

## ORDINANCE NO. 4222

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 8.40 OF THE HUNTINGTON BEACH MUNICIPAL CODE TITLED NOISE CONTROL

WHEREAS, pursuant to Title 7, Chapter 3, Article 6 of the California Government Code, the Huntington Beach City Council approved General Plan Amendment No. 14-002, the General Plan Update, on September 18, 2017, which amended the Noise Element of the Huntington Beach General Plan;

WHEREAS, the Updated Noise Element establishes land use compatibility standards, based on recommended parameters from the California Governor's Office of Planning and Research;

WHEREAS, the goals and policies of the Noise Element are identified to protect Noise-Sensitive land uses, ensure land use /noise compatibility, reduce noise from mobile sources, and mitigate noise from construction, maintenance, and other sources; and

WHEREAS, General Plan Implementation Program N-P.3 required an update of Chapter 8.40, titled Noise Ordinance, to align with the standards established in the General Plan Noise Element and implement the goals, policies and programs of the Noise Element.

After due consideration of the recommendations and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Section 8.40.020 of the Huntington Beach Municipal Code is hereby amended and definitions inserted in alphabetical order:

**"A-Weighted Decibel (dBA)"** shall mean the overall frequency-weighted sound level in decibels that approximates the frequency response of the human ear as represented by the A-weighted network. The reference pressure is 20 micropascals.

**"Decibel (dB)"** shall mean a unit which denotes the ratio between two quantities which are proportional to power; the number of Decibels corresponding to the ratio of two amounts of power is 10 times the logarithm to the base 10 of this ratio.

**"Domestic Power Tool"** means a mechanically-powered saw, sander, drill, grinder, lawn or garden tool, snow blower, Leaf Blower or similar device that is used in residential areas for work that is typically done by or for residential occupants.

**"Equivalent Continuous Sound Level (Leq)"** shall mean the value of an equivalent, steady sound level which, in a stated time period, has the same sound energy as the time-varying sound. Thus, the Leq metric is a single numerical value that represents the equivalent amount of variable sound energy received at a location over the specified duration.

**“Fixed Noise Source”** shall mean a stationary device or point source which creates sounds while fixed or motionless, including but not limited to, industrial and commercial machinery and equipment, pumps, fans, compressors, generators, air conditioners and refrigeration equipment, or an area source such as a special event on a property. That is, all sources that are non-mobile transportation sources (e.g., vehicle traffic on public roads and aircraft).

**“Impulsive Noise”** shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

**“Leaf Blower”** shall mean any machine, however powered, used to blow leaves, dirt and other debris off sidewalks, driveways, lawns and other surfaces.

**“Maximum Sound Level”** ( $L_{max}$ ) shall mean the highest RMS sound level measured during the measurement period.

**“Motorboat”** shall mean any vessel which operates on water and which is propelled by a motor, including but not limited to, boats, barges, amphibious craft, water ski towing devices and hover craft.

**“Noise Level”** shall mean the “A” weighted Sound Pressure level in Decibels obtained by using a sound level meter at slow response with a reference pressure of 20 micropascals (micronewtons per square meter). The unit of measurement shall be designated as dBA.

**“Noise-Sensitive Land Uses”** shall mean residential, hotels, motels, schools, hospitals, churches, cultural land uses, public parks, recreational, and the active outdoor use areas of commercial and office uses (such as courtyards). Industrial and manufacturing uses are not considered noise sensitive.

**“Parcel”** shall mean an area of real property with a separate or distinct number or other designation shown on a plat recorded in the office of the County Recorder. Contiguous Parcels owned by the same individual or entity shall be considered one Parcel for purposes of this section.

**“Root-Mean-Square Sound Level (RMS)”** shall mean the square root of the average of the square of the Sound Pressure over the measurement period.

**“Simple Tone Noise”** shall mean a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished. In case of dispute, a Simple Tone noise shall exist if the one-third octave band Sound Pressure level in the band with the tone exceeds the arithmetic average of the Sound Pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

**“Sound Amplifying Equipment”** shall mean any machine or device for the amplification of the human voice, music, or any other sound, excluding standard automobile stereos when used and heard only by the occupants of the vehicle and, as used in this chapter, warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used for traffic safety purposes.

**“Sound Pressure Level”** of a sound, in decibels, shall mean 20 times the logarithm to the base of 10 of the ratio of the pressure of the sound to the reference pressure of 20 micropascals.

**“Vibration Decibel (VdB)”** shall mean a measure of vibration expressed on a logarithmic scale with the reference velocity of 1 micro-inch per second ( $1 \times 10^{-6}$  in/sec).

**“Vibration-Sensitive Use”** shall mean residential, hotels, motels, schools, hospitals and medical offices with Vibration-Sensitive equipment, churches, cultural land uses, commercial, office and government uses. Outdoor areas with no buildings and industrial and manufacturing uses are not considered vibration sensitive.

SECTION 2. Section 8.40.030 of the Huntington Beach Municipal Code is hereby amended to read as follows:

Any Noise Level measurements made pursuant to the provisions of this chapter shall be performed using a sound level meter which meets at least American National Standards Institute (ANSI) Type 2 standards. While the exterior noise standards in 8.40.050 are applied to the property line of the receiving use, the location for measuring Noise Levels may be at any legally accessible vantage point where a reasonable person would conclude the noise may exceed this chapter's noise standards. All Noise Level measurements shall be performed in accordance with the procedures established by the City and shall be at a height of at least 4 feet, at least 4 feet away from reflective surfaces, and for a duration of at least 15 minutes, where feasible. The measurement shall be made using the A-weighting network (dBA) with “slow” meter response. Impulsive or impact noises shall be measured using “fast” meter response. The purpose of the measurement is to determine if the alleged noise violation exceeds the standards established in 8.40.050. If for any reason the alleged offending noise cannot be turned off, shut down or temporarily removed from the area, then the ambient noise shall be estimated by performing a representative measurement in the same general area of the source but at a sufficient distance such that the noise source is inaudible.

SECTION 3. Section 8.40.040 of the Huntington Beach Municipal Code is hereby repealed.

SECTION 4. Section 8.40.050 of the Huntington Beach Municipal Code is hereby amended to read as follows:

A. The following exterior noise standards shall apply to the applicable land use. It shall be unlawful for any person at any location within the incorporated area of the City to create any noise due to a Fixed Noise Source (or any mobile source not pre-empted by state or federal laws), or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the Noise Level when measured at the property line of any residential, hotel, motel, public institutional, recreational, or commercial property, either within or outside the City, to exceed the applicable noise standards:

## Exterior Noise Standards

Land Use	Leq Noise Level dBA	Lmax Noise Level dBA	Time Period
Low-Density Residential	55	75	7 a.m. - 10 p.m.
	50	70	10 p.m. - 7 a.m.
Medium-, High- Density Residential, Hotels, Motels	60	80	7 a.m. - 10 p.m.
	50	70	10 p.m. - 7 a.m.
Schools	55	75	Hours of Operation
Hospitals, Churches, Cultural, Museum, Library, Public Park, Recreational	60	80	Hours of Operation
Commercial/Office	65	85	Hours of Operation

B. The above standard does not apply to the establishment of multi-family residence private balconies and patios. Multi-family developments with balconies or patios that do not meet noise standards are required to provide occupancy disclosure notices to all future tenants regarding potential noise impacts.

C. The above daytime (7 a.m. – 10 p.m.) standards for hotels, motels and commercial uses shall apply only to active outdoor use areas such as a pool or outdoor courtyard.

D. In the event the alleged offensive noise consists entirely of impact or Impulsive Noise, Simple Tone noise, speech, music, or any combination thereof, each of the above Noise Levels shall be reduced by 5 dBA.

E. If the alleged offense affects a property outside the City's jurisdiction, the exterior noise standards shall be enforced at the City boundary.

F. In the event the measured ambient Noise Level exceeds any of the noise limit categories above, the noise limit shall be increased to reflect said ambient Noise Level.

G. In the event that the noise source and the affected property are within different land use categories, the noise standards of the affected property shall apply.

SECTION 5. Section 8.40.060 of the Huntington Beach Municipal Code is hereby repealed.

SECTION 6. Section 8.40.070 of the Huntington Beach Municipal Code is hereby repealed.

SECTION 7. Section 8.40.080 of the Huntington Beach Municipal Code is hereby repealed.

SECTION 8. Section 8.40.090 of the Huntington Beach Municipal Code is hereby amended to read as follows:

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

- A. School bands, school athletics and school entertainment events, provided such events are conducted on school property or authorized by special permit from the City.
- B. Activities otherwise lawfully conducted in public parks, public playgrounds and public or private school grounds.
- C. Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or City work or their hired contractors.
- D. Noise sources associated with construction, repair, remodeling, or grading of any real property; provided a permit has been obtained from the City as provided herein; and provided said activities do not take place between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday, and provided that average construction Noise Levels do not exceed 80 dBA Leq at nearby Noise-Sensitive land uses. If outdoor construction activities are deemed necessary after 7:00 p.m. or before 7:00 a.m., average construction Noise Levels at nearby Noise-Sensitive land uses shall be limited to 50 dBA Leq.
- E. Mobile noise sources associated with pest control through pesticide application, provided that the application is made in accordance with restricted material permits issued by or regulations enforced by the Agricultural Commissioner.
- F. Noise sources associated with the maintenance of real property and use of Domestic Power Tools provided said activities take place between the hours of 8:00 a.m. and 7:00 p.m. Monday through Saturday or between the hours of 9:00 a.m. and 6:00 p.m. on Sunday or a federal holiday. Noise from typical and occasional property maintenance and the use of Domestic Power Tools which does not require a building permit shall not be subject to the noise limits in 8.40.090(D).
- G. Leaf Blower noise shall be governed by Section 8.40.095.
- H. Any activity or equipment to the extent that design regulation thereof has been pre-empted by state or federal laws.
- I. Noise sources associated with temporary public or private events located on private or public property provided a permit has been obtained from the City as provided herein.
- J. Noise generated outdoors by business operations which are temporarily prohibited from occurring indoors due to City-declared emergency conditions. This applies only to City-approved businesses whose operations would typically occur indoors. Noise generated by Sound Amplifying equipment such as stereos or megaphones is not exempt.

SECTION 9. Section 8.40.100 of the Huntington Beach Municipal Code is hereby amended to read as follows:

It shall be unlawful for any person to create any noise which causes the Noise Level at any school, hospital or church while same is in use, to exceed the noise limits specified for exterior noise standards in Section 8.40.050, or which Noise Level unreasonably interferes with the use of such institutions or which unreasonably disturbs or annoys patients in the hospital, provided conspicuous signs are displayed in three separate locations within one-tenth of a mile of the institution indicating the presence of a school, hospital or church.

SECTION 10. Section 8.40.110 of the Huntington Beach Municipal Code is hereby repealed.

SECTION 11. Section 8.40.111 of the Huntington Beach Municipal Code is hereby amended to read as follows:

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

B. The standard which may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following:

1. The level of the noise;
2. Whether the nature of the noise is usual or unusual;
3. Whether the origin of the noise is natural or unnatural;
4. The level and intensity of the background noise, if any;
5. The proximity of the noise to residential sleeping facilities;
6. The nature and zoning of the area within which the noise emanates;
7. The density of the inhabitation of the area within which the noise emanates;
8. The time of the day and night the noise occurs;
9. The duration of the noise and its tonal content;
10. Whether the noise is recurrent, intermittent or constant; and
11. Whether the noise is produced by a commercial or noncommercial activity.

SECTION 12. Section 8.40.112 of the Huntington Beach Municipal Code is hereby amended to read as follows:

It shall be unlawful for any person to:

A. Use, operate, or permit to be operated any radio, receiving set or device, television set, musical instrument, phonograph, digital music player, CD, DVD, tape player, juke box, or other sound-amplifying device for producing or reproducing sound in such a manner as to disturb the peace, quiet, and comfort of other persons.

B. Make or allow to be made any noise which continues for more than a five-minute period between the hours of 10:00 p.m. and 7:00 a.m. if such noise is audible for 50 feet or more from the source of the noise.

C. Maintain, manage, or control any business or residential property in violation of subsections A or B of this section.

D. When within 200 feet of residences, load, unload, open, close or other handling of boxes, crates, containers, building materials, refuse handling or similar objects between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a Noise-Sensitive property line. This includes, but is not limited to, noise disturbances related to commercial delivery operations, vehicle idling, vehicle queuing, vehicle backup alarms, and vehicle refrigeration equipment.

E. Repair, rebuild, modify, or test any motor vehicle, motorcycle, or Motorboat in such a manner as to cause a noise disturbance across a Noise-Sensitive property line.

F. Operate, play or permit the operation of any Sound Amplifying equipment in any place of public entertainment at a sound level greater than 90 dBA as read by the slow response on a sound level meter at any point that is normally occupied by customers, unless a conspicuous and legible sign is located immediately outside of near the public entrance stating, "Warning: Sound Levels Within May Cause Permanent Hearing Impairment."

G. Sound or permit the sounding of any amplified signal from such as a bell, chime, siren, whistle, vehicle horn or similar device, intended primarily for non-emergency purposes which causes a noise disturbance across a Noise-Sensitive property line. Devices used in conjunction with school and place of worship shall be exempt from this provision.

H. Operate or permit the operation of any Motorboat in such a manner to cause a noise disturbance across a Noise-Sensitive property line.

I. Operate or cause 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 shall remove or render inoperative, or cause 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.

J. Own, maintain, control, operate, take care or custody of, or otherwise provide any premises, and allow noise to continue after being informed, anytime within the preceding 30 days by the Police Department, that a violation of this chapter has been committed on said premises.

K. Violations of this section are hereby declared a nuisance.

SECTION 13. Section 8.40.113 of the Huntington Beach Municipal Code is added to read as follows:

#### 8.40.113 Vibration

Notwithstanding other sections of this chapter, it shall be unlawful for any person to create, maintain or cause any operational ground vibration on any property which exceeds 72 VdB at nearby Vibration-Sensitive land uses. The vibration limit at Vibration-Sensitive uses with high sensitivity such as operations conducting medical research and imaging shall be 65 VdB.

SECTION 14. Section 8.40.120 of the Huntington Beach Municipal Code is amended to read as follows:

A. The Director of Community Development ("Director") or Police Chief and his or her duly authorized representatives are directed to enforce the provisions of this chapter. The director or Police Chief and their duly authorized representatives are authorized pursuant to Penal Code Section 836.5 to arrest any person without a warrant when they have reasonable cause to believe that such person has committed a misdemeanor in their presence.

B. If the director or Police Chief and their duly authorized representatives conduct noise monitoring tests or other noise measurement readings for purposes of enforcement, and the Noise Level is found to exceed those levels stipulated as permissible in this chapter, the owner or operator of the noise source shall be required to pay the cost of the noise monitoring tests or readings.

SECTION 15. Section 8.40.130 of the Huntington Beach Municipal Code is amended to read as follows:

A. Applications for a permit to deviate from the provisions herein shall be initiated by submitting an application and data as proscribed by the director and paying the required fee. The application form will be as directed by the director and shall set forth all facts regarding the request for deviation including any actions the applicant took to comply with the provisions of this chapter, the reasons why compliance cannot be achieved and a proposed method of achieving compliance, if such method exists. The applicant must demonstrate, at a minimum, the need to deviate from the Noise Level produces a greater benefit to the community which outweighs the temporary increase in Noise Level above the requirements of this chapter.

B. Within 10 days after receipt of a complete application, the director will notify affected property owners within 500 feet of the alleged/proposed noise source of the application for a permit to temporarily deviate from this Code.

C. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership, or several fixed sources on a single property may be combined into one application.

D. Upon receipt of said application and fee, the director may approve, conditionally approve or deny the permit upon finding that the above factors as well as factors included in Section 8.40.111 of this chapter are satisfied. The permit shall become effective 10 days after action by the director unless appealed as provided herein.

E. The director will provide the applicant as well as the affected property owners notice of decision within 24 hours after the decision is made.

F. An applicant for a permit shall remain subject to prosecution under the terms of this chapter until a permit is granted.

SECTION 18. 8.40.150 of the Huntington Beach Municipal Code is amended to read as follows:

A. Notice of Appeal. A person desiring to appeal the director's decision on a noise deviation permit shall file a written notice of appeal with the director within 10 days after the director's decision. Notice of appeal shall be accompanied by a fee as set forth in the City's current fee resolution



SECTION 19. This ordinance shall become effective immediately 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2020.

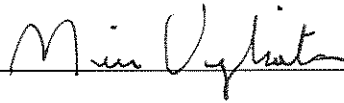
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Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_

\_\_\_\_\_

City Clerk

City Attorney 

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

\_\_\_\_\_

City Manager

\_\_\_\_\_

Community Development Director