

1 **Chapter 66. ENVIRONMENT**

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3 **ARTICLE IV. SOUND LEVEL CONTROL PROGRAM.**

4 **DIVISION 1. GENERALLY**

5 **Sec. 66-133. Definitions.**

6 The following words, terms and phrases, when used in this article, shall have the meanings ascribed  
7 to them in this section, except where the context clearly indicates a different meaning:

8 **“A-weighted sound pressure level”** means the sound pressure level as measured on an ANSI-SI.4-  
9 1971 Type 1 or Type 2 sound level meter using the A-weighted network. It is the approximate sound  
10 level as heard by the human ear, measured in decibels, and denoted as dBA.

11 **“Ambient sound level”** is the all-encompassing sound existing at a specified point and time  
12 associated with a given environment. Ambient sound is usually a composite of sources near and far  
13 in a given environment, exclusive of occasional and transient intrusive sound sources and of the  
14 particular sound source or sources to be measured.

15 **“ANSI”** means the American National Standards Institute, a national body that establishes traceable  
16 standards for sound level meter accuracy and performance.

17 **“Authorized administrator”** means any enforcement agent, inspector, officer, or employee of the  
18 city or state agency charged with administration and enforcement of the sound level control program.

19 For the purpose of this article, “authorized administrator” includes the following agency and city  
20 personnel: the director of the department of safety and permits, the superintendent of police and the  
21 director of the Downtown Development District and any duly appointed and authorized  
22 representative of the department of safety and permits, the New Orleans Police Department and the  
23 Downtown Development District.

24 **“Business and Commercial Areas”** include, for the purposes of this Article, the following districts  
25 from the Comprehensive Zoning Ordinance: RO and RO-1 General Office Districts; B-1, B-1A and

**Comment [A1]:** Draft ordinance no longer refers to 10 dBA above ambient sound level or mentions ambient sound level in Table 1 or Enforcement Section, alleviating the Working Group’s concerns that ambient sound levels vary too much from place to place and using ambient sound level as a baseline for sound levels was inconsistent and unenforceable.

**Comment [A2]:** This draft has eliminated the Health Department and others from enforcement, limiting it to a smaller number as expressed in the Working Group sessions.

26 B-2 Neighborhood Business Districts; LB-1 and LB-2 Lake Area Neighborhood Business Districts,  
27 C-1, C-1A and C-2 General Commercial Districts; LC Lake Area Commercial Districts; SC  
28 Shopping Center District; MUA Mixed-Use District; CBD-1 thru CBD-9 Central Business Districts,  
29 HMC-1 and HMC-2 Historic Marigny Treme Commercial Districts; VCC-1 and VCC-2 Vieux Carre  
30 Commercial Districts; VCS and VCS-1 Vieux Carre Service Districts.

31 **“Construction”** means any site preparation, assembly, erection, substantial repairs, alterations, or  
32 similar action, for or of public or private rights-of-way, structures, utilities, or similar property.

33 **“Decibel”** means logarithmic unit of measure used in describing the relative intensity of sound;  
34 denoted as dB.

35 **“Demolition”** means any dismantling, intentional destruction or removal of structures, utilities,  
36 public or private rights-of-way surfaces, or similar property.

37 **“Domestic power tools”** means power tools used for the purpose of completing hobby projects,  
38 home improvements projects, and any other projects which are not used or sold for profit.

39 **“Emergency”** means any occurrence or set of circumstances involving actual or imminent physical  
40 trauma or property damage which demands immediate action.

41 **“Emergency vehicles”** means authorized publicly or privately owned ambulances, or motor vehicles  
42 belonging to a fire or police department, or to any federal, state, parish or municipal agency provided  
43 such vehicles are in use as emergency vehicles by one authorized to use such vehicles for that  
44 purpose.

45 **“Industrial area”** includes the following districts from the comprehensive zoning ordinance (Article  
46 5, Sections 14 through 16): SI-special industrial district, LI-light industrial district, HI-heavy  
47 industrial district and BIP-business-industrial park district.

48 **“L max”** means the maximum A-weighted sound level allowed.

49 **“Live Entertainment”** is defined in the City of New Orleans Comprehensive Zoning Ordinance.

50 **“Land use category”** means the classification of an area, usually by zoning districts, such as  
51 residential, industrial, commercial or public space, according to its use. Any area not otherwise  
52 classified shall be considered a commercial area. In case of multiple uses, the more restrictive  
53 category shall apply.

54 **“Motor vehicle”** means any self-propelled mechanical vehicle having two or more wheels used on  
55 the public roads and highways for the transportation of passengers or property. The definition  
56 includes all motorcycles, automobiles, and trucks, but does not include locomotives or vehicles  
57 operated exclusively on rail or rails.

58 **“Multiple-family dwelling”** is defined in the City of New Orleans Comprehensive Zoning  
59 Ordinance.  
60

61 **“Plainly audible sound”** means any sound which is detectable by a reasonable person of ordinary  
62 hearing using his unaided hearing faculty. For the purposes of enforcement, the detection of any  
63 component of sound, including but not limited to a bass component, by a reasonable person using his  
64 or her unaided hearing faculties, is sufficient to verify plainly audible sound. It is not necessary for  
65 such person to determine the title, specific words, artist or other source of such sound. In the case of  
66 motor vehicles the detection of the sound of a muffler or of an exhaust by a person using his or her  
67 unaided hearing faculties is sufficient to verify plainly audible sound.

68 **“Power equipment”** means any machine, tool, or similar device driven or operated by a motor.

69 **“Powered model vehicle”** means any self-propelled airborne, waterborne, or land-born model plane,  
70 model vessel or model vehicle which is not designed to carry persons, including but not limited to,  
71 any model airplane, boat, car, or rocket.

**Comment [A3]:** Definition has been added and expanded to clarify the term as directed in the Working Group. How to use the term for enforcement purposes has also added clarity.

72 **“Property boundary”** means an imaginary line at the ground surface and its vertical extension  
73 which separates the immovable property owned or inhabited by one person from that owned or  
74 inhabited by another person.

75 **“Public right-of-way”** means any street, avenue, boulevard, highway, sidewalk, alley or similar  
76 place normally accessible to the public which is owned or controlled by a governmental entity.

77 **“Public space”** means any other publicly or privately owned or maintained property provided for the  
78 use and enjoyment of the public.

79 **“Residential area”** includes, for the purpose of this Article, the following districts from the  
80 Comprehensive Zoning Ordinance: RS-1 thru RS-2 Single-Family Residential Districts, RD-1 thru  
81 RD-4 Two-Family Residential Districts, RM-1 thru RM-4 Multi-Family Residential Districts, LRS-1  
82 thru LRS-3 Lake Area Single-Family Residential Districts, LRD-1 and LRD-2 Lake Area Two-  
83 Family Residential Districts, LRM-1 and LRM-2 Multi-Family Residential Districts, MS Medical  
84 Service Districts, P Parks and Recreation, LP Lake Area Parks and Recreation Districts and, NU  
85 Non-Urban Districts, VCR-1 and VCR-2 Vieux Carre Residential Districts and HMR -1 and HMR-2  
86 Historic Marigny Residential Districts.

87 **“St. Louis Cathedral sound sensitive zone”** shall be defined as an area around St. Louis Cathedral  
88 bounded by and including St. Peter Street from the Chartres Street Mall to Cabildo Alley, Cabildo  
89 Alley, Pere Antoine Alley, Pirates Alley, St. Ann Street from a line parallel to Cabildo Alley to the  
90 Chartres Street Mall and the Chartres Street Mall to a line parallel with the fence line in Jackson  
91 Square.

92 **“Sound level”** means in decibels, the A-weighted sound pressure level obtained by use of a sound  
93 level meter as specified in American National Standards Institute (SI.13-1971, R1976).

94 **“Sound emanating device or instrument”** means any object used by a person that creates sound  
95 including but not limited to: television, radio, any musical instrument, megaphone, loudspeaker,  
96 amplifier, etc.

97 **“Sound level meter”** means an instrument for measuring sound, including a microphone, amplifier,  
98 output meter, and weighting network that is sensitive to pressure fluctuations which is designated by  
99 ANSI-SI.4-1971 as a Type 1 or Type 2 sound level meter using the A-weighted network.

100 **“Sound sensitive zone”** means posted areas that have restricted sound levels.

101 **“Sound vibration”** means oscillation or movement of things created or intensified by a sound  
102 source.

103 **“Special historic districts”** (also referred to as “SHD”) are regulated by the following districts from  
104 the comprehensive zoning ordinance (Article 5, Sections 18 through 21): Special historic  
105 district/Vieux Carre residential (SHD/VCR), VCR-1 and VCR-2; special historic district/Vieux Carre  
106 entertainment (SHD/VCE), VCE; special historic district/Vieux Carre commercial (SHD/VCC),  
107 VCC-1, VCC-2; and special historic district/Vieux Carre service (SHD/VCS),\_VCS-1; special  
108 historic district/historic Marigny residential (SHD/HMR), HMR-1 to HMR-3; special historic  
109 district/historic Marigny commercial (SHD/HMC), HMC and HMC-2.

110 **“Unreasonably Excessive Sound Levels”** means sound levels that would deprive a reasonable  
111 person of ordinary hearing the reasonable enjoyment of their property. Any sound level which  
112 exceeds the maximum permissible sound levels by land use categories in Table 1 of this article is an  
113 unreasonably excessive sound per se under this article.

114 Secs. 66-134—66-174. Reserved.

## 115 **DIVISION 2. ADMINISTRATION**

116 Cross references: Administration, ch. 2.

117 **Sec. 66-175. Administration.**

118 The sound level control program required by this article shall be administered by an authorized  
119 administrator. In order to implement and enforce this article, and for the general purpose of sound  
120 abatement and control, the duly appointed and authorized representative of the department of safety  
121 and permits, the New Orleans Police Department and the Downtown Development District,  
122 heretofore known as an “authorized administrator”, shall have the power to perform sound  
123 monitoring and make necessary inspections and tests for sound level measurements.

**Comment [a4]:** Cortizas: add “or enforced”

**Comment [a5]:** Cortizas: Is it possible to delegate this kind of enforcement authority to a non-city entity? RC will look into it.

124 **Sec. 66-176. Temporary permits.**

**Comment [A6]:** This section was expanded from the current ordinance and limits the duration of the permit, raises the price, allows for non-profit fee decreases, and creates a clear list of items needed to create both an application and a permit. This is to correct the current state of affairs, in which the temporary sound permit is no longer issued. Because second lines, jazz funerals, and traditional cultural rituals and/or expressions are exempt from Table 1 sound levels, they will also be exempt from this permit, addressing the concerns of the Working Group that the permit could be too costly and result in police action against cultural traditions and expressions that are not planned as special events but are more organic and spontaneous.

125 (a) Upon application the director of the department of safety and permits may grant a temporary  
126 permit which allows reasonable exceedence of the sound level limitations prescribed in this article  
127 for events of short duration, which is generally considered an eight (8) hour period of time, but in no  
128 circumstances is the time to exceed twelve (12) hours.

**Comment [a7]:** Cortizas: show justification for this fee, is it commiserate with similar fees? Does the \$200 price reflect the cost of review and enforcement?

129 (b) Temporary Sound Permits may be granted upon application, at a cost of \$200.00, provided a  
130 determination assures that the permit will not result in a condition injurious to health or safety of the  
131 public as explicitly stated in subsection “(d)” below. Upon showing proof of a 501(c)3 non-profit  
132 status the director of the health department or the director of safety and permits may reduce the cost  
133 of a non-profit organization’s application for a temporary sound permit to \$50.00 per application for  
134 an event held by the non-profit organization.

135 (c) The applicant for a temporary permit as detailed in either section (a)-(b) ~~or section (j) (k)~~ shall  
136 submit a verified application at least thirty (30) ~~forty five (45)~~ days prior to the date sought for the  
137 event. The application shall list the name of at least one natural person applicant and any associated  
138 business or organization, the address and phone number of the applicant, and with specificity the  
139 nature of the event including but not limited to: the location, the projected attendance, whether there  
140 will be a cover charge, the amount of the cover charge, the names and number of performers, the  
141 specifications of any and all amplification equipment.

**Comment [a8]:** Cortizas: Make it the same timetable as Temporary ABO permits and other special event permitting.

142 (d) The following factors shall be considered in all determinations to grant a Temporary Permit.  
143 These factors shall aid the department in determining whether the event is likely to result in injury to  
144 the health or safety of the public, injury to property, interference with property rights, or  
145 unreasonable disturbance of neighbors' reasonable enjoyment of their property:

**Comment [a9]:** Cortizas: specify Safety and Permits or insert all the enforcing departments mentioned above.

- 146 (1) Distance of proposed activity from residential districts, commercial districts, public space,  
147 sound sensitive zones, schools, churches or places of worship;
- 148 (2) Number of amplification devices, if any, to be used in the proposed activities;
- 149 (3) Sound level to be generated by amplification devices;
- 150 (4) Anticipated placement of amplification devices;
- 151 (5) Anticipated time of day, schedule and duration of the event;
- 152 (6) Whether the activity will be indoors or outdoors;
- 153 (7) Whether the sound level of the activity will be unreasonably excessive given the time,  
154 location, or nature of event;
- 155 (8) Whether the neighboring residents and businesses object to the event, and whether they  
156 have been consulted to establish times and levels when permissible exceedance of established  
157 sound level restrictions will be permitted;
- 158 (9) Whether the city councilmember in whose district the temporary permit will be used has  
159 been consulted and whether they have made any objection to the permits issuance;
- 160 (10) Any other considerations deemed appropriate by the director of the department of safety  
161 and permits.

**Comment [a10]:** Cortizas: districts should be replaced by "properties"

**Comment [a11]:** Cortizas: replace with "is requested"

162 (e) Upon such determination, the permit may be issued by the director of the department of safety  
163 and permits specifying place, duration, and any other restrictions appropriate to the proposed site and  
164 activity.

**Comment [a12]:** Cortizas: add "consideration and" determination

165 (f) Permits must be displayed and available for review by any authorized administrator upon request.

166 (g) Issued permits will be surrendered upon request to the director of the department of safety and  
167 permits or his authorized representative or the superintendent of police or his authorized  
168 representative when restrictions or factors described in subsection (d) of this section have been  
169 violated.

170 (h) Reapplication for a permit may be denied upon evidence of four (4) specific complaints by  
171 residents within a four (4) block radius of the permitted activity or if an applicant has in the past been  
172 required to surrender a permit as described in subsection (g) of this section.

173 (i) A permit may be issued for no more than one occasion of activity and in no circumstances is to  
174 exceed twelve (12) hours. All permits shall display the time, date, location, and description of  
175 permitted activity as indicated on the application. An applicant may not apply for more than twelve  
176 permits annually. An application for an event located at or for the benefit of a business shall be  
177 considered as an application of the business regardless of the name or names appearing on the  
178 application for the purpose(s) of enforcing this section.

179 Secs. 66-177—66-199. Reserved.

### 180 **DIVISION 3. REGULATIONS**

#### 181 **Sec. 66-200. Sound level measurement.**

182 (a) The following shall guide the measurement of sound levels for the purposes of this article:

183 (1) Sound level measurements may be made with a properly calibrated Type 1 or Type 2  
184 sound level meter.

185 (2) If the offense begins at one property and travels to another, sound level measurement may  
186 be taken at or beyond the property line or on property abutting the property line of the source  
187 producing the sound, if possible.

**Comment [a13]:** Cortizas: is this necessary to be in the ordinance? Seems redundant since applications, whether new or from the same event for a different year, can be denied for a variety of reasons already without specifying what is in this section.

**Comment [A14]:** Gives enforcement officers an objective measurement tool that takes out opinions on the quality of the sound, the legitimacy of the sound (whether it is "real" music or not, for example) etc., and allows enforcement to be less subjective as asked for by NOPD at Working Group

**Comment [A15]:** Addresses Working Group's concerns that sound measurement be taken at multiple locations to better understand the sound levels at different distances from the source. This can also discourage outward facing speakers as measurements taken at the property line or farther could be more likely to exceed Table 1 levels.

188 (3) If the offense begins on public property, sound level measurements may be taken at least  
189 fifty (50) feet from the thing or offender producing the sound.

190 (4) If properly made and recorded, sound level measurement of a violation in accordance  
191 with Table 1 shall be prima facie evidence that an offender is in violation of this ordinance.

192 (b) When a sound level measurement by a properly calibrated Type 1 or Type 2 meter is not  
193 feasible, the judgment of a reasonable person is the standard for determining whether a sound  
194 emanating onto or through private or public property is unreasonably excessive. The characteristics  
195 and conditions which should be considered in determining whether a violation has occurred should  
196 include, but not be limited to: the level and nature of the noise, the origin of the noise, the time of day  
197 or night, the nature of the receiving land use, the duration of the noise, and whether the noise is  
198 recurrent, intermittent, or constant.

199 (c) Alcoholic beverage license holders must survey live entertainment at their establishments in order  
200 to reasonably comply with regulations.

201 (d) In the case of two-family or multiple-family dwellings the sound level may be measured within  
202 an adjacent intra-building dwelling.

203 (e) When a sound source can be identified and its sound measured in more than one land use  
204 category, the limits of the more restrictive use shall apply at the boundary and within the most  
205 restrictive land use category. If there are multiple sources generating sound in close proximity to one  
206 another the same standard applies and the most restrictive land use category limits shall apply.

207 **Sec. 66-201. Maximum permissible sound levels.**

208 (a) No person shall operate or cause to be operated any source of sound in such a manner as to create  
209 a sound level which exceeds the limits set forth in Table 1 or which is unreasonably excessive.  
210 Where not specified otherwise, violations of this article shall constitute a civil offense, with penalties  
211 prescribed by section 66-210, 66-211 and 66-213. Any violation of any provision of this article,  
212 whether ultimately deemed civil or criminal, shall constitute a “nuisance” per-se.

213 (b) It shall be unlawful to operate any sound emanating device or instrument that is plainly audible  
214 to any person other than the operator between 10:00 p.m. and 7:00 a.m. in a public space or public  
215 right-of-way unless a special event or temporary sound permit has been issued.

216 (c) Reserved.

217 (d) It shall be unlawful between the hours of 9:00 p.m. and 10:00 a.m. to operate or play in a  
218 dwelling or business occupying a parcel or lot of land or to operate or play anywhere on a parcel or  
219 lot of land contiguous or adjacent to another parcel or lot of land occupied by a neighboring dwelling  
220 any sound emanating device or instrument in such a manner as to be plainly audible at a distance of  
221 one foot from any exterior wall of the neighboring dwelling or beyond the property line of the  
222 adjacent parcels or lots, whichever is the lesser distance from the point where the sound is produced  
223 or reproduced.

224 (e) It shall be unlawful between the hours of 9:00 p.m. and 8:00 a.m. on weekdays, and between  
225 10:00 p.m. and 10:00 a.m. on weekends to operate or play in an apartment, condominium unit or  
226 other dwelling unit of a multiple-unit structure occupying a parcel or lot of land or in any common or  
227 exterior area of such land a sound emanating device or instrument which is plainly audible within  
228 any other apartment, condominium unit or other dwelling unit within the same dwelling structure.

229 (f) It shall be unlawful to operate a sound emanating device or instrument that causes a sound  
230 vibration on the property of another person from 10:00 p.m. until 7:00 a.m. weekdays and 10:00 p.m.  
231 until 8:00 a.m. weekends, unless otherwise stated in this article.

232 (g) For any source of sound the maximum sound level (L<sub>max</sub>) shall not be exceeded.

233 **TABLE 1**

234 **MAXIMUM SOUND LEVEL BY LAND USE CATEGORY EMANATING THE SOUND**

235 **TABLE INSET:**

**Comment [A16]:** Levels have been slightly increased from original table for industrial and entertainment districts to better reflect actual ambient sound in those areas. Times are now consistent across land use categories for ease of enforcement and understanding for the public. Exemptions now acknowledge cultural needs such as second lines, jazz funerals, and traditional cultural rituals or expressions such as those practiced by SAPCs, Indians, and others in order to better value their cultural contributions and ease the practice of their indigenous cultural expressions. Street musicians are no longer singled out for a “curfew” as in the old ordinance. Instead, they can play as long as they are emitting sound within the Sound Level Limits for the specified time and place in the table. These levels and limits apply equally to everyone, not just street musicians, but also clubs, etc. Finally, amplification devices are not singled out; instead they must also only emit sound within the specified Sound Level Limits. This allows those street musicians with non-acoustic instruments to still play as long as they keep the volume of their amplification within legal limits.

		Sound Level Limit
Land Use Category	Time	L max dBA
Residential	7:00 a.m.--10:00 p.m.	70
	10:00 p.m.--7:00 a.m.	60
Two family or multiple-family dwelling	7:00 a.m.--10:00 p.m.	60
	10:00 p.m.--7:00 a.m.	55
Parks and Recreation District / public rights of way	7:00 a.m.—10:00 p.m.	70
	10:00 p.m. –7:00 a.m.	55
Business and commercial	7:00 a.m.--10:00 p.m.	75
	10:00 p.m.--7:00 a.m.	65
Industrial	At all times	85
SHD/VCE (Special Historic District/Vieux Carre Entertainment)	At all times	85

**Comment [A17]:** This takes into account the current environment of the VCC Entertainment district while the Residential parts of the VCC will fall under the lower sound limits above as expressed in the Working Group.

236 (Code 1956, § 42A-4; M.C.S., Ord. No. 18,399, § 2, 9-4-97)

237 **Sec. 66-202. Exemptions from Section 66-201.**

238 The following are exempt from the sound level limits of Section 66-201:

239 (1) Domestic power tools, lawn mowers and agricultural equipment, between the hours of 7:00 a.m.  
 240 and 9:00 p.m. weekdays and 8:00 a.m. and 9:00 p.m. on weekends.

**Comment [A18]:** Working Group expressed that maybe it would be better to make these times match those in Table 1, however, it may also be important to limit power tools to 9:00 PM to avoid use of those tools at 10 or later.

241 (2) Sound levels resulting from any authorized emergency vehicles when responding to an  
 242 emergency.

243 (3) Safety signals and alarm devices, storm warning sirens or horns, and the authorized testing of  
 244 such equipment.

245 (4) Sound levels made during a parade or concert sponsored by the city, or for which a permit has  
246 been granted by the city.

247 (5) Any sound resulting from activities of a temporary duration, for which a temporary permit has  
248 been granted pursuant to this article.

249 (6) Sound levels from nonamplified church bells and chimes.

250 (7) Sound levels from construction and demolition activities for which a building permit has been  
251 issued by the Department of Safety and Permits are exempt from Table 1 between the hours of 7:00  
252 a.m. and 6:00 p.m., except for those areas zoned as RS, RD, RM, HMR, VCR, LR residential  
253 districts. Construction and/or demolition activities shall not begin before 7:00 am or continue after  
254 6:00 p.m. in areas zoned as RS, RD, RM, HMR, VCR, LR residential districts or within 300 feet of  
255 such residential districts.

256 (8) Interstate railway locomotives and cars.

257 (9) Installation and maintenance of public and private utilities.

258 (10) Mosquito control ground-spraying operations.

259 (11) Street cars.

260 (12) Any outdoor evangelistic endeavor conducted by a bona fide, tax-exempt religious organization  
261 or by a duly authorized representative thereof.

262 (13) Traditional cultural rituals or expressions.

263 (14) Jazz funerals.

264 (15) Golf course lawn and maintenance activities at legally permitted golf courses on Mondays  
265 through Saturdays, between the hours of 7:00 a.m. and 6:00 p.m.

266 (Code 1956, § 42A-6; M.C.S., Ord. No. 19,420, § 1, 10-21-99; M.C.S, Ord. No. 22723, § 1, 7-12-07)

267 **Sec. 66-203. Specific nuisance sounds prohibited.**

268 In addition to the general prohibitions set out in this article, the following specific acts are declared to  
269 be in violation of this article:

270 (1) *Animals*. No person having charge, care, custody, or control of any animal shall cause or permit  
271 such animal to cause unreasonable noise including, but not limited to, any sound that is plainly  
272 audible at any location within any residential receiving property as set forth below:

**Comment [A19]:** This new draft now specifies where the animal sounds may be heard in order to constitute a nuisance along with sound duration, addressing concerns from Working Group.

273 (a) At or after 7:00 a.m. and before 10:00 p.m., continuously for a period of 10 minutes or  
274 more.

275 (b) At or after 10:00 p.m. and before 7:00 a.m., continuously for a period of 5 minutes or  
276 more.

277 (2) *Horns, signaling devices*. It shall be unlawful to sound any horn or signaling device on any street  
278 or public place in the city for purposes other than motor vehicle, driver, and/or pedestrian safety. To  
279 ensure the public safety and crowd control, the use of bullhorns, except by duly authorized peace  
280 officers, shall be prohibited for any other purpose in the area bounded by the river, Esplanade  
281 Avenue, Rampart Street and Iberville Street, except in the Vieux Carre Park district (VCP).

**Comment [A20]:** Should add that "is not a musical instrument being used to play music and is not being used as a signaling device" or something like it, in order to make sure that horns used by street musicians are not included in this section.

282 (3) *Machinery, fans, and air conditioners*. It shall be unlawful to operate or permit the operation of  
283 any stationary machinery, air-conditioners, air-handling equipment, fans, or similar devices in such a  
284 manner as to exceed sound level limitations in Table 1 of the land use categories when measured  
285 where the sound emanates or measured at the closest location to the sound source. If a sound meter is  
286 not available then it shall be unlawful to operate or permit the operation of any stationary machinery,  
287 air-conditioners, air-handling equipment, fans, or similar devices in such a manner as to be plainly  
288 audible within one foot of any interior wall of an adjacent dwelling or plainly audible at or beyond  
289 the property line of an adjacent parcel or lot.

**Comment [A21]:** Eliminated section from old ordinance on Radios, Televisions, Musical Instruments, and Loud Speakers because it singled out musicians and it is unclear whether it would be constitutional to eliminate amplifiers. Instead all sound from all sources, except for those exempted, must adhere to Table 1. Also cut Power Equipment Section because redundant as found in Working Group.

290 (4) *Aircraft engines*.

**Comment [aeg22]:** I find this problematic considering the small parcel size in many residential parts of the city with little yard space and buildings abutting the property line. Most residential air conditioners, particularly multiple units outside houses that have been split into apartments, are audible at the property lines of adjacent lots. Basically, this section will be making air conditioning illegal in most of the non-suburban parts of the city.

291 (a) It shall be unlawful for any person to operate, run, or test or cause to be operated, run, or  
292 tested an aircraft engine which creates sound levels exceeding Table 1 of the land use  
293 category measured at any place within an inhabited zone of the city.

294 (b) The intent of this subsection is to regulate sound levels produced in the testing,  
295 maintenance, and repairs of aircraft engines and aircraft hours. Any aircraft operating during  
296 a landing, takeoff, or while moving upon ground surface of an airport shall be exempted from  
297 the provisions of this section.

298 (Code 1956, ' 42A-5; M.C.S., Ord. No. 18,399, ' 3, 9-4-97; M.C.S., Ord. No. 18,625, ' ' 2, 3, 2-19-  
299 98)

300 Cross references: Animals, ch. 18. ; Sec. 66-202

301 **Sec. 66-204. Sound sensitive zones.**

302 It shall be unlawful to create or cause the creation of any sound levels, other than those exemptions  
303 stated in section 66-202, within 500 feet of any sound sensitive zone, so as to exceed the residential  
304 land use levels set forth in Table 1, provided that conspicuous signs are displayed indicating the  
305 presence of the sound sensitive zone.

306 **Sec. 66-205. St. Louis Cathedral sound sensitive zone.**

307 It shall be unlawful for any person or persons in the St. Louis Cathedral sound sensitive zone to  
308 create or to cause the creation of any sound in excess of 70 decibels at a distance of 50 feet from the  
309 source during religious services in St. Louis Cathedral, provided that conspicuous signs are displayed  
310 outside of the cathedral during the conduct of such services. An authorized administrator shall order  
311 any person or persons in violation of this section to immediately cease creating or causing the  
312 creation of excessive sound levels. If such person or persons fail to obey this order, appropriate  
313 action shall be taken pursuant to this article.

314 (M.C.S., Ord. No. 18,857, § 2, 9-3-98)

**Comment [aeg23]:** Are there any other Sound sensitive zones besides St. Louis? The ordinance should contain a tool for creating other Sound Sensitive Zones only around churches, schools, and senior homes and the standard circumference of the zone should stay at 500 ft. for consistency. Also a mechanism for nominating one of the allowed facilities to become a Sound Sensitive Zone, perhaps through a formal letter or petition with a certain number of signatures to the Council member of that district and then a required public meeting before adding the new zone to the ordinance.

315 **Sec. 66-206. Motor vehicles.**

316 (a) *Sound emanating device in vehicles.* No person operating or occupying a motor vehicle shall  
317 operate or permit the operation of any sound emanating device in such a manner that it is plainly  
318 audible at a distance of fifty (50) feet or more from the vehicle, or in the case of a motor vehicle on  
319 private property, beyond the property line.

320 (b) *Static tests for motor vehicles.*

321 (1) No person shall operate a motor vehicle having a manufacturer's gross vehicle weight  
322 rating of at least 6,000 pounds which exceeds 93 dBA, measured 25 feet (7.6m) from the side  
323 of the vehicle. The sound level shall be observed during the full cycle of engine acceleration-  
324 deceleration, and the measured sound level reading shall be the highest value obtained during  
325 this cycle, excluding unrelated peaks due to ambient sound. When there is more than one  
326 outlet, the sound level for each side of the vehicle shall be measured, and the reported sound  
327 level shall be the average of the two highest readings within one decibel of each other on the  
328 loudest side.

329 (2) No person shall operate a motor vehicle having a manufacturer's gross vehicle rating of  
330 less than 6,000 pounds, except a motorcycle, which exceeds 95 dBA, measured 20 inches  
331 (508mm) from the exhaust outlet. The measured exhaust system sound level of a stationary  
332 vehicle shall be the highest reading obtained during the test, disregarding unrelated peaks due  
333 to extraneous ambient sound levels. When there is more than one exhaust outlet, the reported  
334 sound level shall be for the loudest outlet. When there is more than one exhaust outlet from a  
335 single muffler, separated by less than 12 inches (305mm), measurements shall be made on  
336 the outlet closest to the side of the vehicle.

337 (Code 1956, § 42A-7)

338 Cross references: Traffic and vehicles, ch. 154.

339 **Sec. 66-207. Specific motor vehicle sound prohibited.**

340 (a) *Mufflers and sound dissipating devices.* No person shall operate, or cause to be operated any  
341 motor vehicle equipped with a muffler that exceeds allowable levels in section 66-206.

342 (1) Any modifications to the exhaust system which cause the vehicle to exceed maximum  
343 permissible levels is prohibited. Such modifications include: Removal or puncturing the  
344 muffler, baffles, header pipes, or any other component which conducts exhaust gases.

345 (2) No person shall remove or render inoperative or cause to be removed or rendered  
346 inoperative, any muffler or sound dissipating device on a motor vehicle other than for  
347 purposes of maintenance, repair, or replacement.

348 (b) *Refuse collection vehicles.* No person shall collect refuse with a refuse collection vehicle between  
349 the hours of 8:00 p.m. and 5:00 a.m. the following day in a residential area or sound sensitive zone.  
350 This provision shall not apply to collection areas requiring greater than normal twice-weekly refuse  
351 collection for sanitary/health reasons.

352 (c) *Off-road motorized vehicles.* No person shall operate or cause to be operated any off-road  
353 motorized vehicle off a public right-of-way in such a manner that the sound levels emitted therefrom  
354 violate the provisions of section 66-201 "Maximum permissible sound levels". This section shall  
355 apply to all off-road motor vehicles, whether or not duly licensed and registered, including, but not  
356 limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, amphibious craft,  
357 campers and dune buggies, but not including motorboats.

358 (d) *Vehicle repair.* It shall be unlawful for any person within any zone of the city to repair, rebuild, or  
359 test any motor vehicle in such a manner that the sound levels produced exceeds the land use category  
360 in Table 1 when measured at the receiving property line.

361 (Code 1956, § 42A-8)

362 \*Cross reference: Sec. 66-205; Sec. 66-201.

363 **Sec. 66-208. Enforcement by code inspectors; notice of offenses; warnings; responsibility to**  
364 **provide current address.**

365 (a) *Warnings.*

366 (1) *Oral warnings.* If an authorized administrator observes an offense under this article  
367 without a complaint having been made, the authorized administrator may first issue one oral  
368 courtesy warning per day and inform the offender that the offender will be subject to  
369 penalties if the offense continues.

370 (2) *Written warnings.* An authorized administrator shall first issue a written warning to  
371 immediately cease the offense prior to issuing a notice of offense unless:

372 (i) an oral warning has been given the same day; or

373 (ii) a written warning has previously been issued within 12 months of the date of  
374 offense; or

375 (iii) the offender has been cited within 12 months or is concurrently being cited for a  
376 zoning, building code, or City Code offense.

377 The written warning shall be substantially in the same form as the notice of offense. Failure  
378 to correct the offense within 15 minutes following the issuance of a written or oral warning  
379 shall result in the issuance of a notice of offense pursuant to this section.

380 (b) *Notice of offense.* If an authorized administrator, as defined in section 66-175 of this ordinance,  
381 observes an offense under this article and the requirements of subsection (a)(2) have been satisfied,  
382 the authorized administrator shall issue a notice of offense to each person and entity. A courtesy  
383 copy of the notice shall also be provided to an employee or other representative of the business tax  
384 receipt holder who is on the premises of the business. The authorized administrator shall inform the  
385 offenders that they must immediately cease the offending conduct. The notice shall include the  
386 following information:

- 387 (1) Name of the offender.
- 388 (2) Date and time of the offense.
- 389 (3) Nature of the offense.
- 390 (4) Amount of fine or other penalty for which the offender may be liable pursuant to  
391 sections 66-210 and 66-211 of this article or as otherwise provided by law.
- 392 (5) Instructions and due date for paying the fine.
- 393 (6) Notice that the offense may be appealed by filing a written request for an administrative  
394 hearing with the clerk of the administrative hearing officer within ten days after service of the  
395 notice of offense, that failure to do so shall constitute an admission of the offense and waiver  
396 of the right to a hearing, and that unpaid fines will result in the imposition of liens.
- 397 (7) The notice shall also inform the offender that repeat violations of this article will result in  
398 the imposition of larger fines and may also result in revocation, suspension, or the imposition  
399 of restrictions on the business tax receipt, and/or certificate of use, or accessory use, and/or  
400 injunctive proceedings as provided by law. The notice shall be signed by the authorized  
401 administrator administering the violation.

402 (c) *Responsibility to provide current address.* The holder of the business tax receipt for the  
403 premises where an offense or warning is issued shall have the responsibility to keep the city advised  
404 of its current address and of the current address of the owner of the premises.

405 **Cross Reference:** Sections 66-175, 66-210, and 66-211.

406 **Sec. 66-209. Fines and penalties for animal or fowl noises.**

407 Any person who violates section 66-203(1) shall be fined or imprisoned in accordance with the  
408 following:

- 409 (1) First offense, \$50.00.
- 410 (2) Second offense, \$150.00.

411 (3) Third offense or subsequent violations shall result in a fine of \$300.00 or imprisonment of not  
412 more than 90 days or both.

413 (Code 1956, § 42A-14)

414 **Sec. 66-210. Fines and penalties for violations by alcoholic beverage outlets or alcoholic**  
415 **beverage permit holders and citizens' sound level complaints of alcoholic beverage outlets.**

416 (a) If the offender of this section is a city retail alcoholic beverage permit holder or employee or  
417 representative thereof, the permit holder shall be required to appear before the Alcoholic Beverage  
418 Outlet Board for a public hearing and the Board shall vote on fines and/or penalties as set forth in  
419 section 10-160 of this Code for any one of the following reasons relating to excessive sound levels:

420 (1) Maintaining or creating a nuisance within the meaning of this article or article 667 of the  
421 Louisiana Civil Code.

422 (2) Written complaints (individually or in petition form) from either any ten or more  
423 residents of the election precinct where the alcoholic beverage outlet is located or 70 percent  
424 of the owners of real property situated within 300 feet of any and all portions of the premises  
425 to be so used, that the outlet constitutes a nuisance as to the sound level control ordinance in  
426 the immediate neighborhood.

427 (b) As an alternative to the suspension or revocation of alcoholic beverage permits, the alcoholic  
428 beverage control board may impose one or more of the following sanctions, but is not limited to the  
429 following sanctions:

430 (1) A fine of no less than \$50.00 and no more than \$500.00;

431 (2) Limitation on operating hours and/or live entertainment;

432 (3) Requiring the posting of a security guard on premises;

433 (4) Requiring installation of soundproofing;

434 (5) Bond for payment of fines and/or fees;

**Comment [A24]:** Specifies different "track" for ABOs than for citizens with more stringent enforcement. Specifically mentions other enforcement tools other than fines, including suspension or revocation of ABO license as per Working Group.

435 (6) Suspension of alcoholic beverage permit;

436 (7) Revocation of alcoholic beverage permit.

437 Cross Reference: Section 10-160.

438 **Sec 66-211. Fines and penalties for an offense; appeals; alternate means of enforcement.**

439 (a) *Fines and penalties.* The following civil fines and penalties shall be imposed for offenses under  
440 this article:

441 (1) If the offense is the first offense, \$200.00 fine.

442 (2) If the offense is the second offense within the preceding 12 months, \$300.00 fine.

443 (3) If the offense is the third offense within the preceding 12 months, \$350.00 fine.

444 (4) If the offense is the fourth offense within the preceding 12 months, one weekend (noon  
445 Friday through noon Monday), \$400.00 fine.

446 (5) If the offense is the fifth offense within the preceding 12 months, two weekends (noon  
447 Friday through noon Monday), \$500.00 fine.

448 (6) If the offense is the sixth or greater offense within the preceding 12 months, the offender  
449 shall be considered a habitual offender with penalties and fines imposed pursuant to section  
450 66-213.

451 (7) The first time an offense is committed while the violator is also engaged in an illegal  
452 commercial or nonpermitted, nonresidential use in a residential zoning district, \$400.00,  
453 notwithstanding the fine provision in subsection (1) above.

454 (8) The second or any subsequent time an offense is committed while the offender is also  
455 engaged in an illegal commercial or nonpermitted, nonresidential use in a residential zoning  
456 district, \$500.00, notwithstanding the fine provisions in subsections (2)--(4) above.

457 (9) A person may receive a separate notice of offense once every hour if an offense has  
458 occurred at any time within that period. Each offense shall constitute a separate offense for  
459 which a separate fine shall be imposed. An offense shall be deemed to have occurred on the

**Comment [A25]:** This is the other "track" for non-ABOs and individuals that is more gradual and less harsh as per the Working Group. Less opaque than current ordinance, attached flow sheets will assist citizens and enforcement as per Working Group.

**Comment [A26]:** Better enforcement tool than previous ordinance.

460 date the offense occurred. Business tax receipt conditions or accessory use restrictions  
461 pursuant to this section shall be imposed by order of the administrative hearing officer after  
462 finding an offense warranting suspension or restriction has occurred. An offense occurring 12  
463 months after the last offense shall be treated as a first offense for purposes of incurring new  
464 fines and penalties. However, any fines or penalties imposed in any prior 12-month period  
465 shall not be waived or altered.

466 (b) An offender who has been served with a notice of offense and fine shall elect either to:

467 (1) Pay the civil fine in the manner indicated on the notice; or

468 (2) File a written request for an administrative hearing before an administrative hearing  
469 officer to appeal the offense cited by the authorized administrator that resulted in the issuance  
470 of the notice of offense. The written request shall be submitted to the clerical staff of the  
471 administrative hearing officer no later than ten (10) days of service of the notice of offense,  
472 and shall be accompanied by a \$75.00 appeal fee. The fee may be returned to the offender if  
473 the administrative hearing officer rules in favor of the offender. All disputes regarding proper  
474 notice of the offense and timeliness of the appeal shall be heard by the administrative hearing  
475 officer prior to any hearing on the merits of the offense itself.

476 (c) The procedures for appeal of the notice of offense shall be as follows. A courtesy mail notice  
477 shall be promptly provided to the complainant of any hearing regarding the notice of offense, and the  
478 complainant may testify at such hearings; provided, however, that non-transmission of the courtesy  
479 notice to the complainant shall not in any way invalidate, affect, or impair any of the further  
480 proceedings, actions, or determinations in the case. Failure to give such notice shall not be a cause  
481 for continuance or cancellation of any scheduled hearing of the matter. Only two continuances, for no  
482 longer than 20 days each, shall be granted by the administrative hearing officer for any  
483 administrative hearing unless the alleged offender, at a hearing on a motion for continuance,  
484 establishes by testimony, and/or other evidence, that good cause exists for a further continuance. If

485 the administrative hearing officer or municipal judge finds that an offense has occurred, the  
486 applicable penalty set forth in this section shall be imposed.

487 (d) Failure of the named offender to appeal the decision of the authorized administrator within the  
488 prescribed time period shall constitute a waiver of the offender's right to administrative hearing  
489 before the administrative hearing officer. A waiver of the right to an administrative hearing shall be  
490 treated as an admission of the offense and penalties shall be assessed accordingly. In the event of a  
491 fourth or subsequent offense, and following notification by the inspector or officer of the offender's  
492 failure to timely request an administrative hearing, the administrative hearing officer may enter an  
493 order setting the time during which conditions may be imposed on the offender's business tax receipt  
494 or, as applicable, the accessory uses may be restricted. Such conditions or restrictions shall begin no  
495 later than 30 days after entry of the order by the administrative hearing officer. Any party aggrieved  
496 by the decision of the administrative hearing officer may appeal that decision to the Civil District  
497 Court for the Parish of Orleans.

498 (e) The city may institute proceedings in a court of competent jurisdiction to compel payment of  
499 civil fines. A certified copy of an order imposing a civil fine due under this section may be recorded  
500 in the public records and thereafter shall constitute a lien upon any other real or personal property  
501 owned by the offender. All costs and attorneys fees incurred by the city for collecting any fine shall  
502 be paid by the offender.

503 (f) Notwithstanding any other provision of law to the contrary, as an alternative or additional means  
504 of enforcement, the city and/or any person and/or any duly organized neighborhood or preservation  
505 organization may institute proceedings to revoke or suspend a business's tax receipts and/or  
506 occupational license and/or special permits and/or seek injunctive relief in a court of competent  
507 jurisdiction. This provision applies regardless of whether an offender has been notified or cited by an  
508 authorized administrator of a specific violation, and regardless of the existence or outcome of any  
509 other proceedings against the offender.

510 (g) In the event a habitual offender does not hold a business tax receipt or certificate of use, the  
511 administrative hearing officer shall impose a fine up to \$500.00 per violation.

512 (h) Any fine imposed under this article shall become a lien pursuant to the procedures of  
513 subsections “(e)” of this Article.

514 (i) In addition, in the event an offender refuses to comply with a notice of offense issued under this  
515 section, an offender may be punished by imprisonment not to exceed 90 days or by imposition of a  
516 fine not to exceed \$500.00 per offense or both.

517 (j) Nothing herein shall restrict the powers and authority granted to the council or various boards of  
518 the city, including the imposition of conditions and sanctions not specifically enumerated in this  
519 article.

520 (k) Nothing herein shall be deemed to modify existing applicable city building and fire codes,  
521 ordinances, laws or regulations.

522 (l) A nolle prosequi, or any other decision made by the city not to prosecute a notice of offense,  
523 must be based upon good cause and issued in writing in a public record.

524 **Sec. 66-212. Offenses; criminal penalties.**

525 Any person violating any of the provisions of this article who has refused compliance after receipt of  
526 notice on the same day or who is a habitual offender may be deemed guilty of a misdemeanor and  
527 upon conviction thereof, shall be fined in an amount not to exceed that authorized by applicable state  
528 law, or be imprisoned for a period not exceeding 90 days, or by both such fine and imprisonment. A  
529 person may receive a separate notice of offense once every hour if an offense has occurred at any  
530 time within that period. Each offense shall constitute a separate offense for which a separate sentence  
531 and fine shall be imposed.

532 (Code 1956, § 42A-11)

533 **Sec. 66-213. Offenses; additional remedies; injunctions.**

534 As an additional remedy, the operation or maintenance of any business, device, instrument, vehicle,  
535 or machinery in violation of any provision of this article, or which operation or maintenance exceeds  
536 the limitations of this article may be subject to abatement summarily by a restraining order or  
537 injunction issued by any court of competent jurisdiction without bond.

538 (Code 1956, § 42A-12)

539 **Sec. 66- 214. Non-exclusivity of remedies.**

540 Notwithstanding any other provision of law to the contrary, this article shall not limit, effect, restrict,  
541 or inhibit any interested party from seeking any relief against an alleged offender before any court or  
542 administrative body, regardless of the pendency or outcome of proceedings initiated under this  
543 article.

544 Secs. 66-217—66-240. Reserved.”

1 **SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**  
2 **ORDAINS** that Section 6-34 of Chapter 6 is hereby amended and reordained to read as follows:

3 **“Chapter 6. ADMINISTRATIVE PROCEDURES**

4 \* \* \*

5 **Sec. 6-34. Authority of hearing officer.**

6 \* \* \*

7 (14) Sound Level Control, section 66-133 et. seq.

8 \* \* \*”

**ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS** \_\_\_\_\_

\_\_\_\_\_  
**PRESIDENT OF THE COUNCIL**

**DELIVERED TO THE MAYOR ON** \_\_\_\_\_

**APPROVED:**  
**DISAPPROVED:** \_\_\_\_\_

\_\_\_\_\_  
**MAYOR**

**RETURNED BY THE MAYOR ON** \_\_\_\_\_ **AT** \_\_\_\_\_

\_\_\_\_\_  
**CLERK OF COUNCIL**

**ROLL CALL VOTE:**

**YEAS:**  
**NAYS:**  
**ABSENT:**

