifamily residential property or multi-tenant commercial or industrial property at a noise level more than ten dB above the level allowed by Section 7.30.040 three feet from any wall, floor or ceiling inside any unit on the same property when the

windows and doors of the unit are closed, except within the unit in which the noise source or sources is located.

7.30.060 SPECIAL PROVISIONS.

(a) Sound Performances and Special Events. Sound performances and special events not exceeding eighty dB measured at a distance of fifty feet from the loudest source are exempt from this chapter when approval therefore has been obtained from the appropriate governmental entity.

(b) Vehicle Horns. Vehicle horns, back-up warning devices, or other devices primarily intended to create a loud noise for warning purposes, shall be used only when the vehicle is in a situation where life, health or property are endangered or as required by law.

(c) Alarm System. An audible alarm system affixed to a motor vehicle shall be equipped with an automatic shutoff, which shuts off the alarm within a maximum of 15 minutes from the time of activation. Such alarm may not emit a sound similar to the sound emitted by sirens in use on emergency vehicles or to those used for civil defense purposes. For purposes of this section, any variable tone, as opposed to one steady pitch, shall be considered similar to the sound emitted by an emergency vehicle siren. The Police Department is authorized to abate the nuisance of an audible alarm system affixed to a motor vehicle, which sounds beyond 15 minutes by using any means necessary to disconnect the vehicle alarm. The expense of disconnecting the alarm shall be a lien against the motor vehicle and shall be the personal obligation of the owner thereof.

(d) Utilities and Emergencies. Utility and street repairs, street sweepers, garbage services, emergency response warning noises, emergency generators and fire alarm systems are exempt from this chapter.

(e) Construction. Construction, alteration, repair or land development activities which are authorized by a valid city permit shall be allowed on weekdays between the hours of seven a.m. and seven p.m., on Saturdays between the hours of eight a.m. and five p.m., and on Sundays and holidays between the hours of noon and four p.m., or at such other hours as may be authorized or restricted by the permit, if they meet at least one of the following noise limitations:

(1) No individual piece of equipment shall produce a noise level exceeding ninety dB at a distance of twenty-five feet. If the device is housed within a structure or trailer on the property, the measurement shall be made outside the structure at a distance as close to twenty-five feet from the equipment as possible.

(2) The noise level at any point outside of the property plane of the project shall not exceed ninety dB.

(3) The operation of leaf blowers shall additionally comply with Chapter 10.80 "Operation of Leaf Blowers".

7.30.070 EXCEPTION PERMITS. If the applicant can show to the city manager, or the manager's designee, 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 exception from the provisions contained in this chapter may be issued, with appropriate conditions to minimize the public detriment caused by such exceptions. Any such permit shall be of as short duration as possible, but in no case for longer than six months. These permits are renewable upon a showing of good cause, and shall be conditioned by a schedule for compliance and details of compliance methods in appropriate cases.

7.30.080 AMPLIFIED SOUND REGULATIONS. The commercial and noncommercial use of sound-amplifying equipment shall be subject to the following regulations:

(a) The only sounds permitted shall be either music or human speech, or both.

(b) The operation of sound-amplifying equipment shall only occur between the hours of seven a.m. and eleven p.m. on Monday through Saturday. The operation of sound-amplifying equipment on Sundays and legal holidays shall occur only between the hours of ten a.m. and eight p.m. The operation in parks shall comply with all applicable Recreation Department rules and regulations.

(c) Handheld amplified sound equipment shall not exceed 10 watts.

7.30.100 ENTERTAINMENT SOUND-REGULATIONS.

(a) Sound emanating from locations approved for entertainment shall comply with the provisions of this Chapter as well as Chapter 5.43 "Entertainment Permits".

(b) Unruly gatherings: It shall be unlawful to conduct or allow to be conducted any unruly gathering as defined in Chapter 7.22 of this code, or to maliciously and willfully generate loud and unreasonable noise, between the hours of 11:00 p.m. and 7:00 a.m. Noise is "loud and unreasonable" for the purposes of this section, if it disturbs the peace, quiet, or repose of persons of ordinary and normal sensitivity in the neighborhood, regardless of the dB reading. Continuation of an activity prohibited by this section after notification by a Peace Officer that the activity is disturbing the peace, shall be prima facie evidence of malicious and willful intent.

(c) Bands: It shall be unlawful to maliciously and willfully conduct or allow to be conducted any party in any residential or multi-family residential zone which has present a band, orchestra, radio, or any other electronic sound reproduction and/or amplification device/system between the hours of 11:00 p.m. and 7:00 a.m. which produces loud and unreasonable sound regardless of the dB reading in volume sufficient to disturb the peace, quiet, or repose of persons of ordinary and normal sensitivity in a neighborhood. Continuation of an activity prohibited by this section after notification by a Peace Officer that the activity is disturbing the peace, shall be prima facie evidence of malicious and willful intent.

7.030.110 NUISANCES DECLARED.

(a) The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this chapter, which operation or maintenance causes discomfort or annoyance to persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement by restraining order or injunction issued by a court of competent jurisdiction. Any noise level exceeding the limits specified in this chapter shall be deemed to be prima facie evidence of a violation of the provisions of this chapter.

(b) The following acts are hereby expressly declared to be nuisances and any person maintaining or permitting such nuisances, or any of them, to be maintained or to exist in or on his premises, whether as owner, lessee, or otherwise, shall be punishable per Chapter 1.04 for each day during which such nuisance shall be permitted to be continued:

(1) Other unlawful noises. In addition to conduct which is unlawful pursuant to other subsections of this section, the willful making or continuation of, or causing the making or continuation of, any loud, unnecessary or unusual noise (other than constitutionally protected expressive activity) which disturbs the peace or quiet, or which causes discomfort or annoyance to a reasonable person of normal sensitiveness in an adjacent residence or business affected by the noise;

(2) Radios, electronic and amplification devices. The playing, using, or operating, or permitting to be played, used, or operated between the hours of 11:00 p.m. and 7:00 a.m. or other hours as may be specified by separate regulation in areas designated for parks use, of any radio, musical instrument, television set, or similar instrument, electronic, or amplification device for the production or reproduction of sound in volume sufficiently loud to disturb the peace, quiet, or repose of a person of ordinary and normal sensitiveness who is in the immediate vicinity of such machine or device.

(3) Engines, motors, and mechanical devices in and near residential districts. The operation between the hours of 11:00 p.m. and 7:00 a.m. of any motor or engine or the use or operation of any automobile, motorcycle, machine, or mechanical device, or other contrivance or facility, unless such motor, engine, automobile, motorcycle, machine, or mechanical device is enclosed within a sound-insulated structure so as to prevent noise and sounds from being plainly audible at a distance of fifty (50') feet from such structure or within ten (10') feet of any residence; provided, however, any such vehicle which is operated upon any public highway, street, or right-of-way shall be excluded from the provisions of this subsection;

(4) Motor vehicles. The racing of any motor vehicles or needlessly bringing to a sudden start or stop any motor vehicle, which act produces unreasonably loud engine noise or tire noise;

(5) Noises by animals. The keeping or harboring of any animal which emits between the hours of 11:00 p.m. and 7:00 a.m. any unreasonable sound or cry which disturbs or may disturb the peace and comfort or repose of a reasonable person of normal sensitiveness who resides in the neighborhood or area in which the such animal is located or kept.

(6) Pile drivers, hammers, and the like. The operation between the hours of 7:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, hoist, or other appliance, the use of which is attended by loud or unusual noise;

(7) Yelling, shouting, and the like. Yelling, shouting, hooting, whistling, or singing on the public streets or in a public place emits between the hours of 11:00 p.m. and 7:00 a.m. or any time or place so as to annoy or disturb unreasonably the quiet, comfort, or repose of reasonable persons of normal sensitiveness who reside in any house or in any residence in the vicinity.

(8) Continuation of conduct prohibited by this section after notification by a Peace Officer that the activity is unlawful shall be prima facie evidence of malicious and willful intent.

7.30.120 NO MANDATORY DUTY CREATED. No section of this Chapter shall impose a mandatory duty on the City, or on any officer, official, agent, employee, board, council, or commission of the City. Instead, if any section purports to impose a mandatory duty of enforcement, that section shall be deemed to invest the City, and the appropriate officer, official, agent, employee, board, council, or commission with discretion to enforce the section or not to enforce it. A police officer, for example, shall have the discretion to quiet a nuisance without applying standards detailed in sections 7.30.040 through 7.30.060.

7.30.130 PENALTY FOR VIOLATION. Any person violating a provision of this chapter or failing to comply with a mandatory requirement of this chapter is guilty and upon conviction; such person shall be punished as provided in Chapter 1.04 of this code. Each occurrence such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

Section 2. PUBLICATION. This Ordinance shall be published in summary in the San Mateo County Times, posted in the City Clerk's Office, and posted on the City's website, all in accord with Section 2.15 of the Charter and shall take effect upon publication.

I hereby certify this to be a correct copy of Ordinance No. 2004-16 of the City of San Mateo, California, introduced on September 7, 2004 and adopted on September 20, 2004, by the following vote of the Council:

AYES: Council Members LEE, EPSTEIN, LEMPert, MATTHEWS, GROOM

NOES: NONE

ABSENT: NONE

(SEAL) /s/ NORMA GOMEZ, City Clerk