

Section 1. Definitions. (cross-reference section 36-2)

(a) Words and phrases defined in chapter 36, D.R.M.C., have the meanings ascribed to them in chapter 36 when used in these rules.

(b) The following words and phrases, when used in this chapter in these rules, have the meanings respectively ascribed to them:

(1) Ambient sound means the A-weighted sound pressure level of all sound associated with a given environment that is exceeded 90 percent of the time (L90) measured and is a composite of sounds from many sources during the period of observation with or without the sound source of interest present.

~~(3)~~ (2) Commercial power equipment means any equipment or device rated at more than five (5) horsepower designed to be used or being used for building repairs, or property maintenance, excluding snow removal equipment.

~~(5)~~ (3) Construction equipment means any device or mechanical apparatus operated by human, fuel, electric, or pneumatic power in the excavation, construction, repair, or demolition of any building, structure, land parcel, street, alley, waterway, or appurtenance thereto.

~~(7)~~ (4) Domestic power equipment means any equipment or device rated at five (5) horsepower or less and used for building construction, remodeling and repairs or grounds maintenance, excluding snow removal equipment, operated by the owner and or occupant of the property.

(5) Downtown Waste Collection Area means the area defined in the map attached as Appendix A. Buildings on both sides of the boundary streets shown on the map are included within the neighborhood.

(6) Plainly audible means that the information content of the sound is unambiguously communicated to the listener; examples include, but are not limited to, understanding of speech, comprehension of raised or normal voices, or comprehension of musical rhythms.

~~(10.5)~~ (7) Public noise producing event Festival, for this purpose of this chapter, means a cultural, athletic, educational, charitable, or civic events event, (including those one with entertainment,) provided the event does not exceed four days, is not part of a series of two (2) or more separate events in the same vicinity, that has received all required permits or licenses from a city agency or department and is open to the general public, including an event that charges admission for entry a permit for street closure or occupancy is obtained, and a license is, or licenses are, obtained to serve food, beverage, or liquor.

~~(23)~~ (8) Sound level meter means an apparatus or instrument that includes a microphone, amplifier, attenuator, output meter, and frequency weighting networks for the measurement of sound levels. The sound level meter must be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute, publication S1.4-1971 entitled Specification for Sound Level Meters.

Commented [DBJDEPHS1]: This document contains the text of current ordinance, showing in track changes how the portions that would be moved to rule would be modified.

~~(26)~~ (9) *Snow removal equipment* means any equipment used for removing snow from land or building surfaces including, without limitation, snow plows, blowers, sweepers, and shovels whether operated by mechanical, electrical, or manual means.

(10) *Table A* means Table A as set forth in section 36-6, D.R.M.C., subsection (a).

~~(27)~~ (11) *Tree maintenance equipment* means any equipment used or designed to be used in trimming or removing trees only, including, without limitation, chainsaws, chippers and stump removers.

~~(29)~~ (12) *Waste stream activities* includes trash compaction; collection of trash, recycling, and compost; recycling; collection and recycling (such as of sand and aggregate); street sweeping; street vacuums; and street blowers.

Section 2. Sound pressure level measurement and instrumentation. (cross-reference section 36-3)

- (a) Any sound pressure level that is measured must be taken with a sound level meter and at an A-weighting network.
- (b) If the noise from the source premises interferes with the measurement of the background ambient sound level at the receptor premises, then measurements to determine the background ambient sound level may be taken at another location in the vicinity or at another time or both; provided that the conditions at the alternative location or the alternative time or both are similar to the conditions at the receptor premises at the time of the noise measurement.

Section 3. Restrictions and measurements of noise between source and receiving premises ~~(Table A)~~. (cross-reference section 36-6)

(a) When measuring sound pressure levels to determine whether a source exceeds the allowable levels set forth in Table A:

- (1) The noise source shall be measured at any point along the property line of the receptor premises or within the property line of the receptor premises, as determined at the discretion of the department, to determine compliance with this chapter.
- (2) When it is determined that the background ambient sound pressure level without the sound source of interest present at the receptor premises equals or exceeds the maximum allowable sound pressure level specified in Table A, then the background ambient sound pressure level is the standard that cannot be exceeded by the noise source.

(b) Table A exemptions: The following exemptions from Table A set forth in section 36-6 (b), are The maximum permissible sound pressure levels as specified in subsection (a) and Table A shall not apply to sounds emitted from, subject to the following restrictions and limitations:

(1) Any A bell or chime from any building clock, school or church, between 7:00 a.m. and 10:00 p.m., not including any amplified bell or chime sounds emitted from loudspeakers, is exempt between 7:00 a.m. and 10:00 p.m..

(2) Any Ground-based aircraft activity, including testing or engine run-up, is exempt provided, however, that emission of noise resulting from such activities in excess of does not

~~exceed~~ a sound pressure level of sixty (60) dB(A) when measured upon an inhabited residential premises ~~shall be deemed an unlawful nuisance.~~

~~(7)(3)~~ Any ~~e~~Construction equipment or activities; delivery and delivery activities; tree maintenance, landscaping, or lawn care equipment or activities operated on a residential, commercial, industrial, or public premises; domestic power equipment or commercial power equipment operated on a residential, commercial, industrial, or public premises; and waste stream equipment and activities are exempt -at times other than those prohibited as set forth in section ~~36-7(3)~~ of this chapter 4 of these rules. This exemption does not apply if equipment is not in good working order, not used for the manufacturer's intended purpose, or not operated in compliance with any required license or permit.

~~(8)~~ Any domestic power equipment operated by the owner and or occupant of the property upon any residential, commercial, industrial or public premises between 7:00 a.m. and 10:00 p.m. provided that such equipment does not exceed a sound pressure level of eighty (80) dB(A) when measured twenty five (25) feet from the noise source or the complainant's property line, whichever is greater. This exemption does not apply if the equipment is not in good working order, not used for the manufacturer's intended purpose, or not operated in compliance with any required license.

~~(9)~~ Any commercial power equipment operated upon any residential, commercial, industrial, or public premises between 7:00 a.m. and 9:00 p.m., provided, however, that such equipment does not exceed a sound pressure level of eighty-eight (88) dB(A) when measured twenty five (25) feet from the noise source or the complainant's property line, whichever is greater. This exemption does not apply if the equipment is not in good working order, not used for the manufacturer's intended purpose, or not operated in compliance with any required license.

~~(10)(4)~~ The musical instruments of any school marching band while performing at any sporting event or marching band competition, and the musical instruments of any school marching band practicing on school grounds are exempt between the hours of 7:00 a.m. and ~~9:00~~ 10:00 p.m., provided that the sound pressure levels do not exceed ~~sixty-five (65)~~ seventy-five (75) dB(A) when measured at the property line of any residential receptor premises.

~~(11)(5)~~ Snow removal equipment operated on any residential, commercial, or industrial premises, including adjoining sidewalks, between the hours of 5:00 a.m. and 11:00 p.m. is exempt during any snowfall or during a declared snow emergency under the current city rules and regulations of the manager of the department of transportation and infrastructure regarding snow and ice removal from sidewalks; snow removal equipment operated during the time periods after the end of snowfall and after the end of a declared snow emergency as set forth in those rules; and snow removal equipment operated by or on behalf of the city.

~~(12)(6)~~ Any ~~An~~ emergency power generator providing emergency electrical power at ~~any a~~ hospital, health clinic, nursing home or similar facilities where the loss of electrical power poses an immediate risk to the health, safety or welfare of any person, or at ~~any other~~ premises where such equipment is required by the Denver Fire Department is exempt. ~~Additionally, t~~ The sound pressure level emitted during the routine testing of emergency electrical power generators shall

not exceed eighty-eight (88) dB(A) at a distance of twenty-five (25) feet or a receptor premises' property line, whichever is greater. Routine testing shall not exceed one (1) hour in any one-week period, or two (2) hours in any six-week period and shall be confined to the hours of 10:00 a.m. to 4:00 p.m. or as otherwise approved.

~~(14) — Any industrial, commercial, or public premises causing the standards of Table A to be exceeded at a residential receptor premises when such industrial, commercial, or public premises and their emitted sound pressure levels were in existence prior to the existence of the residential receptor premises, provided, however, that the existing industrial premises does not exceed sixty five (65) dB(A) and the commercial premises do not exceed sixty (60) dB(A) when measured at the residential receptor premises.~~

~~(17) (7) Festivals~~ Public noise producing events and associated activities are exempt between the hours of 8:00 a.m. and 10 p.m., on the condition that:

(A) — Production, reproduction, or amplification of sound may not exceed a sound pressure level of eighty (80) (85) dB(A) when measured from the nearest residential receptor premises. The department may choose not to measure from an uninhabited residence for the purpose of this rule.

(B) — The owner or occupant of any private property shall not allow a public noise producing event held in whole or in part on that property to exceed the maximum sound pressure levels set forth in Table A as allowed by this subsection (7) on more than eight days within any calendar year, and:

(I) — The sound pressure levels shall not be exceeded on more than four consecutive days;

(II) — If the sound pressure levels are exceeded on two or more consecutive days, the owner or occupant shall not allow a public noise producing event to exceed the sound pressure levels for at least thirty days after the last consecutive day.

Section 4. Prohibited noise activities. (Cross-reference former section 36-7)

(a) — The following activities are prohibited notwithstanding the sound pressure levels permitted pursuant to sections 36-6 and 36-8, D.R.M.C.:

(1) Vehicle horns. No person shall, at any time, sound any horn or other audible signal device of a motor vehicle unless it is necessary as a warning to prevent or avoid a traffic accident or reasonably inform or warn of a vehicle presence.

(2) Alarms. It is an unlawful nuisance for any alarm that is audible outside the premises or vehicle in which it is installed or that it is intended to protect and for which there is not a valid alarm user permit issued pursuant to section 42-106 of this Code, to be activated: a) for a period exceeding fifteen (15) minutes; or b) three or more times within a seven (7) day period when no emergency is found to exist by the city. Violation of (a) or (b) or both constitutes separate

offenses. Fire alarms may only be tested between the hours of 7 a.m. and 9 p.m. Monday through Friday and between the hours of 8 a.m. to 5 p.m. on Saturday and Sunday.

(3) Delivery and delivery activities. No person or persons shall make deliveries nor conduct delivery activities between the hours of 10:00 p.m. and 7:00 a.m. that exceeds the sound pressure limits of Table A. This prohibition excludes construction site deliveries, which are governed by subsection ~~36-7(5) of this chapter~~ (a)(8) of this section.

(4) Engine Compression Brakes. No person shall use an engine compression brake, commonly referred to as a "Jake Brake", within the City and County of Denver except in an emergency.

~~(4)~~ (5) Waste stream equipment and activities.

(a) Except as provided in paragraphs (b) and (c), No person shall waste stream activities and operation of operate any waste stream equipment nor conduct any waste stream activities on any premises adjoining to or across the street or alley from a residential receptor premises is prohibited between 10:00 p.m. and 7:00 a.m.

(b) Collection of trash, compost, and recycling on any premises adjoining to or across the street or alley from a residential receptor premises is prohibited only between 10:00 p.m. and 6:00 a.m.

(c) In the Downtown Waste Collection Area, collection of trash, compost, and recycling on any premises adjoining to or across the street or alley from a residential receptor premises is prohibited only between 10:00 p.m. and 5:00 a.m.

(6) Tree maintenance. No person shall perform or operate any tree maintenance, landscaping, or lawn care equipment upon any residential, commercial, industrial, or public premises between 9:00 p.m. and 7:00 a.m.

(7) Power equipment. A person shall not operate or cause to be operated domestic power equipment between the hours of 10:00 p.m. and 7:00 a.m. A person shall not operate or cause to be operated commercial power equipment between 9:00 p.m. and 7:00 a.m.

~~(5)~~ (8) Construction equipment and activities.

(A) ~~No A~~ person shall not operate, or cause to be operated, any construction equipment nor conduct any construction activities, including, without limitation, preparation activities, job site deliveries, and job site pick-ups, ~~on weekdays between the hours of 9:00 p.m. and 7:00 a.m. in a manner that exceeds the sound pressure limits of Table A~~ is plainly audible on any residential receptor premises, except during the following hours:

(I) On Monday through Friday between 7:00 a.m. and 9:00 p.m.

(II) On Saturday and Sunday between 8:00 a.m. and 5:00 p.m.

~~(B) No person shall operate, or cause to be operated, any construction equipment nor conduct any construction activities, including, without limitation, preparation~~

activity, job-site deliveries, and job-site pick-ups, on weekends between the hours of 5:00 p.m. and 8:00 a.m. in a manner that exceeds the sound pressure limits of Table A.

(EB) Construction equipment must be properly maintained, used for the manufacturer's intended purpose, and operated in compliance with any required license.

(b) Non-conforming construction activities.

(1) Upon application from any person, the executive director may allow the person to operate or cause to be operated construction equipment or to conduct construction activities in a manner that does not comply with the restrictions of subsection (a)(8) of this section if the person demonstrates that:

(A) During the allowable hours as set forth in Table A, the construction project interferes with the regular flow of traffic, jeopardizes the safety of the public, and cannot be completed in a safe manner during the allowable hours;

(B) The non-conforming construction activity, if allowed, would not adversely affect public health;

(C) The person making the application will experience undue hardship if the non-conforming activity is not allowed;

(D) The person making the application has provided notice to the community in accordance with guidelines of the executive director and has an adequate noise monitoring and community response plan; and

(E) Allowing the non-conforming construction activity maintains harmony with the spirit and purpose of chapter 36 and these rules.

(2) The executive director shall prescribe the form for applying for a non-conforming construction activity. At a minimum, an application must include:

(A) A detailed description of the proposed project, including the start and end dates for the non-conforming activities;

(B) The noise producing activities that the applicant expects to conduct outside the allowable hours and the types or categories of equipment being used;

(C) The expected noise levels at the site where work is being performed and at the nearest sensitive receptor, the existing ambient sound levels, and a discussion of how the proposed sound levels compare to guidelines from the EPA or other sources;

(D) A discussion of any adverse health effects that may be expected from the expected noise levels and any adverse health effects other than noise that may result from the proposed work;

(E) An explanation of the sound mitigating techniques the applicant will use to reduce the impact of the expected noise levels, how the scope of the proposed work

seeks to minimize impacts to the community, the applicant's noise monitoring plan, and the applicant's community response plan;

(F) An explanation of the reasons the activities cannot be conducted during the allowable hours, including factors related to traffic, public health and safety, logistical concerns, and cost considerations;

(G) An explanation and evaluation of possible alternative solutions and why they are not acceptable;

(H) A copy of the notice given to the surrounding community and copies of any comments received by the applicant; and

(I) Any other information the executive director deems relevant.

(3) If the executive director grants the application for a non-conforming construction activity, the executive director shall issue an order setting forth any conditions or limitations the executive director deems necessary and appropriate and requiring compliance with those terms.

(4) If the applicant fails to comply with the terms of an order or has provided false or misleading information in its application, the order allowing a non-conforming construction activity may be suspended or revoked upon notice to the applicant and after a hearing before the board.

(c) Variances.

(1) The board of public health and environment, in accordance with chapter 24, article I, may grant variances from the construction restrictions if it can be demonstrated that a construction project will interfere with traffic or jeopardize public safety if completed during daytime.

(2) If the executive director denies an application for a non-conforming construction activity or imposes conditions on the non-conforming construction activity that the applicant objects to, the applicant may seek a variance from the board pursuant to paragraph (1) above. The petitioner must include a copy of the application and the executive director's order or decision with the petition to the board.