

CLERK'S OFFICE

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Submitted by: Assembly Member Johnston
Prepared by: Department of Health and
Human Services
For reading: May 10, 2011

ANCHORAGE, ALASKA
No. AO 2011-59

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 15.70
2 NOISE CONTROL PROVIDING FOR CLARIFIED DEFINITIONS, CLARIFIED NOISE
3 PERMIT CONDITIONS, ADDITION OF A SECTION REGARDING MEASUREMENTS
4 OF NOISE AND AMENDING SECTION 14.60.030 TO INCREASE FINES AND TO
5 REPEAL ANCHORAGE MUNICIPAL CODE OF REGULATIONS CHAPTER 15.70.
6

7 THE ASSEMBLY HEREBY ORDAINS:
8

9 **Section 1.** Anchorage Municipal Code section 15.70.030 is hereby amended to add
10 new definitions and to revise definitions as follows (*remaining definitions are not*
11 *affected by this ordinance and therefore not set out*):
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13 **15.70.030 Definitions.**
14

15 ***

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17 Commercial means of or relating to commerce, engaged in commerce,
18 involved in work designed or planned for the mass market; or designating
19 products, often unrefined, made and distributed in large quantities for
20 industrial use; or having profit as a primary aim; or paid for by an
21 advertiser or advertising.
22

23 Commercial area means any parcel of land zoned as commercial district,
24 downtown district, or mixed-use district [B-1, B-2A, B-2B, B-2C, B-3 OR B-
25 4] under title 21. It also means any development area within a planned
26 community development district under Title 21 where the designated land
27 use is commercial, business, or mixed use – commercial/residential.
28 Areas zoned residential-office under Title 21 are excepted from the
29 commercial area definition (see residential area).
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31 Construction means [ANY] site preparation, assembly, erection, drilling,
32 substantial repair, alteration, demolition, or similar action or activity for or
33 on:[OF] public or private rights-of-way; structures; utilities; or similar
34 property[; BUT EXCLUDES DEMOLITION]. For the purposes of this
35 chapter, off-site fabrication and/or manufacture of materials used in
36 construction including but not limited to modular housing fabrication,
37 asphalt or concrete operations, sand/gravel extraction and truss

manufacture are not construction.

Contiguous means sharing a common boundary or edge.

Department means the Municipal Department of Health and Human Services.

Director means the director of the Department of Health and Human Services or his/her designee.

Industrial area means any parcel of land zoned as industrial district [I-1, I-2,] under Title 21. It also means any development area within a community development district where the designated land use is industrial.

L_{max} means a single event metric used to describe the greatest sound level in decibels during a given time period and location.

Motor vehicle means any [EVERY] motorized vehicle which is self-propelled including but not limited to automobile, motorcycle, snow mobile, mini-bike, go-cart, motor scooter and off-road vehicle [INCLUDING THOSE DEFINED IN SECTION 9.04.010] but excluding railroad trains as defined under AMC 9.04.010. [AND EVERY VEHICLE WHICH IS PROPELLED BY ELECTRIC POWER OBTAINED FROM OVERHEAD TROLLEY WIRES, BUT NOT OPERATED UPON RAILS AS DEFINED IN SECTION 9.04.010, AND INCLUDES MOTORCYCLES OR MOTOR-DRIVEN CYCLES AS DEFINED IN SECTION 9.04.010.]

[MOTORCYCLE MEANS AN UNENCLOSED MOTOR VEHICLE HAVING A SADDLE FOR THE USE OF THE OPERATOR AND TWO OR THREE WHEELS IN CONTACT WITH THE GROUND, INCLUDING BUT NOT LIMITED TO MOTOR SCOOTERS AND MINIBIKES.]

1 *Noise-sensitive zone* means any area designated pursuant to Section
2 15.70.040.A.[7] 6 for the purpose of ensuring exceptional quiet.

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6 Person means a corporation, company, partnership, firm, association,
7 organization, business trust, or society, as well as a natural person.

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9 ***

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11 *Real property boundary* means an imaginary line along the ground
12 surface and its vertical extension or between separate apartments or
13 condominiums that separates the real property owned, rented or leased
14 by one person from that owned, rented or leased by another person.

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16 ***

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18 *Residential area* means any parcel of land zoned as residential district,
19 residential office district, public lands and institutions district, parks and
20 recreation or recreation reserve district, development reserve district,
21 watershed district, the turnagain arm district, girdwood commercial
22 recreation or resort use district, or the girdwood institutions and parks or
23 open space districts under Title 21. It also means any development area
24 within a planned community development district under Title 21 where the
25 designated land use is residential.[R-1, R-1A, R-2A, R-2D, R-2M, R-3, R-
26 4, R-5, R-6, R-7, R-8, R-9, R-O, D-2 OR D-3, PLI, U OR W UNDER TITLE
27 21, OR ANY AREA OF LAND USED AS SINGLE- OR MULTIPLE-
28 FAMILY DWELLINGS, HOSPITALS, NURSING HOMES, HOMES FOR
29 THE AGED, SCHOOLS AND SIMILAR INSTITUTIONS].

30
31 ***

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

37
38 **Section 2.** Anchorage Municipal Code subsections 15.70.040 is hereby amended to
39 read as follows (*the remainder of the subsections are not affected by this ordinance and*
40 *therefore not set out*):

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42 **15.70.040 Powers and duties of department of health and human**
43 **services.**

- 44
45 A. The noise control program established by this chapter shall be
46 administered by the department [OF HEALTH AND HUMAN SERVICES],
47 which shall have in addition to any other authority vested in it the following

1 powers:

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5 [6 THE DEPARTMENT MAY DEVELOP AND RECOMMEND TO THE
6 ASSEMBLY PROVISIONS REGULATING THE USE AND
7 OPERATION OF ANY PRODUCT, INCLUDING THE
8 DESCRIPTION OF MAXIMUM SOUND EMISSION LEVELS OF
9 SUCH PRODUCT; PROVISIONS PROHIBITING THE SALE OF
10 PRODUCTS THAT DO NOT MEET SPECIFIED SOUND
11 EMISSION LEVELS, IF THE SOUND LEVEL OF THE PRODUCT
12 IS NOT REGULATED BY THE UNITED STATES
13 ENVIRONMENTAL PROTECTION AGENCY UNDER SECTION 6
14 OF THE NOISE CONTROL ACT OF 1972; AND PROVISIONS
15 IDENTICAL TO ANY REGULATIONS PROMULGATED BY THE
16 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
17 UNDER SECTION 6 OF THE NOISE CONTROL ACT OF 1972.]

18
19 6 [7]. The department may prepare recommendations to be approved by
20 the assembly for the designation of noise-sensitive zones
21 containing noise-sensitive activities. Existing areas posted as quiet
22 zones shall be considered noise-sensitive zones until otherwise
23 designated.

24
25 8. The department may study existing transportation systems within
26 the community, such as truck routes, determine areas with
27 sensitivity to sound and vibration caused by transportation,
28 recommend changes or modifications to the transportation systems
29 to minimize the impact of sound and vibration on residential areas
30 and noise-sensitive zones, and assist in or review the total
31 transportation planning of the community, including planning for
32 new roads and highways, bus routes, airports and other systems
33 for public transportation to ensure that the impact of sound and
34 vibration receive adequate consideration.

35
36 9. The department may evaluate and report to the mayor and
37 assembly on the effectiveness of the municipal noise control
38 program and make recommendations for legislative or budgetary
39 changes necessary to improve the program.

40
41 B. In order to implement and enforce this chapter effectively, the department
42 shall within a reasonable time carry out the following duties:

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45 ***

46 [4. THE DEPARTMENT SHALL STUDY EXISTING
47 TRANSPORTATION SYSTEMS WITHIN THE COMMUNITY,

SUCH AS TRUCK ROUTES, DETERMINE AREAS WITH SENSITIVITY TO SOUND AND VIBRATION CAUSED BY TRANSPORTATION, RECOMMEND CHANGES OR MODIFICATIONS TO THE TRANSPORTATION SYSTEMS TO MINIMIZE THE IMPACT OF SOUND AND VIBRATION ON RESIDENTIAL AREAS AND NOISE-SENSITIVE ZONES, AND ASSIST IN OR REVIEW THE TOTAL TRANSPORTATION PLANNING OF THE COMMUNITY, INCLUDING PLANNING FOR NEW ROADS AND HIGHWAYS, BUS ROUTES, AIRPORTS AND OTHER SYSTEMS FOR PUBLIC TRANSPORTATION TO ENSURE THAT THE IMPACT OF SOUND AND VIBRATION RECEIVED ADEQUATE CONSIDERATION.]

4.[5] The department may [SHALL] make recommendations for modifications or amendments to this chapter to ensure consistency with all state and federal laws and regulations.

[6. THE DEPARTMENT SHALL DEVELOP A GENERALIZED SOUND EXPOSURE MAP OF THE MUNICIPALITY,] A LONG-TERM PLAN FOR ACHIEVING QUIET IN THE MUNICIPALITY, AND, SUBJECT TO THE APPROVAL OF THE ASSEMBLY, INTEGRATE THIS PLAN INTO THE PLANNING PROCESS OF THE MUNICIPALITY.]

5.[7] The department shall administer noise program grants or other funds and gifts from public and private sources, including any [THE] state and federal grants.

[8. THE DEPARTMENT SHALL EVALUATE AND REPORT TO THE MAYOR AND ASSEMBLY ANNUALLY ON THE EFFECTIVENESS OF THE MUNICIPAL NOISE CONTROL PROGRAM AND MAKE RECOMMENDATIONS FOR ANY LEGISLATIVE OR BUDGETARY CHANGES NECESSARY TO IMPROVE THE PROGRAM. THE FIRST SUCH EVALUATION AND REPORT UNDER THIS SUBSECTION SHALL BE SUBMITTED TO THE ASSEMBLY NOT LATER THAN JULY 15, 1979.]

[9. THE DEPARTMENT SHALL CONDUCT PROGRAMS OF PUBLIC EDUCATION REGARDING THE CAUSES, EFFECTS AND GENERAL METHODS OF ABATEMENT AND CONTROL OF NOISE AND VIBRATION, THE ACTIONS PROHIBITED BY THIS CHAPTER AND THE PROCEDURES FOR REPORTING VIOLATIONS, AND THE PARTICIPATION OF PUBLIC INTEREST GROUPS IN RELATED PUBLIC INFORMATION EFFORTS.]

Section 3. Anchorage Municipal Code sections 15.70.050 is hereby amended to read as follows (*remaining subsections are not affected by this ordinance and therefore not set out*):

15.70.050 Governmental compliance.

[D. ANY WRITTEN CONTRACT, AGREEMENT, PURCHASE ORDER OR OTHER INSTRUMENT WHEREBY THE MUNICIPALITY IS COMMITTED TO THE EXPENDITURE OF \$5,000.00 OR MORE IN RETURN FOR GOODS OR SERVICES SHALL CONTAIN PROVISIONS REQUIRING COMPLIANCE WITH THIS CHAPTER IN A FORM APPROVED BY THE MUNICIPAL ATTORNEY.]

E. THE DIRECTOR SHALL RECOMMEND TO THE MAYOR AND THE ASSEMBLY THAT THE MUNICIPALITY PROCURE AND USE IN PREFERENCE TO ANY OTHER PRODUCT ANY PRODUCT THAT THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HAS CERTIFIED AS A LOW NOISE EMISSION PRODUCT PURSUANT TO SECTION 15 OF THE NOISE CONTROL ACT OF 1972 AND DETERMINED SUITABLE FOR USE AS A SUBSTITUTE; PROVIDED, HOWEVER, THAT SUCH CERTIFIED PRODUCT IS REASONABLY AVAILABLE AND HAS A PROCUREMENT COST NOT MORE THAN 125 PERCENT OF THE LEAST EXPENSIVE TYPE OF PRODUCT FOR WHICH IT IS CERTIFIED AS A SUBSTITUTE.]

Section 4. Anchorage Municipal Code section 15.70.060 is hereby amended to read as follows (*subsections not included below are 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:

1. *Aircraft and airport operations.* No person shall operate aircraft engines while the aircraft is on the ground or operate an airport facility in such a manner as to cause a noise disturbance across a residential real property boundary, on a public space or within a noise-sensitive zone. When complaints are received by the department, t[T]he director [DEPARTMENT] shall consult with the airport proprietor to recommend changes in airport operations to minimize any noise disturbance that the airport owner may have authority to control in its capacity as proprietor. Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft that are in all

1 respects conducted in accordance with or pursuant to applicable
2 federal laws or regulations, including but not limited to takeoff,
3 landing or overflight procedures.
4

- 5 2. *Animals.* No person shall own, possess, or harbor any animal that
6 [FREQUENTLY OR FOR CONTINUED DURATION MAKES
7 SOUNDS COMMON TO ITS SPECIES] causes[ING] a noise
8 disturbance. This subsection does not apply to chronic animal
9 noises which are governed by [VIOLATIONS OF THE
10 PROVISIONS OF] Title 17.[.] This subsection does not apply to
11 [EXCEPT FOR] sounds created in a public zoo.

- 12
13 3. *Construction.* No person, unless issued a permit by the department
14 pursuant to 15.70.070 and meeting all conditions of the permit,
15 shall engage in construction or cause or allow [OPERATE OR
16 CAUSE THE OPERATION OF ANY TOOLS OR EQUIPMENT
17 USED IN] construction:[.] [DRILLING, REPAIR, ALTERATION OR
18 DEMOLITION WORK]:

- 19
20 a. So that the sound therefrom creates a noise disturbance
21 across a residential real property boundary or within a noise-
22 sensitive zone between the hours of 10:[.]00 p.m. and 6:00
23 a.m. during the construction season, or between the hours
24 of 10:00 p.m. and 7:00 a.m. during other months, or at any
25 time on Sundays or state holidays; or
26
27 b. So that the sound level therefrom exceeds an L_{eq} of 80
28 dB(A) at or within a residential real property boundary or
29 within a noise-sensitive zone during any one hour of the
30 daily period from 6:00 a.m. to 10:00 p.m. during the
31 construction season or from 7:00 a.m. to 10:00 p.m. during
32 other months; or
33
34 c. So that the sound level therefrom exceeds an L_{eq} of 80
35 dB(A) at or within a commercial or industrial real property
36 boundary during any one hour of the daily period from 6:00
37 a.m. to 10:00 p.m. during the construction season or from
38 7:00 a.m. to 10:00 p.m. during other months.
39

40 The restrictions of subsection B.3 of this section do not apply to
41 emergency work of public service utilities as provided in section
42 15.70.020[.]B, the [USE OF] non-commercial use of [DOMESTIC]
43 power tools as provided for [PERMITTED] in subsection B.4 of this
44 section or construction [WORK] for which a permit has been issued
45 pursuant to section 15.70.070[.]A when all conditions of the permit
46 are met.
47

- 1 4. Non-commercial use of [DOMESTIC] power tools. No person shall
2 operate or permit the operation of any mechanically powered saw,
3 sander, drill, grinder, lawn or garden tool, snow blower or similar
4 device [USED] in residential areas between the hours of 10:00 p.m.
5 and 7:00 a.m. the following day so as to cause a noise disturbance
6 across a residential real property boundary.

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10 7. Loading and unloading. No person shall load, unload, open, close
11 or otherwise handle boxes, crates, containers, building materials,
12 refuse containers including garbage cans or similar objects
13 between the hours of 10:00 p.m. and 7:00 a.m. the following day in
14 such a manner as to cause a noise disturbance across a residential
15 real property boundary or within a noise-sensitive zone.

- 16
17 8. Loudspeakers and public address systems. No person shall use or
18 operate for any [COMMERCIAL OR NONCOMMERCIAL] purpose
19 any loudspeaker, public address system or similar device so that
20 the sound there from creates a noise disturbance across a
21 residential real property boundary or within a noise-sensitive zone
22 unless a permit has been issued by the department pursuant to
23 section 15.70.070 and all conditions of the permit are met.

- 24
25 9. Operation of motorboats. No person shall operate or permit the
26 operation of any motorboat in any lake, river, stream or other
27 waterway in such a manner as to exceed a sound level of 80 dB(A)
28 at 50 feet (15 meters) or more from the motorboat or at the nearest
29 shoreline.

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33 15. Radios, televisions, musical instruments and similar devices.
34 Except as provided for [OTHERWISE PERMITTED FOR
35 NONCOMMERCIAL SPOKEN LANGUAGE] in subsection B.8 of
36 this section, no person shall operate, play or permit the operation
37 or playing of any radio, television, phonograph, DVD, cassette
38 player, compact disk, boom box, drum, other musical instrument,
39 sound amplifier or similar device that produces, reproduces or
40 amplifies sound:

- 41
42 a. In such a manner as to create a noise disturbance across a
43 real property boundary or within a noise-sensitive zone
44 except for activities open to the public and for which a permit
45 has been issued by the department as provided in section
46 15.70.070A. and all conditions of the permit are met;
47

18. *Tampering with noise control device or sound monitoring equipment.* No person shall remove or render inoperative for purposes other than maintenance, repair or replacement any noise control device or element of design or noise label of any product manufactured to meet specific noise emission limits under federal or state law. No person shall move or render inaccurate or inoperative any sound monitoring instrument or device positioned by or for the department when such device or the immediate area is clearly labeled using a placard provided by the department [IN ACCORDANCE WITH DEPARTMENT REGULATIONS] to warn of the potential illegality. No person shall use a product manufactured to meet specific noise emission limits under federal or state law that has had a noise control device or element of design or noise label removed or rendered inoperative with knowledge that such action has occurred.
19. *Vibration.* No person shall operate or cause the operation of any device that produces low-frequency, audible or inaudible sound 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.

Section 5. Anchorage Municipal Code section 15.70.070 is hereby amended to read as follows (*the remainder of the section is not affected by this ordinance and therefore not set out*):

15.70.070 Noise permits.

- A. *Generally.* The department shall have the authority consistent with this section to grant permits that may be requested pursuant to sections 15.70.060[.]B.3, pertaining to construction, 15.70.060[.]B.6, pertaining to explosives, firearms and similar devices, 15.70.060[.]B.15(a), pertaining to public events, 15.70.090[.]E, pertaining to snow removal and street sweeping equipment off public rights-of-way, and 15.70.090[.]G, pertaining to motor vehicle racing events.
- B. *Application.* Any person seeking a noise permit shall file with the department an application using a form provided by the department and containing specific information that demonstrates that bringing in to compliance with this chapter the source of sound or activity for which the permit or variance is sought [INTO COMPLIANCE WITH THIS CHAPTER] would constitute an unreasonable hardship on the applicant, the community or other persons.

1. Any person seeking a noise permit shall file an application with the director at least 20 days prior to the commencement of the noise for which the permit is requested. The director shall have authority to waive, consistent with administratively established criteria, the 20-day time requirement in order to expedite issuance of permits. [NOTICE OF AN APPLICATION FOR A PERMIT SHALL BE PUBLISHED WITHIN TEN DAYS FROM THE DATE OF APPLICATION, AND NO PERMIT MAY BE ISSUED WITHOUT SUCH NOTICE PRIOR TO ISSUANCE; PROVIDED, HOWEVER, THAT NOTICE BY PUBLICATION SHALL NOT BE REQUIRED IN ORDER TO ISSUE A SHORT-TERM PERMIT HAVING A DURATION OF 21 CONSECUTIVE CALENDAR DAYS OR LESS UNLESS THE DIRECTOR DETERMINES THAT THERE IS A SUBSTANTIAL POTENTIAL FOR IMPACT ON THE PUBLIC.]

2. If the director determines that the activity for which a permit has been applied has substantial potential for adverse impact to the public, the director shall, within 10 days of the receipt of the application, publish notice in a major circulation newspaper and/or on a publicly accessible website soliciting public comments regarding the application. The director may require the permit applicant to distribute written information regarding the nature and timing of the activity addressed in the application to those likely to be affected by the granting of a permit.

3. Any individual who claims to be adversely affected by allowance of a permit may file a statement with the department containing any information to support the [HIS] claim. Upon the written request for a hearing by [OF] any affected person, the applicant or the director, an administrative hearing shall be held within 15 days pursuant to chapter 3.60 to consider evidence relative to the criteria set forth in subsection C of this section.

C. *Criteria for approval.* In determining whether to grant or deny an [THE] application for a permit, the director or hearing officer shall balance the hardship to [ON] the applicant, the community and other persons of not granting the permit against the adverse impact on health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impacts of granting the permit. Applicants may be required to [EITHER]:

1. M[M]easure or allow the department to measure the sound level of or the vibration from any source in accordance with the methods and procedures and at such locations and times as the department may reasonably prescribe; [,] and

2. I[T]o furnish reports of the results of such measurements to the

department; and

3. I[T]o require the measurements to be conducted in the presence of a[THE] department code enforcement officer[S];[.]and
4. An a[A]pplicant[S] for a permit and persons contesting the granting of a permit may be required to submit any other information the department may reasonably require; [.] and

In granting or denying an application, the director shall keep on public file a copy of the decision. In the event that a permit application is denied, written justification for denial shall be kept on public file [AND THE REASONS FOR DENYING OR GRANTING THE PERMIT]. No permit shall be granted for any source of sound or activity that violates or would violate any provision of federal or state law or any provision of any other chapter of this title or this Code.

- D. *Conditions.* Permits shall be granted by notice to the applicant containing all necessary conditions, including as part of any permit a time limit on the permitted activity. The director may require the permittee to provide public notice prior to the activity pursuant to provisions in B.2. of this section. The permit shall not become effective until all conditions are agreed to in writing by the applicant. Noncompliance with any condition of a permit shall terminate the permit and subject the person holding it to those provisions of this title regulating the source of sound for which the permit was granted.

- G. An applicant applying for a noise permit fewer than 20 days prior to the commencement of the noise for which the permit is requested shall pay a late fee of ten percent of the permit fee in addition to the permit fee listed in AMC 15.05.001.

Section 6. Anchorage Municipal Code 15.70 is hereby amended to add a new section as follows *(the remainder of the section is not affected by this ordinance and therefore not set out)*:

15.70.075 Measuring sound levels.

- A. For purposes of this section, operator shall mean a department code enforcement officer or other person authorized by the director to measure sound levels for purposes of this chapter.

1. If measurements are made with a sound level meter, the meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified by ANSI

Standard 1.4-1971. For purposes of this Title, a sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capacity.

2. If measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy shall be at least that called for ANSI standard 1.4-1971 for Type II instruments.
3. When the location or distance prescribed in this Title for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this Title or in other rules promulgated by the *operator*.
4. Copies of procedures and tests required by this chapter and not specified herein, shall be kept on file at the Department.
- B. Department code enforcement officers or other operators conducting sound level measurements shall be trained in techniques and principles of sound measurement and operation of sound measuring instrumentation.

Section 7. Anchorage Municipal Code section 15.70.080 is hereby amended to read as follows (*the remainder of the section is not affected by this ordinance and therefore not set out*):

15.70.080 Property line noise emission standards.

- A. Except when a permit has been issued by the department or as otherwise provided in subsection[S] B [AND C] of this section, no person shall operate or allow [CAUSE] to be operated on public or private property any source of sound in such a manner as to create a sound level that exceeds the limits set forth for the receiving land use category in Table 1 of this chapter when sound levels are measured at or within the real property [PROPERTY] boundary of the receiving land use.

Table 1. Sound Levels By Emitting and Receiving Land Use

Receiving Property Line Limits (7 AM – 10 PM) (dB (A) L_{max})			
<u>Receiving Property</u>	<u>Emitting Property</u>		
	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>
<u>Residential</u>	<u>60</u>	<u>65</u>	<u>70</u>
<u>Commercial</u>	<u>70</u>	<u>70</u>	<u>75</u>
<u>Industrial</u>	<u>80</u>	<u>80</u>	<u>80</u>
Receiving Property Line Limits (10 PM – 7 AM)			

<u>Receiving Property</u>	<u>Emitting Property</u>		
	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>
<u>Residential</u>	<u>50</u>	<u>55</u>	<u>65</u>
<u>Commercial</u>	<u>60</u>	<u>60</u>	<u>70</u>
<u>Industrial</u>	<u>80</u>	<u>80</u>	<u>80</u>

[TABLE 1. SOUND LEVELS 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. 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.]

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 15.70.060.B.1, pertaining to aircraft and airport operations, 15.70.060.B.3, pertaining to construction during the construction season between the hours of 6:00 a.m. and 10:00 p.m., 15.70.060.B.4, pertaining to domestic power tools, 15.70.060.B.5, pertaining to emergency signaling devices, 15.70.060.B.6, pertaining to explosives, firearms and similar devices, 15.70.060.B.9, pertaining to motorboats, 15.70.060.B.14, pertaining to public service utilities, 15.70.060.B.16, pertaining to stationary nonemergency signaling devices, 15.70.090.A, pertaining to motor vehicles operating on public rights-of-way, 15.70.090.D, pertaining to refuse collection vehicles, and 15.70.090.E, pertaining to snow removal vehicles on Anchorage School District property and other public rights-of-way.

C[D]. Notwithstanding the above provisions in this section, no person shall cause, suffer, allow or permit the operation of any amplified sound on private property in such a manner that it raises the total sound levels of the permissible sound limits set forth in Table 2 when measured within the residence, dwelling, or building structure of a complainant. If the source of

1 sound is amplified sound on private property, and the complainant states
2 that the rhythmic bass component of the music is disturbing within their
3 residence, dwelling, or building structure, then the noise enforcement
4 officer may take sound level measurements within the residence, dwelling,
5 or building structure of the complainant. These sound level shall be
6 measured using the "C" weighted sound level, with the sound level meter
7 set for "C" weighting, "fast" response. Such measurements shall not be
8 taken in areas that receive only casual use, such as hallways, closets and
9 bathrooms. For the purposes of these measurements, the ambient sound
10 level is that sound level which is measured in the residence, dwelling, or
11 building structure when the sound source under investigation is not
12 prominent, or in a room on the same floor that is relatively unaffected by
13 the sound source under investigation. The "C"-scale is more sensitive to
14 low frequency sound levels than the "A"-scale; an increase of 3dB is
15 perceived by humans as being plainly audible, an increase of 5dB is
16 plainly louder and an increase of 10dB is perceived as being twice as
17 loud.

20
21 **Section 8.** Anchorage Municipal Code section 15.70.090 is hereby amended to read
22 as follows (*the remainder of the section is not affected by this ordinance and therefore*
23 *not set out*):

- 24
25 E. No person shall operate or permit the operation of any motor vehicle
26 operating for the purpose of removing snow or street sweeping if at any
27 time the motor vehicle produces a sound level in excess of the level set
28 forth in table 2 at a distance of 50 feet (15 meters) or more from any point
29 on the vehicle. As provided in Section 15.70.080.[C] B, such motor
30 vehicles are exempt from complying with the sound levels set forth in
31 table 1 when operating on public rights-of-way. Such motor vehicles
32 operating off a public right-of-way for the purpose of removing snow or
33 street sweeping may be exempt from complying with the sound levels of
34 table 1 when operating in compliance with the terms and conditions of a
35 permit issued pursuant to Section 15.70.070.A.

38
39 **Section 9.** Anchorage Municipal Code 15.70 is hereby amended to add new sections
40 as follows (*the remainder of the subsections are not affected by this ordinance and*
41 *therefore not set out*).

42
43 **15.70.110** Penalties and remedies other than for motor vehicles.

- 44
45 A. Notwithstanding provisions for penalties and remedies in 15.70.095, the
46 department may seek any or all of the following remedies:
47

1. Enjoin or abate a violation of this chapter.
2. Recover the costs of abatement.
3. Recover damages suffered because of the violation.
4. 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 \$100.00 for each day in violation, including for days in which the violation continues or is not abated after an enforcement order is issued.
5. Assess up to double the amount of fine, penalty, costs and damages for a second or subsequent offense committed by the same person within one 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 must be categorized the same as the original offense, as identified in subsection 15.70.060.
6. Recover a civil penalty not exceeding \$1,000.00 for each violation.

B. The department shall keep an account of the cost, including incidental expenses, incurred by the municipality in the abatement of any violation of this section. A bill for collection shall be forwarded to the violator specifying the nature and costs of the work performed. For purposes of this section, the term "incidental expenses" shall include but not be limited to the actual expenses and costs to the municipality in the preparation of the notices, specifications, contracts, work inspection, and interest from date of completion at the rate prescribed by law for delinquent real property taxes.

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

Section 10. Anchorage Municipal Code of Regulations section 14.60.030 is hereby amended to read as follows *(the remainder of the subsections is not affected by this ordinance and are therefore not set out)*.

14.60.030 Fine Schedule.

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]

Section 11. Anchorage Municipal Code of Regulations 15.70 Sound Measurement Procedures is hereby repealed in its entirety.

Section 12. This ordinance shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Assembly this 24th day of May, 2011

Dalvin Ossander
Chair of the Assembly

ATTEST:

Beth A. Gonsky
Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2011-59

Title: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 15.70 NOISE CONTROL PROVIDING FOR CLARIFIED DEFINITIONS, CLARIFIED NOISE PERMIT CONDITIONS, ADDITION OF A SECTION REGARDING MEASUREMENTS OF NOISE AND AMENDING SECTION 14.60.030 TO INCREASE FINES AND TO REPEAL ANCHORAGE MUNICIPAL CODE OF REGULATIONS CHAPTER 15.70.

Sponsor: Assembly Member Johnston
Preparing Agency: Department of Health and Human Services
Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:		(In Thousands of Dollars)				
	FY11	FY12	FY13	FY14	FY15	
Operating Expenditures						
1000 Personal Services						
2000 Non-Labor						
3900 Contributions						
4000 Debt Service						
TOTAL DIRECT COSTS:	\$0	\$0	\$0	\$0	\$0	
Add: 6000 Charges from Others						
Less: 7000 Charges to Others						
FUNCTION COST:	\$0	\$0	\$0	\$0	\$0	
REVENUES:	\$0	\$0	\$0	\$0	\$0	
CAPITAL:	\$0	\$0	\$0	\$0	\$0	
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:

Prepared by: Diane Ingle, Director-DHHS

Telephone: 343-6460

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

See AM 284-2011(A)

No. AM 284-2011

Meeting Date: May 10, 2011

From: ASSEMBLY MEMBER JOHNSTON

Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 15.70 NOISE CONTROL PROVIDING FOR CLARIFIED DEFINITIONS, CLARIFIED NOISE PERMIT CONDITIONS, ADDITION OF A SECTION REGARDING MEASUREMENTS OF NOISE AND AMENDING SECTION 14.60.030 TO INCREASE FINES AND TO REPEAL ANCHORAGE MUNICIPAL CODE OF REGULATIONS CHAPTER 15.70.

Patterns of development in Anchorage have led to residential development immediately adjoining commercial and industrial development. As Anchorage continues to grow and develop, homeowners, business operators, tenants and recreational area users find themselves closer and closer together. As people become closer together, noise becomes more of an issue.

Maintaining industrial and commercial enterprise and healthy residential neighborhoods requires a balance. In terms of noise emission, this means reaching a general welfare accommodation that recognizes the challenges when industrial or commercial areas share property lines with residential areas.

AMC 15.70.080 governs property line noise emission standards. AMC 15.70.080 (A) states allowable noise levels based on receiving land use category. AMC 15.79.080 (B) contains unclear language with respect to allowable noise levels on the boundary between two receiving land use categories, using an arithmetic means of the respective sound levels from the table in 15.70.080 (B). Removing the language in 15.70.080(B) and relying entirely on the table in 15.70.080, results in the allowable noise level being based on the receiving property use only.

This amendment also works to improve the ability to enforce the regulation by clarifying definitions for commercial, industrial, and residential areas; increasing the initial fine for non-compliance; and providing for escalating fines for continuing non-compliance and/or repeat violations.

Finally, for the purpose of the ordinance having expectations that the MOA is able to fulfill, this amendment removes some existing requirements for the MOA and makes some existing required actions discretionary.

1 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**
2 **AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 15.70 NOISE**
3 **CONTROL PROVIDING FOR CLARIFIED DEFINITIONS, CLARIFIED NOISE**
4 **PERMIT CONDITIONS, ADDITION OF A SECTION REGARDING**
5 **MEASUREMENTS OF NOISE AND AMENDING SECTION 14.60.030 TO**
6 **INCREASE FINES AND TO REPEAL ANCHORAGE MUNICIPAL CODE OF**
7 **REGULATIONS CHAPTER 15.70.**

8
9 Prepared by: Britteny Kettermann-Maturo, Public Health Division
10 Manager

11 Approved by: Diane Ingle, Director of Health and Human Services

12 Respectfully submitted: Jennifer Johnston, Assembly Member-Section 6

MUNICIPALITY OF ANCHORAGE

CLERK'S OFFICE

ASSEMBLY MEMORANDUM

APPROVED

Date:

5-24-11

No. AM 284-2011(A)

Meeting Date: May 24, 2011

From: ASSEMBLY MEMBER JOHNSTON

Subject: AO 2011-59; AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 15.70 NOISE CONTROL PROVIDING FOR CLARIFIED DEFINITIONS, CLARIFIED NOISE PERMIT CONDITIONS, ADDITION OF A SECTION REGARDING MEASUREMENTS OF NOISE AND AMENDING SECTION 14.60.030 TO INCREASE FINES AND TO REPEAL ANCHORAGE MUNICIPAL CODE OF REGULATIONS CHAPTER 15.70.

Patterns of development in Anchorage have led to residential development immediately adjoining commercial and industrial development. As Anchorage continues to grow and develop, homeowners, business operators, tenants and recreational area users find themselves closer and closer together. As people become closer together, noise becomes more of an issue.

Maintaining industrial and commercial enterprise and healthy residential neighborhoods requires a balance. In terms of noise emission, this means reaching a general welfare accommodation that recognizes the challenges when industrial or commercial areas share property lines with residential areas.

AMC 15.70.080 governs property line noise emission standards. AMC 15.70.080 (A) states allowable noise levels based on receiving land use category. **[AMC 15.70.080 (A) STATES ALLOWABLE NOISE LEVELS BASED ON RECEIVING LAND USE CATEGORY. AMC 15.79.080 (B) CONTAINS UNCLEAR LANGUAGE WITH RESPECT TO ALLOWABLE NOISE LEVELS ON THE BOUNDARY BETWEEN TWO RECEIVING LAND USE CATEGORIES, USING AN ARITHMETIC MEANS OF THE RESPECTIVE SOUND LEVELS FROM THE TABLE IN 15.70.080 (B). REMOVING THE LANGUAGE IN 15.70.080(B) AND RELYING ENTIRELY ON THE TABLE IN 15.70.080, RESULTS IN THE ALLOWABLE NOISE LEVEL BEING BASED ON THE RECEIVING PROPERTY USE ONLY.]**

AMC 15.70.080 (B) contains unclear language with respect to allowable noise levels on the boundary between two receiving land use categories, using an arithmetic means of the respective sound levels from the table in 15.70.080 (A). Decisions made by the Administrative Hearing Officer provide some clarification – essentially stating that the arithmetic mean does not apply to the property line between the noise emitting property (source of the noise) and the receiving property. This decision would suggest that if there are two adjoining receiving properties, the allowable noise level would be the average

1 allowable level for the two receiving properties. The AHO decision has not
2 been challenged in court, nor has the alternative interpretation been ruled on.
3 It seems advisable to amend the ordinance to better reflect Assembly policy.
4

5 The approach presented here for clarifying Assembly intent is to remove the
6 language in 15.70.080(B) and rely entirely on the table in 15.70.080(A). This
7 could be done by leaving the values in Table 1 as they are. This would result
8 in the allowable noise level being based on the receiving property use only. It
9 would not utilize any kind of averaging of noise levels. Clarification of
10 Assembly intent could also be accomplished by incorporating the intent of the
11 existing language in 15.70.080(B) into Table 1, thus clearly stating what the
12 averaged noise levels would be for various combinations of land uses for
13 receiving and source properties. This is the approach taken in the proposed
14 amendment.
15

16 This amendment also works to improve the ability to enforce the regulation by
17 clarifying definitions for commercial, industrial, and residential areas; increasing the
18 initial fine for non-compliance; and providing for escalating fines for continuing non-
19 compliance and/or repeat violations.
20

21 Finally, for the purpose of the ordinance having expectations that the MOA is able to
22 fulfill, this amendment removes some existing requirements for the MOA and makes
23 some existing required actions discretionary.
24

25 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**
26 **AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 15.70 NOISE**
27 **CONTROL PROVIDING FOR CLARIFIED DEFINITIONS, CLARIFIED NOISE**
28 **PERMIT CONDITIONS, ADDITION OF A SECTION REGARDING**
29 **MEASUREMENTS OF NOISE AND AMENDING SECTION 14.60.030 TO**
30 **INCREASE FINES AND TO REPEAL ANCHORAGE MUNICIPAL CODE OF**
31 **REGULATIONS CHAPTER 15.70.**
32

33
34 Respectfully submitted: Jennifer Johnston, Assembly Member