

Benicia Municipal Code

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Chapter 8.20 NOISE REGULATIONS¹

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8.20.010 Declaration of policy.

It is declared to be the policy of the city to prohibit unnecessary, excessive and annoying noises from all sources subject to its police power. At certain levels noises are detrimental to the health and welfare of the citizenry and in the public interests shall be systematically proscribed. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-101).

8.20.020 Definitions.

As used in this chapter, unless the context otherwise clearly indicates, the words and phrases used in this chapter are defined as follows:

A. "Ambient noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from any sources near and far. For the purpose of this chapter, ambient noise level is the level obtained when the noise level is averaged over a period of 15 minutes without inclusion of noise from isolated identifiable sources, at the location and time of day near that at which a comparison is to be made.

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

C. "Decibel" means a unit of level when the base of the logarithm is the tenth root of 10 and the quantities concerned are proportional to power.

D. "Emergency work" means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger, or work by private or public utilities when restoring utility service.

E. "Frequency" of a function periodic in time means the reciprocal of the primitive period. The unit is the hertz and shall be specified.

F. "Hertz" means the complete sequence of values of a periodic quantity which occurs during a period.

G. "Microbar" means a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

H. "Motor vehicles" includes, but is not limited to, mini-bikes and go-carts.

I. "Noncommercial purpose" means the use, operation or maintenance of any sound equipment for other than a commercial purpose. "Noncommercial purpose" means and includes, but is not limited to, philanthropic, political, patriotic and charitable purposes.

J. "Period" of a periodic quantity means the smallest increment of time for which the function repeats itself.

K. "Periodic quantity" means oscillating quantity, the values of which recur for equal increments of time.

L. "Person" means a person, firm, association, copartnership, joint venture, corporation, or any entity public or private in nature.

M. "Sound-amplifying equipment" means any machine or device for the amplification of the human voice, music, or any other sound. "Sound-amplifying equipment" shall not include

standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. "Sound-amplifying equipment," as used in this chapter, shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

N. "Sound level" or "noise level," in decibels (dB), is the sound measured with the "A" weighting and slow response by a sound level meter.

O. "Sound level meter" means an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels which satisfies the pertinent requirements in American Standard Specifications for sound level meters S1.4-1971 or the most recent revision thereof.

P. "Sound truck" means any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon or attached thereto any sound-amplifying equipment. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-102).

8.20.030 Sound-amplifying equipment – Purpose of provisions.

The council enacts this legislation for the sole purpose of securing and promoting the public health, comfort, safety and welfare of its citizenry. While recognizing that the use of sound-amplifying equipment is protected by the constitutional rights of freedom of speech and assembly, the council nevertheless feels obligated to reasonably regulate corrective constitutional rights of the citizens of this community to privacy and freedom from public nuisance of loud and unnecessary noise. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-501).

8.20.040 Sound-amplifying equipment – Registration – Required.

It is unlawful for any person, other than personnel of law enforcement or governmental agencies, to install, use or operate within the city a loudspeaker or sound-amplifying equipment in a fixed or movable position or mounted upon any sound truck for the purposes of giving instructions, directions, talks, addresses, lectures, or transmitting music to any person or assemblages of persons in or upon any street, alley, sidewalk, park, place or public property without first filing a registration statement and obtaining approval thereof as set forth in BMC [8.20.050](#) through [8.20.080](#). (Ord. 77 2 N.S. § 1, 1977; prior code § 12-502).

8.20.050 Sound-amplifying equipment – Registration – Statement filing and approval.

A. Every user of sound-amplifying equipment shall file a registration statement with the city manager or his designee 15 days prior to the date on which the sound-amplifying equipment is intended to be used, which statement shall contain the following information:

1. The name, address and telephone number of both the owner and user of the sound-amplifying equipment;
2. The maximum sound-producing power of the sound-amplifying equipment which shall include the wattage to be used, the volume in decibels of sound which will be produced, and the approximate distance for which sound will be audible from the sound-amplifying equipment;
3. The license and motor number if a sound truck is to be used;
4. A general description of the sound-amplifying equipment which is to be used; and
5. Whether the sound-amplifying equipment will be used for commercial or noncommercial purposes.

B. The city manager, or his designee, shall return to the applicant an approved certified copy of the registration statement unless he finds that:

1. The conditions of the motor vehicle movement are such that in the opinion of the city manager, use of the equipment would constitute a detriment to traffic safety; or
2. The conditions of pedestrian movement are such that use of the equipment would constitute a detriment to traffic safety; or
3. The registration statement required reveals that the applicant would violate the provisions set forth in BMC [8.20.080](#) or any other provisions of this code.

C. In the event the registration statement is disapproved, the city manager or his designee shall enforce upon the statement his reasons for disapproval and return it forthwith to the applicant. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-503).

8.20.060 Sound-amplifying equipment – Registration – Fee.

Prior to the issuance of the registration statement, a fee in the amount of \$25.00 per day, or any portion thereof, shall be paid to the city, if the loudspeaker or sound-amplifying equipment is to be used for commercial purposes. No fee shall be required for the operation of a loudspeaker or sound-amplifying equipment for noncommercial purposes. (Ord. 77-2 N.S. § 1, 1977; prior code § 12 505).

8.20.070 Sound-amplifying equipment – Appeal from disapproval.

Any person aggrieved by disapproval of a registration statement may appeal the disapproval to the city council pursuant to Chapter [1.44](#) BMC. (Ord. 07-37 § 1; Ord. 77-2 N.S. § 1, 1977; prior code § 12-504).

8.20.080 Sound-amplifying equipment – Use 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 9:00 a.m. and 8:00 p.m. each day except on Sundays and legal holidays. No operation of sound-amplifying equipment for commercial purposes shall be permitted on Sundays or legal holidays. The operation of sound-amplifying equipment for noncommercial purposes on Sundays and legal holidays shall only occur between the hours of 9:00 a.m. and 9:00 p.m.

C. Sound levels emanating from sound-amplifying equipment shall not exceed 15 decibels above the ambient base noise level.

D. Notwithstanding the provisions of subsection (C) of this section, sound-amplifying equipment shall not be operated within 200 feet of churches, schools, hospitals, or city or county buildings unless specifically authorized by the city manager or his designee.

E. In any event, the volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing, or a nuisance to reasonable persons of normal sensitiveness within the area of audibility. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-506).

8.20.090 Radios, television sets and similar devices.

A. Use Restricted. It is unlawful for any person within any residential zone of the city to use or operate any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing of sound between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day in such a manner as to disturb the peace, quiet and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area.

B. Prima Facie Violation. Any noise level exceeding the ambient base level at the property line of any property or, if a condominium or apartment house, within any adjoining apartment, by more than five decibels shall be deemed to be prima facie evidence of a violation of the provisions of this section. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-201).

8.20.100 Hawkers and peddlers.

It is unlawful for any person within the city to sell anything by outcry within any area of the city zoned for residential uses. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-202).

8.20.110 Drums – Use restricted.

It is unlawful for any person to use any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise within the city. This section shall not apply to any person who is a participant in a school band or duly licensed parade or who has been otherwise duly authorized to engage in such conduct. (Ord. 77-2 N.S. § 1, 1977; prior code § 12 203).

8.20.120 Schools, hospitals and churches.

It is unlawful for any person to create any noise on any street, sidewalk or public place adjacent to any school, institution of learning or church while the same is in use, or adjacent to any acute hospital, which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such street, sidewalk or public place indicating the presence of a school, church or hospital. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-204).

8.20.130 Animals and fowl.

Repealed by Ord. 07-72. (Ord. 77-2 N.S. § 1, 1977; prior code § 12 205).

8.20.140 Machinery, equipment, fans and air conditioning.

It is unlawful for any person to operate any machinery, equipment, pump, fan, air conditioning apparatus, or similar mechanical device in any manner so as to create any noise which would cause the noise level at the property line of any property to exceed the ambient base noise level by more than five decibels. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-206).

8.20.150 Construction of buildings and projects.

It is unlawful for any person within a residential zone, or within a radius of 500 feet therefrom, to operate equipment or perform any outside construction or repair work on buildings, structures, or projects or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device between the hours of 10:00 p.m. of any one day and 7:00 a.m. of the next day in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance unless beforehand a permit therefor has been duly obtained from the city manager or his designee. No permit shall be required to perform emergency work as defined in BMC [8.20.020](#). (Ord. 77-2 N.S. § 1, 1977; prior code § 12-301).

8.20.160 Vehicle repairs.

It is unlawful for any person within any residential area of the city to repair, rebuild, or test any motor vehicle between the hours of 10:00 p.m. of one day and 7:00 a.m. of the next day in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-401).

8.20.170 Motor-driven vehicles.

It is unlawful for any person to operate any motor-driven vehicle within the city in such a manner that a reasonable

person of normal sensitiveness residing in the area is caused discomfort or annoyance; 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 section. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-402).

8.20.180 Sound level measurement criteria.
Any sound level measurement made pursuant to the provisions of this chapter shall be measured with a sound level meter using the "A" weighting. (Ord. 77-2 N.S. § 1, 1977; prior code § 12 103).

8.20.190 Ambient base noise level.
Where the ambient noise level is less than designated in this section the respective noise level in this section shall govern.

		Sound Level A, decibels		
		Community Environment Classification		
Zone		Very Quiet (rural, suburban)	Quiet (suburban)	Slightly noisy (suburban, urban)
R1 and R2	10:00 p.m. to 7:00 a.m.	40	45	50
R1 and R2	7:00 p.m. to 10:00 p.m.	45	50	55
R1 and R2	7:00 a.m. to 7:00 p.m.	50	55	60
R3 and R4	10:00 p.m. to 7:00 a.m.	45	50	55
R3 and R4	7:00 a.m. to 10:00 p.m.	50	55	60
Commercial	10:00 p.m. to 7:00 a.m.		55	60
Commercial	7:00 a.m. to 10:00 p.m.		60	65
M1	anytime		70	70
M2	anytime		75	75

(Ord. 77-2 N.S. § 1, 1977; prior code § 12-104).

8.20.200 Excessive noise prohibited.
A. Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person to wilfully 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 standards which shall be considered in determining

whether a violation of the provisions of this section exists shall include, but not be limited to, the following:

1. The level of the noise;
2. The intensity of the noise;
3. Whether the nature of the noise is usual or unusual;
4. Whether the origin of the noise is natural or unnatural;
5. The level and intensity of the background noise, if any;
6. The proximity of the noise to residential sleeping facilities;
7. The nature and zoning of the area within which the noise emanates;
8. The density of the inhabitation of the area within which the noise emanates;
9. The time of day or night the noise occurs;
10. The duration of the noise;
11. Whether the noise is recurrent, intermittent, or constant; and
12. Whether the noise is produced by a commercial or noncommercial activity. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-601).

8.20.210 Petition for temporary relief from regulations.

Any person may petition the city council for temporary relief from provisions of this chapter by written request directed to the city clerk. The city council shall hear such petition at the next regular city council meeting not less than five days after the filing of said request. Upon hearing all the evidence, the city council may grant temporary relief from the provisions of this chapter upon such terms and conditions as the council may see fit if the council finds that the temporary relief does not endanger the health, welfare or safety of the residents of the city. The temporary relief may not exceed 30 days in duration. The applicant for relief may not exceed the provisions of this chapter until such time as the permit of the city has been issued. The decision of the city council shall be final. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-701).

8.20.220 Violation – Penalty.

Repealed by Ord. 03-9. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-105).

8.20.230 Violation – Additional remedy.

As an additional remedy, 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 reasonable 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 summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Ord. 77-2 N.S. § 1, 1977; prior code § 12-106).

¹ For statutory provisions on noise control, see Health and Safety Code § 46000 et seq.



The Benicia Municipal Code is current through Ordinance 13-05, passed May 7, 2013.

Disclaimer: The City Clerk's Office has the official version of the Benicia Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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