

**CHAPTER VII.
CONTROL OF NOISE AND VIBRATION**

Sec. B11-190. Declaration of findings, intent and policy.

It is determined that certain noise levels and vibrations are detrimental to the public health, welfare and safety, and are contrary to public interest.

It is the intent of this chapter to control unnecessary, excessive and annoying noise and vibration in the County of Santa Clara and to prohibit such noise and vibration generated from or by all sources as specified in this chapter. It is also the intent of the county to maintain quiet in those areas which exhibit low noise levels and to implement programs aimed at reducing noise in those areas within the county where noise levels are above acceptable values. Therefore, the board of supervisors does ordain and declare that creating, maintaining, causing or allowing to be created, caused or maintained any noise or vibration in a manner prohibited by or not in conformity with the provisions of this chapter is hereby declared a nuisance.

It is further determined that private civil actions seeking enforcement of the provisions of this chapter are necessary and desirable to accomplish the goal sought herein.

(Ord. No. NS-517.18, 9-22-81)

Sec. B11-191. Definitions.

- (1) Terminology: All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.
- (2) A-weighted sound level: The sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.
- (3) Agricultural property: A parcel of real property located in areas zoned exclusively for agricultural purposes.
- (4) Ambient noise level: The composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.
- (5) Commercial area: An area zoned for commercial uses.
- (6) Construction: Any site preparation, assembly, erection, substantial repair, alteration or similar action for or of public or private rights-of-way, structures, utilities or similar property.

- (7) Cumulative period: An additional period of time composed of individual time segments which may be continuous or interrupted.
- (8) Decibel: A unit for measuring the amplitude of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure of twenty (20) micropascals.
- (9) Demolition: Any dismantling, intentional destruction or removal of structures, utilities, public or private rights-of-way; surfaces, or similar property.
- (10) Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- (11) Emergency work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (12) Fixed noise source: A stationary device which creates sounds while fixed or motionless, including but not limited to, residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.
- (13) Impulsive sound: Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.
- (14) Industrial area: An area zoned for light or heavy industrial uses.
- (15) Intrusive noise: That noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency and time of occurrence, and tonal or informational content as well as the prevailing ambient noise level.
- (16) Mobile noise source: Any noise source other than a fixed noise source.
- (17) Motor vehicle: Motor vehicle shall include any and all self-propelled vehicles as defined in the California Motor Vehicle Code, including all on-highway type motor vehicles subject to registration under said code, and all off-highway type motor vehicles subject to identification under said code.
- (18) Motorboat: Any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor thereto (section 651(d), Harbors and Navigation Code).

(19) Muffler or sound dissipative device: A device consisting of a series of chambers or baffle plates, or other mechanical design, for the purpose of receiving exhaust gas, compressed air, or other gas flow, and effective in reducing noise.

(20) Multiple-family dwelling residential: Any real property with dwellings of three (3) or more units in any zoning district where such dwellings are a permitted use.

(21) Noise: Any sound which annoys or disturbs human beings or which causes or tends to cause an adverse psychological or physiological effect on human beings.

(22) Noise disturbance: Any sound which:

(a) Endangers or injures the safety or health of human beings or animals; or

(b) Annoys or disturbs a reasonable person of normal sensitivities; or

(c) Endangers or injures personal or real property.

(23) One- and two-family residential: Any real property in any zoning district where one- or two-family dwellings are a permitted use.

(24) Person: An individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

(25) Powered model vehicle: Any self-propelled, airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

(26) Public space: Any real property or structures thereon which are owned or controlled by a governmental entity.

(27) Pure tone: Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this chapter, a pure tone 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 (2) contiguous one-third octave bands by five (5) dB for center frequencies of five hundred (500) Hz and above and by eight (8) dB for center frequencies between one hundred sixty (160) and four hundred (400) Hz and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.

(28) Sound-amplifying equipment: Any device for the amplification of the human voice, music, or any other sound. This excludes standard automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed, and warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

(29) Sound level meter: An instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels, which at least satisfies the requirements pertinent for type S2A meters in American National Standards Institute specifications for sound level meters, S1.4-1971, or the most recent revision thereof.

(30) Sound truck: 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.

(31) Vibration perception threshold: The minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. The perception threshold shall be presumed to be a motion velocity of one one-hundredth (0.01) inches per second over the range of one (1) to one hundred (100) Hz.

(32) Weekday: Any day, Monday through Friday, which is not a national legal holiday.

(Ord. No. NS-517.18, 9-22-81; Ord. No. NS-517.54, § 8, 6-8-93)

Sec. B11-192. Exterior noise limits.

(1) Maximum Permissible Sound Levels by Receiving Land Use.

(a) The noise standards for the various receiving land use categories as presented in table B11-192 shall apply to all such property within any zoning district.

(b) No person shall operate or cause to be operated any source of sound at any location within the unincorporated territory of the county or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property either incorporated or unincorporated, to exceed:

(i) The noise standard for that land use as specified in table B11-192 for a cumulative period of more than thirty (30) minutes in any hour; or

(ii) The noise standard plus five (5) dB for a cumulative period of more than fifteen (15) minutes in any hour; or

(iii) The noise standard plus ten (10) dB for a cumulative period of more than five (5) minutes in any hour; or

(iv) The noise standard plus fifteen (15) dB for a cumulative period of more than one (1) minute in any hour; or

(v) The noise standard plus twenty (20) dB or the maximum measured ambient, for any period of time.

(c) If the measured ambient level exceeds that permissible within any of the first four (4) noise limit categories above, the allowable noise exposure standard shall be increased in five dB increments in each category as appropriate to encompass or reflect said ambient noise level. In the event the ambient noise level exceeds the fifth noise limit category, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

(d) If the noise measurement occurs on a property adjacent to a different land use category, the noise level limit applicable to the lower land use category, plus five (5) dB, shall apply.

(e) If for any reason the alleged offending noise source cannot be shutdown, the ambient noise must be estimated by performing a measurement in the same general area of the source but at a sufficient distance such that the noise from the source is at least ten (10) dB below the ambient in order that only the ambient level be measured. If the difference between the ambient and the noise source is five (5) to ten (10) dB, then the level of the ambient itself can be reasonably determined by subtracting a one-decibel correction to account for the contribution of the source.

(2) Correction for Character of Sound: In the event the alleged offensive noise contains a steady, audible tone such as a whine, screech or hum, or contains music or speech conveying informational content, the standard limits set forth in table B11-192 shall be reduced by five (5) dB.

TABLE B11-192

EXTERIOR NOISE LIMITS

(Levels not to be exceeded more than 30 minutes in any hour)

Receiving Land Use Category	Time Period	Noise Level (dBA)
One- and Two-Family	10:00 p.m.--7:00 a.m.	45
Residential	7:00 a.m.-- 10 p.m.	55
Multiple-Family Dwelling	10:00 p.m.--7:00 a.m.	50
Residential Public Space	7:00 a.m.-- 10:00 p.m.	55
Commercial	10:00 p.m.--7:00 a.m.	60
	7:00 a.m.-- 10:00 p.m.	65
Light Industrial	Any Time	70
Heavy Industrial	Any Time	75

(Ord. No. NS-517.18, 9-22-81; Ord. No. NS-517.54, §§ 9, 10, 6-8-93)

Sec. B11-193. Interior noise standards.

(1) Maximum Permissible Dwelling Interior Sound Levels:

(a) The interior noise standards for multifamily residential dwellings as presented in table B11-193 shall apply, unless otherwise specifically indicated, within all such dwellings.

TABLE B11-193

Type of Land Use	Time Interval	Allowable Interior Noise Level (dBA)
Multifamily dwelling	10:00 p.m.-- 7:00 a.m.	35
	7:00 a.m.--10:00 p.m.	45

(b) No person shall operate or cause to be operated within a dwelling unit any source of sound or allow the creation of any noise which causes the noise level when measured inside a neighboring receiving dwelling unit to exceed:

(i) The noise standard as specified in table B11-193 for a cumulative period of more than five (5) minutes in any hour; or

(ii) The noise standard plus five (5) dB for a cumulative period of more than one (1) minute in any hour; or

(iii) The noise standard plus ten (10) dB or the maximum measured ambient, for any period of time.

(c) If the measured ambient level exceeds that permissible within any of the noise limit categories above, the allowable noise exposure standard shall be increased in five-dB increments in each category as appropriate to reflect said ambient noise level.

(2) Correction for Character of Sound: In the event the alleged offensive noise contains a steady, audible tone such as a whine, screech or hum, or contains music or speech conveying information content, the standard limits set forth in table B11-193 shall be reduced by five (5) dB.

(Ord. No. NS-517.18, 9-22-81)

Sec. B11-194. Prohibited acts.

(1) Noise Disturbances Prohibited. No person shall willfully or negligently make, continue or cause to be made or continued any sound which:

(a) Endangers or injures the safety or health of human beings or animals; or

(b) Annoys or disturbs a person of normal sensitivities; or

(c) Endangers or injures personal or real properties.

(2) Specific Prohibitions. The following acts, and the causing or permitting thereof, are declared to be in violation of this chapter:

2.1. Radios, television sets, musical instruments and similar devices. Operating, playing or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument, or similar device which produces or reproduces sound:

(a) Between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of section B11-192 or B11-193 except for activities for which a variance has been issued.

(b) In such manner as to exceed the levels set forth for public space in table B11-192, measured at a distance of at least fifty (50) feet (15 meters) from such device operating on a public right-of-way or public space.

2.2 Loudspeakers (amplified sound).

(a) Using or operating for any commercial purposes any loudspeaker system or similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property line, or at any time violates the provisions of section B11-193.

(b) Using or operating for any noncommercial purposes any loudspeaker, public address system or similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or at any time violates the provisions of section B11-192.

2.3. Street sales. Offering for sale, selling anything, or advertising by shouting, outcry or use of a noise-making device within any residential or commercial area of the county such as to cause a noise disturbance. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverage at licensed sporting events, parades, fairs, circuses or other similar licensed public entertainment events.

2.4. Animals and birds. Owning, possessing or harboring any animal or bird which howls, barks, meows, squawks or makes other noises continuously and/or incessantly for a period of ten (10) minutes or intermittently for one-half hour or more which creates a noise disturbance across a residential or commercial real property line. For the purpose of this section, the animal or bird noise shall not be deemed a disturbance if a person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other legitimate cause which teased or provoked the animal or bird.

2.5. Loading and unloading. Loading, unloading, opening, closing or handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property line or at any time to violate the provisions of section B11-192.

2.6. Construction/demolition.

(a) Operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work between weekdays and Saturday hours of 7:00 p.m. and 7:00 a.m., or at any time on Sundays or holidays, such that the sound therefrom creates a noise disturbance across a residential or commercial real property line, except for emergency work of public service utilities or by variance. This section shall not apply to the use of domestic power tools as specified in section B11-194 (2.11).

(b) Where technically and economically feasible, construction activities shall be conducted in such a manner that the maximum noise levels at affected properties will not exceed those listed in the following schedule:

(i) Mobile equipment. Maximum noise levels for nonscheduled, intermittent, short-term operation (less than 10 days) of mobile equipment:

	Single- and Two-Family Dwelling Residential Area	Multifamily Dwelling Residential Area	Commercial Area
Daily, except Sundays and legal holidays 7:00 a.m.-- 7:00 p.m.	75 dBA	80 dBA	85 dBA
Daily, 7:00 p.m. to 7:00 a.m. and all day Sunday and legal holidays	50 dBA	55 dBA	60 dBA

(ii) Stationary equipment. Maximum noise levels for repetitively scheduled and relatively long-term operation (periods of 10 days or more) of stationary equipment:

	Single- and Two-Family Dwelling Residential Area	Multifamily Dwelling Residential Area	Commercial Area
Daily, except Sundays and legal holidays 7:00 a.m.-- 7:00 p.m.	60 dBA	65 dBA	70 dBA
Daily, 7:00 p.m. to 7:00 a.m. and all day Sunday and legal holidays	50 dBA	55 dBA	60 dBA

2.7. Vibration. Operating or permitting the operation of any device that creates a vibrating or quivering effect that:

- (a) Endangers or injures the safety or health of human beings or animals; or
- (b) Annoys or disturbs a person of normal sensitivities; or
- (c) Endangers or injures personal or real properties.

2.8. Powered model vehicles. Operating or permitting the operation of powered model vehicles:

- (a) Between the hours of 7:00 p.m. and 7:00 a.m. the following day so as to create a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of section 811-192.
- (b) In such a manner as to exceed the levels set forth for public space land use in table 811-192, measured at a distance of not less than one hundred (100) feet (30 meters) from any point on the path of a vehicle operating on public space or public right-of-way.

2.9. Stationary nonemergency signaling devices. Sounding or permitting the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes, from any place, for more than ten (10) seconds in any hourly period.

2.10. Emergency signaling devices.

- (a) The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection (b).
- (b) (i) Testing of a stationary emergency signaling device shall not occur before 7:00 a.m. or after 7:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty (60) seconds.
- (ii) Testing of the complete emergency signaling system, including the functioning of the signaling device, and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 7:00 a.m. nor after 10:00 p.m. The time limit specified in subsection (i) shall not apply to such complete system testing.
- (c) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is terminated within fifteen (15) minutes of activation.

2.11. Domestic power tools.

(a) Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool between 10:00 p.m. and 7:00 a.m. the following day so as to create a noise disturbance across a residential or commercial real property line.

(b) Any motor, machinery or pump shall be sufficiently enclosed or muffled and maintained so as not to create a noise disturbance in accordance with section B11-192.

2.12. Air-conditioning or air-handling equipment. Operating or permitting the operation of any air-conditioning or air-handling equipment in such a manner as to exceed any of the following sound levels without a variance:

Measurement Location dB(A)

Any point on neighboring property line, 5 feet above grade level, no closer than 3 feet from any wall 50

Center of neighboring patio, 5 feet above grade level, no closer than 3 feet from any wall 45

Outside the neighboring living area window nearest the equipment location, not more than 3 feet from the window opening, but at least 3 feet from any other surface 45

2.13. Swimming pool motors and equipment. Operating or permitting the operation of any swimming pool motor or swimming pool equipment such that the sound therefrom creates a noise disturbance across a residential real property line or at any time violates the provisions of section B11-192.

2.14. Helicopters. Operating or permitting to be operated any helicopter which violates nighttime provisions of section B11-192 or which causes a noise that exceeds eighty (80) dBA during the day in residential or commercial areas without a variance. Military and government-operated helicopters are exempted from provisions of this section.

2.15. Fixed noise source location. Installation or permitting the installation of any fixed noise source in the side yards of any residence without a variance.

(Ord. No. NS-517.18, 9-22-81)

Sec. B11-195. Motor vehicle noise limits.

(1) Refuse Collection Vehicles.

(a) No person shall collect refuse with a refuse collection vehicle between the hours of 6:00 p.m. and 6:00 a.m. the following day in a residential area or adjacent to residential area.

(b) No person authorized to engage in waste disposal service or garbage collection shall operate any truck-mounted waste or garbage loading and/or compacting equipment or similar device in any manner so as to create any noise exceeding the following levels, measured at a distance of fifty (50) feet from the equipment in an open area:

(i) Existing equipment purchased or leased on or after a date six (6) months from the effective date of this chapter: Eighty-one (81) dBA.

(ii) New equipment purchased or leased after October 1, 1982: Seventy-three (73) dBA.

(iii) New equipment purchased or leased after July 1, 1984: Seventy (70) dBA.

(2) Vehicle, Motorboat or Aircraft Repair and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motor boat or aircraft in such a manner as to create a noise disturbance across a residential real property line, or at any time violate the provisions of section B11-192.

(3) Standing Motor Vehicles. No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within one hundred fifty (150) feet (46 meters) of a residential area between the hours of 10:00 p.m. and 7:00 a.m. the following day.

(4) Motorized Recreational Vehicles Operating Off Public Right-of-Way. No person shall operate or cause to be operated any motorized recreational vehicle off a public right-of-way in such a manner that the sound levels emitted therefrom violate the provisions of section B11-192. This section shall apply to all motorized recreational vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, amphibious craft, campers, dune buggies and motorboats.

(Ord. No. NS-517.18, 9-22-81)

Sec. B11-196. Special provisions.

(1) Emergency Exceptions. The provisions of this chapter shall not apply to:

(a) The emission of sound for the purpose of alerting persons to the existence of an emergency; or

(b) The emission of sound in the performance of emergency work.

(2) Warning Devices. Warning devices necessary for the protection of public safety, including but not limited to police, fire and ambulance sirens, and train horns, shall be exempted from the provisions of this chapter.

(3) Outdoor Activities. The provisions of this chapter shall not apply to occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided said events are conducted pursuant to a permit or license issued by the county relative to the staging of said events.

(4) Exemption From Exterior Noise Standards. The provisions of section B11-192 shall not apply to activities covered by the following sections:

(a) B11-194(2.3) street sales;

(b) B11-194(2.4) animals and birds;

(c) B11-194(2.6) construction/demolition;

(d) B11-194(2.9) stationary nonemergency signaling devices;

(e) B11-194(2.10) emergency signaling devices;

(f) B11-194(2.11) domestic power tools;

(g) B11-194(2.12) air-conditioning or air-handling equipment;

(h) B11-195(1) refuse collection vehicles.

(5) Agricultural Operations. The provisions of this chapter shall not apply to mechanical devices, apparatus or equipment associated with agricultural operations conducted on agricultural property.

(6) Federal or State Preempted Activities. Any activity to the extent regulation thereof has been preempted by state or federal law shall be exempt from the provisions of this chapter.

(7) County Expressway System. The entirety of the county expressway system, including existing and proposed facilities shall be exempted from the provisions of section B11-192.

(Ord. No. NS-517.18, 9-22-81)

Sec. B11-197. Variance permit procedure.

(1) Purpose. The director of public health is authorized to grant a variance from any provision of this chapter by a variance permit.

(2) Application and Fees. Any person seeking a variance pursuant to this section shall file an application with the public health department which shall prescribe the form of the application and data to be filed with the application. For purposes of partially defraying the expense involved in connection with an application for a variance permit, the application shall be accompanied by a fee in an amount established by resolution of the board of supervisors. A separate application shall be filed for each noise source; however, several mobile sources under common ownership or several fixed sources on a single property may be combined into one (1) application.

(3) Standards for Issuance of Variance. The purpose advanced by variance and disturbance created by said variance shall not create a nuisance and shall not be detrimental to the public health and safety. Variances shall not be granted for a term exceeding one hundred twenty (120) days, except that upon application and hearing as provided for in this chapter a variance may be renewed.

(4) Time and Place of Hearing. Upon the filing of a sufficient and proper application and the payment of filing fee, the director of public health shall fix a time and place for a public hearing.

(5) Notice of Hearing. The director of public health shall cause public notice of such hearing to be mailed to the owners of all property within three hundred (300) feet of the property affected by the application at their last-known addresses as are shown in the most recent records of the county assessor. The notice shall be mailed at least five (5) days before the date of the public hearing. A similar notice shall be mailed to the applicant.

(6) Conditions. In approving a variance permit, the director of public health may include such conditions that are reasonable and necessary under the circumstances to protect the public health, safety and welfare from adverse effects caused by the noise emanating therefrom and may limit the term of the permit.

(7) Findings and Decision. The director of public health, on the basis of the evidence submitted at the hearing, may grant a variance permit with any conditions deemed necessary and reasonable.

(8) Notice of Grant. Upon the grant of an application for a variance permit, the director of public health shall prepare and deliver to the applicant a formal statement thereof stating the fact of the grant and any condition attached thereto. No decision shall become final upon an application for a variance permit until the time in which an appeal may be filed with the board of supervisors has elapsed without an appeal having been filed.

(9) Appeals to Board of Supervisors.

(a) Any person dissatisfied with the decision of the director of public health may file an appeal with the board of supervisors within fifteen (15) calendar days after the decision. The director of public health shall transmit to the board of supervisors all maps, records,

papers and files which constitute the record in the action from which the appeal was taken. At the time of the filing of the appeal, the appellant shall pay a filing fee in an amount established by resolution of the board of supervisors.

(b) The board of supervisors shall, within thirty (30) days of the filing of the appeal, set the time and place for the appeal to be heard by the board of supervisors and shall cause notice of such hearing to be given as required in paragraph (4) of this section, five (5) days before the date of said hearing. The board of supervisors shall hear the matter de novo and may approve, disapprove or conditionally approve the application. The decision of the board of supervisors shall be final.

(10) Revocation of Variance.

(a) The director of public health may hold a hearing for modifying or revoking any permit or variance which has been granted pursuant to the provisions of this chapter. Public hearings shall be held and notice given in accordance with paragraph (4) of this section. Written notice of the hearing shall also be served upon any persons making use of or relying upon any permit or variance to be modified or revoked not less than five (5) days prior to the date of said hearing.

(b) After a public hearing, the director of public health may revoke or modify a permit on one (1) or more of the following grounds:

(i) That such approval was obtained by fraud; or

(ii) That any person making use of or relying upon the permit or variance is violating or has violated any conditions of such permit or variance, or that the use for which the permit or variance was granted is being or has been exercised contrary to the terms or conditions of such approval; or

(iii) That the use for which the approval was granted is so exercised as to be detrimental to the public health or safety, or so as to be a nuisance.

(Ord. No. NS-517.18, 9-22-81)

Sec. B11-198. Time to comply.

(1) Commercial/Industrial Operations. Those commercial or industrial operations in existence prior to the date of adoption of this chapter, if in compliance with local zoning ordinances and any permits issued thereunder, shall be granted a one-year period from the date of adoption within which to comply with the provisions of this chapter. This section applies only to commercial or industrial facilities already in existence or for which the work of improvement has been approved prior to the effective date of this chapter.

(a) During said one-year period, all such facilities shall make reasonable efforts to be in compliance and to reduce noise which exceeds the standards specified in this chapter.

Commencing at the end of one (1) year after the effective date of this chapter, any such facility shall be subject to all applicable requirements of this chapter.

(b) If any facility which is not in compliance by the end of said one-year period applies for a variance pursuant to section B11-197, in deciding whether to grant a variance, the director of public health shall take into account the extent to which the applicant has endeavored to reduce noise during said one-year period to meet the standards specified in this chapter.

(c) As used in this section, "industrial facility" means any building, structure, factory, plant, premises or portion thereof used for manufacturing or industrial purposes; and "commercial facility" means any building, structure, premises or portion thereof used for wholesale or retail commercial purposes.

(2) Other Operations. Except as provided above, all operations in existence prior to the date of adoption of this chapter shall have one hundred twenty (120) days to comply herewith or apply for a variance.

(Ord. No. NS-517.18, 9-22-81)

Sec. B11-199. Enforcement.

(1) Prima Facie Violations. Any noise exceeding the noise level limits specified in sections B11-192 and B11-193 or the prohibited actions as specified in section B11-194 of this chapter shall be deemed to be prima facie evidence of a violation of this chapter and prima facie evidence of irreparable harm.

(2) Violations; Remedies; Injunctions.

(a) As remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this chapter which operation or maintenance causes or creates sound levels or vibrations exceeding the allowable limits as specified in this chapter shall be deemed and is hereby 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. Additionally, no provisions of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom of any person for injury or damage arising from any violation of this chapter or from other law.

(b) Any person who knowingly and willfully violates an injunctive order obtained under paragraph (2) shall be deemed guilty of a misdemeanor and upon conviction thereof shall be sentenced to a term of imprisonment not to exceed five (5) days or a fine not to exceed five hundred dollars (\$500.00), or both.

(3) Violations; Criminal Penalties. Notwithstanding any other provisions of this Code, any person as defined in section B11-198 who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof sentenced

to a term of imprisonment not to exceed six (6) months or fined in an amount not to exceed two thousand dollars (\$2,000.00) per day, or both. This section shall also apply to persons violating subsection 2.14 of section B11-194.

(4) Citizen Suits. Any person may commence a civil action against any other person who is alleged to be in violation of any provision of this chapter. Any person commencing civil action under this chapter shall cause to be served a copy of any complaint upon county counsel.