



CUPERTINO

COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL

10300 TORRE AVENUE • CUPERTINO, CA 95014-3255

(408) 777-3308 • FAX (408) 777-3333

November 12, 2009

Fremont Union High School District
Attention: Sharon Serrano
Coordinator of Facilities Operation
589 West Fremont Avenue
Sunnyvale, California 94087

**Re: Monta Vista High School Sports Fields Improvements and Lighting
Notice of Preparation**

Dear Ms. Serrano:

Thank you for the opportunity to review and comment on the Notice of Preparation of an Environmental Impact Report (EIR) for the proposed Monta Vista High School Sports Fields Improvements and Lighting. The City has reviewed the Notice of Preparation and is particularly concerned about possible impacts on the surrounding residential neighborhoods. Mitigation measures should address the following issues:

Alternatives – The preferred alternative will cause the greatest impacts by locating bleachers, restrooms and concession stands closest to the homes to the west of the site. It is imperative that such impacts be reduced by redesign or adequately mitigated by visual and acoustic buffers.

Traffic – The project likely will add traffic to surrounding streets that are already impacted; including McClellan Road, Bubb Road and other surrounding streets. Analysis should include a study of the projected added traffic within the surrounding neighborhoods and a study of the traffic impacts of a probable event drawing a maximum crowd.

Parking – The project could result in overflow parking on surrounding streets. The parking analysis should clarify the extent of projected overflow parking onto the surrounding residential streets with mitigation measures to control the extent of overflow parking.

Noise – High noise levels from public address systems, crowds and/or band related events can negatively affect homes surrounding the school, particularly during evening and night events. The noise analysis should include identification of a list of project-related noises and analysis of a comparable event. In particular, I enclose a copy of the City's noise ordinance and the Noise Element of its General Plan. We suggest that the EIR criteria for significant noise impacts reflect these standards and

that a failure to comply with the standards the City generally applies to land uses be deemed a significant impact. These materials should also be considered as sources of potential mitigation measures for noise impacts. Specific measures might include revising the location of the bleachers and restricting the evening hours in which public address systems are used and band performances are scheduled, etc. to protect sensitive receptors near the project site, especially the residential neighborhoods to the west.

Lighting – Lighting for the field will cause visual impacts including lights shining into yards and homes. Details of the lighting schedule, lighting intensity and configuration, and a proposed/possible schedule of activities that could likely require night time lighting should be analyzed and mitigations proposed. Mitigation measures should include design features to direct lighting onto school property and to shield residential uses to the fullest extent feasible from nuisance lighting and glare.

Drainage – The project should retain additional surface run-off or detain additional surface runoff from entering the City's storm drains. The project should also incorporate C.3 requirements as required. The EIR may also wish to address the requirement of the new general construction permit issued by the State Water Resources Control Board for construction activity that will take effect July 1, 2010, as those standards will likely apply to this project.

Therefore, the City requests that the following be provided and addressed in the environmental review to adequately assess and mitigate the project-related impacts:

Land Use

- A site plan showing all proposed improvements, including but not limited to:
 - The number and locations of the proposed public address (PA) system speakers, sports lighting elements, other lighting elements, and bleachers (including number of persons each bleacher will seat), restrooms and concessions stands.
 - Setbacks/distances between property lines (particularly residential properties) and various sports field improvements (e.g. closest bleachers, football/baseball/softball fields, track, public address system speakers, light fixtures standards, etc.)
- Proposed/possible schedule of activities (days/times) of various uses that may/will occur on the sports fields for weekday after-school use or weekend use. In addition to the anticipated six times per year the lighting would be used for football games, please provide an anticipated schedule (possible frequency, length of time, time of day) of types of activities to occur on the sports fields and on which portions of the sports fields. If the facilities are to be used by non-school groups, such as youth sports leagues, those private actors will be subject to the City's zoning ordinance and noise ordinance and the project description and environmental impact analysis should take that fact into account.

- A grading/drainage plan that indicates the method(s) to contain storm water drainage, and proposed impacts and mitigation measures that may affect surrounding residential properties and the City of Cupertino both during construction and operation phases.

Traffic & Parking

- The City of Cupertino recommends that traffic and parking analysis be conducted during a typical Friday evening football game at Cupertino High School to obtain a comparable assessment and projection of the traffic and parking impacts that could likely occur during football games at Monta Vista High School. The City believes that projected impacts of a typical evening event and/or football game should include consideration of existing comparable events at existing district high school facilities. The traffic and parking analyses should reflect the impacts of the maximum probable event at the new facility in light of comparable events elsewhere and the design capacity of the proposed facility.
- The added traffic from this project at the following four intersections during a typical weekday PM peak period (4-6) and a Friday evening from 5 PM to 7 PM should be analyzed in detail:
 - Stevens Creek/85(N)
 - Stevens Creek/85(S)
 - Stevens Creek/Bubb
 - Bubb/McClellan

Impacts on CalTrans facilities (i.e., SR 85) should, of course, be analyzed consistently with CalTrans' standards.

- The City recommends that a clarification of the projected extent of overflow parking onto the surrounding streets be provided. Please indicate where the overflow parking is anticipated, and what mitigation measures there will be to control the extent of overflow parking onto surrounding streets.
- If this project is expected to generate 100 or more new weekday (AM or PM peak hour) or weekend peak hour trips, including both inbound and outbound trips, a complete Traffic Impact Analysis (TIA) will need be performed according to the Santa Clara County Transportation Authority Management Program's "Transportation Impact Analysis Guidelines".

Water Quality & Stormwater Management

- If this project replaces or adds 10,000 square feet or more of impervious surface, this project will be required to meet C.3 requirements per the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) permit requirements. It is recommended that a spreadsheet listing the amount of replaced or new impervious surface be included in the report.
- Compared with the pre-project (existing) condition, additional surface runoff generated from this project must be retained or detained from entering the City's storm water drainage system to the satisfaction of the City's Engineer.

Runoff includes storm water and runoff from landscape irrigation and other urban sources. A report on the hydrology and hydraulic analysis of the pre- and post-project surface runoff and mitigation measures to reduce post-project surface runoff to pre-project levels should be provided.

Noise

- The project noise analysis should identify a list of project-related noise elements that will contribute to the increase in noise levels expected with use of the sports fields (e.g. noise from activities, people in attendance, public address systems, vehicles, musical performances, etc.).
- Please address the standards and requirements of City of Cupertino's Noise Ordinance and Noise Element of the 2005 General Plan in the project noise analysis.
- The City of Cupertino recommends that analysis of projected noise impacts include a noise analysis of a typical evening football game at Cupertino High School as a comparable event adjusted as appropriate to the design capacity of the proposed facility.

Lighting

- A list of proposed/possible schedule of activities that likely will require nighttime lighting should be included in the analysis of the lighting impacts and mitigation measures. Details about the time of night, duration and frequency of nighttime lighting for such events should be provided.
- Proposed hours of operation of the lighting (earliest time lights are to be switched on and latest time lights are to be switched off), intensity of lighting, and configuration (number, location, lighting levels and whether cutoffs or other measures will be used to minimize light infiltration into adjacent sites) should be clarified in the analysis.

Should you have any questions regarding the above-referenced comments or need additional information, please feel free to contact Aki Honda Snelling, AICP in the City of Cupertino Planning Department at (408) 777- 3313. Please provide this department with any further notices with respect to this environmental review process and the District's decision-making process on this project to my attention at the above address so the City may continue to work with you to address the concerns of the community both our agencies serve.

Sincerely,



Aarti Shrivastava
Director of Community Development

Facility Failures

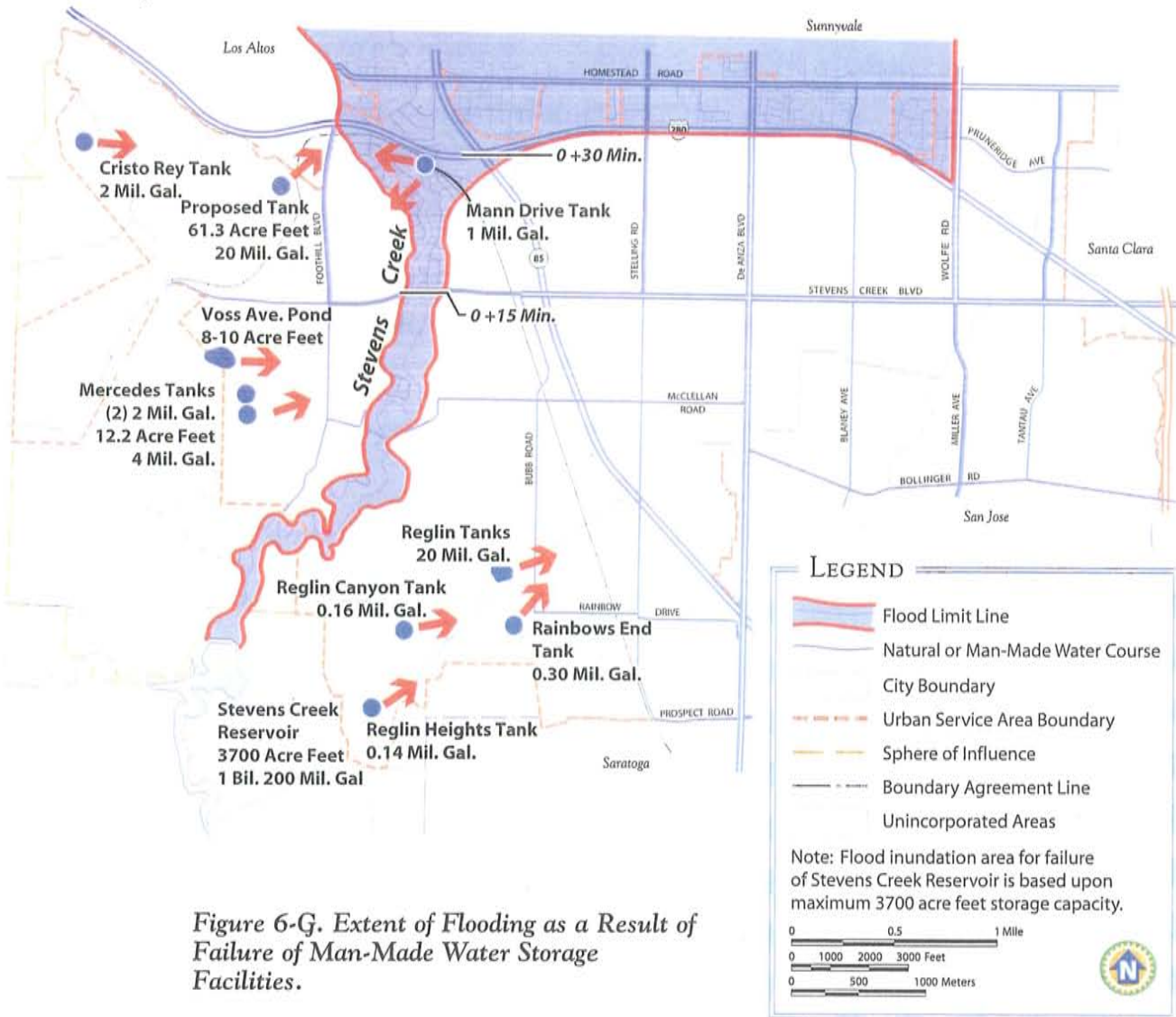


Figure 6-G. Extent of Flooding as a Result of Failure of Man-Made Water Storage Facilities.

Policy 6-49: Stability of Existing Water Storage Facilities

Assure the structural integrity of water storage facilities.

Strategy

Coordination with other Agencies. Work closely with the San Jose Water Company and owners of other water storage facilities to develop and implement a program to monitor the stability

of all existing water storage facilities and related improvements, such as: distribution lines, connections and other system-components.

NOISE POLLUTION

Freedom from excessive noise is a major contributor to a high quality of life. This section gives a policy framework for guiding future land use and urban design decisions and



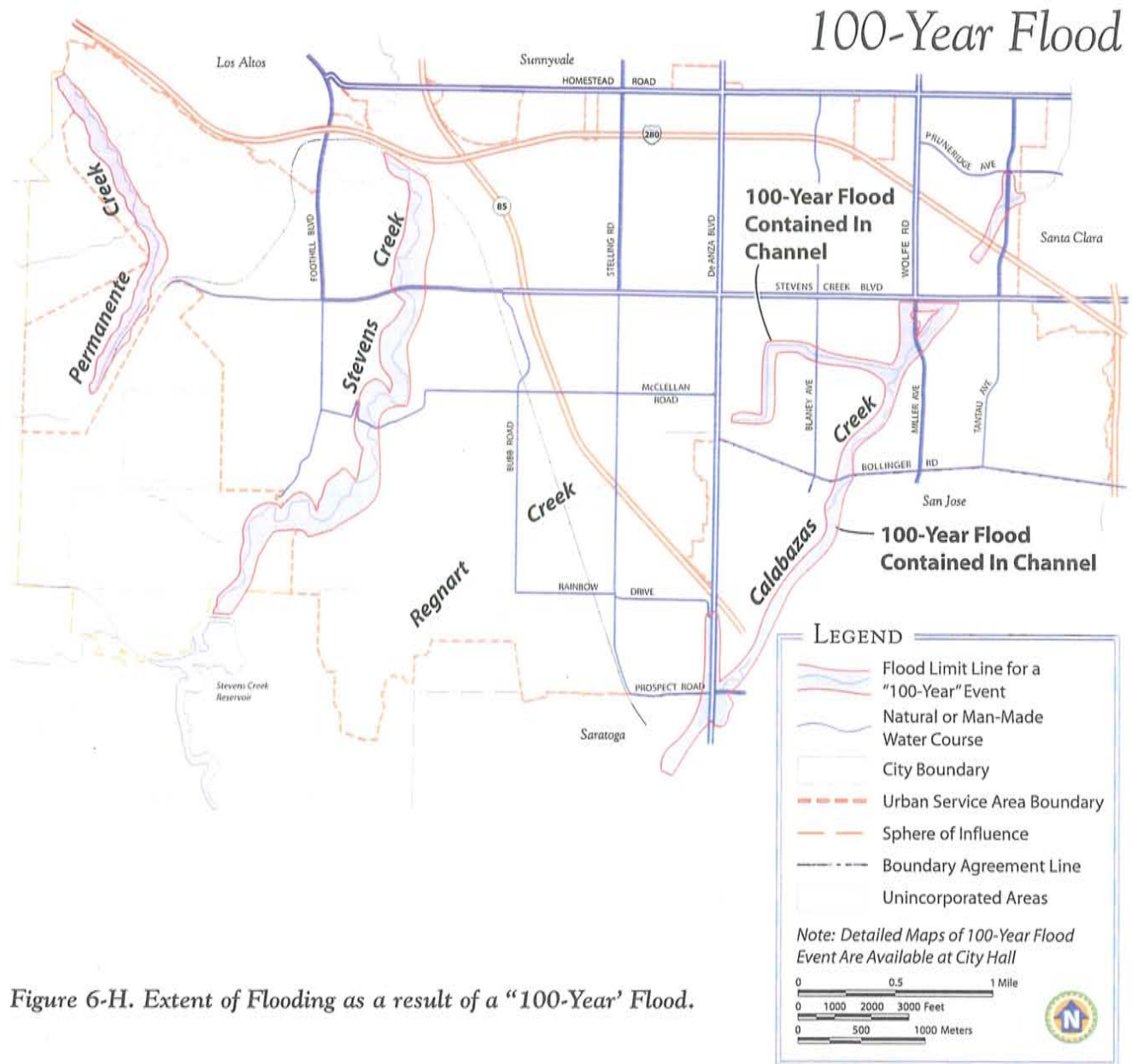


Figure 6-H. Extent of Flooding as a result of a "100-Year" Flood.

contains a system of control and abatement measures to protect residents from exposure to excessive or unacceptable noise levels.

The noise environment is an accumulation of many different sources, ranging from common machinery to the major source, street and freeway traffic. The degree to which noise is irritating depends on a vari-

ety of factors, some independent of the noise source itself. Time of day, background sound level, the listener's activity and surrounding land use can all influence the degree to which a particular sound is perceived as annoying. Value judgments also enter into tolerance for urban sound levels. Most people tolerate emergency sirens and loud lawnmowers because they represent necessary



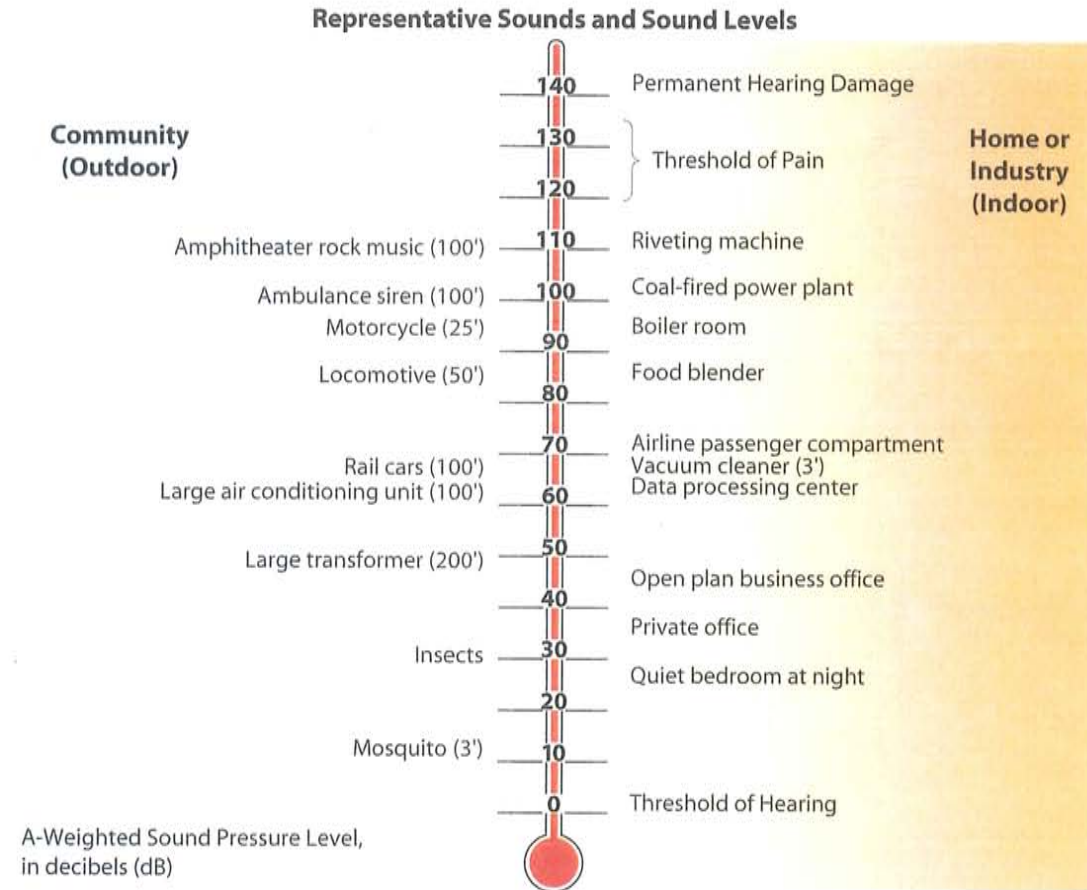


Figure 6-I. Typical Sound Levels Measured in the Community, Industry, and Home.

actions, public safety and neighborhood upkeep. However, loud noises from cars with defective or modified mufflers are usually perceived as annoyances.

Overall noise levels seem to be increasing despite efforts to identify and regulate noise sources. An increasing population density affects traffic on existing roads and construction of new roads, e.g., I-85, which opened since the past General Plan was prepared in 1993, raised overall noise levels. It is not possible to control all noise sources within Cupertino, but some regulation is needed to offset negative results of excessive noise.

Community Noise Fundamentals

A more comprehensive discussion of community noise is provided in the technical appendix. This discussion addresses only the basic nomenclature and concepts necessary to understand the technical portions of this noise element.

Noise is unwanted sound, and is therefore a subjective phenomenon that depends upon the listener's attitude toward the sound. The three elements of community noise are noise level, noise spectrum and variation in noise level with time. Noise level is measured in decibels (dB). Every noise is composed of various frequencies that define the character



of the noise. Since human hearing is more sensitive to the higher speech frequencies, the A-weighted frequency network is applied, according to national and international standards, to adjust the measured noise level to more closely relate to human perception of loudness.

Effective land use planning requires a means to assess various time-varying noise environments for their suitability for various land uses (e.g., housing, commercial, retail, industrial). Different noise environments have different time-varying characteristics; for instance a freeway may emit a fairly constant noise level for long periods while an airport may emit many short-term high level noise events punctuated by extended periods of quiet. To provide a standard measure for community noise exposure the State of California has adopted the Community Noise Equivalent Level (CNEL) as the standard metric (21CAC5000), and is used in this noise element. The CNEL metric is a 24-hour energy average measure that penalizes evening and nighttime noise, and provides a uniform measure for various time-varying noise environments in a way that generally relates to community annoyance over noise.

Noise Contours

Noise contour maps are created for land use planning purposes. The contour maps give a visual representation of the noise environment in Cupertino. The noise contours are conservative, meaning that the contours are modeled with minimal noise attenuation by natural barriers, buildings, etc. The noise level measured at a specific location may be lower than what is shown on the noise contour map. The purpose of noise element contours is to identify a need for additional acoustical investigations.

Two sets of CNEL noise contours were created: present day conditions (Year 2000) and future conditions (Year 2020). The following figures, 6-J and 6-K, represent Existing Year 2000 and Future Year 2020 noise contour maps, respectively. These contours indicate only a slight increase in noise levels.

Noise Monitoring

In order to characterize the noise environment in Cupertino, existing noise conditions in Cupertino were measured at six locations for a period of twenty-four hours. The following Table, 6-E, summarizes each measurement's location and corresponding CNEL value.

Table 6-E: Noise Monitoring Summary.

Location	CNEL Value
Stevens Creek Blvd at Vallco Financial Ctr.	69 dB
Stevens Creek Blvd. East of De Anza Blvd.	72 dB
South Stelling at Tomki Ct.	73 dB
Stelling North of I-280	72 dB
Foothill Blvd. at Silver Oak Wy.	76 dB
Bollinger Rd. West of Miller Ave.	73 dB



Noise Contours – 2000

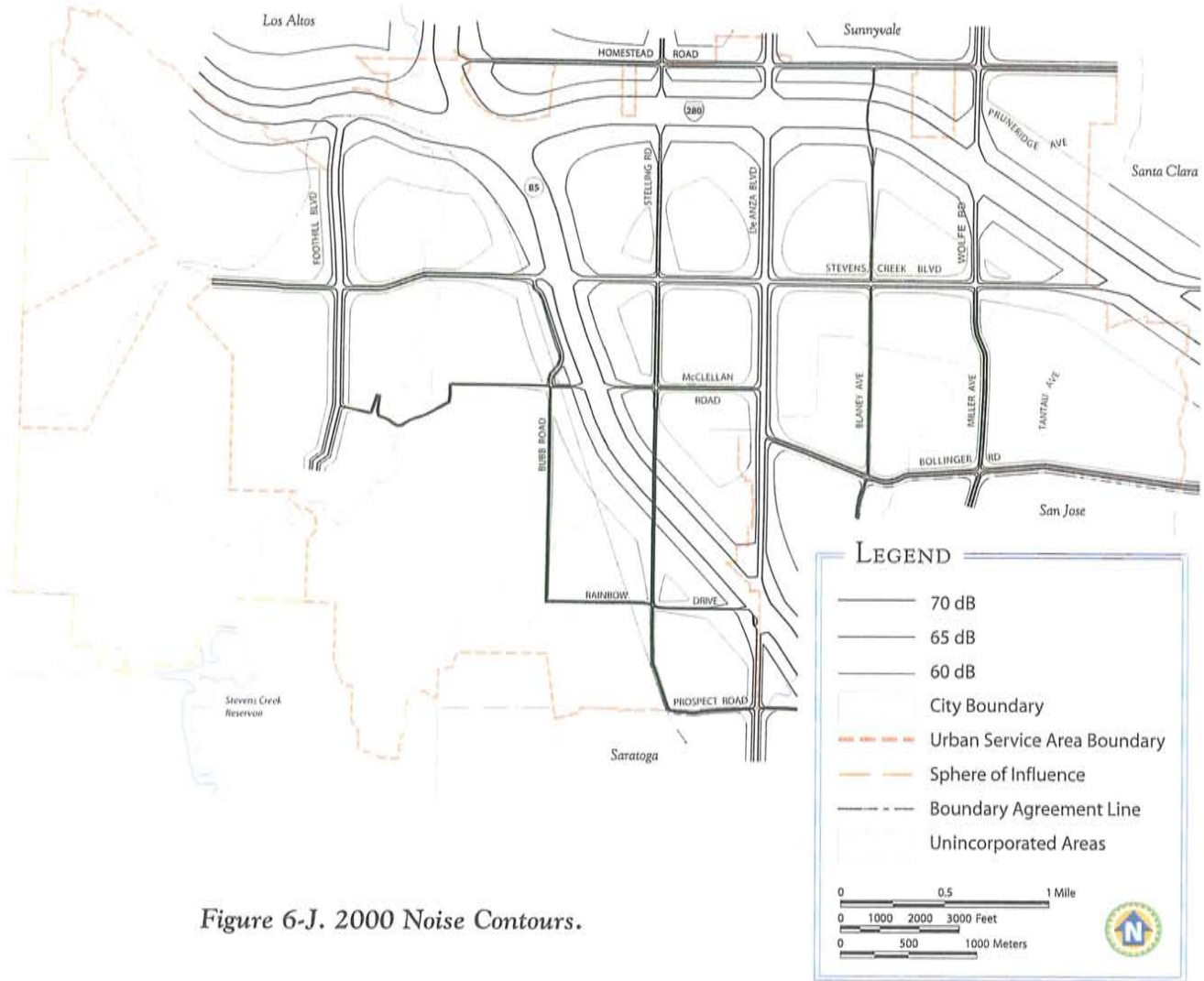


Figure 6-J. 2000 Noise Contours.

Land Use Compatibility

Many undesirable noise effects can be reduced or avoided if noise conditions are considered when assigning uses to specific land parcels. Noise cannot and should not be the primary factor considered in land use analysis, but the City should strive to match land uses to compatible noise levels.

Compatibility may be achieved by locating land use types outside of designated noise impact areas or by requiring modifications including setbacks, sound walls, building insulation or landscaping.

The Cupertino Municipal Code, Section 10, outlines the maximum noise levels on receiving properties based upon land use types.



Noise Contours – 2020

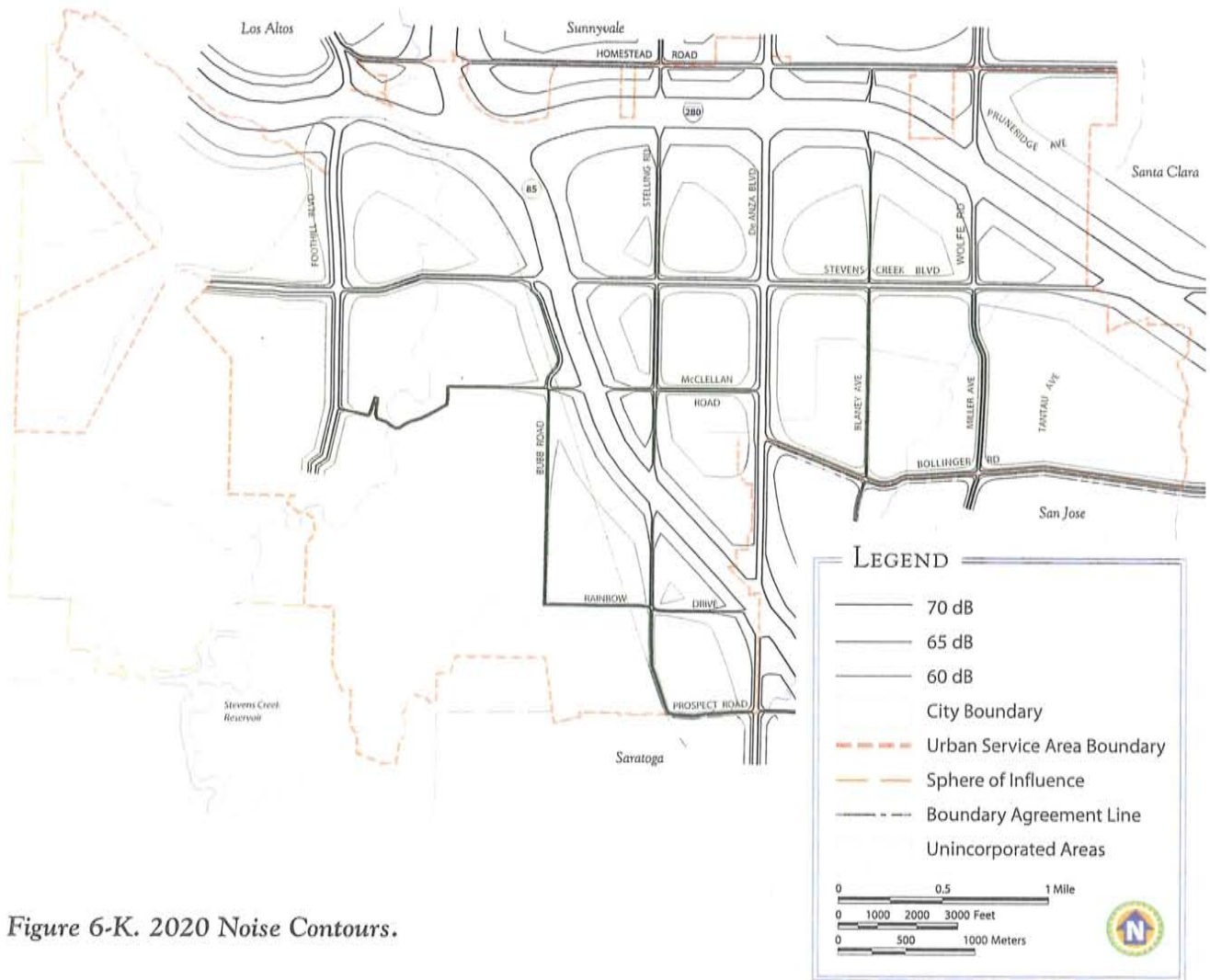


Figure 6-K. 2020 Noise Contours.



A COMPATIBLE NOISE ENVIRONMENT FOR EXISTING AND FUTURE LAND USES

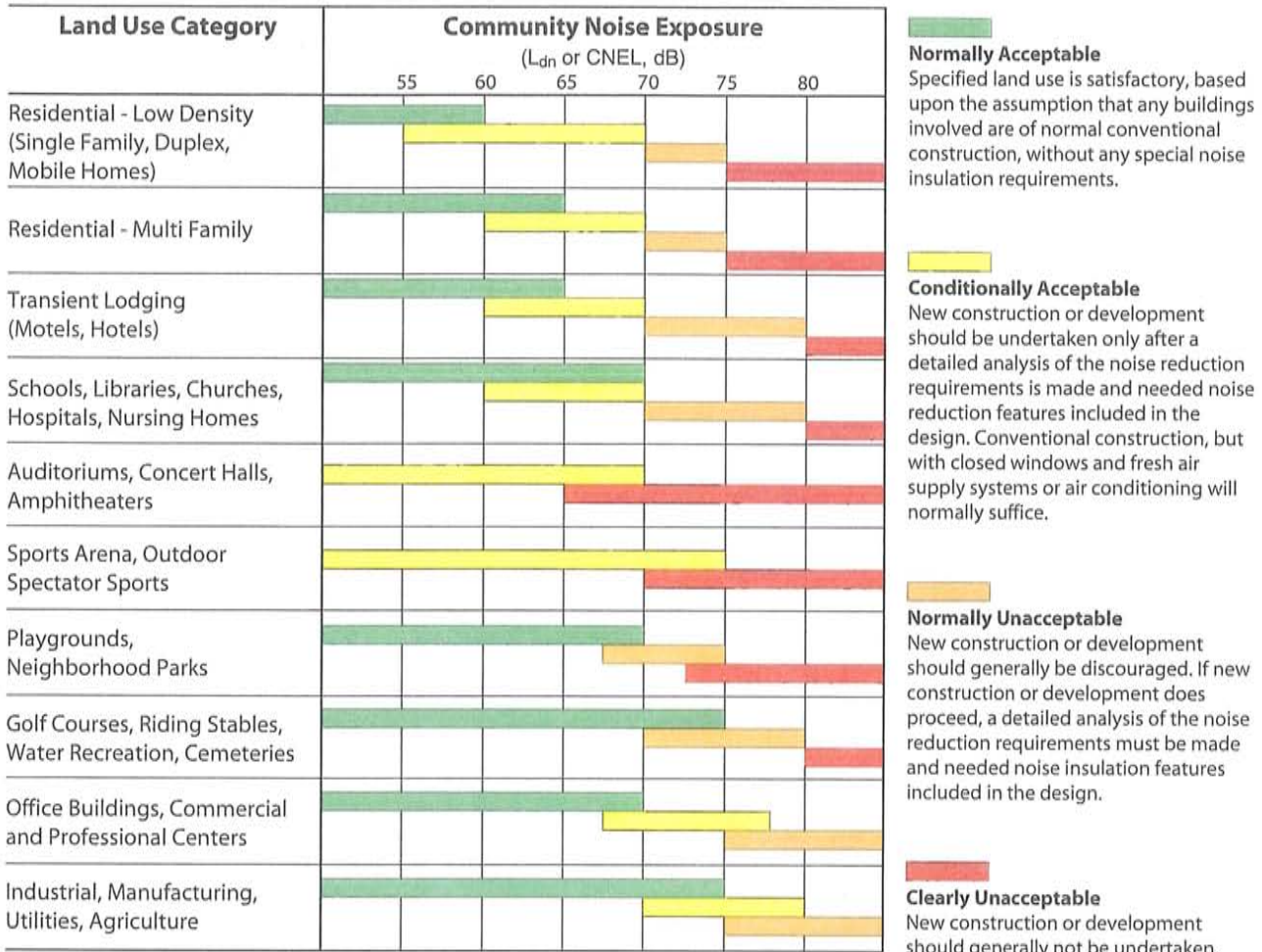
Policy 6-50: Land Use Decision Evaluation

Use the Land Use Compatibility for Community Noise Environments chart and the City Municipal Code to evaluate land use decisions.

Strategy

Noise Review of New Development. Review the proximity of new or significantly remodeled housing to the traffic noise corridor by using the noise contour map and review the results of previous noise standards to see if the standards can be complied with through conventional construction practices. If there is not enough information, the staff may ask the developer to provide an acoustical analysis along with the application.





SOURCE: STATE OF CALIFORNIA'S *GENERAL PLAN GUIDELINES*, 1998.

Figure 6-L: Land Use Compatibility for Community Noise Environments.

Transportation Noise

Traffic noise is the greatest contributor to noise pollution in Cupertino and one of the most difficult to control through local effort. Two major freeways and three major arterial streets cross Cupertino.

Cupertino is fortunate that significant portions of Highways 85 and 280 are recessed, because this helps lessen noise in the surrounding neighborhoods. Freeway noise, at a constant but subdued level, is less of a direct threat to neighbors. Commuters



use De Anza Boulevard and Stevens Creek Boulevard heavily and greatly increase local traffic congestion, air pollution and noise.



When the Municipal Code allowing maximum noise levels are compared to the existing noise levels (Figure 6-J—Existing (Year 2000) Noise Contours), the majority of locations are currently experiencing noise levels above the maximum allowable.

New development in these areas will be required to build and incorporate design strategies outlined in the policies of this document to meet the maximum allowed internal and external noise levels.



REDUCED NOISE IMPACT OF MAJOR STREETS AND FREEWAYS ON CUPERTINO RESIDENTS

▶ **Policy 6-51: Freeway Design and Neighborhood Noise**

Ensure that roads and development along I-85 and I-280 are designed and improved in a way that minimizes neighborhood noise.

▶ **Policy 6-52: Stricter State Noise Laws**

Support enactment of stricter state laws on noise emissions from new motor vehicles and enforce existing street laws on noise emissions.

▶ **Policy 6-53: Neighborhood Need Priority**

Review the needs of residents for convenience and safety and make them a priority over the convenient movement of commute or through traffic where practical.

▶ **Policy 6-54: Traffic Calming Solutions to Street Noise**

Evaluate solutions to discourage through traffic in neighborhoods through modi-

fied street design. Examples include meandering streets, diverters, landscape islands and wide parking strips.

Strategy

Local Improvement. Modify street design to minimize noise impact to neighbors.

Train and Aircraft Noise

Trains and aircraft do not contribute much to noise in Cupertino. Aircraft flying into Moffett Field Naval Air Station are restricted to the northeastern corner of Cupertino, affecting some residents of the Rancho Rinconada neighborhood. Cupertino's one railroad line passes through the Monta Vista neighborhood and connects with the Hanson Permanente Plant in the Western foothills. There is one train three times a week (2 trips - one in, one out), which occurs usually in the afternoon or early evening hours. Noise levels associated with the trains are approximately 85-90 decibels at a distance of 50 ft. from the track for a period of two minutes. There are no noise protection devices along the rail corridor, and if increases in rail activity occur, other mitigation may be required.

Truck Traffic

The most crucial example of traffic noise intrusion on the quality of neighborhood life is the effect of heavy-duty truck trips to and from the Hanson Permanente Cement Plant and Stevens Creek Quarry located in the western foothills near Stevens Creek Boulevard and Foothill Boulevard. There are about 1,400 trips each working day, which generate noise levels up to 90 dB next to the road. When trucks speed up, slow down or use their high-powered brakes on





Quarry trucks
on Foothill
Boulevard

the unusually steep road, the truck noise problem is worsened.

▶ **Policy 6-55: Noise Improvement by Restricting Trucks**

Work toward improving the noise environment along Foothill Boulevard and Stevens Creek Boulevard by restricting quarry truck traffic especially during late evening and early morning hours. It is preferable that the restrictions be voluntary. Encourage alternative to truck transport, specifically rail, when feasible.

A study prepared by professional acoustical engineering consultants suggested a series of measures to diminish noise for homes along the truck traffic corridor. Reducing truck travel and carrying out these measures could give some relief to the residents most severely affected.

▶ **Policy 6-56: Reduction of Noise from the Hanson Permanente Trucks**

Work to carry out noise mitigation measures to diminish noise from the Hanson Permanente truck traffic for homes near Foothill and Stevens Creek Boulevards. These measures include regulation of truck speed and the volume of truck activity.

Strategy

Restrictions in the County's Use Permit. Coordinate with the County to restrict the number of trucks, their speed and noise levels along Stevens Creek Boulevard, to the allowed in the Use Permit. Ensure that restrictions are monitored and enforced by the County.

▶ **Policy 6-57: Road Improvements to Reduce Truck Impacts**

Consider road improvements, such as medians, landscaping and the addition of bicycle lanes to reduce quarry truck impacts.

Non-Transportation Noise Sources

Noises not generated by traffic are typically stationary and/or sporadic. They have a relatively minor effect compared to traffic noise, but noises such as permanent equipment (refrigeration or air conditioning units or other related pumps), barking dogs and rattling of garbage cans when people are trying to sleep can be annoying and disruptive. Complete regulation of these noises is unlikely, but the City can work to protect neighborhoods from excessive noise and require compliance with the noise standard during the evening and early morning, when ambient noise levels tend to be lower.

Short-term noise sources are also disruptive. Temporary activities such as construction can often last for several months and generate a substantial number of complaints. Some are unavoidable, but superior muffling devices for construction equipment can reduce noise from jackhammers, portable compressors and generators. City ordinances control the days and hours of construction operations. Policies are provided to limit noise levels. In several



cases building construction is stopped during evenings and weekends.

Adjoining Dissimilar Land Uses

People who live near commercial loading docks often complain of late night and early morning disturbances. Similarly, sounds from automobile repair shops and general manufacturing processes often annoy those who live near industrial areas. Economic and property rights interests of these businesses must be balanced with the community's need for a quiet environment, and should be studied carefully at the beginning of a commercial or industrial project that will adjoin homes.



RESIDENTIAL AREAS PROTECTED AS MUCH AS POSSIBLE FROM INTRUSIVE NON-TRAFFIC NOISE

► **Policy 6-58: Commercial Delivery Areas**

Be sure new commercial or industrial developments plan their delivery areas so they are away from existing or planned homes.

► **Policy 6-59: Delivery Hours**

Actively enforce Section 10.48 of the Municipal Code limiting commercial and industrial delivery hours adjoining residential uses.

► **Policy 6-60: Noise Control Techniques**

Require analysis and implementation of techniques to control the effects of noise from industrial equipment and processes for projects near homes.



► **Policy 6-61: Hours of Construction Work**

Restrict non-emergency building construction work near homes during evening, early morning, and weekends by enforcing the noise regulations in the Municipal Code.

► **Policy 6-62: Construction and Maintenance Activities**

Regulate construction and maintenance activities. Establish and enforce reasonable allowable periods of the day, for weekdays, weekends and holidays for construction activities. Require construction contractors to use only construction equipment incorporating the best available noise control technology.

Noise Attenuation

Reducing noise intrusion into residences can be accomplished in the same way homes are insulated against cold. Leaks around doors, windows, vents or through open fireplace dampers, as well as single-glazed windows and lack of seals or weatherstripping, increase noise intrusion and can be remedied. Sound is pervasive in cities and it's difficult to control exterior noises.



Different noise control techniques can be used with varying degrees of success. Each site should be evaluated to find the best combination of noise control devices. Here is a summary of common techniques and their uses.

Barriers

Sound walls can reduce noise from 5 to 15 dB. Their effectiveness depends on the relative grade of the roadway, the distance of the listener from the centerline of the nearest road, placement and height of the sound wall in relation to the receptor line, the size and location of the area to be protected and the frequency of the noise source. The barrier is more successful with higher-pitched noise and is usually more effective when located close to the source or to the listener, assuming that both are below the top of the barrier.

Sound walls can be unattractive and can enclose or separate neighborhoods. Landscaping is a less expensive and effective way to make the walls more attractive and will also reduce sound reflection from the walls. Evergreen and vines should be planted along the roadway side. Reflection can increase noise levels on the opposite side by as much as 5 dB.

Policy 6-63: Sound Wall Requirements

Exercise discretion in requiring sound walls to be sure that all other measures of noise control have been explored and that the sound wall blends with the neighborhood. Sound walls should be landscaped.

Landscaping and Setbacks

Landscaping and setbacks for small

properties do not work well in reducing noise. Plants and trees are not dense enough to prevent airflow. Setbacks must be substantial to make a difference in noise. Noise attenuates about 3 dB for heavy traffic and about 6 dB for light traffic every time the setback from the centerline of the roadway is doubled.

Building and Site Design

Building and site design techniques can control noise effectively in new developments or when existing buildings are modified. Sensitive areas can be set back or buffered by buildings, parking or recreation areas. Homes can use rooms such as kitchens, bathrooms and garages to buffer the more sensitive bedrooms and living rooms. Buildings should face solid walls onto the noise source and be sure that no vents or other air leaks face the noise source.

INSULATING BUILDINGS FROM NOISE

Conventional building practices typically achieve exterior-to-interior noise reductions from adjoining roadways of about 10 dB with open windows and 20 dB with closed windows. Considerably higher noise reduction is possible with specialized acoustical design and construction.

Table 6-F shows noise reduction from typical building types



BUILDINGS DESIGNED TO DIMINISH NOISE



▶ **Policy 6-64: Building Code Sections on Exterior Noise Intrusion**

Require the City Building Department to enforce all sections of the California Building Code for exterior sound transmission control (Sec. 1208A.8.1).

▶ **Policy 6-65: Building Code Sections on Interior Noise**

Encourage the City Building Department to enforce all sections of the California Building Code relating to interdwelling sound transmission control (Sec. 1208A.1.6).

▶ **Policy 6-66: Application of Policy 6-63 to New Single-family Homes**

Consider applying the California Building Code requirements for exterior sound transmission control (Sec. 1208A.8.1) to construction of new single-family housing.

Table 6-F. Approximate Exterior-to-Interior Noise Reduction Achieved by Structures.

Bldg. Type	Window Condition	Exterior-to-Interior Noise Reduction	Maximum Exterior CNEL Value for 45 dB Interior CNEL Value
All	Open	10 dB	55 dB
Light Frame	Ordinary sash, closed	20 dB	65 dB
Masonry	Single pane, closed	25 dB	70 dB
Masonry	Sound-rated windows, closed	35 dB	80 dB



CHAPTER 10.48: COMMUNITY NOISE CONTROL*

Section

10.48.010	Definitions.	manufacturing, fabrication, assembly or storage of goods, wares and merchandise.
10.48.011	Notice of violation.	
10.48.013	Multiple section application.	
10.48.014	Other remedies.	
10.48.020	Lead agency/official.	
10.48.021	Powers of the Noise Control Officer.	
10.48.022	Duties of the Noise Control Officer.	
10.48.023	Duties and responsibilities of other departments.	
10.48.029	Homeowner or resident conducted construction work exception.	
10.48.030	Emergency exception.	
10.48.031	Special exceptions.	
10.48.032	Appeals.	
10.48.040	Daytime and nighttime maximum noise levels.	
10.48.050	Brief daytime incidents.	
10.48.051	Landscape maintenance activities.	
10.48.052	Outdoor public events.	
10.48.053	Grading, construction and demolition.	
10.48.054	Interior noise in multiple-family dwellings.	
10.48.055	Motor vehicle idling.	
10.48.056	Noise from registered motor vehicles.	
10.48.057	Noise from off-road recreational vehicles.	
10.48.060	Noise disturbances.	
10.48.061	Animals and birds.	
10.48.062	Nighttime deliveries and pickups.	
10.48.070	Violation-Penalty.	

* Prior ordinance history: Ords. 1022, 1066, 1107, 1149, 1179 and 1278.

10.48.010 Definitions.

For purposes of this chapter:

"Commercial area" means commercially-zoned property as defined in the community zoning ordinance.

"Commercial establishment" means any store, factory, manufacturing or industrial plant used for the sale,

manufacturing, fabrication, assembly or storage of goods, wares and merchandise.

"Construction" means any site preparation, assembly, erection, repair, substantial alteration, or similar action, of public or private property, rights-of-way, structures, utilities or similar property, including vehicle pick-up or delivery of construction materials or demolition debris but excluding demolition and grading.

"Daytime" means the period from seven a.m. to eight p.m. on weekdays, and the period from nine a.m. to six p.m. on weekends.

"Decibel (dB)" means a unit for measuring relative sound pressure, logarithmically referenced to a pressure of twenty micronewtons per square meter.

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

"Emergency" means any occurrence or set of circumstances involving actual or imminent physical danger, crisis, trauma, or property damage which demands immediate action.

"Emergency work" means any work performed for the purpose of preventing or alleviating the physical danger, trauma, or property damage threatened or caused by an emergency, or restoration of conditions and property to their status prior to the emergency.

"Holidays" means the following days: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.

"Industrial area" means industrially-zoned property as defined in the community zoning ordinance.

"Muffler" means a device for reducing or dissipating the sound of escaping gases, or other types of noise, from a mechanical device or engine.

"Multiple-family dwelling unit" means a residential structure containing separate living quarters for two or more families, each unit with similar and common access to the outside.

"NCO" means noise control officer.

"Nighttime" means periods of weekdays from eight p.m. to twelve midnight, and from midnight to seven a.m., and periods on weekends from six p.m. to midnight and from midnight to nine a.m.

"Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

"Noise Control Officer (NCO)" means the municipal agency, department or individual having lead responsibility for implementation and enforcement of this chapter, as designated by the City Manager and approved by the City Council.

"Noise disturbance" means any sound which:

1. Endangers or injures the safety or health of humans or animals; or
2. Annoys or disturbs a reasonable person of normal sensitivities; or
3. Endangers or damages personal or real property.

"Noise level" means the same as sound level.

"Nonresidential area" means land zoned for other than residential uses, such as commercial, professional office, industrial or public, as defined in the zoning ordinance, but not including public rights-of-way.

"Person" means any individual, association, partnership, corporation, or public agency, and includes any associated officer, employee or department.

"Property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owner by one person from that owned by another person.

"Public area" means any property or structures thereon which are owned, utilized, or controlled by a governmental entity.

"Public right-of-way" means any street, avenue, boulevard, highway, parkway, alley or similar place which is owned or controlled by a governmental entity.

"Residential area" means residentially zoned land as defined in the community zoning ordinance.

"Sound" means a rapid variation in air pressure, which, because of its magnitude and frequency, can be heard by a human with average hearing ability.

"Sound level" means the maximum continuous or repeated peak value measured by the use of a sound level meter and the "A" weighting network, as specified in American National Standards Institute specifications for sound level meters (ANSI S 1A - 1971, or the latest revision). The reading obtained in decibels is designated dBA. If the meter response characteristic is not indicated, "SLOW" response shall be used.

"Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound levels, and meets American National Standards Institute specification S 1.4 - 1971, or latest revision, for Type 1, Type 2 or Type 2A operation.

"Weekday" means any day, Monday through Friday, that is not one of the holidays.

"Weekend" means Saturdays and Sundays that are not holidays.

"Vehicular deliveries or pickups" means the delivery or pickup or the arrival for the delivery or pickup of goods, wares, merchandise and waste material by the use of motor vehicles, including, but not limited to, the operation of motorized commercial ground-sweeping or waste-removal machinery, whether portable or self-propelled. (Ord. 1871, (part), 2001)

10.48.011 Notice of Violation.

Except in the case where there is clear evidence that a person is acting in good faith and with all deliberate speed to comply with provisions of this chapter after a verbal or written warning of a violation, the continuing violation shall be cause for either a citation, complaint, or an abatement order to be issued by the Noise Control Officer, or other responsible official. (Ord. 1871, (part), 2001)

10.48.013 Multiple Section Application.

In the event that more than one section of this chapter apply generally and simultaneously to a given noise source or incident, the least restrictive regulation shall be in effect, and the most restrictive limit shall not be invoked, except as sources and incidents are specifically identified in the most restrictive limit which is applicable. (Ord. 1871, (part), 2001)

10.48.014 Other Remedies.

No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law. The provisions of this chapter are not intended to affect in any manner, violations or arrests of persons for a violation of Section 415 of the California Penal Code or any other provision of State law. The unavailability of a sound level meter to enforce the provisions of this chapter does not preclude the enforcement of any provision of State law. (Ord. 1871, (part), 2001)

10.48.020 Lead Agency/Official.

The noise control program established by this chapter shall be administered by and the responsibility of, the Noise Control Officer (NCO). (Ord. 1871, (part), 2001)

10.48.021 Powers of the Noise Control Officer.

In order to implement and enforce this chapter and for the general purpose of noise abatement and control, the NCO shall have, in addition to any other vested authority, the power to:

- A. Review of Public and Private Projects. Review of 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 noise in violation of this chapter;

B. Inspections. Upon presentation of proper credentials and with permission of the property owner or occupant, enter and investigate a potential ordinance violation on any property or place, and inspect any report or records at any reasonable time. If 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 chapter may exist. Such inspection may include administration of any necessary tests. (Ord. 1871, (part), 2001)

10.48.022 Duties of the Noise Control Officer.

In order to implement and enforce this chapter effectively, the NCO shall within a reasonable time after the effective date of the ordinance codified in this chapter:

A. Guidelines, Testing Methods and Procedures. Develop and promulgate guidelines, testing methods and procedures as required. Any noise measurement procedure used in enforcement of this chapter which tends to underestimate the actual noise level of the source being measured shall not invalidate the enforcement action;

B. Investigate and Pursue Violations. In consonance with provisions of this chapter, investigate and pursue possible violations;

C. Delegation of Authority. Delegate functions, where appropriate under this chapter, to other personnel and to other departments, subject to approval of the City Manager. (Ord. 1871, (part), 2001)

10.48.023 Duties and Responsibilities of Other Departments.

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

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

C. Contracts. Any written contract, agreement, purchase order, or other instrument whereby the City is committed to the expenditure of five thousand dollars or more in return for goods or services, and which involves noise-producing activities, shall contain provisions requiring compliance with this chapter. (Ord. 1871, (part), 2001)

10.48.029 Homeowner or Resident-Conducted Construction Work Exception.

Construction conducted by the homeowner or resident of a single dwelling, using domestic construction tools is

allowed on holidays between the hours of nine a.m. and six p.m. (Ord. 1871, (part), 2001)

10.48.030 Emergency Exception.

The provisions of this chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work. (Ord. 1871, (part), 2001)

10.48.031 Special Exceptions.

A. The NCO shall have the authority, consistent with this section, to grant special exceptions which may be requested.

B. 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 chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Prior to issuance of an exception, the NCO shall notify owners and/or occupants of nearby properties which may be affected by such exceptions. Any individual who claims to be adversely affected by allowance of the special exceptions 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.

C. 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.

D. 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 chapter regulating the source of sound or activity for which the special exception was granted.

E. Application for extension of time limits specified in special exceptions or for modification of other substantial conditions shall be treated like applications for initial special

exceptions under subsection B of this section. (Ord. 1871, (part), 2001)

10.48.032 Appeals.

Appeals of any decision of the NCO shall be made to the City Council. (Ord. 1871, (part), 2001)

10.48.040 Daytime and Nighttime Maximum Noise Levels.

Individual noise sources, or the combination of a group of noise sources located on the same property, shall not produce a noise level exceeding those specified on property zoned as follows, unless specifically provided in another section of this chapter:

Land Use at Point of Origin	Maximum Noise Level at Complaint Site of Receiving Property	
	Nighttime	Daytime
Residential	50 dBA	60 dBA
Nonresidential	55 dBA	65 dBA

(Ord. 1921, (part), 2003; Ord. 1871, (part), 2001)

10.48.050 Brief Daytime Incidents.

A. During the daytime period only, brief noise incidents exceeding limits in other sections of this chapter are allowed; providing, that the sum of the noise duration in minutes plus the excess noise level does not exceed twenty in a two-hour period. For example, the following combinations would be allowable:

Noise Increment Above Normal Standard	Noise Duration in 2-Hour Period
5 DBA	15 minutes
10 dBA	10 minutes
15 dBA	5 minutes
19 dBA	1 minute

B. For multifamily dwelling interior noise, Section 10.48.054, the sum of excess noise level and duration in minutes of a brief daytime incident shall not exceed ten in any two-hour period, measured at the receiving location.

C. Section 10.48.050A does not apply to Section 10.48.055 (Motor Vehicle Idling). (Ord. 1871, (part), 2001)

10.48.051 Landscape Maintenance Activities.

The use of motorized equipment for landscape maintenance activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends and holidays, with the exception of landscape maintenance activities for public schools, public and private golf courses, and public facilities, which are allowed to begin at 7:00 a.m. The use of motorized equipment for landscape maintenance activities during these hours is exempted from the limits of Section 10.48.040; provided, that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers or noise baffles, running equipment only the minimal period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties. (Ord. 1921, (part), 2003; Ord. 1871, (part), 2001)

10.48.052 Outdoor Public Events.

A. Outdoor events open to the general public on nonresidential property, such as parades, rallies, fairs, concerts and special sales and promotional events, involving generation of noise levels higher than would normally occur, by use of the human voice, public address systems, musical instruments, electronic amplification systems, and similar soundproducing activities, are allowed upon obtaining an appropriate permit from the city, and subject to the following general limitations:

1. The event shall not produce noise levels above seventy dBA on any residential property for a period longer than three hours during daytime.

2. The event shall not produce noise levels above sixty dBA on any residential property during the period from eight p.m. to eleven p.m., and above fifty-five dBA for any other nighttime period.

3. Continuous or repeated peak noise levels above ninety-five dBA shall not be produced at any location where persons may be continuously exposed.

B. The conditions imposed upon the event or activity in the permit issued by the City, regarding maximum noise level, location of noise sources, or duration of activity, for example, may be more limiting than this section, to protect certain individuals, areas or nearby activities which would otherwise be disturbed, and these permit conditions, when in conflict with this section, are overriding. (Ord. 1871, (part), 2001)

10.48.053 Grading, Construction and Demolition.

A. Grading, construction and demolition activities shall be allowed to exceed the noise limits of Section 10.48.040 during daytime hours; provided, that the equipment utilized has high-quality noise muffler and

abatement devices installed and in good condition, and the activity meets one of the following two criteria:

1. No individual device produces a noise level more than eighty-seven dBA at a distance of twenty-five feet (7.5 meters); or

2. The noise level on any nearby property does not exceed eighty dBA.

B. Notwithstanding Section 10.48.053A, it is a violation of this chapter to engage in any grading, street construction, demolition or underground utility work within seven hundred fifty feet of a residential area on Saturdays, Sundays and holidays, and during the nighttime period, except as provided in Section 10.48.030.

C. Construction, other than street construction, is prohibited on holidays, except as provided in Sections 10.48.029 and 10.48.030.

D. Construction, other than street construction, is prohibited during nighttime periods unless it meets the nighttime standards of Section 10.48.040.

E. The use of helicopters as a part of a construction and/or demolition activity shall be restricted to between the hours of nine a.m. and six thirty p.m. Monday through Friday only, and prohibited on the weekends and holidays. The notice shall be given at least twenty-four hours in advance of said usage. In cases of emergency, the twenty-four hour period may be waived. (Ord. 1871, (part), 2001)

10.48.054 Interior Noise in Multiple-Family Dwellings.

Noise produced in any multiple-family dwelling unit shall not produce a noise level exceeding 45 dBA five feet from any wall in any adjoining unit during the period between seven a.m. and ten p.m., or exceeding 40 dBA during hours from ten p.m. to seven a.m. the following day. (Ord. 1871, (part), 2001)

10.48.055 Motor Vehicle Idling.

Motor vehicles, including automobiles, trucks, motorcycles, motor scooters and trailers or other equipment towed by a motor vehicle, shall not be allowed to remain in one location with the engine or auxiliary motors running for more than three minutes in any hour, in an area other than on a public right-of-way, unless:

A. The regular noise limits of Section 10.48.040 are met while the engine and/or auxiliary motors are running; or

B. The vehicle is in use for provision of police, fire, medical, or other emergency services. (Ord. 1871, (part), 2001)

10.48.056 Noise from Registered Motor Vehicles.

A. It is a violation of this chapter to own or operate a motor vehicle, including automobiles, trucks, motorcycles and other similar devices of a type subject to registration, as defined in California Vehicle Code, which has a faulty, defective, deteriorated, modified, replaced, or no exhaust and/or muffler system, and which produces an excessive and disturbing noise level, as defined in California Vehicle Code Sections 27150 and 27151.

B. The Stationary Vehicle Test Procedure, as adopted by the California Highway Patrol, may be utilized as prima facie evidence of violation of this section. (Ord. 1871, (part), 2001)

10.48.057 Noise from Off-Road Recreational Vehicles.

It is a violation of this chapter to own or operate:

A. Any off-road recreational vehicle, including all-terrain vehicles, dirt bikes, dune buggies and other similar devices, as defined in Division 16.5 of the California Vehicle Code, which has a faulty, defective, deteriorated, modified, replaced, or no exhaust and/or muffler system, and which produces an excessive and disturbing noise level, as specified in California Vehicle Code Section 38365;

B. Any off-road recreational vehicle producing a noise level:

1. Exceeding ninety-eight dBA within twenty inches of any component at an intermediate engine speed of two thousand to four thousand revolutions per minute in a stationary position; or

2. Exceeding eighty dBA under any condition of acceleration, speed, grade, and load at a distance of fifty feet. At greater or lesser measurement distances, the maximum noise level changes by four dB for each doubling or halving of distance. The sound level meter shall be set for FAST response for this measurement. (Ord. 1871, (part), 2001)

10.48.060 Noise Disturbances.

No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance as defined in Section 10.48.010. (Ord. 1871, (part), 2001)

10.48.061 Animals and Birds.

It is unlawful and a nuisance for any person to keep, maintain or permit upon any lot or parcel of land within the City under his control any animal, including any fowl, which by any sound or cry shall habitually disturb the peace and comfort of any person in the reasonable and comfortable enjoyment of life or property. (Ord. 1871, (part), 2001)

10.48.062 Nighttime Deliveries and Pickups.

It is unlawful and a nuisance for any person to make or allow vehicular deliveries or pickups to or from commercial establishments (defined as any store, factory, manufacturing, or industrial plant used for the sale, manufacturing, fabrication, assembly or storage of goods, wares and merchandise) by the use of private roads, alleys or other ways located on either side or the back of any building housing the commercial establishment where such private road, alley or other way lies between the building and any adjacent parcel of land zoned for residential purposes, between the hours of eight p.m. and eight a.m. weekdays (Monday through Friday) and six p.m. and nine a.m. on weekends (Saturday and Sunday) and holidays except as may be permitted under Section 10.48.029. (Ord. 1871, (part), 2001)

10.48.070 Violation-Penalty.

Any person who violates the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Chapter 1.12. (Ord. 1886, (part), 2001; Ord. 1871, (part), 2001)