

Postponed indefinitely 6/20/06

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Department of Health and
Human Services
For reading: April 18, 2006

ANCHORAGE, ALASKA
No. AO 2006-60

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 15.70 TO
2 CLARIFY PROVISIONS INCLUDING DEFINITIONS REGARDING NOISE, TO ADD
3 FINES, AND AMENDING SECTION 14.60.030 TO INCREASE FINES.

4
5 THE ANCHORAGE ASSEMBLY HEREBY ORDAINS:
6

7 **Section 1.** Anchorage Municipal Code section 15.70.030 is hereby amended to add new
8 definitions and to revise definitions as follows (*remaining definitions are not affected by this*
9 *ordinance and therefore not set out*):

10
11 **15.70.030** **Definitions.**
12

13 A. The following words, terms and phrases, when used in this chapter, shall have the
14 meanings ascribed to them in this section, except where the context clearly
15 indicates a different meaning:
16

17 *** **

18
19 *Commercial area* means any parcel of land zoned as B-1A, B-1B, [B-1] B-2A, B-
20 2B, B-2C, B-3 or B-4 under title 21.

21
22 *Construction* means site-preparing, erecting, assembling, altering, installing,
23 equipping, drilling, repairing, demolition or similar action on or of public or
24 private rights-of-way, buildings, or utilities. For purposes of this chapter,
25 construction is finite in duration. For the purposes of this chapter, modular house
26 fabrication; asphalt or concrete production; sand or gravel extraction; truss
27 manufacturing and other manufacturing are not construction when such activities
28 occur at a location other than a construction site as defined in this section
29 [MEANS ANY SITE PREPARATION, ASSEMBLY, ERECTION,
30 SUBSTANTIAL REPAIR, ALTERATION OR SIMILAR ACTION FOR OR OF
31 PUBLIC OR PRIVATE RIGHTS-OF-WAY, STRUCTURES, UTILITIES OR
32 SIMILAR PROPERTY, BUT EXCLUDES DEMOLITION].
33

34 *** **
35

Construction site means the location where site-preparation, erecting, assembling, altering, installing, equipping, drilling, repairing, demolition or similar construction on or of public or private rights-of-way, buildings, or utilities is being conducted or is taking place.

*** *** ***

Holiday means any day recognized by the Municipality as a holiday.

*** *** ***

Real property boundary means an imaginary line along the ground surface and its vertical extension or between separate apartments or condominiums separating [THAT SEPARATES THE] real property owned, rented or leased by one person from property [THAT] owned, rented or leased by another person.

*** *** ***

Vibration means rapid linear motion of an elastic solid [AN OSCILLATORY MOTION OF SOLID BODIES OF DETERMINISTIC OR RANDOM NATURE] described by displacement, velocity, [OR] acceleration, or as measured with respect to a given reference point or equilibrium position.

*** *** ***

(GAAB 16.85.030; AO No. 78-48; AO No. 85-18; AO No. 94-77(S), § 1, 5-31-94; AO No. 2001-97, § 1, 5-22-01)

Cross references: Definitions and rules of construction generally, § 1.05.020.

Section 2. Anchorage Municipal Code section 15.70.060 is hereby amended to read as follows (*the remainder of the section is not affected by this ordinance and therefore not set out*):

15.70.060 Prohibited acts and conditions.

*** *** ***

B. The following acts and conditions and the causing thereof are declared to be in violation of this chapter:

*** *** ***

3. Construction. No person shall, unless issued a noise permit by the department pursuant to section 15.70.070 and meeting all conditions of the permit, engage in construction or cause or allow construction so the sound level emanating from the construction site during:[NO PERSON SHALL OPERATE OR CAUSE THE OPERATION OF ANY TOOLS OR

EQUIPMENT USED IN CONSTRUCTION, DRILLING, REPAIR, ALTERATION OR DEMOLITION WORK]:

a. Construction season:

- i. Exceeds an Leq of 80dB(A) across a real property boundary or within a noise-sensitive zone during any one hour of the daily period from 6:00 a.m. and 10:00 p.m. on a weekday or Saturday;
- ii. Exceeds the sound level limit of 50 dB(A) across a residential area real property boundary or within a noise-sensitive zone between 10:00 p.m. and 6:00 a.m. on a weekday, weekend or holiday;
- iii. Exceeds the sound level limit of 60 dB(A) across a commercial area real property boundary between 10:00 p.m. and 6:00 a.m. on a weekday, weekend or holiday;
- iv. Exceeds the sound level limit of 80 dB(A) across an industrial area real property boundary between 10:00 p.m. and 6:00 a.m. on a weekday, weekend or holiday;
- v. Exceeds 60 dB(A) across a residential area real property boundary between 6:00 a.m. and 10:00 p.m. on a Sunday or holiday; or
- vi. Causes a noise disturbance at any time.

[SO THAT THE SOUND THEREFROM CREATES A NOISE DISTURBANCE ACROSS A RESIDENTIAL REAL PROPERTY BOUNDARY OR WITHIN A NOISE-SENSITIVE ZONE BETWEEN THE HOURS OF 10.00 P.M. AND 6:00 A.M. DURING THE CONSTRUCTION SEASON, BETWEEN THE HOURS OF 10:00 P.M. AND 7:00 A.M. DURING OTHER MONTHS, OR AT ANY TIME ON SUNDAYS OR STATE HOLIDAYS;]

b. Non-construction season:

- i. Exceeds an Leq of 80dB(A) across a real property boundary or within a noise-sensitive zone during any one hour of the daily period from 7:00 a.m. and 10:00 p.m. on a weekday or Saturday;
- ii. Exceeds the sound level limit of 50 dB(A) across a residential area real property boundary or within a noise-sensitive zone between 10:00 p.m. and 7:00 a.m. on a weekday, weekend or holiday;
- iii. Exceeds the sound level limit of 60 dB(A) across a commercial area real property boundary between 10:00 p.m. and 7:00 a.m. on a weekday, weekend or holiday;
- iv. Exceeds the sound level limit of 80 dB(A) across an industrial area real property boundary between 10:00 p.m. and 7:00 a.m. on a weekday, weekend or holiday;
- v. Exceeds 60 dB(A) across a residential area real property

boundary between 7:00 a.m. and 10:00 p.m. on a Sunday or holiday; or

vi. Causes a noise disturbance at any time.

[SO THAT THE SOUND LEVEL THEREFROM EXCEEDS AN LEQ OF 80 DB(A) AT OR WITHIN A RESIDENTIAL REAL PROPERTY BOUNDARY OR WITHIN A NOISE-SENSITIVE ZONE DURING ANY ONE HOUR OF THE DAILY PERIOD FROM 6:00 A.M. TO 10:00 P.M. DURING THE CONSTRUCTION SEASON OR FROM 7:00 A.M. TO 10:00 P.M. DURING OTHER MONTHS; OR]

- c. The restrictions of subsection B.3. of this section do not apply to emergency work [OF PUBLIC SERVICE UTILITIES] as provided in Section 15.70.020B., or the use domestic power tools as permitted in subsection B.4. [OF THIS SECTION OR CONSTRUCTION WORK FOR WHICH A PERMIT HAS BEEN ISSUED PURSUANT TO SECTION 15.70.070.A.] [SO THAT THE SOUND LEVEL THEREFROM EXCEEDS AN LEQ OF 80 DB(A) AT OR WITHIN A COMMERCIAL OR INDUSTRIAL REAL PROPERTY BOUNDARY DURING ANY ONE HOUR OF THE DAILY PERIOD FROM 6:00 A.M. TO 10:00 P.M. DURING THE CONSTRUCTION SEASON OR FROM 7:00 A.M. TO 10:00 P.M. DURING OTHER MONTHS.]

*** *** ***

7. *Loading and unloading.* No person shall load, unload, open, close or otherwise handle 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 boundary or within a noise-sensitive zone. If the loading and unloading is on a construction site and is for the purpose of construction, the loading and unloading is limited as set out in subsection B.3.

*** *** ***

19. *Vibration.* No person shall operate or cause the operation of any device producing [THAT PRODUCES] low-frequency, audible or inaudible sound creating [THAT CREATES] vibration above the vibration perception threshold of any individual within a residential real property boundary or within a noise-sensitive zone between the hours of 10:00 p.m. and 7:00 a.m. the following day.

(GAAB 16.85; AO No. 78-48; AO No. 94-77(S), § 2, 5-31-94; AO No. 2001-97, § 2, 5-22-01)

Cross references: Vehicles and traffic, Tit. 9; business licenses and regulations, Tit. 10;

transportation, Tit. 11; Port of Anchorage, Ch. 11.50; municipal airports, Ch. 11.60; animals, Tit. 17; building regulations, Ch. 23.05; streets and rights-of-way, Tit. 24; utilities, Tit. 26.

Section 3. Anchorage Municipal Code section 15.70.080 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

15.70.080 Real p[P]roperty boundary [LINE] sound level limits by receiving land use [NOISE EMISSION STANDARDS].

A. Except as [OTHERWISE] provided in subsection[S] B. [AND C OF THIS SECTION], no person shall operate, [OR] cause to be operated, or allow to be operated on private property any source of sound in such a manner as to create a noise disturbance or sound level exceeding [THAT EXCEEDS] the sound level limits set forth [FOR THE RECEIVING LAND USE CATEGORY] in table 1 when measured at or within the real property boundary of the receiving land [USE].

TABLE 1. SOUND LEVELS LIMITS AT THE REAL PROPERTY BOUNDARY OF THE RECEIVING LAND USE CATEGORY [BY RECEIVING LAND USE]

Receiving Land Use Category	Time	Sound Level Limit (dB(A))
Residential area	7:00 a.m.—10:00 p.m.	60
	10:00 p.m.-- 7:00 a.m.	50
Commercial area	7:00 a.m.—10:00 p.m.	70
	10:00 p.m.-- 7:00 a.m.	60
Industrial area	At all times	80

B [C]. The provisions of subsection[S] A. [AND B OF THIS SECTION] shall not apply to the unamplified human voice or [AND] activities covered by sections 15.70.060B.1., pertaining to aircraft and airport operations, 15.70.060B.3., pertaining to construction, 15.70.060B.4., pertaining to domestic power tools, 15.70.060B.5., pertaining to emergency signaling devices, 15.70.060B.6., pertaining to explosives, firearms and similar devices, 15.70.060B.9., pertaining to motorboats, 15.70.060B.14., pertaining to public service utilities, 15.70.060B.16., pertaining to stationary nonemergency signaling devices, 15.70.090A., pertaining to motor vehicles operating on public rights-of-way, 15.70.090.D., pertaining to refuse collection vehicles, and 15.70.090E., pertaining to snow removal vehicles on public rights-of-way.

[NO PERSON SHALL OPERATE OR CAUSE TO BE OPERATED ANY SOURCE OF SOUND IN SUCH A MANNER AS TO CREATE A SOUND LEVEL MEASURED AT ANY LOCATION ON A BOUNDARY BETWEEN TWO RECEIVING LAND USE CATEGORIES THAT EXCEEDS THE ARITHMETIC MEAN OF THE RESPECTIVE SOUND LEVEL LIMITS SET FORTH FOR SUCH RECEIVING LAND USE CATEGORIES IN TABLE 1.]

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(GAAB 16.85; AO No. 78-48; AO No. 2001-97, § 3, 5-22-01)

Cross references: Supplementary zoning district regulations, Ch. 21.45.

Section 4. Anchorage Municipal Code chapter 15.70 is hereby amended to add a new section as follows:

15.70.110 **Penalties and remedies**

A. In addition to other legal action and remedies provided in this chapter and other related provisions of the Anchorage Municipal Code, the department may seek any or all of the following remedies:

1. Enjoin or abate a violation of this chapter;
2. Recover damages suffered because of the violation;
3. Recover a fine as set forth in section 14.60.030, or if no fine is set forth in section 14.60.030, a fine of not less than \$150 for each day in violation, including for days when the noise continues or is not fully abated after an enforcement order is issued;
4. Assess up to double the amount of fine, penalty, costs and damages for a second or subsequent offense committed within one (1) year of service of an enforcement order, even if the offense occurs on a different property parcel. For purposes of this subsection, a second or subsequent offense shall be categorized the same as the original offense; and/or
5. Recover a civil penalty not exceeding \$1,000 for each violation.

B. The remedies provided in this section are not exclusive, but are cumulative of all other remedies available at law or in equity.

Section 5. Anchorage Municipal Code section 14.60.030 is hereby amended to read as follows (*the remainder of the section is not affected therefore not set out*):

14.60.030 **Fine Schedule.**

The fine schedule under this chapter is as follows:

*** *** ***

15.70.060 Prohibited acts and conditions
[NOISE PRACTICES]:

A. Making improper noise \$150.00 [75.00]

B. Act in violation \$150.00 [75.00]

15.70.080 Property line noise:

A. Exceed limit \$150.00 [75.00]

B. Exceed limit \$150.00 [75.00]

15.70.090 Vehicle noise standards (identity specific violation)

\$150.00 [75.00]

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(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-152S, § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05; AO No. 2005-84(S), § 3, 1-1-06)

Section 6. This ordinance shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Assembly this ____ day of _____, 2006.

Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2006-60

Title: An Ordinance Amending Anchorage Municipal Code Chapter 15.70 to Clarify Provisions Including Definitions Regarding Noise, to Add Fines, and Amending Section 14.60.030 to Increase Fines.

Sponsor: Mayor

Preparing Agency: Department of Health and Human Services

Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:

(In Thousands of Dollars)

	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>
Operating Expenditures					
1000 Personal Services	\$ -	\$ -	\$ -	\$ -	\$ -
2000 Non-Labor	-	-	-	-	-
3900 Contributions	-	-	-	-	-
4000 Debt Service	-	-	-	-	-
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUES:					
CAPITAL:					
POSITIONS: FT/PT and Temp	0	0	0	0	0

PUBLIC SECTOR ECONOMIC EFFECTS:

We see no change in the operating budget as a result of the proposed amendment to the ordinance.

PRIVATE SECTOR ECONOMIC EFFECTS:

We expect minimal impact to the private sector as a result of the proposed amendment.



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 261 -2006

Meeting Date: April 18, 2006

1 **From:** MAYOR

2
3 **Subject:** An Ordinance Amending Anchorage Municipal Code Chapter 15.70 to Clarify Provisions
4 Including Definitions Regarding Noise, to Add Fines, and Amending Section 14.60.030 to Increase Fines.
5
6

7 As Anchorage continues to grow and develop, homeowners, business operators, tenants and recreational
8 area users find themselves closer and closer together. As people become closer together, noise becomes
9 more of an issue. Recently, noise has especially become a concern in areas where residential areas adjoin
10 industrial zones.
11

12 Notable changes being proposed include:

- 13 • Definition of “construction” has been clarified to explicitly exclude off-site fabrication of materials
14 used in construction. This means that off-site operations such as truss manufacture or asphalt batch
15 operations would not be eligible for noise permits and would abide by set noise limits.
16 • Requirements that the Department of Health and Human Services perform noise studies, develop sound
17 exposure maps, prepare noise control program reports and public education are not possible given
18 current resources, these requirements are being modified to “may” be performed rather than “shall be”.
19 • Under the current code the department is required to publish notice of receipt of a noise permit
20 application for activities exceeding 21 days duration. Proposed changes give the department director
21 latitude to determine whether a permit application notice must be published based on whether the
22 activity is anticipated to have a substantial impact on the public. In practice, public notices for noise
23 permits rarely elicit public comment.
24 • Fines for non-compliance are proposed to be increased.
25

26 Meetings held with known stakeholders, including people bothered by noise and people generating it,
27 provided an opportunity for the exchange of concerns, issues and solutions. As many suggestions as
28 possible from stakeholders have been incorporated into the draft document while maintaining the goal of
29 having a code that is reasonable, practical and enforceable.
30
31

32 ADMINISTRATION RECOMMENDS APPROVAL OF THE ATTACHED ASSEMBLY
33 ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 15.70 TO CLARIFY
34 PROVISIONS INCLUDING DEFINITIONS REGARDING NOISE, TO ADD FINES, AND
35 AMENDING SECTION 14.60.030 TO INCREASE FINES .
36

37 Prepared by: Lura J. Morgan, Manager, Environmental Services Division

38 Approved by: Beverly K. Wooley, Director, Department of Health and Human Services

39 Concur: Denis C. LeBlanc, Municipal Manager

40 Respectfully submitted: Mark Begich, Mayor

Content Information**Content ID :** 003834**Type:** Ordinance - AO**Title:** Noise Code Revisions 15.70 and 14.60.030**Author:** scottee**Initiating Dept:** HHS**Description:** Noise Code Revisions 15.70 and 14.60.030**Date Prepared:** 3/31/06 8:08 AM**Director Name:** Beverly K. Wooley**Assembly Meeting Date**
MM/DD/YY: 4/18/06**Public Hearing Date MM/DD/YY:** 5/16/06

2006 APR - 7 PM 4:56
 ULEIKS OFFICE
 M.D.A.

Workflow History

Workflow Name	Action Date	Action	User	Security Group	Content ID
AllOrdinanceWorkflow	3/31/06 8:12 AM	Checkin	scottee	Public	003834
AllOrdinanceWorkflow	3/31/06 8:26 AM	Reject	wooleybk	Public	003834
AllOrdinanceWorkflow	3/31/06 8:41 AM	Checkin	scottee	Public	003834
HHS_SubWorkflow	3/31/06 9:04 AM	Approve	wooleybk	Public	003834
OMB_SubWorkflow	4/3/06 5:33 PM	Approve	mitsonjl	Public	003834
AllOrdinanceWorkflow	4/3/06 6:42 PM	Reject	fehlenrl	Public	003834
AllOrdinanceWorkflow	4/4/06 11:36 AM	Checkin	scottee	Public	003834
HHS_SubWorkflow	4/4/06 4:48 PM	Approve	wooleybk	Public	003834
OMB_SubWorkflow	4/5/06 1:21 PM	Approve	mitsonjl	Public	003834
Legal_SubWorkflow	4/6/06 8:57 AM	Approve	fehlenrl	Public	003834
MuniManager_SubWorkflow	4/7/06 1:40 PM	Approve	leblancdc	Public	003834
MuniMgrCoord_SubWorkflow	4/7/06 2:18 PM	Approve	curtiscr	Public	003834