Village of Volente

ORDINANCE NO. 2008-O-88_

AN ORDINANCE ADOPTING REGULATIONS TO PREVENT EXCESSIVE SOUND LEVELS WITHIN THE VILLAGE OF VOLENTE; PROVIDING FOR DEFINITIONS; PROHIBITIONS; ENFORCEMENT, FINES AND CRIMINAL PENALTIES; SEVERABILITY; PUBLIC NOTICE; OPEN MEETINGS; AND, EFFECTIVE DATE.

WHEREAS, the Village of Volente desires to protect its citizens from excessive sound levels within its corporate boundaries; and

WHEREAS, the Village of Volente finds that the adoption of the sound standards set forth in this Ordinance will help protect its citizens from excessive noise within the Village of Volente; and

WHEREAS, excessive sound is a hazard to the public health and welfare, safety, and the quality of life: and

WHEREAS, a substantial body of science and technology exists by which excessive sound may be substantially abated: and,

WHEREAS, the people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade their quality of life

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF VOLENTE, TEXAS:

Section One: The Village of Volente adds Chapter 44 to its Code of Ordinances by adopting the following provisions regulating excessive sound levels within its corporate boundaries.

Section Two: Legislative Findings

The recitals above made in the Preamble are hereby deemed to be the Factual and Legislative Findings of the Village Council, and are hereby incorporated within this Ordinance.

Section Three: Purpose and Scope

This Ordinance is adopted to prevent excessive sounds levels with the corporate limits of the Village of Volente to promote the health, safety, welfare, convenience and enjoyment of the citizens of Volente.

Section Four:

ARTICLE 44.000 NOISE CONTROL REGULATIONS

DIVISION 1: GENERAL PROVISIONS

Sec.44.001 Short Title

This ordinance may be cited as the "Noise Control Ordinance of the Village of Volente"

Sec.44.002 Definitions

a. Terminology
All terminology used in this ordinance not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

b. "A-Weighted Sound Level" Means
The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level is designated dB(A) or dBA.

c. "Ambient Level" Means
The noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise at the location and approximate time at which a comparison with the alleged offensive noise is to be made. Ambient noise shall be measured as an integrated average, equivalent level (Leq), over a period of at least 1 minute at a location and time of day comparable to that during which the measurement of the alleged offensive noise is taken.

d. "C-Weighted Sound Level" Means
The sound pressure level in decibels as measured on a sound level meter using the C-weighting network. The level so read is designated dB(C) or dBC.

e. "Construction" or "Commencement of Construction" Means
Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or over public or private rights-of-way, structures, utilities or similar property.

f. "Decibel (dB)" Means
A unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

g. "Demolition" Means
Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

h. "Emergency" Means
Any occurrence or set or circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

i. "Emergency Work" Means
Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

j. "Noise Control Officer" Means
The Code Official having lead responsibility for administration and enforcement of this ordinance.

k. "Equivalent Sound Level (Leq)" Means
The constant sound level that in a given time period, conveys the same sound energy as the actual time-varying sound.

l. "Gross Vehicle Weight Rating (GVWR)" Means
The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors arc separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle shall be used.

m. "Impulsive Sound" Means
Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

n. "Industrial Facility" Means
any piece of equipment and/or operational facility, which is a located within a tract of land zoned as a commercial or industrial zone within the Village boundaries, or otherwise used for commercial or industrial purposes.

o. "Intermittent Noise" Means
a noise where the noise level suddenly drops to that of the background noise several times during the period of observation. The time during which the noise remains at levels different from that of ambient is one second or more.

p. "Motorboat" Means
Any vessel which operates on water and is propelled by a motor, including but not limited to, boats, barges, amphibious craft, water ski towing devices and hover craft.

q. "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 mini-bikes.

r. "Muffler or Sound Dissipative Device" Means
A device for abating sound of escaping gases of an internal combustion engine.

s. "Noise" Means
Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

t. "Noise Violation" Means
Any sound that meets the criteria described in sections 44.005 or 44.007.

u. "Person" Means
Any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a State or any political subdivision of a State.

v. "Powered Model Vehicle" Means
Any self-propelled airborne, waterborne, or land borne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to any model airplane, boat, car, or rocket.

w. "Public Right-of-Way" Means
Any street, avenue, boulevard, highway, sidewalk or alley or similar place, which is owned or controlled by a governmental entity.

x. "Public Space" Means
Any real property or structures thereon which are owned or controlled by a governmental entity.

y. "Real Property Boundary" Means
An imaginary line along the ground surface, and its vertical extension, which separates the real property owned or leased by one person from that owned or leased by another person, but not including intra-building real property divisions.

z. "RMS Sound Pressure" Means
The square root of the time averaged square of the sound pressure, denoted Prms.

aa. "Sound" Means
An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

bb. "Sound Level" Means
The weighted sound pressure level obtained by the use of a sound level meter and frequency-weighting network, such as A or C, as specified in the American National

Standards Institute specifications for sound level meters (ANSI S1.4-1971), or the latest approved revision thereof. If the frequency weighting employed is not indicated, the A-weighting shall apply.

cc. "Sound Level Meter" Means
An instrument which includes a microphone, amplifier, RMS detector, integrator or time averaging device, output meter, and weighting networks used to measure sound pressure levels.

dd. "Sound Pressure" Means
The instantaneous difference between the actual pressure and the average or barometric pressure of a given point in space, as produced by sound energy.

ee. "Sound Pressure Level" Means
20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20x10μN/m). The sound pressure level is denoted Lp, or SPL and is expressed in decibels.

ff. "Tonal Noise" Means
a noise containing a prominent frequency and characterized by a definite pitch. Any sound that contains a one-third octave band whose level is at least 5 dB higher than the average of the levels of the two surrounding one-third octave bands shall be considered tonal.

gg **"Utility Facility" Means** any piece of equipment and/or operational facility, which is a located within a tract of land zoned for the location of utility facilities within the Village boundaries, or which otherwise is used by a utility for the production, transmission or treatment of cable, electrical, water, wireless or wastewater services.

hh. "Weekday" Means
Any day Monday through Friday which is not a legal holiday.

Sec.44.003 Powers and Duties of the Noise Control Officer (NCO)

a. Lead Official
The noise control program established by this ordinance shall be administered by the Noise Control Officer (NCO). The NCO shall be Board Certified by the Institute of Noise Control Engineering.

b. Powers of the Noise Control Officer (NCO)
In order to implement and enforce this ordinance and for the general purpose of sound abatement and control, the NCO shall have, in addition to any other authority vested in it, the power to:

(1) Studies

Conduct, or cause to be conducted, research, monitoring, and other studies related to sound.

(2) Education

(A) Conduct programs of public education regarding:

(1) the causes, effects and general methods of abatement and control of noise; and,

(2) the actions prohibited by this ordinance and the procedures for reporting violations; and

(B) Encourage the participation of public interest groups in related public information efforts.

(3) Coordination and Cooperation

(A) Coordinate the noise control activities of all municipal departments;

(B) Cooperate to the extent practicable with all appropriate State and Federal agencies;

(C) Cooperate or combine to the extent practicable with appropriate county and municipal agencies; and,

(D) Enter into contracts with the approval of Village Council for the provision of technical and enforcement services.

(4) Review of Actions of Other Departments

Request any other department or agency responsible for any proposed or final standard, regulation or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this ordinance.

(5) Review of Public and Private Projects

Review public and private projects, subject to mandatory review or approval by other departments, for compliance with this ordinance, if such projects are likely to cause sound in violation of this ordinance.

(6) Inspections

(A) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this ordinance may exist. Such inspection may include administration of any necessary tests.

(B) Stop any motor vehicle, motorcycle, or motorboat operated on a public right-of-way, public space, or public waterway reasonably suspected of violating any provision of Section 44.007 of this ordinance, and issue a notice of violation or abatement order which may require the motor vehicle, motorcycle or motorboat to be inspected or tested as the Noise Control Officer may reasonably require.

(7) Measurements by the Owner or Operator
Require the owner or operator of any commercial, industrial, or utility facility or business, or operation to measure the sound level of any source in accordance with the methods and procedures and at such locations and times as the NCO may reasonably prescribe and to furnish reports of the results of such measurements to the NCO. The NCO may require the measurements to be conducted in the presence of its enforcement officials.

(8) Product Performance Standard Recommendations

(A) Develop and recommend for promulgation to the Village Council provisions regulating the use and operation of any product, including the specification of maximum allowable sound emission levels of such product.

(B) Develop and recommend for promulgation to the Village Council provisions prohibiting the sale of products which do not meet specified sound emission levels, where the sound level of the product is not regulated by the United States Environmental Protection Agency under Section 6 of the Noise Control Act of 1972.

(C) Duties of Noise Control Officer (NCO)
In order to implement and enforce this ordinance effectively, the NCO shall within a reasonable time after the effective date of the ordinance:

(1) Standards, Testing Methods, and Procedures
Develop and promulgate standards, testing methods and procedures.

(2) Investigate and Pursue Violations
In consonance with Section 44.2.6, Article IX, and other provisions of this ordinance, investigate and pursue possible violations of this ordinance.

(3) Delegation of Authority
Delegate functions, where appropriate under this ordinance, to personnel within other agencies or departments as required.

(4) Truck Routes and Transportation Planning

(A) Study the existing transportation systems, such as truck routes within the community; determine areas with sensitivity to sound caused by transportation; recommend changes or modifications to transportation systems to minimize the sound impact on residential areas.

(B) 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 receives adequate consideration.

(5) Administer Grants, Funds and Gifts
Administer noise programs and other funds and gifts from public and private sources, including the State and Federal governments.

Sec.44.004 Duties and Responsibilities of Other Departments

a. Departmental Actions
All departments and agencies shall, to the fullest extent consistent with other law, carry out their programs in such a manner as to further the policy of this ordinance.

b. Departmental Cooperation
All departments and agencies shall cooperate with the NCO to the fullest extent in enforcing this ordinance.

c. Departmental Compliance with Other Laws
All departments and agencies shall comply with Federal and State laws and regulations and the provisions and intent of this ordinance respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.

d. Project Approval
All departments whose duty it is to review and approve new projects or changes to existing projects that result, or may result, in the production of sound shall consult with the NCO prior to any such approval.

e. Low Noise Emission Products
Any product which has been certified by the Administrator of the United States Environmental Protection Agency pursuant to Section 15 of the Noise Control Act as a low noise emission product and which he determines is suitable for use as a substitute, shall be procured by the Village and used in preference to any other product, provided that such certified product is reasonably available and has a procurement cost which is not more than (125) percent of the least expensive type of product for which it is certified as a substitute.

Sec.44.005 Prohibited Acts

a. Noise Violation

A "Noise Violation" is a sound that exceeds any of the allowable equivalent sound levels (Leq) in Table 1 measured for a duration of at least 1 minute:

Table 1. A-Weighted and C-Weighted Noise Limits

Zoning District	Nighttime dBA/ dBC	Daytime dBA/ dBC	Daytime Tonal Noise dBA/ dBC	Daytime Impulsive Sound dBA/ dBC	
R-1, R-1R, R-2	43/57	48/62	43/57	41/55	
C-1, C-2	53/67	58/72	53/67	51/65	
C-3	58/72	63/77	58/72	56/70	

Nighttime is between the hours of 9:00 PM and 7:00 AM. Daytime is between the hours of 7:00 AM and 9:00 PM.

A sound shall be considered tonal if the NCO and the person responsible for the sound agree that it is tonal. If the NCO considers the sound tonal but the person responsible for the sound disagrees, then one-third octave band sound pressure levels shall be measured, the limitations in Table 2 below shall be enforced, and the sound shall be considered tonal or non tonal in accordance with the definition of "Tonal Noise" in Sec. 44.002.

Tonal Noise and Impulsive Sound are prohibited entirely during Nighttime hours.

The zoning district applies to the property on which the sound is received, not the property where the sound is produced. The sound level can be measured at any location on the property, not just the property line.

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Table 2. One-Third Octave Band Limits

One-Third Octave Band Center Frequency, Hz	Nighttime	Daytime	Daytime, with impulsive	Daytime, with tonal components
12.5	55	60	53	55
16	53.8	58.8	51.8	53.8
20	52.6	57.6	50.6	52.6
25	51.4	56.4	49.4	51.4
31.5	50.2	55.2	48.2	50.2
40	49	54	47	49
50	47.8	52.8	45.8	47.8
63	46.6	51.6	44.6	46.6
80	45.4	50.4	43.4	45.4
100	44.2	49.2	42.2	44.2
125	43	48	41	43
160	41.8	46.8	39.8	41.8
200	40.6	45.6	38.6	40.6
250	39.4	44.4	37.4	39.4
315	38.2	43.2	36.2	38.2
400	37	42	35	37
500	35.8	40.8	33.8	35.8
630	34.6	39.6	32.6	34.6

800	33.4	38.4	31.4	33.4
1000	32.2	37.2	30.2	32.2
1250	31	36	29	31
1600	29.8	34.8	27.8	29.8
2000	28.6	33.6	26.6	28.6
2500	27.4	32.4	25.4	27.4
3150	26.2	31.2	24.2	26.2
4000	25	30	23	25
5000	23.8	28.8	21.8	23.8
6300	22.6	27.6	20.6	22.6
8000	21.4	26.4	19.4	21.4
10000	20.2	25.2	18.2	20.2
12500	19	24	17	19
16000	17.8	22.8	15.8	17.8
20000	16.6	21.6	14.6	16.6

b. Method of Noise Measurement

(1) All measurements shall be made with an integrating sound level meter that satisfies the requirements pertinent for Type 1 Sound Level Meters in the American National Standards Institute ANSI S1.4-1983, "Specifcations for Sound Level Meters."

(2) The sound level meter shall be calibrated according to the meter manufacturer's recommendations,

(3) Place a windscreen over the microphone.

(4) Support the instrument and orient the microphone in accordance with the manufacturer's instructions.

(5) Position the microphone between 4 feet (1.2 meters) and 6 feet (1.8 meters) above ground.

(6) Position the microphone at least 4 feet (1.2 meters) from any solid surfaces.

(7) Do not position the microphone in or at a door, window, duct, louver, or other building opening.

(8) Set the meter response or detecter to "slow."

(9) Set the meter weighting to "A" or "C."

(10) Measure the A-weighted sound level, the C-weighted sound level, and, if necessary pursuant to Section 44.005(a), the one-third octave band sound pressure level,

(11) In addition to the above procedures, measurements and measurement reports

should be made in general accordance with American Society for Testing and Materials ASTM E 1014-84, "Standard Guide for Measurement of Outdoor A-Weighted Sound Levels."

c. Specific Prohibitions

Within the Village of Volente Jurisdiction, the following acts, and the causing thereof, are declared to be in violation of this ordinance:

(1) Radios, Television Sets, Musical Instruments and, Similar Devices
Operating, playing or permitting the operation or playing of any radio, television, phonograph, CD player, juke box, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:

(A) That produces a noise violation received across a residential real property boundary;

(B) In such a manner as to create a noise violation at 50 feet (15 meters) from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public waters; or

(C) In any place of public entertainment at an equivalent sound level (Leq) greater than 85 dBA as read by the slow response on a sound level meter, at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, slating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."

(D) This section shall not apply to non-commercial spoken language.

(2) Loudspeakers/Public Address Systems

(A) Using or operating for any non-commercial purpose any loudspeaker public address system, or similar device for spoken language between the hours of 9:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise violation across a residential real property boundary, except during July 4th celebrations or other national holiday celebrations, and during properly permitted parade events.

(B) Using or operating for any commercial purpose any loudspeaker public address system, or similar device for spoken language such that the sound therefrom creates a noise violation (1) across a residential real property boundary; or (2) between the hours of 9:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space.

(3) Loading and Unloading

Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise violation across a residential real property boundary.

(4) Construction

Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:

(A) Before 7:00 a.m. or after 9:00 p.m. on weekdays, or before 8:00 a.m. or after 6:00 p.m. on Saturdays, Sundays or holidays, during the months of April through October, such that the sound therefrom creates a Noise Violation across a residential real property boundary, except for emergency work of public service utilities or by special exception issued pursuant to the provisions of this Ordinance.

(B) Before 7:00 a.m. or after 7:00 p.m. on weekdays, or before 8:00 a.m. or after 6:00 p.m. on Saturdays, Sundays, or holidays, during the months of November through March such that the sound therefrom creates a Noise Violation across a residential real property boundary, except for emergency work of public service utilities or by special exception issued pursuant to the provisions of this Ordinance.

(C) All construction equipment shall be properly maintained and equipped with standard or better noise-reduction accessories such as silencers. Construction equipment should be sited to minimize noise impacts. Work processes should be planned to minimize noise impacts.

(D) This section shall not apply to the use of domestic power tools.

(5) Vehicle or Motorboat Repairs and Testing

Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise violation across a residential real property boundary.

(6) Powered Model Vehicles

Operating or permitting the operation of powered model vehicles in a public space so as to create a noise violation across a residential real property boundary, between the hours of 9:00 p.m. and 7:00 a.m. the following day.

(7) Stationary Non-Emergency Signaling Devices

(A) Sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle, horn, or similar device, intended primarily for non-emergency purposes, from any place, for more than one minute in any hourly period during the daytime.

(B) Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision.

(8) Emergency Signaling Devices

(A) The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, horn or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in Subsection (b).

(B) Emergency Signaling Testing:

(1) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 9 a.m. or after 6 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 5 seconds.

(2) 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 9 a.m. or after 6 p.m. The time limit specified in subsection (1) shall not apply to such complete system testing.

(3) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within 10 minutes of activation.

(9) Domestic Power Tools

Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, leaf blower, or similar device used outdoors between the hours of 9:00 p.m. and 7:00 a.m. the following day so as to cause a noise violation across a residential real property boundary.

(10) Tampering

The following act or the causing thereof is prohibited:

(A) The intentional moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the NCO, provided such device or the immediate area is clearly labeled, in accordance with NCO regulations, to warn of the potential illegality.

(11) Industrial and Utility Facilities—Construction and Operation Permits

The construction or operation of an industrial or utility facility without the permits required by this subsection is a violation of this Ordinance.

(A) A Noise Control Permit for Construction must be obtained from the Village before construction of any industrial or utility facility may commence. The Village shall place conditions on the permit to insure that noise levels from the facility will comply with the provisions of this Ordinance.

(B) A Noise Control Permit for Operation must be obtained from the Village before any industrial or utility facility may begin operations. The owner or operator of an industrial or utility facility must apply to the Village for an Noise Control Permit for Operation within sixty (60) days of completion of construction of the industrial or utility facilities. The Village shall place conditions on the permit to insure that noise levels from the facility will comply with the provisions of this Ordinance.

(C) All applications for Noise Control Permits for Construction and Noise Control Permits for Operation (collectively referred to as "Noise Control Permits") shall contain the information requested in the Village's permit application form.

(D) All representations made in a Noise Control Permit application become conditions on the Noise Control Permit granted and misrepresentations can be a basis for revoking the permit.

(E) Upon filing an application for a Noise Control Permit, the applicant must submit (i) an Environmental Noise Impact Analysis (a/k/a an acoustical analysis) describing both the existing ambient noise levels and the potential noise from the construction or operation of the proposed facility in the construction or operation area and across surrounding residential real property boundaries, and (ii) a Noise Abatement Plan to be implemented. Both the Environmental Noise Impact Analysis and Noise Abatement Plan are subject to Village review and approval

(1) The Environmental Noise Impact Analysis shall meet the requirements to be set by the Village and must include an existing ambient sound study that provides measurements of the existing sound levels in the planned construction or operating area and across surrounding residential real property boundaries, during both day and night hours. The existing ambient noise shall be measured using the methods of measurement for both the usual noise components and the low frequency noise components as described in this ordinance. The Environmental Noise Impact Analysis shall also:

(a) identify and quantify the noise potentially contributed by traffic (both long-term and short-term noises) associated with the facility, by construction operations and equipment, and by operational equipment, and

by maintenance operations;

(b) identify and analyze sound contributions from all stationary noise sources, including but not limited to, electrical pump motors, transformers, generators, and other system equipment involved in the proposed construction or industrial or utility facility operations; and

(c) include a description of the potential levels of low frequency and infrasound noise, vibration, and an estimate of tonal and impulsive noises to be produced by the construction or operations.

(2) The Noise Abatement Plan shall meet the requirements to be set by the Village and must include plans for implementing the best available noise abatement technology. The Noise Abatement Plan shall provide for the mitigation of all non-compliant noise and demonstrate and guarantee that the plan's implementation will ensure that the noise resulting from the construction or ongoing operations of the industrial or utility facilities will not exceed the noise standards established by this ordinance.

(F) The permits required under this Section shall be issued in the same manner as a building permit is issued in the Village. Appeals from the administrative decision to issue, deny or condition a permit shall be to the Village Council.

Sec.44.006 Exceptions

a. Emergency Exception

The provisions of this ordinance shall not apply to:

(1) the emission of sound for the purpose of alerting persons to the existence of an emergency, or

(2) the emission of sound in the performance of emergency work.

b. Special Exceptions

(1) The NCO shall have the authority, consistent with this section, to grant special exceptions which may be requested pursuant to Section 44.005c(4) (Construction).

(2) Any person seeking a special exception pursuant to this section shall file an application with the NCO. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special exception is sought into compliance with this ordinance would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Notice of an application for a special exception shall be published according to Village procedure. Any individual who claims to be adversely affected by allowance of the special exception may file a statement with the NCO containing any information to support his claim. If the NCO finds that a

sufficient controversy exists regarding an application, a public hearing may be held.

(3) In determining whether to grant or deny the application, the NCO shall balance the hardship to the applicant, the community, and other persons of not granting the special exception against the adverse impact on the health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special exception. Applicants for special exceptions and persons contesting special exceptions may be required to submit any information the NCO may reasonably require. In granting or denying an application, the NCO shall place on public file a copy of the decision and the reasons for denying or granting the special exception.

(4) Special exceptions shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special exception shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special exception shall terminate it and subject the person holding it to those provisions of this ordinance regulating the source of sound or activity for which the special exception was granted, including enforcement actions.

(5) Application for extension of time limit specified in special exceptions or for modification of other substantial conditions shall be treated like applications for initial special exceptions under subsection (2).

(6) The NCO may issue guidelines defining the procedures to be followed in applying for a special exception and the criteria to be considered in deciding whether to grant a special exception.

c. Exceptions for Time to Comply

(1) Within 30 days following the effective date of this ordinance, the owner of any commercial or industrial source of sound may apply to the NCO for an exception in time to comply with Section 44.005. The NCO shall have the authority, consistent with this section, to grant an exception, not to exceed 60 days from the effective date of this ordinance.

(2) Any person seeking an exception in time to comply shall file an application with the NCO. The application shall contain information which demonstrates that bringing the source of sound or activity for which the exception is sought into compliance with this ordinance prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Notice of an application for an exception in time to comply shall be published according to Village procedure. Any individual who claims to be adversely affected by allowance of the exception in time to comply may file a statement with the NCO containing any information to support their claim. If the NCO finds that a sufficient controversy exists regarding an application, a public hearing may be held.

(3) In determining whether to grant or deny the application, the NCO shall balance

the hardship to the applicant, the community, and other persons of not granting the exception in time to comply, 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 exception. Applicants for exceptions in time to comply and persons contesting exceptions may be required to submit any information the NCO may reasonably require. In granting or denying an application, the NCO shall place on public file a copy of the decision and the reasons for denying or granting the exception in time to comply.

(4) Exceptions in time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The exception in time to comply shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the exception shall terminate the exception and subject the person holding it to those provisions of this ordinance for which the exception was granted.

(5) Application for extension of time limits specified in exceptions in time to comply or for modification of other substantial conditions shall be treated like applications for initial exceptions under subsection (2), except that the NCO must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

(6) The NCO may issue guidelines defining the procedures to be followed in applying for an exception in time to comply and the criteria to be considered in deciding whether to grant an exception.

d. Appeals

Appeals of an adverse decision of the NCO shall be made to the Board of Adjustment.

Sec.44.007 Motor Vehicle Maximum Sound Levels

a. Adequate Mufflers or Sound Dissipative Devices

(1) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation:

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

b. Motor Vehicle Horns and Signaling Devices

The following acts and the causing thereof are declared to be in violation of this ordinance:

(1) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger.

c. 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 than10 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 300 feet (92 meters) of a residential area between the hours of 9:00 p.m. and 7:00 a.m. the following day.

d. Recreation Motorized Vehicles Operating Off Public Rights-of-way

No person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted there from exceeds 76 dBA (Leq) at a distance of 50 feet (15 meters) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, scooters, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats.

Sec.44.008 Enforcement

a. Penalties and Injunctive Relief

(1) The Village may bring a civil action for the enforcement of this ordinance in a Travis County District Court pursuant to the provisions of Chapter 54.012 *et seq.* of the Texas Local Government Code for civil penalties and injunctive relief.

(2) The Village may bring a criminal action in its municipal court against any person who violates any provision of this ordinance. Upon conviction, the person shall be fined for each offense a sum of not less than one hundred dollars and not more than one thousand dollars.

(3) Each day of violation of any provision of this ordinance shall constitute a separate offense.

b. Abatement Orders

(1) Except as provided in subsection (2), in lieu of issuing a notice of violation as provided for in Section c, the NCO or other agency responsible for enforcement of any provision of this ordinance may issue an order requiring abatement of any source of sound alleged to be in violation of this ordinance within a reasonable time period and according to guidelines, which the NCO may prescribe.

(2) An abatement order shall not be issued:

(A) for any violation covered by Section a(2);

(B) when the NCO or other enforcement agency has reason to believe that there will not be compliance with the abatement order.

c. Notice of Violation

Except where a person is acting in good faith to comply with an abatement order issued pursuant to Section b(1), violation of any provision of this ordinance shall be cause for a notice of violation to be issued by the NCO or other responsible enforcement agency according to procedures which the NCO may prescribe.

d. Immediate Threats to Health and Welfare

(1) The NCO shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to subsection (2), to continuous sound levels in excess of those shown in Table 2. Within 10 days following issuance of such an order, the NCO shall apply to the appropriate court for an injunction to replace the order;

(2) No order pursuant to subsection (a) shall be issued if the only persons exposed to sound levels in excess of those listed in Table 2 are exposed as a result of;

(A) trespass;

(B) invitation upon private property by the person causing or permitting the sound, or

(C) employment by the person or a contractor of the person causing or permitting the sound.

(3) Any person subject to an order issued pursuant to subsection (1) shall comply with such order until;

(A) the sound is brought into compliance with the order, as determined by the NCO, or

(B) a Judicial order has superseded the NCO order.

(4) Any person who violates an order issued pursuant to this section shall, for each day of violation, be fined not less than one hundred dollars nor more than two thousand dollars.

TABLE 2

CONTINUOUS SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE[1]

Sound Level Limit (dBA)	Duration
90	24 hours
93	12 hours
96	6 hours
99	3 hours
102	1.5 hours
105	45 minutes
108	22 minutes

[1] Use equal energy time-intensity trade-off if level varies.

Section 5: Severability

If any provision of this ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

Section 6: Effective Date

This Ordinance shall take effect after any required posting and publication of this Ordinance.

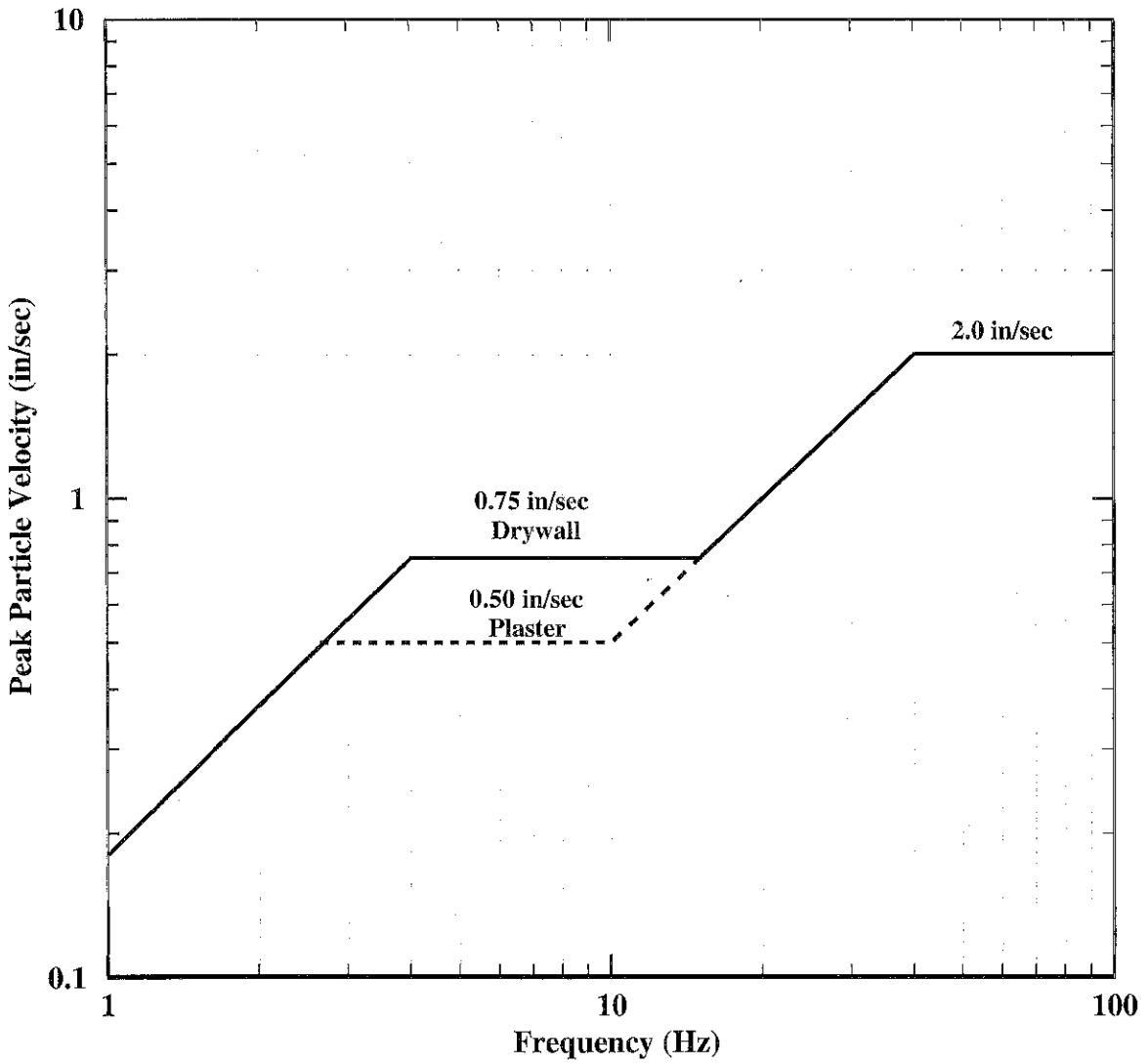
Section 7: Public Notice and Meeting

It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this 25th day of January, 2008.

Jan Yenawine, Mayor
Village of Volente

ATTEST:

Jennifer Zufelt, Village Secretary

U. S. BUREAU OF MINES CRITERIA
From Report RI-8507 (November, 1980)