

## ARTICLE XXV

### PERFORMANCE STANDARDS

#### 25.1 Purpose

Wheaton is relatively free of smoke, objectionable odors, vibrations, loud noises and other irritants that often characterize a more urban environment. It is the purpose of this article to see that Wheaton's suburban character is maintained.

#### 25.2 Applicability

The performance standards of this article are part of the general standards of this ordinance. In the event of conflict with applicable regulations of the Illinois Environmental Protection Agency, said regulations shall apply.

#### 25.3 Procedure for Obtaining Permit

Before issuing any building permit, the Director of Planning & Economic Development and the code enforcement officer shall be given information by the applicant sufficient to determine that all the performance standards of this Article can and will be complied with at all times. At their request, the applicant shall provide:

1. A plat showing the location of all present and proposed structures, driveways, parking lots, waste disposal areas and other constructional features of the site, as well as all structures, streets, streams, and any other significant features within two hundred fifty (250) feet (76.2 m.) of the proposed site.
2. A description of the activity to be conducted in sufficient detail to indicate the extent to which the proposed operation will produce waste products, conditions, or external effects which regulate or otherwise limited by this Article.
3. A description of the type and location of any abatement devices or recording instruments used to control or measure conformity with any of the standards set forth herein.
4. Such other data and certification as may be reasonably required by the Planning & Economic Development and the code enforcement officer to reach a determination. All information and evidence submitted in or with such an application which indicates that the proposed use will conform with the performance standards set forth herein shall constitute a warranty and an agreement on the part of the applicant that the proposed use can and will conform to such standards at all times.

## 25.4 Noise Control

### 25.4.1 Purpose

### 25.4.2 Definitions

### 25.4.3 Exemptions

### 25.4.4 Identification of environments.

### 25.4.5 Maximum permissible environmental noise levels

### 25.4.6 Sound amplification permits

#### 25.4.1 Purpose

The purpose of this chapter is to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. The intent of the city council is to control the level of noise pollution in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment by establishing maximum environmental noise levels applicable within designated areas or zones of the city; to adopt appropriate exemptions to the provisions of this chapter to allow for the functioning of commercial business, recreational and institutional uses, and the operation of construction and emergency equipment.

#### 25.4.2 Definitions

All terminology used in this chapter which is not defined below shall be interpreted in conformance with the most recent definitions used by the American National Standards Institute (ANSI) or its successor body.

"Construction" means any site preparation, assembly, erection, demolition, substantial repair, alteration, or similar action for or of public or private rights-of-way, structures, utilities or similar property.

"Decibel (dB)" means a unit for measuring the volume of sound.

"Emergency equipment and work" means equipment and work required to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities to provide or restore immediately necessary utility service.

"Generator, portable" means an electricity-generating device that is not permanently mounted and uses temporary wiring to supply electrical service.

"Generator, stationary" means an electricity-generating device with noise attenuation that is permanently mounted and uses permanent wiring to supply electrical service.

"Receiving property" means real property within which sound originating from outside the property is received.

"Sound amplification equipment" means any machine or device for the amplification of the human voice, music or any other noise or sound associated with an outdoor live performance and not the playing of a radio or similar device.

"Sound level" means a weighted sound pressure level measured by the use of a sound level meter using an A-weighted network and reported as decibels, dBA.

"Sound level meter" means a device which measures sound pressure levels and conforms to Type I, S1A, Type II or S2A, as specified in the American National Standards Institute Specification as now exists or as hereafter amended or modified.

"Warning device" means any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including but not limited to a burglar alarm or vehicle backup signal.

### 25.4.3 Exemptions

A. The following sounds are exempt from the provisions of this chapter:

1. Sounds caused by natural phenomena or wildlife; and
2. Sounds created by domestic animals as regulated by the City Code; and
3. Sounds created by emergency equipment and work necessary for law enforcement, fire prevention, or for the health, welfare and safety of the community; and
4. Sounds created by portable generators during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage; and
5. Sounds created by stationary generators during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage and during weekly testing periods; and
6. Sounds originating from aircraft in flight; and
7. Sounds created by motor vehicles regulated by the City Code; and
8. Sounds created by surface carriers engaged in interstate commerce by railroad; and
9. Sounds created by safety and protective warning devices where noise suppression would render the device ineffective; and
10. Sounds created by existing electrical substations and stationary equipment

used to convey water, wastewater or natural gas by a utility; and

11. Sounds, including sounds created by sound amplification equipment, emanating from any event or activity, for which a special event permit pursuant to Section 10-241 of the Wheaton City Code has been issued.
12. Sounds created by bells, chimes and carillons, operating for not more than five minutes in any one hour, from 7AM to sunset.
13. Sounds created by commercial business activity, including but not limited to the loading and unloading of goods and materials, snowplowing, and refuse collection.
14. Sounds customarily resulting from construction and from the maintenance of grounds are exempt from the requirements of this chapter from 7AM to sunset.
15. Sounds originating from the normal and intended use of the recreational facilities of schools, colleges and public parks; between the hours of 9AM and 11PM.

#### 25.4.4 Identification of Environments

- A. The land use districts listed in the City of Wheaton's Zoning Ordinance, are classified for the purposes of this chapter as follows:
  1. Class A: Residential land use districts; zoned R-1, R-2, R-3, R-4, R-5, R-6 and R-7
  2. Class B: Non-residential land use districts; zoned I-1, O-R, C-1, C-2, C-3, C-4 and C-5
  3. Class C: Manufacturing land use district; zoned M-1

#### 24.5.5 Maximum Permissible Environmental Noise Levels

- A. No person shall cause or permit sound to intrude onto the real property of another person which exceeds the maximum permissible sound levels established by this chapter. The point of measurement shall be at the property boundary of the receiving property or anywhere within.
- B. For sound sources located within the city, the maximum permissible sound sources are as follows:

	Class A	Class B & C
7AM to 7PM	55 dB(A)	62 dB(A)
7PM to 7AM	50 dB(A)	55 dB(A)

- C. Modifications to maximum permissible sound levels are as follows:
1. Increase for short duration for any receiving property at any time:
    - a. Increase by 15 dBA for 15 continuous minutes in any one-hour period; or
    - b. Increase by 20 dBA for five continuous minutes in any one-hour period; or
    - c. Increase by 25 dBA for 1.5 continuous minutes in any one-hour period; and
  2. Increase by 50 dBA for the operation of sound amplification equipment pursuant to the issuance of a sound amplification permit.
- D. If the measurements of sound are made with a sound level meter, the instrument shall be in good operating condition and shall meet the requirements for a Type I or Type II instrument, as described in American National Standards Institute Specifications as now exist or as hereafter amended or modified. If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such manner that the overall accuracy shall be at least that called for in the National Standards Institute Specifications.
- E. Where a receiving property lies within more than one property class, the maximum permissible sound level shall be determined by the most noise-sensitive property class.

#### 25.4.6 Sound Amplification Permits

- A. Any person desiring to operate sound amplification equipment and the owner of property on which such equipment is proposed to be operated shall jointly file with the Director of the Department of Planning and Economic Development an application for a permit at least one week in advance of the date on which sound amplification equipment is proposed to be operated and shall provide the following information:
1. The name and address of the sound amplification equipment operator, and a phone number where the operator can be reached during the time when the sound amplification equipment is proposed to be in use;
  2. The name and address of the property owner for the location described in subsection (A)(3) of this section if different from the operator, and a phone number where the property owner can be reached during the time when the sound amplification equipment is proposed to be in use;
  3. A statement describing the address and location at which the sound amplification equipment will be in operation;

4. A general description of the sound amplification equipment and the purposes for which it is to be used; and
  5. A statement designating the proposed time during which the sound amplification equipment will be in operation.
- B. Use of sound amplification equipment may be authorized by the Director of the Department of Planning and Economic Development subject to the following criteria:
1. The use of amplified sound equipment shall not be allowed at the same location on more than four days in any calendar week;
  2. Amplified sound shall be subject to the maximum permissible noise levels for amplified sound set forth in WZO 25.5.5; and
  3. No person shall operate or cause to be operated within the city any sound amplification equipment, the sound from which is plainly audible to occupants of a school during school hours at any time; provided, that this section does not apply to the operation of sound amplification equipment on school grounds.
  4. The operation of sound amplification equipment shall cease at 11PM.

#### 25.5 Air Pollution

No operation or activity directly under the control of the property user shall cause or create air pollution in excess of the limits prescribed below:

1. Dust: Dust and other types of air pollution borne by the wind from such sources as storage areas, yards, and driveways shall be kept to a minimum by appropriate landscaping, paving oiling, wetting or other means.
2. Smoke Density: The emission of a smoke of a density greater than #2 on the Ringelmann Chart (as published by the United States Bureau of Mines) is prohibited, except that smoke not exceeding the density of #3 of the Ringelmann Chart may be emitted for not to exceed six (6) minutes during an eight (8) hour period.
3. Particulate Matter: The emission, from all sources within any lot, of particulate matter containing more than five percent (5%) by weight of particles have a particle diameter larger than forty-four (44) microns is prohibited. The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed a net figure of one-half (1/2) pound per acre of lot size during any one (1) hour.

4. **Odors:** The emission of odors or odor-causing substances which exceed the odor threshold at or beyond the lot lines is prohibited.
5. **Toxic or Noxious Matter:** No emission will be permitted which would be demonstrably injurious to human health, or animal or plant life common to the region, on the ground at or beyond the lot line. Where such emission could be produced as a result of accident or equipment malfunction, adequate safeguards considered standard for safe operation in the industry involved shall be taken. This shall not be construed to prohibit spraying of pesticides on public or private property.

### 25.6 Vibration

No operation or activity under the control of the property user other than well drilling or railroad train operations shall cause or create vibration in excess of the limits provided below:

1. **Permitted Vibration Levels:** Vibration levels may not exceed those shown in either column of the following table when measured at the lot line, or at any point in residential district outside the lot, respectively:

	<b>Maximum Particle Velocity at Lot Line</b>	<b>Maximum Particle Velocity in Residential District</b>
Steady Vibrations	0.015	0.003
Impulsive Vibrations	0.30	0.006
Intermittent Vibrations	0 .075	0.015

2. **Measurement:** Vibration displacements shall be measured with an instrument capable of simultaneously measuring in three (3) mutually perpendicular directions. Particle velocity is to be determined by the Formula 8.28FA, where F is the frequency of the vibration in cycles per second and A is the maximum single amplitude displacement of the vibrations in inches. For purposes of this ordinance, steady vibrations are vibrations in discrete impulses more frequent than one hundred (100) per minute. Vibrations in discrete impulses which do not exceed one hundred (100) per minute but exceed eight (8) per twenty-four (24) hours shall be considered impulsive vibrations. Vibrations in discrete impulses which do not exceed eight (8) per twenty-four (24) hour period shall be considered intermittent.

### 25.7 Heat, Glare and Radiation

No operation or activity under the control of the property user shall cause or create heat, glare or radiation in excess of the limits provided below:

1. Heat: Every use and activity shall be so operated that it does not raise the ambient temperature at or beyond any lot line more than two (2) degrees Fahrenheit (2F) (1.1 c.).
2. Glare: In addition to the standards imposed by particular use district regulations, no operation shall, between the hours of 10:00 p.m. and 6:00 a.m., cause illumination in residential district in excess of 0.05 foot candles.
3. Radiation: The handling, discharge and disposal of radioactive materials or wastes shall be in conformance with all regulations imposed by the United States Atomic Energy commission and with the Illinois Radiation Installations Act and Radiate Protection Act.

#### 25.8 Electromagnetic Fields and Interference

No operation or activity under the control of the property user shall cause or create electromagnetic interference that adversely affects at any point the operation of any equipment other than that belonging to the creator of such interference, or that violates any regulations of the Federal Communications Commission.

With respect to the construction, operation, and maintenance of any public or private electrical utility substation, all reasonable steps shall be taken to reduce and minimize the measurable average annual milligauss level at any property line. For the purpose of this provision, the property owner shall submit to the City a study identifying all available scientific or technical measures used to achieve such a measurable average annual milligauss level. The property owner shall also identify any measures which could reduce the measurable average annual milligauss levels but which were not deemed reasonable. In addition, such study shall include a documented projection of the anticipated measurable average milligauss level at any property line.

#### 25.9 Liquid or Solid Wastes

No discharge at any point into any public sewer, private sewage disposal system, or stream, or upon or into the ground, of any materials of any nature or temperature as can contaminate any water supply interfere with the orderly operation of public sewage collection and treatment systems, or otherwise cause the emission of dangerous or offensive elements shall be permitted.

#### 25.10 Other Nuisance Conditions

Any condition conducive to the breeding of rodents or insects or any other dangerous, noxious, injurious or objectionable conditions, substance or element with would create any hazard to the public health, peace or comfort or to hinder the appropriate use of land shall be prohibited.



## 25.11 Enforcement

The regulations of this Article XXV may be enforced in the same manner as all other provisions of this ordinance. In addition, however, and without any limitation upon the foregoing, the regulations of this article may also be enforced in the following manner:

1. Escrow Deposit: When new or altered commercial or industrial use or occupancy is proposed that may, in the opinion of the code enforcement officer, involve a possible violation of the regulations of this article, then the code enforcement officer shall as a condition precedent to issuing a permit for such use or occupancy, require the deposit in escrow of five hundred dollars (\$500.00) for a period of one (1) year from the date of the new or altered use or occupancy. If during such one-year period the code enforcement officer believes there is reasonable probability that the regulations of this article are being violated, he may employ a qualified technician or technicians to perform investigations, measurements, and analyses to determine whether the regulations of this article are being violated, and he may pay their reasonable fees out of the aforementioned escrow deposit, regardless of the outcome of the investigation. If the reasonable fees of such technician or technicians exceed the amount of any available escrow deposit, and if a violation of this article is discovered, such fees may be recovered as a penalty in the same manner as, and in addition to, the penalties otherwise provided for the violation of this ordinance. Escrow deposits or remainders of escrow deposits shall be returned to the depositor at the expiration of the escrow period.
2. Subsequent Investigation: If, after the expiration of the escrow period provided in Section 25.11(1), the code enforcement officer believes there is a reasonable probability that any use or occupancy is violating the regulations of this article, he is hereby empowered to employ a qualified technician or technicians to perform investigations, measurements and analyses to determine whether or not the regulations of this article are being violated. In the event that a violation is found to exist, the violator shall be liable for the reasonable fees of the technicians employed to perform such investigations, measurements and analyses. Such fees may be recovered in a penalty in the same manner as, and in addition to, the penalties otherwise provided for violation of this ordinance.
3. Citizen Complaint: If a complaint is received regarding an alleged violation of any of the regulations of this Article XXV but the code enforcement officer does not believe that there is a reasonable probability that such a violation actually exists, the code enforcement officer shall, as a condition precedent to further investigation, require the complainant to post an escrow deposit with the City Collector in an amount not exceeding five hundred dollars (\$500.00) to defray the cost of employing a qualified technician or technicians to perform such investigations, measurements and analyses that may be necessary to determine whether or not such violation exists. In the event that the complaint is substantiated the escrow deposit shall be refunded to the depositor and the

reasonable fees incurred in obtaining a qualified technician or technicians shall be recovered in the manner provided in Section 25.11(1) or Section 25.11(2). In the event that the complaint proves unfounded, the fees shall be paid from the complainant's escrow deposit; any remainder of such deposit shall be refunded to the complainant.