

EXTENSIONS OF REMARKS

COMPILATION OF STATE AND LOCAL ORDINANCES ON NOISE CONTROL

HON. MARK HATFIELD

OF OREGON

IN THE SENATE OF THE UNITED STATES

Tuesday, October 28, 1969

Mr. HATFIELD. Mr. President, on February 28 I delivered my maiden speech on the subject of noise pollution before the National Council on Noise Abatement. From that time I continued to do some extensive research in the field and had a second opportunity to voice my concern over this area of environmental quality on October 8 at the formation meeting of the Noise Abatement Council of America.

From my research I learned that the noise levels in the United States—which is considered the noisiest country in the world—were fast approaching lethal proportions in many areas of our Nation. The reason for such an acceleration in the decibel rating of our Nation is due to those very causes which have also brought air and water pollution to crisis proportions: increased population, urbanization, industrialization, transportation needs, and the accompanying lack of foresight to plan for and preserve our environment in this onslaught. As you are aware, the pollution of our land, air, and water has become such a problem that we are now faced with a situation which, if not met immediately and with all of the creativity and ingenuity of our age, could mean the extermination of all forms of life in many areas of our planet. As yet, noise has not reached this proportion, but given the present noise increases in our environment the same threat could soon prevail in noise pollution that does in air and water contamination—and by soon, I mean within our lifetime.

It is with these thoughts in mind that I would like to present the following compilation of State and local ordinances on noise control as a suggestion of things that are being done by concerned individuals and communities in order to prevent the continuing assault of noise pollution on our society. This data, as far as I know, is the only compilation of its kind and represents information as up to date as possible. In addition the compilation is preceded by an excellent analysis on the legal aspects of noise control.

The following compilation and analysis of a sampling of existing statutes and ordinances on noise control was prepared in conjunction with the work of the Panel on Noise Abatement under the auspices of the Commerce Technical Advisory Board of the Department of Commerce. The Chairman of this Panel is Dr. Jack E. Goldman, senior vice president, research and development, Xerox Corp. The material for this compilation was collected by Mr. Daniel Flynn executive secretary of this Panel, and a great personal help to me in my research of

the noise problem. The analysis on the legal aspects of the noise problem was carried out by a member of this Panel, Mr. James J. Kaufman of the law firm of Houghton, Pappas & Fink of Rochester, N.Y. Mr. Kaufman has worked closely with the problem of noise control for some time through his position as legislative assistant to former New York Representative Theodore R. Kupferman, now a member of the New York Supreme Court. During his term in Congress Mr. Kupferman was well known for his innovative and concerned dealings with the noise pollution problem.

This compilation and analysis is being published in this manner and at this time in order to bring it to the attention of my colleagues and interested State and local governments and the general public.

I ask unanimous consent that the compilation and analysis be entered in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LEGAL ASPECTS OF NOISE CONTROL

(By James J. Kaufman)

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SCOPE OF WORK

The study includes, but is not limited to, a compilation and analysis of a sampling of existing statutes and ordinances on noise control on a Federal, State and local level.

INTRODUCTION

Noise control by means of laws and regulations involves balancing the rights and remedies of the individual against the rights and remedies of society.

For practical purposes, noise control can be considered in three parts: (1) the rights of a complainant against the noisemaker; (2) the duty of a noisemaker to a complainant; and (3) the relationship of Federal, State, and local legislation and case law to achievement of a proper balance between the first and second considerations.

Of the complainant's rights against the noisemaker, it should be recognized that, no matter if the noisemaker is a private person or the government, it is more difficult to deal with noise disturbance than with many other nuisances because it is largely subjective.¹

In balancing the rights of the complainant against the noisemaker it may be well to keep in mind two major principles: (1) Each person must put up with a certain amount of annoyance, inconvenience, and interference. (2) To determine the amount of annoyance, inconvenience, and interference that must be tolerated, the gravity of the harm to the complainant should be weighed against the utility of the conduct of his troublesome neighbor (noisemaker).² In other words, courts and legislatures are called upon to weigh the harm that is being caused to the plaintiff (claimant) by the annoyance, against the reasonableness of the defendant's conduct. Also to be considered is the detrimental effect, including considerations such as safety and cost, that would be caused to the defendant (and sometimes to the public) if the defendant were

forced to discontinue the activity that produces the disturbance.

One remedy sought against the noisemaker is an injunction, brought in many cases by an individual complainant and in some cases by a class or group of those disturbed by a particular noise. More often, however, claimants disturbed by what they regard as excessive noise have sought as an alternative an award of money damages against the noisemaker. Injunctive relief has been largely unsuccessful in suits against public airport owners and operators for several reasons: (1) public necessity and convenience usually outweigh private or individual interests, the rationale being the fact that the air transportation industry serves a vital function and ever-present demand; second, the Federal government has pre-empted the field of air traffic control. See *Allegheny Airlines v. Village of Cedarhurst* 238 F. 2d 812, 815 (2d Cir. 1956) in which the court stated that "The Federal regulatory system . . . has pre-empted the field (of air traffic) below as well as above 1,000 feet from the ground." Finally, the courts have utilized the legal fiction of "legalized nuisance," discussed later in this text and footnotes, to justify the conduct of the air transportation industry which produces the noise, and the attitudes of the Federal government which reluctantly allows the disturbance.³

One example of the relationship between the complainant and the noisemaker may be found in a brief discussion of airport noise litigation. Airport noise suits have traditionally been based upon legal theories such as trespass, taking (eminent domain), nuisance, and constitutional damaging.

LEGAL THEORIES—CASE LAW

The trespass theory presents difficult problems relative to proof of physical invasion of the landowner's property. A condition precedent to recovery under this theory would be invasion by the aircraft of the landowner's property (the airspace zone directly above his land). Moreover, difficulty in pleading may arise under this approach because the operator of the particular air flight would have to be named as a defendant and only the owner immediately below the flight could maintain the action.

The nuisance theory necessarily involves the weighing of the complainant's interest in peace and quiet against the interests of the noisemaker (defendant) and of the public. It is with respect to the airport noise litigation illustration that the doctrine of "legalized nuisance" has particular relevance. This doctrine was stated in workable and useful terms by Lyman M. Tondel, Jr., as follows:

"Where a public or quasi-public enterprise, like a railroad, or a power plant or gas works, or a sewer system, or any irrigation system, or thruway or an airport, or the like, is expressly authorized by legislation, nuisance claims that arise out of its proper operation are to be denied. The theory is that even if the activity in question would, if privately conducted, constitute a nuisance, it has been legalized by the legislative body which, within constitutional limits, authorized the particular conduct on behalf of the public."⁴

Mr. Tondel states that a survey of all the public airport cases in the last ten years shows only two cases in which the nuisance theory was considered a proper basis for recovery. Thus, he concludes that this theory, although expressed and referred to as such in most complaints in this field, has had little success.⁵

The United States Constitution affords protection to each citizen against the taking of his property without just compensation. According to the early common law, the claim

Footnotes at end of article.

of title to the landowner's property extended to the universe above, as well as to the boundaries of the land below (*ad coelum* theory). As a result of the increased demands upon aviation, however, the courts of the United States have declined to recognize this theory, considering airspace a "public highway."

It was not long before the Congress specifically declared that the Government has a right of free transit in our navigable airspace, which shall include "airspace needed to insure safety in take off or landing of aircraft."⁶ American courts, nonetheless, continued to recognize the landowner's right to just compensation for a "taking" of his property for public use. In the famous 1946 decision in *United States v. Causby*,⁷ the court held continuous flights of military aircraft over landowners' land, so frequent and at such low altitudes as to destroy the beneficial use of their farm, to be a taking of their property which required just compensation under the Fifth Amendment.⁸ With the *Causby* case the Supreme Court put an end, once and for all, to the ancient maxim of *ad coelum* ownership. The Court said that ownership to the sky had no place in the modern world.⁹

The constitutional taking theory, which has been increasingly relied upon by attorneys is perhaps most significant.¹⁰ The question of what constitutes a taking becomes a key one in light of the *Causby* decision.¹¹

Sixteen years after the decision of the United States Supreme Court in *Causby*, the Court in *Griggs v. Allegheny Airport*¹² extended the liability for the "taking" to the operator of the airport. The property owner sued Allegheny County (operator of the Greater Pittsburgh Airport) and recovered under the Federal Constitution's 14th Amendment on the basis of a taking of an aviation easement over his land. The defendant airport operator argued reasonably but unsuccessfully, that if there was a taking, Congress had placed liability on the shoulders of the Federal Government when it granted it the right of free transit. In upholding the suit of the landowner, the Court reasoned that the airport operator must first acquire an easement of flight. The Court said that it is the airport operator who causes the interference, that the Government takes nothing, and that it is the local authority which decides whether or not to build an airport and where it is to be located.¹³

In *Griggs*, flights over plaintiff's country home were said to be "regular and almost continuous" at altitudes between 30 and 300 feet above the house. The disturbance was considered so great that plaintiff's family moved from their home, which they testified was rendered undesirable and unbearable for their residential use. It is significant that in both *Causby* and *Griggs* the plaintiffs found it necessary to leave their land because it was substantially unfit for residential use.¹⁴

Post-*Griggs* decisions of Federal courts continue to require overhead flights as a precondition for taking of the landowner's property. Whether the U.S. Supreme Court will interpret interference resulting from lateral as well as overhead flights as a taking as post-*Griggs* decisions in an increasing number of state courts have done is not clear.¹⁵

What is clear is that, in addition to proving low and frequent flights, a plaintiff must show that as a result of the flights there has been a substantial if not complete deprivation of the use of his property.¹⁶

The effect of the foregoing decisions will be influenced by whether or not the State Constitution of the state in which a claimant resides has provision for compensation due to a damaging of his property as well as a taking.

From the foregoing case law discussion at least these conclusions may be drawn: (1) A nuisance caused by operations of the Government or a body operating under governmental authority and resulting from noise does not constitute a taking, notwithstanding the fact that it causes a devaluation in market value of adjoining property. This premise also assumes that there is no showing of negligence with respect to the source of the noise. (2) The foregoing conclusion represents the federal rule, the common law rule, and the rule of those states with constitutional language following the federal pattern of compensation for a taking. (3) Those states which have a constitution that provides for compensation for property damaged as well as taken will permit broader recovery against the Government for the nuisance (noise).

Case law represents only one part of a four-part approach to the problem of regulation of noise control through the law. Decisions must be read and their effect interpreted in the light of existing and proposed legislation on a Federal, State and local level.

LEGISLATION—FEDERAL INVOLVEMENT

An analysis of regulation on the Federal level suggests a perusal of the provisions of the Federal Aviation Act of 1958.¹⁷ The Federal Aviation Agency, which is greatly interested in safety and noise abatement, requires that each particular model or make of aircraft receive an "airworthiness certificate," which specifies the conditions under which the aircraft may be used in air transportation. In addition, the FAA requires that an airline receive an "air operating certificate" before it may operate a given aircraft and schedule service at a particular airport.¹⁸

It is clear that the FAA has, under the Federal Aviation Act of 1958, full power to prescribe air traffic rules for the "protection of persons and property on the ground," including prescription of air traffic rules in the interest of noise abatement.¹⁹

The FAA, in exercising its statutory authority, has set noise limits for jet airplane take-offs (but not landings) and has adopted flight procedures at Kennedy International and other public airports, including the adoption of preferential runways systems.²⁰

The FAA noise abatement program, now combined with the Department of Transportation, has gained momentum and authority with the signing into law of H.R. 3400 (July 12, 1968) which added a new Section 611 to the Federal Aviation Act of 1958, specifically requiring the FAA to establish and enforce regulations to control aircraft noise, including sonic boom.

Under the new law the FAA is given power to withhold or revoke certification of an airplane which is too noisy by its standards. It should be noted that, at the present time, the noise factor is to be taken into account in the development and the manufacture of new aircraft. Regulation of existing models may be forthcoming in the not too distant future. Section 611 further directs that the FAA, in establishing noise standards, should consider whether any proposed standard "is consistent with the highest degrees of safety" and whether it is "economically reasonable, technologically practical and appropriate for the particular type of aircraft to which it will apply." The FAA is expected to issue the first noise restrictions within the month; See Appendix, *supra*.

Briefly and simply, the aircraft noise control problem may be considered from two distinct points of view: (1) the noise which is produced from the operation of the aircraft itself; and (2) the effect of the aircraft noise upon the people on the ground.

Putting aside for the moment the fact that the primary source of aircraft noise is the engine, there are three broad approaches which may be utilized to achieve relief from

excessive aircraft noise: (1) Move the noise away from the people. (2) Move the people away from the noise. (3) Lessen the amount of noise produced by the aircraft. Zoning and land-use problems are particularly involved with the first and second approaches.²¹

Notwithstanding the immense problems which exist as a result of present jet service, the threat of additional noise horror looms in anticipation of the proposed jumbo-jets and supersonic transports. Complex legal problems presented in new forms with respect to control in this area will demand careful consideration and sound judgment on a case-to-case basis.

While considerable attention has necessarily been drawn to the legal problems of aircraft noise reduction and respective legislation and litigation, one must not overlook the state and growth of the law concerned with control of other noise sources.

Aside from the proposed Federal legislation mentioned earlier specifically related to aircraft noise control, it is significant to note that on April 21, 1966, a Representative from New York, Theodore R. Kupferman, introduced in the House of Representatives the first bill to comprehensively deal with the problems of noise in general.²²

Kupferman's bill, reintroduced in the 90th Congress, 1st Session, January 18, 1967, as H.R. 2819, and referred to the House Interstate and Foreign Commerce Committee, would establish an Office of Noise Control within the Office of the Surgeon General under the Department of Health, Education and Welfare. This, in my opinion, is where it should be because general noise should be considered a health problem. The noise control office, headed by a Director and assisted by a Noise Control Advisory Council, would provide grants in aid for state and local governments to research ways and means of control, prevention and abatement of noise. Moreover, the bill specifically provides that the Office of Noise Control would cooperate fully with existing Federal agencies and departments presently working in the field of jet noise abatement.

One of the primary functions of the Office of Noise Control would be to act as a national clearing house for general and specific noise information. It could, upon request, disseminate the wealth of its accumulated knowledge to state and local governments to help them control noise at its point of origin. The Office of Noise Control would serve a similar research and educational function, with respect to noise from all sources, as the National Aircraft Noise Abatement Council (a private, non-profit council of aircraft-industry representatives) presently serves in the field of aircraft noise abatement.

On May 16, 1969, and for the first time, the U.S. Department of Labor, under Secretary George P. Shultz, promulgated new standards for industrial noise. These standards, known as the Walsh-Healey Health and Safety Regulations, became effective on May 20, 1969; they were published in the Federal Register, Volume 34, Number 96, Part 2, pp. 7948-7949. The standards only apply to those firms which have Federal contracts of \$10,000 or more during the course of one year.

The new regulations establish a maximum allowable level of 90 decibels measured on the A scale for a continuous eight hour per day exposure. As the permissible noise level exposures increase in decibels, the duration per day and per hours decreases, as follows:

8	hours-----	90	dB
6	hours-----	92	dB
4	hours-----	95	dB
3	hours-----	97	dB
2	hours-----	100	dB
1½	hours-----	102	dB
1	hour-----	105	dB
½	hour-----	110	dB
¼	hour (or less)-----	115	dB

Footnotes at end of article.

For wording of Section 150-204.10 of the new Labor regulations, see Appendix, *supra*.

On April 15, 1969, Senator Joseph D. Tydings introduced in the Senate a bill (S. 1818) designed to provide for the inclusion of considerations of environmental quality in the decision making processes of government. The bill, entitled the Environmental Quality Act of 1969, would establish within the Executive Office of the President an Office of Environmental Quality. Headed by a Director appointed by the President, the office would be relatively small and select, with the authority to review, clear, coordinate and appraise policies and projects of the Federal Government which may adversely affect the quality and integrity of our environment.

The aforementioned idea was carried forward by President Nixon with the announcement on May 29, 1969, of the establishment of the Environmental Quality Council and the Citizens Advisory Committee on Environmental Quality, created by Executive Order. The Environmental Quality Council is composed of the Vice-President, Secretaries of Agriculture, Commerce, HEW, HUD, Interior, and Transportation. It is the function of the Council to advise and assist the President with respect to environmental quality matters and to perform such other related duties as the President, from time to time, may prescribe. The aforementioned Council may be a suitable governmental vehicle for the institution of a central coordinating agency and clearing house for Federal noise control programs.

One of the primary functions of an Office of Noise Control such as that envisioned in the Kupferman bill referred to earlier, or a central coordinating unit within the Environmental Council, or even a division within the Department of Transportation, would be to cooperate with all Federal agencies interested in noise abatement and also to cooperate fully with State and local governments in their programs for noise control.

LEGISLATION—STATE AND LOCAL INVOLVEMENT

Any Federal coordinating program must assist the State and local governments which, unfortunately to date, have been hesitant in initiating adequate programs. Many state and local governments have no laws dealing with the problem of general noise control; nor do they have any kind of program to study the problem and to draft such laws.

New York, to the author's knowledge, became, in July 1965, the first state in the United States to enact a state Highway Anti-Noise Statute. This law provides a measurable noise limit which can be enforced against motor vehicles creating excessive or unusual noise. The act defines as excessive noise "... a vehicle which produces a sound of 88 decibels or more on the A scale," 90 decibels, on the A scale, therefore, is a level at which violations would be charged and arrests made. The noise is measured at roadside toll stations where trucks pass at speeds of less than 35 miles per hour.²³

California recently adopted comprehensive anti-highway noise legislation that would prohibit noise levels in excess of 82 dBA for passenger cars and 92 dBA for trucks and buses.²⁴

Most states have motor vehicle statutes or codes dealing with the requirement of mufflers on automobiles and trucks to prevent excessive or unusual noise. These statutes, however usually fail to spell out quantitative measures in decibels at which violations would occur. Thus the statutes are for the most part extremely difficult to enforce and are therefore usually not enforced. For a listing of the anti-noise laws of the various states by section number with a brief parenthetical description of the type of regulation see Appendix, *supra*. For the stat-

utory language of the state codes, see Appendix, *supra*.

There are situations where a joint response from several states or cities may be required to effectively control an environmental problem. The joining of states or cities in a regional response to the noise control problem has not been forthcoming, with the exception of the New York Port Authority.²⁵ The Port of New York Authority governs, among other things, aircraft operation procedures at Kennedy International, LaGuardia, Newark and Teterboro airports.

The Port of New York Authority has for years imposed noise limitations on aircraft taking off from its airports and monitors the takeoffs to assure compliance. The Authority exercises its right to prescribe noise limits in its capacity as an airport owner-operator and not as an exercise of local governmental police power to regulate in a legislative sense. See *Port of New York Authority v. Eastern Airlines, Inc.*, E.D.N.Y. 1966, 259 F. Supp. 745. The Authority does not regulate landings inasmuch as approach procedures are executed off the premises in which it has a proprietary interest. Moreover, the Port of New York Authority's noise limitation rules have been stated to be expressly subordinate to the FAA rules, and accordingly, do not conflict with FAA procedures.

Whether unauthorized regulations set by the airport owner which are in conflict with those of the FAA would be upheld is not clear.

This is a gray area of the law which may become the next battlefield in the fight of the citizens who live near airports and who are demanding relief from jet noise.

Inasmuch as most airports are owned by governmental bodies of one classification or another, we can expect increasing political and economic (including law suits) pressures on our local governments to find a solution. The Federal government will most likely not be able to divorce itself from sharing heavily (money) in whatever solution may be found.

Unfortunately we have not learned as quickly as we should have from the disasters which have resulted in our failure to adequately deal, years ago, with the problem of air and water pollution. A regional approach combining the talents and money of several states should be considered in a common effort to establish research and development programs directed toward the alleviation of excessive noise from sources other than aircraft. For example, there is no reason why states could not join together to provide uniform motor vehicle statutes that quantitatively spell out the levels at which violations would occur. A comprehensive motor vehicle statute could be uniformly adopted by all the states patterned after that of New York or California, except that more sophisticated means of measurement and enforcement must be provided.

Uniform state and/or city codes could also be enacted concerning requirements in construction and maintenance of housing and the problem of elimination of airborne and structure noises. Of course, it would be important to coordinate the efforts of the Federal government with the statutes of the states.

When planning noise controls on various levels of government it is important that constitutional considerations not be overlooked. The Federal government does not enjoy the use of police power unless provided by the Constitution. Accordingly, the Federal government may act under Article I, Section 8, of the commerce clause of the Constitution to regulate various matters such as labor conditions and safety.

Police power does exist on a state level and may be exercised unless arbitrary, unreasonable or capricious, and as long as its exercise does not deprive a person of his

property without due process of law (eminent domain). Thus the states are more flexible in their ability to deal with the noise problem because they do not require a specifically delegated legislative power as in the case of federal legislation. As long as the proposed controls of the state statute do not conflict with federal legislation, or areas reserved for or to the Federal government, they will stand, as evidenced by recent enactment of state air and water pollution statutes. On the same theory, the states have for some time validly legislated controls in the fields of licensing, health, safety, labeling and zoning. Moreover, local levels of government are free to exercise police power and may establish maximum noise levels through enactment of ordinances and zoning.

While the manufacture of appliances and equipment could be controlled by the Federal government on a finding that the excessive noise produced from the items is or could be detrimental to health on the same basis that federal regulation of air pollution is justified, it is at the city code level that noise sources of garbage collection,²⁶ construction noise,²⁷ motor vehicles, loud speakers, and many other noise sources can be effectively controlled.²⁸ It is important, however, to exercise extreme caution when attempting to solve the problem by simply passing a law. We should inquire first whether all is being done to deal otherwise with the problem.

As part of the present study, letters were sent to the administrations of over fifty cities throughout the United States in an effort to determine whether they consider a noise problem to exist in their communities, and the character and status of their responses, if any, to the noise problem. The representative of each city was asked for its city's ordinances and codes dealing with noise and whether the jurisdictions in the metropolitan area in question have taken a coordinated approach in noise control efforts. In addition, each city was asked to comment on any control measures taken, how effective the enforcement has been, and whether noise control is considered to be a serious problem.

The responses to the inquiries outlined above provide insight into the attitudes of urban areas toward noise and its control and, at the same time, create a broader base upon which to analyze the municipal codes in the country. Time and space do not permit an exhaustive reproduction of each city code in the United States dealing with noise control. A representative sampling has been compiled, however, and is set forth in the statutory language of fifty-six cities, which appears in the Appendix, *supra*.

The average city statute contains general statutory language prohibiting excessive noise and usually requires a muffler on motor vehicles. This type of statute has been classified by the author as a "Class D" code; see Appendix, *supra*.

The penalty for violation of the general statute, referred to above is usually a small fine. See Akron, Appendix, *supra*. In some cases violation is more than a mere offense or violation and in fact may constitute a misdemeanor under the penal laws of the city in question. See Minneapolis, Appendix, *supra*. Unless enforced, however, the punitive provisions of these ordinances are worthless. Most ordinances are not effectively enforced.

One example of the responses of a large city to the complex problems of urban noise is seen in New York City. For decades it has had a basic code which contains language prohibitive of excessive noise in several areas. For reproduction of Section 435.50 of the city's basic noise ordinance, see Appendix, *supra*.

The prime difficulty with the New York City Anti-Noise Code, and other general codes similar in statutory language (Class C), is the fact that no quantitative measures are set forth at which violations would oc-

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cur, and there is no provision for adequate measurement for excessive noise. Two-thirds of the fifty-six statutes of the cities examined herein contain similar language to the New York City code, are general in nature, and could be classified Class C, notwithstanding an attempt to include in the sampling as many Class B cities as possible.

Some cities, on the other hand, have taken a comprehensive approach to the noise problem. Minneapolis, Minnesota, for example, lists five methods by which that city has attempted to regulate noise: zoning code enforcement; noise ordinance enforcement; public nuisance action; licensing requirements; and indirectly, in building code requirements. In Minneapolis' zoning code, the noise ordinance provides for noise limitations in M-1 districts and sets forth performance standards, to wit:

"(1) Noise.—In the M1 Districts at no point on the boundary of a Residence or Business District shall the sound pressure level of any operation or plant (other than background noises not directly under the control of the manufacturer) exceed the decibel limits in the octave bands designated below:

"MAXIMUM PERMITTED SOUND LEVEL (DECIBELS)

Octave band frequency (cycles per second)	Along residence district boundaries	Along business district boundaries
0 to 75.....	72	79
75 to 150.....	67	74
150 to 300.....	59	66
300 to 600.....	52	59
600 to 1,200.....	46	53
1,200 to 2,400.....	40	47
2,400 to 4,800.....	34	41
Over 4,800.....	32	39"

The primary function of any anti-noise statute, whether on a state or local level, is to accomplish its purpose, to wit: control of specific types of noise which have been deemed by the community to be unwanted. The acid test of a noise ordinance is whether it is effective. Accordingly, an overly elaborate noise ordinance on a state or local level, if not effective, may be of little or no use. One of the primary reasons a noise statute may not be effective could be the fact that it has not been accepted by the community whose appropriate governmental body enacted it. If it has not been accepted, it most likely will not be effectively enforced. Also a statute, though elaborate in wording and design, may not be effective where the enforcement arm of the city is without enough money to facilitate those procedures necessary to its enforcement; for example, use of a sound analyzing meter. Examples of this problem were evidenced in the cities of Anchorage, Alaska, as set forth in the Appendix *supra*; Fort Lauderdale, Florida, Appendix, *supra*, and Peoria, Illinois, Appendix, *supra*. In contrast, a city which has had favorable experiences with the sound analyzer in terms of effective enforcement is the city of Hemet, Riverside County, California, as set forth in the Appendix, *supra*.

Memphis, Tennessee, has been called the quietest city in the United States. This city has essentially a general Class C anti-noise ordinance. It does not have an elaborate means of measurement of excessive sound or noise, and its ordinance does not spell out in quantitative measures the point at which a violation would occur. It does have, however, an essential ingredient in any municipality's campaign against excessive noise. It has made a coordinated effort to educate the community to the need for a quieter city. In so doing, it has created a community response which is tantamount to an acceptance, to some degree, of voluntary noise control. Voluntary noise control is the most effective type of control. The realities of economics and human nature, however, com-

pel regulation to a certain extent to obtain compliance with suggested noise reduction otherwise not forthcoming. New York took a major step in this direction with the enactment of a new building code proposed by the Polytechnic Institute of Brooklyn. The building code is set forth in the Appendix, *supra*. Its provisions relating to sound characteristics in buildings are sophisticated and yet not overly elaborate. It is somewhat premature to effectively evaluate the building code. It would appear, however, that it will be effective. New York City has also taken a new approach to control noise from sources other than buildings, including the traditional sources of garbage collection, truck brakes and horns, mufflers, excavation and construction work and the like, with the enactment of an Environmental Quality Administration. One of the purposes of the Administration is to obtain the necessary community acceptance of noise control. It should supplement the anti-noise task force set up by Mayor Lindsay in 1968 under the direction of Neal A. Anderson.

New York City hopefully will now update its basic noise code (435.50) to a Class B type statute to provide quantitative measures in decibels at which point violations would occur. In addition New York should invest in the necessary equipment for enforcement of such standards, to wit: a mobile sound analyzer unit. It may well be that with a coordinated approach, spearheaded by the Environmental Quality Administration, there will be no need to revise and rewrite the noise ordinance to the point where it might be classified as a Class A statute. New York is an example of the need for a city to fit the statutory language, purpose and design to its particular requirements, bearing in mind the test of effectiveness.

Municipalities are in an embarrassing position when they are confronted with a legislator who would suggest a more elaborate noise ordinance and are met with resistance by other legislators who suggest that the noise ordinance which is presently on the books is not enforced.

The regulatory code on a local level would be much more easily enforced if the complainant or police officer and the alleged violator both were aware that machinery exists to measure the noise in question. The handling of the alleged violation on a more mechanical and scientific basis would retard the incidence of excessive noise making. In the author's judgment, in the same way in which the use or threatened use of radar has retarded the amount of speeding on our highways. It is interesting to note the reaction of a defendant who has received a summons for speeding where radar was used, as contrasted with the reaction when simply stopped by an officer in a patrol car after having followed and "clocked" the defendant for a certain distance. This is not to say the level of sophistication of noise measurement has reached the same degree as that of testing and reading radar equipment by our enforcement agents. The analogy, however, is relevant in that through the education process our enforcement agencies and its officers can be taught to effectively use sound measuring instruments. Once success is achieved in their use, the word will soon spread to the violators (noise-makers). At this point some of the violators may become aware of the need to curtail their noisy activities. While they will not be quieter by voluntary compliance, they will be forced to recognize the enforcement measures as a deterrent to their noisy activity; they will not want to be caught.

CONCLUSION

First, it is helpful to consider the response of the law to the noise problem from at least four points of influence: (1) case law, (2) Federal statutes, (3) State statutes, and (4) local laws (County, City, Town and Village). None of the case holdings or language of the statutes or ordinances at the various levels

should be read in a vacuum. Each factual situation (noise disturbance) demanding a remedy must be considered unique unless a pattern is clear suggesting uniform treatment, such as the state motor vehicle codes.

Second, with respect to aircraft noise reduction, additional federal standards are necessary and will be forthcoming. The Federal Government will be forced to assume increasing authority and responsibility for noise control, especially in areas where it has pre-empted the field. Fact patterns squarely within the *Griggs* decision will permit recovery against the owner-operator of an airport but not the Federal Government.

Increasing pressure, including millions of dollars in threatened or actual law suits, will be placed upon the owner of the airport to set noise limitations on aircraft and find additional solutions.

Third, the real frontier to be explored in noise pollution is general noise reduction and control (not limited to aircraft). More study is needed in this area on all levels of government and industry. Educational efforts should precede regulatory efforts. Voluntary acceptance of control measures should come ahead of mandatory controls. Legislation such as the Kupferman bill is needed. The Federal government should aid the state and local governments to initiate their own programs.

Fourth, any statute or ordinance dealing with noise reduction should include quantitative measures or standards which spell out the point at which the noise intended to be controlled is excessive. Sophisticated measurement and enforcement procedures should be applied.

Unfortunately most cities have failed to take a coordinated approach to the noise problem. There has not been enough foresight and imagination exercised by those in control of our local governments to retard the increase in noise pollution.

More planning, thought, and action is needed in this area. Model codes should be devised by those familiar with the field and should be fitted to meet local circumstances and needs. Lawyers should look outside their profession to those with acoustical engineering and scientific expertise for help in working out practical and enforceable statutory controls.

Fifth, in balancing the rights of an individual disturbed by a particular noise against a government authorized activity causing noise (nuisance) and deemed essential and free from negligent operation, the government activity will prevail. Recoveries against the government for nuisance will be broader under states with constitutions containing language for compensation for damage as well as a taking of property.

Sixth, everyone must tolerate noise to some extent. To what extent must be determined on each set of facts and circumstances. More can be done to abate noise than most people presently realize. We must face the noise pollution problem immediately and squarely, and allocate whatever funds, energy and talent are available to place this serious environmental problem under control.

FOOTNOTES

¹ See Spater, George A., "Noise and the Law." 63 Mich L. Rev 1373 (June 1965). Certain noises, however, can do visible physical damage, the best known being the ability even at low volumes to break glass. Scholes, *The Oxford Companion to Music*, 6, 14, (8th ed. 1950); Spater *supra*, p. 1374, footnote 4.

For some time noise has been most commonly and simply defined as an unwanted sound. The subjective quality of noise has often been described by the classic phrase, "One man's music is another man's noise."

² Restatement of the Law of Torts, Vol. 4, Sec. 822, comment on clause (d), Sec. 826 (1939); language adapted by this writer.

³ See *American Airlines, Inc. et al v. Town of Hempstead*, et al, 272 F. Supp. 226 (1966)

where the town of Hempstead added a new article to its unnecessary noise ordinance forbidding operation of a mechanism or device (including airplanes) which created a noise in excess of certain limits. Nine major airlines, the Port of New York Authority, the Airline Pilots Association, three airline pilots as representatives of their class, and the FAA sued to enjoin the enforcement against them of the ordinance. District Judge Dooling upheld the suit and struck down the ordinance on the basis that legislative regulation of aircraft procedures based on the exercise of local police power is a field which has been pre-empted by the Federal Government. The Court decision was affirmed by the United States Court of Appeals for the Second Circuit, 398 F. 2d 369 (1968), and the Supreme Court denied certiorari in January 1969 (37 U.S. Law Week 3247).

¹ See Tondel, Lyman M., Jr., "Noise Litigation at Public Airports", *Alleviation of Jet Aircraft Noise Near Airports*, Report of President's Jet Aircraft Noise Panel, Office of Science and Technology, Executive Office of the President (March 1966), E.g., *Richard v. Washington Terminal Co.* 233 U.S. 546 (1919), et al. cited.

In *Richards v. Washington Terminal Co.* "... the plaintiff, whose house was approximately one hundred feet from defendant's railroad track and tunnel, brought an action to recover for damage to his property resulting from an alleged nuisance. Plaintiff suffered (1) from the noise, vibration, and smoke of the passing trains cracking the walls... breaking glass in the windows, and disturbing the peace and slumber of the occupants, and (2) from gas and smoke forced out of the tunnel and directed onto plaintiff's property by a fanning system. Defendant's activities, however, had been authorized by the government—its tracks and tunnel were located, constructed, and maintained under acts of Congress. There was no claim that the trains were negligently constructed, operated, or maintained.

"The Court held that the plaintiff, like all other property owners along a railroad right-of-way, was required to bear without redress the amount of noise, vibration, and smoke incident to the running of the trains. However, the plaintiff was entitled to compensation to the extent he was damaged by the fan arrangement which artificially concentrated gas and smoke on the plaintiff to a degree not shared by other property owners... and this, without, so far as appears, any real necessity existing for such damage.

"The general conclusion to be drawn from *Richards v. Washington Terminal* is that under federal law no right of action exists in private property owners for noise made by an entity functioning under authority of the government (and, a fortiori, for noise made by the government itself) even though the noise may cause a decline in the value of affected property. In such circumstances both damages and equitable relief are denied.

"It is necessary, however, to qualify this broad rule somewhat by two limitations: first, the activity being performed by the government or government-authorized entity must be sanctioned by law; second, the facility creating the noise must be properly designed and operated and in certain limited cases a government authorized entity will be held responsible when it has not properly located the facility."

⁵ Of the six public non-military airport cases where damages have been recovered in the United States over the last 10 years, five recoveries involving a total of \$71,584 were against civil airport operators on a constitutional taking theory. In addition \$690,670 has been recovered in this 10 year period in 21 cases brought against the U.S. Government where cases involved military airports. Twenty of these 21 recoveries were on a constitutional taking theory and one, *Weisberg v. United States*, 193 F. Supp. 815 (1961),

for \$750 was on a negligence theory. Mr. Tondel states the following:

"... one reason for the greater success that plaintiffs have had against the United States is that in many cases the government has admitted a taking, leaving only the amount of compensation."

Quoted from Tondel *supra* note 4 at pp. 123-4; In *Anderson v. Lockheed Aircraft Corp.*, 1955 U.S. & Can. Av. 182 (Cal. Super. Ct. Los Angeles County 1955) which involved a public airport only in a technical sense, \$12,500 in damages was recovered. In another case, which arose in Georgia, the court held that the complaint stated a cause of action, so that the case should not have been dismissed on the pleadings, *Chronister v. City of Atlanta*, 99 Ga. App. 447, 108 S.E. 2d 731 6 Av. Cas. 17, 448 (1959).

⁶ Federal Aviation Act of 1958, 72 Stat. 737, 4a U.S.C. Sec. 1301 (24).

⁷ 328 U.S. 236 (1946); See Tondel *supra* note 4; The court in *Clasby* said at p. 263, "The airspace, apart from the immediate reaches above the land, is part of the public domain."

The Federal Aviation Act *supra*, note 6, Sec. 104, states:

"There is hereby recognized and declared to exist in behalf of any citizen of the United States a public right of freedom of transit through the navigable airspace of the United States."

Sec. 101, Subdiv. 24, of the Federal Aviation Act defines navigable airspace at that "... above the minimum altitudes of flight prescribed by regulations issued under this chapter, and shall include airspace needed to insure safety in takeoff and landing of aircraft."

For a recent case where the court allowed only nominal damages for a suit based upon the trespass theory, and even that decision was reversed on appeal, see *Cheskov v. Port of Seattle*, 55 Wash. 2d 416, 348 P. 2d 673, 6 Av. Cas. 18, 176 (Tex. Civ. App. 1964).

⁸ 328 U.S. 256, 259 (1946).

⁹ Tondel, *supra* note 4 at p. 124, 328 U.S.C., at 261.

¹⁰ See Goldstein, Sidney, "Legal and Practical Limitations on Noise Control Methods," Report, Committee No. 4, International Conference on the Reduction of Noise and Disturbance Caused by Civil Aircraft, London (November 1966); For more detailed treatment of this subject by the same author see Goldstein, Sidney, "A Problem in Federalism, Property Rights in Air Space and Technology," *Alleviation of Jet Aircraft Noise Near Airports*, Report of the President's Jet Aircraft Noise Panel, Office of Science and Technology, Executive Office of the President (March 1966).

¹¹ In it the court held that there had been a taking when it had been found that overflights, and landing and takeoff procedures were so frequent and at such low altitudes that the beneficial use of the plaintiff's farm had been destroyed. Damages were awarded plaintiff in subsequent proceedings for loss of about 150 chickens which had flown into the walls and killed themselves from fright resulting from the lights and noises of the aircraft during takeoff and landing procedures.

¹² 363 U.S. 84 (1932); See also 20 *Fordham L. Rev.* 803 (1962) 57 N.W. U. L. Rev. 346 (1962) 3; 1962 Ill. L. F. 274; 24 U. Pitt. L. Rev. 603 (1963); 63 Mich. L. Rev. 1373 (1963).

¹³ 369 U.S. 84 (1962); Goldstein *supra* note 10; In *Causby*, Suit was filed in the Court of Claims against the United States which was both airport manager and airline owner. Subsequent litigation, however, encountered difficulties with which the *Causby* holding was not faced. The question became which party to sue; the airport manager, the offending airline, or the United States, who, after all, was responsible for approving the flight path? This problem was not fully solved until *Griggs v. Allegheny County supra* note 12.

¹⁴ For cases subsequent to *Griggs supra* note 12, which illustrate recent judicial language with respect to theories of "taking," "nuisance," and "trespass," see among others: *Batten v. United States*, 306 F.2d 580 (10th Cir 1962), cert. den., 371 U.S. 955 (1962) rehearing den., 372 U.S. 923 (1963). This case is especially significant because it denied plaintiff the right to recover even though damages were proven. The court found no taking where military flights were not overhead. Case notes on *Batten* among others include 49 *Cornell L. Q.* 116 (1963); 29 S. Air L. & Com. 72 (1963) 24 *Ohio St. L. J.* 579 (1963); See also *Kettelson, Ernest S.*, "Inverse Condemnation of Air Easements," 97 R. Prop. Prob. and T J 101 (Spring, 1968). Whether the result would have been the same if plaintiff had brought its cause of action under the Federal Tort Claims Act (28 U.S.C. 1364 (b)) on the theory of wrongful conduct of the government (in allowing the noise disturbance from the planes during warm up and take off) rather than under a taking theory is questionable. The Federal Tort Claims Act is not relevant to this discussion, generally, because its coverage includes only those complaints formed in theories of nuisance or negligence, thereby excluding trespass and eminent domain. C. F. Tucker Act, 28 U.S.C. 2041; See *Thornburg v. Port of Portland*, 233 Or. 178, 376 P. 2d 100 (1962); In *Thornburg*, the Oregon Supreme Court described a taking as follows:

"The idea that must be expressed to the jury is that before the plaintiff may recover for a taking of his property he must show by the necessary proof that the activities of the Government are unreasonably interfering with his use of his property, and in so substantial a way as to deprive him of the practical enjoyment of his land. This loss must then be translated factually by the jury into a reduction in the market value of the land." For case note discussion of *Thornburg* see among others 1963 *Duke L. J.* 563; 41 *Texas L. Rev.* 827 (1963); See also *Martin v. Port of Seattle*, 64 Wash. 2d 324, 391 P. 2d 540 (1964) cert. den. 379 U.S. 989 (1965); *Hillsborough County Aviation Authority v. Benitez*, 200 So. 2d 194 (Fla. 1967).

¹⁵ *Thornburg supra* note 14; *State ex rel., Royal et al., v. City of Columbus*, 3 Ohio St. 2d 154 (1965); See Goldstein *supra* note 10 at p. 16.

¹⁶ See *Mortui v. Port of Seattle*, 391 P. 2d 540, 8 Av. Cas. 18, 324 (Wash. 1964) cert. den., 399 U.S. 980 (1965); About 50% of the states have Federal-type constitutional provisions compensating for property "taken for public use." The other states provide compensation for property taken or damaged, including: Ala., Alaska, Ariz., Ark., Calif., Colo., Ga., Ill., Kent., La., Minn., Miss., Mo., Mont., Neb., N.M., N.D., Okla., Penn., S.D., Tex., Utah, Va., Wash., W.Va., and Wyo. In Ala., Ky., and Penn., the "damaged language" is limited to action by municipalities and public utilities with the power of eminent domain, N.C. has no state constitutional provision governing eminent domain, but property owners there are protected by the 14th Amendment of the Federal Constitution, as well as by judicial interpretation of the State Due Process Clause. Cormack, "Legal Concepts in Cases of Eminent Domain." 41 *Yale L. J.* 221, 222 (1931); *Spater supra* note 1 at King County, Wash., June 29, 1960.

¹⁷ Federal Aviation Act of 1958, Sec. 307 (c), Stat. 749, (49 U.S.C. Sec. 1348 (c)) *supra* note 6.

¹⁸ 14 C.F.R. Sec. 121.3(A), 121.97 (1956).

¹⁹ Federal Aviation Act of 1958, *supra* note 17; Federal agency authority will continue to expand in this area; See Harris Committee Report, H. Rep. 36, 88th Cong. 1st Sess (1963), and more recently, the Federal Aids-to-Airports Act, Public Law 88-280 (approved March, 1964).

²⁰ 14 C.F.R. Sec. 91.87 (g), 93.33.33 (1965); Kennedy Control Tower Bulletin No. 63-3, as

amended by No. 63-11. By altering the path of the aircraft the noise transmitted to those below is naturally reduced. This plan has been put to good use except during traffic problems or bad weather, when safety demands other flight procedures.

²¹ See Goldstein *supra* note 10; An unsuccessful attempt by a village to enforce a local ordinance which would have prohibited aircraft flight within its boundaries at altitudes of less than 1,000 feet, offered an example of the impracticability of moving the people away from the noise, is found in *Allegheny Airlines et al., Port of New York Authority et al. v. Cedarhurst*, 132 F. Supp. 871 (D.C.E.D.N.Y. 1955), *Aff'd* 258 F. 2d 812 (2 Cir. 1956); see also *City of Newark v. Eastern Airlines*, 159 F. Supp. 750 (D.C.N.H. 1958); see also Randall *supra* note 23; Stephen, John E., "Regulation by Law of Aircraft Noise Levels from the View Point of United States Airlines," pp. 49-63, International Conference on the Reduction of Noise and Disturbance Caused by Civil Aircraft, London (November 1966).

²² As Legislative Assistant and Legal counsel to Representative Kupferman during the 89th Congress and the first Session of the 90th Congress, I had an opportunity to experience the resistance to this legislation as well as problems of drafting, economics, and agency involvement. On balance, the bill has received criticism chiefly on the basis of the unnecessary creation of an additional bureau. Its supporters, however, argue that the bill is not regulatory in nature or scope and that centralization is needed in an effort to disseminate educational information and to create and administer significant abatement programs. The bill's chief problem is the apathy and insensitivity of legislators and their constituents to the problem of noise pollution. When the Problem reaches crisis proportions it will, of course be treated with more legislative interest. It would be a welcome and economical change, however, if the Congress would take steps now to avoid what will soon be a critical environmental problem. Hopefully, our sad experiences with delay in the field of air and water pollution will serve as reminders of the cost of procrastination in the pollution field.

²³ According to the New York State Police Department, "Since October 1, 1965, when Section 386 of the Vehicle and Traffic Law became effective, the Division of State Police has made 45 arrests. None of the arrests resulted in court trials. Of the 45 persons arrested, 43 of them pleaded guilty and were convicted. The remaining two cases were closed as the violators were from without New York State and could not be located after they failed to appear as a result of traffic tickets. Our enforcement and judicial system is adequately prepared and equipped to deal with the sound measurement according to the existing provisions of section 386, Subdivision 2 of the Vehicle and Traffic Law. However, when it is noted that the 45 arrests were made after checking 9,569 vehicles, it would appear that further study and evaluation is necessary to determine whether the present measurement of sound pressure levels is efficacious."

Kirwan, William E., Superintendent, by Robert E. Sweeney, Jr., April 15, 1968.

The author does not share the view that our enforcement and judicial system is adequately prepared and equipped to deal with sound measurement and related problems under this section. As a practical matter, anti-noise and muffler violations are usually dismissed because of inadequate provision for enforcement measurement and proof in court.

²⁴ See West's Annotated California Code, Sec. 23130; (Comprehensive motor vehicle Noise Statute).

²⁵ See Goldstein *supra* not 10 at p. 33.

²⁶ Robert Alex Baron, a private citizen who has demonstrated considerable interest in the noise abatement cause, recently told the Fourth International Congress on Noise Abatement at Baden Baden Germany, in 1966, that

"... in one 26-year period, garbage collections moved up to first place in a list of the ten most disturbing noises in New York City."

The garbage is usually collected early in the morning (3-5 a.m.). The operation of the turnstile which pulverizes the refuse and jams it into the garbage truck, together with the clang from the metal garbage can and metal objects within it, combine to cause a substantial racket which rudely awakens many residents in apartments throughout the block.

New York City's acting Commissioner of Purchase recently joined forces with the Sanitation Commissioner to reverse the noise trend of garbage collection by ordering 800 "quiet trucks to be used for sanitation purposes." (See N.Y. Times, August 18, 1967).

²⁷ Mr. Baron *supra* note 32 also stated that "... New Yorkers are assaulted each year by the noise of some 10,000 demolition and building projects, plus 80,000 street repair projects. New York City does little or nothing to abate construction noise. In common with most cities, it exempts daytime construction from any noise control and allows loopholes for night time construction. Construction noise, like most other sources, is often excused as a 'temporary nuisance', even though it exists nearly every day and many nights, year after year."

²⁸ The National Institute of Municipal Law Officers has set forth in a book by Charles S. Rhyne three "model ordinances," which would regulate and prohibit the following: (1) certain use of sound trucks; (2) certain uses of sound advertising from aircraft; and (3) unnecessary noise. This book—entitled "Municipal Control of Noise—Sound Trucks, etc."—together with annotations provided, makes an excellent reference source for cities in their exploration of ways to draft codes or improve their existing ones. It also speaks of the Constitutional right of freedom of speech and the validity of local noise control statutes.

²⁹ Sec. 435-50 of the N.Y.C. Administrative Code states generally that "the creation of any unreasonably loud, disturbing city noise did not continue. Finally, in August of 1967, New York City again awakened to the noise problem. Neil H. Anderson, Executive Vice President of the New York Board of Trade, was appointed chairman of a committee directed to study the problem and produce "... some noise rulings which will bring these developments (quieter trucks, tires, mufflers) into everyday use."

See statement by Neil H. Anderson before New York City Council during hearings on reorganization of the City Government, Local Law 280, Int. No. 261, ch. 56, as reported *Congressional Record* August 31, 1967, at page H 11529.

Hopefully, the New York City task force will produce hard results in the noise reduction and control field in addition to its study of the problem.

APPENDIX

A. FEDERAL LAWS AND REGULATIONS

[Reproduced from Federal Register, May 20, 1969]

§ 50-204.10 Occupational noise exposure.

(a) Protection against the effects of noise exposure shall be provided when the sound levels exceed those shown in Table I of this section when measured on the A scale of a standard sound level meter at slow response.

When noise levels are determined by octave band analysis, the equivalent A-weighted sound level may be determined as follows:

(b) When employees are subjected to

sound exceeding those listed in Table I of this section, feasible administrative or engineering controls shall be utilized. If such controls fail to reduce sound levels within the levels of the table, personal protective equipment shall be provided and used to reduce sound levels within the levels of the table.

(c) If the variations in noise level involve maxima at intervals of 1 second or less, it is to be considered intermittent. In such cases, where the duration of the maxima are less than 1 second, they shall be treated as of 1-second duration.

(d) In all cases where the sound levels exceed the values shown herein, a continuing, effective hearing conservation program shall be administered.

Table I.—Permissible noise exposures¹

Duration per day, hours:	Sound level dBA
8	90
6	92
4	95
3	97
2	100
1½	102
1	105
½	110
¼ or less	115

¹ When the daily noise exposure is composed of two or more periods of noise exposure of different levels, their combined effect should be considered, rather than the individual effect of each. If the sum of the following fractions: $C_1/T_1 + C_2/T_2 \dots C_n/T_n$ exceeds unity, then, the mixed exposure should be considered to exceed the limit value. C_n indicates the total time of exposure at a specified noise level, and T_n indicates the total time of exposure permitted at that level.

Exposure to impulsive or impact noise should not exceed 140 dBA peak sound pressure level.

[Reproduced from Federal Register, Jan. 11, 1969]

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

[14 CFR Parts 21 and 36]

[Docket No. 9337; Notice No. 69-1]

Noise standards: Aircraft type certification
Notice of Proposed Rule Making

The Federal Aviation Administration is considering the adoption of a new Part 36 of the Federal Aviation Regulations prescribing aircraft noise standards for subsonic transport category airplanes, and for subsonic turbojet powered airplanes regardless of category. These standards would apply to certain type certificates, and to certain changes to type certificates, and would apply to certificates or changes issued by the Administrator on or after the effective date of these proposed standards, regardless of the date of application.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before March 12, 1969, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments and will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Public Law 90-411 adds new section 611 to the Federal Aviation Act of 1958. This section provides that "the Administrator of the

Federal Aviation Administration, after consultation with the Secretary of Transportation, shall prescribe * * * standards for the measurement of aircraft noise and sonic boom and shall prescribe * * * such rules and regulations as he may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards, rules, and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title" (Title VI).

Senate Report 1353 on Public Law 90-411 states that, while other approaches to aircraft noise control must be thoroughly studied and employed, "the first order of business is to stop the escalation of aircraft noise by imposing standards which require the full application of noise reduction technology" (p. 2). The type certification standards in this notice are designed to implement this first order of business by concentrating on the aircraft that are most likely to raise the aircraft noise levels in airport neighborhoods. These aircraft include subsonic transport category airplanes regardless of means of propulsion and subsonic turbojet power airplanes regardless of category.

Section 611(b)(3), as added by Public Law 90-411, states that the Administrator, in prescribing and amending standards, rules, and regulations under the new section, shall "consider whether any proposed standard, rule, or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest."

New Part 36 therefore provides (§ 36.3) that (1) each airplane must meet the applicable airworthiness regulations under all conditions in which noise compliance is shown, and (2) all noise reduction operating procedures and other information developed for the flight crew under Part 36 must be consistent with the applicable airworthiness requirements. After, as well as before, the adoption of noise standards, the levels of safety defined in the applicable airworthiness standards will control completely the safety approval of any aircraft. Thus, new Part 36 is in no way an addition to or amendment of any airworthiness standard but is rather an entirely separate source of type certification standards that must be compatible with the applicable airworthiness standards.

This notice follows a history of FAA participation in noise abatement programs involving Government, industry, and international groups. That activity predated Public Law 90-411. In October 1965, the Office of Science and Technology, at the request of the President, sponsored a symposium on the aircraft noise problem. The conclusions of this symposium are contained in the document entitled "Alleviation of Jet Aircraft Noise Near Airports—A Report of the Jet Aircraft Noise Panel", published by the Office of Science and Technology in March 1966. In his Transportation Message of March 2, 1966, the President directed that a concerted effort be made by the Federal Government to combat the growing problem of jet aircraft noise near airports. In response, the Office of Science and Technology, in cooperation with the FAA, the National Aeronautics and Space Administration, and the Department of Housing and Urban Development, initiated an "Aircraft Noise Alleviation Program" to implement specific recommendations in the above cited document.

One of the recommendations in that document was that certification of aircraft for noise be considered as one critical step in the alleviation of the aircraft noise problem. This view was endorsed by the London Conference as reflected in the document "Aircraft Noise—Report of an International Conference on the Reduction of Noise and Disturbance Caused by Civil Aircraft", published in 1967. That conference was held on November 22-30, 1966, and represented 26

countries and 11 international organizations concerned with aircraft noise. Beginning in September 1966, a series of drafts of noise certification concepts prepared by the FAA were submitted to industry and refined in the light of industry comments. In February 1966, an informal Task Force representing Government and industry was established to recommend the most desirable concept of a noise certification rule.

Beginning in early 1967, discussions were held with the Governments of the United Kingdom and France in order to obtain the benefits of their aircraft noise abatement programs, and to explore the possibility of worldwide aircraft noise abatement agreements. Much information has been obtained that is useful in achieving the objectives of Public Law 90-411, particularly the use of the concept of Effective Perceived Noise Level in units of EPNdB as the evaluator of subjective response, and the use of three points of measurement (approach, takeoff, and sideline).

Finally, in July 1968, the aircraft manufacturing industry proposed a variation of the same three-point concept and strongly recommended adopting the concept of maximum instantaneous perceived noise level in units of PNdB as the measure of subjective response. For reasons stated below, the FAA is unable to support the adoption of this measure of subjective response.

This notice is based on both the experience gained in 3 years of FAA coordination with the aircraft industry and on information obtained from the United Kingdom and France that the AA considers to be most appropriate for regulatory action. However, since formal rule making is now being proposed under the express terms of Public Law 90-411, certain proposals contrary to the suggestions of the industry and those of the United Kingdom and France are contained in this notice in order to fulfill the intent of the public law. The most significant of these are (1) the elimination of the concept of a separate noise certificate, (2) the application of noise measurement, noise evaluation, and noise reduction standards (including a specified noise ceiling), to all airplanes that have turbojet engines with bypass ratios of two or more, regardless of the date of application for the type certificate or change to a type certificate, (3) the application of noise measurement, noise evaluation, and noise reduction standards (but without a specified noise ceiling) to airplanes that do not have turbojet engines with bypass ratios of two or more, for which application for a type certificate, or change to a type certificate, is made on or after the publication date of this notice, but before the effective date of the final rule, (4) the application of noise measurement and noise evaluation standards, and the application of a requirement to obtain the lowest levels that are reasonably obtainable through the use of operating procedures and other information for the flight crew, to airplanes that do not have turbojet engines with bypass ratios of two or more, for which application for a type certificate, or change to a type certificate, is made before the publication date of this notice, and (5) the adoption, not only of a noise ceiling, but also of a noise floor, or objective, that must be achieved where reasonable, in each type design, for which application for a type certificate, or change to a type certificate is made on or after the publication date of this notice.

The elimination of the concept of a separate noise certificate is made to conform with the provision of Public Law 90-411, which provides for the application of noise standards to certificates issued under title VI of the Federal Aviation Act of 1958. Further, the FAA believes it is desirable to introduce the technology of noise reduction to the aircraft industry in the form of air-

craft certification processes with which it is familiar, namely type, production, and airworthiness certification. Finally, any forthcoming international agreement that each noise-approved aircraft be so marked for international recognition can be fulfilled by placing a statement of noise compliance on the airworthiness certificate.

In proposed § 36.201(a), the application of noise measurement, noise evaluation, and noise reduction standards, including a specified noise ceiling, to airplanes that have turbojet engines with bypass ratios of two or more, regardless of the date of application for the type certificate or change, is believed to be reasonable since the FAA has been working closely with existing applicants for such type certificates. Under this guidance, these applicants have been planning for maximum noise reduction from the earliest stages of their type certification programs. The full use of noise reduction technology has been available to assist them in this effort. The FAA believes that it would not be consistent with the intent of Public Law 90-411 to permit the type certification of these aircraft without requiring the full use of that technology. The FAA, therefore, believes that good cause exists for applying the ceiling values of Appendix C to those applicants regardless of the date of application. Appendix C represents the FAA's judgment concerning noise levels achievable by those applicants, as a class, although further individual noise reductions may be required.

In proposed § 36.201(b), the application of noise measurement, noise evaluation, and noise reduction standards, excluding the ceiling values of Appendix C, to applications for type certificates, or changes, for airplanes that do not have turbojet engines with bypass ratios of two or more, made on or after the publication date of this notice, but before the effective date of the proposed rule, is proposed since: (1) The potential for escalation of noise exists for type designs for which application is made during this period, just as much as it exists for applications made after the effective date of the rules, and this potential escalation should not be ignored, (2) there are existing means of noise reduction that can be applied to airplanes that do not have turbine engines with bypass ratios of two or more, which means should not be ignored, and (3) however, since existing technology will not necessarily allow the attainment of the ceiling values of Appendix C at all measuring points for these aircraft, and the applicants may have previously made substantial commitments without knowledge of the impending rulemaking, it is not believed Appendix C can reasonably be applied to those aircraft as a class. The FAA, therefore, believes that good cause exists for this limited retroactive application of Part 36.

A serious question of reasonableness exists with respect to applications, for airplanes without high bypass ratio engines, made before the publication date of this notice. Unlike applications made after the date of the notice, the decision to make an application, and all of its attendant planning and investment, could not have been made with knowledge that the FAA is considering regulatory changes that could affect them. These applicants may be well along in their type certification programs. It is, therefore, believed that the attainment of noise reduction through acoustical and other design changes would be unreasonable. However, the potential noise problem created by these applications cannot be ignored. Noise measurement and evaluation should be accomplished to assess the noise levels of these aircraft for possible retrofit requirements in the future. The development of operational procedures to obtain the lowest noise levels that can be obtained through such procedures is a reasonable burden on the applicant and will be a valuable guide to flight crews. The

information placed in the Airplane Flight Manual will provide valuable assistance to persons concerned with airport noise planning. Weighing all of these factors, the FAA believes that there is good cause for the limited retroactive application of noise standards specified in § 36.201(c).

The proposed adoption of a noise floor, or objective, is discussed below.

In general, this notice provides the following bases for preventing further escalation of aircraft noise:

(a) This notice adopts Effective Perceived Noise Level (EPNL) in units of EPNdB, which includes the effects of strong tones and long durations of noise exposure in order to evaluate the qualities of aircraft noise that are particularly offensive to persons on the ground. A primary objective of noise regulation is the translation of the physical causes of subjective human annoyance into mathematical units of measurement that, in fact, measure that annoyance and are precise enough for regulatory purposes. After much study, the FAA believes that EPNL is the only available noise measurement concept that can be adapted to achieve this objective. Since subjective annoyance caused by aircraft noise relates to the entire complex noise signature of the aircraft, which results from a complete flyover of the aircraft, any truly effective measure of that annoyance must consider the effects of (1) frequency, (2) noise level, (3) duration, and (4) strong tones. It has been argued that the FAA should accept the measurement of instantaneous frequency and noise level, without correction for duration and strong tones. This is the method that would result if the concept of Perceived Noise Level (PNL) were adopted as has been urged by some segments of the aviation community. However, acoustical research has shown that an aircraft may receive a given noise rating based on noise level and frequency (without correction for duration and tone), but actually generate much more actual annoyance (because of durations and tones) than another aircraft that receives a similar rating, also based on noise level and frequency (without correction for duration and tone). Thus, the FAA believes that any regulation limited to the concept of PNL could permit the continued escalation of subjective annoyance even though prescribed PNL values are fully complied with. A correction for durations and tones must therefore be included if the objective of meaningful noise reduction at the source is to be achieved. While EPNL is slightly more complicated than PNL because it corrects for durations and tones, it is this very characteristic which provides the FAA with a basis for measuring not only the annoyance effects of current aircraft, but also the unknown and potentially highly annoying tones and durations in the noise signatures of future aircraft.

(b) This notice provides a regulatory basis for bringing a wide variety of subsonic transport category and subsonic turbojet powered airplanes under noise measurement and evaluation procedures so that knowledge may be gained to support research and development aimed at improving the ability to predict, during the early phases of type certification, the noise levels that can be expected in actual operation. As the ability to predict noise levels improves, more precise standards can be applied.

(c) This notice provides takeoff power and climb gradient achievement requirements that encourage the shrinking of the noise-exposed areas around airports in cases where local land planning can take advantage of this potential.

(d) This notice provides a sliding scale of noise limits related to aircraft weight in order to provide aircraft manufacturers, airport operators, and land use planners with guides to future conduct.

The proposals in this notice take the following two forms. First, Part 21 is amended to provide exceptions to the procedural rules that protect type certification applicants, under certain conditions, from the application of regulations issued after the date of application, amended to eliminate the present limitation to "airworthiness" standards, and amended to provide that standard airworthiness certificates would indicate compliance with noise standards. Second, new Part 36 is added containing type certification standards concerning noise only. This new part contains a basic rule (§§ 36.1 through 36.401), an Appendix A (§§ A36.1 through A36.3), an Appendix B (§§ B36.1 through B36.7), and an Appendix C (§§ C36.1 through C36.7).

Certain provisions of the proposals in this Notice should be emphasized. The amendments to §§ 21.21, 21.29, 21.31, and 21.33 are made to reflect the fact that the applicable type certification standards are no longer limited to "airworthiness" standards. Note that the amendment to § 21.29 would make foreign aircraft subject to the same noise standards as U.S. aircraft.

In order to prevent the escalation of noise exposure, the primary question, so far as changes to aircraft are concerned, is whether that change may increase that exposure, not whether the change is "major" or "minor." Under § 21.95, a change that increased noise exposure, if "minor" from an airworthiness standpoint (as defined in § 21.93), could be approved under any method approved by the Administrator, whereas "major" changes must be approved on the basis of the submission of substantiating data and necessary descriptive data for inclusion in the type design. This latter method is the intent of proposed Part 36. Therefore, § 21.93 would be amended to provide that, for the purpose of Subparts D and E of Part 21, all changes in type design that may increase the noise exposure created by a Transport Category or turbojet powered airplane would be classified as "major changes" irrespective of their effect on the airworthiness of the airplane. This is particularly important with respect to § 21.113, Requirement for a Supplemental Type Certificate.

New § 21.183(e) is proposed as a means of meeting any future international agreement that each aircraft be identified with respect to noise compliance. For reasons discussed below, the statement of noise compliance is not proposed for aircraft using the noise prediction allowance of § C36.5(c).

In proposed § 36.2, note that the applicability of rules to changed type certificates includes only those changes that may increase the noise exposure created by the airplane. As proposed, this provision would include applications for supplemental type certificates by operators or other persons as well as applications for amended type certificates by the holders of type certificates.

Proposed § 36.3 is drafted to ensure compliance with subsection (b) (3) of Public Law 90-411, which directs the Administrator of the FAA to "consider whether any proposed standard, rule, or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest." This is more fully discussed above.

Proposed § 36.101 refers to Appendix A, which contains the basic noise measurement procedures that the FAA believes to be necessary in obtaining the raw data from which conversion to Effective Perceived Noise Level in units of EPNdB can be made.

Proposed § 36.103 refers to Appendix B, which contains the procedures for converting measured noise into Effective Perceived Noise Level in units of EPNdB. Appendix B contains material extracted from FAA Technical Report FAA-NO-68-34, entitled "Aircraft Noise Evaluation", dated September,

1968. The need for EPNdB as the required measure of subjective response is discussed above.

Section 36.201 contains the requirement that reduced noise levels be achieved. Public Law 90-411 provides that, in issuing regulations to protect the public from "unnecessary" aircraft noise, the Administrator shall "consider whether any proposed standard, rule, or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft * * *". In Senate Report 1353, with respect to currently possible aircraft noise reductions, the Senate Commerce Committee stated that "within the limits of technology and economic feasibility, it is the view of the committee that the Federal Government must assure that the potential reductions are in fact realized" (p. 3). The committee also indicated (p. 2) that its intent is that the standards imposed to stop the escalation of aircraft noise should "require the 'full application of noise reduction technology.'" As explained below, Appendix C of proposed Part 36 contains general maximum noise levels for transport category and turbojet powered airplanes as a class. While this class ceiling is an appropriate means of preventing the further escalation of aircraft noise, it has serious deficiencies in meeting the above-mentioned intent of Public Law 90-411.

First, the values in Appendix C cannot be regarded as even approaching acceptable noise values in and of themselves. They are therefore fundamentally different from the airworthiness standards used in type certification. Second, since a class ceiling is also subject to the requirement of reasonableness, it can be no lower than would be appropriate for the noisiest type design within the class. Therefore, no reasonable class ceiling can provide a basis for the full application of noise reduction technology except with respect to the noisiest type design within the class. In short, no reasonable class ceiling can permit the FAA to act to ensure that potential noise reductions available in particular type designs are in fact realized. Yet it is only in the full application of noise reduction technology to particular type designs that the most significant reductions of aircraft noise at the source can be ensured. After considering all available regulatory means, the FAA believes that the best way to ensure the attainment of the maximum noise reductions that are economically reasonable, technologically practicable, and appropriate for each particular type design, is to supplement the general noise ceiling in Appendix C with a noise floor, or objective to be sought, and with a requirement incorporating the standard specified in the Public Law. Therefore, § 36.201 provides that the noise levels must be reduced to be as near to 80 EPNdB as is "economically reasonable, technologically practicable, and appropriate to the particular type design." The ceiling values in Appendix C can provide valuable functions in defining a predictable noise limit for airport planning, for aircraft operators, and for other segments of aviation, and for Federal, State, and local governments for whom the prediction of aircraft noise is essential for rational planning for a total "systems approach" to aircraft noise reduction. However, the FAA cannot responsibly accept those values as satisfactory where further noise reductions are available and reasonable. Where those further reductions are available, are economically reasonable, technologically practical, and appropriate to the particular type design, the FAA cannot ignore them by waiting until all type designs are expected to be quiet enough to permit lowering the noise ceiling for the entire class. By then, of course, any type designs that could have been substantially quieter would have been approved, and aircraft produced under them, without the realization

of the actually available noise reductions. It is not believed that such a result is consistent with Public Law 90-411.

The noise floor of 80 EPNdB is proposed as an objective to aim for, and to achieve where economically reasonable, technologically practicable, and appropriate to the particular type design. It is recognized that this objective will not be appropriate for many current type designs. However, this objective is important because it makes it clear to all applicants that no increment of noise above 80 EPNdB can be considered acceptable, in and of itself, where it can be eliminated practically and reasonably. This figure is proposed as a reasonable boundary between noise levels that are high enough to interfere with communications and to obstruct normal life in homes or other buildings that are not designed with specific acoustical objectives, and lower noise levels which, while not completely benign, nevertheless allow those activities to proceed. Where this goal can be reached in a given case, and can be justified as economically reasonable, technologically practical, and appropriate to the particular type design, the FAA does not intend to ignore this potential reduction.

In order to provide a specific frame of reference for determining whether a given noise reduction is economically reasonable, technologically practical, and appropriate to the particular type design, proposed § 36.203 specifies the particular noise sources, and corresponding noise reduction techniques, that will be considered by the FAA in making this determination.

While it is recognized that proposed § 36.203 provides considerably more specific guidelines than are provided in certain of the airworthiness standards for type certification, the FAA believes that such specificity is appropriate in order to assist in determining whether a given reduction of a given noise from a given source is appropriate for a given type design. Conversely, it is believed that the guidelines in § 36.203 are broad enough to permit necessary design flexibility. For example, under § 36.203(d)(1), the applicant is forewarned that, for turbofan engines, forward radiated compressor whine must be considered. However, he is given latitude in the design or selection of types of "acoustical treatment" and in deciding whether "acoustical treatment" or "choked inlet" are appropriate means of noise reduction.

Since the application of noise standards will be a novel experience for many manufacturers, there may be some who feel that the standards in Part 36 should be supplemented with more specific requirements responsive to their individual type designs, at least during their first type certification programs under the new rules. The FAA agrees that this may be useful and that applicants should have this opportunity. Proposed § 21.16(c) would therefore provide for the issuance of special conditions applying the aircraft noise type certification standards of Part 36 to the applicant's particular type design. Unlike the current special conditions for airworthiness type certification, the noise special conditions would only be issued if requested by the applicant. Like the airworthiness special conditions, however, the noise special conditions would be issued in accordance with § 21.16(b), which provides among other things, that they are issued as rules of particular applicability, after affording the applicant and other interested persons an opportunity to participate in the rulemaking.

In summary, Appendix C does not represent a moratorium on continued research to progressively lower the necessary noise levels in particular new type designs where economically reasonable, technologically practicable and appropriate to those particular type designs.

Section 36.301 provides the basis for generating operating procedures and other information for the flight crew, so that noise levels substantiated during type certification can be obtained in operation by making the information available to the flight crew in the Aircraft Flight Manual (§ 36.401).

Section 36.401 is necessary in order to provide the flight crew with operating procedures and other information necessary to permit the flight crew to obtain the full noise reduction possible for the aircraft, within the limits of safe operation. The information furnished under this section will enable the flight crew to know which combinations of weight and thrust will permit or prevent the obtaining of substantiated noise levels in operation. Note that, under § 36.401(b), the weight at which the takeoff noise test is complied with, if less than the airworthiness maximum weight, becomes the maximum weight of the aircraft and must be furnished, as such, in the operating limitations section of the Airplane Flight Manual. However, proposed § 36.203 makes it clear that no reduction in maximum weight will be required to achieve noise levels less than those in Appendix C.

In Appendix C, the following should be noted: Section C36.5 provides that the prescribed noise levels must be shown by flight test. It is not believed that other tests or analysis alone are adequate for this purpose. The "tradeoff" in § C36.5(b) is proposed in order to reflect the fact that total noise exposure is cumulative and that certain limited exceedances at certain measuring points are therefore acceptable if compensated by noise reductions at other measuring points. The "noise prediction allowance" in § C36.5(c) is proposed in order to provide a reasonable result in cases in which acceptable noise prediction techniques are used by the applicant but fail for reasons beyond control, and achieving the prescribed noise levels would not be economically reasonable, technologically practicable, or appropriate under the particular type certification program. While § C36.5(c) allows a reasonable result by permitting the issue of a type certificate, its values exceed, those proposed in international discussions. Therefore, it is proposed to limit the statement of noise compliance, on the airworthiness certificate, to airplanes that fully comply with paragraphs (a) and (b) of § 36.5. Otherwise the statement of noise compliance would not have a precise meaning for international purposes. While the FAA would require noise approval of the type design, it is in the interests of international standardization, not of FAA requirements, that separate statements of noise compliance would be issued for each aircraft individually. If international agreement later requires, that statement could of course also be issued for aircraft using the noise prediction allowance.

During discussions with industry, the matter of the takeoff speed to be required under Appendix C received considerable attention. On the one hand, there are factors which would tend to lower the desirable speed. These include the need to have the capability of minimizing the noise-exposed areas on the ground where this capability can be used to alleviate local noise problems. This capability is obtained through decreasing airplane speed by increasing climb angles. On the other hand, the margin of safety, which is needed to account for gusts, windstorms, maneuvering, pilot distraction, and emergencies, increases as speed increases. The FAA believes that these conflicting interests should result in a speed between 10 and 20 knots above the speed V_2 . However, further industry comment is necessary in order to arrive at a satisfactory specific speed within that range. This notice therefore specifies that range of speeds (§ 36.7).

While this notice is limited to those aircraft most directly related to the current

escalation of aircraft noise, the FAA is studying the relevance of the concepts in this notice to other aircraft such as small turbine propeller powered and reciprocating engine powered airplanes, vertical and short takeoff and landing aircraft (including rotorcraft), and supersonic aircraft. The FAA is also studying the relevance of the concepts in this notice to aircraft now in service, particularly subsonic transport category and subsonic turbojet powered airplanes. As these studies proceed, further proposals will be issued for public comment.

The FAA is also studying various types of operating rules for obtaining optimum noise levels around airports. Where such study indicates that appropriate rules can be developed, they will be issued as a notice of proposed rule making for public comment.

Finally, it should be noted that aircraft type certificated under the noise standards of proposed Part 36 may be subject to further noise reduction in the form of rules applicable to operators, when appropriate operating rules can be developed.

In summary, the proposals in this notice should be placed in broad perspective. The notice does not promise the immediate achievement of socially acceptable noise levels in airport neighborhoods where the responsible State or local governments have not, or cannot, act to achieve land use compatibility for their existing or planned airports. Further, this notice does not promise a Federal substitute for the actions that airport operators, as proprietors, can take and have traditionally and responsibly taken, to make their airports fit the particular needs of their locales, such as establishing the conditions under which their airports and airport facilities may be used, including the issuance of specific noise ceilings. These limitations on this notice reflect the statement of the Senate Commerce Committee, concerning Public Law 90-411, that "it is not the intent of the committee in recommending this legislation to effect any change in the existing apportionment of powers between the Federal and State and local governments * * *". The proposed legislation will not affect the rights of a State or local public agency, as the proprietor of an airport, from issuing regulations or establishing requirements as to the permissible level of noise which can be created by aircraft using the airport * * *. Just as an airport owner is responsible for deciding how long the runways will be, so is the owner responsible for obtaining noise easements necessary to permit the landing and takeoff of the aircraft. The Federal Government is in no position to require an airport to accept service by larger aircraft and, for that purpose, to obtain longer runways. Likewise, the Federal Government is in no position to require an airport to accept service by noisier aircraft, and for that purpose to obtain additional noise easements. The issue is the service desired by the airport owner and the steps it is willing to take to obtain the service. In dealing with this issue, the Federal Government should not substitute its judgment for that of the States or elements of local government who, for the most part, own and operate our Nation's airports. The proposed legislation is not designed to do this and will not prevent airport proprietors from excluding any aircraft on the basis of noise considerations. Of course, the authority of units of local government to control the effects of aircraft noise through the exercise of land use planning and zoning powers is not diminished by the bill."

In his statement to the Subcommittee on Transportation and Aeronautics of the Committee on Interstate and Foreign Commerce of the House of Representatives on November 15, 1967, in support of H.R. 3400 and S. 707, which led to Public Law 90-411, the Secretary of Transportation indicated that approaches involving more than

local community actions might require further legislation. Thus, he stated "In the field of compatible land use, the Department is developing a computerized method of predicting aircraft noise exposure at airports. The methodology has been applied to three principle airports * * * and plans are underway to apply it to 29 additional airports. This, in turn, will now enable HUD to inventory the land use at these airports. This noise exposure forecast land-use inventory will then be applied to or be applicable by the balance of the airports. As a result, we shall for the first time have a precise grasp of the actual magnitude of the problems of compatible land use projected through 1975. It will be on the basis of this understanding that any necessary legislation will be drafted and submitted enabling the Federal Government to assist, at long last, local communities in making the environment of the airport neighborhood one in which noise from aircraft does not generate noise from an outraged citizenry."

In the meantime, this notice plays an important role by providing airport operators and State and local governments, as well as other concerned persons who are responsible for local noise control planning, with dependable, predictable noise parameters to be used as a basis for that planning. For example, local governments would be able to make administrative decisions covering zoning, general urban planning, highway and other transit systems, schools, hospitals, parks, and recreation facilities on the basis of noise ceiling specified in the type certification regulations. Airport operators, as proprietors, would be able to base their actions on known noise levels substantiated during type certification. But, under this notice, responsibility for all local noise control planning remains exclusively local.

In consideration of the foregoing, it is proposed to amend Subchapter C of Chapter I of Title 14 of the Code of Federal Regulations as hereinafter set forth:

A. Amend Part 21 of the Federal Aviation Regulations as follows:

1. Add a new § 21.16(c) to read:

§ 21.16 Special conditions

(c) If requested by the applicant, special conditions applying the aircraft noise type certification standards of Part 36 to the applicant's particular type design are issued by the Administrator in accordance with paragraph (b) of this section.

2. Amend § 21.17(a) by changing the word "§ 25.2" appearing in the introductory clause to the words "§§ 25.2 and 36.2."

3. Amend § 21.21(b) by deleting the word "airworthiness" wherever it appears, and by inserting the word "airworthiness," in subparagraph (b) (1), between the words "that any" and the words "provisions not."

4. Amend § 21.29(a) (1) to read:

§ 21.29 Issue of Type Certificate: Import Products

(1) If the country in which the product was manufactured certifies that the product has been examined, tested, and found to meet the applicable aircraft noise standards of this subchapter, and has been examined, tested, and found to meet the applicable airworthiness requirements of—

5. Amend § 21.31(c) by inserting the words "or other required characteristics" between the words "the airworthiness" and the words "of later products."

6. Amend § 21.33(b)(1) by deleting the word "airworthiness."

7. Amend § 21.93 by designating the current text as paragraph (a), and by adding a new paragraph (b) to read:

§ 21.93 Classification of changes in type design.

(b) For the purpose of this subpart, and Subpart E, all changes that may increase the noise exposure created by a Transport Category or turbojet powered airplane are classified as "major changes" irrespective of their effect on the airworthiness of the airplane.

8. Amend § 21.101(a) by changing the word "§ 25.2" appearing in the introductory clause to the words "§§ 25.2 and 36.2".

9. Amend § 21.115 by deleting the word "airworthiness" in the Section heading and in paragraph (a).

10. Add a new § 21.183(e) to read:

§ 21.183 Issue of standard airworthiness certificates for normal, utility, acrobatic, and transport category aircraft

(e) *Statement of noise compliance.* An applicant for a standard airworthiness certificate for subsonic transport category or subsonic turbojet powered airplane that meets the noise level standards of Appendix C of Part 36 without using the noise prediction allowance of § C36.5(c) is issued a statement of noise compliance on that certificate.

B. Add the following new Part 36 of the Federal Aviation Regulations:

Part 36—Noise standards: Aircraft type certification

Subpart A—General

Sec.

36.1 Applicability.

36.2 Special retroactive requirements.

36.3 Compatibility with airworthiness requirements.

Subpart B—Noise Measurement and Evaluation

36.101 Noise abatement.

36.103 Noise evaluation.

Supart C—Noise Levels and Airplane Flight Manual

36.201 Required noise reduction.

36.203 Noise sources and means of noise reduction.

36.301 Operating procedures and other information.

36.401 Airplane Flight Manual.

Appendix A—Aircraft noise measurement under § 36.101

Appendix B—Noise evaluation under § 36.103

Appendix C—General noise limits of transport category and turbojet powered airplanes under § 36.201

Subpart A—General

§ 36.1 Applicability

(a) This part prescribes noise standards for the issue of type certificates, and changes to those certificates that may increase the noise exposure created by the airplane, for subsonic transport category airplanes and for subsonic turbojet powered airplanes.

(b) Each person who applies under Part 21 of this chapter for a type certificate, and each person who applies for a change to a type certificate that may increase the noise exposure created by the airplane, must show compliance with the applicable requirements in this part.

§ 36.2 Special retroactive requirements

Notwithstanding §§ 21.17 and 21.101 of this chapter, and irrespective of the date of application, each applicant for a new type certificate and each person who applies for a change to a type certificate that may increase the noise exposure created by the aircraft must show compliance with the applicable provisions of this part.

§ 36.3 Compatibility with airworthiness requirements

It must be shown that the airplane meets

the airworthiness regulations constituting the type certification basis of the airplane under all conditions in which compliance with this part is shown, and that all operating procedures and other information for the flight crew approved under this part are consistent with the airworthiness regulations constituting the type certification basis of the airplane.

Subpart B—Noise Measurement and Evaluation

§ 36.101 Noise measurement

The noise generated by the airplane must be measured under Appendix A of this part or under an approved equivalent procedure.

§ 36.103 Noise evaluation

Noise measurement information obtained under § 36.101 must be evaluated under Appendix B of this part or under an approved equivalent procedure.

Subpart C—Noise Levels and Airplane Flight Manual

§ 36.201 Requirement noise reductions

(a) For applications made before the effective date of this part for airplanes that have turbine engines with bypass ratios of 2 or more, and for all applications made on or after the effective date of this part, it must be shown that the noise levels of the airplane, measured and evaluated as prescribed in §§ 36.101 and 36.103, at the measuring points prescribed in Appendix C of this part—

(1) Are reduced to be as near to 80 EPNdB as is economically reasonable, technologically practical, and appropriate to the particular type design, including consideration of the noise sources and means of noise reduction prescribed in § 36.203; and

(2) Do not exceed the general noise limits prescribed in Appendix C of this part.

(b) For applications made after (the publication date of this notice) but before the effective date of this part, the noise levels of airplanes that do not have turbine engines with bypass ratios of 2 or more must conform to paragraph (a) (1) of this section.

(c) For applications made before (the publication date of this notice) for airplanes that do not have turbine engines with bypass ratios of 2 or more, the lowest noise levels, reasonably obtainable through the use of the operating procedures and other information for the flight crew developed under § 36.301, must be obtained.

§ 36.203 Noise sources and means of noise reduction

(a) *General.* No reduction in maximum weight is required for achieving noise levels less than those in Appendix C. However, in determining whether those lesser noise levels are economically reasonable, technologically practicable, and appropriate to the particular type design, in addition to aerodynamic considerations, the noise sources and means of noise reduction in this section must also be considered in complying with the noise reduction requirements of § 36.201.

(b) *Reciprocating engine powered airplanes.* The following noise sources and corresponding means of noise reduction must be considered for reciprocating engine powered airplanes:

(1) Propeller noise, and its reduction by selection of appropriate blade design and tip speed.

(2) Exhaust noise, and its reduction by the use of mufflers.

(c) *Turbine propeller powered airplanes.* The following noise sources and corresponding means of noise reduction must be considered for turbine propeller powered airplanes:

(1) Propeller noise, and its reduction by selection of appropriate blade design and tip speed.

(2) Forward radiated compressor noise, and its reduction by acoustical treatment.

(d) *Turbojet powered airplanes without turbofans.* The following noise sources and corresponding means of noise reduction must be considered for turbojet powered airplanes without turbofans:

(1) Forward radiated compressor noise, and its reduction by acoustical treatment or by choked inlet, as applicable.

(2) Jet exhaust noise, and its reduction by jet noise suppressors.

(3) Turbine noise, and its reduction by acoustical treatment.

(e) *Turbojet powered airplanes with turbofans.* The following noise sources and corresponding means of noise reduction must be considered for turbojet powered airplanes with turbofans:

(1) Forward radiated compressor and fan noise, and its reduction by acoustical treatment or choked inlet, as applicable;

(2) Aft radiated fan noise, and its reduction by acoustical treatment.

(3) Primary and secondary jet exhaust noise, and its reduction by jet suppressors and selection of the bypass ratio of the engine.

(4) Turbine noise, and its reduction by acoustical treatment.

§ 36.301 Operating procedures and other information

Operating procedures, and any other information for the flight crew that is necessary for obtaining the noise reductions prescribed in § 36.201 must be developed, including the effect of all ranges of weight and thrust for which approval under this part is requested.

§ 36.401 Airplane Flight Manual

(a) The approved portion of the Airplane Flight Manual must contain all operating procedures and other information approved under § 36.301, and the effect of all ranges of weight and thrust for which approval under this part is requested.

(b) If the weight used in meeting the takeoff noise requirements of this part is less than the maximum weight established under the applicable airworthiness requirements, that lesser weight must be furnished, as the maximum weight, in the operating limitations section of the Airplane Flight Manual.

B. STATE CODE CITATIONS

1. Alabama: Title 36: Motor Vehicles; Sec. 36 (Horns); Sec. 39 (Prevention-Unnecessary Noise).

2. Alaska: no statute.

3. Arizona: Art. 16: Motor Vehicles; Sec. 28-955 (Muffler required).

4. Arkansas: Title 75: Motor Vehicles; Sec. 725 (Horns); Sec. 726 (Muffler required).

5. California: Title 11, Sec. 415 (Disturbing the peace; noise-criminal penalty for violation); Vehicle Code, Sec. 23130.

6. Colorado: Sec. 13-5-104 (Horns); 13-5-105 (Muffler required).

7. Connecticut: Title 14, Ch. 246, Sec. 14-80(e) (Muffler required).

8. Delaware: Ch. 43, Sec. 4311 (Muffler required).

9. District of Columbia: Title 1, Sec. 1-244(9) (Authority given to "... commissioners of the District of Columbia ... to make, modify and enforce usual and reasonable policy regulations ... to regulate or prohibit loud noises with horns, gongs, or other instruments ... as they may think necessary to public safety.")

10. Florida: Sec. 317.631 (Muffler required).

11. Georgia: Sec. 68-1717 (Muffler required).

12. Hawaii: Sec. 267-1 (Nuisance defined to include making loud and troublesome noises at night); Sec. 311-24 (Unlawful to ride motor scooter with muffler designed to increase noise).

13. Idaho: Sec. 49-835 (Muffler required).

14. Illinois: Ch. 95½, Sec. 213 (Muffler required); Ch. 24, Sec. 11-5-2 (Riots and disturbances; corporate authorities may prevent

or suppress ... noises, disturbances, and disorderly assemblies in any public or private place).

15. Indiana: Sec. 47-2230 (Muffler required).

16. Iowa: Sec. 321.436 (Muffler required).

17. Kansas: Sec. 82a-809 (Muffler required).

18. Kentucky: Sec. 84.220(6) & 85.180(5) (Governing bodies of cities may generally adopt regulations to control noise); Sec. 189.140 (Muffler required—not uniform language).

19. Louisiana: Ch. 1, R.S. 32:352 (Muffler required).

20. Maine: Ch. 11, Title 29, Sec. 1362 (Shall not operate automobile in manner which would produce excessive noise); Sec. 1364 (Muffler required).

21. Maryland: Art. 66½, Sec. 294 (Muffler required); Art. 27, Sec. 124 (Disorderly conduct—prohibits willfully acting in a disorderly manner by making loud and unnecessary noises).

22. Massachusetts: Ch. 272, Sec. 41 (Disturbance in public library by making noise); Sec. 44 (Public disturbance, breach of peace or disturbing others by noise); Ch. 90, Sec. 16 (Prohibits operation of automobile so as to produce excessive noise); Ch. 111, Sec. 143 (Limitation on trade and employment found to be a nuisance).

23. Michigan: Sec. 257.707(a) (Muffler required).

24. Minnesota: Sec. 360075(15) (Limitation on the use of loud speaker from airplane); Sec. 169.69 (Muffler required).

25. Mississippi: Title 11, Sec. 2088 (Criminal penalty for making noise with intent to disturb family); Sec. 2090.5 (Disturbance in public place); Ch. 2, Title 30, Sec. 8251 (Muffler required).

26. Missouri: Sec. 304.560 (Muffler required); Sec. 562.240 (Disturbing the peace).

27. Montana: Sec. 32-21-146 (Muffler required).

28. Nebraska: Sec. 39-777(a 7 b) (Muffler required).

29. Nevada: Sec. 486.100 (Power cycle to be equipped with muffler).

30. New Hampshire: Sec. 263:46 (Muffler required).

31. New Jersey: Sec. 39:3-70 (Muffler required); Sec. 39:4-78 (No person shall load a vehicle or drive a vehicle so loaded with iron or other material that it may strike together unless it is properly deafened so as to cause no unnecessary noise); Art. 1, Sec. 40:48-1(8) (Governing body of municipality may adopt regulation to regulate ringing of bells, crying of auctioneers, etc.).

32. New Mexico: Sec. 64-20-44(a) (Muffler required).

33. New York: Sec. 44(a & c), Navigation Law (sound of exhaust on gasoline motor boat to be muffled); Art. 9, Sec. 375.31 (Muffler required); Sec. 381.1 (Motorcycle muffler required).

34. North Carolina: Sec. 20-128 (Muffler required).

35. North Dakota: Sec. 39-11-29 (Muffler required).

36. Ohio: Sec. 2923.41 (No person shall, after a request to desist, continue noise which disturbs peace); Sec. 4513.22 (Muffler required, but it has held that this is for exhaust and not noise, *State v. Cox*, 193 N.E. 2d 287).

37. Oklahoma: Art. 47, Sec. 12-402 (Muffler required).

38. Oregon: Sec. 483.446(3) (No person shall make unnecessary or unreasonably loud or harsh sound by means of horn or other warning device); Sec. 483.448 (Muffler required).

39. Pennsylvania: Ch. 1, Art. 75, Sec. 828 (Muffler required).

40. Rhode Island: Sec. 31-23-13 (Muffler required).

41. South Carolina: Sec. 46-601 (Muffler required).

42. South Dakota: Sec. 44.0350 (Muffler required).

43. Tennessee: Ch. 9, Sec. 59-901(a) (Prohibits use of horn to make any unnecessary or unreasonably loud or harsh sound); Sec. 59-902 (Muffler required).

44. Texas: Title 13, Ch. 1, Art. 796 (Horn only permitted as warning device); Art. 797 (Muffler required).

45. Utah: Sec. 41-6-147(a) (Muffler required).

46. Vermont: Title 23, Ch. 13, Sec. 1097 (Fine for operation of motor vehicle in city while the muffler cutout is open).

47. Virginia: Sec. 46.1-301 (Muffler required).

48. Washington: Sec. 9.76.010 (Limitation of noisy businesses on Sabbath); Sec. 46.37.390(1) (Muffler required).

49. West Virginia: Sec. 17C-15-34(a) (Muffler required).

50. Wisconsin: Title 44, Sec. 347.39 (Muffler required).

51. Wyoming: Sec. 31-204 (Horns: no horn or other warning device shall emit an unreasonably loud or harsh sound); Sec. 31-205(a) (Muffler required).

C. STATE STATUTORY LANGUAGE

Alabama

Title 36: Motor Vehicles; Section 36, Section 39

§ 36. Horns and warning devices.—(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting a sound audible under normal conditions for a distance of not less than two hundred feet. It shall be unlawful for any vehicle to be equipped with or for any person to use upon a vehicle any siren or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(b) Every police and fire department and fire patrol vehicle and every ambulance used for emergency calls shall be equipped with a bell, siren or exhaust whistle of a type approved by the highway director.

(c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor. (Ib.)

§ 39. Prevention of noise, smoke, etc., muffler, cut-outs regulated.—(a) No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual and annoying smoke.

(b) It shall be unlawful to use a muffler cut-out on any motor vehicle upon a highway.

(c) No vehicle shall be moved, or driven on any highway unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom; if by such dripping, sifting, dropping, or leaking such contents may be or become dangerous, obnoxious, or injurious either to the road or to persons or vehicles traveling or moving along, over or upon the highway.

(d) Any person violating any provisions of this section shall be guilty of a misdemeanor. (Ib.)

Arizona

Article 16: Motor Vehicles; Section 28-955

§ 28-955. Muffler; prevention of noise and air pollution.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass or similar device upon a motor vehicle on a highway.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

(c) Beginning with motor vehicles and motor vehicle engines of the 1968 model year, motor vehicles and motor vehicle engines shall be equipped with emissions control devices that meet the standards established by the state board of health. As amended Laws 1967, Ch. 2, § 5.

Arkansas

Title 75: Motor vehicles; section 725, section 726

75-725. Horns and warning devices.—(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall, when reasonably necessary to insure safe operation, give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this subdivision. It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the department, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when necessary to warn pedestrians and other drivers of the approach thereof.

(c) No bicycle shall be equipped with nor shall any person use upon a bicycle any siren or whistle. [Acts 1937, No. 300, § 125, p. 1103; Pope's Dig., § 6785.]

75-726. Mufflers.—"Cut out" prohibited.—Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut out, by pass, or similar device upon a motor vehicle on a highway. [Acts 1937, No. 300, § 126, p. 1103; Pope's Dig., § 6786.]

California

Title 11, section 415, public peace; section 23130, vehicle code

§ 415. Disturbing the peace; noise; use of public streets of unincorporated town for offensive conduct, horse racing, or shooting; indecent language; punishment.—Every person who maliciously and willfully disturbs the peace or quiet of any neighborhood or person, by loud or unusual noise, or by tumultuous or offensive conduct, or threatening, traducing, quarreling, challenging to fight, or fighting, who, on the public streets of any unincorporated town, or upon the public highways in such unincorporated town, run any horse race, either for a wager or for amusement, or fire any gun or pistol in such unincorporated town, or use any vulgar, profane, or indecent language within the presence or hearing of women or children, in a loud and boisterous manner, is guilty of a misdemeanor, and upon conviction by any Court of competent jurisdiction shall be punished by fine not exceeding two hundred dollars, or by imprisonment in the County Jail for not more than ninety days, or by both fine and imprisonment, or either, at the discretion of the Court. (Enacted 1872. As amended Code Am. 1877-8, c. 299, p. 117, § 1.)

§ 23130. Noise Limits.—(a) No person shall operate either a motor vehicle or combina-

tion of vehicles of a type subject to registration at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the following noise limit for the category of motor vehicle based on a distance of 50 feet from the center of the lane of travel within the speed limits specified in this section:

	Speed limit of 35 mph or less (dbA)	Speed limit of more than 35 mph (dbA)
(1) Any motor vehicle with a manufacturer's gross vehicle weight rating of 6,000 pounds or more, any combination of vehicles towed by such motor vehicle, and any motorcycle other than a motor-driven cycle.....	88	92
(2) Any other motor vehicle and any combination of vehicles towed by such motor vehicle..	82	86

(b) The department shall adopt regulations establishing the test procedures and instrumentation to be utilized.

(c) This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this code relating to motor vehicle exhaust noise.

(d) For the purpose of this section, a motor truck, truck tractor, or bus that is not equipped with an identification plate or marking bearing the manufacturer's name and manufacturer's gross vehicle weight rating shall be considered as having a manufacturer's gross vehicle weight rating of 6,000 pounds or more if the unladen weight is more than 5,000 pounds.

(e) No person shall have a cause of action relating to the provisions of this section against a manufacturer of a vehicle or a component part thereof on a theory based upon breach of express or implied warranty unless it is alleged and proved that such manufacturer did not comply with noise limit standards of the Vehicle Code applicable to manufacturers and in effect at the time such vehicle or component part was first sold for purposes other than * * *.

Colorado

Section 13-5-104, Section 13-5-105

13-5-104. Horns or warning devices.—(1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonable loud or harsh sound or a whistle. The driver of a motor vehicle when reasonably necessary to insure safe operation shall give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(2) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section. It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter

events the driver of such vehicle shall sound said siren when necessary to warn pedestrians and other drivers of the approach thereof.

(3) No bicycle shall be equipped with nor shall any person use upon a bicycle any siren or whistle.

(4) The chief engineer of the department of highways shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on maintenance equipment when operated on the highways of this state in lieu of the lamps otherwise required on motor vehicles by this article. Such standards and specifications may permit the use of flashing lights for purposes of identification on maintenance equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with and, so far as possible, conform with those approved by the "American association of state highway officials," provided, that vehicles commonly known as "snowplows" which are authorized to travel day or night, either with or against traffic, shall always carry a flashing blue light.

Source: L. 35, p. 828 § 145; CSA, C. 16, § 260; CRS 53, § 13-4-106; L. 59, p. 230, § 2.

(Error's Note.—As to standards as distinguished from rules and regulations, see *Casey v. People* (1959) 139 C. 89, 336 P.2d 308; *Prouty v. Heron* (1953) 127 C. 168, 255 P.2d 755; and compare 3-16-1 et seq.)

13-5-105. Mufflers—prevention of noise.—

(1) Every motor vehicle subject to registration and operated on a highway shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise and no such muffler or exhaust system shall be equipped with a cut-off, bypass, or similar device. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle and such original muffler shall comply with all of the requirements of this section.

(2) A muffler is a device consisting of a series of chamber or baffle plates, or other mechanical design for the purpose of receiving exhaust gas from an internal combustion engine, and effective in reducing noise.

Source: L. 51, p. 165, § 2; CSA, C. 16, § 261; CRS 53, § 13-4-107; L. 61, p. 214, § 25.

Connecticut

Title 14, chapter 246, section 14-80(e), motor vehicles

(e) Each motor vehicle shall be so operated, equipped, constructed and adjusted as to prevent unnecessary noise.

Delaware

Chapter 43, section 4311, Motor Vehicles § 4311. Muffler; cut-out prohibited.—(a) No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.

(b) No person shall use a "muffler cutout" on any motor vehicle upon a highway.

District of Columbia

Title 1, section 1-244(9)

§ 1-224. Police regulations authorized in certain cases.—The Commissioners of the District of Columbia are hereby authorized and empowered to make, modify, and enforce usual and reasonable police regulations in and for said District as follows:

* * * * *
Ninth. To regulate or prohibit loud noises with horns, gongs, or other instruments, or loud cries, upon the streets or public places, and to prohibit the use of any fireworks or explosives within such portions of the District as they may think necessary to public safety.

Florida

Section 317.631, Motor Vehicles

317.631. Mufflers, prevention of noise and smoke.—Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke, and no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway.

Georgia

Section 68-1717

68-1717. Mufflers, prevention of noise.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway, except that this section shall not apply to tractors.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

(c) It shall be unlawful for any person to sell or offer for sale any muffler which causes excessive or unusual noise or annoying smoke, or any muffler cut-out, bypass, or similar device for use on a motor vehicle, or to sell or offer for sale any motor vehicle equipped with any such muffler, muffler cut-out, bypass, or similar device. (Acts 1953, Nov. Sess., pp. 556, 613; 1962, p. 653.)

Hawaii

Section 267-1, Common Nuisances; Sec. 311-24, Traffic Violations

§ 267-1. Defined.—The offense of common nuisance is the endangering of the public personal safety or health, or doing, causing or promoting, maintaining or continuing what is offensive, or annoying and vexatious, or plainly hurtful to the public; or is a public outrage against common decency or common morality; or tends plainly and directly to the corruption of the morals, honesty and good habits of the people; the same being without authority or justification by law:

* * * Making loud and troublesome noise by night;

§ 311-24. Regulation of exhaust pipe and muffler.—It shall be unlawful for any person to drive upon the public highways any motor scooter, as hereinafter defined, the exhaust pipe or muffler of which has been so changed from the factory design as to increase the volume or audibility of the explosions within the motor thereof. L. 1941, c. 140, s. 2. [R. L. 1945, s. 11718.]

Idaho

Section 49-835, Motor Vehicles

49-835. Mufflers, prevention of noise.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. [1953, ch. 273, § 152, p. 478.]

Illinois

Chapter 95½, Sec. 213, Motor vehicles; chapter 24, Sec. 11-5-2, public order regulations

§ 213. Mufflers, prevention of noise.—Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway. 1935, July 9, Laws 1935, p. 1247, art. XV, § 116.

§ 11-5-2. Riots and disturbances.—The cor-

porate authorities of each municipality may prevent or suppress riots, routs, affrays, noises, disturbances, and disorderly assemblies in any public or private place. 1961, May 29, Laws, 1961, p. 576, § 11-5-2.

Indiana

Section 47-2230, Motor Vehicles

47-2230. Mufflers, prevention of noise.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke, and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle operated on a street or a highway.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. [Acts 1955, ch. 170, § 36, p. 416; 1961, ch. 260, § 1, p. 589.]

Iowa

Section 321.436, Motor Vehicles

321.436. Mufflers, prevention of noise.—Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, by-pass or similar device upon a motor vehicle on a highway.

Kansas

Section 82a-809, Motor Vehicles

82a-809. Muffling devices.—The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle the noise of exhaust in a reasonable manner. The use of cut-outs is prohibited, except for motorboats competing in a regatta or boat race approved as provided in section 82a-814 of the General Statutes Supplement of 1959, or acts amendatory thereof or supplemental thereto, and for such motorboats while on trial runs, during a period of not to exceed forty-eight (48) hours immediately preceding such regatta or race and for such motorboats while competing in official trials for speed records during a period not to exceed forty-eight (48) hours immediately following such regatta or race. [L. 1959, ch. 321, § 9; L. 1961, ch. 471, § 4; July 1.]

Kentucky

Section 84.220(6), section 85.180(5), Organization and Government of Cities; Section 189.140, Motor Vehicles

84.220 [3058; 3058-1; 3058-12; 3058-17; 3058-19] Nuisances; noises and disturbances; animals at large; abuse of animals.—The general council may, by ordinance:

(6) Restrain and prevent all noises, performances and practices tending to the collection of persons on the streets and sidewalks;

85.180 [3290; 3290-14; 3290-16; 3290-23; 3290-28] Nuisances; firearms; disorderly conduct; noises and disturbances; animals.—The common council may, by ordinance:

(5) Provide for the prevention, suppression and punishment of all riots and breaches of the peace, noises, disturbances and disorderly or unlawful assemblies, either within the city or within one mile of the city limits;

189.140 [2739g-25] Mufflers.—Every motor vehicle with an internal-combustion, steam or air motor shall be equipped with a suitable and efficient muffler. No person while on a highway shall operate a motor vehicle with the muffler cut out or removed. No cut out shall be so arranged or connected as to permit its operation or control by the driver of any motor vehicle while in position for driving.

Louisiana

Chapter 1, R.S. 32:352, Motor Vehicles

§ 352. Mufflers; requirements; prevention of excessive noise, fumes and smoke.—(a) Every motor vehicle shall at all times be

equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.

(b) No person shall use a muffler cut-out, bypass or similar device upon a motor vehicle on a highway of this state.

(c) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. Acts 1962, No. 310, § 1.

Maine

Chapter 11, Title 29, Section 1362, Section 1364, Motor Vehicles

No signaling device shall be unnecessarily sounded so as to make a harsh, objectionable or unreasonable noise, and no bell or siren shall be installed or used on any motor vehicle except that fire and police department vehicles and ambulances, and vehicles operated by state, city and town fire inspectors, city and town fire chiefs, assistant fire chiefs, police chiefs and assistant police chiefs may be so equipped for use only when responding to emergency calls, and such motor vehicles used by sheriffs and deputy sheriffs, and such motor vehicles used by inland fisheries and game wardens as may be designed by the Department of Inland Fisheries and Game and such motor vehicles used by coastal wardens as may be designated by the Department of Sea and Shore Fisheries, and such motor vehicles used by United States Government law enforcement officials, and such motor vehicles used by a state or municipal department which controls or supervises electrical alarm and communication systems.

§ 1364. Mufflers; prevention of noise.—No person shall operate a motor vehicle on any way unless the same be equipped at all times with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise. No such muffler or exhaust system shall be equipped with a cut-out, by-pass or similar device. No person shall operate a motor vehicle the exhaust system of which has been modified so as to amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle, and such original muffler shall comply with all of the requirements of this section.

Maryland

Article 66½, Section 294; Article 27, Section 124, Annotated Code

§ 294. Mufflers; modification of exhaust system to increase noise.—(a) Every motor vehicle operated or driven upon the highways of this State, shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise. No such muffler or exhaust system shall be equipped with a cutout, bypass, or similar device. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle and such original muffler shall comply with all the requirements of this section.

(b) A muffler as used herein is defined as a device consisting of a series of chambers or baffle plates, or other mechanical design for the purpose of receiving exhaust gas from an internal combustion engine, and effective in reducing noise. (An. Code, 1951, § 258; 1943, ch. 1007, § 235; 1963, ch. 311.)

Massachusetts

Chapter 272, sec 41, sec 44, crimes and punishments; chapter 90, sec 16, motor vehicles; chapter 111, sec 143, public health § 41. Disturbance of libraries.—Whoever willfully disturbs persons assembled in a public library, or a reading room connected therewith, by making a noise or in any other manner during the time when such library or reading room is open to the public shall be punished as provided in the preceding section.

§ 44. Arrest and custody of intoxicated persons.—Whoever is found in a state of intoxication in a public place, or is found in any place in a state of intoxication committing a breach of the peace or disturbing others by noise, may be arrested without a warrant by a sheriff, deputy sheriff, constable or police officer, and kept in custody in a suitable place until he has recovered from his intoxication.

§ 16. Offensive or illegal operation of motor vehicles.—No person shall operate a motor vehicle, nor shall any owner of such vehicle permit it to be operated, in or over any way, public or private, whether laid out under authority of law or otherwise, which motor vehicles are prohibited from using, provided notice of such prohibition is conspicuously posted at the entrance to such way. No person operating a motor vehicle shall in a thickly settled or business district open the muffler cut-out or sound a bell, horn or other device for signaling so as to make a harsh, objectionable or unreasonable noise, or at any time permit such motor vehicle to make any unnecessary noise, by opening the muffler cut-out, or otherwise, or permit any unreasonable amount of smoke to escape from such vehicle. No person shall use on or in connection with any motor vehicle a spot light, so called, the rays from which shine more than two feet above the road at a distance of thirty feet from the vehicle, except that such a spot light may be used for the purpose of reading signs, and as an auxiliary light in cases of necessity when the other lights required by law fail to operate.

§ 143. Trade or employment attended with noisome and injurious odors; assignment of places; prohibition; appeal.—No trade or employment which may result in a nuisance or be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or may be attended by noisome and injurious odors shall be established in a city or town except in such a location as may be assigned by the board of health thereof after a public hearing has been held thereon, subject, however, to the provisions of any ordinance or by-law adopted therein under sections twenty-five to thirty A, inclusive, of chapter forty, or corresponding provisions of earlier laws, and such board of health may prohibit the exercise thereof within the limits of the city or town or in places not so assigned, in any event. Such assignments shall be entered in the records of the city or town, and may be revoked when the board shall think proper.

Michigan

Section 257.707(a). Mason's Michigan Supplement, Motor Vehicle

257.707 Muffler; excessive fumes or smoke.

Sec. 707. (a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway.

Minnesota

Section 360.075(15). Public Rights and Privileges; Section 169.69, Motor Vehicles

(15) Except while in landing or taking off, files at such low levels as to endanger persons on the surface beneath, or engages in advertising through the playing of music or transcribed or oral announcements, or makes any noise with any siren, horn, whistle, or other audible device which is not necessary for the normal operation of the aircraft, except that sound amplifying devices may be used in aircraft when operated by or under the authority of any agency of the state or federal government for the purpose of giving warning or instructions to persons on the ground; or

169.69. Mufflers.—Every motor vehicle shall at all times be equipped with a muffler in good working order which blends the exhaust noise into the overall vehicle noise and is in

constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a street or highway. The exhaust system shall not emit or produce a sharp popping or crackling sound. Every motor vehicle shall at all times be equipped with such parts and equipment so arranged and kept in such state of repair as to prevent carbon monoxide gas from entering the interior of the vehicle.

Mississippi

Title 11, Section 2088, Section 2090.5, Crimes and Misdemeanors

§ 2088. Disturbance of family—noises and offensive conduct.—A person who willfully disturbs the peace of any family or person by an explosion of gunpowder or other explosive substance, or by loud or unusual noise, or by any tumultuous or offensive conduct, shall be punished by fine and imprisonment, or either; the fine not to exceed one hundred dollars, and the imprisonment not to exceed six months in the county jail.

§ 2090.5. Disturbance in public place.—Any person who shall enter any public place of business of any kind whatsoever, or upon the premises of such public place of business, or any other public place whatsoever, in the State of Mississippi, and while therein or thereon shall create a disturbance, or a breach of the peace, in any way whatsoever, including, but not restricted to, loud and offensive talk, the making of threats or attempting to intimidate, or any other conduct which causes a disturbance or breach of the peace or threatened breach of the peace, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00) or imprisoned in jail not more than six (6) months, or both such fine and imprisonment.

Chapter 2, Title 30, Section 8251, Motor Vehicles

Mufflers, prevention of noise: Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise . . . and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway.

Missouri

Section 304.560, Motor Vehicles; Section 562.40, Crimes and Punishments

304.560. Other equipment of motor vehicles—1. Signaling devices: Every motor vehicle shall be equipped with a horn, directed forward, or whistle in good working order, capable of emitting a sound adequate in quantity and volume to give warning of the approach of such vehicle to other users of the highway and to pedestrians. Such signaling device shall be used for warning purposes only and shall not be used for making any unnecessary noise, and no other sound-producing signaling device shall be used at any time.

2. Muffler cutouts: Muffler cutouts shall not be used and no vehicle shall be driven in such manner or condition that excessive and unnecessary noises shall be made by its machinery, motor, signaling device, or other parts, or by any improperly loaded cargo. The motors of all motor vehicles shall be fitted with properly attached mufflers of such capacity or construction as to quiet the maximum possible exhaust noise as completely as is done in modern gas engine passenger motor vehicles. Any cutout or opening in the exhaust pipe between the motor and the muffler on any motor vehicle shall be completely closed and disconnected from its operating lever, and shall be so arranged that it cannot automatically open, or be opened or operated while such vehicle is in motion.

562.240. Disturbing the peace.—If any person or persons shall willfully disturb the peace of any neighborhood, or of any family, or of any person, by loud and unusual

noise or by offensive or indecent conversation, or by threatening, quarreling, challenging or fighting, every person so offending shall, upon conviction, be adjudged guilty of a misdemeanor. (R.S.1939, § 4636)

Montana

Section 32-21-146, Motor Vehicles

32-21-146. Mufflers, prevention of noise.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, by-pass, or similar device upon a motor vehicle on a highway.

Nebraska

Section 39-777 (a) & (b), Motor Vehicles

39-777. Muffler; requirement; cut-out prohibited; load; spilling prohibited.—(a) No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(b) It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon a highway.

Nevada

Section 486.100, Motor Vehicles

486.100. Power cycle to be equipped with muffler.—Every power cycle which is operated upon the public highways, streets and roads of this state shall be equipped with a muffler.

[Part 5:198:1951; A 1955, 241.]

(61)

New Hampshire

Section 263:46, Motor Vehicles

263:46 Muffler, Prevention of Noise.—I. Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, by-pass or similar device upon a motor vehicle on a highway.

II. The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes, smoke, flame, gas, oil or fuel residue.

III. No person shall modify the exhaust system of a motor vehicle in any manner which will amplify or increase the noise emitted above that emitted by the original muffler installed in the vehicle and such original muffler shall comply with all the requirements of this section.

IV. A muffler is a device consisting of a series of chambers, or baffleplates, or other mechanical design for the purpose of receiving exhaust gases and effectively reducing noise.

New Jersey

Section 39:3-70, Section 39:4-78, Motor Vehicles; Article 1, Section 40:48-1(8), Municipalities Generally

39:3-70. Mufflers.—Every motor vehicle having a combustion motor shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass or similar device upon a motor vehicle on a highway.

39:4-78. Carrying metals.—No person shall load a vehicle or drive a vehicle so loaded with iron or other material that may strike together, unless it is properly deafened so as to cause no unnecessary noise.

40:48-1. Ordinances; general purpose.—The governing body of every municipality may make, amend, repeal and enforce ordinances to:

Auctions and noises.—8. Regulate the ringing of bells and the crying of goods and other commodities for sale at auction or otherwise, and to prevent disturbing noises;

New Mexico

Section 64-20-44(a), Motor Vehicles

64-20-44. Mufflers, prevention of noise.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

New York

Section 44(a) & (c), Navigation Law; Article 9, Section 375.31, Section 381.1, Motor Vehicles

§ 44-a. Sound of exhaust on gasoline motor boat to be muffled.—A person who operates a boat, barge, vessel or other floating structure, on any of the lakes, rivers, streams, canals or other waters of the state, excepting Lake Erie and the Saint Lawrence river, and the waters of Lake Ontario outside of Great Sodus and Fair Haven bays, propelled wholly or partly by an engine operated by the explosion of gas, gasoline, naphtha or other substance, without having the exhaust from the engine run through a muffler so constructed and used as to muffle the noise of the exhaust in a reasonable manner, shall be guilty of a misdemeanor; but the provisions of this section shall not apply to any boat, barge, vessel or floating structure while actually competing in a definite race over a given course held under the auspices of any bona fide club or racing association, between the hours of nine o'clock in the morning and sunset, provided due written notice of the date of such race or regatta has been given to the commissioner of transportation at least fifteen days prior to such race, pursuant to the provisions of section thirty-six, and all the provisions of such section having been complied with.

Hydroaeroplanes, except those on the waters of Lake George which are engaged in the business of carrying passengers for hire or sightseeing purposes to and fro over the waters of the lake, shall not be deemed boats or floating structures within the meaning of this section.

§ 44-3. Motor boats to be provided with mufflers; exceptions.—It shall be unlawful to use a boat propelled in whole or in part by gas, gasoline or naphtha, or similar explosive medium, unless the same is provided with an under-water exhaust or muffler so constructed and used as to muffle the noise of the explosion. The provisions of this section shall apply only to tidal waters of the waters of this state wherein the tide ebbs and flows and shall not apply to boats competing in a race held under the direction of a duly incorporated yacht club or racing association. Any person who operates a boat in violation of the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not more than twenty-five dollars.

31. Mufflers. Prevention of noise. Every motor vehicle, operated or driven upon the highways of the state, shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise and no such muffler or exhaust system shall be equipped with a cut-out, bypass, or similar device. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle and such original muffler shall comply with all the requirements of this section.

Section 381. Motorcycle Equipment

1. Every such motorcycle shall have a suitable muffler or device to prevent unnecessary noise from exhaust gases, and the use of so-called "cut-outs" is prohibited.

North Carolina

Section 20-128, Motor Vehicles

§ 20-128. Prevention of noise, smoke, etc.; muffler cut-outs regulated.—(a) No person

shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, annoying smoke and smoke screens.

(b) It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon a highway.

North Dakota

Section. 39-11-29, Motor Vehicles

39-11-29. Mufflers required—Muffler cut-out prohibited.—No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. No person shall use a "muffler cut-out" on any motor vehicle upon a highway.

Ohio

Section 2923.41, Crimes; Section 4513.22, Motor Vehicles

§ 2923.41 [Disturbance of the peace.]—No person shall, after a request to desist, make, continue or cause to be made by the use of any horn, bell, radio, loud speaker, or by the operation of any instrument or device, any unreasonably loud, disturbing, and unnecessary noise or noises of such a character, intensity and duration as to disturb the peace and quiet of the community or to be detrimental to the life and health of any individual, and no person shall willfully conduct himself in a noisy, boisterous or other disorderly manner by either words or acts which disturb the good order and quiet of the community. Any person so offending shall be fined for each offense not less than ten dollars nor more than fifty dollars.

§ 4513.22 Mufflers; excessive smoke or gas, (GC § 6307-94).—Every motor vehicle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation, and no person shall use a muffler cut-out, by-pass, or similar device upon a motor vehicle on a highway.

No person shall own, operate, or have in his possession any motor vehicle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.

Oklahoma

Article 47, Section 12-402, Motor Vehicles

§ 12-402. Mufflers prevention of noise.—Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass or similar device upon a motor vehicle on a highway. No person shall modify the exhaust system of a motor vehicle in any manner which will amplify or increase the noise or sound emitted louder than that emitted by the muffler originally installed on the vehicle.

Oregon

Section 483.446(3), Section 483.448, Motor Vehicles

(3) No person shall, at any time, use a horn otherwise than as a reasonable warning or make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

483.448 Mufflers; unnecessary noise prohibited.—(1) No person shall drive a motor vehicle on a highway unless it is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(2) No person shall equip any motor vehicle with a "muffler cut-out."

(3) No person shall operate, and no owner of any motor vehicle shall permit to be operated upon any public road, street or highway, any motor vehicle so as to cause any greater noise or sound than is reasonably necessary for the proper operation of such motor vehicle.

Pennsylvania

Chapter 1, Article 75, Section 828, Motor Vehicles

§ 828. Prevention of noise.—(a) No person shall operate a motor vehicle, except fire department and fire patrol apparatus, on a highway unless such motor vehicle is equipped with a muffler, in good working order and in constant operation, to prevent excessive or unusual noise.

(b) It shall be unlawful to use a muffler cutout, or a bypass in a muffler, on any motor vehicle, except fire department and fire patrol apparatus.

(c) No person shall operate a motor vehicle on any highway (1) equipped with a muffler from which the baffles plates, screens or other original internal parts have been removed and not replaced; or (2) equipped with an exhaust system which has been modified in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle.

Rhode Island

Section 31-23-13, Motor Vehicles

32-23-13. Muffler.—Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut out, bypass, or similar device upon a motor vehicle on a highway.

South Carolina

Section 46-601

§ 46-601. Muffler, prevention of noise, fumes and smoke.—Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke and no person shall use a muffler cut-out, bypass or similar device upon a motor vehicle upon a highway. The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes and smoke.

South Dakota

Section 44.0350, Motor Vehicles

44.0350 Prevention of noise, smoke, etc.: muffler cut-outs regulated.—No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon a highway.

No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent its contents from dropping, shifting, leaking, or otherwise escaping therefrom.

Tennessee

Chapter 9, Section 59-901(a), Section 59-902, Motor Vehicles

59-901. Horn—Bells, sirens or exhaust whistle on emergency vehicles.—(a) Every motor vehicle, when operated upon any road, street or highway of Tennessee shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, and it shall be unlawful, except as otherwise provided in this section, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, exhaust, compression or spark plug whistle or for any person at any time to use

a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

59-902. Mufflers—Muffler cutouts prohibited. (a) No person shall drive a motor vehicle on any road, street or highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(b) It shall be unlawful to use a "muffler cutout" on any motor vehicle upon any road, street or highway.

Texas

Title 13, Chapter 1, Article 796, Article 797, Motor Vehicles

Art. 796. Horn or noise device.—Every motor vehicle shall be equipped with a bell, gong, horn, whistle or other device in good working order, capable of emitting an abrupt sound adequate in quality and volume to give warning of the approach of such motor vehicle to pedestrians and to the rider or driver of animals, or of other vehicles and to persons entering or leaving street, interurban or railroad cars. Every person operating a motor vehicle shall sound said bell, gong, horn, whistle or other device whenever necessary as a warning of danger but not at other times or for other purposes. Any person while operating a motor vehicle who shall violate this article shall be fined not more than one hundred dollars.

Art. 797. Device to prevent unusual noise, etc.—Every motor vehicle must have devices in good working order which shall at all times be in constant operation to prevent excessive or unusual noises, annoying smoke, and the escape of gas or steam. Pipes carrying exhaust gas from the engine shall be directly parallel to the ground or slightly upward. Devices known as "Muffler cutouts" shall not be used within the limits of any incorporated city or town or an any public highway where the territory contiguous thereto is closely built up. Any person violating any provision of this article shall be fined not to exceed one hundred dollars.

Utah

Section 41-6-147(a), Motor Vehicles

41-6-147. Muffler.—Prevention of noise, smoke and fumes.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cutout, by-pass or similar device upon a motor vehicle on a highway.

Vermont

Title 23, Chapter 13, Section 1097, Motor Vehicles

§ 1097. Operating with muffler cut-out open.—A person who moves a motor vehicle on its own power in a city, incorporated village or in the thickly settled part of a town, while the muffler cut-out of such vehicle is open, shall be fined not more than \$25.00.

Virginia

Section 46.1-301. Motor Vehicles

§ 46.1-301. Muffler in good working order required.—No person shall drive and no owner of a motor vehicle shall permit or allow the operation of any owned vehicle upon a highway unless such motor vehicle is equipped with a muffler or mufflers of a type installed as standard factory equipment, or comparable to that designed for use upon the particular vehicle as standard factory equipment, in good working order and in constant operation to prevent excessive or unusual noise, annoying smoke and escape of excessive gas, steam or oil. A muffler shall not be deemed to prevent excessive or unusual noise if it permits or allows the escape of noise in excess of that permitted by the standard factory equipment muffler of

private passenger motor vehicles or trucks of standard make.

Washington

Section 9.76.010, Crimes and Punishments; Section 46.37.390(1), Motor Vehicles

9.76.010 Defined.—Every person who, on the first day of the week, shall promote any noisy or boisterous sport or amusement, disturbing the peace of the day; or who shall conduct or carry on, or perform or employ any labor about any trade or manufacture, except livery stables, garages and works of necessity or charity conducted in an orderly manner so as not to interfere with the repose and religious liberty of the community; or who shall open any drinking saloon, or sell, offer or expose for sale, any personal property, shall be guilty of a misdemeanor: *Provided*, That meals, without intoxicating liquors, may be served on the premises or elsewhere by caterers, and prepared tobacco, milk, fruit, confectionery, newspapers, magazines, medical and surgical appliances may be sold in a quiet and orderly manner.

46.37.390—Mufflers prevention of noise and smoke. (1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, by pass or similar device upon a motor vehicle on a highway.

West Virginia

Section 17C-15-34(a), Motor Vehicles

§ 17C-15-34. Mufflers; prevention of noise, fumes and smoke.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway.

Wisconsin

Title 44, Sec 347.39, Motor Vehicles

347.39. Mufflers.—(1) No person shall operate on a highway any motor vehicle subject to registration unless such motor vehicle is equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise or annoying smoke.

(2) No muffler or exhaust system on any vehicle mentioned in sub. (1) shall be equipped with a cutout, by-pass or similar device nor shall there be installed in the exhaust system of any such vehicle any device to ignite exhaust gases so as to produce flame within or without the exhaust system. No person shall modify the exhaust system of any such motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle, and such original muffler shall comply with all the requirements of this section.

(3) In this section, "muffler" means a device consisting of a series of chambers of baffle plates or other mechanical design for receiving exhaust gases from an internal combustion engine and which is effective in reducing noise.

Wyoming

Section 31-204. Section 31-205 (a), Motor Vehicles

§ 31-204. Horns and warning devices.—(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(c) It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

(d) Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the department, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator [violation] of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

§ 31-205. Mufflers.—(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

D. CITY CODE CITATIONS

- Action, Massachusetts (D) * pop. 7,238**.
- a. protective zoning bylaw, Sec. II, Sub. Sec. I, performance standards.
- 2. Akron, Ohio (C) pop. 290351.
 - a. city ordinance 115.
 - b. city code, Sec. 355.06, Sec. 931.32, Sec. 1155.02-.05 & 1155.99.
 - c. Baldwin's Ohio Revised Code Annotated, Sec. 2923.41.
- 3. Albany, New York (C) pop. 129,726.
 - a. city ordinance, Art. 5.755, Art. 6.490.
- 4. Albuquerque, New Mexico (C) pop. 201,189.
 - a. Bernalillo County Zoning Ordinance, Sec. 2, Sec. 10(B), Sec. 12, Sec. 13, Sec. 17.
 - b. Albuquerque Zoning Ordinance, Sec. 2, Sec. 7(A2c), Sec. 12(A9), Sec. 12(A26), Sec. 13(A2b), Sec. 13(A7f), Sec. 13(A8a), Sec. 13(B3), Sec. 13(B4), Sec. 14(A2), Sec. 14(A30), Sec. 14(B2), Sec. 15(A1), Sec. 15(A44), Sec. 15(A48), Sec. 16(A3b), Sec. 16(A17), Sec. 18(A3), Sec. 25(B3).
 - c. Albuquerque Animal Control Ordinance #2059, Sec. 19, Sec. 23.
 - d. Traffic Code, Sec. 71-37.
 - e. HEW: An Occupational Health Program for the City of Albuquerque, June 1963.
- 5. Anaheim, California (C) pop. 104,184.
 - a. public health and safety, Sec. 6.44.020.
 - b. city ordinance, Ch. 6.70.
- 6. Anchorage, Alaska (B) pop. 44,237.
 - a. city ordinance, Sec. 13-9(b-f), Sec. 19-179(a-c, h).
- 7. Atlanta, Georgia (C) pop. 487,455.
 - a. city ordinance, Sec. 20-30, Sec. 13-6, Sec. 17-342, Sec. 17-344, Sec. 28-10.
- 8. Beverly Hills, California (A) pop. 30,817.
 - a. city ordinance #1243.
- 9. Birmingham, Alabama (C) pop. 340,887.
 - a. city code, Secs. 3-9, 7-3, 26-9, 34-143, 34-146.
 - b. city ordinance #65-30.
 - c. nuisances, Art. II, Sec. 35-10, Sec. 35-11, Sec. 35-12, Sec. 35-14, Sec. 44-4.
- 10. Boston, Massachusetts (C) pop. 697,197.
 - a. city ordinance, Sec. 97, Sec. 54.
- 11. Buffalo, New York (C) pop. 532,759.
 - a. City ordinance, Art. XVII, Secs. 1701-1704; Ch. 60, Sec. 17.6(6); Ch. 9, Sec. 5(1), Sec. 6, Sec. 8(1), Ch. 7, Sec. 113.
 - b. Vehicle and Traffic, Art. 9, Sec. 375.1.
- 12. Chicago, Illinois (B) pop. 3,550,404.
 - a. zoning ordinance, Ch. 194A, Sec. 99, Sec. 106.
 - b. building code, Sec. 10.5, 10.6.

*Class.

**Population based on 1960 census.

13. Cincinnati, Ohio (C) pop. 502,550.
a. city ordinance, Sec. 511.2, Sec. 511.16, Sec. 901.L7, Sec. 901.L8.
14. Columbus, Ohio (B) pop. 471,316.
a. business regulation and licensing code, Art. 5, Ch. 531.
b. general offenses code, Ch. 2327.
c. zoning code, Ch. 3342.03, 3343.11.
15. Concord, New Hampshire (D) pop. 28,991.
16. Dallas, Texas (B) pop. 679,684.
a. zoning ordinance, Sec. 10.420-426.
17. Dayton, Ohio (B) pop. 262,332.
a. city ordinance, Sec. 420.
b. zoning ordinance, Sec. 211.15.
18. Denver, Colorado (C) pop. 493,887.
a. city ordinance, Secs. 310.8, 372.1-10, 507.6, 842.1-3, 955-10.
b. "Should the Zoning Ordinance be Amended as to Those Sections That Relate to Volume of Sound Generated?" (report).
c. application for Federal grant with Department of Health and Hospitals as controlling agency.
d. zoning regulations, Art. 612.
e. motor vehicles, Art. 507.6, 507.6-1.
f. "Sound Control Proposal."
19. Detroit, Michigan (C) pop. 1,670,144.
a. city ordinance, Chapter 171, Sec 39-1-40 (1), Sec 39-1-37(5), Sec 39-1-38(6), Sec 39-1-39(7) (8), Sec 38-6-22(3), Sec 38-6-26.
b. Progress Report 1967, Air Pollution Control Division, Detroit Health Department, p 7, p 12.
c. Report on Potential Noise Problems Arising out of Helicopter Operations, City Bureau of Air Pollution Control.
20. Fair Lawn, New Jersey (B) pop. 36,421.
a. city ordinance #471, #802.
21. Fort Lauderdale, Florida (C) 83,648.
a. police ordinance, Sec 28-32.
b. building code, Sec 4903.3.
c. zoning ordinance, Sec 47-14.1(a), Sec 47-65.2(c. 3), Sec 47-78.1(b), Sec 47-81.1, Sec 47-82(c), Sec 47-82.1(j).
22. Hartford, Connecticut (C) pop. 162,178.
a. Health Department, under nuisance control ordinance, Chapter 21, Sec 21, Sec 41-97.
23. Hemet, California (B) pop. 7,943.
a. city ordinance #535.
24. Houston, Texas (C) pop. 938,219.
a. city ordinance, Sec 20.52, Sec 20.53(12), Sec 20-70-72.
25. Indianapolis, Indiana (C) pop. 476,258.
a. city ordinance, Sec 9-911, Sec 9-912, Sec 9-913; Chapter 3, Sec 10, Chapter 4, Sec 10(401, 402, 406, 407, 410, 411, 412); Chapter 3 Sec 10(302, 307).
26. Kansas City, Missouri, (C) pop. 475,539.
a. city ordinance, Chapter 24, Chapter 25, Sec 4.
27. Little Rock, Arkansas (C) pop. 107,813.
a. city ordinance, Sec 25.71-77, Sec 25.157, Sec 25.159, Sec 25.114.
28. Las Vegas, Nevada (C) pop. 64,405.
a. city ordinance, Title 10, Chapter 20, Sec 38, Sec 42; Title 6, Chapter 1, Sec 24.
29. Los Angeles, California (C) pop. 2,479,015
a. City ordinance #98, 332
b. Municipal Code, Secs. 28.12, 41.32, 41.40, 41.42, 41.44 42.00, 63.51, 87.51
c. Council resolutions concerning aircraft noise, motorcycles, trucks, buses
d. city zoning, Sec. 12.14-6(b)
e. recommendation for establishment of a noise administrator
30. Maderia Beach, Florida (C) pop. 3,943
a. city ordinance #11, #228
31. Memphis, Tennessee (C) pop. 497,524
a. city ordinance, Sec. 769, Sec. 227
32. Miami, Florida (B) pop. 291,688
a. building code, Art. 22, Sec. 1, Sec. 2
b. city ordinance, Ch. 36
33. Milwaukee, Wisconsin (C) pop. 741,324
a. city ordinance #19, #371, 577
b. city code, Sec. 6.36 & 6.37; Sec. 8.80(4b, 10k); Sec. 80.1 & 80.2; Sec. 90.27; Sec. 100.31; Sec. 101.282 & 101.283; Sec. 295 (3); Sec. 105.6 & 105.7 & 105.29-32
34. Minneapolis, Minnesota (B) pop. 482,872
a. memorandum on noise control
b. zoning districts
c. zoning ordinance, Ch. 875, 870.060
d. city ordinance, Sec. 561.01; Sec. 375.010 & 375.020 & 375.060; Sec. 356.010 & 356.020 & 356.080 & 356.100 & 356.110
e. criminal code, Sec. 609.74, Sec. 609.745
35. Newark, New Jersey (C) pop. 405,220
a. city ordinance, Sec. 17, Ch. 3
36. New Haven, Connecticut (D) pop. 152,048
37. New Orleans, Louisiana (C) pop. 627,525
a. zoning ordinance, Sec. 5
b. city ordinance, Sec. 42.42-45
c. building code, Art. 5103
d. motor vehicle code, Sec. 38-161(C-15)
38. New York, New York (A), (C) pop. 7,781,984
a. city code, Chapter 18, Sec 435-5.0 & 435-6.0
b. building code, Sub-Art 1208
c. 1968 Environmental Protection Administration, Local Law #3, Chapter 57
39. Norfolk, Virginia (C) pop. 304,869
a. city code, Sec 2(16), Sec 6(10), Sec 29(6), Sec 31(48) & 31(69-71), Sec 38(3), Sec 54(67) & 54(68)
b. motor vehicle code, Sec 29(6) & 29(777) & 29(778)
40. Oklahoma City, Oklahoma (C) pop. 324,253
a. city ordinance #11,298; #11,293, #10,543
41. Peoria, Illinois (B) pop. 103,162
a. city ordinance, Sec. 7000, #7028
42. Philadelphia, Pennsylvania (C) pop. 2,002,512
a. city ordinance, Chapter 10-400
43. Pittsburgh, Pennsylvania (C) pop. 604,332
a. PL 20, Art 19(3); CL 26, Sec 3; CL 33, Sec 3
b. vehicle code, Sec 820, Sec 828
c. city ordinance 10, 40, 56, 172, 186, 209, 217, 433, 580
d. NIMLO—model ordinance prohibiting unnecessary noise
e. newspaper article
44. Portland, Oregon (C) pop. 372,676
a. police code, Sec 16-1608(b-1 & 2), Sec 1701-1706
45. Raleigh, North Carolina (C) pop. 93,931
a. city ordinance, Sec 15-30 & 15-31 & 15-32; Sec 18-4; Sec 4-3 & 4-20
46. Rochester, New York (C) pop. 318,611
a. city ordinance, Chapter 75
47. Sacramento, California (C) pop. 191,667
a. city ordinance, 2414, 4th Series; 2248, 4th Series
48. Saint Louis, Missouri (C) pop. 750,026
a. city ordinance 760
b. traffic code, Sec 826.070 & 826.010
49. Salt Lake City, Utah (C) pop. 189,454.
a. City ordinance, Sec. 1-3-15. Sec. 20-17-28 and 20-25, (8-12), Sec. 46-15 (247-250).
50. San Antonio, Texas (C) pop. 587,718.
a. City code, Chapter 25, Sec. 26:10, Sec. 28, Sec. 27:15, Sec. 38:38.
b. Zoning ordinance.
c. Building code.
51. San Diego, California (C) pop. 573,224.
a. City ordinance, Sec. 56.35 and 56.35.1, Sec. 11.12.
b. Proposed city ordinance.
52. San Francisco, California (B) pop. 740,316.
a. Police code, Chapter 8, Part 2, Sec. 773, Sec. 774, Sec. 777, Sec. 1257, Sec. 42, Sec. 43, Sec. 46.
b. Traffic code, Sec. 94.
c. Building code, Sec. 1614.1F(2).
53. San Jose, California (C) pop. 204,196.
a. City ordinance No. 10411.
54. Seattle, Washington (C) pop. 557,087.
a. City ordinance No. 90007, No. 90726.
55. Tucson, Arizona (B) pop. 212,892.
a. City code, Art. II, Sec. 11 (75-83).
b. Zoning code, Sec. 23-322 and 23-336 and 23-391 and 23-404.
56. Warwick, Rhode Island (B) pop. 68,504.
a. City code, Sec. 8.4.9 and Table I and Table II.

E. CITY CODE DESCRIPTION

When considering the local noise control ordinances and codes of various cities throughout the United States it may be helpful in an evaluation of their language to distinguish the various levels of their sophistication. For this purpose codes of the cities considered have been divided into class A, B, C, and D. Cities designated Class A have a higher degree of sophistication in statutory language relating to noise control than others. This class includes quantitative standards for detailed measurement and suitable enforcement techniques. Class B includes those cities with some type of standard for a quantitative measurement of sound with generally less efficient and effective provisions for measurement and enforcement. Class C would include the general body of noise control statutes which recite in one way or another noise as a nuisance or as being prohibited but lacking quantitative standards or enforcement techniques other than discretionary issuance of a ticket by local enforcement agencies. Class D would include cities which have little or no reference to noise in their codes.

1. Acton, Mass.: Class D

The only reference to noise in the local codes in the town of Acton is found in the Acton Protective Zoning Bylaw (Section II of the General Regulations, Subsection I, Performance Standards) where it is generally stated that . . .

"No land or building shall be used or occupied in any manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration . . ."

Town Manager of Acton states:

"To date the Town has not had any serious problems with noise control."

2. Akron, Ohio: Class C

"The operation or maintenance of noise-making, noise-amplifying, or noise-producing instruments . . . (which may disturb the peace) . . . or good order of the neighborhood . . . is . . . declared a nuisance."

The whistle of a locomotive shall not be blown within the city . . . except in case of impending danger." Radios and other sound devices are not to be used . . . for the purpose of soliciting trade or attracting attention to any wares, goods, merchandise . . . or device offered for sale . . . Squealing tires of . . . a motor vehicle within the City . . . are prohibited. Loud speakers, horns, etc., are not to be used to create . . . any unreasonably loud, disturbing . . . (or) . . . unnecessary noise . . . ; penalties for violations of the aforementioned sections are provided in the code and by a fine not to exceed in the most severe case \$300.00.

3. Albany, N.Y.: Class C

Objectionable noise prohibited; "Noise which constitutes a nuisance . . ."

It is interesting to note the following response from the Director of Planning of the City of Albany to the Mayor:

"At the time we were drafting the new zoning ordinance Candeb's people recommended some very sophisticated standards for measuring noises to be included in the ordinance. The committee didn't think that anyone in the City including ourselves would know how to use the standards so we only included the paragraph below. The standards that Candeb's recommended, as I recall, required some type of special equipment for measuring purposes that we didn't have."

The following is the paragraph from the zoning ordinance referred to above.

"6.490 Noise

"Noise which constitutes a nuisance such as a high pitched squeal, or hum or any similar sound on a continuous or sustained

basis shall not be permitted beyond the property line."

4. Albuquerque, N. Mex.: Class C

References to noise generally prohibited are contained in the Comprehensive Zoning Ordinance. In the Albuquerque Animal Control Ordinance, Section 19 states:

"It shall be unlawful for any person to willfully kill any song bird, or to rob the nest of such bird."

Section 23 states that:

"Any animal or animals that habitually or continuously bark, howl or otherwise disturb the peace and quiet of the inhabitants of the City of Albuquerque . . . are declared to be an animal nuisance."

An Occupational Health Program for the City of Albuquerque was published in June 1963 under the auspices of the Department of Health, Education and Welfare, Public Health Service, and Division of Occupational Health. The publication contains references to noise as one of the hazards encountered in the 146 industrial establishments surveyed in Albuquerque City.

Director of the Albuquerque Department of Environmental Health:

"Our Building Department Official has informed me that our present building code does not refer to noise control. There is, however, a working agreement whereby the City airport runway which is most closely associated with the residential areas is used by large or noisy aircraft only on rare occasions to minimize noise problems in the area. As an indication that we are not endeavoring to achieve complete silence, you will note that Section 19 of our Animal Control Ordinance protects song birds and their nests.

"I am not aware of any coordinated approach concerning noise control efforts in our metropolitan area. Since we do not have extensive noise control measures other than separation by zoning, we have had little enforcement experience.

"Many of us in environmental health have a dual role to play regarding noise control. For instance, we like to encourage minimal noise in food establishments yet must insist on smooth, impermeable easily washable ceilings and walls instead of soft, absorbent acoustical tile. This does, however, help point out that as in air and water pollution, it is important to stop the problem at its source, not to attenuate it after it is reaching out into the work area or into the community.

"A 1963 industrial health study indicated that serious problems were recognized at that time. Increased industrial activity in the 5½ years since the study has undoubtedly increased the number of workers who are exposed to undesirably high levels of sound in their occupation. These work locations can probably be identified and modified somewhat easier than can the squealing of tires or brakes, blaring of horns, etc., so called "teenage music" and other noise affecting our general populace.

"Unfortunately, our scope of effort will not permit us to study the psychological damage caused by the stress of waiting for the "next" bark, the crash after the squeal of braked tires, the next loud neighborhood party or the blast of the radio or T.V. ad coming back on.

"Our State Department of Environmental Services has acquired a sound level meter and we hope to utilize it for industrial as well as general community conditions."

5. Anaheim, Calif.: Class C

Unnecessary, annoying, and discomforting noise is prohibited.

6. Anchorage, Alaska: Class B

Section 19-179 of the Anchorage Code states:

"A vehicle which produces a sound level equal to or in excess of the sound limit shall be deemed to make or create excessive or unusual noise."

The Sound limit (set forth in sub(3) of (h), definitions):

"... eighty-eight (88) decibels as measured by placing the microphone of the general purpose sound level meter at a height of approximately five (5) feet and at a distance of fifty (50) feet plus or minus two (2) feet, from the center of the lane in which the vehicle is traveling, and any measurement of the sound level shall be made at speeds of less than twenty-five (25) miles per hour."

A representative from the City of Anchorage states:

"The City . . . has not yet had to deal with noise control on any large scale basis, and no problem is anticipated in this area for some time in the future. The industrial level and type here is not such as yet to create much of a problem.

"The City has a general nuisance ordinance covering unnecessary or unusual noises, the use of sound amplifying devices, and the operation of noisy construction tools, e.g., a triphammer. The City also has a noisy muffler ordinance which is somewhat of a new approach in that it represents an empirical attempt to define a "sound limit" measured in decibels, and which is exceeded by any motor vehicle, that vehicle shall be deemed to make an excessive or unusual noise. It should be noted, however, that this modern attempt to define a "noisy muffler" failed and the authorities had to fall back on the traditional test (a judgment of the arresting officer) because accurate use of the instrument measuring the level of decibels required a strictly controlled environment which was impractical to create for every case of noisy muffler."

7. Atlanta, Ga.: Class C

Atlanta's representative:

"No coordinated approach has been taken in noise control efforts by the metropolitan area of Atlanta.

"We feel that enforcement of the . . . regulations has been fairly successful, and we do not consider noise control to be a serious problem in our city."

Atlanta's Code contains the usual prohibitory section of various noises, sets up noise zones around hospitals, prohibits barking and the use of sound equipment for advertising, limits the use of sound equipment and other devices, and prohibits blowing of locomotive whistles in the City.

8. Beverly Hills, Calif.: Class A

Assistant Director of Building for the City of Beverly Hills:

"In 1966, the Beverly Hills City Council adopted a very restrictive Noise Ordinance which we feel has been quite effective in controlling loud, unnecessary noises, especially in our residential zones.

"Although the Ordinance places controls on all kinds of noise-making machinery, the air-conditioning unit is the one single piece of equipment that requires most of our attention. Window air-conditioning units have been very troublesome because of the lack of insulation inside the unit itself.

"Generally, we only investigate noise problems that come to our attention through complaints and, so far, we have been one-hundred percent effective in obtaining compliance.

"The most serious noise problem is still that produced by the automobile, truck and motorcycle. However, this problem is preempted by the State of California and, therefore, out of our jurisdiction."

The City of Beverly Hills Ordinance defines loud and unnecessary noises in its definitions Section (Article 1). Defined are words and phrases including ambient noise, bel, decibel, spectrum, sound pressure level, band pressure level, cycle, frequency, microbars, sound-level meter, and sound analyzer. Under the Section dealing with noises in machinery, the Code contains a Table of Limiting Noise Levels:

"Noise level at any band pressure shall not

exceed either that shown below, or the ambient noise level by more than three (3) decibels, as measured by and recorded from an approved Sound-level Meter and/or a Sound Analyzer."

Following thereafter is a chart relating to Octave Band Center Frequency Cycles per Second and Band Pressure Level in Decibels re 0.0002 Microbars.

9. Birmingham, Ala.: Class C

The City Clerk of the City of Birmingham: "To my knowledge, there is no program which attempts to coordinate noise control efforts in this general metropolitan area. From past experience, the Birmingham area has never been faced with really serious problems of noise control, therefore, it would appear that the present regulations are sufficient for the experiences of this City."

10. Boston, Mass.: Class C

Acting Corporation Counsel for the City of Boston:

"The City of Boston has . . . only two ordinances presently dealing with the problem of noise . . . Neither ordinance is widely enforced.

"Excessive and disturbing noise, particularly from jet aircraft and building construction, is considered to be a serious problem affecting the health and welfare of the people of Boston. Existing municipal regulations, in my opinion, are not adequate to deal with these problems and I am not aware of any Massachusetts state law which has been effective in this regard."

11. Buffalo, N.Y.: Class C

Police Department intra-departmental memo from the Inspector Division of Patrol:

"Relative to your query regarding any experiences the Police Department may have encountered with the enforcement of noise control measures the following observations are forwarded for your evaluation.

"Chapter 25 Sec. 1701 C.O. deals with prohibited noises i.e., blaring radios, noisy parties, barking dogs, etc. Violations of this type are dealt with by the Police on an individual basis, and merely quieted. Only when a condition persists for an unreasonable length of time and after individuals have been warned of the violation, are summonses issued.

"This section also prohibits the use of amplifying systems, unless a permit is issued by the Police Commissioner. We have encountered very few problems in this area and do not consider amplifying systems used in this capacity to pose any noise control problem.

"Occasionally Police have been confronted by the use of bullhorns at some rallies, but because of the volatile nature of some of the gatherings, the requirements for a permit are eased. The amount of noise generated at these gatherings proves minimal.

"Section 375 of the V. & T. Law (this refers to State Statute) prohibits loud or modified mufflers and summonses are issued regularly in this respect. However the section which prohibits the unnecessary use of an auto horn is employed only when a complaint is registered relative to a specific incident.

"There are a number of incidents which the Police have experienced, wherein people living in industrial areas have complained of noise because of the operations of a factory or warehouse, especially in the summer months. However most of the owners of the enterprises have cooperated in reducing the noise level as far as possible.

"It is my opinion that at this time, the present noise control regulations are sufficient to control any situation that may arise, and that the control of unnecessary noise does not pose any problem.

"There is to my knowledge no governmental agency in the Buffalo area that is directly concerned with the problem of noise control. It is primarily a problem that is dealt with by law enforcement agencies on a 'called for' service basis.

"However there is a definite need for some type of an educational program to make the public aware of the need for their cooperation in reducing the noise levels especially in the densely populated Urban Areas."

12. Chicago, Ill.: Class B

Section 10.5 of the City Building Code provides performance standards with respect to noise. Specific measurements (Octave Band Cycles per Second) are set forth with Maximum Permitted Sound Level in Decibels along Residence District Boundaries and Business District Boundaries specified. Sound measurements are made with a sound level meter and associated octave band filter (manufactured according to standards prescribed by the American Standards Association).

Commission of Buildings of the City of Chicago:

"In connection with sound acoustics, at the present time consideration is being given to the need for the formulation of regulations and design criteria for sound level control on the interior of buildings used for dwelling purposes.

"We have had very little opposition in connection with the enforcement of noise control ordinances, which have proven effective.

"On occasion, it has been necessary to invoke section 99-60.1, Building Operations at Night, in connection with construction work. However, only in a few instances has it been necessary to resort to court action.

"The performance standards with reference to noise, as outlined in the Chicago Zoning Ordinance, are frequently used in connection with complaints. Sound level readings have been taken, and the results have been evaluated upon the basis of the performance standards. There has been no opposition to the use of the standards.

"The subject of noise control is an important problem and the public is becoming increasingly aware of the need for control measures. This is especially true with reference to the need for sound level control measures on the interior of buildings."

13. Cincinnati, Ohio: Class C

Assistant Health Commissioner for the Environmental Health Services:

"The City of Cincinnati has two ordinances of which I am aware which deal with noise . . . At the present time, the Board of Health has no regulations pertaining to noise. We have been looking into this matter for some time because of my own conviction that noise control is necessary if we are to continue to exist in an urban environment.

"The present regulations are not very practical and are enforced only with great difficulty. We need better methods of enforcement and a more fundamental approach to noise control. For example, it is useless for us to have regulations regarding noise and the operation of vehicles if we don't at the same time have the manufacturers working on reducing truck noise, particularly trucks in low gear.

"I cannot say whether noise control is a serious problem or not. The question that must be asked first is how serious is noise as an environmental problem. I believe it to be a problem, but I cannot gauge its seriousness at this time. In some areas it is a very serious problem; in other areas it is inconsequential.

"Though we do not have any particular building code reference to noise. I think it is worth noting that many of the buildings being put up in this community and in other communities will undoubtedly be the slums of tomorrow in part because there are no regulations regarding noise control between apartments and even between buildings. As a result of this lack of noise control in our building codes, some of our buildings are probably obsolete the day they open. We are

looking into this entire situation at the present time and will soon be attempting to mount a program of noise control on a very pragmatic base."

14. Columbus, Ohio: Class B

Performance standards for residential districts and commercial districts stating maximum permissible decibel levels (" . . . measured with a sound level meter and an octave band analyzer conforming with specifications of the American Standards Association").

15. Concord, N.H.: Class D

The City Manager of the City of Concord states that Concord has " . . . no Ordinances, Laws, Regulations or Codes which refer directly or indirectly to noise control."

16. Dallas, Tex.: Class B

Zoning ordinance restricting noise with performance standards; permissible noise levels for retail and commercial districts and residential districts.

The City Manager reports:

"At the present time, the pollution abatement office of the Health Department is seeking to gather information as a basis for preparation of noise control ordinance which will be aimed at the quality as well as the quantity of noise nuisance."

The Public Health Engineer states:

"Noise pollution, or unwanted sound, has only recently been considered a community hazard in our society: it has become a widespread problem which touches all of us. The most common effect is one of annoyance; however, exposure to high noise levels may cause temporary or permanent deafness, and by making speech difficult, reduce working efficiency or contribute to accidents.

"The industrial noise survey is the means by which a number of noise measurements and observations are made in order to evaluate noise situations. Such evaluations in the Dallas area have, as the result of a shortage of personnel, been limited to investigations resulting from citizen complaints. For example, noise pollution surveys and/or investigations during the period 1964-1967 numbered approximately nine (9) per year; in 1968, this number rose to nineteen (19).

"Assuming that an increase in staff may be forthcoming, it is hoped that future noise surveys, as performed by members of this Department, will assist in: (a) accomplishing adherence to established noise criteria; (b) evaluating the risk to noise-induced hearing loss; (c) indicating the need for engineering control measures; (d) evaluating control measures; and (e) evaluating complaints and safety hazards."

17. Dayton, Ohio: Class B

Zoning ordinance with performance standards.

Superintendent of the Division of Building Inspection:

"We have, since 1925, had an ordinance amended on occasions, which controlled those noises outlined therein. This ordinance, while helpful, was difficult to enforce, since it had no real standards of measurement for control. While the noise level could and was measured, we had to refer to a table in a mechanical engineer's handbook to determine typical sound levels. This failed to impress citizens who had complained, since they invariably said, 'I don't care whether it, (the noise), is typical of a quiet home, it still bothers me.'

"To remedy this matter we provided standards for noise levels based on frequencies in our new Zoning Ordinance, which was approved by Commission action on February 7, 1968. To date we have had little or no occasion to investigate noise levels or enforce this ordinance. We anticipate, however, that with the increase in air conditioning units in homes, apartments, etc., the problems involving noise control will increase."

18. Denver, Colo.: Class C

The City of Denver is particularly of interest because of its experience in investigation and consideration of the need for more adequate noise control. Unfortunately, the City Council found insufficient funds " . . . to enable the enforcement agencies to purchase the proper equipment deemed necessary to obtain compliance with all ordinances as applicable to noise."

The Zoning Administrator provided a study entitled, "Should the Zoning Ordinance be Amended as to Those Sections that Relate to Volume of Sound Generated?" by Harold G. Martin, Denver, Colorado (August 11, 1967).

Zoning Administrator:

"Said report was prepared with the hope that City Council would appropriate sufficient funds to enable the enforcement agencies to purchase the proper equipment to obtain compliance with all ordinances as applicable to noise. Council could not find funds to enable the agencies to proceed.

"Subsequently, the agencies involved in noise problems decided to approach Council as a coordinated centralized project, whereby one agency would employ the technicians, clerks, have control of all equipment, but train police officers, building inspectors, zoning inspectors, safety and excise inspectors in the use of the equipment.

"Again our project was doomed for delay because of the lack of funds till we found a Federal grant under Public Law 89-749 and we submitted our application . . .

"You will note that the Department of Health and Hospitals is to be the controlling agency, supported by Zoning and Police Department personnel. The report also covers proposed changes in present ordinances on Zoning and new regulations to be adopted by the Environmental Health Section.

"Yes, we do consider "noise" as a serious problem and feel that the problem will tend to increase over the years unless action on controls is instituted now."

19. Detroit, Mich.: Class C

A Director of the Wayne County Air Pollution Control Division of the Wayne County Department of Health:

"Although we have not developed a comprehensive specific set of requirements on noise as such, we have been most active in resolving existing neighborhood nuisance situations as well as initiated actions designed to curb excessive noise from motorcycles and air conditioning systems. We are enclosing a copy of the recently passed City of Detroit Ordinance regulating the sale of motorcycles as well as the accompanying regulations. This document was developed in cooperation with the motorcycle industry after a period of a year and a half of hearings and technical discussions. We are in the process of conducting similar technical meetings with representatives of the national air conditioning industry inasmuch as installation of all home air conditioners has increasingly created public nuisance situations primarily from noise generated from the air conditioning compressors and fan systems.

"Our basic enforcement mechanisms on most industrial and commercial noises are use of our common law provisions as well as Section 39-1-37 of the Detroit City Code. We have been most successful in solving the several hundred complaint situations registered to our agency each year by application of this provision of law. To date where prosecution for resolution of a problem was necessary, we have not lost any case, primarily because of the accumulation of sufficient technical data to prove our point. We are enclosing a copy of our agency's last year's progress report and refer you to page 7 . . . as well as page 12 listing some statistical data on the types of noise and their incidence.

"Several years ago, our agency at the request of the Detroit City Plan Commission initiated a technical review of potential noise arising out of helicopter operations.

"The nature of the noise situation in urban areas is such where each year new devices and systems are employed which are increasingly adding to the din of our communities. A Federal program designed along the lines of the air pollution grants program directed toward the noise abatement field would be most helpful to agencies such as ours in accelerating and expanding noise abatement activities."

20. Fair Lawn, N.J.: Class B

The zoning ordinance was amended to provide performance standards setting forth an Octave Band Cycles per Second relationship with Sound Pressure Level in Decibels. Senior Sanitarian of the Borough of Fair Lawn:

"... regarding noise control, with its amending Ordinance which refines noise measurement for more efficient control. Both of these Ordinances are enforced by the Health Department of the Borough upon complaint by a resident. Most complaints are of poorly designed or located Air Conditioning units. Particularly those located between residential buildings, creating a sounding chamber resulting in an amplification of the original sound.

"Our Borough of 40,000 population is predominantly residential, but we do have some industry. On occasion a complaint of industrial noise is registered, and abatement obtained after a survey and reading is made. We use a screening instrument for this purpose made by the General Radio Corp., West Concord, Mass. Type 1555-A."

21. Fort Lauderdale, Fla.: Class C

City Manager:

"I'm afraid we must confess that our present position with regards to noise ordinances or other forms of similar legislation per se is rather scant.

"We do have some hopeful noise oriented limits and controls included within the framework of various sections of our Codes of Ordinances but none of these can really be effectively described or enforced as noise ordinances, they are both too general in application and broad in scope."

With respect to the language in the Police Ordinances:

"While it does not establish limits of noise tolerances, it does establish limits for time of day and year in which noises are considered more objectionable. If the times indicated appear strange, remember we are a tourist oriented city with most of our activity during the winter months."

And to the Air Conditioning Section of the Building Code:

"It applies specifically to noise problems related to air conditioning and refrigeration machinery only. Too general in application—it is difficult to agree on what "reasonable noise levels" are or what "good working order" is. Not definitive enough."

Regarding the Zoning Ordinances:

"In a very broad manner they attempt to regulate or abate noises in various zoning districts. Here again, the limiting terms are not definitive enough. When and to whom does a noise become obnoxious?"

"It is apparent from the above commentary that what we need most is a practical effective sound measuring device that would be portable and simple to operate and that would meet reasonable standards established by professional acoustical engineers. Such devices and their results would also have to be acceptable in the event a challenge led to court litigation. To this end, a study committee was established about two years ago. They suspended further efforts in this direction when it became apparent from information gathered from

acoustical consultants that the cost for the sophisticated equipment recommended was beyond our anticipated expenditure limits.

"Additionally the equipment wouldn't lend itself for the practical and simple uses that would meet our needs.

"We agree completely on the need for effective and practical legislation in noise control..."

22. Hartford, Conn.: Class C

Mayor:

"Noise control under Chapter 21 is generally enforced by the Police Department with the assistance of the Health Department. Chapter 41-97 is enforced by the Department of Licenses and Inspections with the assistance of the Health Department. Any other noise problems are enforced by the Health Department under Nuisance Control ordinances.

"To date, we have been able to handle the problem using the above approach. There has been some increase in the number of noise complaints received but it has not yet reached any major proportions. There has been no coordinated area approach to the problem."

23. Hemet, Calif.: Class B

The City Manager states:

"... we ... consider noise control to be a very serious problem and have at least taken initial steps to help solve this problem in a small way.

"We have some industrial manufacturing within the corporate limits of our city and the noise emanating therefrom has created a nuisance problem to the adjoining residential neighborhood. In view of the foregoing, we have placed certain noise limits on mechanical noises produced in manufacturing zones, and added these to a former ordinance dealing with nuisance noises created by loud speakers, etc. plus persistent, loud noise generally.

"To enforce our noise ordinance, we purchased a Model 1558A Octave Band Noise Analyser with a 1560-P6 microphone assembly and have trained several police officers in the use of this instrument. I might add that the cost involved has been well worth it as our technical approach to measuring sound is impressive both to the offender and the offended."

24. Houston, Tex.: Class C

Director of Public Health:

"We do not have any specific decibel levels written into the ordinances, but we do use levels as guidelines which have proved beneficial over the past few years.

"Enforcement of noise control with the present ordinance has been very good. Very seldom is court action necessary. Generally, industry has been very cooperative with noise control once they were made aware of the problem that they were causing a nuisance in the neighborhood.

"Noise control does not seem to be a serious problem at this time for our City, but with the increasing use of larger jet airplanes and with more industries moving into the area, noise control could be a serious problem over the next few years because of lack of zoning ordinances and specific decibel levels in defining noise pollution."

25. Indianapolis, Ind.: Class C

26. Kansas City, Mo.: Class C

Mayor:

"The most aggravating problem that has faced the City, although in a limited way, deals with noise of aircraft and air conditioning machines. Nothing has been done concerning the former problem, however, the City has met with moderate success in handling problems dealing with air conditioning devices. Usually these are treated as a general nuisance and action is threatened under these ordinances.

"We have had a few complaints concerning

amplifiers in connection with church and revival meetings, and also amplifier systems promoting car sales. These, too, have been quite successfully handled through the general nuisance approach."

27. Little Rock, Ark.: Class C

City Attorney:

"While our city is no different than any other of its size and larger in that we do have a noise problem to a degree, otherwise there would have been no need for the legislation enclosed, we would hasten to observe that the problem is controlled quite effectively."

28. Las Vegas, Nev.: Class C

Deputy City Attorney:

"Noise is not considered a serious problem in our city and very few complaints have been filed under our noise ordinance. Of the three ordinances cited above ('Modification of Exhaust Systems,' 'Mufflers,' and (general chapter dealing with) 'Noises') the muffler and exhaust system ordinances are most often used to reduce noise."

29. Los Angeles, Calif.: Class C

A resolution was passed February 19, 1968, whereby "... the City Council urge(d) the adoption of H.R. 3400, S. 707 or similar legislation ... (to) provide an early solution to (the noise) ... problem. ..."

City Administrative Officer:

"The City of Los Angeles presently has a number of specialized Municipal Code sections dealing with excessive noise. In addition, in 1951 the Los Angeles City Council passed an ordinance setting regulations for automobile wash racks. There have been no additional ordinances since that date. There have, however, been Council resolutions which are concerned with specific noise problems, i.e. aircraft noise, motorcycles, trucks and buses, etc.

"In order to coordinate noise abatement regulations, the Los Angeles City Planning Commission has recommended the creation of a Noise Administrator in the City Administrative Office. The proposal is presently under study."

30. Madeira Beach, Fla.: Class C

Mayor:

"Our community is not one that has the major problems of metropolitan areas; we are a small community of five thousand (5,000), located on the Gulf of Mexico, and primarily a tourist-oriented community.

"The ... regulations (we have) seem to suffice our needs, since we have relatively few problems related to noise. It is a rare occasion, if not the exception, to have someone in our Municipal Court for offenses of this nature."

31. Memphis, Tenn.: Class C

32. Miami, Fla.: Class B

City Manager:

"... to the best of my knowledge, we have not encountered difficulty in enforcing (present noise ordinances). They appear to be quite adequate for this area, and at present I do not consider noise control to be a serious problem."

33. Milwaukee, Wis.: Class C

34. Minneapolis, Minn.: Class B

35. Newark, N.J.: Class C

36. New Haven, Conn.: Class D

Assistant to the Director of Administration:

"I regret to say that after going through the many codes and ordinances of the City of New Haven I could not find one that would lend itself to the regulation of noise."

37. New Orleans, La.: Class C

38. New York, N.Y.: Class A, C

New York recently enacted (Sub-Article 1208.0) Noise Control Measures in Multiple Dwellings (Sections 435-5 and 435-6 of Chapter 18 of Administrative Code). The compre-

hensive and realistic Noise Control in Multiple Dwellings Section is probably the most sophisticated approach in building codes to date.

New York's general anti-noise code is a Class C statute.

A Counsel to the Mayor:

"The . . . provisions of the Administrative Code were formulated to control noise producing activities and noise producing machinery which may become a public nuisance. Violators are subject to fine and/or imprisonment. The new Building Code establishes detailed specifications for the sound insulation of apartments in multiple dwellings and for the installation and use of sound producing machinery.

"For lack of an adequate standard of comparison, and because the Building Code has just gone into effect, it is difficult to evaluate the effectiveness of the present noise control laws.

"Up to the present time, New York City has lacked comprehensive approaches to the problem of noise control. This year, however, the City Council enacted Mayor Lindsay's proposal to create an Environmental Protection Administration . . . This enactment consolidates in the Administration the necessary expertise and leverage to promulgate a comprehensive noise abatement program for New York City."

39. Norfolk, Va.: Class C

Assistant City Attorney:

"To date, there has been no coordinated approach taken by the various jurisdictions in our metropolitan area in regard to the problem of noise pollution. We do not consider noise control to be a serious problem and our present regulations have proven effective in abating the problems that do arise.

"Most of the cases we have experienced have involved noisy animals or the like. In prosecuting such cases, we require the complainant to secure a warrant and to appear in court to testify on behalf of the City. We have experienced no problems along these lines."

40. Oklahoma City, Okla.: Class C

41. Peoria, Ill.: Class B

Administrative Assistant to the City Manager:

"There have been no coordinated efforts by various jurisdictions to combat noise. However, the City of Peoria, at the request of an interested citizen and the Association of Commerce, established a citizens committee several months ago to study the problem. Mr. John Carter of Caterpillar Tractor Company, who is on another noise committee of national scope, is chairman of the committee. They have drafted a preliminary ordinance they will submit to the City Council at a future date . . . We have also purchased two decibel meters to aid in future enforcement.

"When the Peoria noise ordinance was first passed, it was considered a pioneer ordinance. However, it was somewhat difficult to enforce. We had purchased a complex decibel meter which was difficult to operate and, as a result, it was ineffective. Another problem was taking cases to court. The judge actually went outside and listened to the vehicles and decided the muffler was not loud enough to be oppressive. Because of problems such as this, we essentially stopped enforcing the Ordinance."

42. Philadelphia, Pa.: Class C

43. Pittsburgh, Pa.: Class C

City Solicitor:

" . . . when the City seeks to prohibit noise as a public nuisance or otherwise, such noise is made by amplification of the human voice, the prohibition might be considered as an interference with the constitutional guarantee of freedom of speech. Court decisions on this matter indicate that an ordinance

absolutely prohibiting the use of amplification devices would be questionable, but that one restricting volume would probably be upheld."

44. Portland, Oreg.: Class C

Director for the Bureau of Noise Abatement:

" . . . it is difficult to suppress the general noise level within the City. I am thinking of such causes as jet airplanes, diesel freight trucks, and to some extent, industrial operations. I feel that people tolerate or become accustomed to these auditory bombardments.

"Our complaints have usually concerned a specific source, i.e., a plywood mill installed a new chipperloader which screamed when running without a load. A super-market installed many-ton air conditioning equipment which sounded like a wind tunnel to the neighbors. Generally, we have been able to find a solution to these complaints by conferring with the people involved.

"I don't know how to stop noise in the community, but perhaps the answer is partly in planning quiet areas separated from the noisemaking activities. I am sure that trucks and airplanes cannot be adequately controlled on the local level."

45. Raleigh, N.C.: Class C

Associate City Attorney:

"We have not, in Raleigh, encountered many problems or complaints concerning various noise levels. In those few instances where some problem has been encountered, the complaint usually related to the noise of some industrial complex. Without exception, we have found the industrial and manufacturing community quite willing to work with us and they have, in fact, upon request taken any steps necessary to alleviate the condition existing."

46. Rochester, N.Y.: Class C

47. Sacramento, Calif.: Class C

City Clerk:

"Present regulations seem to be adequate and noise control is not a serious problem in Sacramento."

48. St. Louis, Mo.: Class C

Assistant City Counselor:

"At this time, there has been no coordinated approach in the St. Louis metropolitan area regarding efforts to control noise.

"Our experience in the enforcement of noise control regulations is limited, in that the majority of prosecutions brought in the municipal court system involve noise violations committed by the operators of vehicles on public streets, i.e., faulty mufflers, tailpipes, spinning tires, etc., or animal noises, i.e., barking dogs etc.

"It is my opinion that the noise control problem has not yet reached sufficient proportions so as to generate a public demand for an immediate solution, although the irritating level of noise generally is steadily increasing.

"In general our present regulations are adequate but will require revision in the near future."

49. Salt Lake City, Utah: Class C

Assistant City Attorney:

"To our knowledge there has been no coordinated approach to noise pollution among the various agencies in the Salt Lake City metropolitan area.

"Without minimizing the seriousness of the noise pollution problem, our present ordinances have demonstrated their effectiveness under conditions as they exist at the present time in this area.

"Our municipal airport is so situated with relation to the densely populated areas that it has been of little concern in reference to the noise problem.

"The only problem of significance which has arisen in the past is noise from automobile racing which is permitted at the Utah State Fair Grounds which is located in an

area within the City of Salt Lake in which there is also located a residential area.

"Salt Lake City is fortunate to have unusually wide streets in its metropolitan business area which permit the free flow of traffic without undue congestion.

"Another factor which probably minimizes the problem in this area is that Salt Lake City is not a highly industrialized community and our long range planning and zoning programs have succeeded in locating businesses or industries, which may be considered unusually noisy or bothersome, in industrial areas removed from areas of the city which are primarily residential."

50. San Antonio, Tex.: Class C

Chief of Police:

"The City Ordinances of San Antonio . . . are adequate to keep noise at a reasonable level in San Antonio. Persons residing near highways or freeways are somewhat annoyed by truck noise. The same applies to residences in the vicinity of railroad tracks and in the airport vicinities.

"Teenage bands with amplified instruments and playing in private homes occasionally causes complaints. However current laws are adequate for this."

51. San Diego, Calif.: Class C

City Manager:

" . . . no provisions in our Building Code to enforce types of construction which would specifically attenuate loud noises."

52. San Francisco, Calif.: Class B

Section 1614.1.F of the Building Code contains a special provision entitled sound generation relating to the public parking of structures and vehicles used in construction.

"The mechanical means for parking the vehicles, with or without vehicles therein, shall not cause an increase during operation, of more than five (5) decibels in the noise level above the existing power average sound level of several readings taken at 15 second intervals for a period of five (5) minutes with the mechanism not in operation.

"The test readings shall be taken at the property line of the structure or at any point outside such line and at the same time of day or night.

"All sound level meter readings and performance, including definitions and units, shall be in accordance with the American Standards Association standards . . ."

53. San Jose, Calif.: Class C

Airport Manager:

"The only ordinance which the City has concerning the Airport controls the minimum height of the aircraft as they approach the Airport from the City. To my knowledge, we are the only City which has such an ordinance, copy of which is attached. We have a Noise Abatement Committee which consists of representatives of the airlines using the Airport, and the Airport staff. We have defined certain patterns to reduce noise over residential areas by placing the turning of aircraft over commercial and industrial areas and have required all jet aircraft to use full runway length for take-off and have not permitted them to take off from the intersection of taxiways and runways.

"We do have several suits filed against the City, which are pending. We definitely feel that aircraft noise and noise control is a very serious problem and are somewhat encouraged by results indicated by research to date on the "quiet engine." We feel that the Federal Government is going to have to assist Airports in acquiring additional land and/or air rights for from one to two miles from the approach end of the runway and that they are going to have to force the airlines to refit their existing aircraft with quieter engines and combustion chambers with less smoke . . .

"I appreciate the chance to comment on a very important subject and again state that the Federal Government is, of necessity, going

to have to be both the catalyst and the leader in seeing that these problems are solved."

54. *Seattle, Wash.: Class C*

55. *Tucson, Ariz.: Class B*

Assistant City Attorney:

"Chapter 11 of our Code is the chapter on Crimes and Offenses against the City, Prosecution of individuals or businesses and violation of the various sections of the Chapter are few and far between primarily because the offended parties are reluctant to make formal complaints, and the police are not able to stay on or near the offending premises and wait for a violation. Things out here are pretty well spread out and we are blessed so far with an absence of noisy industry.

"Chapter 23 of the Code deals with Planning and Zoning . . . Again I am unaware of any noise violations although I do know we have seriously attempted to control air pollution under this chapter and State statutes.

"In summary, you have undoubtedly gathered that noise is not a particularly serious problems in Tucson."

56. *Warwick, R.I.: Class B*

"At the specified points of measurement the sound pressure level of noise radiated continuously from a facility at nighttime shall not exceed the values given in Tables I and II in any octave band of frequency. The sound pressure level shall be measured with a Sound Level Meter and an Octave Band Analyzer that conform to specifications published by the American Standards Association."

City planner:

"The only present legislative provisions for noise control in Warwick are found in sections 8.4.9 and Table I of section 8 in the city Zoning Ordinance . . . The standards utilized in the ordinance are operational and apply to light and heavy industrial zones only. There is no general legislation for noise abatement and control throughout the city.

"Generally, enforcement of the provisions of the Zoning Ordinance occurs within one of two situations. When plans are reviewed for an industrial building that is likely to generate significant levels of noise, a deposition is obtained from the engineer responsible for the plans indicating that he is aware of the requirements of the Zoning Ordinance and that to the best of his knowledge and ability the building will conform to its relevant provisions. The second situation is one in which an existing industry appears to be violating the ordinance. Measurements can theoretically be made and the ordinance enforced. Usually, however, the situation is one in which an industry is operating at night with windows open and a simple, expedient solution can be found.

"The presence of the Theodore Francis Greene State Airport within the City of Warwick of course has profound implications for noise levels in the community. Increases in air traffic and the changeover to jet aircraft . . . make inputs of major proportions to noise in Warwick. Because the Airport falls within the purview of the State and Federal Governments the municipality is limited in its efforts to control the noise generated by airport activities to expressing its' problems and needs to the appropriate State and Federal agencies.

"Prognosis

"Warwick has received funding under the 701 program to carry out, among other items, a zoning revision study which will address itself in part to the question of community noise control standards. However, while such standards and appropriate enforcement procedures if adopted would do much, they would not comprehend the major factor of the Airport. The city must . . . bring to bear on those agencies and persons which may provide means of dealing with the airport.

"The City of Warwick is deeply involved with questions of noise control in an im-

mediate sense. We stress our particular interest in efforts to provide a legislative basis for the enforcement of equitable standards and the special problems of airports in the urban environment as they affect us."

E. CITY STATUTORY LANGUAGE

Acton, Massachusetts

Protective Zoning Bylaw

I. *Performance Standards.*—No land or building shall be used or occupied in any manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration; smoke, dust, odor or other form of air pollution; electrical or other disturbance; glare, liquid or solid refuse or wastes.

Akron, Ohio

Ordinance 115-1940 regulating the use of noise-making devices for advertising purposes

Section 1. The operation or maintenance of noise-making, noise-amplifying, or noise-producing instruments or devices by which the peace or good order of a neighborhood is disturbed, is hereby declared a nuisance. It shall be unlawful for any person, firm or corporation to operate or maintain any radio, phonograph, player piano, calliope, or any noise-making device, noise-amplifying, or noise-producing instrument or device in any public or private place, by which the peace and good order of the neighborhood is disturbed, or persons owning or occupying property in the neighborhood are subjected to a nuisance; and the use of any such device, apparatus, radio, ticker or other noise-making and noise-emitting device for general advertising purposes, or for the purpose of soliciting trade or attracting attention to any wares, goods, merchandise, instrument or device offered for sale, is hereby prohibited. Provided, however, that nothing herein contained shall prohibit the use of loud speakers or musical instruments on automobiles when used for the purpose of general commercial advertising, if a permit shall first be obtained therefor from the Mayor . . .

Section 2. That any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and fined not less than Twenty-five Dollars (\$25.00) nor more than Fifty Dollars (\$50.00), and for the second or subsequent offense, the Mayor of the City of Akron may revoke the license of such person, firm or corporation.

Code 355.06 *Blowing Whistles.*—No person shall blow the whistle of any locomotive within the City, except in case of impending danger (1953, C 29, Sec. 2).

Code 931-32 *Squealing tires; penalty.*—(a) No person shall operate a motor vehicle within the City in such a manner as to cause a loud noise by spinning or squealing the tires thereof on the surface of a public street or place.

(b) Whoever violates this section shall be fined not more than fifty dollars (\$50.00). (Ord 53-1968, Passed 1-16-68).

Chapter 1155—Offenses Against the Public Peace.

1155.02 *Disturbing the peace.*—No person shall disturb the peace and good order of the City by intoxication, fighting, using obscene or profane language, or by clamor and noise . . .

1155.03 *Noisy Advertising.*—No person shall, by ringing a bell or gong, or by using a phonograph or other instrument for producing or reproducing sounds, or by using loud or boisterous language or by any unusual noise whatever, advertise goods, wares or merchandise for sale, either at auction or in any other manner, or by any such means advertise any show, theater, exhibition or entertainment.

1155.04 *Noise machinery.*—No person shall maintain, run or operate any steam, gas, gasoline or other engine, boiler, press, machine or other apparatus so constructed or

operated as to make any unnecessary noise, to the annoyance and discomfort of the people of the city.

1155.05 *Noise-producing instruments.*—No person shall operate or maintain any radio, phonograph, player piano, calliope, or any noise-making device, noise-amplifying or noise-producing instrument or device in any public or private place, by which the peace and good order of the neighborhood is disturbed, or persons owning or occupying property in the neighborhood are subjected to a nuisance.

The use of any such device, apparatus, radio, ticker or other noise-making and noise-emitting device for general advertising purposes, or for the purpose of soliciting trade or attracting attention to any wares, good, merchandise, instrument or device offered for sale, is prohibited.

1155.99 *Penalties.*—(a) Whoever violates any provision of this chapter where no penalty is otherwise provided shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than thirty days or both.

2923.41 *Disturbing the peace; penalties.*—No person shall, after a request to desist, make, continue or cause to be made by the use of any horn, bell, radio, loud speaker, or by the operation of any instrument or device, any unreasonably loud, disturbing, and unnecessary noise or noises of such a character, intensity and duration as to disturb the peace and quiet of the community or to be detrimental to the life and health of any individual, and no person shall willfully conduct himself in a noisy, boisterous or other disorderly manner by either words or acts which disturb the good order and quiet of the community. Any person so offending shall be fined for each offense not less than ten dollars nor more than fifty dollars. (125 v 211. Eff. 10-2-53) (Baldwin's Ohio Revised Code Annotated, 1964)

Albany, New York

Zoning ordinance

Article 5.755 *Objectionable noise.*—All noise and sounds which might cause discomfort and annoyance or which may interfere with enjoyment of normal use of property and buildings.

Article 6.490 *Noise.*—Noise which constitutes such as a high pitched squeal, buzz or hum or any similar sound on a continuous or sustained basis shall not be permitted beyond the property line.

Albuquerque, New Mexico

Comprehensive Zoning Ordinance, Bernalillo County, 1968

Section 2. Purpose.—The regulations and restrictions of this ordinance are designed to lessen congestion in the streets and public ways; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions for transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of buildings and lands; and to encourage the most appropriate use of land throughout the unincorporated areas of Bernalillo County.

Section 10. C-1 Commercial zone.

B. Use Regulations. (1) Permissive Uses.

44. * * * (d) Activities or products shall not be objectionable due to odor, dust, smoke, noise, vibration, or other causes

50. Sign advertising * * * (h) The sign shall have no audible devices.

B. Use Regulations. (2) Conditional Uses.—a. Amusement enterprise * * *

2. Circus, carnival, or enterprise of similar type, provided it be located at least 300 ft. from any dwelling which is a conforming use, shall be permitted at one location for a period of not more than 7 days. The hours

of operation, including the time of erection and dismantling of equipment, shall be between 6 a.m. and 12:30 p.m.

4. Kart track, including "go-cart" track and similar facility, provided that the site contains at least 3 acres; the track shall be located at least 1,000 ft. from any dwelling and at least 100 ft. from any public way; the spectator area shall be protected * * * and hours of operation shall be between 9 a.m. and 10 p.m.

5. Kiddieland, including children's playland and children's amusement park, provided that amusement devices shall be located at least 300 ft. from any dwelling; hours of operation shall be between 9 a.m. and 10 p.m.; * * * any public address system shall be modulated * * *

Section 12. M-1 Heavy manufacturing zone.—The purpose of the zone is to provide for industrial operations of all types except that certain potentially hazardous or nuisance-type industries as specified * * * below are permitted only after public hearing and review to assure protection of the public interest and surrounding property and persons.

Section 13. Special use permit regulations (A).—(2) To assure that the proper performance standard and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become obnoxious, dangerous, offensive or injurious by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;

Section 17. Administration.—A. Zoning Administrator, (2) Powers and Duties. 4. That any conditions are deemed necessary to protect the public health, safety, and general welfare. Such conditions may include requirement relative to * * * open space and buffers * * * landscaping and maintenance thereof * * * noise, vibration, odor, and health hazards.

COMPREHENSIVE ZONING ORDINANCE, ALBUQUERQUE, N. MEX., 1968, No. 2726

Section 2. Purpose.—This ordinance is intended to promote the general health * * * and welfare of the people of the city * * *; and to conserve and stabilize the value of property.

Section 7. R-1 One-family dwelling zone.—A2c. Home occupation * * * provided: (6) There is no external evidence of the activity, such as commercial vehicles, outside storage, noise * * * emitted from the premises.

Section 12. C-1 Neighborhood commercial zone.—

A9. Dog obedience club, provided:

a. An outside exercise ground is enclosed with a solid wall or fence at least six feet high.

b. Animals are not kept on the premises overnight.

c. Animals are not kept in a structure for periods longer than the hours during which obedience training is in progress.

A26. Service stations * * * a. Lubricating, tube or tire repairing, battery charging, or the like, is conducted within a completely enclosed building.

A29. Studio for instruction in music or dance.

Section 13. C-2 Community commercial zone.—Outdoor: circus, carnival or enterprise of similar type, provided:

(2) The use is located at least 300 feet from a dwelling which is a conforming use.

(4) Hours of operation, including the time for erection and dismantling of equipment, are between 6 a.m. and 11:30 p.m.

A7f. Hospital for animals, provided there is no outside kennel or pen. Outside exercise runs must comply with the following:

(1) A run must be enclosed with a solid wall or fence at least six feet high.

A8a. Automotive and trailer sales or rentals, and service and repair storage, provided:

(2) Repair of automobiles or trailers is conducted within a completely enclosed building.

B3. * * * shop in which products may be manufactured * * *

a. All activities are conducted within a completely enclosed building.

c. Activities or products are not objectionable due to * * * noise, vibration * * *

B4. Transfer or storage of household goods, provided:

d. Servicing of trucks is permitted only within a building or an area completely enclosed by a solid wall or fence at least eight feet high.

Section 14. C-3 Heavy commercial zone.—A2. Uses which must be conducted within a completely enclosed building:

a. Automotive repairing or overhauling * * *

b. Bottling plant.

c. Cold storage plant.

d. Hospital for animals.

e. Ice plant (wholesale).

f. Laundry, cleaning, or dyeing works * * *

g. Manufacturing * * * of the following * * *

The Manufacturing * * * of the following * * *

i. Sheet metal working * * *

A3. Uses which must be conducted in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high which must be solid when it faces or abuts land not zoned C-2, C-3, M-1, or M-2:

a. Rental, sales, display, and repair of operative contractor's and heavy farm equipment.

b. Building material storage or sales.

c. Contractor's equipment storage, or contractor's plant.

d. Feed or fuel storage or sales.

B2. Automobile dismantling yard, provided:

a. All activities are conducted within a completely enclosed building or within an area enclosed on all sides by a solid wall or fence at least six feet high.

Section 15. C-4 Central business district zone.—A1 Amusement enterprise:

a. Indoor: Auditorium, concert hall, billiard or pool hall, sports or entertainment arena, bowling alley, dance hall, night club, game of skill, theater, penny arcade, shooting gallery, skating rink, and swimming pool.

b. Outdoor: Circus, carnival * * * provided the use in one location does not exceed a period of 14 days.

A44. Service station for automobiles * * * provided:

a. * * * repair is conducted within a completely enclosed building.

A48. Specialty retail store * * * Manufacturing, compounding, processing, assembling, or treating in conjunction with the above-described activities * * * provided:

a. All activities are conducted within a completely enclosed building.

Section 16. M-1 Manufacturing zone.—A3b. Repair of automobiles or trailers is conducted within a completely enclosed building.

A16a. Automobile dismantling yard, provided all activities are conducted in a completely enclosed building or are enclosed by a solid wall or fence at least six feet high.

A17. Uses which must be conducted in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high * * *

a. Concrete or cement products manufacturing * * *

b. Gravel, sand, or dirt removal * * *

c. Truck terminal, tractor, trailer, or truck storage * * *

Section 18. SU-1 Special use zone.—A3. In approving an application, the City Commission may impose requirements as may be necessary to implement the purpose of this ordinance.

Section 25. Administration.—B3. When approving an application, the Board must impose conditions as required by this ordinance together with additional conditions necessary to safeguard the public welfare, safety, health, morals, convenience, and best interest of the adjoining property and neighborhood.

B3a. Special exceptions: (2) * * * Practical difficulty or unnecessary hardship cannot be found when financial gain or loss or monetary savings is the basis for the claim of hardship.

Albuquerque Animal Control Ordinance No. 2059, February 1962

Section 19. Song birds, killing and robbing of nests prohibited.—It shall be unlawful for any person to willfully kill any young bird, or to rob the nest of such bird.

Section 23. Animal nuisances prohibited.—Any animal or animals that habitually or continuously bark, howl or otherwise disturb the peace and quiet of the inhabitants of the City are declared to be an animal nuisance. It shall be unlawful for any person to keep, harbor or maintain an animal nuisance as defined about within the City of . . .

EXHIBIT "D"

(Re: Noise—Albuquerque, New Mexico)

Section 71-37 of Albuquerque, New Mexico Traffic Code: Mufflers Required.—It shall be unlawful for any person to operate a motor vehicle if such vehicle is not provided with a properly attached muffler, of construction sufficient to muffle or deaden the sound from said motor, and no person shall use a muffler cutout, bypass, or similar devices upon a motor vehicle.

AN OCCUPATIONAL HEALTH PROGRAM FOR THE CITY OF ALBUQUERQUE, JUNE 1963

(From the Department of Health, Education, and Welfare, Public Health Service, Division of Occupational Health, Occupational Health Field Station, Salt Lake City, Utah)

The Labor Force

Practically 40% of the State labor force is employed in Bernalillo County. The 1960 census indicates that most (93%) of the County labor force is employed in the Albuquerque urbanized area. Since employment data were not available for the City of Albuquerque statistics in Table I are shown for Bernalillo County.

Industry in Albuquerque is essentially service and market oriented to meet the everyday needs of its people and the government. It is also diverse and alert to technological changes, with potential health hazards inherent in many of the operations and enterprises. Because of the absence of heavy industry, manufacturing is considered of less economic importance. However, it does employ 16.6% of the work force in Bernalillo County. Trade and service industries dominate the private employment picture. Together they account for 44.5% of the 4,563 reporting units and 54.3% of the 59,958 employees in Bernalillo County as reported by County Business Patterns in 1959 (Table I). On a small but quite ubiquitous scale, a variety of health hazards usually associated with manufacturing are also encountered in trade and service establishments. The hazards associated with internal maintenance units such as automobile repair shops, at dairies, maintenance shops in hotels, etc., should not be overlooked as sites of potential occupational health problems.

Industries Surveyed

As all of Albuquerque's work places could not be studied in the time allotted, the survey was limited to a sample of manufacturing and service industries. The 146 establishments surveyed (listed in Table II) represent about 5% coverage of the working

force and about one-half of the manufacturing concerns within Albuquerque.

Survey Findings on Exposure.—Some industries were more closely associated with

health exposures difficult to control, such as . . . concrete block and brick manufacturing plants where workers are exposed to . . . noise from machinery.

TABLE III.—HAZARDS ENCOUNTERED IN 146 INDUSTRIAL ESTABLISHMENTS SURVEYED IN ALBUQUERQUE CITY

Exposure	Potentially hazardous operations observed		Number of exposures			
	Number of operations	Number with some control	Total	Minimal hazard	Some hazard	Severe hazard
Dust.....	80	40	429	89	291	49
Gases and vapors.....	40	23	207	93	83	31
Welding fumes.....	64	31	323	77	216	30
Other fumes.....	79	25	378	94	242	42
Mists.....	15	3	49	0	38	11
Petroleum solvents.....	13	2	125	62	47	16
Halogenated solvents.....	16	7	110	22	23	65
Other chemicals.....	127	34	748	274	371	103
Noise.....	13	1	159	10	116	33
Temperature extremes.....	11	4	51	30	16	5
Ultraviolet.....	17	6	44	12	25	7
Skin irritants.....	21	5	182	139	35	8
Totals.....	496	181	2,805	902	1,501	402
Percent.....	100.0	36.4	100.0	32.2	53.5	14.3

Interpretation.—Of the 146 industrial establishments included in the study, 496 existing or potentially hazardous situations were recognized and only 181 (36.4%) indicated some control measure. Potentially hazardous dusts were observed in 80 various locations. Only 40 (50%) of the operations indicated some attempt at controlling the hazard. Of the 429* exposures, 89 (20.7%) were in situations where the control measures were very effective or exposure and hazard to health appeared minimal; 291 (67.7%) were exposed to quantities of dust which may or may not constitute a severe hazard depending on the effective use of controls; and 49 (11.4%) worked in dusty situations which may constitute a severe health hazard due to the lack of adequate control measures or prolonged exposure.

Recommendations

Ideally, an occupational health program at the local level should have as its objective the prevention of the work situation or environment from causing damage to the health of any employed individual. To implement such an objective would require such activities as an occupational medical service, epidemiological studies, health education services, as well as industrial hygiene engineering. Activities of this scope would require a large staff of skilled specialists. *Until the growth and development of Albuquerque's industry and labor force demands such a complete program the following recommendations are made:*

5. The following minimum basic industrial hygiene survey equipment should be purchased:

a. Noise measuring equipment (sound survey meter).

Anaheim, California

Public Health and Safety 6.44.020—6.52.010

6.44.020 Unnecessary, annoying, discomforting noises.* It is hereby declared to be a nuisance and shall be unlawful to make, cause or suffer or permit to be made or caused upon any premises, any unnecessary noises or sounds which are physically annoying to persons of ordinary sensitiveness or which are so harsh or so prolonged or unnatural or unusual in their use, time or

*A worker fulfilling his daily obligations in a plant may encounter several hazardous situations, thus, a single workman may actually represent several different exposures. The figures in Table III represent individual exposures and not necessarily the total number of employees subjected to hazardous situations.

place as to occasion physical discomfort. (Ord. 799 § 27 part as amended by Ord. 1341; April 14, 1959).

Title 6, is hereby amended by adding Chapter 6.70, reading as follows: Chapter 6.70—Sound pressure levels.

Section 6.70.010.—Sound produced in excess of the sound pressure levels permitted herein are hereby determined to be objectionable and constitute an infringement upon the right and quiet enjoyment of property in this City.

No person shall, within the City, create any sound, radiated for extended periods from any premises which produces a sound pressure level at any point on the property line in excess of sixty (60) decibels, (Re 0.0002 Microbar) read on the A-scale of a sound level meter. Readings shall be taken in accordance with the instrument manufacturers' instructions, using the slowest meter response.

The sound level measuring microphone shall be placed at any point on the property line, but no closer than three (3) feet from any wall and not less than three (3) feet above the ground, where the above listed maximum sound pressure level shall apply. At any point the measured level shall be the average of not less than three (3) readings taken at two (2) minute intervals. To have valid readings, the levels must be five (5) decibels or more above the levels prevailing at the same point when the source(s) of the alleged objectionable sound are not operating.

Sound pressure levels shall be measured with a sound level meter manufactured according to American Standard S1.4-1961 published by the American Standards Association, Inc., New York City, New York.

Traffic sounds, sound created by emergency activities, and sounds created by governmental units shall be exempted from the applications of this ordinance. Sound created by construction or building repair of any premises within the City shall be exempt from the applications of this ordinance during the hours of 6:00 A.M. to 10:00 P.M.

Section 6.70.020—Violations and penalties.—Any person who shall violate any of the provisions of this Chapter or any section or part of a section thereof, whether such violation shall consist of the commission of an act forbidden thereby, or the failure to perform any act required thereby, shall be deemed guilty of a misdemeanor and punishable under Section 1.01.370 of this Code.

Section 6.70.030—Enforcement.—The building officials of the City of Anaheim shall enforce the provisions of this Chapter.

Adopted by ordinance, No. 2526, June 18, 1968.

Anchorage, Alaska

City Ordinance: Health and Sanitation

Section 13-9: Enumeration of additional acts and conditions constituting a nuisance.—(b) Making any unnecessary or unusual noise which either annoys, injures or endangers the comfort, repose, health or safety of the public, except as otherwise permitted in this Code. The police chief shall order the placing of as many signs as he may deem necessary within one hundred fifty feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick, or any school calling special attention against noise.

(c) Except as otherwise provided in this Code, no person without a written permit from the police chief, shall use, play or perform upon any bugle, hand organ, barrel organ, barrel accordion, hurdygurdy or other musical instrument upon any street, alley or public place.

(d) Excepting devices officially used by governmental units, no person, for the purpose of attracting the attention of the public, shall use any radio, recording music or sound amplifying device of any kind, the sound from which is cast directly upon a street, alley or public place. The city manager shall have the authority, on written application to him, to permit the broadcast by use of sound amplifying devices under conditions prescribed by him.

(a) No person shall operate or use any pile driver, power shovel, pneumatic hammer or other apparatus the use of which is attended by loud or unusual noise, in conducting any building operations between the hours of ten p.m. and seven a.m., except by written permission of the city manager, and then only in case of emergency.

(f) No person shall operate any noise-creating blower or power fan, or any internal combustion engine, the operation of which cause noise due to the explosion of operating gases or fluids, unless the noise made thereby is so muffled as not to cause annoyance to the public.

Section 18-179. Excessive noise; mufflers; sound level meter;

(a) *Excessive noise.*—No motor vehicle, other than an authorized emergency vehicle or a vehicle moving under special permit, which makes or creates excessive or unusual noise, shall operate on the streets, alleys, roadways, sidewalks and public ways of the city.

(b) *Sound limit.*—A vehicle which produces a sound level equal to or in excess of the sound limit shall be deemed to make or create excessive or unusual noise. No arrest shall be made in any case where the sound limit is exceeded by less than a two decibel tolerance.

(c) *Muffler.*—Any motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation which shall be so designed and constructed that it will effectively prevent excessive or unusual noise or that it will prevent any noise in excess of that emitted by the muffler originally installed in the vehicle and such original muffler shall comply with the standards set by the manufacturer of the vehicle. For the purpose of this subsection, if sound in excess of the sound limit shall emanate from a vehicle, such evidence may be admitted as corroborating and not prima facie evidence that the muffler was emitting noise in excess of that emitted by the muffler originally on the vehicle.

(h) For the purpose of this section the following definitions shall apply:

(1) "*Muffler*" shall be a device consisting of a series of chambers and baffle plates or other mechanical device designed for the purpose of receiving exhaust gas from an internal combustion engine and effective in reducing the noise emitted from the engine

to the practical minimum consistent with reasonable engine efficiency.

(2) "Decibel" shall mean the unit for measurement of relative sound levels as indicated and measured by a general purpose sound level meter (such as General Radio Company type 1565-A or its equivalent defined by American Standards Association specification S 1.4-1961) operated on the "A" scale.

(3) "Sound limit" shall be eighty-eight (88) decibels as measured by placing the microphone of the general purpose sound level meter at a height of approximately five (5) feet and at a distance of fifty (50) feet plus or minus two (2) feet, from the center of the lane in which the vehicle is traveling, and any measurement of the sound level shall be made at speeds of less than twenty-five (25) miles per hour. (Ord. No. 1243, 12-4-56; Ord. No. 41-66, 6-28-66)

Amendment note—Ord. No. 41-66, adopted June 28, 1966, amended § 49-178 to read as set out. Formerly said section dealt with mufflers.

Atlanta, Georgia

Section 20-30: Noises; prohibited, enumeration.—(a) It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the city.

(b) The following acts among others are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive, namely:

(1) *Horns, signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the city, except as a danger warning, the creation of any unreasonably loud or harsh sound by means of any such signaling device and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity, the use of any horn, whistle or other device operated by engine exhaust and the use of any such signaling device when traffic is for any reason held up.

(2) *Radios, phonographs, similar devices.* The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated and who is a voluntary listener thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

(4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time

or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.

(5) *Animals, birds.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(6) *Steam whistles.** The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper city authorities.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(9) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(10) *Construction or repair of buildings.** The erection (including excavating) demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays, except that the building official may determine when the loss or convenience that would result to any party in interest is of such nature as to warrant special consideration, then the building official may grant a permit for a period not to exceed ten (10) days or less for such work to be done within the hours of 10:00 p.m. and 7:00 a.m.

(11) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the working of such institution, or which disturbs or unduly annoys patients in the hospital; provided, that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(12) *Hawkers, peddlers, vendors.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(13) *Noises to attract attention.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(14) *Transportation of metal rails, similar materials.* The transportation of rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) *Pile drivers, hammers, similar equipment.* The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(16) *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine

is equipped with a muffler device sufficient to deaden such noise.

(17) *Sound trucks.** The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other commercial purposes.

The use of sound trucks for noncommercial purposes during such hours and in such places and with such volume as would constitute such use as a public nuisance; provided, that the provisions of this section shall not apply to or be enforced against:

(a) Any vehicle of the city while engaged in necessary public businesses.

(b) Excavations or repairs of streets by or on behalf of the city, county or state at night when public welfare and convenience renders it impossible to perform such work during the day.

(c) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character. (Code 1953, § 36.55; Ord. No. 1967-16, § 1, 2-20-67)

Section 13-6. Noise zone around hospitals.—

(a) *Established.* The streets in front of or surrounding hospitals or sanitariums shall have what is known as a noise zone within a distance of three hundred feet of the grounds thereof, in all directions, and where signs are erected along the street, within a distance of three hundred feet of the grounds of any such hospital or sanitarium in all directions, this shall constitute the noise zone, whether these signs are erected by the city or by the authorities in charge of such hospitals or sanitariums.

(b) *Quiet to be maintained.* It shall be unlawful for any person within a noise zone around a hospital, to cry out the sale of wares therein, to use whistles or other noise-making devices, to drive any vehicle at such rate of speed as shall create a disturbing noise, to drive any motor vehicle with the muffler cutout open, or to make or cause to be made any loud noise in any manner whatsoever. (Code 1953, §§ 20.2, 20.3)

Section 17-342. Sale of ice cream, merchandise from vehicles—Requirements as to parking; sound equipment to be stopped.—All vendors or hucksters operating trucks, carts or other types of equipment for sale of ice cream or other merchandise on the streets of the city shall, before making any sale, park their vehicle at the right curb, and and at least eight feet from any other vehicle that may be parked on the street and not less than one hundred feet from any intersecting street. When the vehicle stops, all sound equipment or other devices used to notify patrons of the presence of the vendor shall be stopped and shall not be resumed until the vehicle is again put in motion. (Code 1953, § 40.36)

Section 17-344. Same—Requirements as to operation of sound equipment, other devices.—No vehicle using sound equipment or other method of attracting customers shall operate such sound equipment or other device after 9:30 p.m. daily nor between the hours of 9:30 a.m. and 12:00 noon on Sunday. Nor shall such sound equipment or other device be operated within one block of a church between the hours of 7:00 p.m. and 9:00 p.m. on Sundays. No vehicle, including pushcarts selling ice cream, shall be operated within one block of any public school in the city between the hours of 8:00 a.m. and 3:00 p.m. on days in which schools are actually in session. (Code 1953, § 40.38)

Cross reference—Sound trucks generally, § 20-30(b) (17).

Section 28-10. Blowing of whistles.—No locomotive whistle shall be blown within the city limits except where it is necessary to prevent accidents, or where it is necessary to thus signal the engineers of opposing trains of the approach of any passenger train or any section following the same, or when it is necessary to signal a brakeman.

*Amendment note—Ord. No. 1967-16, § 1, adopted February 20, 1967, revised § 20-30 (10), the extent of the revision being such as to preclude a detailed analysis.

Beverly Hills, California

Ordinance No. 1243 of the city of Beverly Hills amending Article 1, of Chapter 8, of Title 4, of the Beverly Hills Municipal Code relating to loud and unnecessary noises

The Council of the City of Beverly Hills does hereby ordain as follows:

Section 1. Article 1, of Chapter 8, of Title 4, of the Beverly Hills Municipal Code relating to loud and unnecessary noises is amended in its entirety to read as follows:

Article 1. Loud and Unnecessary Noises

Section 4-8. 101. Definitions.—For the purposes of Section 4-8. 107 of this article, certain words and phrases used herein are defined as follows:

(a) "Ambient noise." Ambient noise is the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

(b) "Bel." The bel is a unit of level when the base of logarithm is ten (10). Use of the bel is restricted to levels of quantities proportional to power.

(c) "Decibel." The decibel is one-tenth of a bel and is a unit of level when the base of the logarithm is the tenth root of ten, and the quantities concerned are proportional to power.

(d) "Spectrum." A spectrum is a function of time and is a description of its resolution into components, each of different frequency and usually of different amplitude and phase and is also used to signify continuous range of components, each of different frequency and usually of different amplitude and phase and is also used to signify continuous range of components usually wide in extent within which waves have some specified characteristics such as "audio-frequency spectrum" and is also applied to functions of variables other than time.

(e) "Sound pressure level." The sound pressure level, in decibels, of a sound is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.

(f) "Band pressure level." The band pressure level of a sound for a specified frequency band is the sound pressure level for the sound contained within the restricted band. The reference pressure must be specified.

(g) "Cycle." A cycle is the complete sequence of values of a periodic quantity that occur during a period.

(h) "Frequency." The frequency of a function periodic in time is the reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.

(i) "Microbars." A microbar is a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

(j) "Sound-level meter." A sound-level meter is an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specified manner.

(k) "Sound analyzer." A sound analyzer is a device for measuring the bandpressure level or pressure spectrum level of a sound as a function of frequency.

(l) All technical definitions are in accordance with American Standard S1. 1-1960 entitled "Acoustical Terminology."

Section 4-8.102. *General provisions: Unlawful noise.*—No person within the City shall make, or cause the making of, or suffer or permit to be made, upon any premises owned, occupied, or controlled by such person any loud, unusual, penetrating, or boisterous noise, disturbance, or commotion, which shall cause discomfort or annoyance to a reasonable person of normal sensitiveness.

The standards which shall be considered in determining whether a violation of this

section exists shall include, but shall not be limited to, the following:

(a) The volume of the noise.

(b) The intensity of the noise.

(c) Whether the nature of the noise is usual or unusual.

(d) Whether the origin of the noise is natural or unnatural.

(e) The volume and intensity of the background noise, if any.

(f) The proximity of the noise to residential sleeping facilities.

(g) The nature and zoning of the area within which the noise emanates.

(h) The density of inhabitation of the area within which the noise emanates.

(i) The time of the day or night the noise occurs.

(j) The duration of the noise.

(k) Whether the noise is recurrent, intermittent or constant.

(l) Whether the noise is produced by a commercial or non-commercial activity.

Section 4-8.103. *Exceptions.*—(a) *Prohibited hours defined.* For the purposes of this section, "prohibited hours" shall mean after the hour of 8:00 p.m. of any day, before the hour of 8:00 a.m. of any day, at any time on any Sunday, and at any time on any of the following holidays (provided if any named holiday falls on a Sunday, the following Monday shall constitute the holiday): January 1, May 30, July 4, Labor Day, November 11, Thanksgiving Day and December 25.

(b) *Commercial operations.* No person shall operate or cause the operation of, or suffer or permit the operation upon any premises owned, occupied or controlled by such person, of any tool, machine or other thing designed or used for the manufacture of goods, wares or merchandise for the construction or operation of any building or structure, or for any commercial purpose, the noise from which can be heard at any point on any other premises during prohibited hours.

(c) *Permit required.* A permit may be issued authorizing noises prohibited by this section whenever it is found that the public interest will be served thereby. Applications for permits shall be in writing and shall be accompanied by an application fee in the amount of Five and no/100ths (\$5.00) Dollars and shall set forth in detail facts showing that the public interest will be served by the issuance of such permit. Applications shall be made to the Building and Planning Director; provided, however, with respect to work upon or involving the use of a public street, alley, building or other public place under the jurisdiction of the Public Works Department, applications shall be made to the Public Works Director. No permit shall be issued unless the application is first approved by the Public Works Director, Building and Planning Director, Police Chief and the Administrative Officer. Anyone dissatisfied with the denial of a permit may appeal to the Council.

Section 4-8.104. *Noises: Animals and fowl.*—No person within the City shall keep, or permit the keeping of, upon any premises owned, occupied or controlled by such person any animal or fowl the type, behavior or quantity of which shall cause discomfort or annoyance to a reasonable person of normal sensitiveness.

Section 4-8.105. *Noises: Motors.*—(a) *Starting and operating motors.* It shall be unlawful for any person within the City to start or operate, or cause to be started or operated, any gas, gasoline, kerosene, distillate, benzine, oil burning or other engine or motor within the City unless such engine or motor shall have a device thereunto attached in good working order which shall at all times be in constant operation, to prevent excessive or unusual or annoying noise from the exhaust of such motor or engine.

(b) *Possession of motors.* Every gas, gasoline, kerosene, distillate, benzine, oil burning or other motor or engine within the City shall have a device in good working order which shall be at all times in constant operation to prevent excessive or unusual or annoying noise from exhaust gases of such motor or engine when the engine or motor is running or is in operation.

Section 4-8.106. *Noises: Loudspeakers.*—It shall be unlawful for any person, other than personnel of law enforcement or governmental agencies, to install, use or operate a loudspeaker or amplifying device in a fixed or movable position or mounted upon any vehicle within the City for the purpose of giving instructions, directions, talks, addresses or lectures to any persons or assemblages of persons in or upon any street, alley, sidewalk, park, place or public property without a permit so to do from the Police Chief. The Police Chief, in granting or denying such permit, shall consider the constitutional right of free speech of all persons, including the applicant, but shall also consider the volume of traffic, both vehicular and pedestrian, and the effect, if any, of granting such permit upon the orderly movement of traffic, the peaceable passage or presence of persons, in, on, to or across the street, alley, sidewalk, park, place or public property, the possible disorder or unlawful injury to persons or property, the possible tendency to incite crime, the possible invasion of the right of privacy, the threat of the overthrow of the lawfully established government or any agency or portion thereof by force and the possible unlawful breach or disturbance of the public peace if the permit is granted. The Police Chief shall grant or deny the permit after considering such matters.

Section 4-8. 107. *Noises: Machinery.*—It shall be unlawful to operate any machinery, equipment, pump, fan, air-conditioning apparatus or similar mechanical device, in any manner so as to create any noise which would cause the noise level at the adjoining property line to exceed either the limiting noise spectra set forth in the table below, or to exceed the ambient noise level by more than three (3) decibels.

Table of Limiting Noise Levels

Noise level at any band pressure shall not exceed either that shown below, or the ambient noise level by more than three (3) decibels, as measured by and recorded from an approved Sound-level Meter and/or a Sound Analyzer.

Octave band Center frequency Cycles per second	Band pressure level in decibels re 0.0002 microbars
All pass (combined frequency bands) ----	60
31.5 -----	59
63 -----	58
125 -----	49
250 -----	41
500 -----	35
1000 -----	30
2000 -----	28
4000 -----	26
8000 -----	25
16000 -----	24

Section 2. The City Clerk shall cause this ordinance to be published once, within fifteen days after its passage, in the Beverly Hills Citizen, a newspaper of general circulation, printed, published, and circulated in this City; shall certify to the adoption and publication of this ordinance and shall cause this ordinance and his certification, together with proof of publication to be entered in the Book of Ordinances of this City.

Section 3. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

Adopted the 17th day of May, 1966.

Birmingham, Alabama
City Code

Sec. 3-9. Noisy and obnoxious advertising.—(a) It shall be unlawful for the proprietor, manager or other person in charge or control of any place of business in the city to advertise, or attempt to attract attention, to such place of business, or any article of merchandise therein, or any business, sale or event being conducted therein, by causing or allowing any radio, phonograph, phonograph record, bell, drum, horn or other instrument located upon, at or in such phase of business, to be played, operated or sounded in such manner that the sound created, emitted or transmitted by such instrument shall be audible to persons upon any public street of the city; provided, that it shall be lawful from time to time to demonstrate any such instrument to prospective purchasers thereof in such place of business, notwithstanding resultant sound may escape to a public street; and provided further, that the provisions of this subsection (a) shall not apply to any type of carillon which is located in or on any premises in the city and is played, operated or sounded so as to cause music or musical notes or a time strike to emanate from such carillon or from amplifiers attached thereto and located in or on the same premises.

(b) It shall be unlawful for any person to drum or solicit any person on any sidewalk or street in the city, either orally or by means of cards or handbills, to enter any store or other place of business for the purpose of buying, or negotiating for the sale of, any goods, wares or merchandise, or for the rendition of any service.

(c) It shall be unlawful for any person to advertise from any vehicle upon any street or other public way by means of any loud speaker, amplifier, radio, phonograph, phonograph record, bell, drum, horn or other instrument, or by any other loud noise, within that portion of the city bounded on the north by the north line of Eighth Avenue, North, on the east by the east line of Twenty-third Street, on the south by the south line of Morris Avenue, and on the west by the west line of Seventeenth Street, or within a radius of one block of any school or hospital, or within a radius of one block of any church on Sunday.

(d) It shall be unlawful for any person to advertise from any vehicle upon any street or other public way by means of any loud speaker, amplifier, radio, victrola, victrola record, bell, drum, horn or other instrument, or by any other loud noise, within the city between the hours of 7:00 P.M. and 9:00 A.M. (Code 1914, § 124; Ord. No. 1671-F.)

Sec. 7-3. Noisy animals or fowl.—It shall be unlawful to confine, harbor, or keep on a lot, place or premises, any animal or fowl which habitually, continuously or intermittently makes or emits sounds or noises of such volume, nature and extent as to be a public nuisance by reason of being obnoxious or annoying to the ordinary persons in that neighborhood. (Code 1944, § 138).

Sec. 26-9. Prevention of noise, etc. It shall be the duty of the operator of a tourist home located in a district zoned for apartment house uses to exercise every possible precaution in order to minimize the noise and other inconvenience to neighboring residents. (Code 1944, § 691.)

Sec. 34-143. Horns and warning devices. (a) Every motor vehicle, when operated upon a street of the city, shall be equipped with a horn in good working order capable of emitting a sound audible under normal conditions for a distance of not less than two hundred feet. It shall be unlawful for any vehicle to be equipped with or for any person to use upon a vehicle any siren, or for any person at any time to use a horn otherwise than as a reasonable warning, or to

³ As to prohibition against use of noise makers for advertising purposes, see § 35-10 (g) of this Code.

make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(b) Every police and fire department and fire patrol vehicle, and every ambulance used for emergency calls, shall be equipped with a bell, siren or exhaust whistle of a type approved by the state highway director. (Code 1944, § 1276.)

Sec. 34-146. Mufflers and exhaust. (a) No person shall drive a motor vehicle on a street unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual and annoying smoke.

(b) It shall be unlawful to use a muffler cutout, bypass, a muffler without baffles or similar device on any motor vehicle upon a street (Code 1944, § 1279.)

Ordinance No. 65-30 to Amend Subsection (a) of Section 34-146 of the General Code of the City of Birmingham, 1964

Be it ordained by the Council of the City of Birmingham that Sub-section (a) of Section 34-146 of the General Code of the City of Birmingham, 1964 be and said Sub-section (a) is hereby amended to read as follows:

"(a) No person shall drive a motor vehicle on a street unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke."

Article II. Noises.⁴

Section 35-10. Illegal noises generally.—It shall be unlawful and a nuisance for any person to make or cause to be made any unreasonably loud, disturbing or unnecessary noise in the city. It shall also be unlawful and a nuisance for any person to permit any such noise to be made in or upon any house or premises owned or possessed by him or under his management or control. The following acts, among others, are declared to be loud, disturbing or unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

(a) *Blowing horns.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal when and as required by ordinances of the city or by the Code of Alabama, Title 36; the creation by means of any such signal device of any unreasonable, loud or harsh sound; and the sounding of such device for an unnecessary or unreasonable period of time. The provisions of this section regulating the sounding of a horn or signal device on vehicles shall not apply to authorized emergency vehicles while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties, and when the sounding of such horn or signal device is made as a warning or danger signal.

(b) *Pets.*⁵ The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any ordinary person in the vicinity.

(c) *Blowing steam whistles.* The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.

(d) *Unmuffled engine exhausts.*⁶ The discharging into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine, except through a muffler or other device which will effectively prevent the emission of loud or explosive noises therefrom.

⁴ As to prevention of noise in tourist homes, see § 26-9 of this Code. As to blowing locomotive whistle, see § 44-4.

⁵ See also, § 7-3 of this Code.

⁶ As to mufflers and cutouts on motor vehicles, see § 34-146 of this Code.

(e) *Peddlers, etc.*⁷ The shouting or crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(f) *Fireworks.* The explosion of firecrackers, sky-rockets, Roman candles, pinwheels or any other form of fireworks, except the display of fireworks in public parks or other open places within the city under a permit issued by the fire marshal, pursuant to the Fire Prevention Code of the City.⁸

(g) *Use of noisemakers for advertising purposes.*⁹ The use of any drum, pan, gong, bell, horn, trumpet, loudspeaker or other instrument or device for the purpose of attracting attention or intended to attract attention to any performance, show or sale or display of merchandise, or for any other advertising purposes; provided, that the provisions of this subsection (g) shall not apply to any type of carillon which is located in or on any premises in the city and is played, operated or sounded so as to cause music or musical notes or a time strike to emanate from such carillon or from amplifiers attached thereto and located in or on the same premises.

(h) *Calliopes or amplifiers on vehicles.* The use of calliopes, mechanical loudspeakers or amplifiers on any vehicles used for advertising or other purposes, except when a permit for such use over a specified route is issued by the mayor and except within the time specified in such permit. (Code 1944, § 813; Ord. No. 1671-F.)

Section 35-11. Outside speakers emanating music on public streets.—It shall be unlawful and a nuisance for any person to have or permit a speaker or other device to be attached to any music machine which is designed to or does carry the sound of music emanating from such machine to a public street; provided, that the provisions of this section shall not apply to any type of carillon which is located in or on any premises in the city and is played, operated or sounded so as to cause music or musical notes or a time strike to emanate from such carillon or from amplifiers attached thereto and located in or on the same premises. (Code 1944, § 815; Ord. No. 1671-F.)

Section 35-12. Transmitting music audible to persons outside premises during certain hours.—Between the hours of 11:00 P. M., and 8:00 A. M., it shall be unlawful and a nuisance for any person in charge of any music machine to operate or to permit such music machine to be operated in such manner that the sound created, emitted or transmitted by such music machine shall be audible to persons upon any public street or private premises; provided, that the provisions of this section shall not apply except between the hours of 11:00 P. M., and 7:00 A. M., to any type of carillon which is located in or on any premises in the city and is played, operated or sounded so as to cause music or musical notes or a time strike to emanate from such carillon or from amplifiers attached thereto and located in or on the same premises. (Code 1944, § 816; Ord. No. 1671-F.)

Section 35-14. Radios and television.—Between the hours of 11:00 P. M. and 8:00 A. M., it shall be unlawful for any person in charge of any radio or television receiving set to operate or to permit such radio or television receiving set to be operated in such manner that the sound created, emitted or transmitted by such radio or television receiving set shall be audible to persons upon any public street or private premises. (Code 1944, § 818.)

Section 44-4. Blowing locomotive whis-

⁷ As to peddlers and hawkers generally, see ch. 39 of this Code.

⁸ Editor's note.—The Fire Prevention Code of the city is not set out in this Code. It is on file in the office of the city clerk.

⁹ As to noisy and obnoxious advertising, see § 3-9 of this Code.

tles.—No person shall blow any locomotive whistle within the city, except as a necessary signal of danger, in compliance with law or to give warning of a house on fire in the city. (Code 1944, § 970.)

Boston, Massachusetts
City Ordinances
Unnecessary noises

Section 97.—(a) Subject to the provisions of this section, the creation of any unreasonably loud disturbing and unnecessary noise in the city is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

(b) The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

1. The sounding of any horn or signal device on any automobile, motorcycle, bus, street car or other vehicle while not in motion, except as a danger signal; the sounding of any horn or signal device on any such vehicle while in motion, except as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; and the sounding of any such horn or signal device for an unnecessary and unreasonable period of time; provided that any such noise shall be plainly audible at a distance of one hundred feet.

2. The playing of any radio, phonograph, or any musical instrument or other instrument intended or utilized so as to reproduce sound, in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence; provided that any such noise shall be plainly audible at a distance of fifty feet and provided that nothing herein contained shall be construed to prohibit playing by a band and orchestra in a hall, building, or in the open air.

3. The keeping of any animal or bird which by biting or by causing frequent or long continued noise shall disturb the quiet, comfort or repose of any person in the vicinity.

4. The use of any automobile, motorcycle, street car or other vehicle so out of repair or so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise; provided that any such noise shall be plainly audible at a distance of one hundred feet.

5. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or to stop work or as an alarm or danger signal.

6. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, motor boat or outboard motor engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

7. The erection, demolition, alteration, or repair of any building, and excavation in regard thereto, except between the hours of seven a.m. and six p.m. on weekdays or except, in the interest of public safety or welfare, upon the issuance of and pursuant to a permit from the building commissioner, which permit may be renewed for one or more periods of not exceeding one week each.

8. The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same is in session, or adjacent to any hospital or church, which unreasonably interferes with the conduct of the foregoing; provided that any such noise shall be plainly audible at distance of twenty-five feet and provided that a conspicuous warning sign, using appropriate words, has been displayed in such street indicating that the same is a school, hospital, church or court street.

9. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

Ordinance Sept. 30, 1850: Section 54.—No person, other than musicians in a lawful parade or procession or itinerant musicians licensed thereto by the police commissioner, shall, in any street except as a warning of danger, ring or cause to be rung any bell, or use or cause to be used any musical or noise-making instrument.

Buffalo, N.Y.

City Ordinances

Article XVII: Noise control

§ 1701. Prohibited noises. Subject to the provisions of this article, the creation of any unreasonably loud, disturbing and unnecessary noise in the city of Buffalo is prohibited as a public nuisance. Noise of such character, intensity and duration as to be detrimental to the life, health or welfare of any individual in the city of Buffalo is prohibited as a public nuisance.

The following acts, among others, are declared to be prima facie evidence of a violation of this article and declared to be the loud, disturbing and unnecessary noises prohibited herein, but said enumeration shall not be deemed to be exclusive:

1. Animals and birds. The keeping in any building or upon any premises of any animal or bird which by frequency or long continued noise shall disturb the comfort and repose of any person in the vicinity.

2. Defect in vehicle or load. The use of any automobile, motorcycle or other vehicle in such manner or so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.

3. Horns and signaling devices. The sounding of any horn, bell or other signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place in the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any such signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up.

4. Steam whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or to stop work or as a warning of danger.

5. Exhausts. The discharge into the open air of the exhaust from any stationary steam engine, stationary internal combustion engine or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

6. Compressed air devices. The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

7. Schools, courts, churches and hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed on such streets indicating that the same is a street wherein quiet is required.

8. Loading and unloading. The creation of loud and excessive noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates and containers.

9. Yelling and shouting. Yelling, shouting, hooting or singing on the public streets, particularly between the hours of eleven o'clock

p.m. and seven o'clock a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, factory or any dwelling, hotel or other type of residence, or of any person in the vicinity.

10. Radios and phonographs. The using, operating or permitting to be played, used or operated, of any radio receiving set, musical instrument, phonograph or any other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants at any time with a louder volume than is necessary for the convenient hearing of the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto; the operation of any such set, instrument, photograph, machine or device between the hours of eleven o'clock p.m. and seven o'clock a.m. in such manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located, shall be prima facie evidence of the violation of this article and shall be presumed to be of such volume as to annoy or disturb the sleep, comfort and repose of any person in the vicinity.

11. Prohibited hours. Unreasonably loud, disturbing and unnecessary noise or sound during and between the hours from eleven o'clock p.m. to seven o'clock a.m., which unreasonably interferes with the sleep, comfort, health and repose of any individuals in the vicinity and hearing of such noises or sounds.

12. Construction or repair of buildings. The erection, including the excavation, demolition, alteration, or repair of any building or structure other than between the hours of seven o'clock a.m. and six o'clock p.m. on week days, except in case of urgent necessity in the interest of public health and safety, and then only under permit from the director of buildings, which permit may be renewed for periods of three days or less while the emergency continues. Such operations are completely prohibited on Sundays and legal holidays, except under the permit above described.

13. Peddlers. The shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

§ 1702. Commercial purposes. No person, for commercial, business or advertising purposes, shall create, cause to be created or permitted upon any premises in the city of Buffalo under his control, any disturbing noise of such volume and character as to unreasonably disturb the public or persons in the vicinity.

Music or other sounds produced or reproduced on player pianos, phonographs, talking machines or by radio through loud speakers or by sound amplifying equipment or device, when of sufficient volume as to be distinctly heard for a distance of fifty feet outside the building, premises or structure where produced, or sufficiently audible upon any public street or place to attract and congregate a crowd thereon, is hereby declared to be a disturbing noise and a public nuisance. This definition, however, is not exclusive.

1. Aircraft and boats. The making of any noise in any street, park or public place in the city of Buffalo by means of any aircraft, or any boats on the water within the jurisdiction of the city, by operation of sound producing or sound amplifying equipment thereon, for any purpose whatsoever is prohibited.

2. Noise-making equipment. The advertisement or calling attention to any advertisement, article, business, calling or profession upon any public street, sidewalk, park or public place or entrance to a place of business, building or premises within the city of Buffalo by means of any horn, musical instrument, whistle, megaphone, siren, bell, radio, mechanical piano, phonograph or other sound producing or sound amplifying

mechanism, instrument or device, is prohibited.

3. Sound equipment carried on conveyance. The operation and use in or upon any automobile, truck or other vehicle or conveyance upon any public street, park or public place within the city of Buffalo of any horn, mechanical instrument, megaphone, siren, bell, radio, mechanical piano, phonograph or other sound producing or sound amplifying mechanism, instrument or device for such commercial, business or advertising purposes, is hereby prohibited.

4. Exceptions. This section shall not apply to the use of a horn, bell or other signaling apparatus when the same is necessary or authorized for the protection of persons or property, or when attached to or used by any fire or police car or apparatus, or hospital apparatus in responding to a call, or to radio sets installed in passenger automobiles not stepped up with sound or special amplifying devices, nor shall this section apply to duly authorized public parades, that is, parades of public interest as contrasted with private parades conducted for commercial purposes.

§ 1703. Non-commercial purposes. The operation and use in and upon any building, structure, premises, or on any street, park, parkway or public place, or on any automobile, truck or other vehicle or conveyance, of any sound producing or sound amplifying mechanism, instrument or device, producing or reproducing the human voice and speech only, whereby the sound of such voice and speech is cast upon the public streets, parks, parkways and places, shall not be deemed a violation of this article under the following conditions and circumstances and with complete compliance with all requirements herein and the proper application for issuance and the proper use of the permit hereinafter mentioned:

1. Such use and operation shall be on matters of public interest and concern or religious purposes only.

2. Such volume of sound of the human voice shall be so controlled that it will not be audible for a distance in excess of one hundred feet from its course, and so that said volume is not unreasonable, loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility. No sound amplifying equipment shall be operated with an excess of fifteen watts of power in the last stage of amplification.

3. Such dissemination of sound shall not be permitted to interfere with and adversely affect the normal and safe flow of vehicle and pedestrian traffic.

4. The only sounds permitted are human speech and voice.

5. No such sound amplifying equipment shall be permitted to be used so as to interfere with and be disturbing to any public gathering lawfully assembled within audible range of such sound equipment and assembled for purposes other than to hear the program emanating from such sound equipment.

6. Operation and use of such sound amplifying equipment shall be permitted only during the following hours of the day, such period being between eleven-thirty o'clock a.m. and one-thirty o'clock p.m. and between the hours of three o'clock p.m. and five o'clock p.m., except on Sundays and legal holidays when no operations shall be permitted. An exception to such time limitation can only be made by separate permit of the common council upon a showing and proof of unusual and necessary importance and interest to the public welfare, health or safety.

7. No such sound amplifying equipment shall be used to unreasonably interfere with, annoy or harass any person, firm or corporation in their home, residence, place of business or other location.

8. No such sound amplifying equipment shall be continued in operation when it can

be heard on the public streets for a maximum continuous period of over fifteen minutes at any one time at any one location, including a one-half mile radius therefrom, and shall not be operated or used at any one location, including a half mile radius therefrom, more than one time in a seven-day period.

9. No such sound amplifying equipment placed upon a sound truck, vehicle or other conveyance shall be continued in operation while such sound truck, vehicle or conveyance is in motion or in transit.

10. Sound shall not be issued within five hundred feet of hospitals, court houses, schools or churches.

11. The human speech emitted shall not be profane, lewd, indecent or slanderous.

12. No such sound amplifying equipment shall be operated upon the following streets and within the following downtown congested traffic area, bounded and described as follows:

Beginning at the intersection of Washington Street and South Park Avenue northerly along Washington Street to Exchange Street; Easterly along Exchange Street to Ellicott Street;

Northerly on Ellicott Street to Virginia Street;

Westerly and southwesterly on Virginia Street to Niagara Street;

Southerly on Niagara Street to Georgia Street;

Southwesterly on Georgia Street to Perry Boulevard;

Southerly on Perry Boulevard to Court Street;

Easterly on Court Street to the Lower Terrace;

Southerly on the Lower Terrace to Evans Street;

Southwesterly on Evans Street and as continued to the Buffalo River;

Southeasterly along the Buffalo River to a point opposite the place of beginning.

And thence northerly to the place of beginning.

13. No such sound amplifying equipment shall be operated in any location whenever the commissioner of police upon investigation shall determine that the condition of vehicular or pedestrian traffic, or both, are such that the use of such sound amplifying apparatus will constitute a threat to the safety of pedestrians or vehicle operators, or where he shall determine that conditions of overcrowding or street repair or other physical conditions are such that the use of such sound amplifying apparatus will deprive the public of the right to the safe, comfortable, convenient and peaceful enjoyment of any public street, park or place, for street, park or public purposes, or will constitute a threat to the safety and welfare of the public.

14. A permit must be obtained under this section from the commissioner of police of the city of Buffalo, and he shall issue such permit subject to all the conditions and restrictions contained herein. The commissioner shall not deny a permit for any specific time, location or use to any applicant who fully complies with the provisions of this section, except for one or more of the reasons specified herein, or for the non-payment of the fee prescribed herein, or to prevent overlapping in the granting of permits.

A denial by the commissioner of police to issue a permit hereunder, may be reviewed by a board consisting of the mayor, comptroller and president of the council. Such board on written petition of the applicant shall hold a hearing to determine if such application for a permit was properly denied under the provisions of this section. If the board decides the application and permit were improperly denied by the commissioner of police, it shall order him to issue such permit upon compliance by the applicant with all applicable provisions of this section,

and said commissioner of police shall thereupon issue such permit.

The applicant for a permit to use or cause to be used sound amplifying equipment, whether placed upon a truck or conveyance or otherwise for the non-commercial purposes above described, shall file an application statement in writing with the commissioner of police at least five days prior to the date of the proposed use. This statement shall be filed in duplicate and shall state the following:

(a) Name and home address of the applicant.

(b) Business address of applicant.

(c) License number and motor number of the sound truck, if any, to be used by applicant.

(d) Name and address of person who owns the sound truck and amplification equipment.

(e) Name and address of persons having direct charge of sound truck.

(f) Names and addresses of all persons who will use or operate the sound truck and persons using and operating sound amplification equipment.

(g) Name and address of any organization sponsoring or responsible for the use and operation of said sound amplifying equipment.

(h) A general statement of the purpose for which the sound amplifying equipment will be used and a general statement of the subject matter to be broadcast.

(i) A statement as to the streets, sections, parks or public places of the city at, on or in which the said sound amplifying equipment will be used, giving locations.

(j) Proposed periods of operation of said sound amplifying equipment and length of time of each individual operation.

(k) The number of days of proposed operation of such sound amplifying equipment under the permit, not exceeding three days.

(l) General description of the sound amplifying equipment which is to be used and vehicle on which it is carried, if any.

(m) Maximum sound producing power of the sound amplifying equipment to be used, stating:

(1) Wattage to be used.

(2) Volume in decibels of the sound which will be produced.

(3) The maximum distance sound will be thrown from the sound amplifying equipment.

(n) Such other pertinent information as the commissioner of police may deem necessary to enable him to carry out the provisions of this section.

(o) A statement by the applicant that he and all other persons using such sound amplifying equipment under a permit herein shall abide by all the restrictions and requirements of this section, and will observe and abide by all the rules, laws, ordinances and regulations controlling the use of the public streets, parkways and public places.

Each permit issued pursuant to this section shall describe the specific location in which such sound amplifying device, equipment or apparatus may be used or operated thereunder, the exact period of time for which such amplifying apparatus, equipment or device may be operated in such location, the maximum volume of sound which may be employed in such use or operation, and such other terms and conditions as may be necessary for the purpose of securing the health, safety, comfort, convenience and peaceful enjoyment by the public of their rights to use the public streets, parks or places for street, park or other public purposes, protecting the health, welfare and safety of the inhabitants of the city and securing the peace, quiet and comfort of all its inhabitants.

One copy of the aforesaid application shall be attached to the permit and become a part thereof and shall be delivered to the applicant who shall keep such permit and at-

tached application in his possession during the time of use of such sound amplifying apparatus under such permit. Such permit and attached application shall be promptly displayed and shown to any police officer of the city of Buffalo upon request.

Any false statement in such application for a permit and any failure to abide by the limitations set forth under the permit and application, shall be deemed a distinct and separate violation of this section. No permit shall be granted covering more than a period of three days. All applications shall be checked by the bureau of identification of the department of police, and the police records of any persons whose names appear on said application shall be attached thereto.

Each applicant for a permit issued under the provisions of this section shall pay a fee of three dollars for the use of each such sound amplifying device, equipment or apparatus for each day of use; provided, however, that permits for the use of sound amplifying devices or apparatus shall be issued to any bureau, commission, board or department of the United States, the state of New York, the county of Erie and the city of Buffalo without fee.

All monies collected herein by the department of police shall be the property of the city of Buffalo, and shall be accounted for and turned over weekly to the treasurer of the city.

No permit shall be issued where it appears that the applicant or any other person whose name appears on the application as a participant in the broadcasting of such sound, or under whose auspices such sound is to be broadcast, has been convicted of a crime or disorderly conduct.

§ 1704. General provisions. Nothing contained in this article shall be construed to prevent the production of music in connection with any military, civic or authorized parade, funeral procession or religious ceremony, nor to prevent any musical performance conducted under the consent of municipal authorities.

The provisions of this article shall not apply to police officers and firemen while in the discharge of their duties.

The provisions of this article shall be liberally construed to prevent excessive, unreasonable, disturbing and unnecessary noise, due consideration being given to the circumstances, time of day, particular location of each violation and the demands of the public health, safety and welfare.

This article shall not be construed as prohibiting the use of sound amplifying equipment or devices during unusual and non-commercial events conducted by the national, state, county or municipal government.

The term "sound amplifying device, equipment or apparatus" shall mean any radio device or apparatus, or any device or apparatus for the amplification of any sounds from any radio, phonograph or other sound-making or sound-producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sound.

The word "person" as used herein, shall include the singular and plural, and shall also mean and include any person, firm, corporation, association, club, partnership, society, union or any other form of association or organization.

It is the intention herein that each separate provision of this ordinance shall be construed and deemed independent of all other provisions herein, and it is further the intention that if any provision of this article shall be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

Chapter LX: (Traffic Ordinance) § 17. Vehicles. Subd. (6) *Load must be secured so no loud noises occasioned.*

(6) The use of a vehicle in the city is prohibited when it is so loaded with iron or

other material as to create loud noises while in transit.

Chapter IX: (Disorderly Conduct) § 5. Disturbances and intoxication. Subd. (1) No person shall make or assist in making any riot, unreasonable noise or disturbance at or within any house or building or in a public place.

§ 6. Discharging firearms or other weapons. No person shall fire, shoot or discharge, in any place or building, any firearms, air gun, spring gun, archery device propelling or projecting an arrow, cannon or artillery piece, provided, however, that the prohibitions above contained shall not apply to a lawfully licensed amusement or to a duly authorized rifle, pistol or archery range or to any duly authorized police or military personnel. Further exceptions may be made hereto by written permit of the commissioner of police under circumstances beneficially and directly affecting the public health, welfare and safety.

§ 8. Profane language. Subd. (1) No person shall use profane or obscene language in a public place, or in a building in so loud a tone that it shall be heard by persons not within said building.

Chapter VII: (Regulatory Ordinances) § 113. (This Article concerned Railroads.) It shall not be lawful for any person in the employ of any railroad company operating within the limits of the city to permit the whistle of the locomotive under his control to be blown, except for necessary signal purposes. Any person violating the provisions of this section shall pay a penalty of \$25.00 for such offense.

Article 9—Equipment of Motor Vehicles and Motorcycles

Sec.

- 375. Equipment.
- 376. Lamps, signaling devices and reflectors on commercial vehicles.
- 377. Vehicles engaged in the transportation of logs and other materials.
- 378. Motor vehicles engaged in the transportation of inflammable liquids.
- 379. Motor vehicles engaged in the transportation of inflammable liquids.
- 380. Motor vehicles engaged in the transportation of dangerous articles.
- 381. Motorcycle equipment.
- 382. Hydraulic brake fluid.

§ 375. Equipment

1. Every motor vehicle operated or driven upon the public highways of the state, shall be provided with adequate brakes and steering mechanism in good working order and sufficient to control such vehicle at all times when the same is in use, and a suitable and adequate horn or other device for signaling, which horn or device shall produce a sound sufficiently loud to serve as a danger warning but shall not be used other than as a reasonable warning nor be unnecessarily loud or harsh.

(d) The Provisions of this subdivision shall not apply to motor vehicles, trailers and semitrailers registered pursuant to subdivision thirteen of section four hundred one of this chapter, and not operated upon the public highways in excess of one and one-half miles by direct route between farms or portions of farms under single or common ownership or operation.

26. A gong or siren whistle shall not be used on any vehicle other than an authorized emergency vehicle. This shall not be construed to apply to a gong or siren designed and used solely as a burglar alarm on a vehicle.

31. Mufflers. Prevention of noise. Every motor vehicle, operated or driven upon the highways of the state, shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise and no such muffler or exhaust system shall be

equipped with a cut-out, bypass, or similar device. No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle and such original muffler shall comply with all the requirements of this section.

A muffler is a device consisting of a series of chambers or baffle plates, or other mechanical design for the purpose of receiving exhaust gas from an internal combustion engine, and effective in reducing noise.

Chicago, Illinois

Zoning Ordinance: Sec. 99 and Sec. 106

(Provisions of the Municipal Code are included in the Chicago Zoning Ordinance, Chapter 194A. Sound level readings are taken when complaints are filed.)

Noise

99-56. Sundry noises restricted.—No person shall make, or cause, permit or allow to be made, upon a public way, or in such close proximity to a public way as to be distinctly and loudly audible upon such public way, any noise of any kind by crying, calling or shouting or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, sound amplifier, or similar mechanical device provided, that the said restrictions shall not apply to any licensed peddler crying or calling for the purpose of advertising goods, wares or merchandise when lawfully using any public alley in the city between the hours of 11 a.m. and 6 p.m. [Amend. Coun. J. 12-21-39, p. 1396.]

99-57. Hand organs.—No person shall use or perform with any hand organ or other musical instrument or device, for pay or in expectation of payment, in any public way or public place of the city before nine o'clock a.m. or after nine o'clock p.m. of any day, under a penalty of not less than ten dollars nor more than twenty-five dollars for each offense.

99-58. Transporting rails and pillars.—All rails, pillars, and columns of iron, steel, or other metal which are being transported on the public ways of the city shall be so loaded as to avoid causing loud noises or disturbing the peace and quiet of such public ways, under a penalty of not more than twenty-five dollars for each offense.

99-59. Steam whistle.—No person shall blow or cause to be blown, within the city, the steam whistle of any stationary steam plant as a signal for commencing or suspending work, or for any other purpose.

This section shall not be construed as forbidding the use of steam whistles as alarm signals in case of fire, collision, or other imminent danger.

99-60. Pneumatic hammer.—It shall be unlawful for any person to construct or maintain, within two hundred feet of any residence, a factory wherein are used pneumatic hammers or other apparatus which cause loud or unusual noises. Any person violating any of the provisions of this section shall be fined not less than twenty-five dollars nor more than one hundred dollars for each offense, and each day's violation shall be considered a separate and distinct offense.

90-60.1. Building operations at night.—It shall be unlawful for any person to use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or other mechanical apparatus operated by fuel or electric power in building or construction operations between the hours of 9:30 o'clock in the evening and 8:00 o'clock in the morning, except for work on public improvements and work of public-service utilities, within 600 feet of any building used for residential or hospital purposes.

Any person violating this section shall be fined not less than fifty dollars for each offense, and each day's violation of the same

shall constitute a separate and distinct offense. [Added. Coun. J. 10-31-51, p. 1166; 3-6-63, p. 9023.]

Violation of Chapter Provisions

99-74. Penalty.—Any person violating any of the provisions of this chapter shall be fined not less than five dollars and not more than two hundred dollars for each offense, except where otherwise specifically provided. A separate and distinct offense shall be held to have been committed each day any person continues to violate any of the provisions hereof. [Amend. Coun. J. 6-11-47, p. 308; 6-30-54, p. 7829.]

106-17. Noises prohibited.—No bellman or crier, nor any drum, fife, or other instrument of music, nor any show signal or other means of attracting the attention of the public, other than a sign or flag, shall be employed or permitted to be used in connection with any auction sale at or near any place of such sale, or at or near any auction room.

106-19. Penalty.—Any person violating any of the provisions of this chapter, where no other penalty is provided, shall be fined not less than ten nor more than two hundred dollars for each offense.

Building Code Sec. 10

10.5 Performance Standards—Noise—Use and Bulk Regulations.

(1) Any use established in a Manufacturing District after the effective date of this comprehensive amendment shall be so operated as to comply with the performance standards governing noise set forth hereinafter for the district in which such use shall be located, provided that such performance standards shall not be applicable to the structural alteration or relocation of existing buildings occurring hereafter or the enlargement, expansion or addition to existing uses occurring hereafter when such alteration, relocation, enlargement, expansion or addition takes place upon property which, at the time of the passage of this comprehensive amendment, is owned or occupied by the same person, firm or corporation, or their respective heirs, legal representatives or successors, making such alteration, relocation, enlargement, expansion or addition and, provided further, that such performance standards also shall not be applicable to new construction by such owner or occupier upon previously undeveloped property which, at the time of such construction, is contiguous to an existing manufacturing use and, at the time of the passage of this comprehensive amendment, is being held by such owner or occupier for development for manufacturing purposes. All such construction, alteration, relocation, enlargement, expansion or addition to which the performance standards hereinafter set forth shall not be applicable shall, nevertheless, be controlled so as not to become a nuisance to adjacent uses.

(2) Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards hereinafter prescribed provided that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this comprehensive amendment, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels. Noises incapable of being so measured, such as those of an irregular and intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

(3) In all instances in which an M2 or M3 District does not adjoin a Residence or Business District, the performance standards governing noise for the M1 Districts shall apply at the nearest Residence or Business District boundary line.

10.5-1 Performance Standards—Noise—M1-1 To M1-5 Restricted Manufacturing Districts.

In the M-1 to M-5 Districts inclusive, at no point on the boundary of a Residence or Business District shall the sound pressure level of any individual operation or plant (other than background noises produced by sources not under the control of this ordinance, such as the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown below for the districts indicated.

Octave band cycles per second	Along residence district boundaries—Maximum permitted sound level in decibels	Along business district boundaries—Maximum permitted sound level in decibels
0 to 75.....	72	79
75 to 150.....	67	74
150 to 300.....	59	66
300 to 600.....	52	59
600 to 1,200.....	46	53
1,200 to 2,400.....	40	47
2,400 to 4,800.....	34	41
Above 4,800.....	32	39

10.5-2 Performance Standards—Noise—M2-1 To M2-5 General Manufacturing Districts.

In the M2-1 to M2-5 Districts inclusive at no point either on the boundary of a residence or business district or at 125 feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of any individual operation or plant (other than background noises produced by sources not under the control of this ordinance, such as the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown below for the districts included.

Octave band cycles per second	Maximum permitted sound level in decibels along residence district boundaries or 125 feet from plant or operation property line	Maximum permitted sound level in decibels along business district boundaries or 125 feet from plant or operation property line
0 to 75.....	72	79
75 to 150.....	67	74
150 to 300.....	61	68
300 to 600.....	56	62
600 to 1,200.....	50	56
1,200 to 2,400.....	45	51
2,400 to 4,800.....	41	47
Above 4,800.....	38	44

10.5-3 Performance Standards—Noise—M3-1 To M3-5 Heavy Manufacturing Districts.

In the M3-1 to M3-5 Districts inclusive, at no point either on the boundary of a residence or business district or at 125 feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of any individual operation or plant (other than background noises produced by sources not under the control of this ordinance, such as the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown below for the districts included.

Octave band cycles per second	Maximum permitted sound level in decibels along residence district boundaries or 125 feet from plant or operation property line	Maximum permitted sound level in decibels along business district boundaries or 125 feet from plant or operation property line
0 to 75.....	75	80
75 to 150.....	70	75
150 to 300.....	65	70
300 to 600.....	59	64
600 to 1,200.....	53	58
1,200 to 2,400.....	48	53
2,400 to 4,800.....	44	49
Above 4,800.....	41	46

10.6 Performance Standards—Vibration—Use and Bulk Regulations.

Any use established in a Manufacturing District after the effective date of this comprehensive amendment shall be so operated as to comply with the performance standards governing vibration set forth hereinafter for the district in which such use shall be located. No use already established on the effective date of this comprehensive amendment shall be so altered or modified as to conflict with, or further conflict with, the performance standards governing vibration established hereinafter for the district in which such use is located.

10.6-1 Performance Standards—Vibration—M1-1 To M1-5 Restricted Manufacturing Districts.

In the M1-1 to M1-5 Districts inclusive, any use or portion thereof creating intense earth-shaking vibrations such as are created by heavy drop forges, or heavy hydraulic surges shall be set back at least 300 feet from the lot lines on all sides, except for lot lines adjoining an M3 District where such set back shall not be required, but in no case shall any such vibration be allowed to create a nuisance or hazard beyond the lot lines.

10.6-2 Performance Standards—Vibration—M2-1 To M2-5 General Manufacturing Districts.

In the M2-1 to M2-5 Districts inclusive, any use or portion thereof creating intense earth-shaking vibrations such as are created by heavy drop forges, or heavy hydraulic surges, shall be set back at least 300 feet from the boundary of a Residence, Business, or Commercial District and at least 150 feet from the boundary of an M1 District, unless such operation is controlled in such a manner as to prevent transmission beyond the lot lines of earthshaking vibrations perceptible without the aid of instruments.

10.6-3 Performance Standards—Vibration—M3-1 To M3-5 Heavy Manufacturing Districts.

In the M3-1 to M3-5 Districts inclusive, the performance standards governing vibration in the M2 Districts shall apply.

Cincinnati, Ohio

City Ordinances: Ch. 511; Sec. 901

Chapter 511: Miscellaneous

§ 511-2. Loud Noise in the Operation of Vehicles.—It shall be unlawful for any person to operate a motor vehicle upon any street or highway so as to create loud or excessive noise. Any person operating a vehicle on a street or highway which emits or creates sound or noise in excess of 95 decibels as measured on the A scale of a General Radio Company No. 1551-A sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the right of the vehicle as said vehicle passes the sound level meter, shall, prima facie, be guilty of producing loud or excessive noise. Nothing herein shall be construed to prohibit the blowing of horns when necessary to prevent an accident or the use of sirens or other similar devices on authorized emergency vehicles.

Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not to exceed twenty-five dollars (\$25.00) for the first offense and for the second and subsequent conviction within one year thereafter by a fine of not to exceed one hundred dollars (\$100.00).

(Ornaded by Ord. No. 430-1953, effective Oct. 30, 1953; amended by Ord. No. 406-1958, effective Dec. 13, 1958).

§ 511-16. Noisy Mufflers.—No person shall sell, or give away for use upon, or install, or use on any motor vehicle operated in the city of Cincinnati, any type of muffler that shall modify the exhaust system of a motor vehicle in any manner that will amplify or increase the noise emitted by the motor of such vehicle.

(Ornaded by Ord. No. 353-1957, effective Oct. 11, 1957).

§ 901-L7. Loud Noises.—It shall be unlawful for any person, firm or corporation to operate or cause to be operated, any whistle, rattle, bell, gong, clapper, hammer, drum, horn, player piano, callope, radio, phonograph, or other sound-producing or sound-amplifying instrument or in any other way to create noise or sound in such manner as to disturb the peace and quiet of a neighborhood or to interfere with the transaction of business or other ordinary pursuits. Any violation of this section shall be punishable by a fine of not to exceed twenty-five dollars (\$25.00); but nothing herein shall be construed to affect the usual and reasonable operation of steam railroads, electric railways and motor buses, or to prohibit the reasonable use of automobile warning signals, the reasonable ring of church bells or the reasonable and ordinary noises attendant on athletic contests or lawful public or semi-public meetings, parades or celebrations.

(c 618)

§ 901-L8. Loud Noises, Music.—It shall be unlawful for any person, association, firm or corporation, operating a restaurant, hotel, summer garden or other place of refreshment or entertainment to permit, or for any person in or about such restaurant, hotel, summer garden or other place of refreshment or entertainment to engage in, the playing or rendition of music of any kind, singing, loud talking or other noises on or about the premises, in such manner as to disturb the peace and quiet of the neighborhood, having due regard for the proximity of places of residence, hospitals, or other residential institutions and to any other conditions affected by such noises.

It shall be prima facie unlawful for any person, association, firm or corporation, operating a restaurant, hotel, summer garden or other place of refreshment or entertainment to engage in the playing or rendition of music of any kind, singing, loud talking or other noises on or about the premises during the night season after eleven o'clock p.m.

In every charge of violation of this section the affidavit shall state the hour at which the offense is alleged to have occurred.

Any person, association, firm or corporation violating this section shall be fined not to exceed two hundred dollars (\$200.00).

(c 618-1)

Columbus, Ohio

Business Regulation and Licensing Code:
Art. 5

Article Five—Businesses

Chapter 531: Amplification Equipment;
Sound Trucks

531.01 Definition.—For the purpose of this chapter the following words and phrases shall have the meanings ascribed to them by this section:

"Aircraft" shall mean any contrivance now known or hereafter invented, used or designed for navigation or flight in the air.

"Sound amplification equipment" shall mean any machine or device for the amplification of the human voice, music or any other noise or sound, but shall not be construed as including standard radios or phonographs and other devices of like nature when used and heard only by persons who are in the building, vehicle or aircraft or on the privately owned premises where such radio, phonograph or similar device is located, nor as including warning devices on authorized emergency vehicles or aircraft, or horns or any other warning devices used only for traffic safety purposes.

"Sound truck" shall mean any vehicle, having mounted thereon or attached thereto, any sound amplification equipment. (§ 28.7.)

531.02 Use in aircraft prohibited.—No person shall operate or cause to be operated in and over the City any aircraft with sound

amplification equipment in operation, the sound from which is plainly audible to persons on the streets or public grounds of the City. (§ 28.8.)

531.03 Commercial use restriction.—No person shall operate or cause to be operated for commercial advertising purposes any sound amplification equipment, the sound from which is plainly audible to persons on the streets or public grounds. (§ 28.9.)

531.04 Regulations for noncommercial use.—The operation of sound amplification equipment for noncommercial purposes shall be permitted subject to the limitations set forth in C.C. 531.05 through 531.10. (§ 28.10.)

531.05 Registration statement.—No person shall operate or cause to be operated on the streets or public grounds any sound amplification equipment, or operate or cause to be operated any sound amplification equipment for the purpose of conveying the sound thereon on and over the streets or public grounds without first, in either case, filing a written registration statement with the Director of Public Safety. Nothing herein stated shall be construed as requiring a registration statement to be filed in case of the operation of sound amplification equipment on privately owned premises when the sound from such is not audible beyond the limits of such premises or where such sound is not greater than is reasonably necessary to be plainly audible to persons lawfully assembled on such premises as voluntary listeners thereto.

Such registration statement shall be filed in duplicate and shall state the following:

(a) Name, home address and place of business of applicant.

(b) Name, home address and place of business of owner of sound amplification equipment.

(c) Name and address of person having direct charge of sound amplification equipment.

(d) General description of sound amplification equipment including statement whether to be employed as a stationary installation or on a moving sound truck.

(e) If sound truck used, its license and motor number.

(f) The noncommercial use or purpose for which sound amplification equipment will be used.

(g) If moving sound truck used, a general description of the sections of the City in which it will be used.

(h) If sound amplification equipment is to be operated from stationary installation, a general statement as to such location and as to size of the area which will be occupied by any lawful assemblage voluntarily assembled for the purpose of listening thereto.

(i) The proposed times that such sound amplification equipment will be in operation.

(j) The approximate maximum distance for which sound will be thrown from the sound amplification equipment during the proposed operation.

The Director of Public Safety shall return to each such applicant one copy of such registration statement duly certified by the Director as a copy of such application. No person required herein to file a registration statement shall operate any sound amplification equipment unless such person has in his possession a certified copy of the registration statement, and this copy shall be promptly displayed and shown to any policeman on request (§ 28.10.)

531.06 Attracting attention to buildings.—No person shall operate or cause to be operated, for the purpose of attracting the attention of the public to any building, structure or location, any sound amplification equipment, the sound from which is plainly audible to persons on the streets or public grounds. (§ 28.10.)

531.07 Equipment near hospitals, schools, churches.—No person shall, within one hundred and fifty yards of a hospital, school,

church or courthouse, in actual use of such, operate or cause to be operated any sound amplification equipment, the sound from which is plainly audible to persons on the streets or public grounds. (§ 28.10.)

531.08 Indecent language.—No person shall operate or cause to be operated any sound amplification equipment the sound from which is profane, lewd or indecent. (§ 28.10.)

531.09 Only human voices or music to be amplified.—No person shall operate or cause to be operated any sound amplification equipment for which a registration statement is herein required to be filed except for the purpose of the amplification of the human voice or music. (§ 28.10.)

531.10 Volume.—The operation of sound amplification equipment for the purpose of the amplification of any noncommercial speech, address, announcement or music to persons lawfully assembled as voluntary listeners thereto shall be permitted, but no person shall operate or cause to be operated any sound amplification equipment, the sound from which is plainly audible to persons on the streets or public grounds, without controlling the volume of sound so as not to be greater than reasonably required to be plainly audible throughout the area of such lawful voluntary assemblage. (§ 28.10.)

531.11 Regulations for sound trucks.—No person shall operate or cause to be operated any sound amplification equipment, the sound of which is plainly audible to persons on the streets and public grounds, for any purpose except as set forth in C. C. 531.10; provided, however, that the requirement of the presence of a lawful assemblage of voluntary listeners shall not be applicable to the use of sound amplification equipment on moving sound trucks, which are operated in accordance with the limitations hereinabove set forth and the following additional regulations:

(a) Such operation is forbidden on Sundays and legal holidays and between the hours of 5:00 p.m. and 9:00 a.m., except as an integral part of an authorized parade.

(b) Such sound truck shall be operated at a speed of at least ten miles per hour except when such truck is stopped or impeded by traffic, in which case the sound amplification equipment shall not be operated for longer than one minute at each such stop.

(c) Except as an integral part of an authorized parade, the operation of such sound truck shall be forbidden within the downtown congested traffic area, bounded by and including Naughten Street on the north, Grant Avenue on the east, Mound Street on the south and Riverside Drive and West Street on the west.

(d) Such sound truck shall not be operated over the same street or portion of any public grounds more than once during any one day.

(e) The volume of sound from such sound truck shall be controlled so that it will not be audible for a distance in excess of one hundred yards from the sound truck and so that such volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility. (§ 28.11.)

531.12 Exceptions.—Nothing contained in this article shall be construed as prohibiting the ringing or playing of bells or chimes in or upon church buildings, as prohibiting the amplification of yuletide music during a period of not to exceed two weeks immediately prior to and including Christmas to the extent that such amplification of yuletide music is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility, as prohibiting the use of sound amplification equipment on private premises for the communication of instructions and warnings to or between employees in the ordinary conduct of a business or industry to the extent that such amplifi-

cation is not greater than is reasonably necessary to be plainly audible to such employees, nor as prohibiting the use of sound amplification equipment in emergencies for the preservation of the life, limb, health and property of any person. (§ 28.12.)

General Offenses Code: Ch. 2327

2327.11. Nighttime operation of noisy business in residence area.—No owner, proprietor, manager or superintendent of a manufactory, or other business or plant, in which machinery or other instrumentalities are used which produce loud or disturbing noises, in a residence block or square bounded by three or more public streets, in which more than sixty per cent in area of the surface of the land is owned or used for residence purposes, shall keep open or operate such factory, plant or business between the hours of 10:00 p.m. and 6:00 a.m.; provided, however, that this section shall not apply to any person while engaged in the construction or reconstruction of a public street or highway pursuant to a contract with the City of Columbus or State of Ohio. (Ord. 635-63.)

2327.12. Blowing whistles.—It shall be unlawful for any railroad company or any agent or employee of any railroad company or for any person to blow or sound any locomotive whistle, or other steam whistle, within the corporate limits.

The provisions of this section shall not be construed so as to prevent the blowing or sounding of any locomotive whistle in case of immediate danger, or of the blowing or sounding of any steam whistle when it may be necessary, in notifying employees of factories of the time of commencing and stopping work. (§ 28.2.)

2327.13. Noise near hospitals.—No person shall emit or cause any loud noise within one hundred and fifty feet from the outer lines of the building or grounds of any hospital. (§ 28.3.)

2327.14. Sounding instrument to gain business.—No person shall employ any bell man, or use or cause to be used any bell or other sounding instrument, as a means of attracting people to an auction or other place, or to gain passengers for any carriage, cab, hack, coach, or omnibus, or other vehicle. No person shall permit any such bell or sounding instrument to be used for or on his account. (§ 28.4.)

2327.15. Disturbing persons with bell or noisemaker.—No person designedly shall disturb or annoy any person or assembly with bells, horns, drums, or by any other noise, or by ringing doorbells. (§ 28.5.)

Zoning Code: Ch. 3343

3343.11 Noise, seismic effects and particulate matter; performance standards for EQ Excavation and Quarrying Districts.—

(a) (1) As measured at any street or other property line, the maximum sound intensity resulting from blasting or drilling shall not exceed one hundred decibels.

(2) The quantity of explosive in any primary shot shall be controlled to prevent damage to any structure of normal construction or to avoid creation of a nuisance to surrounding property and shall not exceed that specified in the following table:

Distance from blast area to nearest structure, neither quarry owned nor quarry leased (in feet)	Maximum quantity of explosives per shot for instantaneous firing or per delay for delay firing in pounds	
	Normal overburden	Abnormal overburden ²
1001.....	340	70
200.....	420	78
300.....	525	100
400.....	635	125
500.....	800	160
600.....	950	200
700.....	1,175	245
800.....	1,500	300
900.....	1,830	360
1,000.....	2,250	430

Footnotes at end of table.

Distance from blast area to nearest structure, neither quarry owned nor quarry leased (in feet)	Maximum quantity of explosives per shot for instantaneous firing or per delay for delay firing in pounds	
	Normal overburden	Abnormal overburden ²
1,200.....	3,500	610
1,400.....		820
1,600.....		1,250
1,800.....		1,900
2,000.....		3,000

¹ Minimum allowable distance when approved missile protection methods are used.
² More than 50 feet to bedrock.

(3) When ground frequency and displacement in relation to the quantity of explosive in a primary blast can be determined by approved instrumentation, such blast shall be controlled in accordance with the maximum allowable amplitudes of ground vibration in relation to vibration frequency specified in the following table:

Table of frequency.—Amplitude relations frequency of maximum amplitude ground motion in cycles per second inches	
Up to 10.....	Not more than 0.0305
20.....	0.0153
30.....	0.0102
40.....	0.0076
50.....	0.0061
60.....	0.0051

3343.03 Noise.—All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and, as measured at any property line, shall not exceed the following intensity in relation to sound frequency: (See C. C. 3343.10 for requirements for EQ Excavation and Quarrying Districts).

MAXIMUM PERMITTED SOUND LEVELS, IN DECIBELS, FOR M-1 AND M-MANUFACTURING DISTRICTS

Octave band in cycles per second	Along residence district boundaries (decibels)	District boundaries along commercial (decibels)
0 to 150.....	65	75
150 to 300.....	57	67
300 to 600.....	50	60
600 to 1,200.....	45	55
1,200 to 2,400.....	40	50
2,400 to 4,800.....	34	43
Above 4,800.....	32	40

Such sound levels shall be measured with a sound level meter and an octave band analyzer conforming with specifications of

TABLE 1.—MAXIMUM PERMISSIBLE DAYTIME OCTAVE BAND DECIBEL LIMITS AT THE BOUNDING PROPERTY LINE OF A USE IN THE I-1, I-2, PLANNED INDUSTRIAL (PD) DISTRICT

Decibel band limit (db re 0.0002 microbar).....	Octave band (c.p.s.)								A scale
	37	75	150	300	600	1200	2400	4800	
	86	76	70	65	63	58	55	53	65

Note: A scale levels are provided for monitoring purposes only.

10-423 Permissible Noise Level: I-3 District.—a. At no point at the bounding property line of any use in the I-3 District shall the sound pressure level of any operation or plant exceed the decibel limits specified in the octave bands designated in Table 2, nor shall the sound pressure level at any I-3

the American Standards Association. (§ 47.07; Ord. 1540-58.)

(b) Secondary Blasting.
(1) Whenever practicable, oversize fragments shall be reduced to shovel or crusher size by use of the ball method.

(2) Mud-capping shall be prohibited.
(3) Not more than ten pounds of explosives shall be detonated at any one time in a secondary blast.

(c) Other requirements.
Any users authorized in an EQ District shall comply with C. C. 3341.03. (§ 47.07; Ord. 1540-58.)

Dallas, Tex.
Zoning Ordinance

10-420 Noise.
10-421 Measurement of noise shall be made with a sound level meter and octave band analyzer meeting the standards prescribed by the American Standards Association. The instruments shall be maintained in calibration and good working order. Octave band corrections may be employed in meeting the response specification. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreens for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured. Times when the level of the primary noise being measured does not exceed that of the background noise in all octave bands shall be considered as "off times" of the primary noise in determining the corrections from Table 5, 10-426b.

10-422 Permissible Noise Level: I-1 and I-2, Planned Development Districts (Industrial).—a. At no point at the bounding property line of any use in the I-1, I-2 or PD District shall the sound pressure level of any operation or plant exceed the decibel limits specified in the octave bands designated in Table 1, nor shall the sound pressure level at any I-1, I-2 or PD District boundary line adjacent to a residential, retail or commercial district exceed the decibel limits specified in the octave bands designated by Table 3 for Residential Districts and Table 4 for Retail and Commercial Districts.

b. Table 1.

TABLE 1.—MAXIMUM PERMISSIBLE DAYTIME OCTAVE BAND DECIBEL LIMITS AT THE BOUNDING PROPERTY LINE OF A USE IN THE I-1, I-2, PLANNED INDUSTRIAL (PD) DISTRICT

Decibel band limit (db re 0.0002 microbar).....	Octave band (c.p.s.)								A scale
	37	75	150	300	600	1200	2400	4800	
	86	76	70	65	63	58	55	53	65

Note: A scale levels are provided for monitoring purposes only.

District boundary line adjacent to a residential, retail or commercial district exceed the decibel limits specified in the octave bands designated by Table 3 for Residential Districts and Table 4 and Retail and Commercial Districts.

b. Table 2.

TABLE 2.—MAXIMUM PERMISSIBLE DAYTIME OCTAVE BAND DECIBEL LIMITS AT THE BOUNDING PROPERTY LINE OF A USE IN THE I-3 DISTRICT

Decibel band limit (db re 0.0002 microbar).....	Octave band (c.p.s.)								A scale
	37	75	150	300	600	1200	2400	4800	
	90	80	74	69	65	62	60	58	70

Note: A scale levels are provided for monitoring purposes only.

10424 Permissible Noise Level: Residential Districts.—a. At no point on the district boundary line of any residential type district nor at any point on the bounding property line of any use within the boundary of such

districts shall the sound level pressure from any operation, use or occupancy exceed the decibel limits specified in the octave bands designated in Table 3.
b. Table 3.

TABLE 3.—MAXIMUM PERMISSIBLE DAYTIME OCTAVE BAND DECIBEL LIMITS, AT OR WITHIN THE BOUNDARY OF A RESIDENTIAL DISTRICT

	Octave band (c.p.s.)								A scale
	37 75	75 150	150 300	300 600	600 1,200	1,200 2,400	2,400 4,800	4,800 9,600	
Decibel band limit (db 0.0002 microbar).....	80	68	61	55	51	48	45	43	56

Note: A scale levels are provided for monitoring purposes only.

10-425 Permissible Noise Level: Retail and Commercial Districts.—a. At no point on the district boundary line of any retail or commercial type district, nor at any point on the bounding property line of any use within the boundary of such districts shall

the sound pressure level from any operation, use or occupancy exceed the decibel limits specified in the octave band limits, designated in Table 4.
b. Table 4.

TABLE 4.—MAXIMUM PERMISSIBLE DAYTIME OCTAVE BAND DECIBEL LIMITS, AT OR WITHIN THE BOUNDARY OF A RETAIL OR COMMERCIAL DISTRICT

	Octave band (c.p.s.)								A scale
	37 75	75 150	150 300	300 600	600 1,200	1,200 2,400	2,400 4,800	4,800 9,600	
Decibel band limit (db 0.0002 microbar).....	84	73	67	62	58	55	52	50	63

Note: A scale levels are provided for monitoring purposes only.

10-426 Special Noise Level Corrections.—a. Corrections shall be made to the basic octave band levels specified in Tables 1, 2, 3 and 4 for the specific conditions listed in accordance with Table 5.
b. Table 5.

TABLE 5.—CORRECTIONS PERMITTED TO BASIC OCTAVE BAND LEVELS

Noise is present at nighttime..... Subtract 7 db
Noise contains strong pure-tone components or is impulsive (meterreading changes at a rate greater than 10 decibels per second)..... Subtract 7 db

	And an "off time" between successive "on times" of at least—		Level
	Hours		
Noise has an "on time" of no more than—			
0.5 minute.....	1/2	(0)	
5.0 minutes.....	1	(0)	
10.0 minutes.....	2	(0)	
20.0 minutes.....	4	(0)	

¹Add 10 decibels to permitted level.

Dayton, Ohio

City Ordinance, Sec. 420: separate pamphlet issued by the Police Department

SUMMARY OF THE NOISE ABATEMENT ORDINANCE—CITY OF DAYTON, OHIO (Issued by Division of Police)

The reasons for the ordinance: We never completely adjust our physical, mental or nervous systems to noise. Every sound registers in our minds. Although our sub-conscious minds may try to ignore irrelevant sounds, such noises often repeated cause fatigue, mental discomfort and decreased efficiency.

It has been estimated that noise costs thousands of dollars a day. In offices and factories, decreased efficiency has been traced directly to the constant impact of unnecessary noise. Distracting noise can and does cause costly errors and accidents.

Noise which enters your bedroom while you sleep registers on your mind and causes unnecessary mental activity. Such sounds result in increased physical activity while

asleep, because they induce instinctive action.

In an effort to make Dayton a more peaceful and restful place in which to live, and for the benefit of all those who live and work in Dayton, the City Commission has passed a Noise Abatement Ordinance. For your information and guidance, this pamphlet gives you the highlights of the sixteen sections of this ordinance.

- It is illegal:
1. To use an automobile horn except as a danger warning.
 2. To use radios, phonographs, etc. between midnight and 7:00 a.m. so that they may be heard at a distance of 50 feet from the building in which they are located.
 3. To use loud speakers, amplifiers, etc., for commercial advertising in such a way the sound is cast upon a public street.
 4. To yell, shout or whistle between midnight and 7:00 a.m. so as to disturb or annoy others.
 5. To keep animals or birds which cause frequent or loud noise disturbing persons in the vicinity.
 6. To blow a steam whistle except as a danger signal or notice of time to begin or stop work.
 7. To permit the discharge of the exhaust of any steam or internal combustion engine, motor boat or motor vehicle except through a muffler which prevents loud or explosive noises.
 8. To use an automobile or other vehicle so out of repair or so loaded in such a manner that it creates unnecessary noise.
 9. To create loud and excessive noise in loading or unloading vehicles or in destroying boxes, crates, etc.
 10. To erect, demolish or alter any building after 6:00 p.m. or before 7:00 a.m. on Sundays except where a special permit has been granted by the Building Inspector.
 11. To create excessive noise in the vicinity of any school, court, church or hospital while in use.
 12. For hawkers or peddlers to disturb the peace and quiet by shouting or crying their wares.
 13. To use drums or other noise making instruments for attracting attention to any performance, show or sale.

14. To transport rails, pillars or columns of metal or other material loaded in such a manner as to cause loud noises or disturb the peace and quiet.

15. To use pile drivers, pneumatic hammers, steam shovels or other appliances resulting in loud or unusual noises between 10:00 p.m. and 7:00 a.m.

16. To operate any noise-creating blower or power fan or internal combustion engine unless equipped with a muffling device to deaden the noise.

Violation of any of the provisions of this ordinance is punishable upon conviction by a fine of not more than \$200.00 or imprisonment not longer than 30 days or both.

Revised City Code

Section 420. Noises declared a detriment to public health.—It is found and declared that:

(a) The making and creation of loud, unnecessary or unusual noises within the limits of the City of Dayton is a condition which has existed for some time and the extent and volume of such noises is increasing;

(b) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use effect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of Dayton; and

(c) The necessity in the public interest for the provisions and prohibition hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City of Dayton and its inhabitants.

Sec. 1: Ord. 16964: 8-2-50; amend.

Sec. 1: Ord. 12624: 10-28-25.

Section 420-1. Noise prohibited.—It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the City.

Sec. 2: Ord. 16964: 8-2-50.

Section 420-2. Noise defined.—The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

(1) *Horns, Signaling Devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, trolley coach or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) *Radios, Phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of

any such set, instrument, phonograph, machine or device between the hours of twelve o'clock P.M. and seven o'clock A.M. in such manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) *Loud Speakers, Amplifiers for Advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(4) *Yelling, Shouting, etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 12 P.M. and 7 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(5) *Animals, Birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of persons in the vicinity.

(6) *Steam Whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper City Authorities.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) *Defect in Vehicle or Load.* The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(9) *Loading, Unloading, Opening Boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(10) *Construction or Repairing of Buildings.* The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7 A.M. and 6 P.M. on week days, except in cases of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6 P.M. and 7 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6 P.M. and 7 A.M., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(11) *Schools, Courts, Churches, Hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(12) *Hawkers, Peddlers.* The shouting and crying of peddlers, hawkers and vendors

which disturbs the peace and quiet of the neighborhood.

(13) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(14) *Metal Rails, Pillars and Columns, Transportation Thereof.* The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner or loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) *Pile Drivers, Hammers etc.* The operation between the hours of 10 P.M. and 7 A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electrical hoist or other appliance, the use of which is attended by loud or unusual noise.

(16) *Blowers.* The operating of any noise-creating blower or power fan or any internal combustion engine, the operation which causes noise due to the explosion of operating gasses or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

Sec. 2: Ord. 16964: 8-2-50.

Section 420-3. Penalties.—Any person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding \$200.00 or by imprisonment for not more than 30 days, or by both said fine and said imprisonment.

Sec. 2: Ord. 16964: 8-2-50.

Section 420-4. Separability.—It is the intention of the City Commission that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Commission that if any provision of this ordinance be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

Sec. 2: Ord. 16964: 8-2-50.

Section 420-5. Definitions.—(a) "Person". The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm, corporation, association, club, partnership, society or any other form of association or organization.

(b) "Sound Truck". The words "sound truck" as used herein shall mean any motor vehicle, or horse-drawn vehicle, having mounted thereon, or attached thereto, any sound amplifying equipment.

(c) "Sound Amplifying Equipment". The words "sound amplifying equipment" as used herein shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" as used herein shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.

Sec. 1: Ord. 16974: 8-23-50.

Section 420-6. Prohibition of sound trucks and sound amplifying equipment.—No person shall use or cause to be used a sound truck with sound amplifying equipment in operation within the City of Dayton; provided, however, that in the event of a public disaster, act of God, or other emergency, any public utility company may disseminate information to the public by sound amplifying equipment.

Sec. 1: Ord. 22186: 8-3-66; amends Sec. 1: Ord. 19039: 4-30-58; amends Sec. 1: Ord. 16974: 8-23-50.

Section 420-7. Repealed by Sec. 2: Ord. 22186: 8-3-66.

Section 420-8. Penalties.—Any person who violates any provision of this ordinance shall

be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding Two Hundred Dollars (\$200.00) or by imprisonment for not more than thirty (30) days, or by both said fine and said imprisonment.

Sec. 1: Ord. 16974: 8-23-50.

Section 420-9. Separability.—It is the intention of the City Commission that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Commission that if any provision of this ordinance be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

Sec. 1: Ord. 16974: 8-23-50.

Section 420-10. Definitions.—(a) "Person". The word "person" as used herein shall include the singular and plural and shall also mean and include any person, firm, corporation, association, club, partnership, society or any other form of association or organization.

(b) "Aircraft"—The word "aircraft" as used herein shall mean any contrivance now known or hereafter invented, used, or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

(c) "Sound amplifying equipment"—The words "sound amplifying equipment" as used herein shall mean any machine or device for the amplification of music, the human voice, or any other noise or sound. "Sound amplifying equipment" shall not be construed as including warning devices on authorized emergency aircraft or any horns, or other warning device used only for traffic safety purposes.

Sec. 1: Ord. 16966: 8-2-50.

Section 420-11. Sound Amplification From Aircraft Prohibited.—No person shall operate, or cause to be operated, any aircraft for any purpose in or over the City of Dayton with sound amplifying equipment in operation.

Sec. 1: Ord. 16966: 8-2-50.

Section 420-12. Penalties.—Any person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding Two Hundred Dollars (\$200.00), or by imprisonment for not more than thirty (30) days, or by both said fine and said imprisonment.

Sec. 1: Ord. 16966: 8-2-50.

Excerpt From City of Dayton, Ohio

Zoning Ordinance

Adopted February 7, 1968

211.15 Noise.

211.15A Method of measurement.—For the purpose of measuring the intensity and frequency of sound, the sound level meter, the octave band analyzer, and the impact noise analyzer shall be employed. The flat network and the fast meter response of the sound level meter shall be used. Sounds of short duration as from forge hammers, punch presses, and metal shears which cannot be measured accurately with the sound level meter shall be measured with the impact noise analyzer.

Octave band analyzers calibrated in the Preferred Frequencies (American Standards Association S1.6-1960, Preferred Frequencies for Acoustical Measurements) shall be used with Table I (A through D). Octave band analyzers calibrated with pre-1960 octave band (American Standards Association Z24.10-1953, Octave Band Filter Set) shall use Table II (A through D) below.

For impact sounds measured with the impact noise analyzer, the sound pressure levels set forth in Tables I and II (A through D) may be increased by six decibels in each octave band.

211.15B Exemptions.—The following uses and activities shall be exempt from the noise level regulations:

- (1) Noises not directly under the control of the property users.
 - (2) Noises emanating from construction and maintenance activities between 7:00 A.M. and 9:00 P.M.
 - (3) The noises of safety signals, warning devices, and emergency pressure relief valves.
 - (4) Transient noises of moving sources such as automobiles, trucks, airplanes and railroads.
- 211.15C *Required Performance Level.*—No operation or activity shall cause or create noise in excess of the sound levels prescribed below.

211.15D *Standards in the B-3 General Business District, B-4 Central Business District and I-1 Light Industrial District.*—(1) At the district boundaries. In the B-3, B-4 and the I-1 Districts at no point on or beyond the boundary of the zoning district, shall the sound pressure level resulting from any use, operation or activity exceed the maximum permitted sound levels as set forth in Tables IA and IIA.

Table IA, Preferred frequencies

Center frequency, cycles per second:	Maximum permitted sound pressure level, decibels
31.5	65
63.0	67
125.0	66
250.0	59
500.0	52
1,000.0	46
2,000.0	37
4,000.0	26
8,000.0	17

Table IIA, Pre-1960 Octave Bands

Octave band, cycles per second:	Maximum permitted sound pressure level, decibels
20- 75	67
75- 150	66
150- 300	61
300- 600	54
600-1200	47
1200-2400	39
2400-4800	29
4800-10 KC	20

(2) At lot lines. In the B-3, B-4 and the I-1 Districts at no point on or beyond the boundary of any lot, shall the sound pressure level resulting from any use, operation or activity exceed the maximum permitted decibel levels for the designated octave bands as set forth in Tables IB and IIB.

Table IB, Preferred frequencies

Center frequency, cycles per second:	Maximum permitted sound pressure level, decibels
31.5	76
63.0	74
125.0	68
250.0	63
500.0	57
1,000.0	52
2,000.0	45
4,000.0	38
8,000.0	32

Table IIB, Pre-1960 octave bands

Octave band, cycles per second	Maximum permitted sound pressure level, decibels
20- 75	75
75- 150	70
150- 300	64
300- 600	53
600-1200	47
1200-2400	40
2400-4800	34
4800- 10 KC	

211.15E *Standards in the I-2 General Industrial District.*—In the I-2 District at no point on or beyond the boundary of the zoning district, shall the sound pressure level resulting from any use, operation, or activity exceed the maximum permitted sound levels as set forth in Tables IC and IIC.

Table IC, Preferred frequencies

Center frequency, cycles per second:	Maximum permitted sound pressure level, decibels
31.5	76
63.0	74
125.0	68
250.0	63
500.0	57
1,000.0	52
2,000.0	45
4,000.0	38
8,000.0	32

Table IIC, Pre-1960 octave bands

Octave band, cycles per second:	Maximum permitted Sound pressure level, decibels
20-75	75
75-150	70
150-300	64
300-600	59
600-1200	53
1200-2400	47
2400-4800	40
4800-10 KC	34

211.15F *Standards in the I-3 Heavy Industrial District.*—(1) In the I-3 District at no point on or beyond the boundary of the zoning district, shall the sound pressure level resulting from any use, operation, or activity exceed the maximum permitted sound levels as set forth in Tables ID and IID.

Table ID, Preferred frequencies

Center frequency, cycles per second:	Maximum permitted sound pressure level, decibels
31.5	90
63.0	81
125.0	71
250.0	66
500.0	61
2,000.0	52
4,000.0	50
8,000.0	47

Table IID, Pre-1960 octave bands

Octave band, cycles per second:	Maximum permitted sound pressure level, decibels
20-75	83
75-150	74
150-300	67
300-600	62
600-1200	57
1200-2400	53
2400-4800	51
4800-10 KC	48

(2) Between the hours of 9:00 P.M. and 7:00 A.M., the sound levels shall not exceed the maximum permitted sound pressure levels prescribed for the I-2 District in Section 211.15E.

Denver, Colorado
City Ordinances

310.8. *Disturbance of the Peace.* Park, parkways, mountain parks or other recreational facilities of the City and County of Denver etc. to disturb by loud or unusual noises.

372.1-10. *Flight Regulations:* Authority to Director of Aviation. No person shall make any unusual, unnecessary or disturbing noises with any aircraft.

507.6. *Mufflers, Prevention of Noise.* Authority of Police Department.

842.1. *Disturbing the Peace; Offensive Language.* Authority of Police Department.

842.2. *Unlawful to Produce Loud and Raucous noises upon Public property; Loud Speakers.* Authority of Police Department.

842.3. *Unlawful to emit into public places Loud and Raucous Noises.* "or any other instrument of any kind or character whatever that emits loud and raucous noises upon or over the streets or other public places of the City and County of Denver."

955.10. *Prescribed Methods for Peddling.* Authority of Police Department.

For one additional ordinance on noise, see attached Exhibit 1. Said report was pre-

pared with the hope that City Council would appropriate sufficient funds to enable the enforcement agencies to purchase the proper equipment to obtain compliance with all ordinances as applicable to noise. Council could not find funds to enable the agencies to proceed.

EXHIBIT 1

PROBLEM PRESENTED: "SHOULD THE ZONING ORDINANCE BE AMENDED AS TO THOSE SECTIONS THAT RELATE TO VOLUME OF SOUND GENERATED?"

(Prepared for Study and Discussion by Harold G. Martin, Denver, Colorado, August 11, 1967)

Except for a change in decibel readings all Sections of the Zoning Ordinance as, presently in effect, relates to "Sound" reads as follow:

Volume of Sound Generated.
Every use, unless expressly exempted by this ordinance, shall be operated so that the volume of sound inherently and recurrently generated does not exceed fifty-five decibels at any point of any boundary line of the Zone Lot on which the use is located.

Since the adoption of the Zoning Ordinance in 1956 the Department has been faced with an ever increasing number of complaints on sound and principally since the advent of window type air-conditioners.

From the Departments records we have had but one violation serious and expensive enough for the violator to appeal our order to the Board of Adjustment which resulted in the complainants, violator and Board working out a compromise. Why, a compromise? Because the evidence presented by the City would not have held up on appeal to the Courts, in that the ordinance as written, was not specific as to standards for tests as to degree of sound created.

The ordinance as to decibel level is actually meaningless because no frequency characteristics nor reference values are specified.

To quote Mr. Paul L. Michael of State College, Pennsylvania, "A decibel is just a logarithmic ratio that is dimensionless, therefore, a reference quantity must be specified to make the decibel level meaningful. Stating 55 decibels without a reference is similar to stating that "something is 10 times as large as _____" without completing the sentence.

Thus an ordinance on sound prescribing that volume of sound shall not exceed 5 decibels is meaningless without a specified frequency reference.

About three years ago Westinghouse offered to bring a friendly test case in our courts as to sounds, in excess of our standards, which were produced by window type air-conditioners.

This proposal was discussed with the City Attorney and a City Engineer and it was decided that the Section on Sound in the Zoning Ordinance was not specific enough in standards to warrant the challenge.

The Zoning Department proceeded to research for a solution and in our course of action and study were advised by the leading manufacturers of sound equipment, Acoustic Engineers and the U.S. Department of Commerce that our ordinance as relates to sound was very inadequate and that one of the best ordinances written and proven practical was being used by Montgomery County, Maryland, of which we have a copy.

All authorities suggested that our proposed revision incorporate that reference should be made to standards published by the American Standards Association and that any equipment, regardless of manufacturer, meet these standards of readings as would be taken on a "Sound Level Meter and on an Octave-Band Analyzer."

Our first question is "Why we measure 'noise'?"

That we are annoyed by a noisy device

and a noisy environment, that noise may interfere with our sleep, our work, and our recreation, or that very intense noise may cause hearing loss is frequently the basic fact that leads to noise measurements and attempts at quieting. In order to make the most significant measurements and to do the job of quieting most efficiently, it is clearly necessary to learn about these effects of noise, and how they disturb the citizens.

This answer then begs another question, what measures sound?

This is best answered in stating, a Sound-Level Meter, which is best defined that the apparent loudness that we attribute to a sound varies not only with the sound pressure but also with the frequency (or pitch) of the sound. In addition, the way it varies with frequency depends on the sound pressure. This effect can be taken into account to some extent for pure tones by including certain "weighting" networks in an instrument designed to measure sound-pressure level, and then the instrument is called a sound-level meter. In order to assist in obtaining reasonable uniformity among different instruments of this type, the American Standards Association in collaboration with scientific and engineering societies has established a standard to which sound-level meters should conform.

The instrument used to measure sound-pressure level consists of a microphone, attenuator, amplifier, and indicating meter. This instrument must have an over-all response that is uniform ("flat") as a function of frequency, and the instrument is calibrated in decibels.

Now, that we have a reading on the Sound-

level meter, how do we analyze the reading? We analyze the reading by an Octave-Bank Analyzer which is an instrument whereby even if a sound-level meter were perfect (i.e., fit with no tolerance all design objectives of the ASA Standards), the reading obtained by it in any given noise field is inadequate for a complete understanding of the problem. It is easy to see why this is so. The number of decibels indicated by a sound-level meter tells nothing about the frequency distribution of the noise. It is true that by judicious use of the weighting networks in a sound-level meter one can learn something about the frequencies present, but this knowledge is only qualitative. For most important problems it is necessary to use some type of frequency analyzer to determine the noise spectrum.

The Octave-Bank Analyzer makes possible the simple and rapid analysis of noises having complex spectra. It operates directly from the output of a microphone or sound-level meter. It can be used for all frequency analyses, except those requiring a detailed knowledge of the frequency spectrum.

Therefore, we have already seen that a sound-measuring system may consist of the sound-survey meter or of the basic sound-level meter operated alone or with a wide variety of microphones, analyzers and recorders. Confronted with so many possible choices, we ask, "What instruments should we select to do our job?"

The selection of the components of the sound-measuring system will depend entirely on what we wish to obtain from the measurements. If we are interested simply in comparing the noise in one office with that in another, the Sound-Survey Meter may be

used. On the other hand, if we must determine the effect at all frequencies, a sound-level meter and analyzer must be used. Similarly, we may want a measure of the loudness of the noise, the sound level, the sound-pressure level, the dominant pitch, the overtone structure, the extent to which it interferes with conversation, sleep or some other characteristic, and for each of these we must use a certain instrument or combination of instruments, such as the Sound-Level Meter and Octave Band Analyzer.

Three of the largest companies in the field of sound were contacted, General Radio Company, Mine Safety Appliance, and B and K Instruments, Inc., who have demonstrated their equipment and are willing to bring their traveling laboratories for any future test requested by council, city attorney, engineers and all other interested parties.

Subsequently, the agencies involved in noise problems decided to approach Council as a coordinated centralized project, whereby one agency would employ the technicians, clerks, have control of all equipment, but train police officers, building inspectors, zoning inspectors, safety and excise inspectors in the use of the equipment.

Again our project was doomed for delay because of the lack of funds till we found a Federal grant under Public Law 89-749 and we submitted our application as you will note in Exhibit 2 attached hereto.

You will note that the Department of Health and Hospitals is to be the controlling agency, supported by Zoning and Police Department personnel. The report also covers proposed changes in present ordinances on Zoning and new regulations to be adopted by the Environmental Health Section.

DETAILED BUDGET FOR THIS PERIOD (DIRECT COSTS ONLY)—FROM JUNE 1, 1968, THROUGH MAY 31, 1969

	Annual salary	Percent time or effort	Total requested for project	Applicant share	Amount requested from PHS		Annual salary	Percent time or effort	Total requested for project	Applicant share	Amount requested from PHS
	(1)	(2)	(3)	(4)	(5)		(1)	(2)	(3)	(4)	(5)
PERSONNEL						EQUIPMENT					
Director, Environmental Health Service	\$15,172	5	\$760	\$760	0	3 each sound level meters—B. & K. 2203			\$2,310	0	\$2,310
Public Health engineer	13,164	20	2,632	2,632	0	3 each octave filter set—B. & K. 1613			1,290	0	1,290
Acoustical engineer ¹	12,000	100	12,000	0	\$12,000	3 each pistonphone—B. & K. 4220			735	0	735
Sanitarian II	9,420	50	4,710	4,710	0	1 each graph level recorder—B. & K. 2305B			2,360	0	2,360
Sanitarian I	8,244	60	4,946	4,946	0	1 each vibration accelerometer—B. & K. 4312			170	0	170
Do	8,244	10	824	824	0	2 each Magra neopilot syne tape recorder and accessories			1,225	0	1,225
Do	8,244	30	2,955	2,955	0	1 each IBM typewriter			685	0	685
Zoning inspector II	9,852	30	2,473	2,473	0	Shipping costs			12	0	12
Zoning inspector I	8,244	30	2,473	2,473	0						
Police officer (captain)	11,100	5	555	555	0						
Police officer (technician)	9,120	40	3,648	3,648	0						
Police officer (patrolman)	8,352	20	1,670	1,670	0						
Clerk stenographer I	4,392	100	4,392	0	4,392						
Fringe benefits			4,413	4,413	0						
Total			46,803	30,411	16,392	Total			8,952	0	8,952
						Total			55,755	\$30,411	25,344

Note: Consultant services (include fees and travel)—Consulting services may be required in lieu of an acoustical engineer.

The City and County of Denver like many communities is confronted with the problem of noise. Three local government agencies, (Occupational Health Section of the Denver Department of Health and Hospitals, Zoning Administration, and the Police Department) have united in an effort to suppress community noise.

The objectives are to reduce occupationally induced noise and to develop enforceable community standards that will control or eliminate annoyance-type noise.

Local governmental agencies have long been aware of the noise problem in the community. However, due to the lack of equipment, inadequately trained personnel and archaic ordinances, each have been hampered in their approach to noise control.

The plan is to acquire essential equipment, train personnel, conduct a community noise evaluation study, introduce new and modified noise control ordinances, and initiate noise control methods.

At the conclusion of the grant period, the

participating agencies will definitely continue the program.

COMMUNITY NOISE EVALUATION AND CONTROL—A COMPREHENSIVE PLAN FOR THE CITY AND COUNTY OF DENVER

The City and County of Denver like many communities is confronted with the problem of noise. Noise may well have far-reaching effects on the economy of the community as well as on the health and well-being of its citizens.

To cope with the problem, three agencies of local government (Occupational Health Section of the Denver Department of Health and Hospitals, Zoning Administration and Police Department) have combined in a cooperative effort to promote, develop and maintain an environment free from the harmful and annoying effects of noise. However because of limited resources and inadequately trained personnel only minor goals have been realized in the past.

1. *Project Objectives*.—A. To reduce occu-

pationally-induced hearing loss in the community by locating, evaluating and controlling the many sources of noise in the industrial environment.

B. To develop enforceable community standards that will control or eliminate nuisance-type noise having an effect on the mental and physical well-being of the citizens of Denver.

2. *Project Evaluation*.—To measure the time spent on this project by the different personnel of the three agencies, log sheets and IBM statistical data cards will be used. This information will be summarized monthly and will show individual and total time allotted to the project.

To determine the effectiveness of the project all significant information will be recorded. This information will include the number of complaints received, investigations made, orders written and the disposition and result of each complaint investigated. When noise evaluations are made at industrial plants and nuisance noise problems are in-

vestigated, statistical information will be tallied showing the extent of each problem, public health importance and corrective methods needed, recommendations or orders written, and the final disposition and result of the investigation. Quarterly reports of this information will be made and compiled into an annual report.

Follow-up evaluations and studies will be used to determine progress being made in the program. Industrial noise measurements and the screening of certain exposed employees prior to and after sound levels have been reduced will serve as the indication of reduction in potential hearing losses. The measurement of noise levels in key locations of the community at the beginning of and throughout the program will determine the effect of the enforceable noise standards once they are provided.

3. *Project Head and Background.*—Noise can be defined as sound in the audible frequency range which by virtue of its loudness and pitch is unpleasant or has a deleterious effect on the human ear.

The effects of noise on man include the following:

A. *Psychological effects.*—Although there are many variations in individual response, noise can startle, annoy and disrupt concentration, sleep or relaxation.

B. *Interference with Communication.*—Noise which is not intense enough to cause hearing damage may still disrupt speech communication and the hearing of other desired sounds. Such disruptions will affect performance on jobs which depend upon reliable communication. Even more important, however, is the fact that the inability to hear commands or danger signals due to excessive noise increases the probability of severe accidents.

C. *Physiological effects.*—Exposure to certain levels of noise may cause temporary or permanent hearing loss. Temporary hearing loss is recoverable after a period of removal from further exposure. However, prolonged exposures (months or years) to excessive noise levels can produce permanent hearing impairment.

In addition, if the noise exposure is severe, aural pain, nausea and reduced muscular control can also occur.

In order to evaluate properly the noise exposure it is essential that adequate equipment be available. This equipment should include, as a minimum, units which will provide an on-the-spot analysis of noise being generated and sophisticated enough to examine all of the characteristics (continuous, impact, intensity and frequency) of sound and at the same time make a permanent recording of noise levels.

That noise is a serious community problem has come to the attention of the participating agencies in various ways. Through complaints received and routine investigative activities, the Occupational Health Section has uncovered many industrial plants requiring noise evaluation and control. The Zoning Administration, which regulates the volume of sound and ground vibration between adjacent properties, has been burdened with increasing noise complaint. Being ill-equipped, untrained and hampered by an archaic noise ordinance, it cannot conduct a complete evaluation and control program. The Police Department, on the other hand, while empowered to enforce existing traffic noise control ordinance, is confronted with the problem of providing documented evidence of violation in numerous court cases.

4. *Method of Procedure.*—A. The first and most essential activity to be undertaken is the acquisition of equipment. Once acquired the equipment will be made available to all participating agencies but will be maintained by the Occupational Health Section.

B. Next in the order of priority is the training of personnel. For this purpose funds have been allocated for travel and tuition of

key individuals to various schools and seminars offering instructions in noise evaluation and control.

C. The employment of an acoustical engineer, if successful, will fulfill an important adjunct to the training of personnel as well as make available the technical skills required for noise control. If this vacancy cannot be filled, the services of a consulting firm will be contracted.

D. Each agency will act independently in its area of responsibility but will be coordinated by the Denver Department of Health and Hospitals in achieving noise control.

Police Department.—Police technicians especially trained in noise evaluation and control will conduct routine and complaint-type investigations. Noise levels recorded during the time of investigation will serve as documented evidence of violation during court proceedings. It is anticipated that the existing ordinance (Appendix A—"Article 506 Mufflers, Prevention of Noise") concerning vehicular noise control will be amended in order to be more inclusive and descriptive of violations.

E. The project objectives during the proposed three year grant period will be met in the following manner:

FIRST YEAR

1. Acquire essential equipment.
2. Conduct training of personnel.
3. Initiate a comprehensive noise evaluation study.
4. Introduce new or modified noise control ordinances to City Council.

SECOND YEAR

1. Continue program of personnel training.
2. Continue noise evaluation study.
3. Initiate noise control procedures.

THIRD YEAR

1. Complete training of personnel.
2. Complete noise evaluation study.
3. Continue procedures to obtain community noise control.

5. *Participation of Other Agencies.*—The Denver Department of Health and Hospitals and its Neighborhood Health Centers will support the project objectives by providing the services of qualified medical personnel to conduct audiometric testing as the need arises. An additional participant in the project will be the Civil Defense office of the City and County of Denver, which has expressed a desire to use the sound measuring equipment to determine the effectiveness of the warning system in various locations throughout the city.

6. *Program Continuation.*—Because of a constant need for noise evaluation and control the participating agencies will definitely continue to support this project. Training of additional personnel will be carried out by the existing staff. Equipment maintenance can be budgeted annually by each agency through their operating budgets. The procurement of any new equipment, if necessary, can be requested by all three agencies in the form of a joint request.

7. *Project Staffing.*—The employment of an acoustical engineer will be necessary for the specified time of the grant. This engineer will be employed by the Department of Health and Hospitals. If a qualified person cannot be located, a contract with a private consulting engineering firm will be arranged.

The present professional staff of the Occupational Health Section consists of a registered professional sanitary engineer, a chemical engineer, and three registered professional sanitarians with experience and training in industrial hygiene.

The Zoning Department personnel includes two persons, each with over ten years experience in the investigation of noise complaints and primary knowledge in the use of basic field sound equipment.

Police Department personnel include a

captain and two technicians with many years experience in law enforcement and traffic control.

All of the above individuals except the acoustical engineer are presently employed and have been designated to participate in the project. These people will receive specialized training in noise evaluation and control under the proposed grant.

8. *Facilities Available.*—Office facilities available are those presently used by the three agencies. These are ample and adequate with the necessary desks, file space, secretarial space and storage area.

Article 612—Zoning District Regulations (Portion Pertaining to Noise Only)

District: R-O, R-I, R-2, R-2-A.

Volume of Sound Generated.—Every use, unless expressly exempted by this ordinance, shall be so operated that the volume of sound inherently and recurrently generated does not exceed fifty-five decibels at any point of any boundary line of the Zone Lot on which the use is located.

Vibration Generated.—Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the Zone Lot in which the use is located.

District: R-3, R-4, B-1, B-2, I-P, I-O, R-3-X, B-A-1, B-A-2, R-5.

Volume of Sound Generated.—Every use, unless expressly exempted by this ordinance, shall be so operated that the volume of sound inherently and recurrently generated does not exceed sixty decibels at any point of any boundary line of the Zone Lot on which the use is located.

Vibration Generated.—Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the Zone Lot on which the use is located.

District: RS-1, RS-2, RS-3, RS-4.

Volume of Sound Generated.—Every use, unless expressly exempted by this ordinance, shall be so operated that the volume of sound inherently and recurrently generated does not exceed sixty-five decibels at any point of any boundary line of the Zone Lot on which the use is located.

Vibration Generated.—Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the Zone Lot on which the use is located.

District: B-3, B-4, B-5, B-6, I-O, B-8, B-A-3, B-A-4.

Article 507 Equipment of Vehicles (Portion Pertaining to Noise Only)

6. *Mufflers, Prevention of Noise.* Every motor vehicle shall at all time be equipped with a muffler in good working order and in constant operation to prevent excessive, raucous, or unusually loud noise, smoke, or flame, and no person shall operate a motor vehicle upon the streets and highways of this City and County which is not so equipped, or which is equipped with a muffler cut-out, bypass, Hollywood pipes or any similar device. A muffler is defined for the purpose of this article as a device consisting of a series of chambers or other mechanical devices for the purpose of receiving exhaust gases from an internal combustion engine which is designed for the purpose of breaking up the sound tones and the diffusion of smoke and flame emitting therefrom.

6-1. No person shall sell, give away for use upon, install, or cause the installation to be made, or use upon any motor vehicle operated in the City and County of Denver, any type of muffler or other device that will modify the exhaust system of a motor vehicle in any manner so as to amplify or increase the noise emitted by the motor of such

motor vehicle to the point where it becomes excessive or unreasonable to the ear of the ordinary person.

EXHIBIT 2-A

SOUND CONTROL PROPOSAL

A bill for an ordinance relating to zoning changing the section pertaining to volume of sound generated

Be it enacted by the council of the city and county of Denver

Section 1. The section relating to Limitations on External Effects of Uses, and particularly the subsection relating to Volume of Sound Generated hereby changed to read as follows:

Sections 612.12-2(2), 612.13-2(2), 612.14-2(1); Volume of Sound Generated. Every use, unless expressly exempted by this ordinance, shall be so operated so as not to be objectionable due to intermittence, beat frequency or shrillness. In no event shall the sound pressure level of noise radiated continuously from a facility at nighttime exceed at the boundary line of the Zone Lot on which the use is located the values given in Table I (set out hereafter) in any octave band frequency. However, the sound pressure levels of noise radiated at nighttime shall not exceed the zone lot line the values given in Table II (set out hereafter) in any octave band frequency.

TABLE I

Maximum permissible sound-pressure levels at the zone lot line for noise radiated from a facility between the hours of 9 P.M. and 7 A.M.

(Sound Pressure Level Decibels re 0.0002 dyne/cm²)

Frequency band cycles per sound:	
20-75	85
75-150	76
150-300	70
300-600	65
600-1,200	56
1,200-2,400	54
2,400-4,000	52
4,000-10,000	49

If the noise is not smooth and continuous and is not radiated between the hours of 9 P.M. and 7 A.M., one or more of the corrections in Table III below shall be added to or subtracted from each of the decibel levels given in Table I.

TABLE II

Maximum permissible sound-pressure levels at a zone lot line for noise radiated continuously from a facility between the hours of 9 P.M. and 7 A.M.

(Sound Pressure Level Decibels re 0.0002 dyne/cm²)

Frequency band cycles per sound:	
20-75	62

TABLE I

Maximum permissible sound-pressure levels at the Zone Lot line for noise radiated continuously from a facility between the hours of 9 P.M. and 7 A.M.

(Sound Pressure-level Decibels re 0.0002 dyne/cm²)

Frequency band cycles per sound:	
20-75	79
75-100	74
150-300	66
300-600	59
600-1,200	53
1,200-2,400	47
2,400-4,000	41
4,000-10,000	39

If the noise is not smooth and continuous and is not radiated between the hours of 9 P.M. and 7 A.M., one or more of the corrections in Table III below shall be added to or

subtracted from each of the decibel levels given in Table I.

TABLE III.—TYPE OF OPERATION IN CHARACTER OF NOISE

[Correction in Decibels]

- Daytime operation only: plus 5.
- Noise source operated less than 20% of any one-hour period: plus 5*.
- Noise source operated less than 5% of any one-hour period: plus 10*.
- Noise source operated less than 1% of any one-hour period: plus 15*.
- Noise of impulsive character (hammering, etc.): minus 5.
- Noise of periodic character (hum, screech, etc.): minus 5.

Detroit, Michigan

Nuisances—Chapter 171. Compiled Ordinances of the City of Detroit

Maintaining a Nuisance 39-1-40.—Sec. 1. Nuisances not to be created or maintained. No owner or occupant, firm or corporation having control or management of any dwelling or any building, structure, excavation, business pursuit, matter or thing, shall allow any nuisance to be created or to exist on the premises of which such person, firm or corporation, is the owner or exercises control or management thereof; nor shall any person, firm or corporation owning or occupying any public or private street, alleyway or any premises whatever, or having control or management thereof, within the limits of the City of Detroit, create or maintain a nuisance thereon.

Noise Producing Devices 39-1-37.—Sec. 5. The operating or maintaining of noise making, noise amplifying or noise producing instruments or devices by which the peace or good order of the neighborhood is disturbed is hereby declared a nuisance. It shall be unlawful for any person, firm, association or corporation by himself or another to operate or maintain any radio, phonograph, player-piano, callope, or other noise making, noise amplifying or noise producing instrument or device in any public or private place in such manner by which the peace and good order of the neighborhood is disturbed or persons owning or occupying property in the neighborhood are disturbed or annoyed. (Effective June 11, 1926, Ord. 243-B.)

Vendor's Noise or Commotion 39-1-38.—Sec. 6. It shall be unlawful for any hawker, vendor, huckster, peddler, salesman, agent or other person by himself or another, selling his wares or merchandise, or disposing of his services or granting any privileges from any public or private place or structure unenclosed in whole or in part, to make a commotion or make unnecessarily loud noises for the purpose of attracting others, whereby the peace or good order of the neighborhood is disturbed, or persons owning or occupying property in the neighborhood are disturbed or annoyed. (Effective November 11, 1927, Ord. 12-C.)

Sec. 7. It shall be unlawful for any person in any vehicle to make a commotion or make unnecessarily loud noises, whereby the peace and good order of the neighborhood is disturbed, or persons owning or occupying property in the neighborhood are disturbed or annoyed. (Effective November 11, 1927, Ord. 12-C.)

Penalty

Sec. 8. Any person, persons, firm or corporation or anyone acting in behalf of said person, persons, firm or corporation violating any of the provisions of this ordinance shall upon conviction thereof be subject to a fine not exceeding five hundred (\$500.00) dollars or to imprisonment in the Detroit House of Correction for a period of not more than ninety (90) days or both such fine and imprisonment in the discretion of the court;

* Apply one of these corrections only.

Provided, That on a second conviction of violating any of the provisions of Section one (1) of this ordinance a fine of not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars or imprisonment in the Detroit House of Correction for not more than ninety (90) days or both such fine and imprisonment in the discretion of the court; and Provided further, That on a third or any subsequent conviction or convictions of violating any of the provisions of Section one (1) of this ordinance, that the punishment shall be imprisonment in the Detroit House of Correction for not less than ten (10) days nor more than ninety (90) days, and a fine of not less than fifty (\$50.00) dollars, nor more than five hundred (\$500.00) dollars. (Effective February 19, 1941, Ord. 174-D.)

Sec. 38-6-22. Approval of the air pollution control division as required in section 38-6-20 may be obtained by any one of the following methods:

By the manufacturer submitting complete test results to the air pollution control division providing such tests are made in accordance with the regulations and are supervised and attested to by a recognized noise consultant or a registered professional engineer not regularly in the employ of the manufacturer.

Sec. 38-6-26. No person shall operate, upon any street, highway, frozen public lake, stream or pond or other place open to the general public, including any area designated for the parking of vehicles, a motorcycle or motor driven cycle that is not equipped with a muffler. No person shall operate a motorcycle or motor driven cycle, upon any street, highway, frozen public lake, stream or pond or other place open to the general public, including any area designated for the parking of vehicles, which has a cut-out, muffler bypass device, special noise making equipment, or a muffler which has been so modified as to be in conflict with these regulations. A person violating this section shall upon conviction be subject to a fine of not less than twenty-five dollars (\$25.00).

Section 2. This ordinance is declared necessary for the preservation of the peace, health, safety and welfare of the people of the City of Detroit and is hereby given immediate effect.

PROGRESS REPORT 1967, AIR POLLUTION CONTROL DIVISION, DETROIT HEALTH DEPARTMENT

(By Morton Sterling, Director)

NOISE AND VIBRATION CONTROL

Public concern over noise associated with urban living again remained high. The number of complaints received during the past year was the second highest ever recorded. Work on a motorcycle noise ordinance continued and has been submitted to the Corporation Counsel for review. It is expected that the Common Council will take action on it during 1968.

Meetings with air conditioning industry have taken place regarding an ordinance regulating the noise from home air conditioning systems. It is anticipated that this ordinance will be submitted to the Common Council in the coming year.

CLASSIFICATION OF NOISE COMPLAINTS RECEIVED IN 1967

Type	Complaints	Locations
Air compressors	28	24
Air conditioners	33	27
Bump shops and stationary vehicles	17	12
Fans and blowers	65	20
Materials handling	125	35
Presses and shears	39	9
Steam cleaners and steam exhausts	3	1
Miscellaneous	62	35
Total	372	163

REPORT ON POTENTIAL NOISE PROBLEMS ARISING OUT OF HELICOPTER OPERATIONS

(By Edmund Moranty and Austin Tomlinson, Bureau of Air Pollution Control, Department of Building and Safety Engineering, City of Detroit)

Approved by: Morton Sterling, Chief, Bureau of Air Pollution Control.

CONCLUSIONS AND RECOMMENDATIONS

Present day reciprocating engine-driven helicopters, produce an overall loudness level of sufficient magnitude to require consideration in the selection of heliport sites and flight patterns. The more pertinent conclusions of this investigation are as follows:

1. Loudness levels vary with each make and design of helicopter.
2. The recommended distances to various property users are shown in the chart. The distances apply to a commercial heliport with 4 to 20 flights per day using present-day reciprocating engine-driven helicopters. It is recognized that private heliports would be used less frequently and these distances would not necessarily be applicable.
3. Information on the effect of engine exhaust mufflers on total helicopter noise is inadequate to determine the probable effects on a community. Noise reduction obtained by the use of mufflers would normally be in the

RECOMMENDED MINIMUM DISTANCES IN FEET

Class of helicopter ¹ (pounds)	Hospitals		Urban residential		Offices and commercial		Air conditioned offices and commercial	
	Day	Night	Day	Night	Day	Night	Day	Night
1— to 6,000.....	800	1,600	400	800	300	600	250	250
2—from 6,000 to 12,500.....	1,600	3,200	800	1,600	600	1,200	400	400
3—from 12,500 to 20,000.....	3,200	6,400	1,600	3,200	1,000	2,000	800	800

¹ Classes by weight according to the Helicopter Council of the Aircraft Industries Association of America.

1. Data was requested from leading manufacturers of helicopters regarding the overall noise level and frequency characteristics of their aircraft. The information supplied by the manufacturers consisted of the overall sound-pressure level at certain distances and a frequency spectrum at one of these distances. Under free field conditions, a single measurement of sound-pressure level at a known distance from a point noise source is enough information to predict the level at any other point up to approximately 1,000 feet since the sound-pressure level varies inversely as the distance from the source. At distances greater than 1,000 feet, other factors tend to increase the attenuation and this has been considered in the development of the recommended distances.

2. Letters were sent to federal agencies, noise abatement councils, and major cities in this and other countries requesting information on any noise problems caused by the operation of helicopters.

3. Abstractions from technical reports and magazine articles were made (see Bibliography).

4. The above information is related primarily to reciprocating engine-driven helicopters. In view of the presently deficient data available on helicopters powered by other types of propulsion equipment, this report only considers reciprocating engine-driven helicopters.

METHOD OF PREDICTING COMMUNITY RESPONSE TO HELICOPTER NOISE

A. Residential—Three methods of predicting community response were studied:

1. K. N. Stevens, W. A. Rosenblith, and R. H. Bolt, "A Community's Reaction to Noise".
2. Horace O. Parrack, Ph.D., Wright Air Development Center, USAF, "Community Reaction to Noise."
3. A. C. Pietrasanta and K. N. Stevens, "Noise Exposure in Communities Near Jet Air Bases."

The three methods are quite similar. They

lower frequency range, which is less annoying than equal levels in the higher frequencies. There also appears to be some reluctance on the part of manufacturers and operators to use mufflers due to the resultant increase in engine back pressure. For these reasons it is felt that the recommended distances should not be affected by muffler considerations unless further data comes to our attention to dictate otherwise.

4. In view of the many variables attendant with helicopter design and performance, such as size, type of engine, etc., it is recommended that in preference to the establishment of definite distance limitations, adequate technical data be required for each proposed heliport so a reasonably accurate prediction of community response can be made.

INTRODUCTION AND PROCEDURE

At the request of the Director of City Planning, an investigation of the noise levels resulting from heliport operations was instituted by the Bureau of Air Pollution Control. The purpose of the study was to determine the minimum distance between this operation and residential land users to prevent a community noise nuisance problem.

The following steps were taken to obtain information on the noise characteristics of helicopters:

all superimpose the noise spectrum on a family of curves designating a level rank and then apply corrections to determine a composite noise rating. This rating is then plotted on a Composite Noise Rating vs. Community Response Curve (Fig. 1) and the expected response is predicted. The above empirical relations were developed by researchers and were determined after a study of a large number of case histories involving community reaction to noise. The methods differ only in the manner of calculating and applying the correction factors.

After study, it was decided that we would use Stevens, Rosenblith and Bolt's composite noise rating method of predicting community reaction in residential areas, since it has been used in several similar studies. Briefly, this method superimposes the measured or calculated octave band spectrum of the noise onto a family of curves that define the noise level rank (Fig. 2). This noise level rank is given by the highest area into which the spectrum protrudes in any band. The ranks are designated from "a" to "m". The lower boundary "a" is the average threshold of hearing for octave bands of noise and the upper boundary "m" represents a noise spectrum in which people can communicate only by shouting in each other's ear at a distance of a few inches. Correction factors for the Noise Spectrum Character, Peak Factor, Repetitive Character, Background Noise, Time of Day, and Adjustment to Exposure (Table I) are added and a Composite Noise Rating is obtained. This rating is plotted on a Composite Rating vs. Community Response Curve (Fig. 1), and the anticipated Community Response is obtained. The procedure given above is intended mainly as a guide. As more experience is obtained in the field of neighborhood noise problems, it can be expected that some revision of the numerical values will be found desirable.

It should be noted that a decision must be made to determine the degree of community reaction that is to be considered acceptable.

From past experience of the Bureau in control activities, it is believed that sporadic complaints would represent an acceptable condition. Therefore, Point D on the Composite Noise Rating Curve has been selected for use in this report.

As an example of the above method, the Bell 47-J helicopter noise spectrum, at 400 feet as provided by the Bell Corporation, is plotted on the Noise Level Rank Curves (Fig. 2). It is noted that the highest band level is "h". Applying the correction factors from Table I as follows, for a wide band noise O, an impulsive noise +1, 4 to 20 exposures per day -3, background noise for urban residential -1, daytime -1, and previous conditioning 0, a total of -4, the Composite Noise Rating of D is obtained. Then from Figure 3 sporadic complaints are predicted.

B. Commercial and Industrial.

In order to predict the reactions of people engaged in commercial activities to helicopter noise, a shift in the method of evaluation was required. The method of S. S. Stevens was used. This involves the determination of the loudness level in phons and/or the calculation of the speech interference level.

The loudness level, in phons, of a sound is numerically equal to the sound-pressure level in decibels of a pure tone of frequency 1000 CPS, which is judged by normal observers to be equivalent in loudness. As in other sound-pressure measurements, the reference pressure is 0.0002 microbar. Table II quotes, among other things, the now generally accepted criteria in phons relating to social comfort. Experience has shown a loudness level of 60 phons will generally not cause complaints, and a loudness level of over 80 phons will produce widespread complaints.

The average sound-pressure level in decibels for the three octave bands, 600-1200, 1200-2400, and 2400-4800, is called the speech-interference level. The following requirements for communication in the presence of noise levels corresponding to various speech-interference level curves are given briefly:

1. S.I.L.=45, normal voice at 10 feet.
2. S.I.L.=55, normal voice at 3 feet, raised voice at 6 feet.
3. S.I.L.=65, raised voice at 2 feet, very loud voice at 4 feet.
4. S.I.L.=75, very loud voice at 1 foot.

By definition, any noise which exceeds the requirements of S.I.L.=45 will interfere in some way with normal conversational speech.

For the purpose of this study, we have assumed the S.I.L. of 55 to be the maximum acceptable value to prevent nuisance conditions. It is felt this level is reasonable since the community background noise approximates this value (see Fig. 16).

For example, in Fig. 4 the level for the 600-1200 band is 59DB, 1200-2400 band is 56DB, and the 2400-4800 band is 50DB. The average of 59, 56, and 50 is 55, the speech-interference level.

MAJOR SOURCES OF HELICOPTER NOISE

The three main sources of noise from reciprocating engine-driven helicopters are:

A. Engine.—The predominant noise from the reciprocating engine is the exhaust. From Hubbard & Lassiter's tests (with a nine cylinder 600 H.P. engine), the noise consists mainly of discrete frequencies ranging below 600 CPS. Although it is recognized that there is some noise associated with the high-velocity exhaust-gas stream, this component of noise is much lower in level than the discrete low-frequency components. The other engine noises from valves, gears, carburetor, and supercharger are believed to be in the same frequency range as the exhaust and are usually 10 to 15 decibels less.

B. Gear train.—Another source of noise is produced by the meshing of gear teeth, and consists of two components, i.e., tooth-contact frequency and natural frequency. Tooth-contact frequency is a function of the number of gear teeth and the rotational

speed of the gear. When the natural frequency of the tooth-gear combination is at some integral multiple of the tooth-contact frequency, a strong noise component is detected. This usually occurs from 600 to 4800 CPS.

C. Rotor.—The noise from rotors can also be conveniently considered as two separate components; namely, the rotational and vortex components. Currently used blade dimensions and operating conditions are such that the rotational noise of the tail rotor (below 100 CPS) and the vortex noise of the main rotor predominate in the overall helicopter spectrum. Since the vortex noise has its maximum on the axis of rotation of the rotor, it is the major noise observed on the ground which is produced by the main rotor while the helicopter is hovering.

Figure 15 is a noise spectrum of a conventional helicopter with a 600 H.P. reciprocating engine hovering 100 feet overhead. This graph shows the relative contributions and frequency analysis of the three main sources of noise from this type of helicopter.

Possible Future Development in Helicopter Design Which Could Affect Noise Generation

It is recognized that helicopters may be developed having different noise characteristics than present models. A rotor-tip jet propelled unit, "Fairey Rotodyne", is already in the flying stage. Recent tests made by the Ministry of Transport and Civil Aviation, London, England, indicate that distances of over 1/2 mile are needed between the helicopters and adjacent land users before the noise approaches acceptable levels. Noise suppressors are being developed for the Rotodyne, but sufficient information is not now available to attempt to predict their effect upon the community.

Due to the constantly changing status of helicopter design and operational characteristics, it would appear inadvisable to establish fixed distance limitations regulating noise which would apply to any helicopter.

Experiences of Other Cities on Helicopter Operations

Letters were forwarded to 28 major cities in the United States; London, England; Brussels, Belgium; and Paris, France requesting information on ordinances regulating the installation and operation of heliports and comments on noise nuisance situations arising from helicopter operations. Answers were received from 22 U.S. cities, London, Brussels, Paris, and Rotterdam.

A majority of the cities reported no specific regulations regarding the location or operation of heliports. However, most of the cities have ordinances regulating aircraft and, by definition, include helicopters in that category.

The cities having heliports report infrequent noise complaints, but point out that the heliports are located on piers over the water, in areas having high overall noise levels, or at regular airports, and that their flight paths are over open water, railroad tracks, or expressways.

The following information is considered the most pertinent of that received from the various cities:

1. Paris, France reported a major noise problem. Complaints were received from nearby residences, movie theaters, radio stations, and an old age home. The problem was reduced by increasing the approach altitude from 300 meters (1,000 feet) to 600 meters (2,000 feet), by rerouting the approach so that the entire flight is over the Seine River, and by cancelling all training flights from the heliport.

2. A London, England ordinance states that a helicopter shall not fly below such height as would enable it to alight without danger to persons or property on the surface in the event of failure of a power unit. Except with the written permission of the Minister and in accordance with any conditions or limita-

tions therein specified, a helicopter shall not fly over a congested area of a city, town, or settlement below a height of 1,500 feet above the highest fixed object within 2,000 feet of the helicopter. Extensive noise studies were conducted, and some of this information is incorporated herein.

3. Experiences in New York, New York, have been limited to heliports located on airports or on an area near the waterfront where the helicopter noise would not be above the noise level of other commercial activities. Some complaints were received on helicopters enroute, but none around the heliports.

4. Los Angeles Co., Calif. has a comprehensive zoning ordinance which specifically mentions heliports. A special use permit is required from the Commission under such conditions as it deems necessary for the protection of the public health, safety, and general welfare providing any use or portion thereof causing noise shall be performed in such a manner as not to create a nuisance or hazard on any adjacent property.

5. Chicago, Illinois permits heliports in all business, commercial, and manufacturing districts, but only with special permits. There appears to be no other standard of location for control of proximity to residential areas.

6. Pittsburgh, Pennsylvania prohibits any aircraft from flying less than 1,000 feet unless landing or taking off from a licensed airport. Helicopters may fly at less than minimum altitude if such operations are conducted without hazard to persons or property on the surface, and they may land in congested areas provided they have the permission of the Director of Safety and the property owner.

7. Milwaukee, Wisconsin has one privately-owned heliport outside of the regular commercial airport. It has been in operation about two months, with no nuisance complaints resulting from its operation. The method used for predicting community response to noise situations, as outlined by the Public Health Engineer, is similar to the one used in this report. The actual response of residents had invariably fallen within the limits of the predicted response.

8. Fort Worth, Texas has two licensed heliports within the city limits. The traffic pattern for both is over open country, such as golf courses, highways, etc., with a minimum altitude of 1,000 feet. They have not experienced many noise complaints.

9. Minneapolis, Minnesota has one heliport on top of a large building in the center of town. It is doubtful a problem would arise unless night flights are instituted.

10. Cincinnati, Ohio has an airport on the outskirts of town, and has not received any complaints.

11. Modesto, California prohibits landings anywhere but at the airport.

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9. Fairey Aviation Ltd., Hayes Middlesex, England
10. Sikorsky Aircraft, Stratford, Connecticut
11. Kaman Aircraft Corp., Bloomfield, Connecticut
12. Hiller Aircraft Corp., Palo Alto, California
13. Westland Aircraft, Ltd., Yeovil, England
14. Bell Helicopter Corp., Fort Worth, Texas

TABLE I.—LIST OF CORRECTION NUMBERS TO BE APPLIED TO LEVEL RANK TO GIVE NOISE RATING

Influencing factor	Possible conditions	Correction number
Noise spectrum character.	Pure-tone components.	+1
Peak factor.....	Wide-band noise.....	0
	Impulsive.....	+1
	Not impulsive.....	0
Repetitive character (about 1/2 minute noise duration assumed).	Continuous exposures to 1 per minute.	0
	10-60 exposures per hour.	-1
	1-10 exposures per hour.	-2
	4-20 exposures per day.	-3
Background noise.....	1-4 exposures per day.	-4
	1 exposure per day....	-5
	Very quiet suburban....	+1
	Suburban.....	0
Time of day.....	Residential urban.....	-1
	Urban near some industry.	-2
	Area of heavy industry.	-3
Adjustment to exposure.	Nighttime.....	0
	Daytime only.....	-1
Adjustment to exposure.	No previous conditioning.	0
	Considerable previous conditioning.	-1
	Extreme conditioning..	-2

TABLE II—NOISE CRITERIA

Loudness level (S.S. Stevens) phons	General situation	Telephone use		S.I.L. DB
		Conversation		
110	} Intolerable.....	(1) Voices very loud at 1 ft.....	} 85-75	
100		Shouting at 2-3 ft.....		
90	} Unpleasantly noisy.....	(1) Voices raised at 2 ft.....	} 65	
80		Very loud at 4 ft.....		
70	} Noisy but acceptable.....	Shouting at 8 ft.....	} 55-45	
60		Normal at 3 ft.....		
50	} Moderately noisy.....	(2) Voices raised at 6 ft.....	} 55-45	
40		Very loud at 12 ft.....		
	} Quiet to very quiet.....	(2) Easy and natural.....	}	
		(2)		

¹ Not satisfactory.
² Satisfactory.
 Table II gives the noise criteria on 2 bases: (a) Loudness levels in Phons, and (b) the speech interference level of Beranek et al, together with an indication of the difficulty of using the telephone.

Fair Lawn, New Jersey
 Borough of Fair Lawn
 Notice

Notice is hereby given that the following ordinance was amended and passed on second and final reading and adopted by the

Mayor and Council of the Borough of Fair Lawn, Bergen County, New Jersey, at a regular meeting of said Mayor and Council held at the Municipal Building in Fair Lawn on the 27th day of June 1950.
 Donald de Bruin,
 Acting Borough Clerk.

Ordinance No. 471

"An ordinance to preserve the public peace and good order; to prevent disturbances and to provide penalties for the violation thereof in the Borough of Fair Lawn, N.J." As Amended.

Be it ordained by the Council of the Borough of Fair Lawn, as follows:

Section 1. No person shall, by noise or conduct, disturb or destroy the peace of the neighborhood, or the quiet or repose of others in the neighborhood, to the detriment of health, morals or security of any human being.

Section 2. The doing of any of the following acts so as to cause a loud, disturbing or unnecessary noise shall be deemed to be a violation of this Ordinance.

The enumeration of the acts herein set forth shall not be deemed to be exclusive.

Such acts shall be deemed to be particularly disturbing when carried on between the hours of 11 P.M. and 8 A.M. on any weekday, and at any time on the Sabbath.

(a) The playing of any radio, phonograph or other musical instrument.

(b) The sounding of any horn or other signal device on any motor vehicle.

(c) The keeping of any animal or bird which shall emit frequent or long continued noises.

(d) The uttering of any loud, offensive, violent, indecent or profane language.

(e) The use of any mechanical equipment, such as bulldozers, steam shovels, mechanical saws, presses, tools or other devices, except when required in the public interest.

(f) The shouting, ringing of bells and crying of peddlers, hawkers, vendors, solicitors and canvassers.

(g) The use of any sound truck, loud speaker, sound amplifier or other such instrument.

(h) The conduct of any business or commercial enterprise that attracts the general public and by reason thereof causes continued loud or disturbing noises.

Section 3. Any person violating any of the provisions of this Ordinance shall be subject to a penalty of imprisonment in the County Jail for a term not exceeding ninety days or by a fine not exceeding \$200.00, or both. The Magistrate before whom any person is convicted of violating any of the provisions of this Ordinance shall have power to impose any fine or term of imprisonment not exceeding the maximum fixed herein.

Section 4. This Ordinance shall take effect upon passage and publication as provided by law.

Approved: June 27, 1950.

Legal Notice

Notice is hereby given that the following ordinance was passed on second and final reading as amended and adopted by the Borough Council of the Borough of Fair Lawn, Bergen County, New Jersey, at a regular meeting of said Borough Council held at the Municipal Building in Fair Lawn on the 25th day of September, 1962.

DONALD DE BRUIN,
Borough Clerk.

Ordinance No. 802

"An ordinance to amend and supplement an ordinance to preserve the public peace and good order, to prevent disturbances: and to provide penalties for the violation thereof in the Borough of Fair Lawn." as amended

Be it ordained by the Borough Council of the Borough of Fair Lawn as follows:

Section One. That Ordinance 471, being an ordinance to preserve the public peace and good order: to prevent disturbances; and to provide penalties for the violation thereof in the Borough of Fair Lawn adopted on May 27, 1950, be amended and supplemented as follows:

a. Renumber existing Section 3 as Section 5.

b. Renumber existing Section 4 as Section 6.

c. Add the following Sections:

Section 3 (a) when measured from the point of annoyance to an establishment wherein a noise originates, as stated in a written complaint filed with the Chief of Police; the sound pressure level radiated over a measurable period of time from an establishment, residence, business or other facility between the hours of 11 p.m. and 7 a.m. shall not exceed the following in any octave band of frequency.

Octave Band Cycles per Second	Sound Pressure Level in Decibels
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
above 4800	32

Operation or radiation of noise only between the hours of 7 a.m. and 11 p.m. plus 5.

Sounds of periodic character (e.g. hum, pure tones or tones, screech) minus 5.

(b) The sound pressure level shall be measured with a Sound Level Meter and Octave Band Analyzer that conforms to the latest revision of specifications published by the American Standard Association, New York, N.Y., in effect at the time of the measurements.

(c) Noises incapable of being so measured, such as those of an irregular and intermittent nature, shall be controlled so as not to become a nuisance.

Section 4. This ordinance shall be known as the "Anti-Noise Ordinance of the Borough of Fair Lawn."

Section Two. This ordinance shall take effect upon final passage and publication, as required by law.

Approved: September 25, 1962.

Fort Lauderdale, Florida
Police Ordinance

"Sec. 28-32. Hours noisy businesses may operate.—It shall be unlawful for any person to perform labor or work, or to operate or conduct any business or enterprise in the City (except gasoline filling stations as provided in Sec. 28-33) on any day except between the hours of 8:00 A.M. to 6:00 P.M. from December first of each year to July first of each year and except between the hours of 7:00 A.M. to 7:00 P.M. from July 1st of each year to December first of each year, at a location so close to inhabited dwellings."

Passed third reading this the 17th day of April, 1956.

Building Code

Sec. 4903.3 NOISE CONTROL.—The following special requirements shall apply to the control and regulation of noise nuisance from air conditioning and refrigeration machinery:

(a) All equipment, existing or hereafter installed, regardless of location, shall be maintained in good working order. Equipment so located that normal operating noises create a nuisance to adjacent owners or occupants shall be provided with sound proofing, or sound absorbing baffles, or enclosures, as approved, to insure maintenance of a reasonable noise level.

(b) All equipment on outer walls, on roofs, or in other exposed locations, which are unduly noisy, and which cause valid complaints from adjoining property owners or occupants, may be required to be relocated, redesigned or enclosed in noise retarding materials when, in the opinion of the Building Inspector or Air Conditioning and Refrigeration Inspector, such enclosure is necessary or would be effective.

(c) Special consideration shall be given to the planning of all future installations to minimize the noise nuisance to adjoining property owners or occupants, and the Build-

ing Inspector or Air Conditioning and Refrigeration Inspector shall have authority to reject or require the re-design of any system which, in his opinion, would cause such a noise nuisance. (Ord. No. C-1448, § 1, 10-7-58; effective 1-1-59)

Zoning

Sec. 47-14.1.—(a) Zoning—Place permitted . . .

Parking lots permitted under this section may be used only between the hours of 7:00 a.m., and 11:00 p.m., and shall not be provided to meet the requirements for drive-in restaurants, bars, beer gardens or night clubs.

R-4 (Multi-Res & Hotels);
"Sec. 47-65.2. Special Accessory Uses.

(c) The following regulations and limitations shall apply to the uses set out in paragraphs (a) and (b) of this section, to-wit:

(3) There shall be no show windows or displays relating to such special accessory uses on the exterior of the building or visible from adjacent property or any street except Atlantic Blvd. Rooms used for entertainment such as at bars and night clubs shall be adequately enclosed and soundproofed so that the noise level will not interfere with the quiet enjoyment of adjacent residential property.

Zoning Code (Industrial)

Sec. 47-78.1. Uses prohibited.—The uses prohibited in B-3 district shall be as follows:

(a) The use of any portion for open storage without 5-foot concrete wall in the rear and on the side of said site.

(b) Any industry or business which is obnoxious because of dust, dirt, smoke, fumes, odors, noises, vibrations, radioactive waves or dangerous hazards.

(c) Any use not specifically permitted in section 47-78. (Ord. No. C-1126, § 4, 5-17-55)

Fort Lauderdale Industrial Air Park.
Article VIII-B. "M-1-A" District.
Sec. 47-81.1. Purpose of district.

The purpose of the M-1-A zone is to govern all uses of land offered for sale within the boundaries of the Fort Lauderdale Industrial Air Park as they are now existing or may be hereafter set. The M-1-A Industrial Zone is to assure that industrial development will not have an undesirable effect because of smoke, sound, dust, dirt, noxious gases, odor, vibration, heat, or electromagnetic interference. (Ord. No. C-1968 § 1, 10-29-63; Ord. No. C-66-46, § 1, 8-2-66)

Article IX. "M-1" District.
Sec. 47-82. Uses permitted.

The uses permitted in M-1 district (industrial) shall be as follows:

(c) Any lawful business not obnoxious because of dust, dirt, smoke, fumes, odors, noise, vibrations, radioactive waves or substances which possess an abnormal explosion hazard.

Sec. 47-82.1. Uses permitted where site approved. Whenever application is made for a building permit to erect any building or improvement upon any site in M-1 district wherein the premises in the opinion of the building inspector may be or are contemplated being used for:

(j) Any operation which may be obnoxious because of emission of dust, dirt, smoke, odors, fumes or abnormal explosion hazards;

Hartford, Connecticut

Health Department, under nuisance control ordinance

Chapter 21: Noise

Sec. 21.1. Loud, disturbing and unnecessary noise prohibited.—The creation and continuation of any loud, disturbing and unnecessary noise in the city is prohibited. It shall be unlawful for any person to cause, make or contribute to creating any loud or disturbing noise of such character, intensity

or duration as to be detrimental to the life or health of any individual, or such noise as disturbs the quiet and peace of residents of the city. (Code 1949, § 25-1)

Section 21-2. Enumeration of acts declared loud and disturbing.—The following acts among others are declared to be loud, disturbing, annoying and unnecessary noises in violation of this chapter, but this enumeration shall not be deemed to be exclusive:

(a) *Blowing horns.* The sounding or blowing of any horn or signal device on any automobile, motorcycle, motorbus or other vehicle, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal; the creation by means of any signal device of any loud or harsh noise, and the sounding of such device for any unnecessary or unreasonable period of time.

(b) *Radios, phonographs, etc.* The playing of any radio, television set or phonograph or any musical instrument in such manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other residence.

(c) *Animals.* The keeping of any animal or bird which, by making frequent or long continued noise, shall disturb the comfort or repose of persons in the vicinity.

(d) *Use of vehicle.* The use of any automobile, motorcycle or vehicle so out of repair or so loaded, or used or repaired in such manner as to create loud or unnecessary noises, particularly grating, grinding, rattling or other disturbing noises.

(e) *Blowing whistles.* The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.

(f) *Exhaust discharge.* The discharge into the open air of the exhaust from any steam engine, stationary internal combustion engine, motorboat engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(g) *Devices using compressed air.* The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced.

(h) *Building operations.* The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of seven o'clock a.m. and six o'clock p.m. on week days, except in cases of necessity in the interest of public safety, and then only with permission from the proper city officials.

(i) *Noises near schools, hospitals, churches, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, library, sanatorium, hospital or court, while the same is in session, or adjacent to any church during church services, which interferes with the work or worship in any such place or institution; provided, that signs shall be displayed in such streets indicating that there is a school, hospital, church, library, sanatorium or court thereon.

(j) *Loading and unloading operations.* The creation of loud and excessive noises in connection with the loading or unloading of any vehicle, or the opening or disposition of bales, boxes, cartons and containers.

(k) *Bells or gongs.* The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof.

(l) *Hawking, peddling or soliciting.* Shouting, loud talking, crying or soliciting by peddlers, hawkers and other vendors which disturbs the quiet and peace of the neighborhood or of persons therein.

(m) *Advertising.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any

performance, show, or sale, or to the display or advertisement of merchandise, by the creation of noise.

(n) *Business establishments.* The operation of any business establishment between the hours of eight o'clock p.m. and seven o'clock a.m. in such manner as to create loud and disturbing noises, of such frequency or such volume as to annoy or disturb the quiet and comfort of any neighborhood or of persons therein, and particularly the creating of disturbing noises of such frequency and volume as to annoy or disturb the quiet, comfort, peace or repose of persons in any dwelling, hotel, boardinghouse or other type of residence. (Code 1949, § 25-2)

Cross reference—As to noise control on air conditioning equipment, see § 41-97.

Sec. 21-3. Snow removal exempted.

The removal of snow, sleet and ice by any person, firm or corporation from its parking lots and driveway facilities between the hours of eight o'clock p.m. and seven o'clock a.m. shall not constitute a violation of this chapter. (Ord. No. 4-65, 2-8-65)

Amendment note—Ord. No. 465 added § 21-3 to Ch. 21.

Sec. 41-97. Noise control.

(1) All moving apparatus used in air conditioning shall be fastened securely to its own foundations, which should be a single unit for both driver and driven apparatus, and this foundation should be carried on a noise-inert substance such as rubber in shear or cork under and around the edges of the foundation.

(2) No metal duct shall connect directly to any fan or housing without a flexible collar such as canvas or asbestos cloth. The latter shall be required for all direct-fired warm air units.

(3) Piping connections from pumps where practicable, shall be made with flexible hose, with the machinery on a floating foundation.

(4) Sharp edges of metal facing an air current shall be rounded or streamlined. Sheet metal partitions, housings and large ducts shall be so designed and braced that there will be no excessive vibrating or rattling when air is being delivered.

(5) For elimination of noise nuisance, air velocities should be kept within safe limits in accordance with recognized standards of good practice.

(6) Where fans, motors, compressors and the like are placed in rooms under or adjacent to occupied rooms, provision shall always be made to reduce noise transmission.

Cross reference—As to noise generally, see Ch. 21.

Hemet, Calif.

Ordinance No. 535 of the City of Hemet, California, amending section 12.2, chapter 12, of the Code of the City of Hemet, regarding nuisances

The City Council of the City of Hemet, California, does hereby ordain as follows:

Section 1: Subsection 10 of Section 12.2, Chapter 12, of the Code of the City of Hemet is hereby amended by adding thereto the following paragraph:

"10. *Unauthorized operation of loud speakers, etc.* Any person desiring to operate or use any loud speaker or amplifying device on any public street, or in any public place, or outside of any building facing upon a public street, shall apply to the Chief of Police for a permit to so use or operate, and the Chief of Police shall have the power to issue or deny such permits and each permit shall be issued upon such reasonable conditions as the Chief of Police shall see fit to impose. The applicant shall have the right to appeal the decision of the Chief of Police in such matters to the City Council and upon request, the City Clerk shall set the matter on the agenda of the next regular or adjourned regular meeting of the City Council. The decision of the City Council in such matters shall be final."

Section 2: Subsection 11 of Section 12.2, Chapter 12, of the Code of the City of Hemet is hereby amended to read as follows:

11. (a) *Persistent loud noises generally.* The persistent emission or maintenance of any noise produced by human, animal, fowl or mechanical, electrical or other means, which disturbs the peace or comfort, or is injurious to the health of the entire community or neighborhood or any considerable number of persons."

(b) *Electrical and mechanical noise produced in M and C-M Zones.* The production of any electrical or mechanical sound or noise from any property within the City zoned M or C-M and projected onto residential property that shall exceed the limits established and hereinafter set forth, such as but not limited to that produced by air conditioning equipment, electric generators, fans, blowers, pumps, turbines, saws, engines and other like machinery.

"The level of such sound or noise shall be determined by a Sound Level Meter and Octave Band Filter approved by the American Standards Association, and measurements shall be made at the property line of the residential property concerned closest to the property upon which the sound or noise is produced.

"The limits hereinabove referred to shall be in accordance with the following table:

"TABLE OF LIMITING NOISE LEVELS

Octave frequency band in cycles persecond	Maximum permissible sound pressure levels in decibels re 0.002 microbar
Below 75	65
75 to 150	60
151 to 600	55
601 to 2,400	45
Above 2,400	40

"In the event such noise is produced not more than 20% of any one hour, add 5 decibels; in the event such noise or sound is produced not more than 5% of any one hour, add 10 decibels, in the event such noise or sound is produced not more than 1% of any one hour, add 15 decibels. These corrective factors shall apply only in the hours of 7 o'clock a.m. to 10 o'clock P.M.

"Any person desiring to operate or use any machinery of equipment that will produce sound or noise in excess of the limits hereinabove established, on a temporary basis and/or for a specific purpose, shall apply to the Chief of Police for a permit to so use or operate. The Chief of Police shall have the power to deny or issue such permit, upon such reasonable conditions as he shall see fit to impose. The applicant shall have the right to appeal the decision of the Chief of Police to the City Council and upon request, the City Clerk shall set the matter on the agenda of the next regular or adjourned regular meeting of the City Council. The decision of the City Council in such matters shall be final."

Section 3: This ordinance is hereby declared to be an emergency ordinance the emergency being as follows:

There are at present certain noise producing activities taking place in the City of Hemet which are reportedly interfering with the health, safety and welfare of a substantial number of residents of said City. In order to effectively control such activities and to establish reasonable standards to assist the authorities in such control, this ordinance is necessary.

Section 4: The City Clerk shall certify to the adoption of this ordinance and shall cause a copy of the same to be published in The Hemet News, a newspaper of general circulation printed and published in the City of Hemet, in the manner prescribed by

law for the publishing of ordinances of said City.

Introduced at an adjourned regular meeting of the City Council held the 24th day of October, 1966.

Moved, Passed and adopted at a regular meeting of the City Council held the 12th day of December, 1966, by the following vote:

Houston, Tex.

Partial code of ordinances City of Houston, Texas—Health and Sanitation

Sec. 20-52. General Definitions.—Whatever is dangerous to human health or welfare, or whatever renders the ground, the water, the air or food a hazard or an injury to human health, is hereby declared to be a nuisance. (Code 1942, Sec. 1012)

Sec. 20-53. Specified nuisances enumerated.—The following specific acts, conditions and things are declared to constitute a public nuisance and are hereby prohibited and made unlawful:

(12) **Noise.** The emissions of noise in such a manner or to such a degree as to be a source of discomfort to persons living or passing in the vicinity. (Cross reference—As to the prevention of noises generally, see Sec. 20-70)

Sec. 20-70. Noises—Declaration of findings.—(a) The making and creation of loud, unnecessary or unusual noises within the limits of the city is a condition which has existed for some time and the extent and volume of such noises is increasing;

(b) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place or use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city; and

(c) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.

Sec. 20-71. Same—Causing, prohibited.—It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.

Sec. 20-72. Same—Acts or conditions prohibited.—The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this division, but said enumeration shall not be deemed to be exclusive, namely:

(1) **Horns, signaling devices, etc.** The sounding of any horn or signaling device or any automobile, motorcycle, street car or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) **Radios, phonographs, etc.** The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient

hearings for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of eleven o'clock p.m. and seven o'clock a.m. in such a manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located shall be *prima facie* evidence of a violation of this section.

(3) **Loud speakers, amplifiers for advertising.** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(4) **Yelling, shouting, etc.** Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of eleven o'clock p.m. and seven o'clock a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(5) **Animals, birds, etc.** The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(6) **Steam whistles.** The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

(7) **Exhausts.** The discharge into the open air of any exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) **Defect in vehicle or load.** The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(9) **Loading, unloading, opening boxes.** The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(10) **Construction or repairing of buildings.** The erection (including excavating), demolition, alteration or repair of any building other than between the hours of seven o'clock a.m. and six o'clock p.m. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of six o'clock p.m. and seven o'clock a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of six o'clock p.m. and seven o'clock a.m., upon application being made at the time permit for the work is awarded or during the progress of the work.

(11) **Schools, courts, churches, hospitals.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or un-

duly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(12) **Hawkers, peddlers.** The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(13) **Drums.** The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(14) **Metal rails, pillars, and columns, transportation thereof.** The transportation of rails, pillars, or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) **Street railway cars, operation thereof.** The causing, permitting or continuing any excessive, unnecessary and avoidable noise in the operation of a street railway car.

(16) **Pile drivers, hammers, etc.** The operation between the hours of ten o'clock p.m. and seven o'clock a.m., or any time on Sundays, of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(17) **Blowers.** The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases of fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

Indianapolis, Ind.
City Ordinances

9-911. Quiet zones for hospitals.—(1) There is hereby created and established, under the control of the board of public safety, a zone of quiet on the streets and in the territory embraced within each block and a reasonable area adjoining the location where any part of the premise of any hospital is situated, which hospital is owned, controlled or operated by any governmental unit, or by any recognized private hospital organization.

(2) It shall be the duty of said board to direct the city traffic engineer, by a survey of the extent of traffic and effect of unnecessary noises, to determine the area and location of each such quiet zones and to place or cause to be placed or maintained at each and every street intersection therein and at any other places affected thereby conspicuous signs displaying the words, "Notice, hospital zone of quiet."

(3) No person or vehicle of any kind entering any area so marked as a zone of quiet shall approach or pass any such hospital premises with the motor, or muffler and exhaust of such vehicle racing or roaring, or make any loud noises, by horn or otherwise, nor shall the brakes of any such vehicle be used unnecessarily so as to emit any screeching sound. It shall be the duty of all operators of vehicles and all other possible, reasonable quiet within such zone.

(4) The police shall enforce all provisions of this chapter relating to any kind of quiet zone.

9-912. Additional quiet zones.—(1) There are hereby created and may be at any time similarly established by the board of public safety other zones of quiet in any area where a church, or public or private school, or a court, is located and it shall be the duty of said board to direct the city traffic engineer to cause to be placed on lamp or utility posts, or in other conspicuous places on each of the street corners, or elsewhere, nearest such church, school, or court, as may be practicable, in the area or block where such church, school, or court is located, appropriate signs or placards displaying the relevant

words, "Notice, church (or school), (or court) zone of quiet."

(2) Temporary quiet zones may be similarly located, by order of said board of public safety, or of the chief of police, in any area where any person who is dangerously ill may reside, or be located, by an application made to such authorities. The board of public safety, under an order, or by general rules and regulations prescribed by it, may also create, or authorize the police to establish, for any other purpose relating to the city's exercise of its general police powers, temporary quiet zones, which shall be so posted by temporary signs placed in such manner as adequately to serve each such area. The regulations prescribed in this chapter, applicable to other zones of quiet, except the extent and manner of posting signs therefor, shall also apply to any such temporary zones of quiet, so created or established.

(3) The conduct of any person, making, causing, or permitting to be made, any unnecessary noises of any kind whatsoever, including those prohibited in hospital zones of quiet, or playing as itinerant musicians, or making loud noises or outcries for the purpose of advertising, or selling, any goods, wares or merchandise, or attracting the attention and inviting the patronage of any person to any business, or producing by any mechanical means any loud musical or other loud sound, upon any public ways or areas within any kind of zone of quiet, established in accordance with any provisions of this chapter, or code, is hereby declared to be a nuisance and is prohibited.

9-913. Penalty as to all quiet zones.—For any violation of any section or provision of this chapter, relating to any kind of zone of quiet, established pursuant to this chapter, or code, such person, upon conviction, shall be fined in any sum not exceeding twenty-five dollars for each such offense.

Chapter 3: Provisions prohibiting unnecessary noises

Section.

- 10-301. Public policy on noises.
- 10-302. Unlawful noises.
- 10-303. Penalties for aforesaid noises.
- 10-304. Definitions regarding sound trucks.
- 10-305. Non-commercial use of sound trucks—Registration.
- 10-306. Regulations of non-commercial sound trucks.
- 10-307. Commercial advertising by sound trucks prohibited.
- 10-308. Penalties relating to sound trucks.
- 10-309. Definitions regarding aircraft.
- 10-310. Non-commercial use of aircraft used for sound amplifying purposes.
- 10-311. Regulations for non-commercial use of aircraft.
- 10-312. Commercial advertising by aircraft prohibited.
- 10-313. Penalties relating to aircraft.
- 10-314. Separability clause.

10-301. Public policy on noises.—It is hereby declared, as a matter of public policy of this city, as follows:

(a) That the making and creation of loud, unnecessary or unusual noises of various kinds and by various means within the limits of this city have so increased as to constitute a public nuisance.

(b) That the making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of this city.

(c) That the necessity in the public interest for the provisions and prohibitions hereinafter contained and ordained is declared, as a matter of legislative determination for this declaration of public policy, to be designed to secure and promote the public health, comfort, convenience, safety, welfare

and prosperity, and the peace and quiet of the inhabitants and visitors in this city.

10-302. Unlawful noises.—It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise, or any noise, which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others, within the limits of the city; and accordingly the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

(1) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, street car, or other vehicle, on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand, air or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the continued or repeated use of any such signaling device when traffic is for any reason held up, or in any parade, or in any group of vehicles.

(2) Radios, Phonographs, etc. The using, operating, or permitting to be played, used or operated any radio, or television receiving set, musical instrument, phonographs, caliope, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto; except when a permit therefor for some special occasion is granted. The operation of any such set, instrument, phonograph, machine or device between the hours of eleven o'clock P.M. and seven o'clock A.M. in such a manner as to be plainly audible at a distance of fifty feet from the building, structure, or vehicle, in which it is located shall be prima facie evidence of a violation of this section.

(3) Loud Speakers, Amplifiers for Advertising. The using, operating or permitting to be played, used, or operated of any radio, or television receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound, at any places upon the public streets, or in any vehicles used for the transportation of persons for hire, as a common carrier, for the purpose of commercial or other kind of advertising, or attracting the attention of the public to any activity, or building or structure, and is so used as to disturb and annoy other persons in their business, or homes, or elsewhere in their right of personal privacy and quiet.

(4) Yelling, Shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of ten P.M. and seven A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(5) Animals, Birds, etc. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(6) Steam Whistles. The blowing of any locomotive steam whistle, or steam whistle attached to any stationary boiler, or one operated by any other means, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper city authorities.

(7) Exhausts. The discharge into the open

air of the exhaust of any steam engine, internal combustion engine, or any other type of engine or power unit, on a motorboat, motor vehicle, motorcycle, or other vehicle, or craft of any kind, except through a muffler or other device which will effectively reduce and prevent loud or explosive noises therefrom.

(8) Defect in Vehicle or Load. The use of any automobile, motorcycle, or other kind of vehicle so out of repair, or so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or other noises.

(9) Loading, Unloading, Opening, Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates, and containers.

(10) Construction or Repairing of Buildings. The erection, excavating for, demolition, alteration or repair of any building, other than between the hours of seven A.M. and six P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the city building commissioner, which permit may be granted for a period not to exceed three days while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the building commissioner should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building, or the excavation therefor, or of streets and highways, within the hours of six o'clock P.M. and seven o'clock A.M., and that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of six o'clock P.M. and seven o'clock A.M., upon application being made at the time the permit for the work is issued, or during the progress of the work.

(11) Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the operation thereof, or which disturbs or unduly annoys patients in the hospital; Provided conspicuous signs are displayed in such streets indicating that the same has been declared and is a school, hospital, or other such quiet zone.

(12) Hawkers, Peddlers. The loud shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(13) Drums. The use of any drum, horn, or other instrument or device for the purpose of attracting attention by creation of noise to any performance, exhibition, show, or sale; except in a parade or place for which a permit has been granted.

(14) Metal Rails, Pillars and Columns, Transportation Thereof. The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) Street Railway Cars, Operation Thereof. The causing, permitting or continuing any excessive, unnecessary and avoidable noise in the operation of a bus, or street railway car, or caused by defective conditions therein, or of its tracks.

(16) Pile Drivers, Hammers, etc. The operation between the hours of ten o'clock P.M. and seven o'clock A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.

(17) Blowers. The operation of any noise-creating blower or power fan, or any internal

combustion engine, the operation which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

10-303. Penalties for aforesaid noises.—Any person who commits any act, contrary to any of the aforesaid provisions of this chapter, relating to such various noises, upon conviction thereof, shall be fined not exceeding one hundred dollars, or by imprisonment for not more than ten days, or by both said fine and said imprisonment.

Regulating and prohibiting certain uses of sound trucks

10-304. Definitions regarding sound trucks.—(a) "Person." The word "person" as used herein and elsewhere in this chapter shall have the meaning defined in this code.

(b) "Sound truck." The words "sound truck," as used herein, shall mean any motor vehicle, or horse-drawn vehicle, having mounted thereon, or attached thereto, any sound amplifying equipment, or device.

(c) "Sound amplifying equipment." The words "sound amplifying equipment," as used herein, shall mean any machine or device for the amplification of the human voice, music, or any other sound. "Sound amplifying equipment," as used herein, shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which they are installed, or warning sirens, horns, or other devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

10-305. Non-commercial use of sound trucks—Registration.—1. Registration required. No person shall use, or cause to be used, a sound truck, with its sound amplifying equipment in operation, for non-commercial purposes in this city, before filing a registration statement with the city controller in writing. This registration statement shall be filed in duplicate and shall state the following:

- (1) Name and home address of the applicant.
- (2) Address of place of business of applicant.
- (3) License number and motor number of the sound truck to be used by applicant.
- (4) Name and address of person who owns the sound truck.
- (5) Name and address of person having direct charge of sound truck.
- (6) Names and addresses of all persons who will use or operate the sound truck.
- (7) The purposes for which the sound truck will be used.
- (8) A general statement as to the section or sections of the city in which the sound truck will be used.
- (9) The proposed hours of operation of the sound truck.
- (10) The number of days of proposed operation of the sound truck.
- (11) A general description of the sound amplifying equipment which is to be used.
- (12) The maximum sound producing power of the sound amplifying equipment to be used in or on the sound truck; stating the following:
 - (a) The wattage to be used.
 - (b) The volume in decibels of the sound which will be produced.
 - (c) The approximate maximum distance for which sound will be thrown from the sound truck.
- (13) That it will not be used for any subversive or unlawful purpose, and will comply with all laws and regulations applicable thereto.

2. Registration statement amendment. All persons using or causing to be used, sound trucks for non-commercial purposes shall amend any registration statement, filed pursuant to sub-section 1 of this section, within

forty-eight hours after any change in the information therein furnished.

3. Registration and identification. The city controller shall return to each such applicant one copy of said registration statement, duly certified by him as a correct copy of said application, and this copy shall be in the possession of any person operating the sound truck at all times while its sound amplifying equipment is in operation, and said copy shall be promptly displayed and shown to any policeman of this city, upon request.

10-306. Regulations of non-commercial sound trucks.—Non-commercial use of sound trucks at any time and places in this city, not herein excluded, with sound amplifying equipment in operation, shall be subject to each of the following conditions and regulations:

- (1) The only sound permitted are music or human speech.
- (2) Operations are permitted for four hours each day, except on Sundays and legal holidays, when no operations shall be authorized. The permitted four hours of operation shall be between the hours of eleven thirty A.M. and one thirty P.M. and between the hours of four thirty P.M. and six thirty P.M.
- (3) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour, except when said truck is stopped or impeded by traffic, or the speed limit is lower at such place, and where stopped by traffic the said sound amplifying equipment shall not be operated for longer than one minute at each such stop.
- (4) Sound shall not be issued within one hundred yards of hospitals, schools, churches, or courthouses, or in any area established by the city as a quiet zone.
- (5) No sound truck with its amplifying device in operation shall be operated on any of the streets within the central congested traffic area of this city, as at any time defined by this code, or a later ordinance.
- (6) The human speech and music amplified shall not be profane, lewd, indecent, slanderous, subversive, or unlawful.
- (7) The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred feet from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance and annoyance to persons within the area of audibility.
- (8) No sound amplifying equipment shall be operated within excess of 15 watts of power in the last stage of amplification.
- (9) No use thereof shall be violative of any statute, state or national, or of this code, or any later ordinance.

10-307. Commercial advertising by sound trucks prohibited.—No person shall operate, or cause to be operated, any sound truck for commercial sound advertising purposes, at any time or places in this city, with the sound amplifying equipment in operation.

10-308. Penalties relating to sound trucks.—Any person who violates any of the aforesaid provisions of this chapter relating to sound trucks, upon conviction thereof, shall be fined not to exceed twenty-five dollars, or by imprisonment for not more than ten days, or by both said fine and said imprisonment.

10-309. Definitions regarding aircraft.—(1) "Aircraft." The word "aircraft," as used herein, shall mean any contrivance now known, or hereafter invented, used, or designated for navigation or for flight in the air. The word "aircraft" shall include all types of airplanes, helicopters and lighter-than air dirigibles and balloons.

(2) "Sound amplifying equipment." The words "Sound amplifying equipment," as used herein, shall mean any machine or device for the amplification of music, the human voice, or any other noise or sound.

"Sound amplifying equipment" shall not be construed as including warning devices on authorized emergency aircraft, or any horns, sirens, or other warning device used only for traffic safety purposes.

10-310. Non-commercial use of aircraft used for sound amplifying purposes.—1. Registration required. No person shall operate, or cause to be operated, any aircraft for non-commercial purposes, in or over this city, with sound amplifying equipment in operation, before filing a registration statement with the city controller in writing. This registration statement shall be filed in duplicate and shall state the following:

- (1) Name and home address of applicant.
- (2) Address of place of business of applicant.
- (3) Federal N. C. registration number and aircraft motor number of the aircraft to be used by applicant.
- (4) Name and address of person who owns the aircraft.
- (5) Name and address of person having direct charge of the aircraft.
- (6) Names and addresses of all persons who will use or operate the aircraft.
- (7) The purpose for which the aircraft will be used.
- (8) A general statement as to the section or sections of the city over which the aircraft will be used.
- (9) The proposed hours of operation of the aircraft.
- (10) The number of days of proposed operation of the aircraft.
- (11) A general description of the sound equipment which is to be used.
- (12) The maximum sound producing power of the sound amplifying equipment to be used in or on the aircraft.
 - (a) The wattage to be used.
 - (b) The volume in decibels of the sound which will be produced.
 - (c) The approximate maximum distance for which sound will be thrown from the aircraft.
- (13) That it will not be used for any subversive or unlawful purpose, and will comply with all laws and regulations applicable thereto.

2. Registration statement amendment. All persons using, or causing to be used, aircraft for non-commercial purposes shall amend any registration statement filed pursuant to the preceding sub-section of this chapter within forty-eight hours after any change in the information therein furnished.

3. Registration and identification. The city controller shall return to each such applicant one copy of said registration statement, duly certified by him as a correct copy of said application, and this copy shall be in the possession of any person operating the aircraft at all times while its sound amplifying equipment is in operation and said copy shall be promptly displayed and shown to any policeman of this city, upon request.

10-311. Regulations for non-commercial use of aircraft.—Non-commercial announcements with sound amplifying equipment from aircraft flying or operated at any time in or over any part of this city shall be subject to such of the following conditions and regulations:

- (1) The only sounds permitted are music or human speech.
- (2) Sound announcements are permitted only between the hours of eleven thirty A.M. and one thirty P.M. and between the hours of four thirty P.M. and six thirty P.M.
- (3) Sound amplifying equipment shall not be operated while an aircraft is flying at an altitude of less than fifteen hundred feet.
- (4) Sound shall be issued from one loudspeaker only on each aircraft.
- (5) The cone or radius of sound from the loudspeaker shall be directed so as to cover at one time an area on the ground of less than seven hundred yards square and so as

to avoid hospitals, schools, churches, or courthouses, or any area established by the city as a quiet zone.

(6) Human speech and music amplified shall not be lewd, indecent, slanderous, subversive, or unlawful.

(7) The volume of sound shall be controlled so that it is not audible on the ground over an area in excess of seven hundred yards square and so that said volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance and annoyance to persons within the area of audibility.

(8) No use thereof shall be violative of any statute, state or national, or of this code, or of any later ordinance.

10-312. Commercial advertising by aircraft prohibited.—No person shall operate, or cause to be operated, any aircraft for commercial sound advertising purposes, at any time or places in or over this city, with the sound amplifying equipment in operation.

10-313. Penalties relating to aircraft.—Any person who commits any act contrary to any provision of this chapter, for which no specific penalty is prescribed, upon conviction thereof, shall be fined not exceeding one hundred dollars, or by imprisonment for not more than thirty days, or by both said fine and said imprisonment.

10-314. Separability clause.—The common council declares and intends that each section and provision of this chapter shall be separable from and independent of any other provisions thereof that may be found invalid, if possible to be carried out without the latter, and that it would have so ordained, regardless of such elimination of any such provisions so found invalid.

Chapter 4: Violations against peace, and good order

Section.

10-401. Public peace and order shall be maintained.

10-402. Disorderly persons.

10-403. Disorderly place or dive.

10-404. Obscene conduct.

10-405. Disturbing municipal peace by assault or assault and battery.

10-406. Aiding, abetting or promoting same.

10-407. Noisy houses disturbing the peace.

10-408. Endurance contests.

10-409. Display of inflammatory flags, banners or signs.

10-410. Disturbing religious worship.

10-411. Commercial disturbance of religious worship.

10-412. General penalty.

10-401. Public peace and order shall be maintained.—It shall be unlawful for any person to act in a violent, turbulent, quarrelsome, boisterous, indecent, or disorderly manner, or to use profane, vulgar, lewd, or obscene language, or to do anything tending to disturb the good order, peace, or dignity of the city and of its inhabitants or other persons.

10-402. Disorderly persons.—All persons who shall make, aid, countenance, or assist in making any *improper noise*, riot, disturbance, breach of the peace, or diversion tending to a breach of the peace, within the limits of the city; all persons who shall collect in bodies or crowds for any unlawful purposes, or for any purpose to the annoyance or disturbance of other persons; all persons who are idle or dissolute and go about begging, all persons who use or exercise any juggling, cheating, or other unlawful games or plays; all persons who are found in houses of ill-fame or gaming houses; all persons lodging in or found at any time in sheds, barns, stables, or unoccupied buildings, or lodging, or found in the open air on any lands or public ways or places, not giving a good account of themselves; all persons who shall wilfully assault another in the city, or be engaged in, aid, or abet in any fight, quarrel, or other disturbance in the city; all persons who stand, loiter, or stroll about in any place in the city waiting or seeking to obtain money

or other valuable things from others by violence, trick or fraud, or to aid or assist therein; all persons that shall engage in any fraudulent scheme, device or trick to obtain money or other valuable thing in any place in the city, or who shall aid, abet, or in any manner be concerned therein; all touts, ropers, steerers, or cappers, so-called, for any gambling room or house of ill-fame, or so acting for any person of either sex, who shall ply or attempt to ply their calling in any public way or place in the city; all persons found loitering about in any hotel, barroom, dramshop, tavern, gambling house, or disorderly house, or wandering about the streets either by night or day without any known lawful means of support, or without being able to give a satisfactory account of themselves; all persons who shall have or carry any pistol, knife, dirk, knuckles, slingshot, or other dangerous weapon, concealed on or about their persons; and all persons who are known to be thieves, burglars, pickpockets, robbers, or confidence men, either by their own confession or otherwise, or by having been convicted of larceny, burglary, or other crime against the laws of the state, who are found lounging in, prowling, or loitering around any railroad depot, banking institution, place of public amusement, auction room, hotel, store, shop, public way, public conveyance, public gathering, public assembly, courtroom, public building, private dwelling house, house of ill-fame, gambling house, or any other private or public place, and who are unable to give a reasonable excuse for being so found; shall be deemed disorderly persons, and upon conviction thereof, shall be severally fined not less than one dollar nor more than two hundred dollars for each offense, to which may be added imprisonment for not exceeding thirty days for any subsequent such offenses.

10-404. Obscene conduct.—Whoever utters within said city, any obscene or licentious language, where there are persons other than males to be offended thereby; or who applies words to the person of another, or who uses in the presence of another, any opprobrious or vile epithet involving moral turpitude, or profaning God, Jesus Christ, or the Holy Ghost; or by the use of profane, vile or indecent language, or *loud and unusual noises*, collects or causes to be collected upon any of the streets, ways or public places of the city, a crowd of three or more persons; or disturbs the peace and quiet of said city, or of its inhabitants, by loud talking or the making of unusual noises, or by crying any alarm without good cause; or by threatening any person, or challenging him to fight, or menacing him with physical injury or pecuniary loss; or whoever accosts or approaches any person of the opposite sex, unknown to such person, and by word, sign or gesture attempts to speak to or become acquainted with such person, against his or her will, in a public street or in any public place in said city, except in the transaction of legitimate business; or whoever attempts to entice or procure a person of the opposite or same sex to commit an unlawful act; or whoever accosts or approaches any person and by word, sign or gesture, suggests or invites the doing of any indecent or unnatural act; on conviction, shall be fined in any sum not more than one hundred dollars, to which may be added imprisonment not exceeding thirty days.

10-406. Aiding, abetting or promoting same.—It shall be unlawful for any person to disturb the public peace by promoting or encouraging, aiding or abetting any assault, or battery, fight, riot, or *noisy and turbulent proceeding* in any street, or other public place, or place of general resort within this city, or in any dwelling house or other private building, when such fight, riot, or other noisy, or boisterous proceedings, committed therein shall tend to disturb any person residing or being in the vicinity of such private house or building. Any person violating the

provision of this section shall be fined not exceeding three hundred dollars, or imprisoned not more than ninety days.

10-407. Noisy houses disturbing the peace.—Any person who shall permit noisy or riotous persons, or persons of disorderly character, to assemble in any house owned, occupied or controlled by him, to the annoyance or disturbance of the neighborhood, shall be guilty of the offense of keeping a noisy house, and of a disturbance to the public peace, and on conviction therefor shall be punished any sum not exceeding twenty-five dollars, and on conviction of a second or later offense, there shall be added imprisonment not exceeding thirty days.

10-410. Disturbing religious worship.—Any person who shall *disquiet* or disturb any congregation or assembly met for religious worship by making a noise, or by rude and indecent behavior or profane discourse within the place of worship, or so near to the same as to disturb the order and solemnity of the meeting, shall be fined not exceeding fifty dollars for each offense.

10-411. Commercial disturbance of religious worship.—It shall also be an offense for the operator or person in charge of any business enterprise, after being advised as to the hours, times and place of religious services, to advertise such business or enterprise with music, or by *loud hawking, outcry, or other means, or by the making of noises incidental to such business*, whereby he disturbs any religious service or assembly; and any such person so doing shall be fined not to exceed fifty dollars for each offense.

10-412. General penalty.—Any person convicted of any violation of any section of this chapter, for which a specific penalty is not provided, shall be fined not to exceed three hundred dollars for each offense.

Chapter 3—Provisions prohibiting unnecessary noises

Section.

10-302. Unlawful noises.

10-307. Commercial advertising by sound truck prohibited.

10-302. Unlawful noises.—Except as in this section otherwise provided, it shall be unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary, or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health and peace or safety of others within the limits of the city; and accordingly the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

(1) Horns, signaling devices, etc.—The sounding of any horn or signaling device on any automobile, motorcycle, street car, or other vehicle, in any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device, except one operated by hand, air or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the continued or repeated use of any such signaling device when traffic is for any reason held up, or in any parade, or in any group of vehicles.

(2) Radios, phonographs, etc.—The using, operating, or permitting to be played, used or operated, any radio or television receiving set, musical instrument, phonograph, callope, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device

is operated and who are voluntary listeners thereto; except when a permit therefor for some special occasion is granted. The operation of any such set, instrument, phonograph, machine or device between the hours of 11 o'clock P.M. and 7 o'clock A.M. in such manner as to be plainly audible at a distance of fifty feet from the building, structure, or vehicle, in which it is located, shall be prima facie evidence of a violation of this section.

(3) Loud speakers, amplifiers for advertising.—The using, operating, or permitting to be played, used or operated, of any radio, or television receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound, at any place upon the public streets, or in any vehicles used for the transportation of persons for hire, as a common carrier, for the purpose of commercial or other kind of advertising, or attracting the attention of the public to any activity, or building or structure, and is so used as to disturb and annoy other persons in their business, or homes, or elsewhere, in their right of personal privacy and quiet.

(4) Yelling, shouting, etc.—Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 10 P.M. and 7 A.M., or at any time or place so as to annoy or disturb the quiet comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(5) Animals, birds, etc.—The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(6) Steam whistles.—The blowing of any locomotive steam whistle, or steam whistle attached to any stationary boiler, or one operated by any other means, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper city authorities.

(7) Exhausts.—The discharge into the open air of the exhaust of any steam engine, internal combustion engine, or any other type of engine or power unit, on a motorboat, motor vehicle, motorcycle, or other vehicle or craft of any kind, except through a muffler or other device which will effectively reduce and prevent loud or explosive noises therefrom.

(8) Defect in vehicle or load.—The use of any automobile, motorcycle, or other kind of vehicle so out of repair, or so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or other noises.

(9) Loading, unloading, opening boxes.—The creation of a loud and excessive noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates, and containers.

(10) Construction or repairing of buildings.—The erection, excavating for demolition, alteration or repair of any building, other than between the hours of 7 A.M. and 6 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the city building commissioner, which permit may be granted for a period not to exceed three days while the emergency continues and which permit may be renewed for periods of three days while the emergency continues. If the building commissioner should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building, or the excavation therefore, or of any streets and highways, within the hours of 6 o'clock P.M. and 7 o'clock A.M., and that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6 o'clock P.M. and 7 o'clock

A.M., upon application being made at the time the permit for the work is issued, or during the progress of the work.

(11) Schools, courts, churches, hospitals.—The creation of any excessive noise on any street adjacent to any school institution of learning, church, or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the operation thereof, or which disturbs or unduly annoys patients in the hospital; Provided conspicuous signs are displayed in such streets indicating that the same has been declared and is a school, hospital, or other such quiet zone.

(12) Hawkers, peddlers.—The loud shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

(13) Drums.—The use of any drum, horn, or other instrument or device for the purpose of attracting attention by creation of noise to any performance, exhibition, show, or sale; except in a parade or place for which a permit has been granted.

(14) Metal rails, pillars and columns, transportation thereof.—The transportation of rails, pillars or columns of iron, steel or other material, over and along the streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) Street railway cars, operation thereof.—The causing, permitting, or continuing any excessive, unnecessary and avoidable noise in the operation of a bus or street railway car, or caused by defective conditions therein, or of its tracks.

(16) Pile drivers, hammers, etc.—The operation between the hours of 10 o'clock P.M. and 7 o'clock A.M., of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance the use of which is attended by loud or unusual noise, except when being operated by a public utility in connection with emergency repairs of such utility.

(17) Blowers.—The operation of any noise creating blower or power fan, or any internal combustion engine, the operation of which causes noises due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(18) The using, operating or playing, or permitting to be used, operated or played, any bell, radio, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound, in or upon any vehicle used for the transportation and sale of any goods, wares, or merchandise in or upon any of the streets or highways within the limits of the City of Indianapolis, and which sound producing instruments are set to produce any noise, music or sound in excess of 115 decibels, measured at six inches from sound producing amplifier or speaker; the use and operation of any vehicle so equipped, with such sound producing equipment in operation, between the hours of 10:00 o'clock P.M. and 10:00 o'clock A.M., of the succeeding days; or the use or operation of any such sound producing equipment in or upon any such vehicle while such vehicle is moving along or upon any such street or highway, it being the intent and purpose hereof to permit such use of such sound producing equipment in or upon any such vehicles only when such vehicle is parked or standing still in or upon any such street or highway and during the hours herein provided. [G. O. 9, 1959, as amended, eff. May 29, 1959.]

10-307. Commercial advertising by sound truck prohibited.—Except as in 10-302 otherwise provided, no person shall operate, or cause to be operated, any truck for commercial sound advertising purposes at any time

or place in this city the sound amplifying equipment in operation. [G. O. 9, 1959, as amended, eff. May 29, 1959.]

Kansas City, Mo.

City Ordinances

Chapter 24: Noise*

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 Sec. 24.3 Same—Enumeration.
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Sec. 24.38 Same—Use near schools.

Sec. 24.39 Same—Use while stopped.

Sec. 24.40 Same—Audibility limited.

Article I. In general

Sec. 24.1. Noises and disturbances in public place.—No person shall make, aid, countenance or assist in making any noise, disturbance or improper diversion in or upon any street, sidewalk, park, public square or other public place. (R. O. 1956, § 37.010)

Sec. 24.2. Unnecessary noises—Prohibited.—Subject to the provisions of section 24.3, the creation of any unreasonably loud, disturbing and unnecessary noise in the city is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual or which unreasonably interferes with the comfort of any individual is prohibited. (R. O. 1956, § 37.020)

Sec. 24.3. Same—Enumeration.—The following acts, among others, are declared to be loud, disturbing and unnecessary noises, in violation of section 24.2, but such enumeration shall not be deemed to be exclusive, namely:

(a) *Horns or signal devices.* The sounding of any horn or signal device of any automobile, taxicab, motorcycle, bus or other vehicle, whether or not in motion, except when necessary to give warning of threatened collision with another vehicle or with a pedestrian; provided however, that nothing herein contained shall be deemed to apply to emergency vehicles, including but not limited to, ambulances, police department motorcycles, automobiles and vehicles, and fire department automobiles, apparatus and vehicles.

(b) *Radios, phonographs, musical instruments.* The playing of any radio, phonograph or any musical instrument in such a manner

or with such volume, particularly during the hours between 11:00 p.m. and 8:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence.

(c) *Use of vehicles.* The use of any automobile, motorcycle or vehicle so out of repair, or loaded in such a manner as to create unreasonably loud or unnecessary grinding, rattling or other noise.

(d) *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

(e) *Exhaust discharge.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(f) *Devices operated by compressed air.* The use of any mechanical device operated by compressed air unless the noise created in the operation of the engine or compressor of such device is effectively muffled and reduced. The use of any such device operated by compressed air within the district bounded by 8th Street, Truman Road, Oak Street and Broadway is prohibited between the hours of 11:00 p.m. and 8:00 a.m.

(g) *Building operations.* The erection, including excavating, demolition, alteration or repair of any structure in a residential or business district other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays, except in case of urgent necessity or in the interest of public safety, and then only with a permit from the director of public works.

(h) *Loading and unloading operations.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(i) *Bells and gongs.* The sounding of any bell or gong in or upon any street, sidewalk, park, public square or other public place, or in or upon any piazza, porch, balcony, steps or platform over, upon, near or adjoining any such street, sidewalk, park, public square or other public place, or attached to any building or premises, which disturbs the quiet or repose of persons in the vicinity thereof, as a means of attracting people to any auction, store or other place, except where a specific license is granted by proper authorities.

(j) *Hawkers and peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood. It shall be unlawful for any huckster to cry aloud and announce the sale of wares or merchandise upon any of the public streets of the city within one block of any hospital or building occupied as a hospital, schoolhouse, college or seminary.

(k) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise, except where a specific license is granted by proper authorities.

(l) *Loudspeakers or amplifiers.* The use of mechanical loudspeakers or amplifiers on trucks or other moving vehicles, or stationary stands for advertising or any other purpose, except where a specific license is granted by proper authorities.

(m) *Musical instruments in streets.* No person shall use or perform with any hand organ or other musical instrument or device, for pay or in expectation of payment, in any of the streets or public places in the city before 9:00 a.m. and after 9:00 p.m. of any day. (R. O. § 37.030, amend. by Ord. No. 29130, 8-23-63)

Sec. 24.4. Same—Penalties.—Any person who shall violate any of the provisions of

section 24.2 or 24.3 shall be punished as follows:

(a) Upon conviction for the first offense, by a fine not to exceed five dollars (\$5.00) or by imprisonment not to exceed five (5) days;

(b) Upon a conviction for the second offense within one year from the commission of the first offense, by a fine not to exceed ten dollars (\$10.00) or by imprisonment not to exceed fifteen (15) days;

(c) Upon conviction for a third offense within one year from the commission of the first offense, by a fine not to exceed fifteen dollars (\$15.00) or by imprisonment not to exceed fifteen (15) days;

(d) Upon conviction for the fourth offense and all subsequent offenses within one year from the commission of the first offense, by a fine not to exceed twenty dollars (\$20.00) or by imprisonment not to exceed twenty (20) days, or both.

Upon arrest, any person charged hereunder shall be permitted to make bond in a sum not to exceed the maximum fine hereunder. (R. O. 1956, § 37.040)

Sec. 24.5. Same—Effect of sections 24.2 to 24.4.—Sections 24.2 to 24.4 shall not be construed as repealing or modifying any similar existing section except so far as inconsistent therewith, and shall not repeal or modify any section relating to emergency vehicles. (R. O. 1956, § 37.050)

Sec. 24.6. Locomotives.—No person in charge of or on any steam locomotive shall unnecessarily blow the whistle thereof within the city; and no such person shall unnecessarily let off any steam from any locomotive, at or within one hundred (100) feet of any street in the city limits. This section shall not, however, be construed to prevent the necessary blowing of a whistle in an emergency as a warning in case of apparent danger, nor the blowing of a whistle for making signals necessary for the safe operation of the engine, or a train of cars, but no such signal blast shall exceed two (2) seconds in length, and not more than five (5) of such signal blasts shall be blown in immediate succession. (R. O. 1956, § 37.060)

Charter reference—Power to regulate or prohibit blowing of whistles, § 1(47).

Cross reference—Railroads generally, chapter 28.

Sec. 24.7. Noise near hospitals.—No person shall either cause or permit any automobile or motorcycle to emit or produce an unusually loud, annoying or distressing sound, or shall utter a loud, piercing or distressing cry or call within three hundred (300) feet of a hospital or sanitarium. (R. O. 1956, § 37.080)

Cross reference—Hospitals generally, chapter 19.

Sec. 24.8. Gasoline engines near residences.—No gasoline engine shall be used or operated for manufacturing purposes within two hundred (200) feet of any building used exclusively for residence purposes; provided that such residence is in a block in which the majority of the buildings, not counting outhouses, are used for residence purposes. (R. O. 1956, § 37.090)

Sec. 24.9. Motor vehicles, testing or repairing.—Between the hours of 10:00 p.m. and 6:00 a.m., no person shall engage in the work of testing, adjusting or repairing any motor vehicle, or any accessory thereof, at any public garage or repair shop located within one hundred seventy-five (175) feet of any building used for residence purposes. (R. O. 1956, § 39.820)

Sec. 24.10. Loading or unloading near residences at night.—No person shall load or unload goods, wares, merchandise, boxes, bottles, containers or any other thing, from any vehicle to any building, dock or other place, or into any vehicle from any building, dock or other place within one hundred (100) feet of any building used for residence purposes, between the hours of 10:00 p.m. and 7:00 a.m., where

such loading or unloading results in the producing of noise sufficient to disturb the peace, rest or comfort of persons occupying a building used for residence purposes within one hundred (100) feet of the place of such loading or unloading. (R. O. 1956, § 37.100)

Sec. 24.11. Playing musical instruments.—Except as otherwise provided herein, no person shall play upon or take any part in the playing upon or accompanying while played upon, any musical instrument in or upon any street or sidewalk; provided that this section shall not be so construed as to apply to funeral occasions, election days, holidays, military parades or parades by church or secret organizations; but no person shall play upon, take part in playing upon or accompanying while played upon, any such instrument within one block of any house of worship during the hour of worship on Sunday. (R. O. 1956, § 53.170)

Secs. 24.12—24.16. Reserved.

Article II. Sound Trucks*

Sec. 24.17. Application of article.—The provisions of this article shall not apply to agencies of the United States Government, the state or the city in the operation of sound trucks in the performance of their respective public duties. (R. O. 1956, § 37.180)

Sec. 24.18. Definitions.—(a) *Sound truck.* For the purpose of this article, a "sound truck" is any vehicle equipped for the broadcasting of speech, music or other sound by means of amplification through horns, loudspeakers or other devices for reception by other than the occupants of the vehicle.

(b) *Operation.* By the term "operation," as used in this article, is meant the operation of the machinery or equipment carried on such truck for the purpose of amplifying sound. (R. O. 1956, § 37.100)

Sec. 24.19. Permits.—(a) *Required.* It shall be unlawful for any person to operate a sound truck within the corporate limits of the city without first procuring a permit from the director of welfare to be known as a "sound truck permit".

(b) *Duration, scope.* Such permit shall continue in full force and effect ten (10) days unless sooner revoked or suspended by the director of welfare, and shall be in addition to any licenses and fees required by law for the operation of motor vehicles. (R. O. 1956, § 37.110)

Sec. 24.20. Application fee for permit.—Application for a sound truck permit shall be made upon a form furnished by the director of welfare and a fee of two dollars (\$2.00) shall be paid for each such permit. (R. O. 1956, § 37.120)

Sec. 24.21. Posting permit.—The sound truck permit issued under the provisions of this article shall be posted in a conspicuous place in the driver's compartment of the sound truck to which it was issued. (R. O. 1956, § 37.130)

Sec. 24.22. Permit violations.—It shall be unlawful for any person to display or have in his possession any sound truck permit knowing same to be fictitious, cancelled, suspended or altered; to use such permit on any vehicle other than the one to which the permit is issued; or to refuse to surrender any permit to the director of welfare upon request. (R. O. 1956, § 37.140)

Sec. 24.23. Revocation or suspension of permit.—A sound truck permit may be revoked or suspended by the director of welfare for a violation of any provision of this article or of the rules and regulations herein provided for. Before revocation or suspension, the holder shall be given a hearing before the

*Cross references—Advertising generally, chapter 2; operation of trucks, § 34.266 et seq.

State law reference—City authorized to license, tax and regulate vehicles, private and public, RSMo, § 73.110(17).

director of welfare upon forty-eight (48) hours' notice. (R. O. 1956, § 37.150)

Sec. 24.24. Rules and regulations governing operation.—All sound trucks operating on the streets of the city, except during the holiday season from December fifteenth of each year to January second of the following year, shall conform to the following regulations:

(a) *Location generally.* Such trucks shall not operate in the district bounded by Broadway and Holmes Street, the Missouri River and 25th Street, inclusive, nor in the district bounded by 46th Street and 71st Street, Holmes Street and State Line, inclusive.

(b) *Boulevards, schools, hospitals.* Such trucks shall not operate on any boulevard within the limits of the city, nor while passing any school or hospital.

(c) *Hours, days, manner of operation.* Such trucks shall operate only between the hours of 8:00 a.m. and 7:00 p.m. on week days, and shall not operate on Sundays or legal holidays. They shall not be permitted to give off excessive noise or blasts.

(d) *Advertising.* Sound trucks shall carry no signs or advertisements placed in such a way as to interfere with the front or lateral views of the driver of the same, nor carry signs or advertisements in such a manner as to be hazardous to traffic.

(e) *Movement, speed.* Such trucks shall be operated only while such trucks are actually in motion and they must be kept moving in the normal line of traffic so as not to retard traffic, and as far as possible, at a speed of not less than fifteen (15) miles per hour.

(g) *Frequency of use.* Such trucks shall not be operated on any streets between any two intersecting streets more than twice in any one day. (R. O. § 37.160, amend. by Ord. No. 21081, 5-31-57)

Sec. 24.25. Penalty for violation of article.—Every person convicted of violating any of the provisions of this article shall be punished by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00). (R. O. 1956, § 37.170)

Secs. 24.26-24.30. Reserved.

Article III. Peddlers*

Sec. 24.31. Definitions.—*Peddler.* The word "peddler," as used herein, shall include any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle, from house to house or from street to street, carrying or transporting goods, wares, merchandise, meats, fish, fruits, garden truck, farm products, dairy and ice cream products or provisions, or any and all salable items, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who without traveling from place to place shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle; and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler subject to the provisions of this article. The word "peddler" shall include the words "hawker" and "huckster".

Person. The word "person", as used herein, shall include the singular and the plural and shall also mean and include any person, firm, corporation, association, club, co-partnership or society, or any other organization. (R. O. § 37.190, added by Ord. No. 29130, 8-23-63)

Sec. 24.32. Permit required.—No person de-

* Charter reference—Power to prohibit and restrain noises, § 1(49).

Cross references—License fees for hawkers, hucksters, § 21.156; signs, special regulations, §§ 21.445, 21.446; activity regulated generally, §§ 26.19, 26.20; products to be dispensed from curbside, § 21.450; sales near schools, § 21.451; presence of minors on vehicles, § 21.452; shouting and crying of hawkers and peddlers, § 24.3(j).

fin as a peddler shall carry on his trade, calling or business making use of any sound or noise device described herein without first obtaining a permit for such sound or noise device from the director of welfare, on forms provided by him. (R. O. § 37.200, added by Ord. No. 29130, 8-23-63)

Sec. 24.33. Fee for, duration of permit.—Permits herein shall be five dollars (\$5.00) per month per vehicle used or for a peddler traveling by foot, and said permit may be issued for any part of or up to one year. (R. O. § 37.200, added by Ord. No. 29130, 8-23-63)

Sec. 24.34. Possession of permit.—Permits issued pursuant to this article shall be kept in the personal possession of the peddler at all times while acting as a peddler. (R. O. § 37.200, added by Ord. No. 29130, 8-23-63)

Sec. 24.35. Revocation and suspension of permit.—A permit issued under this article may be revoked or suspended by the director of welfare for a violation of any of the provisions of this article or the rules and regulations herein provided. Before revocation or suspension, the holder shall be given a hearing before the director of welfare upon three (3) days' written notice. (R. O. § 37.220, added by Ord. No. 29130, 8-23-63)

Sec. 24.36. Use of sound-producing devices.—Generally.—It shall be unlawful to use, operate or play or permit to be played, used or operated any bell, gong, radio, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing of sound used for the transportation, display or sale of any goods, wares or merchandise in and upon the streets or highways within the limits of the city after a school session. (R. O. § 37.210(2), added by Ord. No. 29130, 8-23-63)

Sec. 24.37. Same—Citywide use.—Peddlers may use sound devices in all parts of the city:

(a) *Hours.* Between the hours of 10:00 a.m. and 8:30 p.m. on weekdays and 10:00 a.m. and 8:30 p.m. on Sundays.

(b) *Locations.* Except in the area bounded by Broadway on the west, Holmes Street on the east, 6th Street Trafficway on the north and 18th Street on the south. (R. O. § 37.210(1), added by Ord. No. 29130, 8-23-63)

Sec. 24.38. Same—Use near schools. Peddlers shall not use sound devices within one block of or within a six hundred (600) foot radius of any church in session or any hospital. No sound device shall be used within one block of or within a six hundred (600) foot radius of any school while in session or thirty (30) minutes prior to or thirty (30) minutes after a school session. (R. O. § 37.21(2), added by Ord. No. 29130, 8-23-63)

Sec. 24.39. Same—Use while stopped.—Peddlers shall not operate sound devices while stopped, except that if when stopping the sound devices is midway in a cycle, the cycle may be completed. In no instance, however, may any noise be emitted from the sound device for more than three (3) minutes after stopping. (R. O. § 37.210(4), added by Ord. No. 29130, 8-23-63)

Sec. 24.40. Same—Audibility limited.—Peddlers shall not operate any sound device in such manner that the sound therefrom can be heard in more than a one city block radius or more than a six hundred (600) foot radius. (R. O. § 37.210(5), added by Ord. No. 29130, 8-23-63)

Sec. 25.4. Certain businesses near residences.—(a) No business or enterprise, the conduct of which causes or produces any noises, vibrations, smoke, dirt, dust, odors or gases to such extent as to be detrimental or injurious to the comfort, peace or health of other persons, shall hereafter be located and conducted within one hundred fifty (150) feet of any building used exclusively for residence purposes at the time of the location of such business or enterprises; nor shall any building be erected or constructed for the purpose of conducting any business

or enterprise therein at a place where the conduct of such business or enterprise shall be unlawful under the terms of this section.

(b) No permit shall be issued for the erection of any building intended to be used for the purpose of conducting any business or enterprise to be located at a place where the conduct of such business or enterprise shall be unlawful under the terms of this section. (R. O. 1956, § 38.040)

Charter reference—Power to prohibit or regulate business detrimental to health, comfort, etc. § 1(29).

Little Rock, Ark.

City Ordinances

Sec. 25-71. Noises prohibited.—In general.—The creating of any unreasonably loud, disturbing and unnecessary noise of such character, intensity or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited. (Ord. No. 6232, §§ 1, 2, 6-16-41)

Sec. 25-72. Same—Specific noises prohibited.—The following acts, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of city ordinance, but this enumeration shall not be deemed to be exclusive, namely:

(a) The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such devices for an unnecessary and unreasonable period of time.

(b) The playing of any radio, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between ten-thirty o'clock p.m. and seven o'clock a.m. as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(c) Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of ten thirty o'clock p.m. and seven o'clock a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any hospital, dwelling, hotel or other type of residence, or of any persons in the vicinity.

(d) The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(f) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

(g) To discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) The erection (including excavation), demolition, alteration or repair of any building in any residential district or section, the excavation of streets and highways in any residential district or section other than between the hours of seven o'clock a.m. and six o'clock p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed thirty days while the emergency con-

tinues, provided, however, that if an emergency arises when a permit is not obtainable, the necessary work may be done and reported to the building inspector at the earliest date that his office is open after the emergency arises and he shall issue a permit effective retroactively to the beginning of the emergency. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building, or the excavation of streets and highways within the hours of six o'clock p.m. and seven o'clock a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within such hours upon application being made at the time the permit for the work is awarded or during the progress of the work.

(i) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof, provided, however, that in case of emergencies when the public health, safety or general welfare is in danger, necessary work may be done immediately by first securing a permit from the building inspector, if this is obtainable, or if it is not first obtainable, the necessary work may be done and at the first opportunity reported to said building inspector, who shall issue a permit effective retroactively to the beginning of the emergency, provided also that where underground repair or construction work is necessary adjacent to or in the vicinity of a school, an institution of learning, a church, a court, or hospital, the building inspector may issue a permit for same, said work to be done at reasonable hours to be designated by said building inspector.

(j) The creation of loud and excessive noise in connection with unloading or loading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(k) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.

(l) The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(m) The giving by any railroad company operating a steam or diesel engine, or by the operator thereof of any railroad steam or diesel signal other than the following:

(1) Railroad yard engines (as set out in "definitions" in the uniform code of operating rules and as adopted by the Missouri Pacific Lines, the Rock Island Lines, and the St. Louis Southwestern Railroad Lines in November, 1940), when using whistle signals may use only signal 14-G and 14-P as defined in said uniform code of operating rules.

(2) Railroad trains (as set out in "definitions" in the said uniform code of operating rules) where using whistle signals may use only whistle signal 14-D, 14-E, 14-G, 14-K, 14-L, 14-N, and 14-P. Provided, however, that no signal given by any yard engine or train shall consume more than five seconds over all time. (Ord. No. 6232, § 3, 6-16-41)

Cross references—Building permits, Ch. 9; disturbance of schools prohibited, § 25-114.

Sec. 25-73. Same—Exemptions.—None of the terms or prohibitions of sections 25-71 and 25-72 shall apply to or be enforced against:

(a) Any vehicle of the City of Little Rock while engaged upon necessary public business.

(b) Excavations or repairs of bridges, streets or highways by or on behalf of the city, Pulaski County, or the State of Arkansas, during the nighttime, when the public

welfare and convenience renders it impossible to perform such work during the day.

(c) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

(d) Necessary warning signals given by an ambulance operator or licensed physician while answering an emergency call for medical assistance. (Ord. No. 6232, § 4, 6-16-41)

Sec. 25-74. Same—Drive-ins; sounding of horns.—Any person operating a vehicle and sounding the horn on same at any place where cold drinks and/or sandwiches are served, after nine o'clock p.m., at any place in the city, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than two dollars nor more than five dollars. (Ord. No. 5638, § 1, 9-12-38; Ord. No. 5779, § 1, 7-31-39; Ord. No. 5937, § 1, 7-2-40)

Sec. 25-72. Same—Violations; penalty.—Any person, firm and/or corporation violating any of the provisions of sections 25-71, 25-72 or 25-74 shall, except as provided by section 25-73, be guilty of misdemeanor and upon conviction shall be fined not less than one dollar nor more than fifty dollars for each offense. (Ord. No. 6232, § 5, 6-16-41)

Sec. 25-76. Nuisances—Abatement; jurisdiction.—In every case in which any person shall be found guilty of a violation of any of the provisions of this chapter or any other ordinance of the city in relation to nuisances, it shall be competent for, and shall be the duty of the municipal court, if the circumstances of the case require it, to make an order requiring the removal, abatement or discontinuance of the nuisance shown in such case, and to order and direct that if within a reasonable and given time therein named, the same shall not be removed, abated or discontinued by the person or persons proceeded against therefor, such nuisance shall be abated or removed by the chief of police with such assistance as he may deem necessary to call to his aid for that purpose, and in such case the person proceeded against shall be responsible for all the costs and expenses incurred in the removal or abatement of such nuisance by the chief of police. (Digest 1932, § 1585)

State law reference—Cities authorized to abate, prevent or remove nuisances, to declare what are such, and to punish the authors or continuers thereof, § 19-2304, Ark. Stats.

Sec. 25-77. Same—Procedure and penalties.—All proceedings for the prevention, abatement or removal of any of the nuisances referred to in this chapter or any other ordinance of this city shall be commenced by having the party charged therewith summoned or notified to appear before the municipal court, or if the circumstances require, by having him arrested and brought before said court, and thereupon such party shall have opportunity and it shall be his duty to show cause, if any he may have, why he should not be fined on account of such nuisance, and an order made requiring the abatement, removal or discontinuance of the same, and in all cases where such an order shall be made, the party found responsible for such nuisance shall be subjected to a penalty of not exceeding fifteen dollars per day for each and every day that such nuisance may be unlawfully continued after the making of such order. In all such proceedings for the prevention, removal or abatement of any such nuisance, the municipal court shall have full power and authority to make any and all necessary or appropriate orders for the purpose of accomplishing such objects and enforcing and carrying into effect the provisions of this section. (Digest 1932, § 1586)

Sec. 25-114. Schools—Disturbing.—Any person or persons who shall by any boisterous or other noisy conduct disturb or annoy any public or private school in this city, or any person not a student who, after being duly

notified to keep off the school grounds during school hours by the board of directors or the superintendent or principal teacher in charge of any such school, or who shall continue to trespass or go upon such grounds or to loiter around or near such grounds, whether at recess or during the session of said schools, or who shall by word or gesture attempt to annoy or attract the attention of the students at such schools, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding twenty-five dollars. (Digest 1932, § 1830)

Sec. 25-157. Noise; beer consumption; loitering, and parking.—(a) It shall be unlawful for any person while on or adjacent to the premises of a drive-in restaurant to race the motor of any car, to suddenly start or stop any car, or to make or cause to be made, any other loud or unseemly noise. It shall also be unlawful for any other person parked on the premises of such restaurant, to blow or cause to be blown any automobile horn or motorcycle horn at any time while so parked.

(b) It shall be unlawful for any patron or other person on the premises of a drive-in restaurant, whether in or out of an automobile, to drink any beer unless purchased on the premises. It shall be unlawful for a group of three or more persons to congregate and linger at any location on the premises of a drive-in restaurant other than in the restaurant building, or in a legally-parked motor vehicle. Persons so congregating and lingering shall be deemed guilty of loitering. No person shall drive a motor vehicle onto the premises of a drive-in restaurant and then from said premises without parking such motor vehicle, unless there is no unoccupied parking space available on said premises.

(c) It shall also be unlawful for any person to leave any unoccupied motor vehicle on any drive-in restaurant parking lot and to leave the premises thereof except with the knowledge and consent of the operator of the restaurant. (Ord. No. 11,528, §§ 2-4, 10-5-64)

Sec. 25-159. Penalty for violation of article provisions.—Any person found guilty of violating any of the provisions of this article shall be deemed guilty of a misdemeanor and shall be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days, or be given both such fine and imprisonment at the discretion of the Court (Ord. No. 11,528, § 6, 10-5-64)

Los Angeles, Calif.

City Ordinance

Ordinance No. 98,332

[As amended by Ordinance No. 101,801.]

An ordinance regulating the operation of automobile laundries and wash racks in the City of Los Angeles.

Whereas, there are at the present time almost 100 automobile laundries or wash racks being operated in the City of Los Angeles in which machinery is used which produces excessive noise and vibration, many of which are located in close proximity to surrounding residential areas so that the health and welfare of the occupants of the residential buildings are seriously affected and impaired, and said occupants are being deprived of the reasonable use and enjoyment of their homes, and

Whereas, the excessive noise and vibration resulting from the operation of said automobile laundries and wash racks are such as to seriously affect and interfere with the occupations of the business and professional occupants of the commercial buildings in the immediate vicinity of such automobile laundries and wash racks.

Now, Therefore.

The People of the City of Los Angeles Do Ordain as Follows:

Section 1. [As amended by Ordinance No. 101,801.] Section 1 of Ordinance No. 98,332, entitled "An Ordinance regulating the operation of automobile laundries and wash racks in the City of Los Angeles," approved July 30, 1951, is hereby amended to read:

Section 1. On and after 60 days from the effective date of this amendment, no person, firm or corporation shall operate or continue to operate, within the City of Los Angeles, other than in "M1," "M2" or "M3" Zones, any automobile laundry or wash rack in which power driven or steam cleaning machinery is used, unless the automobile laundry or wash rack is conducted in accordance with the following requirements:

(a) Any automobile laundry or wash rack, in which power driven or steam cleaning machinery is used, shall be so sound-proofed, the entire development shall be so arranged, and the operations shall be so conducted that the noise emanating therefrom, as measured from any point on adjacent property, shall be no more audible than the noise emanating from the ordinary street traffic and from other commercial or industrial uses measured at the same point on said adjacent property; except that in no event shall it be necessary to reduce the noise from such laundry or wash rack as measured from any point on an adjacent lot in an "A" or "R" Zone to below 65 decibels, or as measured from any point from adjacent property in a "C" or "M" Zone to below 70 decibels.

The comparison between the noise emanating from the automobile laundry or wash rack and from the street and commercial or industrial uses shall be made at the same time of day. The decibel reading shall be the power averages from several readings.

All sound level meter performance, including the definitions and units shall be in accordance with the American Standards Association, standards Z 24.1, Z 24.2 and Z 24.3, copies of which are on file in the office of the City Clerk.

(b) Where the adjacent property is vacant or unused, the Building and Safety Commission may extend the time within which to reduce the noise emanating from the wash rack or laundry, so as to comply with the requirements of this ordinance, as measured from such adjacent lots. The Board also may permit deviations from these requirements in such other cases and for such periods of time as it finds that no one will be adversely affected.

Sec. 2. The Department of Building and Safety shall enforce the provisions of this ordinance.

Sec. 3. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this ordinance. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this ordinance, shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the said provisions, unless provisions are otherwise herein made, shall be punishable by a fine of not more than \$500 or by imprisonment in the City Jail for a period of not more than six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance is committed, continued or permitted by such person and shall be punishable accordingly. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance shall be deemed a public nuisance and may be, by this City summarily abated as such, and each day that such condition continues shall be regarded as a new and separate offense.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper

printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of July 19, 1951.

WALTER C. PETERSON,
City Clerk.

Approved this 30th day of July, 1951.

FLETCHER BOWRON,
Mayor.

Municipal Code Sections

Sec. 28.12. Airplanes—Loud speakers on.—No person, while flying any type of aircraft over this City, shall operate thereon any loud speaker, siren or other device, except the un-muffled exhaust of each aircraft, which makes any noise or sound sufficiently loud to attract the attention of persons on the ground; provided that the Board of Police Commissioners may issue a temporary permit for a period of time not to exceed twenty-four hours to persons to operate a loud speaker, siren or other noise making device on aircraft, if the Board determines that such operation may be necessary in connection with any important celebration in this City.

Sec. 41.32. Theatres—Sound amplifiers.—No person shall use, operate or employ any sound amplifying system in connection with or in conjunction with or as a part of the production, staging, exhibition or projection of any show in such a manner that any voice, tone, sound wave, musical tone or vibration emitted therefrom or transmitted thereover or through the same is carried in tones or sounds audible to the human ear to a point distant more than fifty (50) feet from the property line where such show is being conducted. Provided, that where any such show is being conducted within any enclosure or structure, the exterior of such structure or enclosure shall be construed to mean the property line of the premises where the same is being conducted, for the purpose of this section.

Sec. 41.40. Noise due to construction, excavation work—When prohibited.—(a) No person shall, between the hours of 9:00 P.M. and 7:00 A.M. of the following day, perform any construction or repair work of any kind upon, or any excavating for, any building or structure, where any of the foregoing entails the use of any power driven drill, riveting machine, excavator or any other machine, tool, device or equipment which makes loud noises to the disturbance of persons occupying sleeping quarters in any dwelling hotel or apartment or other place of residence, and any person who knowingly and willfully violates the foregoing provision shall be deemed guilty of a misdemeanor punishable as elsewhere provided in this Code.

(b) The provisions of Subsection (a) shall not apply to any person who performs the construction, repair or excavation work involved pursuant to the express written permission of the Board of Police Commissioners. The Board of Police Commissioners may grant such permission, upon application in writing, where the work proposed to be done is effected with public interest, or where hardship or injustice, or unreasonable delay would result from the interruption thereof during the hours above-mentioned, or where the building or structure involved is devoted or intended to be devoted to a use immediately incident to public defense; nor shall the provisions of this section in any event apply to construction, repair or excavation work done within any district zoned for manufacturing or industrial uses under the provisions of Chapter 1 of this Code, nor to emergency work necessitated by any flood, fire or other catastrophe.

Sec. 41.142. Music reproducing devices—Hours of operation (Added by Ord. No. 111,348, Eff. 7/4/58).—No owner, manager or other person having charge of any place of public resort where any phonograph, loud

speaker or other electrically or mechanically operated device for the reproduction or emission of music is played for hire, shall allow the playing or operation of such device therein, between the hours of 2:00 o'clock A.M. and 5:00 o'clock A.M. of any day.

Sec. 41.44. Miniature golf courses and driving fairways (Added by Ord. No. 111,348, Eff. 7/4/58).—(a) Hours of Play. No person owning, operating, managing or conducting a miniature golf course or driving fairway shall allow any person to play or practice upon such miniature golf course between the hours of 2:00 o'clock A.M. and 6:00 o'clock A.M. of any day.

(b) Hours for Use of Mechanical Devices. No person owning, operating, managing or conducting a miniature golf course or driving fairway shall allow any work or labor with instruments or mechanical devices which are propelled by electric, steam or automotive power, to be performed upon such miniature golf course or driving fairway between the hours of 12:30 o'clock A.M. and 7:00 o'clock A.M. of any day.

(c) Noise Signs. Persons owning, operating, managing or conducting a miniature golf course shall place in a conspicuous place on said golf course, at least four signs upon which are written in legible English, in letters at least two inches in height, words or phrases requesting patrons to refrain from loud talking and unnecessary noise at all times while on the golf course. Such signs shall be placed where they can easily be seen by the patrons.

(d) Illumination.

1. The playing field of a miniature golf course or driving fairway shall not be illuminated between the hours of 2:00 o'clock A.M. and 3:00 o'clock A.M. of any day, except with such illumination as may be necessary only for the proper care and cleaning of such places.

2. The illumination of the playing field of any miniature golf course or driving fairway shall be such that no direct rays from the reflector or source of illumination shall fall upon any portion of any building used for living or sleeping quarters not under the ownership or control of the owner or operator of such golf course.

3. Where electric lamps are used there shall be installed a reflector of a type that shall not permit any portion of the lamp to project beyond the plane of the opening of the reflector, if the golf course or driving fairway is located less than 400 feet from any structure used for dwelling purposes.

4. The provisions of this section shall not apply to festoons or similar lights, streamers or assemblies used for advertising or attracting attention to such golf courses, provided that the lamps used therein do not exceed 25 watts each and are extinguished between the hours of 11:00 o'clock P.M. and 7:00 o'clock A.M. of the following day.

(e) Sound Devices. No person shall use, operate or employ any sound amplifying system, radio or sound producing machine, device or instrument or permit any music of any kind to be played in or upon any miniature golf course or driving fairway between the hours of 10:00 o'clock P.M. of any day and 7:00 o'clock A.M. of the succeeding day.

Sec. 42.00.—* * *

(e) Street-Sidewalk-Public Way—"Soliciting"—"Crying"—Prohibited.

(1) Except as otherwise provided in Subsection (j) of this section, it shall be unlawful for any person in or on any street, sidewalk, or other public way to:

(A) Importune or solicit the purchase of any goods, wares or merchandise or the employment of any services or facilities;

(B) Cry, solicit or proclaim the availability of any goods, wares or merchandise, or of any services or facilities;

(C) Cry, solicit for or proclaim any show, exhibition, entertainment tour, excursion,

sight-seeing trip, real estate, or oil well viewing or inspection trip; or

(D) Make any statement or gesture for the purpose of commanding, announcing, advertising, or calling attention to any of the foregoing.

(2) It shall be unlawful for anyone who is visible or audible to any person on any street, sidewalk or public way, in a loud, boisterous, raucous, offensive or insulting manner to:

(A) Importune or solicit such person to purchase any goods, wares or merchandise, or to employ any services or facilities;

(B) Cry, solicit or proclaim to such person the availability of any goods, wares or merchandise, or services or facilities;

(C) Cry, solicit or proclaim any show, exhibition, entertainment tour, excursion, sight-seeing trip, real estate or oil well viewing or inspection trip; or

(D) Make any statement, or gesture, for the purpose of commanding, announcing, advertising, or calling attention to any of the foregoing.

(3) Nothing in this subsection shall be so construed as to apply to a sightseeing tour operating under and by virtue of a permit from and regulations of the Public Utilities Commission of the State of California and for which tour a fixed charge is made to the person carried.

(f) Electrical Hook-Up System for Purpose of Advertising, Prohibited—Exceptions. Radio Dealers. No person shall use, operate or employ any system of electrical hook-up or connection, including, but not limited to any public address system, loud speaker system, sound amplifying system, whether the source thereof is from a human voice, recording, electric transcription or musical tone in any part of this City for the purpose of crying, proclaiming advertising, calling attention to, any goods, wares, or merchandise or place of business, or for the purpose of directing attention to, advertising, publicizing, or soliciting patronage or custom, to, or for any show, exhibition or event, or entertainment, in such a manner as to permit or allow the sound emitted therefrom or transferred thereover, or carried through such system or systems to travel into, on or over any street, sidewalk or any space occupied by any such street or sidewalk in tones or volume audible to a person of average hearing faculties or capacity.

Provided that the provisions hereof shall not apply to the use of rolling stock or vehicles equipped with such system of the kind or character referred to herein used in accordance with the provisions of this Code regulating the use thereof:

Provided further, the provisions hereof shall not apply to the use of a radio receiving set by a duly and regularly licensed radio receiving set dealer for the purpose of demonstrating a radio receiving set where the volume of sound used or employed in such demonstration is not more than is reasonably necessary for the purpose of demonstrating such radio receiving set and such dealer has otherwise complied with this code and the ordinance of this city. (Amended by Ord. No. 113,547, Eff. 6/27/59.)

(g) Street-Sidewalk—Loud or Unusual Noises Prohibited—Exceptions. No person, except as otherwise provided in subsection "J" of this section, upon any street or sidewalk or in any doorway or entrance to any building opening into any such street or sidewalk not set back at least ten (10) feet from the front property line within any district defined in this section, shall blow any bugle, horn or trumpet, or beat any drum, or ring any bell, or make any other loud or unusual noise, for the purpose of advertising, announcing or calling attention to any goods, wares or merchandise, or for the purpose of advertising, announcing or calling attention to any show, exhibition, entertainment or event, or play any musical instrument, sing, or in any way attract attention to the person

or persons so doing, or to any goods, wares or merchandise, which they may have on their person or in their possession, custody, or control, whether the same is offered for sale to the public or given to the public; provided that nothing in this subsection shall apply to the playing of music by a band or to the blowing of a bugle upon a street or sidewalk for which a special permit in writing so to do shall have first been issued by the Chief of Police, which permit shall specify the time when and the place where such music may be so played or such bugle may be blown; and provided further, that outside of the districts herein defined any regularly licensed peddler may call his wares in an ordinary tone of voice or may ring a bell not exceeding four inches in diameter or blow a horn not exceeding 8 inches in length and not exceeding 4 inches in diameter at the bell end, upon any street or sidewalk in front of the residence of any customer of such peddler, for the purpose of calling the attention of such customer to the presence of such peddler in the street or sidewalk in front of the residence of such customer.

Sec. 63.51. Park regulations.—Within the limits of any public park or recreational facility in the City of Los Angeles under the control, operation or management of the Board of Recreation and Park Commissioners, the Los Angeles County Department of Parks and Recreation or the Los Angeles Memorial Coliseum Commission, no person shall: (Amended by Ord. No. 121-319, Eff. 4/7/62.)

Sec. 87.51. Sound vehicles—where prohibited.—No person shall drive, operate, propel or park any sound vehicle with the sound-making device, sound-amplifying device, or loud-speaker thereof in use or operation:

1. Within the Central Traffic District, at any time;
2. Within 300 feet of any hospital or school, at any time;
3. Upon Hollywood Boulevard between Vermont Avenue and La Brea Avenue, at any time;
4. Upon Wilshire Boulevard, at any time;
5. Upon Sunset Boulevard, at any time;
6. Upon Vine Street, at any time;
7. Upon any public street or way between the hours of 4:30 o'clock P.M. and 9:00 o'clock A.M. of the following day;
8. Upon any public street or way on any Sunday.

RESOLUTION

Whereas, the problem of airport noise is evident at the Los Angeles International Airport and every major airport throughout the United States; and

Whereas, the development and adoption of rules and standards to regulate noise abatement are still pending; and

Whereas, the impact of aircraft-generated noise upon the residents near our airports is increasing in both volume and area and will be intensified by projected aircraft volume; and

Whereas, thirty-five bills prescribing remedial action have been assigned to the House Interstate and Foreign Commerce Committee; and

Whereas, H.R. 3400 and S. 707 authorizes federal rules and standards to regulate aircraft noise abatement;

Now, therefore, be it resolved, that the City Council urge the Chairman of the House Interstate and Foreign Commerce Committee to schedule this subject for early hearing; and

Be it further resolved, that the City Council urge the adoption of H.R. 3400, S. 707 or similar legislation that will provide an early solution to this problem and that the City Clerk with the assistance of the Chief Legislative Analyst provide David L. Wallerstein, the City's Legislative Representative in Washington, with sufficient copies of this action for distribution to appropriate persons.

RESOLUTION

Whereas, the Noise Abatement Committee of the City of Los Angeles was established two years ago in April, 1961, for the serious consideration of finding means to eliminate or reduce noise emanating from the freeways and from other sources; and

Whereas, in connection therewith (C.F. 97637), a Council Resolution (Freeway Truck Noise) and a Police, Fire and Traffic/State, County and Federal Affairs joint committee report was adopted recommending that the Mayor (Poulson) be requested to join with the City Council in setting up the Noise Abatement Committee to be composed of representatives of interested City departments and citizens; and in addition a Police, Fire and Traffic Committee report (C.F. 97637 Sup. No. 2) was later adopted recommending that the Mayor be requested to activate said Committee; and

Whereas, said special Committee, which has been meeting monthly for the past two years, is composed of approximately 35 representatives from various City and State governmental agencies, private industry, and including interested citizens of each Council District; and

Whereas, during this period the Noise Abatement Committee has studied all aspects of the noise problem through its six sub-committees—Airport, Industrial, Neighborhood Nuisances, Press Communications, Street and Highways, and Standards—and has obtained much information and has discovered what fields of enforcement are already under control by other governmental jurisdictions; and

Whereas, airplane noise and flight patterns are under the Aviation Agency of the Federal Government and jet noises are continually being studied by the National Aeronautics and Space Administration, and, in addition, the City Department of Airports has established ground noise regulations; auto mufflers are under regulations prescribed in the State Vehicle Code; occupational hazards and industrial noise are presently being studied by the State Committee on Industrial Noise and the State Department of Industrial Relations; disturbing-the-peace type noises are under City Municipal Code Sections and the California Penal Code Sections; and

Whereas, the California Department of Highway Patrol will soon submit its report to the State Legislature on proposed changes in the muffler noise regulations (V.C. Sections 21160 and 27160) for adequate enforcement of excessive noise; and

Whereas, after carefully considering all available factors on the subject matter, your Noise Abatement Committee has reached the following conclusions and recommendations:

1. Trucks and buses:
 - Over 10,000 pounds:
 - 87 dbA measured at 50 feet—Maximum Allowable Limit
 - 93 dbA measured at 25 feet—Maximum Allowable Limit
 - Under 10,000 pounds:
 - 80 dbA measured at 50 feet—Maximum Allowable Limit
 - 86 dbA measured at 25 feet—Maximum Allowable Limit
2. Passenger Cars:
 - 78 dbA measured at 50 feet—Maximum Allowable Limit
 - 84 dbA measured at 25 feet—Maximum Allowable Limit
3. Motorcycles, including other vehicles:
 - 87 dbA measured at 50 feet—Maximum Allowable Limit
 - 93 dbA measured at 25 feet—Maximum Allowable Limit
4. PNdb—vs.—dba: dbA system was recommended rather than the PNdb system. (Decibel A-scale; Perceived Noise Level).
5. Constant speed—vs.—acceleration: Recommend both—the constant legal speed test, or in compliance with International Stand-

ards Organization standards for acceleration test.

6. Exempt vehicles: Recommended that emergency fire equipment be excluded from the proposed legislation.

Now, therefore, be it resolved, that the City Council of the City of Los Angeles does hereby approve the above-mentioned recommendations, and that said recommendations be transmitted by the City Clerk to the California Department of Highway Patrol for consideration during the preparation of its final report to be submitted to the State Legislature; and

Be it further resolved, that said Highway Patrol Department be respectfully requested to submit a copy of said final report to the City Council of Los Angeles for its information.

Be it further resolved, that by the adoption of this resolution, the members of the Noise Abatement Committee be commended for giving of themselves, their time and services in the interest of civic noise abatement, and in view of the Committee having now obtained its over-all objectives, that this special Committee, with the concurrence of the Mayor, be de-activated.

City Zoning Plan (1964)

Sec. 12.14(6) Automobile service station, tire and tube repairing, battery servicing, automobile lubrication, automobile laundry or wash rack, provided that:

(b) Any automobile laundry or wash rack, in which power driven or steam cleaning machinery is used, shall be so sound-proofed, the entire development shall be so arranged, and the operations shall be so conducted that the noise emanating therefrom, as measured from any point on adjacent property, shall be no more audible than the noise emanating from the ordinary street traffic and from other commercial or industrial uses measured at the same point on said adjacent property; except that in no event shall it be necessary to reduce the noise from such laundry or wash rack as measured from any point on an adjacent lot in an "A" or "R" Zone to below 65 decibels, or, to below 70 decibels, as measured from any point from adjacent property in a "C" or "M" Zone.

The comparison between the noise emanating from the automobile laundry or wash rack and from the street and commercial or industrial uses shall be made at the same time of day. The decibel readings shall be the power averages from several readings.

All sound level meter performance, including the definitions and units, shall be in accordance with the American Standards Association, standards Z 24.1, Z 24.2 and Z 24.3, copies of which are on file in the office of the City Clerk.

Every wash rack shall be so constructed or arranged so that entrances, exits, and openings therein shall not face any residential property within 100 feet thereof. (Amended by Ord. No. 110,663, Eff. 2/9/58.)

GENERAL RECOMMENDATION

To the Mayor, City Council, and City Administrative Officer: From the Los Angeles City Planning Commission, for the establishment within the Office of the City Administrative Officer of an Assistant City Administrative Officer for Noise Administration (Noise Administrator).

JUSTIFICATION FOR POSITION

Noise is becoming progressively more objectionable and injurious in the urban environment. Motor vehicles, motorcycles, construction equipment, and aircraft contribute to increasing noise pollution. Not only have acoustical and medical experts warned that noise is approaching levels injurious to human hearing in parts of the City, but property owners have instigated suits for per-

sonal and property damages claimed caused by intensive noise.

Unless actions are taken to control noise, it will continue to intensify, resultant injury and damage will increase, more and more suits for damages will occur. Continued disregard of environmental noise could so reduce the livability of cities that their economic as well as physical health would be impaired.

It is clear that noise has joined polluted water, smog, nuclear radiation, and bacteriological contamination as a significant determinant of the health and habitability of the urban environment.

If urban noise is ignored until a crisis situation has developed, it will be too late to restore the environment without enormous expense, great disruption of noise-producing activities which have been allowed to accumulate without limitation, and general economic strain.

The time to plan and act for the present and future is now.

NOISE ADMINISTRATOR

The position of Assistant City Administrative Officer for Noise Administration (Noise Administrator) should include the following initial responsibilities:

1. Be generally and specifically informed concerning noise-producing sources and situation throughout Los Angeles;

2. Recommend legislative actions by City Council and administrative actions by city departments which will reduce noise pollution;

3. Develop standards and suggest methods of controlling the type and intensity of sound permitted in the open-air or exterior environment of Los Angeles by any source within its boundaries, including motor vehicles of all kinds, aircraft, and construction equipment;

4. Working with the Los Angeles Department of Building and Safety (Building Code), City Planning Department (Zoning Regulations), County and State health agencies and others directly involved, establish interior environmental standards for acoustical provisions within new and extensively renovated buildings and structures;

5. Encourage and promote improvements in the design of vehicles, equipment, and structures which reduce exterior and interior noise at the source;

6. Together with others involved, represent the urban environmental interests of Los Angeles with county, regional, state, and federal agencies, private enterprise, courts, general public, and those concerned with or affecting noise pollution.

OPERATIONS OF THE OFFICE OF THE NOISE ADMINISTRATOR

To the fullest extent possible, this Office should operate through existing municipal departments and agencies. It would work with these organizations to achieve their maximum contribution to reducing noise pollution. Coordination of many different rules, regulations, and actions by various municipal organizations will be needed. The Noise Administrator would suggest, recommend formally, stimulate, and generally take the lead in reducing environmental noise contamination.

The size and cost of the operation would therefore be relatively small, and offset by revenues from fines for noise violations, if such were imposed. Like the Office of Petroleum Administration, it would emphasize high quality of personnel, recommendation, and action rather than numbers and bureaucratic expansion. It would deliberately seek to remain as small, alertly active, and widely effective as possible.

Las Vegas, Nevada

City Ordinances—Motor Vehicle Code

10-20-38: Modification of exhaust systems.—No person shall modify the exhaust

system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle and the original muffler shall comply with all of the requirements of this Code.

10-20-42: Mufflers.—It shall be unlawful for any person to ride, drive or propel or cause or permit to be ridden, driven or propelled any motor vehicle in, upon, or along any street or to operate or cause or permit to be operated the motor in any such vehicle in any street or other public place if such motor vehicle or the motor in such vehicle is not provided with a good and sufficient muffler properly attached thereto or if the exhaust from the motor of such vehicle is ejected otherwise than through such muffler, or if such exhaust is ejected toward the surface of the street or ground.

It shall be unlawful for any person operating a self propelled vehicle upon the streets to permit the pipes, muffler or other devices to emit the sounds of exhaust in a loud and annoying manner; it being the intention of this Section to compel the operation of such self propelled vehicles in as noiseless a manner as possible.

6-1-24: Noises.—Subject to the provisions of this Section, the creating of any unreasonably loud, disturbing and unnecessary noise within the Limits of the City is prohibited.

Noise of such character intensity or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this Section but this enumeration shall not be deemed to be exclusive:

(A) The sounding of any horn or signal device on any automobile, motorcycle, or bus while in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(B) The playing of any radio, phonograph or a musical instrument in such a manner or with such volume, particularly during the hours between 11:00 P.M., and 7:00 A.M., as to annoy or disturb the quiet, comfort or repose of any persons in any office, hospital, dwelling, hotel or other type of residence or of any persons in the vicinity.

(C) Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 P.M., and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort or repose of any persons in any hospital, dwelling, hotel or any other type of residence or of any persons in the vicinity.

(D) The keeping of any animal, bird or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(E) The use of any automobile or motorcycle so out of repair, so loaded or in such manner as to cause loud and unnecessary grating, grinding, rattling or other noises.

(F) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper City authorities.

(G) To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine except through a muffler

or other device which will effectively prevent loud or explosive noises therefrom.

(H) The erection, including excavation, demolition, alteration or repair of any building in any residential district or section, the excavation of streets and highways in any residential district or section, other than between the hours of 7:00 A.M., and 6:00 P.M., on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed thirty (30) days while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building, or the excavation of streets and highways within the hours of 6:00 P.M., and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 P.M., and 7:00 A.M., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(I) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof.

(J) The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(K) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.

(L) The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(M) Exceptions: None of the terms or prohibitions hereof shall apply to or be enforced against:

1. Any vehicle of the City while engaged upon necessary public business.
2. Excavations or repairs of bridges, streets or highways by or on behalf of the City, Clark County, or the State of Nevada, during the night season, when the public welfare and convenience renders it impossible to perform such work during the day.
3. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character; provided that a permit therefor has been first obtained from the Board of Commissioners.
4. Provided that public dissemination through radio loudspeakers, of items of news and matters of public concern and athletic activities shall not be deemed a violation of this Section if the same be done under permission obtained from the Board of Commissioners. (Ord. 412; 4-25-50)

Memphis, Tennessee

An Ordinance Prohibiting Unnecessary Noise in the City of Memphis and Providing Penalties Therefor

Section 1. Be it ordained by the Board of Commissioners of the City of Memphis, that, subject to the provisions of this Ordinance, the creating of any unreasonably loud, disturbing and unnecessary noise within the limits of the City is prohibited.

Section 2. Be it further ordained that noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

Section 3. Be it further ordained, that the following acts, among others, are declared to be loud, disturbing and unnecessary noises

and noises in violation of this ordinance, but this enumeration shall not be deemed to be exclusive, namely:

A. The sounding of any horn or signal device on any automobile, motorcycle, bus, street car or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation, by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

B. The playing of any radio, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between 11 P.M. and 7 A.M. as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

C. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11 P.M. and 7 A.M. or at any time or place so as to annoy or disturb the quiet, comfort or repose of any persons in any hospital, dwelling, hotel or other type of residence or of any persons in the vicinity.

D. The keeping of any animal, bird or fowl which by causing frequent or long continued noise shall disturb the comfort, or repose of any person in the vicinity.

E. The use of any automobile, motorcycle, street car or vehicle so out of repair, so loaded or in such manner as to cause loud and unnecessary grating, grinding, rattling or other noise.

F. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper City authorities.

G. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

H. The erection (including excavating), demolition, alteration, or repair of any building in any residential district or section, the excavation of streets and highways in any residential district or section, other than between the hours of 7 A.M. and 6 P.M. on week days, except in the case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Commissioner, which permit may be granted for a period not to exceed thirty days while the emergency continues. If the Building Commissioner should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6 P.M. and 7 A.M. and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6 P.M. and 7 A.M. upon application being made at the time the permit for the work is awarded or during the progress of the work.

I. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof.

J. The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.

K. The use of any drum, loud-speaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.

L. The use of mechanical loud-speakers or amplifier on trucks or other moving or standing vehicles for advertising or other purposes.

Section 4. Be it further ordained, that none of the terms or prohibitions hereof shall apply to or be enforced against:

a. Any vehicle of the City of Memphis while engaged upon necessary public business;

b. Excavations or repairs of bridges, streets or highways by or on behalf of the City of Memphis, Shelby County or the State of Tennessee, during the night season, when the public welfare and convenience renders it impossible to perform such work during the day.

c. The reasonable use of amplifiers or loud-speakers in the course of public addresses which are non-commercial in character.

Section 5. Be it further ordained, that any person violating any of the provisions of this ordinance shall be guilty of misdemeanor and upon conviction shall be fined not less than One Dollar (\$1.00) nor more than Fifty Dollars (\$50.00) for each offense.

Section 6. Be it further ordained, that if any phrase, clause or section of this ordinance be held unconstitutional, such unconstitutionality shall not affect the remainder thereof.

Section 7. Be it further ordained, that this ordinance take effect from and after its passage, the matter being one of urgency and necessity, and the public welfare requiring it.

No. 227—An Ordinance to amend section 769 (1) (b) of the Memphis Municipal Code, enacted March 15, 1949, pertaining to noise—generally, so as to include among the enumerated noises which are prohibited, sound devices, including but not limited to loud speakers or other devices for the reproduction and amplification of sound, either independently or in connection with motion pictures, radio or television

Section 1. Be it ordained by the Mayor and Board of Commissioners of the City of Memphis, that Section 769 (1) (b) of the Memphis Municipal Code, enacted March 15, 1949, be and the same is amended by inserting in the first sentence thereof after the phrase "musical instrument" and before the phrase "in such manner" the phrase "or sound device including but not limited to loud speakers or other devices for reproduction or amplification of sound, either independently or in connection with motion pictures, radio or television", so that said section will read:

"(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loud speakers or other devices for reproduction or amplification of sound, either independently or in connection with motion pictures, radio or television, in such manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet comfort or repose of persons in any office, hospital or in any dwelling, hotel, or other type of residence, or of any person in the vicinity."

Section 2. Be it further ordained, that the foregoing ordinance take effect from and after its passage, the public welfare requiring it.

Sept. 15, 1952.

Passed on third reading, September 23, 1952.

Madeira Beach, Florida

Ordinance No. 11 making it unlawful for any person or owner in charge of any store, garage, filling station, apartment house, theatre, restaurant or other premises where persons gather or enter for purposes of amusement or trade in the town of Madeira Beach to themselves disturb or to permit the disturbance of the neighbors or public peace by loud cries, boisterous songs, machines or instruments the use of which produce loud music or noises, or other noise interrupting the peace or quietude of the neighborhood at any and all places, after the hour of eleven o'clock p.m. and before the hour of eight o'clock a.m., providing a penalty therefor and other matters in regard thereto

The town of Madeira Beach does ordain as follows:

Section 1. That it shall be unlawful for any person or persons, owner, manager, or employee in charge of any store, garage, filling station, apartment house, theatre, restaurant or other premises where persons gather or enter for purposes of amusement or trade, within the corporate limits of the town, either by their own action or to permit or allow any persons who may resort to their premises by day or by night to disturb the neighbors or public peace by loud cries, boisterous songs, operate musical machines, instruments, or other musical devices, the use of which produces loud music or noises or to make other noises interrupting the peace or quietude of the neighborhood, at any and all places within the corporate limits after the hour of eleven o'clock P.M. and before the hour of eight o'clock A.M.

Section 2. Any person or persons, owner, manager or employee in charge who shall be convicted of a violation of this ordinance shall be punished by a fine not exceeding five hundred (\$500.00) Dollars or an imprisonment not to exceed sixty (60) days, either or both.

Ordinance No. 228 amending chapter 12, code of ordinances of the city of Madeira Beach, by striking the word "seventeen" from section 12-13 and the word "seventeen" from section 12-14, and substituting therefor the word "eighteen"; and by striking the words "ten o'clock p.m." in section 12-18 and substituting therefor the words "eleven o'clock p.m."

Whereas, there occurred in the printed Code of Ordinances of the City of Madeira Beach certain typographical errors; and

Whereas, it is desirable that such errors be corrected so that the Code of Ordinances as adopted shall follow the language of the original ordinances;

Now, therefore, be it ordained by the Board of Commissioners of the City of Madeira Beach:

Section 1. That Chapter 12, Code of Ordinances of the City of Madeira Beach, be amended by striking the word "seventeen" in Section 12-14, and substituting therefor the word "eighteen" in each of such sections.

Section 2. That said Chapter 12 be further amended by striking the words "ten o'clock p.m." in Section 12-18 and substituting therefor the words "eleven o'clock p.m." in such section.

Miami, Florida

Building Code

Article XXII—Performance standards

Section 1: General.—All uses in the C-4 (general commercial) district, C-5 (commercial district), I-1 (light industrial) district, and the I-2 (general industrial) district, shall conform to the standards of performance described within this Article below and shall be so constructed, maintained and operated so as not to be injurious or offensive to the occupants of adjacent premises by reason of

the emission or creation of noise, vibration, smoke, dust or other particular matter, toxic or noxious waste materials, odors, fire and explosive hazard or glare.

Section 2: Noise.—Every use shall be so operated as to comply with the maximum performance standards governing noise described below. Objectionable noises due to intermittance, beat frequency or shrillness shall be muffled or eliminated so as not to become a nuisance to adjacent uses. Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association.

Octave bands in cycles per second	Along property line abutting a residential district between 8 a.m. and 6 p.m. ¹ (Maximum permitted sound level in decibels)	Along property line abutting in industrial or commercial district (Maximum permitted sound level in decibels)
0 to 75.....	72	79
75 to 150.....	67	74
150 to 300.....	59	66
300 to 600.....	52	59
600 to 1,200.....	46	53
1,200 to 2,400.....	40	47
2,400 to 4,800.....	34	41
Over 4,800.....	32	39

¹ Permissible sound level between 6 p.m. and 8 a.m. shall be decreased by 3 decibels in each of the octave bands.

City ordinance

Chapter 36: Noise.

- § 36-1. Unnecessary, excessive or unusual noises—Generally.
- § 36-2. Same—Near hospitals and schools.
- § 36-3. Loud or boisterous noises generally.
- § 36-4. Operation of radios, phonographs or other soundmaking devices; bands, orchestras and musicians—Generally.
- § 36-5. Same—Hours of operation of juke boxes, radios, etc.
- § 36-6. Permit required for use of sound trucks, etc.
- § 36-7. Ringing bells, beating pans, pails, etc.; whistles and gongs.
- § 36-8. Use of horns or warning devices.
- § 36-9. Barbecues, softdrink stands and restaurants.
- § 36-10. Steam whistles.
- § 36-11. Discharge of combustibles.
- § 36-12. Whistles or gongs similar to those on emergency vehicles.
- § 36-13. Pile-drivers, steam shovels, pneumatic hammers, etc.
- § 36-14. Emission of steam and other gases.
- § 36-15. Noise-creating blowers, power fans or internal combustion engines.
- § 36-16. Mufflers for motorboats.
- § 36-17. Sound amplification from aircraft prohibited.

Sec. 36-1. Unnecessary, excessive or unusual noises—Generally.—It shall be unlawful to make loud, unnecessary, excessive or unusual noise in the city. (Code 1957, § 41-1.)

Sec. 36-2. Same—Near hospitals and schools.—It shall be unlawful for any person, by himself or by the operation of any instrument, agency or vehicle, to make any unnecessary or unseemly noises within one hundred feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick, or any school during school hours. The city manager shall place as many signs as he may deem proper within or near zones hereby created, calling attention to the prohibition against unnecessary noises within such zones. (Code 1957, § 41-2.)

Sec. 36-3. Loud or boisterous noises generally.—No person shall create any loud or boisterous noise which may annoy persons on any street or sidewalk or in any building adjacent thereto. (Code 1957, § 38-37.)

Sec. 36-4. Operation of radios, phonographs or other sound-making devices; bands, orchestras and musicians—Generally.—It shall be unlawful for any person owning, occupying or having charge of any building or premises or any part thereof, in the city, at any time to cause or suffer or allow any loud, unnecessary, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the music of any band, orchestra, musician or group of musicians, where the noise or music is plainly audible at a distance of one hundred feet from the building, structure, vehicle or premises in which or from which it is produced. The fact that the noise or music is plainly audible at a distance of one hundred feet from the vehicle or premises from which it originates constitutes prima facie evidence of a violation of this chapter. (Code 1957, § 41-3.)

Sec. 36-5. Same—Hours of operation of juke boxes, radios, etc.—It shall be unlawful for any person owning, occupying or having charge of any business establishment, or any part thereof, in the city, to cause or suffer to cause the playing or operating of music boxes, juke boxes, radios, musical instruments or any other musical devices on or about the premises between the hours of 11:00 P.M. and 7:00 A.M. the following day, unless such music boxes, juke boxes, radios, musical instruments and other devices are played or operated in a closed building and the sound is not audible from outside the building so as to disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence. Upon a second conviction of violation of this section the municipal judge may at his discretion revoke and terminate any license issued under chapter 30 to the licensee. (Code 1957, § 41-5.)

Sec. 36-6. Permit required for use of sound trucks, etc.—No sound truck or other vehicle equipped with amplifier or loudspeaker shall be driven upon any street for the purpose of selling, offering for sale or advertising in any fashion or for any other use whatsoever, except in accordance with a permit issued by the chief of police. Such permit shall only be issued by the chief of police after approval by the city manager, upon recommendation by the chief of police. (Code 1957, § 38-38; Ord. No. 6414, § 1.)

Sec. 36-7. Ringing bells, beating pans, pails, etc.; whistles and gongs.—It shall be unlawful for any person to ring any hand bell, beat or strike any pan, pail or other like article, or sound any gong or blow any whistle or horn, or other than musical instruments when used as part of a band of music or orchestra, except to give necessary signals upon a motor vehicle, motorcycle, bicycle or similar vehicle; or to cry out the sale of goods, wares or merchandise; or to make, aid, continue or encourage or assist in making any other loud or unusual noises on the streets of the city. (Code 1957, § 41-6.)

Sec. 36-8. Use of horns or warning devices.—It shall be unlawful in the city to sound any horn or signal device on any vehicle unnecessarily at any time in any quiet zone or other place or to use any such horn or signal device for giving or making a signal not necessary for traffic safety purposes. Such

*Annotation.—The right of a citizen to use the public streets is not absolute, but may be controlled and regulated in the interest of the public good. This section does not prohibit operation of vehicles on streets or unduly restrict freedom of speech. It is a reasonable protection of homes and business houses from distracting noises. State v. Headley, 48 So. 2d 80.

horns or signal devices shall not be used in the city for advertising purposes. (Code 1957, § 38-24.)

Sec. 36-9. Barbecues, soft-drink stands and restaurants.—It shall be unlawful to blow, ring or sound any automobile horn, chime or bell on or about premises used in conjunction with the operation of any barbecue or soft-drink stand or restaurant where such barbecue or soft-drink stand or restaurant premises are located within a distance of one hundred feet from improved residential property, unless such blowing, ringing or sounding shall be necessary for the protection of life or property. (Code 1957, § 41-7.)

Sec. 36-10. Steam whistles.—It shall be unlawful to blow any steam whistle except as follows:

For an alarm of fire; upon locomotive engines for the purpose only of giving necessary safety signals; upon stationary engines in factories or other industrial establishments at the time of beginning or quitting work in such establishments; upon vessels, craft and floats for the purpose of giving only necessary marine signals. Air-raid warning signals are hereby excepted. (Code 1957, § 41-8.)

Sec. 36-11. Discharge of combustibles.—It shall be unlawful to fire or discharge a gun, squibs, crackers, gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance, except upon proclamation or by written permission of the city manager. (Code 1957, § 41-9.)

Sec. 36-12. Whistles or gongs similar to those on emergency vehicles.—It shall be unlawful for any person to carry or use upon any vehicle any gong or siren whistle similar to that used on ambulances or vehicles of the police or fire departments. (Code 1957, § 41-10.)

Sec. 36-13. Pile-drivers, steam shovels, pneumatic hammers, etc.—It shall be unlawful for any person in conducting any building operations between the hours of 10:00 P. M. and 7:00 A. M. to operate or use any pile-driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other apparatus, the use of which is attended by loud or unusual noise, except by written permission of the city manager, and then only in case of emergency. (Code 1957, § 41-11.)

Sec. 36-14. Emission of steam and other gases.—It shall be unlawful to permit or cause the emission of steam or other gases if such emission cannot be done without the production of disturbing noises. (Code 1957, § 41-12.)

Sec. 36-15. Noise-creating blowers, power fans or internal combustion engines.—It shall be unlawful to operate or cause to be operated any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noises due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noises, so that the same shall not cause annoyance to the public or disturb the rest and quiet of persons residing or occupying property near enough thereto to be annoyed by the unmuffled blower, fan or exhaust of any such engine. (Code 1957, § 41-13.)

Sec. 36-16. Mufflers for motorboats.—It shall be unlawful for any person to operate, or for the owners of any motorboat or outboard motorboat to permit same to be operated upon any river, bay or waterway in the city unless such motorboat or outboard motorboat is equipped with an adequate muffler, which muffler shall not be open or cutout while the boat is being operated. (Code 1957, § 41-14.)

Sec. 36-17. Sound amplification from aircraft prohibited.—No person shall operate, or cause to be operated, in or over the city any aircraft for any purpose with sound amplifying equipment in operation, and no per-

son shall operate, or cause to be operated, in or over the city any aircraft for commercial sound advertising purposes.

The word "aircraft", as used in this section, shall mean any contrivance used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons. The words "sound and amplifying equipment" shall mean any machine or device for the amplification of music, the human voice or any other noise or sound for the purpose of disseminating such music, human voice or any other noise or sound to persons on the ground. "Sound amplifying equipment" shall not be construed as including warning devices on authorized emergency aircraft or any horns or other warning device used only for traffic safety purposes. (Code 1957, § 41-15.)

Milwaukee, Wisconsin

Ordinance No. 19 to Amend Section 80-26 of the Milwaukee Code Relating to Noises in Other Than Manufacturing Districts

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 80-26 of the Milwaukee Code is hereby amended as follows:

80-26. Noises in Other Than Manufacturing Districts.

Except in a purely manufacturing district, no corporation, partnership or persons shall conduct its or his business between the hours of 8 P.M. and 6 A.M. as to cause any loud or sharp noises or concussion, unless such corporation, partnership, or person shall have first obtained a permit from the Commissioner of Health. Such permits shall be issued by the Commissioner of Health only when it appears to the satisfaction of the said Commissioner that the conduct of such business between said hours will not be injurious to the health of those residing in the vicinity of the place where such business is being conducted; provided, however, that the said Commissioner may grant such permit when it appears to his satisfaction that the work proposed during the hours prohibited is a necessity. Any person, firm or corporation violating any of the provisions of this section shall upon conviction thereof be punishable by a fine not exceeding one hundred dollars.

Part 2. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

Part 3. This ordinance shall take effect and be in force from and after its passage and publication.

Passed May 3, 1960.

An Ordinance No. 371 to Amend Section 78-18 of the Milwaukee Code Relating to Dogs: Disturbing the Peace

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 78-18 of the Milwaukee Code is hereby amended to read as follows:

78-18. Dogs: Disturbing the Peace.

It shall be unlawful for any person to own, keep, have in his possession, or harbor any dog which, by frequent and habitual howling, yelping, barking, or otherwise, shall cause serious annoyance or disturbance to persons or to the neighborhood, provided that the provisions of this section shall not apply to hospitals conducted for the treatment of small animals which are approved by the health department, to medical universities, to premises occupied or used by the Wisconsin Humane Society, or to premises occupied or used by the city pound. No person shall be convicted under the provisions of this section except upon evidence of two or more persons of a different household, and no warrant shall be issued except upon request of the health department. Any person violating the provisions of this section shall be fined not less than \$5 nor more than \$25.

Part 2. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

Part 3. This ordinance shall take effect and be in force from and after its passage and publication.

Passed July 25, 1967.

Ordinance No. 577 to amend Section 85-14 of the Milwaukee Code, relating to permitting clock chimes at or near any place of business

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 85-14 of the Milwaukee Code is hereby amended to read:

85-14. Barkers, etc., not permitted. No solicitor, bellman or crier, or any drum, fife, or other instrument of music, or any show or signal, noise or other means of attracting the attention of the public, other than clock chimes or a stationary or fixed sign or flag, shall be employed, suffered or permitted to be used at or near any place of sale or auction or show house, motion picture theaters, stores or any other place of business fronting or abutting on any public thoroughfare in the City of Milwaukee, under a penalty of not to exceed fifty dollars for each and every offense together with costs of prosecution.

Part 2. All ordinances or part of ordinances contravening the provisions of this ordinance are hereby repealed.

Part 3. This ordinance shall take effect and be in force from and after its passage and publication.

Passed January 27, 1953.

6-36. Barking Prohibited.—It shall be unlawful for any person to sing, call, cry out, shout, or engage in what is commonly known as barking, to attract customers or solicit trade, on or upon any street, sidewalk or public place within the city of Milwaukee on Sunday; before 9 a.m. and after 5 p.m. on any week day; within zones of quiet, and within two hundred feet of any school or church.

No person shall, on Sunday, before 9 a.m. and after 5 p.m. on any week day; within zones of quiet; and within two hundred feet of any school or church make, cause, permit or allow to be made, any noise of any kind by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, musical instrument, phonograph, talking machine, or any other mechanical device at any time for the purpose of advertising any goods, wares or merchandise by attracting the attention or inviting the patronage of any person or persons, upon any public street, alley or other public place in the city of Milwaukee.

61-37. Penalty.—Any person convicted of the violation of the provisions of Section 6-36 shall be punished by a fine of not exceeding twenty-five dollars (\$25) or by imprisonment in the house of correction of Milwaukee county not exceeding 30 days, or by both such fine and imprisonment, in the discretion of the court.

8.80.—(4) Other Equipment.

(a) When Equipment Required. No person shall operate, and no owner shall give permission for the operation of, any motorboat on the waters of this state unless such motorboat is equipped as required by this section.

(b) Mufflers.

1. The engine of every motorboat propelled by an internal combustion engine shall be equipped with a muffler which is so constructed and kept in constant operation that it prevents excessive or unusual noise at all times while the engine is in operation.

2. No person shall drive, operate or use any motorboat propelled by an internal combustion engine equipped with a muffling device which has been altered in any manner from the manufacturer's specifications so as to increase its emission of noise.

(k) Unnecessarily Sounding Whistles. No person shall unnecessarily sound a horn, whistle or other sound-producing device on

any boat while at anchor or under way. The use of a siren on any except duly authorized patrol boats on patrol or rescue duty is prohibited.

Chapter 80: Nuisances.—Noise, smoke, rats, etc.

80-1. Nuisance Defined.—In all cases where no provision is herein made defining what are nuisances and how the same may be removed, abated or prevented in addition to what may be declared such herein, those offenses which are known to the common law of the land and the statutes of the state of Wisconsin as nuisances may, in case the same exist within the city limits, be treated as such and proceeded against as in this article provided, or in accordance with other provisions of law.

80-2. Commissioner of Health Authorized to Abate Nuisance.—Whenever any nuisance shall be found on any premises within the city the commissioner of health is hereby authorized in his discretion to cause the same to be summarily abated in such manner as he may direct.

90-27. Hours for Music.—On a tavern amusement premises no music, dancing or entertainment of any nature shall be permitted after 2:00 a.m. on weekdays and 3:30 a.m., on Sundays and before 10:30 a.m. of the same day, central standard time.

On a tavern ballroom premises no music, dancing or entertainment of any nature shall be permitted after 1:00 a.m. and before 10:30 a.m. of the same day, central standard time.

On any premises licensed to permit the playing of instrumental music or licensed as a tavern dance hall or licensed only for the sale of intoxicating liquor or fermented malt beverage, no music, dancing or entertainment of any nature except phonograph-soundies shall be permitted after 1:00 a.m. on weekdays and 1:30 a.m. on Sundays and before 10:30 a.m. of the same day, central standard time. The playing of a phonograph-soundy shall not be permitted after 2:00 a.m. on weekdays and 3:30 a.m. on Sundays and before 10:30 a.m. of the same day, central standard time. (Am. Ord. 19, F #48-3360, passed Apr. 25, 1949.)

100-31. Restrictions as to Noise and Time of Operation.—On streets that are thirty feet or less in width from curb to curb, excepting streets lying adjacent or contiguous to parks, the use of alarm or signal bells be prohibited and the running or operation of such motor vehicles is limiting to and prohibited excepting only within the respective periods following: (A) Between the hours of 7:30 a.m. on Sundays, or 6:30 a.m. on other days, and midnight for single deck coaches equipped with pneumatic tires, and (B) Between the hours of 8:30 a.m. on Sundays, or 7:30 a.m. on other days, and 10:30 p.m. for double deck coaches or any vehicle equipped with solid rubber tires.

101-282. Horns and Warning Devices.—(1) No person shall operate a motor vehicle upon a highway unless such motor vehicle is equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no person shall at any time use a horn otherwise than as a reasonable warning or make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(2) Except as otherwise provided in this section, no vehicle shall be equipped with nor shall any person use upon a vehicle any siren or compression or exhaust whistle.

(3) Any vehicle may be equipped with a theft alarm signal device if such device is so arranged that it cannot be used by the driver as an ordinary warning signal.

(4) An authorized emergency vehicle shall be equipped with a siren, but such siren shall not be used except when such vehicle is operated in response to an emergency call or

in the immediate pursuit of an actual or suspected violator of the law, in which events the driver of such vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers.

101-283. Mufflers.—(1) No person shall operate on a highway any motor vehicle subject to registration unless such motor vehicle is equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise or annoying smoke.

(2) No muffler or exhaust system on any vehicle mentioned in subsection (1) shall be equipped with a cutout, by-pass or similar device nor shall there be installed in the exhaust system of any such vehicle any device to ignite exhaust gases so as to produce flame within or without the exhaust system. No person shall modify the exhaust system of any such motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle, and such original muffler shall comply with all the requirements of this section.

(3) In this section, "muffler" means a device consisting of a series of chambers of baffle plates or other mechanical design for receiving exhaust gases from an internal combustion engine and which is effective in reducing noise.

(4) No person shall drive or propel any motor vehicle upon or along any highway or alley in the city of Milwaukee with chains fastened to the wheels of such motor vehicle in such a manner that they will strike any other part of the car on the revolution of the wheels or with any metal portion of the wheels or rims striking the pavement or with any part or parts of such vehicle so loose or out of repair as to create any loud or unnecessary noise.

105-6. Use of Bells, Horns, etc. on Motor Vehicles Restricted.—No person or company using or driving, or causing to be used or driven, any motor vehicle on any street, alley or public place in the city of Milwaukee shall sound or cause to be sounded any bell, horn, gong, whistle, or other signal or noise making device or instrument on or connected with such motor vehicle, and no owner of any motor vehicle while therein or thereon shall allow to be sounded any bell, horn, gong, whistle, or other signal or noise making device or instrument on or connected with such motor vehicle, except as a warning to other users of such streets, alleys, or public places of the approach of such motor vehicle, or as a warning of danger, or as a signal to a traffic officer or other police officer of the city of Milwaukee. Nothing herein shall be construed to prohibit the use of any bands or orchestras on motor vehicles used or operated in a non-commercial parade. The word "used," as it occurs in this section, shall be interpreted to include and apply to the use of any such motor vehicle either while the same is in motion or while the same is stationary upon the streets, alleys or public places in the city of Milwaukee.

105-7. Penalty.—Any person or company violating or failing to comply with the provisions of Section 105-6 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than five dollars nor more than two hundred dollars.

105-29. Muffling Exhaust of Stationary Gasoline Engines.—It shall be unlawful for any person or corporation to operate or cause to be operated any stationary gasoline engine, or any stationary engine deriving its power from an explosive exhaust, in the city of Milwaukee, without muffling the exhaust thereof by causing the exhaust to be conveyed into a barrel, or other cavity making article buried in the ground or by some other plan of muffle that will decrease the sound of exhaust equally as much, so as not to disturb the peace and quiet in the locality of

any such engine and so as not to disturb the rest and quiet of people residing near enough thereto to be annoyed by the unmuffled exhaust of any such engine.

105-30. Penalty.—Any person or persons violating any of the provisions of the foregoing section shall be punished by a fine of not less than ten dollars nor more than fifty dollars for each such offense.

Each day that any person shall operate any such engine in violation of the provisions of said section, after such person shall have received notice from any resident of the city of Milwaukee that such unmuffled exhaust is an annoyance to the said resident, or after such person shall have received notice from an officer or policeman of the said city that any such unmuffled exhaust is in violation of said section, shall be considered a separate offense in violation of said section.

105-31. Muffling of Blowers or Power Fans.—It shall be unlawful for any person or corporation to operate or cause to be operated any noise creating blower or power fan in the city of Milwaukee without muffling the noise therefrom by causing the blower or fan to be contained in some sufficient noise absorbing box, or by causing said blower or said fan to be buried in the ground, or by some other plan of noise absorption to decrease the sound of said blower or fan so as not to disturb the peace and quiet in the locality of any such blower or fan, and so as not to disturb the rest and quiet of people residing near enough thereto to be annoyed by the unabsorbed noise of any such blower or fan.

105-32. Penalty.—Any person or persons violating any of the provisions of the foregoing section shall be punished by a fine of not less than ten dollars nor more than fifty dollars for each such offense.

Each day that any person shall operate any such blower or fan in violation of the provisions of Section 105-32, after such person shall have received notice from any resident of the city of Milwaukee that such unmuffled blower or fan is an annoyance to such resident, or after such person shall have received notice from an officer or policeman of the said city that any such blower or fans is in violation of said section, shall be considered a separate offense in violation of said section.

Minneapolis, Minnesota

MEMORANDUM ON NOISE POLLUTION CONTROL

(By Robert J. Alfton, Assistant City Attorney, Minneapolis)

There are five methods by which the City of Minneapolis has attempted to regulate noise: zoning code enforcement; noise ordinance enforcement; public nuisance actions; licensing requirements; and indirectly in building code requirements.

1. Zoning Code.—The Minneapolis Zoning Ordinance provides for noise limitations in M1 districts. Article X Section B, l.c. (1) provides for performance standards:

"(1) Noise.—In the M1 Districts at no point on the boundary of a Residence or Business District shall the sound pressure level of any operation or plant (other than background noises not directly under the control of the manufacturer) exceed the decibel limits in the octave bands designated below:

MAXIMUM PERMITTED SOUND LEVEL (DECIBELS)

Octave band frequency (cycles per second)	Along residence district boundaries (decibels)	Along business district boundaries (decibels)
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
Over 4,800	32	39

This performance standard is adopted by reference in several other zoning districts. Noise in residential, business, and manufacturing districts is also indirectly limited by the use restrictions placed in those districts.

"2. *Unlawful Noise*.—Minneapolis Ordinances, Chapter 875, makes certain acts unlawful and punishable by up to ninety days in jail or a \$100.00 fine. Violations of the Breach of Peace ordinance, Section 870.060 are subject to the same penalty.

"3. *Nuisances*.—The Minneapolis City Charter, Chapter 4, § 5(2) provides that the City Council has the power:

"To remove and abate any nuisance injurious to the public health, and to provide for the punishment of all persons who shall cause or maintain such nuisance."

The Council has not, however, made noise emission a nuisance as such.

Criminal prosecutions by the City could proceed under Minnesota Statutes Sections 609.74 or 609.745. Civil actions could proceed under Minnesota Statutes Section 561.01.

4. *Licensing*.—Juke boxes are required to be licensed by Chapter 375 of the Minneapolis Ordinances and Section 375.060 regulates sound emissions. Broadcasting vehicles are required to be licensed by Chapter 356 and Section 356.080 regulates sound emissions.

5. *Building Code*.—The Minneapolis Building Code indirectly regulates noise through its construction and material requirements.

Zoning Districts (Noise Standards)

P. 2, #2—Accessory building or use.
P. 5, #25—decibel.
P. 7, #48—frequency.
P. 9, #68—lot, zoning.
P. 11, #87—(octave band) & #88 (octave filter).

P. 13, #114 (sound level) & #115 (sound level meter).

P. 14 #123—use, transitional.

PP. 40-44, Article VI, section 9—conditional uses.

P. 87, Article VIII, section A, par. 2—transitional uses.

(Residential Districts)

P. 94, Article VIII, section B, par. 1b (transitional uses—R1).

P. 101, Article VIII, section B, par. 1Ab (transitional uses—R1A).

P. 102, Article VIII, section B, par. 2b (transitional uses—R2).

P. 104, Article VIII, section B, par. 2Ab (transitional uses—R2A).

P. 105, Article VIII, section B, par. 2Bb (transitional uses—R2B).

P. 105, Article VIII, section B, par. 2Cb (transitional uses—RA).

P. 107, Article VIII, section B, par. 3b (transitional uses—R3).

P. 109, Article VIII, section B, par. 4b (transitional uses—R4).

P. 113, Article VIII, section D, par. 5b (transitional uses—R5).

P. 116, Article VIII, section B, par. 6b (transitional uses—R6).

P. 140, Article IX, section B, par. 4a(1) (d) (permitted uses—B2).

P. 142, Article IX, section B, par. 4b(5) (conditional uses—B2).

P. 146, Article IX, section B, par. 5a(1) (f) (permitted uses—B2S).

P. 147, Article IX, section B, par. 5b (conditional uses—B2S).

P. 150, Article IX, section B, par. 6(a) (1) (d) (permitted uses—B3).

P. 151, Article IX, section B, par. 6b(5) (conditional use—B3).

P. 155, Article IX, section B, par. 7a(1) (c) (permitted uses—B3S).

P. 156, Article IX, section B, par. 7(a)-(2) (1) (permitted uses—B3S).

P. 156, Article IX, section B, par. 7b (conditional uses—B3S).

P. 160, Article IX, section B, par. 8a(1) (a) (permitted uses—B3C).

P. 162, Article IX, section B, par. 8b (conditional uses—B3C).

PP. 165-166, Article IX, section B, par. 9a(1) (d) (permitted uses—B4).

P. 167, Article IX, section B, par. 9b(4) (conditional uses—B4).

PP. 171-172, Article IX, section B, par. 10a(1) (b) (permitted uses—B4S).

P. 172, Article IX, section B, par. 10a(2)-(b) (permitted uses—B4S).

P. 172, Article IX, section B, par. 10a(2) (h) (permitted uses—B4S).

P. 172, Article IX, section B, par. 10b (conditional uses—B4S).

P. 174, Article IX, section B, par. 11a(1) (a) (permitted uses—B4C).

P. 174, Article IX, section B, par. 11a(2) (a) (permitted uses—B4C).

P. 174, Article IX, section B, par. 11a(2) (b) (permitted uses—B4C).

P. 174, Article IX, section B, par. 11b (conditional uses—B4C).

P. 175, Article IX, section B, par. 12a(3) (permitted uses—B4SP).

P. 177, Article IX, section A, par. 3a(1) & (2) (performance standards—Noise) (Manufacturing Districts).

P. 186, Article X, section B, par. 1a(2) (a) (permitted uses—M1).

P. 138, Article X, section B, par. 1c(1) (performance standards—Noise—M1).

P. 196, Article X, section B, par. 2a(2) (a) (permitted uses—M2).

P. 197, Article X, section B, par. 2c(1) (performance standards—Noise—M2).

PP. 199-200, Article X, section B, par. 3a(2) (a) (permitted use—M3).

P. 200, Article X, section B, par. 3c(1) (performance standards—Noise—M3).

Zoning Ordinances

Petty offenses: 875. Noise

875.010. Unnecessary noise or odor.—No person, in any public or private place, shall make, or assist in making, by any manner or means, any loud, unpleasant or raucous noise or odor disturbing to others, unless the same be reasonably necessary to the preservation of life, health, safety or property.

875.020. Automobile horns.—No person shall sound the horn, siren or other signal or warning device attached to a motor vehicle in a public place between the hours of 11:00 p.m. and 7:00 a.m. This section shall not apply to police, fire or public or private ambulance motor vehicles; and shall not be construed to prevent or prohibit the use or sounding of any such horn, siren, signal or warning device as a danger or warning signal when such use or sounding is necessary in the careful and proper operation of any motor vehicle on the public highways, having due regard to traffic, the condition of the highway, and the safety of persons or property, nor when such use or sounding is required by law or ordinance.

875.030. Sound amplifying equipment.—No person shall use or maintain any sound amplifying equipment when the use or maintenance of such equipment creates noises so loud and unnatural in their time, place, use or maintenance as to annoy, injure or endanger the safety, health, comfort or repose of any persons.

875.040. Advertising by Public Address Systems.—No person shall maintain and operate in any building a radio device or musical instrument where the sound therefrom is cast directly upon a public street and where such device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public. Nothing herein contained shall prohibit the playing of records in a record shop where the sounds created, emitted or transmitted therefrom are not audible for a distance of more than 25 feet from the building in which the record shop is located.

875.050. Zones of Quiet.—No person in any Zone of Quiet shall make any unnecessary noise by fast driving, riding, ringing of bells, blowing of horns or whistles, or by cutting out the muffler of any motor vehicle, or in

any other way tending to disturb the peace and quiet in said zone. The City Engineer shall erect suitable signs to identify said zones. University Avenue Southeast from 11th to 18th Avenues is a Zone of Quiet.

870.060. Breach of the Peace. No person, in any public or private place, shall engage in, or prepare, attempt, offer or threaten to engage in, or assist or conspire with another to engage in, or congregate because of, any riot, fight, brawl, tumultuous conduct, act of violence, or any other conduct which disturbs the peace and quiet of another save for participating in a recognized athletic contest.

Criminal Code

609.74 Public nuisance.—Whoever by his act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance and may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$100:

(1) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

(2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

(3) Is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

609.745 Permitting public nuisance.—Whoever permits real property under his control to be used to maintain a public nuisance or lets the same knowing it will be so used may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$100.

[1963 c 753 art 1 s 609.745]

State Statute

561.01 Nuisance; action.—Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance. An action may be brought by any person whose property is injuriously affected or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

[R.L.S 4446] (9580)

Licensing of various activities:

375. Juke boxes

375.010. Definitions.—As used in this Chapter, the following terms shall mean:

(1) Musical juke box.—A machine which plays music upon the insertion of a coin or slug.

(2) Movie musical juke box.—A machine which, upon the insertion of a coin or slug, shows movies and plays music at the same time.

(3) Telephonic musical box.—Any device or instrument directly or indirectly connected to the public telephone system, and which, upon insertion of a coin or slug, emits music in places open to or frequented by the public.

375.020. License required.—No person shall maintain or operate any musical juke box, movie musical juke box, or telephonic musical box without being licensed under this Chapter.

375.060. Noise restricted.—No person shall operate a juke box or movie musical juke box in such manner that the sound created, emitted or transmitted is audible for a distance of more than 25 feet from the building in which it is located.

356. Broadcasting vehicles

356.010. Definition.—A "broadcasting vehicle," as the term is used in this Chapter, is any vehicle, motor drawn or otherwise, which has attached to it any device for amplifying

and broadcasting through one or more loud speakers speech or music, whether produced from records or radio reception or vocally through a microphone, and which projects sound from such vehicle with a total speaker volume of more than one watt.

356.020. License required.—No person shall park or operate any broadcasting vehicle without being licensed under this Chapter.

356.080. Limits on sound.—Such broadcasting vehicles shall make no louder broadcast or sound than is produced by speakers with a total output of not more than 20 watts. When approaching any zone on any street in the vicinity of any hospital or other institution in which sick persons are treated or cared for where there is displayed a sign containing the words "Hospital—Quiet" or at schools when in session, or at funeral parlors during funeral services, such sound or broadcasting shall immediately cease and not commence to operate until arriving at a sufficient distance so as to avoid disturbing any persons within said areas.

356.090. Vehicles not to stop.—No broadcasting vehicle shall stop at any place upon the streets or alleys of the City unless as a result of necessary traffic delays, except that vehicles operated for the sole purpose of presenting a program of a charitable, educational or religious nature, and not otherwise, may make stops at not less than one-half mile apart and not to exceed 10 minutes' duration, for the purpose of broadcasting; provided, that no stops shall be made upon any street or alley in that portion of the City bounded by Washington Avenue, 10th Street, 3rd Avenue North and 5th Avenue South.

356.100. Solicitation of funds prohibited.—No solicitation of funds shall be made by any person connected with the operation of such vehicle.

356.110. Night or Sunday use prohibited.—No broadcasting vehicle shall be operated while broadcasting between the hours of 9:00 p.m. and 8:00 a.m., nor on Sunday.

Newark, New Jersey

City Ordinance

Chapter 3: Noise.

17:3-1. Loud or unnecessary noise prohibited.—(a) The creation of any unreasonably loud, disturbing or unnecessary noise in the city is hereby prohibited.

(b) Any noise of such character, intensity or duration as is detrimental to the life or health of any individual is prohibited. [R. O. 1951, § 19.1]

17:3-2. Prohibited acts.—The following acts, among others but not by way of limitation, are declared to be loud, disturbing or unnecessary noises in violation of this chapter, but the following enumeration shall not be deemed exclusive:

(a) Horns, signaling devices, and the like. The sounding of any horn or signal device on any automobile, motorcycle, bus, street car or other vehicle:

(1) while not in motion, except as a danger signal that another vehicle is approaching apparently out of control; or

(2) if in motion, only as a danger signal or where the motor vehicle statutes of New Jersey requires the sounding of such horn or signal device.

Wherever the sounding of any horn or signal device is permitted or required by clause "(1)" and "(2)" of this subparagraph "(a)", such sounding shall be of no louder or longer duration than is necessary.

(b) Radios, TVs, phonographs, etc. The playing or permitting the playing of any radio, television set, phonograph, musical instrument or machine or device for the production or reproducing of sound, in such a manner or with such volume as to unreasonably annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or any other type of residence particularly between the hours of midnight and 8:00 a.m. This restriction shall not be applicable to any establishment licensed by the city where-

in entertainment and amusements are allowed; provided however, such regulations as are already required for such licensed establishments shall remain in full force and effect.

(c) Animals and birds, etc. The keeping of any animal or bird which by causing frequent or long-continued noise disturbs the comfort and repose of any person in the vicinity.

(d) Defect in vehicle or noisy load. The use of any automobile, motorcycle, street car or other vehicle so out of repair or loaded in such a manner, as to create loud or unnecessary grating, grinding, rattling or other noise.

(e) Steam whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin a stop work or as a danger warning.

(f) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, motorcycle or motorboat, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(g) Compressed air device. The use of any mechanical device operated by compressed air, unless the noise created thereby is muffled and reduced as effectively as the same can be, having regard to the device so used.

(h) Construction or repairing of buildings. The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 6:00 a.m. and 7:00 p.m. on weekdays, except in case of urgent necessity in the interest of public safety and then only with a permit from the director of the department of health and welfare.

(i) Schools, courts, churches, hospitals. The creation of any loud or excessive noise on any street adjacent to any school, institution of learning, or court while the same are in session, or adjacent to any hospital which unreasonably interferes with the workings of such institutions; provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(j) Loading or unloading of vehicles; opening or destruction of boxes. The creation of a loud or excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, boxes, crates and containers.

(k) Hawkers, peddlers. The shouting or crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(l) Noises to attract attention. The use of any drum, loudspeaker, bell or other instrument or device for the purpose of attracting, by creation of such noise, to any performance, show or sale or display of merchandise, except where the director of police has given permission for the use of same on a given occasion at a given place, which permission shall limit such uses to a period of not exceeding 48 hours.

(m) Loud-speakers, amplifiers. The use of mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising or other purposes in any area where the same is now or hereafter prohibited by the director, police, unless permitted by the said director, who shall regulate the same. The director of police shall not permit such use where the effect shall cause injury to the health of any person. Such director of police may require the registering of all persons to whom permission may be given and he shall also have the power to limit the number of such persons to whom such permission is given.

New Orleans, Louisiana

Section 5 of the City's Zoning Ordinance titled "Exceptions and Modifications to Use Regulations."

Power plants, heating or refrigerating

plants or apparatus or machinery not a part of the main building, which are accessory to permitted uses in the A-Single Family District, B-Two Family District, C-Four Family District, D-Multiple Family District, M-1 and M-2 Medical Service Districts and in the H-1 Vieux Carre Residential District, shall be permitted in the buildable area or required rear yards of the above-named districts only if so placed and operated as to cause the least inconvenience to owners or tenants of adjoining lots and buildings; and provided that all of the above-mentioned activities comply with existing city ordinances and do not cause serious annoyance or injury to occupants of adjoining premises by reason of the emission of odors, fumes or gases, dust, smoke, noise or vibration, light or glare, or other nuisances.

Article 5103 of the New Orleans Building Code—"Nuisance Defined."

The emission of dense smoke, soot, cinders, flyash, dust, sawdust, cement ash, hulls and obnoxious odors from any railroad engine, steamboat, steamship, tugboat, or any other self-propelled vessel, steam roller, steam derrick or hoist, steam pile driver, concrete mixer, kettle or other contrivance or machine, or from any plant, mill, building, apartment house or premises within the corporate limits of the City, shall be deemed to be committing a nuisance, which shall be summarily abated by the Director.

We have no definite regulations on the amount of noise which is considered obnoxious. Some thought has been given to using the decibel system. Complaints relative to noise are judged on the basis of abnormal to the general sound and the location to the usual noises of the area. The method used by us generally eliminates the nuisance. We have to use engineering methods and common sense.

Section 42-42. Noise.—Violent.*—No person shall make a violent noise. (Flynn's Digest 1896, art. 1360.)

Section 42-43. Same—Blowing whistles.—It shall be unlawful to blow steam whistles, other than those on steamboats actually navigating the river, between the hours of 9:00 P.M. and 6:30 P.M. But nothing herein shall be construed as applying to locomotives attached to steamtrains in motion or to cases covered by the state or United States statutes. (Flynn's Digest 1896, art. 1392.)

Section 42-44. Same—Drums, horns, and trumpets.—It shall not be lawful for any person to beat a drum, blow a horn or sound a trumpet in any street or public place within the limits of the city. But this provision shall not apply to any militia or other procession or to those cases in which auctioneers are permitted to beat drums. (Flynn's Digest 1896, art. 1355.)

Section 42-45. Same—Organ grinders.—Organ grinders shall not pursue their vocation on the public streets or sidewalks before 9:00 A.M. or after 10:00 P.M. (Flynn's Digest 1896, art. 1371.)

For prohibition against peddlers annoying neighborhood, see § 45-4 of this Code.

Section 38-161. Duty of Motor Vehicle Inspection Bureau and Director of Finance.—

(c) 15. Exhaust System: Every motor vehicle shall at all times be equipped with a muffler or mufflers in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, by-pass or similar device upon a motor vehicle, or modify the exhaust system in any way so as to create any unusual hazard on a street or highway.

New York, New York

City Code, Chapter 18, Sec 435-5.0 & 435-6.0

§ 435-5.0 Unnecessary noises prohibited.—a. Subject to the provisions of this section, the creation of any unreasonable loud, dis-

* For state law on this subject, see R.S., § 14:103.

turbing and unnecessary noise is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

b. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but any enumeration herein shall not be deemed to be exclusive:

1. The sounding of any horn or signal device on any automobile, motorcycle, bus, street car or other vehicle while stationary, except as a danger signal when an approaching vehicle is apparently out of control, or, if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound or the sounding of any such device for an unnecessary and unreasonable period of time.

2. The operation of any radio, phonograph or use of any musical instrument in such a manner or with such volume, particularly between eleven post meridian and seven ante meridian, as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence.

3. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.

4. The use of any automobile, motorcycle, street car or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

5. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

6. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

7. The erection, including excavating, demolition, alteration or repair of any building other than between seven ante meridian and six post meridian on weekdays; except in case of urgent necessity in the interest of public safety and then only with a permit from the commissioner of buildings, which permit may be renewed for a period of three days or less while the emergency continues. (Subd. b, par. 7, amended by L. 1963, ch. 100, § 396.)

8. The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

9. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

10. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

11. The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention to any performance, show or sale or display of merchandise by the creation of noise.

12. (Repealed by L. L. 1948, No. 64, October 1.)

c. Violations. Any person who shall violate any of the provisions of this section shall be punished as follows: Upon conviction for the first offense, by a fine of not less than five dollars and not more than ten dollars or by imprisonment for one day; upon conviction of every offense thereafter by a fine of not less than ten dollars and not more than twenty-five dollars, or by imprisonment for ten days, or both. (Subd. c as

amended by L. L. 1942, No. 50, October 29; L. L. 1954, No. 2, March 12; L. L. 1954, No. 125, December 15.)

d. Exemptions.—This section shall not apply to the operation or use of any organ, radio, bell, chimes, or other instrument, apparatus or device by any church, synagogue or school. (Subd. d as added by L. L. 1941, No. 55, July 15.)

§ 435-6.0* Regulation of sound devices or apparatus.—a. Legislative declaration. It is hereby declared that the use or operation of any radio device or apparatus or any device or apparatus for the amplification of sounds from any radio, phonograph or other sound-making or sound-producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sounds, in front of or outside of any building, place or premises, or in or through any window, doorway or opening of such building, place or premises, abutting or adjacent to a public street, park or place, or in or upon any vehicle operated, standing or being in or upon any public street, park or place, where the sounds therefrom may be heard upon any public street, park or place, or from any stand, platform or other structure, or from any airplane or other device used for flying, flying over the city, or on a boat or on the waters within the jurisdiction of the city, or anywhere on or in the public streets, parks or places, is detrimental to the health, welfare and safety of the inhabitants of the city, in that such use or operation diverts the attention of pedestrians and vehicle operators in the public streets, parks and places, thus increasing traffic hazards and causing injury to life and limb. It is hereby further declared that such use or operation disturbs the public peace and comfort and the peaceful enjoyment by the people of their rights to use the public streets, parks and places for street, park and other public purposes and disturbs the peace, quiet and comfort of the neighboring inhabitants. Therefore, it is hereby declared as a matter of legislative determination that the prohibition of such use or operation for commercial or business advertising purposes and the proper regulation of such use and operation for all other purposes is essential to protect the health, welfare and safety of the inhabitants of the city, to secure the health, safety, comfort, convenience, and peaceful enjoyment by the people of their rights to use the public streets, parks and places for street, park and other public purposes and to secure the peace, quiet and comfort of the city's inhabitants. It is hereby further declared as a matter of legislative determination that the expense of supervising and regulating the use and operation of such sound devices and apparatus for purposes other than commercial and business advertising purposes should be borne by the persons using or operating such devices and apparatus and that the requirement of a nominal fee for the issuance of a permit for

* Section 3 of L. L. 1948, No. 64, reads as follows:

§ 3. Construction Clause.—If any part of this local law or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this local law or the application thereof to other persons and circumstances, but shall be confined in its operation to the section, subdivision, sentence or part of the local law and the persons and the circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the Council that this local law would have been adopted if such invalid section, provision, subdivision, sentence or part of the local law or application not been included.

such use and operation as hereinafter prescribed is intended to defray the expenses of regulating such use or operation for the health, welfare and safety of all the people.

b. Definitions. As used in this section:

1. The term "sound device or apparatus" shall mean any radio device or apparatus, or any device or apparatus for the amplification of any sounds from any radio, phonograph, or other sound-making or sound-producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sounds;

2. The phrase "to use or operate any sound device or apparatus in, on, near or adjacent to any public street, park or place," shall mean to use or operate or cause to be used or operated any sound device or apparatus in front or outside of any building, place or premises, or in or through any window, doorway or opening of such building, place or premises, abutting on or adjacent to a public street, park or place, or in or upon any vehicle operated, standing or being in or on any public street, park or place, where the sounds therefrom may be heard upon any public street, park or place, or from any stand, platform or other structure, or from any other airplane or other device used for flying, flying over the city, or on a boat or on the waters within the jurisdiction of the city, or anywhere on the public streets, parks or places.

c. Use and operation of the sound devices and apparatus for commercial and business advertising purposes. It shall be unlawful for any person to use or operate any sound device or apparatus in, on, near or adjacent to any public street, park or place, for commercial and business advertising purpose.

d. Use and operation of sound devices and apparatus for other than commercial and business advertising purposes; permit required. It shall be unlawful for any person to use or operate any sound device or apparatus, in, on, near or adjacent to any public street, park or place, unless he shall have first obtained a permit to be issued by the commissioner in the manner hereinafter prescribed and unless he shall comply with the provisions of this section and the terms and conditions prescribed in such permit.

e. Applications.—Each applicant for a permit to use or operate a sound device or apparatus in, on, near or adjacent to any public street, park or place shall file a written application with the commissioner, at the police precinct covering the area in which such sound device or apparatus is to be used or operated, at least five days prior to the date upon which sound device or apparatus is to be used or operated. Such application shall describe the specific location in which such sound device or apparatus is proposed to be used or operated, the day and the hour or hours during which it is proposed to be used or operated, the volume of sound which is proposed to be used measured by decibels or any other efficient method of measuring sound, and such other pertinent information as the commissioner may deem necessary to enable him to carry out the provisions of this section.

f. Issuance of permit; terms.—The commissioner shall not deny a permit for any specific time, location or use, to any applicant who complies with the provisions of this section, except for one or more of the reasons specified in subdivision g hereof or for non-payment of the fee prescribed in subdivision h hereof, or to prevent over-lapping in the granting of permits. Each permit issued pursuant to this section shall describe the specific location in which such sound device or apparatus may be used or operated thereunder, the exact period of time for which such apparatus or device may be operated in such location, the maximum volume of sound which may be employed in such use or operation and such other terms and conditions as may be necessary, for the purpose

of securing the health, safety, comfort, convenience and peaceful enjoyment by the people of their right to use the public streets, parks or places for street, park or other public purposes, protecting the health, welfare and safety of the inhabitants of the city, and securing the peace, quiet and comfort of the neighboring inhabitants.

g. Special restrictions.—The commissioner shall not issue any permit for the use of a sound device or apparatus:

1. In any location within five hundred feet of a school, courthouse or church, during the hours of school, court or worship, respectively, or within five hundred feet of any hospital or similar institution;

2. In any location where the commissioner, upon investigation, shall determine that the conditions of vehicular or pedestrian traffic or both are such that the use of such a device or apparatus will constitute a threat to the safety of pedestrians or vehicular operations;

3. In any location where the commissioner, upon investigation, shall determine that conditions of overcrowding or of street repair or other physical conditions are such that the use of a sound device or apparatus will deprive the public of the right to the safe, comfortable, convenient and peaceful enjoyment of any public street, park or place for street, park or other public purposes, or will constitute a threat to the safety of pedestrians or vehicle operators;

4. In or on any vehicle or other device while it is in transit; or

5. Between the hours of ten p.m. and nine a.m.

h. Fees.—Each applicant for a permit issued under the provisions of this section shall pay a fee of five dollars for the use of each sound device or apparatus for each day, provided, however, that permits for the use of such sound devices or apparatus shall be issued to any bureau, commission, board or department of the United States government, the state of New York, and the city of New York, without fee.

i. The provisions of this section shall not apply to the use or operation of any sound device or apparatus by any church or synagogue on or within its own premises, in connection with the religious rites or ceremonies of such church or synagogue.

j. Violations.—Any person who shall violate any provision of this section, upon conviction thereof, shall be punished by a fine of not more than twenty-five dollars or imprisonment for thirty days, or both.

k. Rules and regulations.—The commissioner shall have the power to make such rules and regulations as may be necessary to carry out the provisions of this section.

(As amended by L. L. 1939, No. 172, November 20; as renumbered by L. L. 1942, No. 50, October 29; and as amended by L. L. 1948, No. 64, October 1.)

New York, New York

Building Code, Sub-Article 1208

Sub-article 1208.0 Noise control in multiple dwellings

§ C26-1208.1. Requirements.—Interior walls, partitions, floor-ceiling constructions, and mechanical equipment in spaces or buildings of occupancy group J-2 shall be designed and constructed in accordance with the requirements of this article, to provide minimum protection for each dwelling unit from extraneous noises emanating from other dwelling units and from mechanical equipment. In addition, airborne sound from exterior mechanical equipment of buildings in any occupancy group shall conform to the requirements of this article.

(a) Field testing.—Where conditions indicate that the installed construction or equipment does not meet the noise control prescribed in this article, measurements shall be taken to determine conformance or non-conformance. For conformance with this article, the results of such measurements shall

not fall by more than 2 db to meet the requirements in any octave band, or by more than two points to meet any STC or INR requirements.

(b) Materials or assemblies of materials utilized to meet noise control requirements shall comply with load bearing, fire protection or other applicable requirements of this code for walls, partitions and floor-ceiling constructions.

§ C26-1208.2 Acoustical isolation of dwelling units.—

(a) Airborne noise.—

(1) Walls, partitions, and floor-ceiling constructions separating dwelling units from each other or from public halls, corridors, or stairs shall have a minimum sound transmission class (STC) rating of 45 for airborne noise. This requirement shall not apply to dwelling unit entrance doors. However, such doors shall fit closely and not be undercut. For permits issued after January first nineteen-seventy-two, the S.T.C. required shall be 50 for airborne noise and dwelling unit entrance doors shall at that time, have a minimum S.T.C. of 35.

(2) STC ratings shall be obtained by tests conducted in accordance with the procedures of reference standard RS 12-2 except as provided in (3) below.

(3) The STC ratings of construction assemblies as listed in reference standard RS 12-2 may be used to determine conformance with the requirements of (1) above and with any other section that requires a specific STC rating.

(4) Penetrations or openings in walls partitions, or floors for pipe sleeves, medicine cabinets, hampers, electric devices, or similar items shall be packed, sealed, lined, back-plastered, or otherwise isolated by sufficient mass to maintain the required STC ratings.

(5) Where grilles, registers, or diffusers in one dwelling unit are connected by ductwork with grilles, registers, or diffusers in another dwelling unit, and where such connecting duct is less than 7 ft. long, it shall be lined with duct lining; otherwise, an approved sound attenuating device shall be installed therein. Duct lining shall conform to the requirements of article 13.

(b) Structure-borne noise.—

(1) Floor-ceiling constructions separating dwelling units from each other or from public halls or corridors shall have a minimum impact noise rating (INR) of 0.

(2) Such INR shall be obtained by tests conducted in accordance with the procedure of reference standards RS 12-3 except as provided in (3) below.

(3) The INR of a floor-ceiling constructions listed in reference standard RS 12-3 shall be used to determine conformance with the requirements of (1) above and with any other paragraph that requires a specific INR. Constructions shall be designed and installed to avoid short circuiting the isolation devices that are incorporated into the constructions.

§ C26-1208.3 Noise control of mechanical equipment.—

(a) Minimum airborne noise insulation requirements.—

(1) Boiler rooms.—Boiler rooms adjoining dwelling spaces, either vertically or horizontally, shall be separated therefrom by floor-ceiling or partition constructions having a minimum STC rating of 50.

(2) Mechanical equipment spaces.—Spaces or shafts containing air conditioning, refrigeration, or ventilating equipment, elevator machinery, or other mechanical equipment shall be separated both vertically and horizontally from dwelling units by constructions that will provide a minimum STC rating of 50. Spaces or shafts containing equipment totaling more than 75 rated h.p. shall not be located vertically or horizontally adjacent to dwelling units unless the total sound power level output of all the equipment in the space or shaft is certified not to exceed the maximum soundpower levels of table 12-3 in any octave band. Such sound power level

ratings shall be obtained by test conducted in accordance with the procedures of reference standard RS 12-5.

a. Ventilating openings into mechanical equipment spaces.—Ventilating openings into boiler rooms and other mechanical equipment spaces shall not be located in yards or courts where there are windows opening from living quarters, unless such ventilating openings are provided with sound attenuating devices if needed to limit noise transmission to NC-40 (noise criterion) levels in the exposed dwelling units. For permits issued after January first, nineteen seventy-two, the permissible noise levels shall not exceed NC-35.

b. Noise criteria requirements.—Noise criteria requirements prescribed in this article shall be in accordance with reference standard RS 12-4.

TABLE 12-3.—MAXIMUM SOUND POWER LEVELS PERMITTED IN MECHANICAL SPACES OR SHAFTS ADJOINING DWELLING SPACES

Octave bands, c.p.s., mid-frequency	Maximum sound power level db =	
	db re 10 ⁻¹² watts	db re 10 ⁻¹² watts
63	101	91
125	101	91
250	103	93
500	105	95
1000	102	92
2000	101	91
4000	98	88
8000	96	86

a. The maximum sound power levels shall be reduced 5 db in any octave band where the equipment data indicate pure tone generation. The presence of pure tones may be determined by means of 1/3 octave band analysis. The criterion for a significant pure-tone component shall be an audible pure-tone sound together with an increase of the sound pressure level in the corresponding 1/3 octave band above the mean of the 2 adjacent 1/3 of at least:

b. For permits issued after Jan. 1, 1972, the maximum sound power levels shall be changed as follows:

Octave band, c.p.s., midfrequency	db re 10 ⁻¹² watt	db re 10 ⁻¹² watt
63	98	88
125	97	87
250	100	90
1000	97	87
2000	96	86
4000	93	83
8000	91	81

Center frequency of 1/3 octave band	40-125	160-250	215-500	630-1,000	1,000-10,000
Increase in sound pressure level (db)	6	4	3	2	1 1/2

(3) Ductwork.—Ducts serving dwelling units shall be lined with duct lining for at least 20 ft. from the fan discharge or intake; otherwise, an approved sound attenuating device shall be installed therein. All toilet exhaust ducts shall be lined with duct lining for at least 20 ft. upstream of the exhaust fan intake, otherwise, an approved sound attenuating device shall be installed therein. Duct lining shall conform to the requirements of article 13.

(4) Exterior mechanical equipment.—Mechanical equipment in a building in any occupancy group, when located outside of the building in a yard or court or on a roof, or where the equipment opens to the exterior of the building, shall be subject to the noise output limitations given in table 12-4 where one or more windows of a dwelling unit in any building in occupancy groups J-1, J-2, or J-3 is located within a sphere of 100 ft. radius whose center is any part of the equipment or its housing, unless it can be shown that the sound pressure levels, in octave bands, of the exterior mechanical equipment as measured within the dwelling unit do not exceed the levels given in table 12-5.

TABLE 12-4.—MAXIMUM SOUND POWER LEVELS PERMITTED FOR EXTERIOR MECHANICAL EQUIPMENT ADJOINING BUILDINGS

Minimum distance from equipment to exterior window (ft.) ²	Maximum sound power levels in octave bands-db re 10 ⁻¹² watts ¹								Minimum distance from equipment to exterior window (ft.) ²	Maximum sound power levels in octave bands-db re 10 ⁻¹² watts ¹							
	Octave bands c.p.s. mid frequency									Octave bands-db re 10 ⁻¹² watts							
	63	125	250	500	1,000	2,000	4,000	8,000		63	125	250	500	1,000	2,000	4,000	8,000
12.....	99	92	88	84	82	82	82	82	12.....	89	82	78	74	72	72	72	72
25.....	103	96	92	88	86	86	86	86	25.....	93	86	82	78	76	76	76	76
50.....	107	100	96	92	90	90	90	90	50.....	97	90	86	82	80	80	80	80
100.....	110	103	99	95	93	93	93	93	100.....	100	93	89	85	83	83	83	83

¹ For permits issued after Jan. 1, 1972, the permitted maximum sound power levels for exterior mechanical equipment adjoining buildings shall be changed as follows:

Feet	Octave bands—dB re 10 ⁻¹² watt							
12.....	97	90	83	78	75	73	72	71
25.....	104	96	89	84	81	79	78	77
50.....	110	102	95	90	87	85	84	83
100.....	116	108	101	96	93	91	90	89

Feet	Octave bands—dB re 10 ⁻¹² watt							
12.....	87	80	73	68	65	63	62	61
25.....	94	86	79	74	71	69	68	67
50.....	100	92	85	80	77	75	74	73
100.....	106	98	91	86	83	81	80	79

TABLE 12-5.—NOISE OUTPUT LIMITATIONS FOR EXTERIOR MECHANICAL EQUIPMENT MAXIMUM SOUND PRESSURE LEVEL^{1,2}

[Not to be exceeded in any octave bands]

Octave bands, center frequency (c.p.s.)	Decibels re 0.0002 microbar
63	64
125	57
250	51
500	45
1000	41
2000	39
4000	38
8000	37

¹ Measurements shall be obtained with a sound level meter and octave band analyzer, calibrated both electronically and acoustically before and after the measurements are made. The equipment used shall meet the requirements of reference standards RS 12-6.

² For permits issued after Jan. 1, 1972, the maximum sound pressure levels shall be changed as follows:

Octave bands center frequencies (c.p.s.)	Decibels re 0.0002 microbar
63	61
125	53
250	46
500	40
1000	36
2000	34
4000	33
8000	32

(b) Minimum structure-borne noise and vibration isolation requirements.—All isolators used in accordance with the following requirements shall be approved.

(1) Boiler rooms.—

(a) Boilers.—All boilers supported on floors above a story having dwelling units shall be supported on resilient isolators having a minimum static deflection of 1 in. The isolators shall be installed directly under the structural frame of the boiler.

b. Boiler breeching and piping.—When boilers are equipped with mechanical draft fans, the boiler breeching and piping that is supported from or on slabs, floors, or walls that are contiguous to dwelling unit shall be supported for a distance of 50 pipe diameters on or from resilient isolators. Each isolator shall have a minimum static deflection of 1 in.

(2) Incinerator charging chutes.—

a. Metal chutes.—Metal chutes, metal chute supports, and/or metal chute bracing, shall be free of direct contact with the shaft enclosure and the openings provided in the floor construction. Metal chutes shall be resiliently supported at each structural support location. Isolators shall provide a minimum static deflection of 0.30 in. All chutes shall be plumb.

b. Masonry chutes.—The interior chute wall shall be plumb and without obstructions for the full height of the shaft and shall have a smooth interior finish.

(3) Piping.—

a. Metal piping connected to power driven equipment shall be resiliently supported from or on the building structure for a distance of 50 pipe diameters from the power driven equipment. The resilient isolators shall have a minimum static deflection of 1 in. for all piping with a 4 in. or larger actual outside diameter and ½ in. for piping with less than a 4 in. in actual outside diameter. Piping connected to fluid pressure-reducing valves, shall be resiliently isolated for a distance of 50 pipe diameters from pressure reducing valves and isolators shall provide a minimum static deflection of ½ in.

b. Equipment such as heat exchangers, absorption refrigeration machines, etc., that is located on any floor or roof other than a floor on grade, and that is not power driven but is connected by metal piping to power driven equipment, shall be resiliently supported from or on the building structure, for a distance of 50 pipe diameters from the power driven equipment. The resilient supports shall be vibration isolators having a minimum static reflection of 1 in. and shall incorporate approved resilient pads having a minimum thickness of ¼ in.

(4) Fans.—All fan equipment located on any roof or floor other than a floor on grade shall be mounted on or from vibration isolators. Fan equipment with motor drives separated from the fan equipment shall be supported on an isolated integral rigid structural base supporting both the fan and motor. Fan equipment with motor drives supported from the fan equipment shall be mounted directly on vibration isolators. Each isolator shall have provision for leveling. Isolators shall incorporate resilient pads having a minimum thickness of ¼ in. The vibration isolators shall provide a minimum isolator efficiency of 90 per cent of fan rotor rpm with a maximum deflection of 2 in. Fans and compressors of 3 h.p. or less assembled in unitary containers may meet this requirement with isolators internal to the container providing the isolators meet the above minimum isolator efficiencies.

(5) Pumps.—All pumps of 3 h. p. or more located on any floor other than a floor on grade shall be supported on vibration isolators having a minimum isolation efficiency of 85 per cent at the lowest disturbing frequency. Each isolator shall incorporate a leveling device and a resilient pad having a minimum thickness of ¼ in.

(6) Compressors.—Compressors and drives located on a floor other than a floor on grade shall be mounted on vibration isolators having a minimum isolation efficiency of 85 per

cent at the lowest disturbing frequency. Each isolator shall incorporate a leveling device and a resilient pad having a minimum thickness of ¼ in.

(7) Cooling towers.—All moving parts of cooling towers located on a roof or floor other than a floor on grade shall be installed on vibration isolators providing a minimum isolation efficiency of 85 per cent at fan rotor rpm with a maximum static deflection of 4 in. Each isolator shall incorporate a leveling device and a resilient pad having a minimum thickness of ¼ in.

(8) Evaporative condensers.—Evaporative and air cooled condensers located on a roof or floor other than a floor on grade shall be mounted on vibration isolators providing a minimum isolation efficiency of 85 per cent at fan rotor rpm with a maximum static deflection of 4 in. Each isolator shall incorporate a leveling device and a resilient pad having a minimum thickness of ¼ in.

(9) Duct connections to fan equipment.—Flexible connections shall be installed between fan equipment and connecting ductwork.

(10) Elevator machinery.—Gear-driven machinery, gearless machinery, motor generators, and controllers located in an elevator machinery room or shaft on a roof, or on a floor other than a floor on grade, shall be supported on vibration isolator pads having a minimum thickness of ½ in.

(c) Maximum permissible air velocities in ducts.—

(1) Ducts located over ceilings of dwelling spaces.—The maximum permissible air velocity in ductwork located over the ceilings of dwelling spaces or in masonry shafts adjoining dwelling spaces shall not exceed the velocities prescribed in table 12-6.

TABLE 12-6.—MAXIMUM PERMISSIBLE AIR VELOCITIES IN DUCTS

Type of system	Branch ducts	Submain ducts	Main ducts
Low velocity (f.p.m.).....	750	1,000	1,500
High velocity.....	1,000	2,000	3,000

In the application of table 12-6 the following shall apply:

a. Any duct that connects directly to any terminal device (grille, diffuser, etc.) shall be classified as a branch duct for a distance of at least 4 ft. from the terminal device.

b. Any duct that connects a branch duct to a main duct or to the fan shall be classified as a sub-main duct. No duct may be classified as a submain duct if it connects to a terminal device by means of a connector less than 4 ft. in length.

c. When a duct is connected to the fan and

two or more sub-main ducts it shall be classified as a main duct.

d. The maximum velocities shown in table 12-6 for low velocity ductwork shall apply in all cases except where a system of round ductwork is used and an acoustic air control device with self-contained attenuation components is located in the duct work prior to each air terminal device. Branch ducts, if any, connecting the acoustic air control devices to the terminals shall not have air velocities exceeding 750 fpm. Maximum power level ratings for the acoustic air control devices shall be 3 db less than the values shown in table 12-7.

(d) Maximum permissible sound power levels of fan coil units, grilles, registers, diffusers and induction units.—Sound power level data, in octave bands, shall be certified in accordance with the provisions of section C26-106.2, for grilles, registers, diffusers and induction units at design operating conditions and for coil units when operating at specified cfm. The sound power levels shall not exceed the levels listed in table 12-7 with measured in accordance with the provisions of reference standard RS 12-5.

TABLE 12-7.—MAXIMUM PERMISSIBLE SOUND POWER LEVELS FOR TERMINAL UNITS¹

Octave bands, c.p.s. midfrequency	Sound power levels, db	
	db re 10 ⁻¹²	db re 10 ⁻¹² watts
63	79	69
125	73	63
250	67	57
500	62	52
1,000	59	49
2,000	57	47
4,000	54	44
8,000	53	43

¹ For permits issued after Jan. 1, 1972, the maximum permissible sound power level for terminal units shall be changed as follows:

Octave bands c.p.s. midfrequencies	Sound power levels	
	db re 10 ⁻¹² watts	db re 10 ⁻¹² watts
63	76	66
125	69	59
250	62	52
500	57	47
1,000	54	44
2,000	52	42
4,000	49	39
8,000	48	38

LOCAL LAWS OF THE CITY OF NEW YORK FOR THE YEAR 1968

A LOCAL LAW

To amend the New York city charter in relation to the consolidation of certain agencies into an environmental protection administration, prescribing the functions, powers and duties of such administration and repealing certain portions of the charter

Be it enacted by the Council as follows:

Section 1. The New York city charter is hereby amended by adding a new chapter, to be chapter fifty-seven to read as follows:

Chapter 57

Environmental Protection Administration

§ 1400. Administration; administrator. There shall be an environmental protection administration, the head of which shall be the administrator of environmental protection.

§ 1401. Officials of the administration. The mayor may appoint such number of deputy administrators and commissioners in the environmental protection administration, within the appropriation of that administration, as are authorized by this charter or in accordance with the provisions of this section. The administrator may appoint such number of deputy commissioners, assistant administrators and other officers of the ad-

ministration who are in the exempt class of the civil service as are within the appropriation for that administration and are authorized by this charter or in accordance with the provisions of this section. However, the total number of deputy administrators, assistant administrators, commissioners, and deputy commissioners shall not exceed nineteen. In order to authorize any office specified within this section, the mayor shall send a message to the council specifying that office and include therein its title, purpose, functions, powers, duties and the qualifications, if any, required to hold such office. The order shall become effective and the office shall be authorized on the sixtieth day after introduction unless the authorization of such office be specifically disapproved by the council within such time. Any office which has been authorized pursuant to the provisions of this section may be abolished by the same procedure under which it was authorized or by local law.

§ 1402. Powers and duties of the administrator. The administrator shall have the power to exercise or delegate any of the functions, powers and duties vested in him or in the administration by this chapter or otherwise. In the performance of his functions, the administrator shall have, in addition to such others as may be conferred upon him from time to time by law, the power and duty:

1. to analyze the needs of the city with respect to the matters subject to the jurisdiction of the administration, prepare intermediate and long range programs designed to meet such needs, and establish priorities among them;

2. to prepare and transmit the budget estimates of the administration as prescribed by law;

3. to supervise the execution and management of all programs, activities and expenditures of the administration; and

4. to the extent to which the organization of the administration is not prescribed by law, and in accordance with such standards and policies as may be established by the mayor, to organize the administration into departments, divisions, bureaus, boards or offices and make assignments of powers and duties among them and from time to time change such organization or assignments.

§ 1403. Functions of the administration. Except as otherwise provided by law, the administration shall perform all those functions and operations performed by the city of New York which relate to the cleanliness of the streets, the disposal of wastes, the provision of a pure, wholesome and adequate supply of water and the prevention of air and water pollution and of noise disturbance, including, without limitation, the following:

1. Sanitation. (a) With respect to sanitation, the administration shall have the following functions:

(1) the sweeping, cleaning, sprinkling, flushing, washing and sanding of the streets;

(2) the removal and disposition of ashes, street sweepings, garbage, refuse, rubbish and waste;

(3) the removal of ice and snow from the streets;

(4) the removal of incumbrances from streets and the storage or disposal of such incumbrances in accordance with regulations adopted by the board of estimate, except that such board may provide by regulation that the removal and storage of household effects or other chattels shall be a responsibility of the general services administration;

(5) the operation, maintenance and use of incinerators or other plants or equipment for the destruction or disposition of ashes, street sweepings, garbage, refuse, rubbish and waste.

(b) The administration may adopt regulations specifying the kind of ashes, garbage, refuse, rubbish or other material or substance that will be collected by the city, from whom

it will be taken, the manner in which it shall be arranged or sorted, the time when it will be collected and the place at which it shall be deposited for collection, and may prescribe civil penalties for a violation thereof. Every such regulation shall be filed with the city clerk, shall be published in the City Record and shall not take effect until so filed and published.

(c) Such regulations shall be enforced by order of the administration. Such order shall be addressed to the owner or owners, lessees or occupants of the building, structure, enclosure, vessel, place or premises affected thereby; but it shall not be necessary to designate such owner or owners, lessees or occupants by name in such order, but the premises shall be designated in the address so that the same may readily identified. Service of any such order may be made by delivery of a copy thereof to the owner or any one of several owners, to a lessee or any one of several lessees, or to any person shall cease to record the flow of water or where a meter shall have been removed, and charge of the premises, then by affixing a copy of such order prominently upon the premises. If such order be not complied with within the time specified therein, the administration shall prosecute the person or corporation liable therefor for the penalty prescribed by the regulation violated in furtherance of which such order shall have been issued and served.

(d) The administration may adopt regulations controlling the use of sidewalks and gutters by abutting owners and occupants for the disposition of sweepings, garbage, refuse or rubbish, and may provide that the violation thereof shall be punishable by civil penalty, fine or imprisonment. Such regulations shall be submitted to the council and when approved by it shall be published and enforced in like manner as local laws.

(e) When used in this subdivision one "street" includes street, avenue, road, alley, lane, highway, parkway, boulevard, concourse, driveway, culvert and crosswalk, and every class of public road, square and place, except a wharf, pier, bulkhead or slip by law committed to the custody and control of any other agency or department.

2. Air pollution control. The administration, subject to the provisions of this chapter, shall have jurisdiction to regulate and control the emission into the open air of harmful or objectionable substances, including but not limited to smoke, soot, fly ash, dust, fumes, gas, vapors, odors and any products of combustion or incomplete combustion resulted from the use of fuel burning equipment or from the heating of fuels or refuse. It shall enforce all laws, rules and regulations with respect to such emissions. It shall make such investigations and studies as may be desirable for the purpose of such enforcement and of controlling and eliminating air pollution, and for such purpose shall have power to compel the attendance of witnesses and to take their testimony under oath.

3. Noise abatement. The administration shall have jurisdiction to enforce all laws, rules and regulations to eliminate noise disturbances. It shall make such investigations and studies as may be desirable to develop permissible sound levels, and to correct problems related to noise control, and, for such purposes shall have power to compel the attendance of witnesses and to take their testimony under oath.

4. Water resources. With respect to water resources, the administration shall have the following functions:

(a) to have charge and control:

(1) of all structures and property connected with the supply and distribution of water for public use not owned by private corporations, including all fire and drinking hydrants and all water meters;

(2) of furnishing the water supply and maintaining its quality, and of the investiga-

tion for and the construction of all works necessary to deliver the proper and required quantity of water with ample reserve for contingencies and future demands;

(3) of making and enforcing rules and regulations governing and restricting the use and supply of water; and

(4) of making rules and regulations, subject to the approval of the board of estimate, fixing uniform annual charges and extra and miscellaneous charges for the supply of water, meter rates and minimum charges for the supply of water by meter, annual service charges and charges for meters and their connections and for their setting, repair and maintenance and charges for water where a meter shall fail to register correctly or shall cease to record the flow of water or where a meter shall have been removed, and in cases in which no fines are fixed by provision of law, of fixing and collecting fines for violations of rules and regulations; but no fines shall be imposed against any property unless notice by mail addressed to the owner at the property, or if his name be unknown, then to the "owner or occupant" thereof and a hearing be given.

(b) to examine into the sources of water supply of any private companies supplying the city or any portion thereof or its inhabitants with water, to see that the same is wholesome and the supply is adequate, to establish such rules and regulations in respect thereof as are reasonable and necessary for the convenience of the public, and to exercise superintendence, regulation and control in respect to the supply of water by such water companies;

(c) except as otherwise provided by law and subject to the provisions of this chapter, to regulate and control emissions into the water within and about the city of New York of harmful or objectionable substances, contaminants and pollutants; enforce all laws, rules and regulations with respect to such emissions; make such investigations and studies as may be desirable for the purpose of such enforcement and of controlling and eliminating pollution of such waters, and for such purpose to have the power to compel the attendance of witnesses and to take their testimony under oath.

5. Sewers: (a) The administration shall have charge and control over the location construction, alteration, repair, maintenance and operation of all sewers including intercepting sewers and sewage disposal plants, and of all matters in the several boroughs relating to public sewers and drainage, and shall initiate and make all plans for drainage and shall have charge of all public and private sewers in accordance with such plans; and shall have charge of the management, care and maintenance of the sewer and drainage systems therein; and of the licensing of all cisterns and cesspools;

(b) The administrator may adopt regulations requiring the discharge of sewage, refuse, factory waste and trade waste into the public sewers of the city, or regulating, restricting or prohibiting the use of public sewers for the discharge therein of any materials or substance, and may prescribe civil penalties for violation thereof. Every regulation adopted pursuant to this section shall be filed with the city clerk, shall be published in THE CITY RECORD and shall not take effect until so filed and published.

§ 1404. Environmental control board. 1. There shall be in the administration an environmental control board consisting of the administrator, who shall be chairman, the commissioner in the administration who is responsible for air pollution control, the commissioner in the administration who is responsible for water pollution control, and two persons who are not officers in the administration at least one to be possessed of a broad general background and experience in each of the fields of air pollution control and water pollution control. These two mem-

bers shall be appointed by the mayor for four-year terms except the first of such persons taking office shall be appointed for a two-year term. The members of the board shall serve without compensation.

2. The environmental control board, in addition to such other duties as may be assigned to it by law, shall have jurisdiction to adopt and amend rules not inconsistent with any provision of law:

(a) regulating or prohibiting the emission into the open air from any source, whether fixed or movable, and whether on land or water of any harmful or objectionable substances, including, but not limited to, smoke, soot, fly ash, dust, fumes, gas vapors and odors, and the installation, construction or alteration of equipment giving forth such emissions into the open air insofar as such emissions are effected thereby; and

(b) regulating or prohibiting the emission into the waters within and about the city of New York from any source whether fixed or movable and whether on land or water of any harmful or objectionable substances, contaminants and pollutants.

Section 2. Chapters thirty-one, forty-one, sections 683(a) (4) and 687 of chapter twenty-eight, and sections 734(1) through (4) and 736 of chapter thirty are hereby repealed.

Section 3. Subdivision 1 of § 93 of the New York city charter is amended to read as follows:

1. He shall prescribe systems of accounting for city agencies whose revenues arising out of the use of facilities and services supplied by such agency constitute fifty per centum or more of the appropriation provided for the operation of such agency, which systems of accounting shall conform so far as practicable to standard public utility accounting practices. The comptroller shall publish in his annual report statistical data in regard to the financial operations of such city agencies.

Section 4. Any agency or officer to which are assigned by this local law any functions, powers and duties shall exercise such functions, powers and duties in continuation of their exercise by the agency or officer by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter commenced by the agency or officer by which such functions, powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to the subject-matter of such functions, powers or duties, and applicable to the agency or officer formerly exercising the same shall, so far as not inconsistent with the provisions of this local law, apply to the agency or officer to which such functions, powers and duties are assigned by this local law.

Section 5. Any agency provided for in this local law to which is assigned by this local law substantially all of the functions, powers and duties of one or more agencies heretofore existing shall be deemed to be a continuation of such agencies heretofore existing and shall exercise its powers and duties in continuation of their exercise by the agencies by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter commenced by the agencies by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to such formerly existing agencies shall, so far as not inconsistent with the provisions of this local law, apply to such agency provided for by this local law.

Section 6. Any rule or regulation in force on the effective date of this local law, and promulgated by an agency or officer whose power to promulgate such type of rule is assigned by this local law to some other agency or officer, shall continue in force as the rule or regulation of the agency or officer to whom such power is assigned, except as

such agency or officer may hereafter duly amend, supersede, or repeal such rule and regulation.

Section 7. All records, property and equipment whatsoever of any agency or part thereof all the functions, powers and duties of which are assigned to any other agency by this local law, shall be transferred and delivered to the agency to which such functions, powers and duties are so assigned. If part of the functions, powers and duties of any agency or part thereof is by this local law assigned to another agency, all records, property and equipment relating thereto shall be transferred and delivered to the agency to which such functions, powers and duties are so assigned.

Section 8. (a) No existing right or remedy of any character shall be lost or impaired or affected by reason of the adoption of this local law.

(b) Any license or permit in force on the effective date of this local law, and issued by an agency or officer whose power to issue such type of license or permit is assigned by this local law to some other agency or officer, shall continue in force according to its terms and the applicable law and shall then be renewable in accordance with applicable law by the agency or officer to which such power is assigned.

Section 9. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or any agency or officer, shall be affected or abated by the adoption of this local law or by anything herein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer party thereto may by this local law be assigned or transferred to another agency or officer, but in that event the same may be prosecuted or defended by the head of the agency or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

Section 10. Whenever by any provision of this local law functions, powers or duties are assigned to any agency or officer which have been heretofore exercised by any other agency or officer, all officers and employees in the classified municipal civil service who at the time when this local law shall take effect are engaged in the performance of such functions, powers or duties shall be transferred to the agency to which such functions, powers or duties are assigned by this local law, without examination and without affecting existing compensation or pension or retirement rights, privileges or obligations of such officers and employees.

Section 11. Nothing in this local law contained shall affect or impair the rights or privileges of officers or employees of the city or of any agency existing at the time when this local law shall take effect, or any provision of law in force at the time when this local law shall take effect and not inconsistent with the provisions of this local law in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city generally or officers of any agency.

Section 12. If any provision of this local law shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, it is the purpose and intent of this local law that all other provisions hereof shall nevertheless be separate and fully effective and the application of any such provision to other persons or situations shall not be affected.

Section 13. This local law shall take effect on such date as the mayor shall provide by executive order, except that the provisions of § 1401 relating to authorization of offices in the administration shall take effect immediately.

Norfolk, Virginia

City codes and motor vehicle codes

City Code

(16) To compel the abatement and removal of all nuisances within the city or upon property owned by the city beyond its limits at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be; to require all lands, lots and other premises within the city to be kept clean, sanitary and free from weeds, or to make them so at the expense of the owners or occupants thereof; to regulate or prevent slaughterhouses or other noisome or offensive business within said city, the keeping of animals, poultry or other fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the city; to compel the abatement of smoke and dust, and prevent unnecessary noise therein; to regulate the location of stables and the manner in which they shall be kept and constructed; and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city.

Sec. 6-10. Certain means of advertisement prohibited.—No bellman or crier, or drum or other instrument causing sound of any kind, or any show signal or other other means of attracting the attention of passers-by, except the usual auctioneer's flag, shall be employed, or be permitted to be used at or near any auction whatever. Any violation of this section shall be punished by a fine of fifty dollars for each offense. (Code 1950, § 6-11.)

Sec. 29-6. Hospital quiet zones.—There is hereby created and established a "zone of quiet" in all territory embraced within the distance of three hundred feet of every hospital, lying-in asylum, sanatorium and other institution for the treatment of sick persons in the city.

Upon application of any hospital in the city, approved by the director of public welfare, the director of public safety shall place, or cause to be placed, within such territory, on posts or on other conspicuous places, on each street on which such hospital or other institution may be situated or upon

Sec. 31-48. Noise generally.—It shall be unlawful for any person to create any unreasonably loud, disturbing and unnecessary noise in the city, and noise of such character, intensity and duration as to be detrimental to the life or health of any person or to unreasonably disturb or annoy the quiet, comfort or repose of any person is hereby prohibited.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

(a) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and, the sounding of such device for any unnecessary and unreasonable period of time.

(b) The playing of any television set, radio, phonograph or any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort or re-

pose of persons in any dwelling, hotel or other type of residence.

(c) The keeping of any animal which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity to such an extent as shall constitute a nuisance.

(d) The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noises.

(e) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.²

(f) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.³

(g) The creation of any excessive noise on any street adjacent to any school, institution of learning or court, while the same is in session, or adjacent to any building used as a place of public worship, while being so used, or adjacent to any hospital, which unreasonably interferes with the workings of such school, institution or court or the services being conducted in such place of public worship, or which disturbs or unduly annoys patients in such hospitals.⁴

(h) The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(i) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(j) The use of any drum, loud-speaker or other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale or display of merchandise.⁵

Any person who shall violate any of the provisions of this section shall, upon conviction for the first offense, be fined not less than five dollars nor more than twenty-five dollars; upon conviction of a second offense committed within one year from the commission of the first offense, be fined not less than ten dollars nor more than fifty dollars; and, upon conviction of a third or any subsequent offense committed within one year from the commission of the first offense, be fined not less than twenty-five dollars nor more than one hundred dollars.

When any violation of any of the provisions of this section is committed in the presence of any police officer while in the discharge of his duty, he shall take the name and address of the person violating the same and shall issue a summons or otherwise notify such person in writing to appear before the police judge or the judge of the juvenile and domestic relations court of the city having jurisdiction, at a time to be specified in such summons or notice, for a hearing on said alleged violation. Upon the serving of such summons or giving of such notice, the person charged with such violation shall give his written promise to appear at the time and place designated. Should any such person refuse to give such written promise, or having given the same, wilfully fail to appear pursuant thereto, such refusal or failure, as the case may be, shall constitute a violation of this section, which shall be in addition to the charges upon

² As to whistles and horns on locomotives, see § 38-3 of this Code.

³ As to use of mufflers on highways, see § 29-777 of this Code. As to mufflers on motorboats, see § 54-9.

⁴ As to hospital quiet zones, see § 29-6 of this Code. As to use of amplifying equipment within one hundred yards of hospital, see § 31-71, subsec. (d).

⁵ As to advertising auctions, see § 6-10 of this Code.

which such person was originally summoned or notified to appear. (Code 1950, § 29-43.)

Sec. 31-69. Sound trucks—Definitions.—For the purposes of this and the three following sections, the following words and phrases shall have the following meanings, respectively:

Sound truck. The words "sound truck", as used herein, shall mean any motor vehicle or horse-drawn vehicle having mounted therein, or attached thereto, any sound-amplifying equipment.

Sound-amplifying equipment. The words "sound-amplifying equipment", as used herein, shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound-amplifying equipment", as used herein, shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes. (Code 1950, § 29-66.)

Sec. 31-70. Same—Commercial advertising prohibited.—No person shall operate, or cause to be operated, any sound truck for commercial advertising purposes in the city with sound-amplifying equipment in operation. (Code 1950, § 29-67.)

Sec. 31-71. Same—Noncommercial use.—No person shall use, or cause to be used, a sound truck with its amplifying equipment in operation for noncommercial purposes in the city, except in accordance with and subject to the following regulations:

(a) The only sounds permitted are music or human speech.

(b) Operations are permitted for four hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four hours of operation shall be between the hours of 11:30 A.M. and 1:30 P.M. and between the hours of 4:30 P.M. and 6:30 P.M.

(c) Sound-amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour, except when said truck is stopped or impeded by traffic. Where stopped by traffic the said sound-amplifying equipment shall not be operated for longer than one minute at each such stop.

(d) Sound shall not be issued within one hundred yards of hospitals,² schools, churches or courthouses.

(e) No sound truck with its amplifying device in operation shall be operated within the limits of the following described area of the city: That certain area bounded on the north by the northern line of Brambleton Avenue, on the east by the eastern line of Church Street, on the south by the southern line of Water Street and on the west by the western line of Boush Street.

(f) The human speech and music amplified shall not be profane, lewd, indecent or slanderous.

(g) The volume of sound shall be controlled so that it will not be audible for a distance in excess of fifty feet from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

(h) No sound-amplifying equipment shall be operated in excess of fifteen watts of power in the last stage of amplification.

(i) Sound-amplifying equipment in operation on a sound truck shall be subject to inspection by a member of the police division at reasonable times. (Code 1950, § 29-68.)

² As to hospital quiet zones, see § 29-6 of this Code. As to creation of excessive noise in street adjacent to hospital, see § 31-48, subsec. (g).

¹ For Charter provision as to power of city to prevent unnecessary noise, see Char., § 2, subsec. (16).

As to sound trucks, see §§ 31-69 to 31-72 of this Code.

Sec. 38-3. Whistles and horns on locomotives.—It shall be unlawful for any owner, lessee, operator or driver of any locomotive to sound or permit to be sounded within the corporate limits of the city, between the hours of 5:00 P.M. and 8:00 A.M., any whistle or horn attached to such locomotive, except in cases where the sounding of such whistle or horn on the locomotive becomes absolutely necessary for the protection of life or property, or to give appropriate and necessary signals.

Any violation of this section shall be punishable by a fine of not less than five dollars nor more than fifty dollars for each offense. (Code 1950, § 29-57; Ord. 18,139, 3-6-56, § 1.)

Sec. 54-67. Loud, etc., noises prohibited.—It shall be unlawful for any person, while aboard any motor boat, vessel, barge or any other water craft, whether under way, drifting, berthed or at anchor, to make or create any loud, disturbing or unreasonable noise of such character, intensity or duration as to be detrimental to the health or life of any person or to unreasonably disturb or annoy the quiet, comfort or repose of any person. (Ord. 23,824, 3-14-67, § 1.)

Sec. 54-68. Violations of article—Penalty.—Any person violating any provision of this article for which no specific penalty is provided shall, upon conviction thereof, be punished by a fine or not less than five dollars, nor more than fifty dollars, or by confinement in jail for not more than ten days, or by both such fine and confinement in jail, in the discretion of the jury or in the discretion of the judge trying the case without a jury. (Ord. 23,824, 3-14-67, § 1.)

Motor Vehicle Code

Any person who makes or causes to be made or permits to be made by any person, animal, vehicle or other object under his control, any unnecessary noise by fast driving or riding, ringing of bells, blowing of horns or whistles, open mufflers, or other device or instrument or in any other way, within such "zone of quiet," so as to disturb or tend to disturb the peace, comfort or quiet of any inmate of such hospital, upon conviction, shall be punished by a fine of not more than twenty-five dollars for each offense. (Code 1950, § 27-11.)

Sec. 29-777. Muffler in good working order required.—No person shall drive and no owner of a motor vehicle shall permit or allow the operation of any owned vehicle upon a highway unless such motor vehicle is equipped with a muffler or mufflers of a type installed as standard factory equipment or comparable to that designed for use upon the particular vehicle as standard factory equipment, in good working order and in constant operation to prevent excessive or unusual noise, annoying smoke and escape of excessive gas, steam or oil. A muffler shall not be deemed to prevent excessive or unusual noise if it permits or allows the escape of noise in excess of that permitted by the standard factory equipment muffler of private passenger motor vehicles or trucks of standard make. (Code 1950, § 27-156.)

Sec. 29-778. Muffler cutout, etc., illegal.—It shall be unlawful to sell or offer for sale a muffler without interior baffle plates or other effective muffling device, commonly called "guttled muffler," "muffler cutout" or "straight exhaust" or for any motor vehicle to be equipped with or for any person to use such a "guttled muffler," "muffler cutout" or "straight exhaust" while such motor vehicle is being operated upon a highway. (Code 1950, § 27-157.)

Oklahoma City, Okla.

City Ordinances

Emergency ordinance

Ordinance No. 11,298 Amending section 9.3.11 (1) of title 9, revised ordinances,

1960, of the city of Oklahoma City, as amended, prohibiting the use of noise making devices that disturb the peace or annoy the public for the purpose of attracting attention to any performance, show, sale or display of merchandise, and declaring an emergency.

Be it ordained by the council of the city of Oklahoma City:

Section 1. Section 9.3.11 (1) of title 9, revised ordinances, 1960, of the city of Oklahoma City, as amended, is hereby amended to read as follows:

9.3.11 (1). The use of any drum, loud speaker, instrument or device which produces sound of such volume or character as to disturb the public peace or annoy the public for the purpose of attracting attention to any performance, show or sale or display of merchandise offered for sale is hereby prohibited."

Section 2. (Emergency). Whereas, it being immediately necessary for the preservation of the peace, health and safety of the city of Oklahoma City and the inhabitants thereof that the provisions of this ordinance be put into full force and effect, an emergency is hereby declared to exist by reason whereof this ordinance shall take effect and be in full force from and after its passage, as provided by law.

Introduced and adopted by the Council of the city of Oklahoma City this 24th day of May, 1966.

Approved by the Vice Mayor of the city of Oklahoma City this 24th day of May, 1966.

Emergency ordinance

Ordinance No. 11,293 amending section 10.23.17 of section 10, revised ordinances, 1960, of the city of Oklahoma City, as amended, prohibiting the use of noise and speaking devices that disturb the peace or annoy the public for the purpose of attracting attention to any performance, show sale, or display of merchandise, and declaring an emergency.

Be it ordained by the council of the city of Oklahoma City:

Section 1. Section 10.23.17 of Title 10, revised Ordinances, 1960, of the City of Oklahoma City, so amended, is hereby amended to read as follows:

"10.23.17 Loud Noise and Speaking Devices. No peddler nor any person in his behalf, shall shout, make any cry-out, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks, or other public places of said city, or upon any private premises in said city where sound of such volume or character is emitted or produced therefrom so as to disturb the public peace or annoy the hearers thereof upon the streets, avenues, alleys, or parks or other public places, or the surrounding area for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

Section 2. (Emergency). Whereas, it being immediately necessary for the preservation of the peace, health and safety of The City of Oklahoma City and the inhabitants thereof that the provisions of this ordinance be put into full force and effect, an emergency is hereby declared to exist by reason whereof this ordinance shall take effect and be in full force from and after its passage, as provided by law.

Introduced and Adopted by the Council of The City of Oklahoma City this 24th day of May, 1966.

Emergency ordinance

Ordinance No. 10543 amending Sub-Section H of Section .11 of Chapter 3, Title 9, Oklahoma City revised Ordinance, 1960, by prohibiting the erecting, creating, drilling,

constructing, or digging on any site for any purpose in any residential district or section except between the hours of 7:00 a.m. and 6:00 p.m. on weekdays; and declaring an emergency.

Be it ordained by the council of the city of Oklahoma City:

Section 1. Sub-section (h) of Section .11 of Chapter 3, Title 9, Oklahoma City revised Ordinances, 1960 is hereby amended to read as follows:

9.3.11(h) "Excavating in the streets or alleys or erecting, demolition, altering or repairing of any building or the erecting, creating, drilling, constructing, or digging on any site for any purpose in any residential district or section, except between the hours of 7:00 o'clock a.m. and 6:00 o'clock p.m. on week days; provided that in case of urgent necessity, the Building Superintendent may issue a permit to work between the hours of 6:00 o'clock p.m. and 7:00 o'clock a.m. for a period not to exceed thirty (30) days while such an emergency exists. Emergency permits shall not be issued by the Building Superintendent unless he determines that the public peace and health will not be impaired or that great and irreparable loss will be sustained without such permit."

Section 2. (Emergency) WHEREAS, it being immediately necessary for the preservation of the peace, health and safety of Oklahoma City, and the inhabitants thereof, that the provisions of this ordinance be put into full force and effect, an emergency is hereby declared to exist, by reason whereof this ordinance shall take effect and be in full force from and after the passage, as provided by law.

Peoria, Ill.

7000 Supplementary Regulations

7001. Noise.—Noise shall be measured at any adjacent lot line and/or district boundary. At the specified point of measurement the sound pressure level of any activity or operation (except those not under the direct control of the industrial use, such as transportation facilities) shall not exceed the values indicated between the hours of 7 a.m. and 7 p.m. The instruments used for these measurements shall conform to all United States of America Standards Institute's specifications as of the effective date of this Ordinance. Impact noises shall be measured by means of an impact noise analyzer. Impact noises are those peak values more than 3 db's higher than indicated on the sound level meter. Between the hours of 7 p.m. and 7 a.m. the permissible sound levels at residential district boundaries shall be reduced by 5 db's in each octave band or in the overall band in the case of impact noises.

A. Noise adjacent to lot line. Adjacent to the lot line, the sound pressure level of any activity or operation shall not exceed the values tabulated in the following tables.

Octave bands, cycles/second	Maximum permitted sound levels, pre-1960 octave bands	Maximum permitted sound levels, preferred frequency octave bands	
		Preferred center frequency, cycles/second	db
20 to 75	81	31.5	88
75 to 150	70	63.0	79
150 to 300	63	125.0	69
300 to 600	59	250.0	52
600 to 1200	55	500.0	58
1200 to 2400	52	1000.0	54
2400 to 4800	50	2000.0	51
4800 to 10 kilocycles	48	4000.0	49
		8000.0	47

Note: Impact 90 db.

B. Noise at commercial district boundary. The sound pressure level of any activity or operation shall not exceed the values tabulated in the following tables.

Maximum permitted sound levels, pre-1960 octave bands	Maximum permitted sound levels, preferred frequency octave bands	Preferred center frequency, cycles/second	db
20 to 75	81	31.5	88
75 to 150	70	63.0	79
150 to 300	63	125.0	69
300 to 600	59	250.0	62
600 to 1200	55	500.0	58
1200 to 2400	52	1000.0	54
2400 to 4800	50	2000.0	51
4800 to 10 kilocycles	48	4000.0	49
		8000.0	47

Note: Impact 90 db.

C. Noise at residential district boundary. The sound pressure level of any activity or operation shall not exceed the values tabulated in the following tables.

Maximum permitted sound levels, pre-1960 octave bands	Maximum permitted sound levels, preferred frequency octave bands	Preferred center frequency, cycles/second	db
20 to 75	74	31.5	83
75 to 150	61	63.0	71
150 to 300	54	125.0	59
300 to 600	48	250.0	52
600 to 1,200	45	500.0	47
1,200 to 2,400	41	1,000.0	44
2,400 to 4,800	38	2,000.0	40
4,800 to 10 kilocycles	36	4,000.0	37
		8,000.0	35

Note: Impact 80 db.

7003. Vibrations.—Vibrations shall be measured at any adjacent lot line and/or district boundary as indicated. At the specified points of measurement, the vibrations shall not exceed the limits listed. The instrument used for these measurements shall be a three component measuring system.

Particle velocity as specified may be measured directly or if computed on the basis of displacement and frequency measurements shall be computed from the formula $6.28 FD$ where F is the frequency and vibrations per second and D is the single amplitude displacement of the vibration in inches. The following page contains a nomogram of the formula—particle velocity equals $6.28 FD$ and it may be used to determine the appropriate particle velocity.

For the purpose of this Ordinance, steady state vibrations are vibrations which are continuous (such as a printing press) or vibrations in discrete impulses more frequent than one hundred per minute (such as an air compressor). Discrete impulses which do not exceed 100 per minute shall be considered as impact vibrations (such as a drop hammer).

Ordinance No. 7028

An ordinance amending chapter 20 of the Municipal Code of Peoria relating to noises

Be it ordained by the City Council of the City of Peoria, Illinois:

Section 1. That Chapter 20 of the Municipal Code of Peoria is hereby amended by adding the following new section thereto:

Sec. 20-8.1. Motor vehicle mufflers.—(a) For the purposes of this section, the following definitions shall apply:

A "sound level meter" is an instrument standardized by the American Standards Association for measurement of intensity of sound, namely, Z24.3-1944.

A "decibel" is a unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".

A "muffler" shall mean any device used upon a motor vehicle, whose purpose is the deadening of combustion noises of any engine thereon, or the deadening of any other motor noises, including, but not limited

to the noise of exhaust gases, or any other mechanical device for the deadening of the noise and intake of gases upon a motor vehicle.

(b) No person shall operate any motor vehicle upon a public street or highway within the City of Peoria unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke. For the purpose of this section, if sound in excess of the sound limit hereinafter set forth shall emanate from a vehicle, such evidence shall constitute and be admitted as prima facie evidence that it was producing excessive or unusual noises. Evidence that a vehicle was emanating sound of less than the sound limit shall be relevant evidence, but not given prima facie effect, in determining whether or not said vehicle was emanating excessive or unusual noises.

(c) "Sound limit" shall mean all sound emanating from any motor vehicle, measured upon the "A" weighting scale of a sound level meter, in excess of the decibels measured at the distances specified shown below. The distances shall be measured from the right rear wheel of the propelling unit of the vehicle in motion as it passes the sound level meter:

Distance:	Maximum permitted sound level, in decibels
50 feet	85
45 feet	86
40 feet	87
35 feet	88
30 feet	89.5
25 feet	91
20 feet	93
15 feet	95.5

Section 2. This ordinance shall be in full force and effect from and after its passage, approval and publication, according to law.

Passed by the City Council of the City of Peoria, Illinois, this 21st day of January, 1958.

The city of Philadelphia
Chapter 10-400: Noise

§ 10-401. Ash, Trash, and Garbage Cans.—(1) No person shall make any unnecessary noise in the handling of ash, trash, and garbage cans, either in loading or unloading and whether full or empty.

§ 10-402. Building Construction.—(1) No person shall carry on any building construction between the hours of 6 P.M. and 6 A.M. except by special permit issued by the Department of Licenses and Inspections.

(a) The Department of Licenses and Inspections shall issue such special permit only if it is shown that the construction work must proceed as a matter of emergency or that it will be carried on in such a way or in such a place that the public will not be disturbed by it.

§ 10-403. Hospitals, Churches, Court Houses and Schools.—(1) No person shall make any unnecessary noise in the vicinity of any hospital or church during hours of public worship, court houses during hours of holding court, or school during school hours.

§ 10-404. Sound Devices.—(1) No person shall, with the intention to promote the sale of any goods or services, operate from any premises, building, moving vehicle or aircraft, any device whereby any sounds other than clock chimes or unamplified human voices are audible upon any street. For purposes of this section "sale of goods" shall be deemed to include shipping, loading, unloading, receipt or storage of any goods or merchandise.

(2) The violation of this Section is a nuisance and the penalty is a fine of \$10. for the first offense, \$25. for the second offense, and \$50. for subsequent offenses, together with imprisonment not exceeding 30 days if the fine and costs are not paid within 10 days.

§ 10-405. Street vendors.—(1) No peddler or other person who piles a trade or calling of any nature on the streets shall use any horn, bell, or other sound instrument or make any noise tending to disturb the peace and quiet of the neighborhood, for the purpose of directing attention to his wares, trade, or calling.

(2) No peddler or other person who piles a trade or calling of any nature on the streets shall cry his wares within a distance of 150 feet of any hospital, church during hours of public worship, court house during hours of holding court, or school during school hours.

§ 10-406. Vehicles.—(1) No person shall operate any vehicle which:

(a) is so loaded that its operation causes unnecessary noise; or

(b) causes unnecessary noise because of any mechanical or other defect;

(c) is not equipped with a muffler to deaden exhaust noises.

(1) The use of muffler cut-outs is prohibited.

(2) No person, other than police, fire, public service or ambulance vehicle operators shall:

(a) sound any horn, bell, gong, siren or whistle which is operated by the engine exhaust;

(b) sound any other type of horn except when reasonably necessary to prevent accidents.

§ 10-407. General provisions.—(1) All other loud and unnecessary noises upon or near to the streets and other public places in the City are prohibited. The enumeration of particular offenses defined in this Section shall not be construed as limiting the application of this subsection.

§ 10-408. Penalties.—(1) The penalty for violation of any provision of this Chapter shall be a fine of \$10 for the first offense, \$25 for the second offense, and \$50 for subsequent offenses together with imprisonment not exceeding 30 days if the fine, together with costs, is not paid within 10 days.

Pittsburgh, Pa.
Penal Law

The Act of March 7, 1901, P. L. 20, Article XIX, Section 3, C1. XXVI, 53 P. S. 23131, empowers the City "to prevent and restraint riots, routs, noises, disturbances or disorderly assemblies, in any street, house or place in the city; to regulate, prevent and punish, discharge of firearms, rockets, powder, fireworks, or any other dangerous, combustible material, in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed weapons".

The Act of May 7, 1901, P. L. 20, Article XIX, Section 3, C1. XXXIII, 53 P. S. 23145, empowers the City "to make regulations to secure the general health and to remove and prevent nuisances".

The Vehicle Code of April 29, 1959, P.L. 58, Section 820, 75 P.S. 820, as amended, makes it unlawful, except for certain emergency vehicles, "to be equipped with, or for any person to use upon a vehicle, any siren, bell, compression or spark plug whistle, or for any person at any time to use a horn or other warning device otherwise than as a reasonable warning, or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device."

Section 828 of the Vehicle Code, 75 P.S. 828, provides:

"PREVENTION OF NOISE

"(a) No person shall operate a motor vehicle, except fire department and fire patrol apparatus, on a highway unless such motor vehicle is equipped with a muffler, in good working order and in constant operation, to prevent excessive or unusual noise.

"(b) It shall be unlawful to use a muffler cutout, or a bypass in a muffler, on any motor vehicle, except fire department and fire patrol apparatus.

"(c) No person shall operate a motor vehicle on any highway (1) equipped with a muffler from which the baffles plates, screens or other original internal parts have been removed and not replaced; or (2) equipped with an exhaust system which has been modified in any manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle."

In connection with noises made by vehicles it should be noted that the Vehicle Code, in Section 1103 (a), 75 P.S. 1103 (a), prohibits local authorities from enacting or enforcing any ordinance, rule or regulation contrary to the provisions of the Vehicle Code.

The City of Pittsburgh has enacted various ordinances regulating noise. Ordinance of September 27, 1816, prohibits persons from beating drums or ringing bells after sunset, or from discharging firearms at anytime except in lawful defense of person or property. This ordinance imposes a fine for violation of \$4.00.

City Ordinances

Ordinance No. 10, approved January 14, 1915, prohibits "barking" to solicit trade, and imposes a penalty upon conviction of a fine of not less than \$5.00 nor more than \$100.00 or imprisonment not exceeding 30 days.

Ordinance No. 40, approved May 1, 1909, provides for designation of "hospital streets," and imposes a fine of \$10.00, or imprisonment of not more than 10 days, upon conviction of making any unnecessary noise on "hospital streets".

Ordinance No. 56 prohibiting the erection or location for commercial purposes of any device or apparatus in the front of premises in the City of Pittsburgh, emitting loud sounds or noises, so as to annoy or disturb passersby on the public thoroughfares, excepting the announcement of any international, national or state events of public interest, and providing penalties for the violation thereof

Section 1. Be it ordained and enacted by the City of Pittsburgh, in Council assembled, and it is hereby ordained and enacted by the authority of the same, That no person, for commercial purposes, shall erect or locate any device or apparatus in the front of his premises in the City of Pittsburgh which shall by mechanical or electrical means emit any loud sounds or noises, so as to annoy or disturb passersby on the public thoroughfares.

Section 2. The provisions of this Ordinance shall not apply to any announcement or broadcasting of any international, national or state events of public interest.

Section 3. Any person violating the provisions of this Ordinance shall, upon conviction thereof before any alderman or police magistrate of the City of Pittsburgh, be sentenced to pay a fine not to exceed Fifty Dollars (\$50.00), and in default of payment of such fine, shall be imprisoned in the Allegheny County Jail for a period not to exceed thirty (30) days.

Section 4. That any Ordinance or part of Ordinance, conflicting with the provisions of this Ordinance, be and the same is hereby repealed, so far as the same affects this Ordinance.

Ordained and enacted into a law in Council, this 4th day of February, 1929.

Ordinance No. 172 prohibiting unnecessary loud noises from aeroplanes flying over the city of Pittsburgh; prohibiting dropping, throwing or discharging therefrom ballast, instruments, tools, advertising matter or any other material, and prohibiting such flying over the City as will endanger property and persons

Section 1. Be it ordained and enacted by the City of Pittsburgh, in Council Assembled, and it is hereby ordained and enacted by the authority of the same, That from and after

the approval of this ordinance, no person or persons, firm or corporation, shall fly or cause to be flown, or conduct or cause to be conducted, any aircraft over any part or section of the City of Pittsburgh, using in or upon such aircraft, or connected thereto, any radio, mechanical musical instrument, megaphone, loud speaker or other device used for amplification of the human voice or of any other sounds, for the purpose of promoting the sale of goods, wares or merchandise, or for any other purpose whatsoever.

Section 2. That, on and after the date of this ordinance, the use to promote the sale of goods, wares or merchandise, or for any other purpose, of such radio, mechanical musical instrument, loud speaker or other devices as aforesaid, whereby the sound therefrom is amplified so as to be distinctly audible in buildings or upon the ground and highways within the city limits, in violation of this ordinance, shall be, and is hereby, declared to be a public nuisance.

Section 3. No person or persons, firm or corporation, conducting or flying in any aircraft over any part of the City of Pittsburgh shall throw out, discharge or drop or cause or permit to be thrown out, discharged or dropped, from said aircraft, any ballast, instruments, tools, containers, circulars, advertising matter, handbills, waste paper or other article or material whatsoever.

Section 4. No person or persons shall pilot or fly any aircraft over any part or section of the City of Pittsburgh, exclusive of taking off or landing on a licensed landing field, at an altitude less than one thousand (1,000) feet.

Section 5. That any person or persons, firm or corporation, violating any of the provisions of this ordinance shall, upon conviction thereof before any police magistrate of the City of Pittsburgh, be fined in a sum not to exceed One Hundred Dollars (\$100.00) for each offense; and, in default of payment thereof, be committed to the Allegheny County Jail or Allegheny County Workhouse for a period not exceeding thirty (30) days.

Section 6. That any Ordinance or part of Ordinance, conflicting with the provisions of this Ordinance, be and the same is hereby repealed, so far as the same affects this Ordinance.

Ordained and enacted into a law in Council, this 4th day of June, 1935.

Ordinance No. 186 supplementing the title and Section 4 of Ordinance No. 172, entitled "An Ordinance prohibiting unnecessary loud noises from aeroplanes flying over the city of Pittsburgh; prohibiting dropping, throwing or discharging therefrom ballast, instruments, tools, advertising matter or any other material, and prohibiting such flying over the City as will endanger property and persons," enacted June 17, 1935

The Council of the City of Pittsburgh hereby enacts as follows:

Section 1. That the title of Ordinance No. 172, entitled "An Ordinance prohibiting unnecessary loud noises from aeroplanes flying over the City of Pittsburgh; prohibiting dropping, throwing or discharging therefrom ballast, instruments, tools, advertising matter or any other material, and prohibiting such flying over the City as will endanger property and persons," enacted June 17, 1935, be supplemented to read as follows:

"An Ordinance prohibiting unnecessary loud noises from aeroplanes flying over the City of Pittsburgh; prohibiting dropping, throwing or discharging therefrom ballast, instruments, tools, advertising matter or any other material, and prohibiting such flying over the City as will endanger property and persons, and regulating the altitude of flight and landing of helicopters."

That Section 4 of the above Ordinance shall be supplemented by adding at the end of said section the following:

"Helicopters may be flown at less than minimum altitude prescribed herein if such operations are conducted without hazard to persons or property on the surface and at an altitude which will, in the event of power failure, permit an emergency landing without undue hazard to persons or property on the surface. Helicopters shall also be permitted to make landings, other than emergency landings in areas within congested districts when permission of the property owner is granted and where such landings are made with proper regard to safe practices. If helicopters are flown at less than one thousand feet above the highest obstacle the pilot will be required to fly with due regard to places where emergency landings may be made with safety, and to maintain an altitude along the flight path thus selected from which such an emergency landing can be effected at any time as set forth in Rule 60, 107 of Part 60—Air Traffic Rules as promulgated by the Civil Aeronautics Board, effective October 8th, 1947, and pursuant to the regulations established by the State Bureau of Aeronautics."

Section 2. That any Ordinance or part of Ordinance, conflicting with the provisions of this Ordinance, be and the same is hereby repealed so far as the same affects this Ordinance.

Ordained and enacted into a law in Council, this 4th day of April, 1949.

Ordinance No. 209 prohibiting the playing of calliopes and the broadcasting of music, the human voice, and other sounds from loud speakers or similar devices, mounted upon motor or other vehicles, upon the streets of the city of Pittsburgh

Section 1. Be it ordained and enacted by the City of Pittsburgh, in Council Assembled, and it is hereby ordained and enacted by the authority of the same, That the playing of calliopes and the broadcasting of music, the human voice, and other sounds, by means of loud speakers or similar devices, mounted upon motor or other vehicles upon the streets of the City of Pittsburgh, be and the same is hereby prohibited.

Section 2. Any person violating the provisions of this Ordinance shall, upon conviction thereof before any Alderman or Police Magistrate of the City of Pittsburgh, be sentenced to pay a fine not exceeding Fifty Dollars (\$50.00), and in default of payment of such fine, shall be imprisoned in the Allegheny County Jail for a period not to exceed thirty (30) days.

Section 3. That any Ordinance or part of Ordinance conflicting with the provisions of this Ordinance be and the same is hereby repealed, so far as the same affects this Ordinance, and particularly Ordinance No. 57, Series 1929, approved February 15, 1929, and recorded in Ordinance Book Volume 41, page 46, being an Ordinance entitled, "An Ordinance prohibiting the playing of calliopes upon the streets within the City of Pittsburgh".

Ordained and enacted into a law in Council, this 28 day of June, 1934.

Ordinance No. 217, prohibiting the playing of calliopes or similar musical instruments on board boats or excursion steamers while within the territorial limits of the City of Pittsburgh except with the permission of the Director of Public Safety, and providing penalties for violation therefor

The Council of the City of Pittsburgh hereby enacts as follows: Section 1. The playing of calliopes or similar musical instruments on board boats or excursion steamers while within the territorial limits of the City of Pittsburgh is hereby prohibited except as provided in Section 2 of this Ordinance.

Section 2. The Director of the Department of Public Safety may grant permission for the playing of calliopes or similar musical instruments on board boats or excursion steamers while within the territorial limits of the City of Pittsburgh provided:

(a) The playing of the calliope or similar musical instrument is limited to the hours of 7:00 P.M. to 9:00 P.M.;

(b) The calliope or similar musical instrument is not played on Sunday; and

(c) In the opinion of the Director, the playing of the calliope or similar musical instrument does not cause undue disturbance to the public.

Section 3. Any person violating the provisions of this ordinance shall upon conviction thereof before any alderman or police magistrate of the City be fined not less than \$10.00 or more than \$100.00 and costs, and in default of the payment of the fine and costs, said person shall be imprisoned in the jail of Allegheny County for a period not exceeding thirty days.

Section 4. Ordinance No. 433, approved November 2, 1925, and recorded in Ordinance Book No. 36, Page 540, is hereby specifically repealed.

Section 5. That any other Ordinance or part of Ordinance, conflicting with the provisions of this Ordinance, be and the same is hereby repealed so far as the same affects this Ordinance.

Ordained and enacted into a law in Council, this 8th day of June, 1953.

Ordinance No. 433

Ordinance No. 433, approved November 2, 1925, prohibits the playing of calliopes or other similar musical instruments on board boats or excursion steamers. This ordinance appears to have been reenacted by Ordinance No. 217, approved June 18, 1953, which prohibits the same except by permission of the Director of the Department of Public Safety, during certain times of the day. The ordinance imposes a penalty for violation of a fine of not less than \$10.00 nor exceeding \$100.00 or imprisonment up to 30 days.

Ordinance No. 580 prohibiting disorderly conduct, and providing penalties for violation thereof

The Council of the city of Pittsburgh hereby enacts as follows:

Section 1. *Definitions:* A person shall be guilty of disorderly conduct if, with the purpose to cause public danger, alarm, disorder, nuisance or if with the knowledge that he is likely to create such public danger, alarm, disorder or nuisance he wilfully:

(a) creates a disturbance of the public order by an act of violence or by any act likely to produce violence; or

(b) engages in fighting or in violent, threatening or tumultuous behavior; or

(c) makes any unreasonably loud noise; or

(d) addresses abusive language or threats to any person present which creates a clear and present danger of violence; or

(e) causes likelihood of harm or serious inconvenience by failing to obey a lawful order of dispersal by a police officer, where three or more persons are committing acts of disorderly conduct in the immediate vicinity; or

(f) damaging, befouling or disturbing public property or property of another so as to create a hazardous, unhealthy or physically offensive condition; or

(g) commits a trespass on residential property or on public property. Trespass for the purpose of this ordinance shall mean:

(1) Entering upon, or refusing to leave, any residential property of another, either where such property has been posted with "No Trespassing" signs, or where immediately prior to such entry, or subsequent thereto, notice is given by the owner or occupant, orally or in writing, that such entry, or continued presence, is prohibited.

(2) Entering upon, or refusing to leave, any public property in violation of regulations promulgated by the official charged with the security, care or maintenance of the property and approved by the governing body of the public agency owning property,

where such regulations have been conspicuously posted or where immediately prior to such entry, or subsequent thereto, such regulations are made known by the official charged with the security, care or maintenance of the property, his agent or a police officer.

This ordinance shall not apply to peaceful picketing, public speaking or other lawful expressions of opinion not in contravention of other laws.

Section 2. *Offense:* It shall be unlawful for any person to engage in disorderly conduct in the City of Pittsburgh.

Section 3. *Penalties:* Any person convicted of violating this ordinance shall, upon the judgment of any alderman or police magistrate of the City of Pittsburgh determining such violation, be subject to pay a fine not exceeding \$300, and costs for each offense, and in default of payment thereof, shall be subject to imprisonment in the Allegheny County Jail for a period not exceeding ninety (90) days.

Section 4. *Severability:* If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

Section 5. That any Ordinance or part of Ordinance, conflicting with the provisions of this Ordinance, be and the same is hereby repealed so far as the same affects this Ordinance.

Nimlo model ordinance prohibiting unnecessary noises

[EDITOR'S NOTE.—See NIMLO Report 123, "Municipal Control of Noise—Sound Trucks—Sound Advertising Aircraft—Unnecessary Noises—Annotated Ordinance."]

Be it ordained by the city council of the city of . . . :

Section 8-301. It is found and declared that:

(a) The making and creation of loud, unnecessary or unusual noises within the limits of the City of . . . is a condition which has existed for some time and the extent and volume of such noises is increasing;

(b) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of . . . ; and

(c) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City of . . . and its inhabitants.

Section 8-302. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.

Section 8-303. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

(1) *Horns, Signaling Devices, etc.* The sounding of any horn or signaling device on

any automobile, motorcycle, street car or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) *Radios, Phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of eleven o'clock P.M. and seven o'clock A.M. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be *prima facie* evidence of a violation of this section.

(3) *Loud Speakers, Amplifiers for Advertising.* The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(4) *Yelling, Shouting, etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11 P.M. and 7 A.M. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(5) *Animals, Birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

(6) *Steam Whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) *Defect in Vehicle or Load.* The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(9) *Loading, Unloading, Opening Boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(10) *Construction or Repairing of Buildings.* The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7 A.M. and 6 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three days or less

while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6 P.M. and 7 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6 P.M. and 7 A.M., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(11) *Schools, Courts, Churches, Hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(12) *Hawkers, Peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(13) *Drums.* The use of a drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(14) *Metal Rails, Pillars and Columns, Transportation Thereof.* The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) *Street Railway Cars, Operation Thereof.* The causing, permitting or continuing any excessive, unnecessary and avoidable noise in the operation of a street railway car.

(16) *Pile Drivers, Hammers, etc.* The operation between the hours of 10 P.M. and 7 A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(17) *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

Section 8-304. *Penalties.* Any person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding \$..... or by imprisonment for not more than days, or by both said fine and said imprisonment.

Section 8-305. *Separability.* It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this ordinance be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

CITY WANTS CYCLISTS HELMETED, STATE WARNING RIDERS FOR NOISE

(By Dale McFeatters)

Maybe the police will prosecute motorcyclists without helmets.

Maybe they won't.

Under the State's new motorcycle laws which went into effect a week ago, motorcyclists are required to wear protective headgear and eye shields of an approved type.

However, the State hasn't specified what is approved and what isn't.

State Police say they may issue warnings

to motorcycle riders violating the helmet law, but they do not plan to prosecute until the specifications for helmets are publicized.

CITY COPS TO ACT

City police say they plan to ticket and prosecute riders without helmets.

The protective eye shield law holds that the cyclist must wear a face shield, goggles or eyeglasses with shatter-proof lenses.

Contact lenses are not considered protective eye shields.

The advice of both State and City police: Wear the helmet.

Both "ape hangers" and clip-ons are prohibited under the law.

Ape hangers, the exaggerated V-shaped handlebars, are prohibited by the specifications which limit the height of the handlebars to no more than 15 inches above the saddle.

CRACKDOWN ON NOISE

Clip-ons, the stubby handgrips attached directly to the fork, are also illegal.

The law also outlaws bobbed fenders and altered mufflers. Both the muffler and the fenders must be stock, unaltered from the manufacturer's specifications.

The muffler law, along with the helmets, will be the most strictly enforced of the provisions because of noise complaints, State Police indicated.

Two peace officers who hear the cycle and agree the noise level is excessive can make an arrest.

State Police said the motorcyclist probably will be let off if he can prove his muffler is unaltered, but if so much as a welding repair is detected after the cyclist is ticketed he will pay the fine.

WANT COURT TEST

Some motorcyclists resent these laws and are hoping that the American Motorcycle Assn. or a dealer will take the helmet law to court to test the validity.

Although the motorcyclists fear punitive enforcement by the police, State and City police have indicated they will go easy on enforcement—except for really glaring violations—until the laws become more exact by usage and explanation.

The one provision of the new law that motorcyclists do agree with is the institution of licenses and tests which recognize that cycle riding is a special skill.

The Washington Blvd. driving examiners said that of 55 cyclists who took their examination last week 10 were rejected, mostly because their bikes didn't meet the law.

A rider who already has a driver's license can take the test any time he likes before his current license becomes due for renewal.

Marshall Hausrath, mechanic at Civic Center Cycle in Oakland, came down to the testing grounds to run through the test and get details of the new laws to answer his customers' questions.

The first part of the test consists of identifying and demonstrating the clutch, throttle, brakes, lights and turn signals.

"Believe it or not," examiner Ora Brown said, "we had a guy in here who didn't know how to turn his lights on. We sent him home to learn how."

The second part of the test consists of tight figure-eight turns in a double parking bay. For larger cycles, the figure eights are performed in the parking lot.

The third part of the test consists of a double run in second gear through a serpentine course.

The final portion of the test has the driver approach a line in second gear from 100 yards away and stop on the line.

TEST IS SIMPLE

The test sounds simple and it is, but Mr. Brown, a former stunt motorcyclist, says the maneuvers are all he needs to see to know if the cyclist is any good.

A 16-year-old who has just received his learner's permit may take his test on a

motorcycle, but he will go through the same examination as an applicant taking the test in a car.

While the applicant performs the same maneuvers expected of a learner taking his test on a car—keeping in lanes, signaling, obeying lights and double lines and, later, answering the traffic questions—the examiner will also watch his ability to handle a cycle.

If the learner wants to take his test on both a car and a motorcycle, he can do so on the same day.

Once the 16-year-old passes his examination, he is subject to the junior license and the same traffic rules applying to cars.

The examiners will also test a cyclist with a driver's license which is not due for renewal.

OTHER TERMS LISTED

The cyclist must go to the barracks and fill out only those sections applicable to motorcycles on a renewal form.

Then, after he has passed his test his license is endorsed with the coded symbol Y showing that he is duly licensed to operate a cycle.

To avoid an excess of cycles flooding the examination centers, the test does not have to be taken until the license becomes due for its two-year renewal which means that some cyclists will not have to take their tests until 1970.

If the cyclist lets the renewal date on his license go by without taking the examination, he must apply for a learner's permit to operate his cycle.

The learner's permit prohibits, regardless of the age of the driver, operating the cycle at night and carrying a passenger, with the sole exception of a licensed cyclist riding as passenger for purposes of instruction.

Portland, Oregon

Police Code

b. Sec. 16-1608.—(1) That the dog has created a nuisance in the neighborhood by loud and frequent barking, or by damaging property not owned by its keeper, and;

(2) That the dog's keeper, knowing or having cause to know that the dog has created the nuisance, suffered that nuisance to continue or to be repeated.

The notice shall state the cause for its issuance, order the owner or keeper of the dog to immediately confine the dog and, within five days, to remove the dog from the City permanently. The notice shall be sent by certified mail to the owner or keeper of the dog, or shall be posted prominently upon the building in which the dog is kept. After delivery or posting of the notice, it is unlawful not to immediately confine the dog or to release the dog, in the City, from confinement. After five days from delivery or posting of the notice, it is unlawful to keep the dog, or permit it to be kept, anywhere in the City.

Article 17. Prevention of unnecessary noises

Section 16-1701. Unlawful to create noise.—It shall be unlawful for any person, to create, assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing, or unnecessary noise.

Section 16-1702. What constitutes a violation.—[Section 16-1702 amended by Ordinance No. 112582 passed and effective September 22, 1960.]

The following acts are declared to be violations of this Code, but said enumerations shall not be deemed to be exclusive, namely:

(a) The keeping of any animal or bird which by frequent or loud continued noise shall disturb the comfort and repose of any person in the vicinity, and the attaching of any bell on any animal or allowing the same to remain on any animal. Any animal running at large with a bell thereon shall be liable to be impounded.

(b) The blowing of any steam whistle attached to any stationary boiler, except to

give notice of the time to begin or to stop work, or as a warning of danger.

(c) The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled and reduced.

(d) The erection, including excavation, demolition, alteration, or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m., except in case of urgent necessity in the interest of public safety.

(e) The creation of any excessive noise on any street adjacent to any hospital or other institution reserved for the sick, or any school while the same is in session.

(f) The operation of any industrial type internal combustion engine without having the same equipped with and using thereon a muffler, in good working operation, to prevent excessive noise and annoying smoke.

(g) The use or operation of any automatic or electrical piano, phonograph, graphophone, victrola, radio, loudspeaker, or any instrument for sound producing or any sound amplifying device or loudly as to disturb persons in the vicinity thereof or in such a manner as renders the same a public nuisance; provided, however, that upon application to the Bureau of Police (Office of the Chief) permits may be granted to persons or business firms for the broadcast or amplification of commercial or entertainment programs, or to any organization for the broadcast of programs of music, speeches, or general entertainment as a part of national, state or city events, public festivals or outstanding events of a non-commercial character, such broadcast or amplification either by person or a business concern or by an organization, shall not be audible for a distance of more than fifty feet from the instrument, speaker or amplifier, and in no event shall a permit be granted where any obstruction to the free and uninterrupted traffic, both vehicular and pedestrian will result.

(h) The making of any noise upon a public street or in such proximity thereto as to be distinctly and loudly audible upon such street, any noise of any kind by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument, sound amplifying device or other device for the purpose of advertising goods, wares, or merchandise, or of attracting attention or of inviting patronage of any person to any business whatsoever, or participation by any person in any public or private event; provided that newsboys may sell newspapers and magazines by public outcry, except as prohibited by Section 16-1705 and provided further that a permit for sound amplifying device to be used upon the streets of the city of Portland may be granted by the Bureau of Police upon application to the office of the Chief thereof, and the said Bureau shall have exclusive jurisdiction over the routing of such sound amplifying vehicle, and such vehicle shall in no event be permitted to operate within two hundred feet of any hospital, or within two hundred feet of any public or private elementary or secondary school, or any college or university. The permit as granted by the Bureau of Police shall in addition to specifying the route generally, or specifically, affirmatively provide for the hours during which such use of the streets may be permitted, and shall provide that in no event shall the sound emanating from any sound amplifying vehicle be audible for a distance of more than one hundred feet from the said vehicle.

(i) The conducting, operating or maintaining of any garage in any residential district so as to cause loud or offensive noises to be emitted therefrom at any late hour at night, to wit: any time between 11:00 p.m. and 7:00 a.m. so as to be likely to disturb and keep awake persons residing in the immediate vicinity. The term "residential district" as used in this Code shall include any

area where a garage is located within 100 feet of any building or buildings used as a private residence, apartment house, rooming house, or hotel.

(j) To conduct, carry on, or in any manner engage in any marathon dance, marathon race, marathon exhibition, walkathon, or human endurance test or contest in the City for gain or for hire in any building, structure, tent, enclosure, or place, and the renting or leasing of any building, structure, tent, enclosure, or place within the City to any person for the purpose of permitting the use of such building, structure, tent, enclosure, or place for a marathon dance, marathon race, marathon exhibition, walkathon, or human endurance test or contest.

(Subsection (k) of Section 16-1702 added by Ordinance No. 115306; amended by Ordinance No. 126559 passed and effective April 11, 1968.)

(k) To land or take off any helicopter or other steep-gradient aircraft at or from any place within the City except at a heliport or heliport, unless the City Council has specifically authorized the same or in case of emergency.

Section 16-1703. Foregoing acts declared nuisances.—The foregoing acts are hereby declared to be nuisances, and upon complaint to the Bureau of Police of any person disturbed or annoyed by the noises therefrom the Bureau of Police shall thereupon investigate such complaint, and if found justified shall issue notice of such complaint to the person causing or permitting the continuance of said noises, notifying him immediately to abate said nuisance. If the person so notified neglects to abate the same forthwith, a complaint shall be filed against the offending person. Any person, however, may be arrested for violation of this Code upon the direct complaint of any other person.

Section 16-1704. Motor boats.—It shall be unlawful to use, operate, or cause to be used or operated upon the public waters within the city limits a boat propelled in whole or in part by gas, gasoline, naphtha, Diesel oil or other explosive material unless the motor or any such motor boat shall be provided with either an underwater exhaust or a muffler, or have the discharge water piped into the exhaust line. Any such installation must be so constructed and maintained that in its operation no noise shall emanate from the exhaust or muffler that can be heard for a greater distance than 1000 feet from the boat.

This section shall not apply to any publicly owned motor boat in government service or any motor boat owned outside the city limits passing through this city to some other distant point, or motor boat used in any authorized race or other demonstration.

The harbor patrol is hereby given jurisdiction to enforce the provisions of this section.

Section 16-1705. Public outcry, when and where prohibited.—It shall be unlawful between the hours of 11:00 p.m. of any day and 7:00 a.m. of the following day, for any person, minor or adult, engaged in offering for sale or selling on the streets any newspapers, magazines or periodicals, to make any public outcry, to shout or to make any audible noise for the purpose of attracting attention or inviting the patronage of any person within the following described district:

Beginning at the intersection of the south line of S. W. Jefferson Street with the Willamette River; thence west along the south line of S. W. Jefferson Street to the west line of S. W. 18th Avenue; thence north along the west line of S. W. 18th Avenue and the west line of S. W. 19th Avenue to the north line of N. W. Glisan Street; thence east along the north line of N. W. Glisan Street to the east line of N. W. Broadway, thence north along the east line of N. W.

Broadway to the north line of N. W. Johnson Street; thence east along the north line of N. W. Johnson Street to the east line of N. W. 6th Avenue; thence following the south line of the Northern Pacific Terminal company's property to the Willamette River; thence south following the Willamette River to the place of beginning.

Outside of the above described district it shall be unlawful, between the hours of 9:00 p.m. of any day and 7:00 a.m. of the following day, for any person, minor or adult, engaged in offering for sale or selling on the streets any such newspapers, magazines or periodicals, to make any public outcry, to shout or to make any audible noise for the purpose of attracting attention or inviting the patronage of any person.

Section 16-1706. Loading noisy material.—It shall be unlawful for any person to transport through the streets any iron or other material likely to make a noise unless said material is loaded and deadenened so as to prevent unnecessary noise.

Raleigh, N.C.

City Ordinances

Sec. 15-30. Noise—Prohibited when excessive.—Subject to the provisions of sections 15-31 and 15-32, the creation of any unreasonable loud, disturbing and unnecessary noise in the city is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited. (Code 1950, § 23.1)

Cross references—Roosters, § 4-3; dogs, § 4-20; railroads, § 18-4.

Sec. 15-31. Same—Specific prohibitions.—The following acts are specifically declared to be loud, disturbing and unnecessary noises in violation of this Code, but such enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(2) The use of any gong or siren upon any vehicle other than police, fire, ambulance or other emergency vehicles.

(3) The playing of any radio, phonograph or other musical instrument in such a manner or with such volume, during the hours between eleven o'clock p.m. and seven o'clock a.m., as to annoy or disturb the quiet, comfort or repose of any person or persons in any dwelling, hotel or other type of residence.

(4) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded, or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.

(5) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

(6) The discharge into the open air of the exhaust of any stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) The erection (including excavating), demolition, alteration or repair of any building or other structure in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on week days except by permit from the building inspector, when, in his opinion, such work will not create objectionable noise, but upon complaint in writing of the occupant of property near the location of the work, the building inspector shall immediately revoke the permit and the work shall be immediately discontinued. The building inspector may

permit emergency work in the preservation of public health or safety at any time.

(8) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same are in session, or within one hundred and fifty feet of any hospital, which unreasonably interferes with the working of such institution.

(9) The creation of loud and excessive noise in connection with loading or unloading any vehicles, or the opening and destruction of bales, boxes, crates and containers.

(10) The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.

(11) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.

(12) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of eleven o'clock p.m., and seven o'clock a.m.

(13) The firing or discharging of firearms in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the police department.

(14) The creation of excessive noise by the operation of an airplane over the city by stunting, diving or otherwise operating an airplane for the purpose of advertising or otherwise. (R. Code 1950, § 23.2; Ord. No. (1967)-544, § 1, 3-20-67)

Amendment note—Ord. No. (1967)-544, § 1, amended § 15-31(7) which prior to amendment permitted construction work during other than the designated hours only "in case of urgent necessity in the interest of public safety . . ."

Sec. 15-32. Same—Loudspeakers.—It shall be unlawful for any person to use or operate on or over any street within the city any radio, phonograph or other similar mechanical device to produce sound, or any mechanical loudspeaker or other sound-magnifying device, on any motor vehicle or other conveyance, or stand, for advertising or other purposes, at a power output level of volume greater than ten watts or thirty-two decibels, and any such operation shall be unlawful unless such loudspeakers or other mechanical sound-magnifying device shall be equipped with a meter by which the power output can be registered and determined so that the volume may be limited in accordance with the restrictions hereinbefore specified; and it shall be unlawful to operate any such equipment or devices without a license from the city as provided by this Code; providing no such equipment or device shall be used or operated on the streets of the city during the period between sunset and nine o'clock a.m.; provided, further, no such equipment or device shall be operated to produce music or other sound effects along that portion of any street within the block where there is located any school, hospital, funeral home or undertaking establishment, or where a funeral is being conducted at any place; and provided, further, that no such equipment or device shall be operated on the streets of this city on Sunday. (Code 1950, § 23.4)

Sec. 18-4. Whistles, unnecessary blowing.—No person shall at any point within the city blow the whistle of an engine in an unnecessarily loud tone or unnecessarily long. (R. Code 1950, § 25.4)

Sec. 4-3. Same—Roosters as nuisances.—It shall be unlawful for any person to keep or maintain on any premises or lot within the corporate limits any rooster that through loud and habitual crowing, or in any other manner, constitutes a neighborhood or public nuisance. Failure to abate such nuisance after warning from the chief of police or his authorized representative shall be unlawful

and punishable according to law. (R. Code 1950, § 13.5)

Sec. 4-20. Dogs as nuisances.—It shall be unlawful for any person to keep or maintain on any premises or lot any dog that, through loud and habitual barking, or in any other manner, constitutes a neighborhood or public nuisance. Failure to abate such nuisance after warning from the chief of police or his authorized representative shall be unlawful and punishable according to law. (R. Code 1950, § 13.4(a))

Rochester, N.Y.

City Ordinance

Chapter 75: Noise

- § 75-1. Unnecessary noise prohibited.
- § 75-2. Signalling devices.
- § 75-3. Radios, phonographs and musical instruments.
- § 75-4. Animals and birds.
- § 75-5. Vehicles.
- § 75-6. Whistles.
- § 75-7. Discharge of exhausts.
- § 75-8. Mechanical devices.
- § 75-9. Building.
- § 75-10. Institutions.
- § 75-11. Loading.
- § 75-12. Bells.
- § 75-13. Peddlers and vendors.
- § 75-14. Advertising.
- § 75-15. Sound-producing devices.
- § 75-16. Disturbance.
- § 75-17. Penalties.

[History: Adopted Rochester City Council 11-25-41. Amendments noted where applicable.]

§ 75-1. Unnecessary noise prohibited.—The creation of any unreasonably loud, disturbing or unnecessary noise in the city is prohibited. Noise of such character, intensity or duration as to endanger public comfort, peace or repose or to be detrimental to the life or health of any individual is declared to be a nuisance and is prohibited.

A violation of §§ 75-2 through 16 is hereby declared to be a nuisance within the meaning of this section but such enumeration shall not be deemed to be exclusive.

§ 75-2. Signalling devices.—No person shall sound any horn or signal device on any automobile, motorcycle, bus, streetcar or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out-of-control, or if in motion only as a danger signal; nor create by means of any such signal device any unnecessary or unreasonably loud, harsh or prolonged sound; nor sound such device for an unnecessary and unreasonable period of time. Except that this subdivision shall not apply to vehicles of the Bureau of Fire and Police, and such emergency vehicles of municipal departments or public service corporations and ambulances as are authorized or marked as approved by the Commissioner of Public Safety.

§ 75-3. Radios, phonographs and musical instruments.—No person shall operate or play any radio, phonograph or any musical instrument in such manner or with such volume, at any time, particularly during the hours between 11:00 P.M. and 7:00 A.M. as to annoy the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence.

§ 75-4. Animals and birds.—No person shall keep any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

§ 75-5. Vehicles.—No person shall use an automobile, motorcycle, bus or vehicle so out of repair or so loaded or in any manner as to create loud or unnecessary grating, grinding, rattling or other noise.

§ 75-6. Whistles.—No person shall blow or cause to be blown any steam whistle, except to give notice of the time to begin or stop work or as a warning of danger.

The blowing or operating of a whistle operated by steam or other artificial means for more than fifteen (15) seconds at one (1) time during a period of thirty (30) minutes in any one (1) day is prohibited.

§ 75-7. Discharge of exhausts.—No person shall discharge or cause to be discharged into the open air the exhaust of any steam engine, stationary internal-combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

§ 75-8. Mechanical devices.—No person shall use or cause to be used any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

§ 75-9. Building.—No person shall create or cause to be created loud or excessive noise in connection with the erection (including excavation), demolition, alteration or repair of any building.

§ 75-10. Institutions.—No person shall create or cause to be created any excessive noise on any street adjacent to any school, institution of learning, or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

The making by one's self, or by the operation of any instrument, agency or vehicle, any unnecessary or unseemly noise within one hundred fifty (150) feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick is prohibited. The Commissioner of Public Safety shall place as many signs as he may deem proper within or near the zones hereby created, calling attention to the prohibition against unnecessary noises within such zones.

§ 75-11. Loading.—No person shall create or cause to be created a loud and excessive noise in connection with loading or unloading any vehicle, or the opening and destruction of bales, boxes, crates, and containers.

The creation of loud and excessive noise in connection with the handling of ash, trash, and garbage cans, either in loading or unloading, and whether full or empty is prohibited.

§ 75-12. Bells.—No person shall sound or cause to be sounded any bell, except church bells, or gong attached to any buildings or premises which disturbs the quiet or repose in the vicinity thereof.

§ 75-13. Peddlers and vendors.—The unreasonable and unnecessary sounding and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood is prohibited.

§ 75-14. Advertising.—No person shall use any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of loud and raucous noise to any performance, show or sale or display of merchandise.

The making, causing, permitting or allowing to be made, loud and raucous noise by means of any rattle, clapper, hammer, drum, horn or any musical instrument or mechanism for creating or reproducing sound, in a street or near enough to a street so that any such noise will be heard in a street, for the purpose of advertising any goods, wares or merchandise, or of attracting the attention, or inviting the patronage of any person to any occupation or business whatsoever is prohibited.

It shall be unlawful for any person, firm or corporation, either as principal, agent or employee, to play, use or operate for advertising purposes, or for any other purpose whatsoever, on and upon the public streets, alleys, thoroughfares or public places in the City of Rochester, any device known as a sound truck, loudspeaker or sound amplifier, or radio or phonograph with a loud-

speaker or sound amplifier, or any other instrument known as a calliope or any instrument of any kind or character which emits therefrom loud and raucous noise and is attached to and upon any vehicle, except police trucks or vehicles, operated or standing upon said public streets, alleys, thoroughfares or public places. [Amended 2-23-49]

§ 75-15. Sound-producing devices.—No person shall erect, install or use any sound-producing instrument, broadcaster, radio, amplifier, or conveyor-of-sound on or over the streets or public places within the City of Rochester for the purpose of advertising through loud and raucous noise any goods, wares or merchandise or any meeting, entertainment or event, or for the purpose of attracting the attention or inviting the patronage of any person to any business whatsoever or to any meeting, entertainment or event or for any other purpose.

The provisions of this section shall not be construed to prevent any funeral procession or religious ceremony; nor shall the terms of this section be construed to prevent the production of music in connection with any parade authorized under any provision of law; nor shall this section prevent any musical performance upon any public street or place where a permit has been obtained from the Commissioner of Public Safety for such purpose; nor shall this section prevent the use of amplifiers or other sound producing instruments in connection with any athletic competition or recreational event held on athletic fields stadiums or public parks, nor shall such provisions apply to police or fire apparatus while used in the performance of public duty. [Amended 2-23-49]

§ 75-16. Disturbance.—No person shall create a disturbance or engage in improper conduct or abusive acts or language in any church, theater, public hall or other public place.¹

§ 75-17. Penalties.—A violation of this chapter is punishable by a fine of not exceeding one hundred fifty dollars (\$150.) or by imprisonment not exceeding one hundred fifty (150) days, or by both such fine and imprisonment, or by a penalty of not less than five dollars (\$5.) nor more than five hundred dollars (\$500.) to be recovered by the City of Rochester in a civil action. [Amended 2-23-49]

City Ordinances

Ordinance No. 2414, fourth series, amending sec. 26.29-1(d), of Chapter 26 of the Sacramento City Code, relating to unnecessary noise, and making this an emergency measure to take effect immediately

Sacramento, California

Be it enacted by the council of the city of Sacramento:

Section 1. Sec. 26.29-1(d) of Chapter 26 of the Sacramento City Code is hereby amended to read as follows:

(d) Construction or repairing of buildings. The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 A.M. and 6:00 P.M., on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, and between 9:00 A.M. and 6:00 P.M. on Sunday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways

within the hours of 6:00 P.M. and 7:00 A.M. on weekdays and 6:00 P.M. and 9:00 A.M. on Sundays, and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 P.M. and 7:00 A.M. on weekdays and 6:00 P.M. and 9:00 A.M. on Sundays, upon application being made at the time the permit for the work is awarded or during the progress of the work.

Section 2. That this ordinance is hereby declared to be an emergency measure to take effect immediately, such emergency being that public welfare and necessity require that guests and occupants of hotels and apartments be protected from noises emanating from the construction, repair or demolition of buildings until after 9:00 A.M. on Sundays.

Section 3. This ordinance shall be published once in the official newspaper of the City of Sacramento and shall take effect immediately.

Passed: October 4, 1962.

Ordinance No. 2248, fourth series adding sections 25.36-1 and 26.29-1 of chapters 25 and 26 Sacramento City Code, prohibiting unnecessary noises and disturbances in the city of Sacramento

Be it enacted by the Council of the City of Sacramento:

Section 1. Sections 25.36-1 and 26.29-1 of Chapters 25 and 26, Sacramento City Code, are hereby added, to read as follows:

Sec. 25.36-1. Limitations of permits issued by preceding section; revocation of permits

The Chief of Police is authorized to issue the permits mentioned in Section 25.36 of this chapter, and such permits shall contain any limitations as to times, duration, volume, and places as in the judgment of the Chief of Police seem necessary to accomplish the objects of this chapter. The Chief of Police may revoke such permits.

Sec. 26.29-1. Noise—unnecessary, etc., noise

It shall be unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

(a) Motor Noises. Any noise made by the motor of any automobile, truck, tractor, motorcycle, not reasonably required in the operation thereof under the circumstances and shall include but not be limited to back-firing and motor racing.

(b) Horns and Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle, trolley coach or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or any other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(c) Yelling and Shouting. Yelling, shouting, hooting, whistling, singing or blowing of horns on the public streets, particularly between the hours of 12 P. M. and 7 A. M. or at time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling hotel, apartment, or other type of residence, or of any persons in the vicinity.

(d) Construction or Repairing of Buildings.

The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7 A. M. and 6 P. M. except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6 P. M. and 7 A. M., and if he shall further determine that loss of inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6 P. M. and 7 A. M., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(e) Pile Drivers, Hammers. The operation between the hours of 10 P. M. and 7 A. M. of any piledriver, steam-shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(f) Tools. The use of or operation between the hours of 10:00 P. M. and 7:00 A. M. of any power saw, power planer, or other power saw, power planer, or other powered tool or appliance or saw or hammer, or other tool, so as to disturb the quiet, comfort, or repose of persons in any dwelling, hotel, apartment, or other type of residence, or of any person in the vicinity.

(g) Blowers. The operating of any noise-creating blower or power fan or any internal combustion engine the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(h) Steam Whistles. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper City Authorities.

(i) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(j) Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(k) Hawkers, Peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of persons in the neighborhood.

(l) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(m) Metal Rails, Pillars and Columns, Transportation Thereof. The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks in any manner so as to cause loud noises or to disturb the peace and quiet of persons in the vicinity thereof.

(n) Animals, Birds, Fowls. The keeping of any animal, fowl or bird which by causing frequent or long continued noise shall disturb the comfort or repose of persons in the vicinity.

Violation of any of the provisions of this section shall constitute a misdemeanor and shall be punishable as provided in this chapter and in this Code.

Section 2. Publication

The Clerk shall publish this ordinance once within 10 days after passage in the official newspaper of the City of Sacramento. Passed: December 15, 1960. Effective: January 14, 1961.

Saint Louis, Mo.
City Ordinance

Petty Offenses: 760. Noise

760.010. General prohibition.—No person shall create or cause any unreasonably loud, disturbing or unnecessary noise. (1948, C. 44, s. 1.)

760.020. Blowing horns.—No person shall sound any horn or signal device on any vehicle of any kind while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control; nor shall such horn or signal device be sounded under any circumstances except as a danger signal, nor shall it be sounded for any unnecessary or unreasonable period of time. (1948, C. 44, s. 1.)

760.030. Radios, phonographs, etc.—No person shall use, operate or permit to be used or operated any radio, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, comfort or repose of the neighboring inhabitants; nor shall any person use, operate or permit to be used or operated a radio, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound at any time with louder volume than is necessary for convenient, normal hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is being used or operated and who are voluntary listeners thereto. The operation of any radio, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound between the hours of 11 p.m. and 7 a.m. in such a manner as to be plainly audible at a distance of more than 100 feet from such machine or device shall be deemed excessive and shall be prima facie evidence of a violation of this section. (Ord. 50038, June 24, 1960.)

760.040. Pets.—No person shall keep any animal, bird or fowl which, by causing frequent or long continued noise, shall tend to disturb the comfort and repose of any person in the vicinity. Any such noise which can be distinctly heard at a distance of more than 100 feet shall be deemed excessive. (1948, C. 44, s. 1.)

760.050. Vehicles in disrepair.—No person shall use any vehicle which is so out of repair, or so loaded, as to create a loud, unnecessary and disturbing noise of any kind. (1948, C. 44, s. 1.)

760.060. Blowing whistles.—No person shall blow any steam whistle attached to any stationary boiler, nor any other whistle or siren, except to give notice of the time to begin or stop work, or as a warning of danger. (1948, C. 44, s. 1.)

760.070. Use of steam for clothing.—No person shall use steam under pressure for cleaning purposes in any establishment between 10 p.m. and 7 a.m., unless the windows of such establishment are closed. (1948, C. 44, s. 1.)

760.080. Exhaust discharge, etc.—No person shall discharge into the open air the blow-down of any steam engine or the exhaust of any stationary internal combustion engine, or motor vehicle, or of the escape valve from the unloader of any air compressor, unless such discharge be through a muffler or other device which will effectively prevent loud or explosive noises. (1948, C. 44, s. 1.)

760.090. Building operations on Sunday.—No person shall excavate, erect, demolish, alter or repair any building or other structure on Sunday, except in case of urgent

necessity in the interest of public safety, and then only with a permit, which permit may be renewed for a period of 3 days or less while the emergency continues. (1948, C. 44, s. 1.)

760.100. Noises near schools, hospitals, churches, etc.—No person shall create any excessive or unnecessary noise within 150 feet of any grounds or premises on which is located any hospital or institution reserved for the sick, or any church, or any school or other institution of learning, or any court, while the same are in session, which unreasonably interferes with the proper functioning of such place. Conspicuous signs shall be placed in the public highways indicating the zones wherein such noises are prohibited. (1948, C. 44, s. 1.)

760.110. Drums, loud speakers, etc.—No person shall use any drum, loud speaker, or other instrument or device for the purpose of attracting attention by creation of noise, nor for advertising purposes. (1948, C. 44, s. 1.)

760.120. Band music in streets.—No military company or procession, or any person whatsoever, shall play any musical instrument in the street within one block of any church on Sunday during the hours of worship. No band of music shall play in the street for any procession with advertising devices, nor shall any band move on the street without a permit from the Board of Public Service. Nothing herein contained shall prevent any military company organized under the laws of the State from parading with a band of music on any day except Sunday. (1948, C. 44, s. 2.)

760.130. Hand organs etc. played for gain.—No person shall carry any hand organ or other musical instrument about the streets for the purpose of playing music thereon in any street, alley or public highway or in any house, for private gain. No license shall be granted to any such person for such purpose. This Section shall not include music required for a military parade, burial or other procession, or serenading party. (1948, C. 44, s. 3.)

760.140. Use of bells, etc. to attract persons to auctions.—No person shall employ any bell man, or use or cause to be used any bell or other sounding instrument as a means of attracting people to an auction or any other place. (1948, C. 44, s. 4.)

826.070. Muffler.—*Muffler cutouts shall not be used and no vehicle shall be driven in such manner or condition that excessive and unnecessary noises shall be made by its machinery, motor, signaling device or other parts, or by any improperly loaded cargo.* The motors of all motor vehicles shall be fitted with properly attached mufflers of such capacity or construction as to quiet the maximum possible exhaust noise as completely as is done in modern gas engine passenger motor vehicles. Any cutout or opening in the exhaust pipe between the motor and the muffler or any motor vehicle shall be completely closed and disconnected from its operating lever, and shall be so arranged that it cannot automatically open, or be opened or operated while such vehicle is in motion. (1948, C. 42, s. 20.)

826. Equipment required on vehicles

826.010. Horns.—Every vehicle shall be equipped with an adequate horn for warning. No person shall drive a motor vehicle to which is attached a gong, bell, whistle or siren, or sound such device in any street. A horn, bell or other device, except a siren, may be attached to a bicycle and a bell or gong may be used on a streetcar. This section shall not apply to authorized emergency vehicles. *No person shall sound such horn or warning device except for warning purposes, nor use same for making unnecessary noise at any time.* (Ord. 46687, July 6, 1953.)

Salt Lake City, Utah

City ordinances

Section 1-3-15. Dogs which disturb neighborhood.—No person, persons, firm or corporation shall own, keep or harbor any dog which by loud, continued or frequent barking, howling, yelping, or by noxious or offensive odors shall annoy, disturb or endanger the health and welfare of any person or neighborhood; such is unlawful and is hereby declared to be a nuisance and each day a violation is permitted to exist or continue shall constitute a separate offense. Provided, however, that this section shall not apply to the municipal dog pound, veterinary hospitals or medical laboratories.

Section 20-17-28. Noise prohibited. Exception.—It shall be unlawful for any peddler or vendor licensed or registered under the provisions of this chapter to sound a gong, blow a whistle or make any other noise to attract customers; provided that such peddler or vendor may ring a small bell or play soft music provided that such ringing or playing does not emit sound audible to the human ear at a distance greater than one-half city block from its source.

Section 20-25-8. Loud speakers on streets. Permit required.—It shall be unlawful for any person to maintain, operate, connect or allow to be maintained, operated or connected, any callope or radio apparatus, sound device or any talking machine or loud speaker attached thereto in such a manner that the loud speaker or amplifier shall cause the sound from such apparatus or sound device or talking machine to be projected directly therefrom outside of any building, vehicle or out-of-doors without first obtaining a permit to do so, which shall be granted only to broadcast important, current events or happenings of public interest.

Section 20-25-9. ID. Application for permit.—Every applicant for the permit required by the preceding section shall make application to the license assessor and collector and file therewith a statement declaring the street and house number of the place where he proposes to broadcast, the times and probable duration of such broadcasts and the nature, topics or titles thereof.

Section 20-15-10. ID. Permit fee.—The fee for the permit to broadcast shall be one dollar which shall be paid to the license assessor and collector at the time the application is filed.

Section 20-25-11. ID. Referral of Application to chief of police. The application for a broadcasting permit together with the statement of the applicant shall be referred by the license assessor and collector to the chief of police shall forthwith report to the board of commissioners concerning the traffic congestion and fire hazards of the proposed location, and he shall recommend to the board of commissioners whether or not the permit should be granted. Upon receipt of such report the board of commissioners shall act upon the application as it shall deem fair, just and proper in regard to granting or denying the same.

Section 20-25-12. ID. Exception to permit requirements. The broadcasting permit required by this chapter shall not be construed to prevent the operation in a reasonable manner by any person within any buildings, vehicle or structure even though the sound therefrom may be heard on the outside of such building, vehicle or structure, provided that the said radio apparatus, sound device, amplifier or talking machine shall not project therefrom directly outside of any building, vehicle, or out-of-doors; and provided further that no such radio apparatus, sound device, amplifier or talking machine is in any way fastened to or connected with any outside wall or window in any building, vehicle or structure so that sound therefrom is pro-

jected outside of such outside wall, door or window.

And provided further that any callope, radio apparatus, sound device, loudspeaker or talking machine may be used in such manner that the loudspeaker or amplifier may project the sound therefrom directly outside of any building, vehicle or out-of-doors if the said loudspeaker or amplifier is located at least one hundred feet from a public street, and provided further that the sound projected from such loudspeaker or amplifier shall not be of sufficient volume or intensity to disturb the immediate neighbors or persons using the nearest public street.

And provided further that in the operation of any drive-in type restaurant or ice cream business wherein motor vehicles are driven upon the premises and parked and served food and drink items by attendant employees of such business, and wherein such business serves food items, ice cream or ice milk products and soft drinks and wherein no alcoholic beverages of any type are sold or permitted on the premises, then for the purpose of controlling the movement and parking of said motor vehicles on the premises and the prompt and efficient service of such food, ice cream, ice milk, and soft drink items thereto, radio apparatus, sound devices, loudspeakers or amplifiers may project the sound therefrom directly outside of any building, vehicle or out-of-doors if the said loudspeakers and amplifiers project only vocal directions and instructions to said employees concerning the movement of, parking or, and service to said vehicles in a manner so that the sound pressure level (measured in decibels referred to .002 dynes per square centimeter) of said loudspeakers or amplifiers taken at the perimeter of the property line of said business premises, shall not exceed the following levels in the following octave bands:

Octave band cycles per second. Sound level in Decibels: 600 to 1200 cycles, 50 decibels. 1200 to 2400 cycles, 44 decibels. 2400 to 4800 cycles, 37 decibels.

Section 46-15-247. Unusual noises and excessive smoke. No driver of any vehicle shall permit said vehicle to emit any excessive or unusual noises or any annoying smoke. The engine and power mechanism of every motor vehicle shall be so equipped and adjusted so as to prevent the escape of excessive fumes. No motor vehicle operator shall run his motor with the cut-out open or make any other unnecessary sound disturbance or operated a vehicle emitting from any source an unreasonable quantity of smoke, obnoxious gases, vapor, or oils.

Section 46-15-248. Increasing noise devices forbidden. No person shall sell, furnish, provide or purchase, nor shall any person attach to any vehicle any device which will or is intended to increase the sound of the original muffling equipment on any motor vehicle.

Section 46-15-249. Use of horn. The driver of a motor vehicle shall, when reasonable and necessary to insure safe operation, give audible warning with his horn but shall not otherwise use horn.

Section 46-15-250. Quiet zones. The streets or parts of streets described in schedule 12, attached hereto and made a part hereof and hereby declared to be "Quiet Zones". Every motor vehicle shall be operated in a quiet zone so as to prevent all excessive and unusual noises, and the occupants therein shall maintain reasonable quiet.

San Antonio, Texas

City Code: Chapter 25: Noise

Sec. 25-1. "Noise nuisance"; defined, enumeration.—(a) Any loud, irritating, vexing, or disturbing noise which causes distress, annoyance, discomfort, or injury to, or which interferes with the comfort and repose of, any person of normal nervous sensibilities in the vicinity or hearing thereof,

is declared to be a "noise nuisance", unlawful and is prohibited.

(b) The following acts, among others not hereinafter enumerated, are declared to be "noise nuisances", unlawful, and in violation of the provisions of this chapter when such acts are done or accomplished or carried or in such a manner or with such volume, intensity, or with continued duration, so as to annoy, to distress, or to disturb the quite, comfort, or repose of, persons of normal nervous sensibilities within the vicinity or hearing thereof:

(1) The playing of any radio, phonograph, juke box, nickelodeon, or any musical instrument.

(2) Any loud or vociferous language or any soliciting for, or description of, any amusement house, moving picture theater, or other like place of amusement, or for the performance therein, in the entrance thereto, the foyer or lobby thereof, or on the sidewalks adjoining the same.

(3) The keeping of any animal, fowl or bird, which makes frequent or long, continued noise.

(4) The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal.

(5) The running of any motor of any automobile or vehicle, motorcycle, or other motor vehicle so out of repair, or so loaded, or so operated, as to create loud, grating, grinding, jarring or rattling noise vibrations.

(6) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises therefrom.

(7) The erection, including excavation, demolition, alteration, or repair work, on any building or other structure other than between the hours of seven o'clock a.m. and six o'clock p.m. on week days, except in cases of extreme and urgent necessity in the interest of public safety and convenience, and then only by permit obtained from, and issued by, the director of public works, or any of his duly appointed and acting assistants and employees, which permit may be renewed during the time the emergency exists.

(8) The crying, calling, or shouting in person or by a mechanical device, or the use of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, loudspeaker or phonograph with or without an amplifier, hand organ, or other devices or instruments, musical or otherwise, for the purpose of advertising any candidate for elective office, any goods, wares or merchandise, or for the purpose of attracting attention to or inviting persons to any political rally, meeting or gathering, to any place of amusement, to any performance or show, or to any business or activity whatsoever.

(9) The raucous shouting, whistling, yelling, singing, hooting or crying of peddlers, hawkers, vendors or any other persons. (Code 1950, § 40-2; Ord. No. 18222, 8-28-52)

Sec. 25-2. Creating "noise nuisance" unlawful.—(a) It shall be unlawful for any person to create or cause any noise nuisance, as that term is herein defined, within the corporate limits of the city or within five thousand feet thereof.

(b) It shall be unlawful for any person to permit, or allow to be created or caused, a noise nuisance, as that term is herein defined, within the corporate limits of the city or within five thousand feet thereof. (Code 1950, § 40-1; Ord. No. 18222, 8-28-52; Ord. No. 20902, § 1, 1-20-55)

Sec. 25-3. Quiet zones—Created.—(A) Schools and other institutions of learning.

(a) All territory embraced within a distance of two hundred and fifty feet of the real property upon which is situated any

school or institution of learning, public and private, shall be held to be, and are hereby declared to be, "Quiet Zones" during the period of time such schools and institutions of learning are in session.

(b) All territory embraced within a distance of two hundred and fifty feet of the real property upon which each of the hereinafter named schools and institutions of learning, public and private, are situated are hereby declared to be "Quiet Zones".

(School and address)

- (1) Edgewood (Elm. Jr. and Sr.), 525 Cupples Road.
- (2) Burleson, 4415 Monterrey.
- (3) Coronado, 435 S. San Dario.
- (4) Gardendale, Dahlgreen Road at Castroville Road.
- (5) Carver, 100 Purcell.
- (6) Stafford, 611 SW 36th Street.
- (7) Edison, 2101 Edison Drive.
- (8) Morrill Ward, 5200 South Flores.
- (9) Collier, 834 Southcross Boulevard.
- (10) Gerald Avenue, 436 Gerald Avenue.
- (11) Harding, 2717 Pleasanton Road.
- (12) Harlandale (Jr. and Sr. High), 300 Block West Huff.
- (13) Huff Avenue, 115 East Huff Avenue.
- (14) Rayburn Drive, Rayburn Drive at Burton.
- (15) Stinson Field Homes Elem. School, 96th Street at Apollo (Stinson Field).
- (16) Stonewall, 815 Commercial.
- (17) San Antonio Hebrew School, 112 East Quincy.
- (18) St. Mary's Hall, 117 East French.
- (19) Ursuline Academy, 1108 Navarro.
- (20) Central Catholic High, 1403 North St. Mary's.
- (21) Peacock Military Academy, 1801 Cincinnati.
- (22) Blessed Sacrament Academy, 1135 Mission Road.
- (23) Keystone School and Guidance Center, 605 Augusta.
- (24) Lakeview Baptist School, 4001 West Martin Street.
- (25) Providence High School, 1215 North St. Mary's.
- (26) St. Anthony, 205 West Huisache.
- (27) St. Catherine, 738 Leal.
- (28) St. John Berchman, 1100 Harriman.
- (29) St. Teresa's Academy, 4018 South Presa.
- (30) Sunshine Cottage, 100 Dog Pound Road (North Entrance—Alamo Stadium).
- (31) Barkley, 1112 South Zarzamora.
- (32) Beacon Hill, 1400 West Ashby.
- (33) Ben Franklin, 1915 West Olmos Drive.
- (34) Bowie, 451 Arbor.
- (35) Eleanor Brackenridge, 831 Brooklyn.
- (36) J. T. Brackenridge, 1214 Guadalupe.
- (37) Brackenridge High School, 1635 South St. Mary's.
- (38) Brisco, 2015 South Flores.
- (39) Burbank High (Jr. High), 1002 Edwards.
- (40) Carvajal, Arizona at Barclay.
- (41) Collins Gardens, 167 Harriman.
- (42) Agnes Cotton, Blanco Road at Fulton Avenue.
- (43) Crockett, 2800 West Commerce.
- (44) Cuney, 935 Iowa.
- (45) De Zavala, 2300 San Luis.
- (46) Douglas Jr. High, 318 Nebraska.
- (47) Dunbar Jr. High, 1723 Ruiz.
- (48) Edison High, 2101 Edison Drive.
- (49) Eloise Japhet School (No. 43), 305 Austin.
- (50) Eloise Japhet School (No. 51), 514 North Center Street.
- (51) Emerson Jr. High, 1023 North Pine Street.
- (52) Fenwick, 1930 Waverly.
- (53) Gonzales, 500 East Magnolia.
- (54) Graebner, 530 Hoover.
- (55) Grant, 1015 North Elmendorf.
- (56) Green, 122 West Whittier.
- (57) Harris Jr. High, 201 Pruitt Avenue.

- (58) Hawthorne Jr. High, 115 West Josephine.
- (59) Herff, 966 South Hackberry.
- (60) Hidalgo, 331 Dora.
- (61) Highland Park, 635 Rigbsby.
- (62) Highland Hills, Glamis at Dollarhide.
- (63) Hillcrest, 209 West Dittmar.
- (64) Hot Wells Elem., 400 Hot Wells Boulevard.
- (65) Hot Wells Jr. High, 200 Cockrell.
- (66) Houston Elem., 435 West Travis.
- (67) Irving Jr. High, 2215 Morales.
- (68) Ivanhoe, 222 Retama Lane.
- (69) Jefferson High School, 723 Donaldson.
- (70) Johnson, 1811 South Laredo.
- (71) Knox, 302 Tipton.
- (72) Lamar, 201 Farland.
- (73) Lanier Sr. High, 1514 Durango.
- (74) Madison, 2900 West Woodlawn.
- (75) Horace Mann Jr. High, 2123 West Hulsache.
- (76) Margil, 1319 Morales.
- (77) McKinley Elem., 400 East Magnolia.
- (78) Millam, 1101 Austin.
- (79) Miller, Aurelia and Lincolnshire.
- (80) Navarro, 623 South Pecos.
- (81) Nelson, 1801 North Elmendorf.
- (82) Ogden, 2215 Leal.
- (83) Page Jr. High, 401 Berkshire.
- (84) Pershing, 1301 Van Ness.
- (85) Poe Jr. High, 110 Cooper.
- (86) Riverside, 202 School Street.
- (87) Ruiz, 1912 Vera Cruz.
- (88) S.A. Voc. and Tech. High School, 637 Main Avenue.
- (89) Smith, 823 South Gevers.
- (90) Sojourner Truth, 3602 North Main.
- (91) Laura Steele, 722 Haggin.
- (92) Storm, Brady Boulevard and South Galaveras.
- (93) Travis, 1915 North Main Avenue.
- (94) Twain Jr. High, 2411 San Pedro.
- (95) Tynan, 925 Gulf.
- (96) Washington, 1823 Nolan.
- (97) Wheatly High, 415 Harrison.
- (98) Will Rogers, 620 McIlvaine.
- (99) Woodlawn, 1717 West Magnolia.
- (100) Woodrow Wilson, 1421 Clower.
- (101) Seventh Day Adventist School, 443 Winnepeg.
- (102) Athens Avenue Elem. School, 409 Athens Avenue.
- (103) Fleming Elem. School, 410 Athens Avenue.
- (104) S. San High School, 448 Dwight Avenue.
- (105) S. San. Jr. High School, 492 Dwight Avenue.
- (106) St. Agnes, 800 Block Ruiz.
- (107) St. Alphonsus, N. Rosillo and Tampico.
- (108) St. Ann's, 210 St. Ann.
- (109) St. Gerard's Elem., 1623 Iowa.
- (110) St. Gerard's High School, 521 South New Braunfels.
- (111) St. Leo's, 100 Block Octavia.
- (112) St. Mary Magdalen's, 1710 Clower.
- (113) St. Mary's, 200 Block North St. Mary's.
- (114) St. Michael's, 400 Block South Street.
- (115) St. Paul's Lutheran School, 100 Block Roseborough.
- (116) St. Peter Claver, Nolan at Live Oak.
- (117) St. Olive Lutheran, 3103 Buena Vista Street.
- (118) Redeemer Lutheran School, 2507 Fredericksburg Road.
- (119) Holy Rosary, Santa Maria and Bradford (100 Block St. Louis).
- (120) Mt. Calvary Lutheran School, 308 Central Park West.
- (121) Austin Elem., 621 West Euclid Avenue.
- (122) Bonham Elem., 925 South St. Mary's.
- (123) Burnett Elem., 200 La Fitte.
- (124) Burnett Elem. Annex, 206 Newton.
- (125) Fannin, 1931 East Houston.
- (126) Hood Elem., 902 West Martin.
- (127) Robert E. Lee Elem., 719 Lamar.
- (128) Maverick Elem., Raleigh and Tophill Drive.
- (129) Mayfield Park Elem., Amber Place and Gladnell Avenue.
- (130) H. K. Williams Elem., Rivas and San Bernardo.
- (131) Christ the King, 2900 Block Morales Street.
- (132) Holy Redeemer, 230 Vargas Street.
- (133) Immaculate Heart of Mary, South San Saba at San Luis.
- (134) Incarnate Word High School, 727 East Hildebrand Avenue.
- (135) Incarnate Word Elem. School, East Hildebrand Avenue.
- (136) Little Flower, North Zarzamora at Kentucky.
- (137) Our Lady of Guadalupe, South Leona and San Fernando.
- (138) Our Lady of Sorrows, 3100 Block North St. Mary's.
- (139) Our Lady of Perpetual Help, 2100 Block Nebraska.
- (140) Our Lady of the Lake High School, Southwest 24th Street and Durango.
- (141) St. Martin's Hall Elem. School, Southwest 24th Street and Durango.
- (142) Our Lady of Victory, 202 South Grimes.
- (143) Sacred Heart, 2605 West Commerce.
- (144) San Fernando School, North Laredo and West Salinas.
- (145) St. Cecilia's, South Presa at Whittier.
- (146) St. Henry's, South Flores at West Fest.
- (147) St. Joseph's, New Laredo Highway at Dwight Avenue.
- (148) St. Patrick's, Crosby and Willow Street.
- (149) St. Phillip, 100 Block Bank Street.
- (150) Messiah Lutheran, Nogalitos at Hoover.
- (151) San Antonia Academy, 1935 North Flores.
- (152) Incarnate Word College, 4701 Broadway.
- (153) St. Phillip's, 2120 Dakota.
- (154) San Antonio College, 1300 San Pedro Avenue.
- (155) Trinity University, Stadium Drive (Entrance Alamo Stadium).
- (156) St. Mary's University, Santa Maria-St. Louis at Cincinnati Avenue.
- (157) Our Lady of the Lake College, Southwest 24th Street at Durango.
- (158) Apostolic School, 105 Kirk Place.
- (B) *Hospitals and sanitariums.*—(a) All territory embraced within a distance of two hundred and fifty feet of the real property upon which is situated any hospital, sanitarium or other like institution for the treatment of sick persons, public and private, shall be held to be, and are declared to be "Quiet Zones".
- (b) All territory embraced within a distance of two hundred fifty feet of the real property upon which each of the hereinafter named hospitals, sanitariums and other institutions for the treatment of sick persons are situated are hereby declared to be "Quiet Zones".
- (1) Baptist Memorial Hospital, 111 Dallas Street.
- (2) Bethesda, Jackson-Keller Road.
- (3) Central Clinic, 505 North St. Mary's.
- (4) Dismuke's Convalescent Home, 323 East Carson Street.
- (5) Elm Grove Rest Home, 1953 West Ashby Place.
- (6) Evergreen Nursing Home, 110 West Evergreen.
- (7) Eden Evangelical Home for the Aged, South Loop.
- (8) Good Samaritan Hospital, 1602 Dakota.
- (9) Grace Lutheran Sanatorium, 701 South Zarzamora.
- (10) Robert B. Green Hosiptal, 515 Morales.
- (11) Hazell Nursing Home, 1417 Main Avenue.
- (12) Hicks' Maternity Ward and Hospital, 501 South Hackberry.
- (13) Laurelwood Sanatorium, 2717 North Flores.
- (14) Maggie Diet and Rest Home, 3701 Blanco Road.
- (15) Medical Arts Hospital, Medical Arts Building.
- (16) Mission Medical Center, 403 Centennial.
- (17) Moody's Sanatorium, 315 Brackenridge.
- (18) Morgan Nursing Home, 1639 West Mistletoe.
- (19) Nix Memorial Hospital, 414 Navarro.
- (20) Rigbsby Convalescent Home, 202 East Evergreen.
- (21) Saenz Clinic and Hospital, 1723 Buena Vista.
- (22) St. Benedict's Hospital, 418 Madison.
- (23) St. Clair Convalescent Home, 841 Rice Road.
- (24) San Antonio Osteopathic Hospital, 1033 North Main.
- (25) San Antonio State Hospital, South Presa Street.
- (26) Santa Rosa Hospital, 745 West Houston.
- (27) Surgical and Obstetrical Hospital, 300 West Pyron Avenue.
- (28) Texas Mission Home and Training School, 103 9th Street.
- (29) Terrell Wells' Health Resort, 603 Hutchins.
- (30) Vaughn Nursing Home, 2700 Pleasanton Road.
- (31) Woodmen of the World Memorial Hospital, North New Braunfels Avenue.
- (Code 1950, § 40-3; Ord. No. 18222, 8-28-52)
- Sec. 25-4. Same—Display of signs and placards.—It shall be the duty of the chief of police to place and maintain, or cause to be placed and maintained, on lampposts or other such post or object in some conspicuous place on every street, avenue, and alley in the vicinity of every school or other institution of learning, public and private, and every sanitarium, hospital or other like institution, public and private, signs or placards which shall indicate that the same is a "quiet zone". Such signs or placards shall be placed on such streets, avenues and alleys at a distance of not less than two hundred and fifty feet in every direction from the real property upon which is situated, any school or other institution of learning, or any hospital, sanitarium or other like institution for the treatment of sick persons. Such signs or placards shall read in a manner similar to, but not restricted to the following: "School—Quiet Zone", or "Hospital—Quiet Zone". Where proper and lawful, such signs or placards designating a quiet zone may also designate the lawful speed limit in such school, or other institution of learning, zone or area in a manner similar to, but not restricted to, the following: "School—Quiet Zone—Speed Limit ----- M.P.H." (Code 1950, Ch. 40; Ord. No. 18222 8-28-52)
- Sec. 25-5. Same—Creation of "noise nuisance" therein.—The making, causing, or creating, or permitting or allowing to be made, caused, or created, any loud, vexing, irritating or disturbing noise which interferes with the operations or workings of any school, or other institution of learning, public or private, or hospital, sanitarium or other like institution for the treatment of sick persons, public or private, situated within an area designated as a "Quiet Zone" is hereby declared to be a "noise nuisance", unlawful and prohibited. (Code 1950, Ch. 40; Ord. No. 18222, 8-28-52.)
- Sec. 26-27. Same—Toy gun, explosive, etc.; furnishing to minors.—It shall be unlawful for any person within the city to sell to, give to, or place in the possession of, any person under the age of sixteen years any leaded cartridge, or any explosive of any kind,

or to sell to, give to or place in the possession of any person under the age of sixteen years, any gun or toy gun, capable of exploding or discharging any explosive cap or cartridge, or any toy cannon, capable of exploding or discharging any explosive cap or cartridge, or any other firearm of any description, capable of exploding or discharging any explosive cap or cartridge of any description. (Code 1950, § 41-20)

Sec. 26-28. Same—Carrying loaded rifle or shotgun; penalty.—(a) It shall be unlawful for any person, other than duly authorized peace officers, to carry a loaded rifle or shotgun on any public street within the city or in a motor vehicle while the same is being operated on any public street within the city.

(b) Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed two hundred dollars (\$200.00). (Ord. No. 32758, §§ 1, 2, 9-10-64)

(Editor's note—Section 26-28 is derived from Ord. No. 32758, §§ 1 and 2, enacted September 10, 1964, and has been included and designated as said section at the discretion of the editors as said ordinance was nonamendatory to this Code. Supp. No. 36.)

Sec. 26-10. Same—Maintenance of order.—It shall be unlawful for the owner, lessee, manager or proprietor of any theater or other place of amusement within the city to permit any vociferous language, loud hallooing, cursing or swearing, within such theater or place of amusement. Such places shall be conducted in a peaceable and orderly manner, so that no inhabitant of the neighborhood may be disturbed thereby. (Code 1950, § 57-8)

Sec. 26-15. Fireworks.—It shall be unlawful for any person to in any manner use, shoot, discharge, explode, ignite, or display any fireworks within the city, except as provided in this section.

Any citizen of the city may give a public fireworks display, provided he secures a permit therefor from the city council as herein provided. Application therefor shall be addressed to the city council, shall state the name and residence of the applicant, the time and place of the proposed exhibition, a description of the kind, character and quantity of the fireworks intended to be displayed, and shall be accompanied by a cashier's or certified check for twenty-five dollars.

The city council shall pass upon such application and may grant or reject same within its discretion. If same is rejected, the check for twenty-five dollars shall be returned to the applicant; if it is granted, such check shall be deposited to the general fund and be retained as a fee for the permit. A certified copy of the city council's action of approval shall constitute the applicant's permit.

Sec. 38-38. Sirens, bells, whistles prohibited.—It shall be unlawful for any person operating an ambulance on the public streets of this city to use any audible signal by bell, siren, or exhaust whistle.

San Diego, California City Ordinances

Sec. 56.35. Loud, unusual noises—Prohibited—Exceptions.—It shall be unlawful for any person to make, continue, or cause to be made or continued, within the limits of said City, any loud, unnecessary or unusual noise which injures or endangers the health, peace or safety of others; provided however, that this Section and these Subsections shall not in any way affect, restrict or prohibit any activities incidental to scientific or industrial research or manufacturing, construction or repairing conducted in areas zoned for such purposes or upon lands which are under the jurisdiction of the Harbor Commission of said City.

Sec. 56.35.1 Loud, unusual noises—Declaration of certain acts constituting.—The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Section but said enumeration shall not be deemed to be exclusive, namely:

(a) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any device for an unnecessary and unreasonable period of time. The use of any signaling device when traffic is for any reason held up.

(b) Radios, phonographs, etc. The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 9:00 o'clock P.M. and 8:00 o'clock A.M. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building structure or vehicle in which it is located, shall be prima facie evidence of a violation of this Section.

(c) Loud speakers, amplifiers for advertising. The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loud-speaker, sound amplifier, or other machine or device for the producing of sound which is cast upon the streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(d) Yelling, shouting, etc. Loud or raucous yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 9:00 o'clock P.M. and 8:00 o'clock A.M. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(e) Animals, birds, etc. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity; provided, however, that nothing contained herein shall be construed as applying to occasional noises emanating from legally operated dog and cat hospitals, Humane Societies and City Pound.

(f) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat; or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom; provided that this Subsection and these subsections shall not in any way affect, restrict or prohibit any activities incidental to scientific or industrial research, or manufacturing, construction or repairing conducted in areas zoned for such purposes or upon lands which are under the jurisdiction of the Board of Commissioners of the San Diego Unified Port District.

(g) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, or which disturbs or

unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(h) Hawkers, peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(i) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(j) Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise; provided, however, that this Section and Subsections shall not in any way affect, restrict or prohibit any activities incidental to scientific or industrial research, or manufacturing, construction or repairing conducted in areas zoned for such purposes or upon lands which are under the jurisdiction of the Board of Commissioners of the San Diego Unified Port District.

(k) Motor vehicle noises. Any excessive, unusual, loud or disturbing noise made by any motor vehicle and not reasonably necessary in its operation under the circumstances and shall include but not be limited to noise caused by screeching of tires, racing or accelerating the engine, backfiring the engine and exhaust from the engine tailpipe or muffler.

(Amended 10-6-66 by Ord. 9519 N.S.)

Sec. 11.12 Violations—A misdemeanor.—It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code, shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine of not more than \$500.00 or by imprisonment in the City Jail for a period of not more than six months or by both fine and imprisonment.

Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punishable accordingly. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by this City, summarily abated as such, and each day that such condition continues shall be regarded as a new and separate offense.

An ordinance amending chapter III, article 3, of the San Diego Municipal Code by amending section 33.0701.5 regulating sound trucks

Be it ordained by the Council of The City of San Diego as follows:

Section 1. That Chapter III, Article 3, of the San Diego Municipal Code be amended by amending Section 33.0701.5 to read as follows:

Sec. 33.0701.5 Regulations for use.—Non-commercial use of sound trucks in The City of San Diego with sound amplifying equipment in operation shall be subject to the following regulations:

(a) The only sounds permitted are music or human speech.

(b) Operations are permitted between the hours of 8:00 a.m. and 9:00 p.m., or after 9:00 p.m. during public events and affairs of interest to the general public.

(c) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated

at a speed of at least ten (10) miles per hour except when said truck is stopped or impeded by traffic. Where stopped by traffic the said sound amplifying equipment shall not be operated for longer than one minute at each stop.

(d) Sound shall not be issued within one hundred (100) yards of hospitals, schools, churches, or courthouses.

(e) No sound truck with its amplifying device in operation shall be operated within the Central Traffic District of The City of San Diego as said Central Traffic District is defined in Chapter VIII.

(f) The human speech and music amplified shall not be profane, lewd, indecent or slanderous.

(g) The volume of sound shall be controlled so that said volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility and so that the volume of sound shall not exceed a sound level of 65 decibels at a distance of 50 feet from the sound amplifying equipment, as measured by a sound level meter which meets Standard No. 5.14 of the U.S.A. Standards Institute.

(h) No sound amplifying equipment shall be operated unless the axis of the center of any sound reproducing equipment used shall be parallel to the direction of travel of the sound truck; provided however, that any sound reproducing equipment may be so placed upon said sound truck as to not vary more than 15° either side of the axis of the center of the direction of travel and provided further that radial, nondirectional type of loud speakers may be used on said sound trucks either alone or in conjunction with sound amplifying equipment placed within 15° of the center line of the direction of travel.

(i) No sound truck with its amplifying device in operation shall be driven on the same street past the same point more than twice in a period of one hour.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

San Francisco, California
Police Code

Sec. 773. Regulations for Operation of Miniature Golf Course.—No person, attending or playing upon any miniature golf course shall thereon cause, and no person, firm or corporation owning, conducting or operating any miniature golf course, shall permit or suffer thereon to be caused, any loud, boisterous, unusual or disorderly noise, sound, tumult, or outcry. Any noise, sound or outcry occurring between 10 o'clock P.M. and 9 o'clock A.M. and capable of being heard more than twenty-six (26) feet from the exterior boundaries of any miniature golf course, is hereby declared to be, and shall be conclusively determined to be, loud, boisterous, unusual and disorderly. In any prosecution for a violation of Sections 770 to 780, inclusive, of this Article, or in any proceeding for a revocation of permit, as hereinafter provided, the establishment of the fact of any such noise, sound or outcry as herein defined, shall conclusively impute responsibility therefor to the person, firm or corporation owning, operating or conducting said miniature golf course and it shall be conclusively determined therefrom that said noise, sound or outcry was permitted or suffered to be caused by said person, firm or corporation.

Sec. 774. Revocation of Permit.—In the event of any violation of Sections 770 to 780, inclusive, of this Article, or in the event of any conduct, maintenance or operation of any miniature golf course in such manner as to disturb the peace, constitute a nuisance, depreciate the value of any hotel, apartment, rooming-house, flat, residence or hospital or as to annoy or disturb any roomer, lessee, tenant or occupant therein, the Police Department shall have power, upon hearing to show cause, to revoke any

permit issued by it for the operation of any miniature golf course.

Sec. 777. Radio Regulations.—All radios, sound amplifiers, phonographs or other music producing apparatus shall be turned off or stopped on outdoor miniature golf courses between 10 o'clock P.M. and 10 o'clock A.M.

Sec. 147. Disturbance of Peace, Use of Profane Language, Etc., Prohibited.—No person shall make in any place, or suffer to be made upon his premises, or premises within his control, any noise, disorder or tumult, to the disturbance of the public peace.

Utter within the hearing of two (2) or more persons, any bawdy, lewd, obscene or profane language, words or epithets.

Address to another, or utter in the presence of another any words, language or expression having a tendency to create a breach of the peace.

Utter, in any public place, or utter in the presence or hearing of ten (10) or more persons, any slanderous or vile or indecent words or epithets of or concerning any person, present or absent, unless (the burden of proving which shall devolve on the defendant) such slanderous, vile or indecent words or epithets were true and were uttered with good motives and for justifiable ends.

Sec. 1257. Ringing Bells and Noises Prohibited.—It shall be unlawful to ring any bell or sound any other loud or noisy instrument for the purpose of attracting attention to any auction sale.

Sec. 42. Amplifiers and Loud Speakers Prohibited.—It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated or connected any loud speaker or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the City and County of San Francisco, without first procuring from the Chief of Police of said city and county a permit authorizing the same.

Sec. 43. Permits for Outside Buildings.—The said Chief of Police may issue a permit to any person applying therefor, for the use of a loud speaker or sound amplifier to project sound outside of any building or out of doors in any part of said city and county, in the following cases only:

- (1) The making of charitable appeals;
- (2) During, and as part of public events;
- (3) In publishing affairs of interest to the general public, provided, however, that no permit shall be issued for the use of such loud speakers or sound amplifiers in commercial advertising except when issued under subdivisions 4 or 5 hereof;
- (4) Where the announcement or broadcasting is in connection with public events, such as ceremonials, games or amusements, and where the announcement or broadcasting is made for information or amusement of the persons assembled at such ceremonials, games or amusements;
- (5) For the use of loud speakers or sound amplifiers upon vehicles under the conditions and restrictions set forth in Section 46 of this Article.

The permit as issued by the said Chief of Police shall state the name and address of the permittee, the authorized purpose, and the time and place of using such loud speaker or sound amplifier. Any permit issued hereunder is revocable at the pleasure of said Chief of Police.

Sec. 46. Permits by Chief of Police for Amplifiers on Vehicles—Inspection Fees—Installation Regulated.—A permit may be issued by the Chief of Police for the use of a loudspeaker or sound amplifier installed upon a vehicle, subject to the following restrictions and conditions, the violation of any of which is hereby made a misdemeanor, to wit:

Application shall first be made to the Department of Electricity for testing and inspection of the equipment proposed to be used on such vehicles. The applicant shall pay to the Department of Electricity an in-

itial testing and inspection fee of Thirty-two (\$32.00) Dollars and upon receipt of said fee the Department of Electricity shall test and inspect the said equipment and shall fix, prescribe and certify to the Chief of Police a maximum permitted volume and output of said equipment, the same to be fixed and determined by said Department of Electricity. The permit issued by the Chief of Police shall be limited to the said maximum permitted volume and output and shall contain the same as a condition and restriction thereof, and any operation of such equipment in excess of said maximum permitted volume and output, as thus fixed and prescribed, shall be and constitute a misdemeanor. A holder of a permit to operate such equipment shall submit the same to the Department of Electricity once each month for testing and inspection and shall pay the Department of Electricity the sum of Three Dollars and Fifty Cents (\$3.50) for each said testing and inspection. The Department of Electricity may, at its pleasure, demand, require and make inspection of such equipment more frequently than once each month and the holder of a permit shall pay said Department the sum of Three Dollars and Fifty Cents (\$3.50) for each such additional inspection. Any permit issued by the Chief of Police for the operation of such equipment shall contain the following conditions and restrictions, violation of any of which shall constitute a misdemeanor, to wit:

(1) Such equipment shall not be operated out of doors nor in such a manner as to project sound out of doors between the hours of 10 o'clock p.m. and 10 o'clock a.m.

(2) Such equipment shall not be operated within three hundred (300) feet of any portion of the exterior boundaries of any church, school, hospital, public library or undertaking parlor.

(3) Such equipment shall not be operated upon the public streets at any time during which the vehicle upon which the same is installed is not in motion nor at any time during which such vehicle is proceeding at a rate less than ten (10) miles per hour.

(4) While said equipment is in operation the vehicle upon which the same is installed shall not traverse any one (1) block in the city and county more than four (4) times in any one (1) calendar day, and shall not traverse any part of the City and County of San Francisco east of Van Ness Avenue.

Any permit issued hereunder shall be revocable at the pleasure of the Chief of Police. The said Chief may suspend the operation of such equipment at his pleasure pending determination by him of any proposed revocation of permit. (*Amend. Ord. 230-63, App-8/29/63.*)

Traffic Code

Sec. 94. Noises, Unnecessary, Prohibited.—It shall be unlawful for the operator of any vehicle to sound any horn or other device or make any loud, unusual or unnecessary noise within the distance of one (1) block from any public or private hospital, except when necessary to avoid an accident; provided, further, that the operators of said vehicles permitted, under the law, to be equipped with sirens shall not sound such sirens except when absolutely necessary.

Building Code

2. Sound generation. The mechanical means for parking the vehicles, with or without vehicles therein, shall not cause an increase during operation, of more than five (5) decibels in the noise level above the existing power average sound level of several readings taken at 15 second sound intervals for a period of five (5) minutes with the mechanism not in operation.

The test readings shall be taken at the property line of the structure or at any point outside such line and at the same time of day or night.

All sound level meter readings and performance, including definitions and units,

shall be in accordance with the American Standards Association standards, Z-24, and Z-24.2 and Z-24.3. (Amend. Ord. 251-61, app. 9-11-61)

Sec. 1614.1.G. Exit Facilities.—Public parking structures, Division 5, Type 4 construction, shall be provided with at least one (1) stairway, which may be an exterior stairway, terminating at ground level with direct access to the street. Such stairway shall be continuous to the roof and shall be not less than three feet (3') in width. Basement and sub-basement exits or ramps shall be the same as required by Section 1611.F.

An additional exterior stairway or fire escape shall be located where and as required by the Superintendent and the Bureau of Fire Prevention and Public Safety and shall be adjacent to a dry standpipe. Each additional dry standpipe shall have a stairway or fire escape adjacent thereto.

Smokeproof enclosures are not required. (Amend. Ord. 251-61, app. 9-11-61)

San Jose, Calif.

City ordinance

Ordinance No. 10411 of the City of San Jose Amending Chapter 5 article VII of the San Jose Municipal Code relating to air traffic rules of the San Jose Municipal Airport

Be it ordained by the Council of the City of San Jose:

That Section 7526.2 of Article VII Chapter V of the San Jose Municipal Code is hereby amended by repealing said Section in its entirety and adding a new Section in place thereto, said new section to be numbered and entitled and to read as follows:

7526.2. Same. Rules for the Operation of Aircraft.—(a) Take-offs. Take-offs shall be made from the end of the runway designated by the control tower. Runway 30 Left is the preferential take-off runway. All operations shall be confined to hard surface.

(b) Landings. All landings shall be confined to hard surface and shall be made on the runway designated by the control tower. Runway 30 Right is the preferential landing runway.

(c) Passing. There shall be no passing of aircraft in the landing or taxi pattern. Glide speeds shall be reasonable and in accordance with manufacturer's specifications. Safe distances will be maintained between all aircraft in the pattern and on the landing area. Aircraft rolling to a stop after landing shall immediately clear the runway by turning off at the nearest taxiway ahead of the aircraft unless otherwise advised by the control tower.

(d) Turns. Unless directed by the control tower, no turn after take-off shall be made until the aircraft has passed the airport boundaries and has gained an altitude of at least four hundred (400) feet above sea level.

(e) Traffic patterns. Unless otherwise directed or approved by the control tower, traffic patterns will be left hand for Runways 30L and 12L and right hand for Runways 30R and 12R. After takeoff from Runways 30L and 12L, aircraft shall make a normal left turn to leave the traffic pattern. After takeoff from Runways 30R and 12R, aircraft shall make a normal right turn to leave the traffic pattern.

(f) Traffic altitude. Normal traffic altitude shall be seven hundred fifty (750) feet above sea level for non-turbine-powered, fixed wing aircraft of less than 12,500 pounds gross weight. All fixed wing aircraft in excess of 12,500 pounds gross weight, and turbine-powered, fixed wing aircraft shall enter the traffic pattern at not less than one thousand five hundred (1,500) feet above sea level.

(g) Traffic pattern. All aircraft shall enter traffic pattern at a 45° angle at the start of the downwing leg. Unless otherwise directed by the control tower, all aircraft shall make at least two 90° turns of a traffic rectangle before landing.

(h) Noise. All aircraft approaching from or taking off over populated areas shall be operated so as to make a minimum of engine and propeller noise. Where Federal Regulations are not applicable, all aircraft on final approach to Runways 30 or 12, which are operating at less than 1,000 feet above sea level, shall maintain an approach path which is not less than 278 feet above the airport for each statute mile distance from the landing end of the runways. When approaching to land on Runway 30, this requirement results in a minimum aircraft altitude of six hundred eighteen (618) feet above sea level over Santa Clara Street in the downtown area and 204 feet altitude above sea level over Highway 17.

(i) Taxing. No aircraft shall be taxed from the parking area onto a taxiway or runway without clearance from the control tower.

Passed to print this 17th day of December, 1962, by the following vote:

Seattle, Washington

City ordinance

Ordinance No. 90007 relating to and regulating the making of loud, disturbing and unnecessary noises; defining offenses; providing penalties and repealing certain sections of Ordinances 48022, 81599, 15956, 80998, 65782 and 75762 and all amendments thereto and superseding all other ordinances to the extent inconsistent therewith

Be it ordained by the City of Seattle as follows:

Section 1. (a) For the purposes of this ordinance, "Allowable level of noise" means not more than 95 decibels as measured on the A scale of a General Radio Company No. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of a motor vehicle as such motor vehicle passes the sound level meter, or is stationed not less than twenty (20) feet from a stationary motor or engine.

(b) "Motor Vehicle" shall mean every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Section 2.1. The acts or omissions set forth in Sections 2.2 through 2.14 are unlawful.

Section 2.2. Horns and other signaling devices. The sounding of any horn or other signaling device on any motor vehicle or trackless trolley on any street or public place of the city, or on any vessels on any waterway, except as specifically permitted or required by law, or as a danger warning, and the sounding of any such device for any unnecessary period of time.

Section 2.3. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary or portable internal combustion engine, or motor vehicle except through a muffler in good repair or other device which will effectively prevent loud or disturbing noises therefrom above the allowable level of noise: Provided, that where such steam engine, stationary or portable internal combustion engine is enclosed within a building used for industrial or commercial purposes, the allowable level of noise shall be measured at the nearest point on the boundary of the property on which such engine is located. This section shall not apply to aircraft or to supporting ground equipment for aircraft.

Section 2.4. Mismanagement of Vehicles. The use of any motor vehicle which, because of it being out of repair, or because of its not being loaded properly, or because of the manner of operation, creates a loud and disturbing noise.

Section 2.5. Loading, Unloading, or Opening of Boxes. The creation of a loud and disturbing noise in connection with loading or unloading any vehicle or the opening destruction of bales, boxes, crates, and containers between the hours of 10:00 P. M. and 7:00 A.M.

Section 2.6. Blowers. The operation of any noise-creating blower or power fan unless the noise from such blower or power fan is adequately muffled.

Section 2.7. Whistles. The blowing of any locomotive whistle, or whistle attached to any stationary boiler, or mechanical whistle, except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper city authorities.

Section 2.8. Loud Speakers, Amplifiers or Noise Devices for Advertising. The using of any radio or television set, musical instrument, phonograph, loud speaker, sound amplifier, bell, drum, horn or other machine or device for the producing or reproducing of sound directed upon public streets for the purpose of commercial advertising or attracting the attention of the public to any building, structure or tent. Temporary exceptions for civic events or for civic or religious organizations or for the playing of music during the Christmas season only may be authorized by the City Comptroller for such periods of time and under such conditions as may be consistent with the public interest.

Section 2.9. Radios, Television Sets, Phonographs, etc. The playing of any radio or television receiving set, musical instrument, phonograph, or other machine or device for producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants.

Section 2.10. Yelling, Shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, or any other place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type residence, or of anyone in the vicinity.

Section 2.11. Domestic Pets. The keeping of any domestic bird or animal which emits frequent or long continued noise so as to disturb the peace, quiet and comfort of the neighborhood inhabitants.

Section 2.12. Tools. The use in a residential zone or the vicinity of a hotel or motel of hand or power tools, or machinery, resulting in loud and disturbing noises between the hours of 10:00 P.M. and 7:00 A.M.

Section 2.13. Hawkers, Peddlers, and Vendors. The shouting and crying of peddlers, hawkers or vendors on any public street or place or on private property so closely adjacent thereto that thereby crowds may be collected and traffic obstructed thereon.

Section 2.14. Sirens. The sounding of sirens on escort service except where specifically required or permitted by law and not for the purpose of calling attention to a vehicle or caravan. The sounding of a siren on an ambulance, except when operated in response to an emergency call, and when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

Section 2.15. None of the foregoing subsections of Section 2 of this ordinance shall apply to emergency situations where life, health or property is at stake or to intermittent situations arising out of industrial research and development work carried on in areas zoned for industrial purposes, nor to those normal situations of community life where noise is inherent and has been long accepted by the community, such as activities during school recess, and at public parks and athletic contests.

Section 3. Anyone who violates or fails to comply with any of the provisions of this ordinance shall, upon conviction, be punished by a fine not exceeding \$300.00, or by imprisonment in the city jail not exceeding 90 days, or by both, and each day such continues shall constitute a separate offense.

Section 4. That Sections 152 and 153 of Ordinance 48022 approved December 1, 1924 as last amended by Ordinance 80950, approved April 25, 1952, and by Ordinance 88789, approved December 8, 1959, is hereby repealed.

240595. Section 5. That Section 10 of Ordinance

nance 81599, approved December 29, 1952, Section 1-A of Ordinance 15956, approved May 10, 1907, as amended by Ordinance 63755, approved June 6, 1933, Section 122 of Ordinance 80998, approved May 14, 1952, and Section 3 of Ordinance 65782, approved October 31, 1935, are hereby repealed, and all other ordinances to the extent in conflict with the provisions of this ordinance are hereby superseded.

Ordinance 90726 relating to the regulation of loud, disturbing and unnecessary noises under Ordinance 90007, and amending Sections 2.8 and 2.13 to exempt from the regulations thereunder, hawkers licensed under and hawking in accordance with Sections 152 and 153 of the License Code (Ordinance 48022), and repealing Section 4 of said Ordinance 90007

Be it ordained by the city of Seattle as follows:

Section 1. That Section 2.8 of Ordinance 90007, entitled: "An ordinance relating to and regulating the making of loud, disturbing and unnecessary noises; defining offenses; providing penalties, and repealing certain sections of Ordinances 48022, 81599, 15956, 80998, 65782 and 75762 and all amendments thereto and superseding all other ordinances to the extent inconsistent therewith," is hereby amended to read as follows:

Section 2.8. *Loud speakers, amplifiers or noise devices for advertising.* The using of any radio or television set, musical instrument, phonograph, loud speaker, sound amplifier, bell, drum, horn or other machine or device for the producing or reproducing of sound directed upon public streets for the purpose of commercial advertising or attracting the attention of the public to any building, structure or tent. Temporary exceptions for civic events or for civic or religious organizations or for the playing of music during the Christmas season only may be authorized by the City Comptroller for such periods of time and under such conditions as may be consistent with the public interest.

Provided that the provisions of this section shall not apply to persons licensed under and hawking in accordance with the provisions of Sections 152 and 153 of Ordinance 48022.

Section 2. That Section 2.13 of Ordinance 90007 is hereby amended to read as follows:

Section 2.13. The shouting and crying of peddlers, hawkers or vendors on any public street or place or on private property so closely adjacent thereto that thereby crowds may be collected and traffic obstructed thereon.

Provided, that the provisions of this section shall not apply to persons licensed under and hawking in accordance with the provisions of Sections 152 and 153 of Ordinance 48022.

Section 3. That Section 4 of Ordinance 90007 is hereby repealed.

Tucson, Arizona
City Codes

Article II. Noise

Sec. 11-75. Loud and unnecessary noise generally prohibited.—It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing or unnecessary noise in the city such as produces annoyance, inconvenience, discomfort, or hurt to any person, or to the enjoyment of property or comfort of any person, or affects the safety, health, or morals of the public. (Ord. No. 2070, § 1, 8-1-60)

Sec. 11-76. Noisy vehicles, motors prohibited.—It shall be unlawful for any person to use any automobile, motorcycle, or other vehicle, engine, or motor of whatever size, stationary or moving, instrument, device or thing, in such a manner as to create loud and unnecessary grating, grinding, rattling

or other noise. (1953 Code, Ch. 30, § 1; Ord. No. 2070, § 1, 8-1-60)

Sec. 11-77. Mufflers required on mechanical devices; "cut-outs" prohibited.—It shall be unlawful for any person to operate any mechanical device operated by gasoline, or steam or otherwise, without having the same equipped and using thereon a muffler, in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass or similar device. (1953 Code, Ch. 30, § 3; Ord. No. 2070, § 1, 8-1-10)

State law reference—Mufflers required on vehicle A.R.S. § 28-955.

Sec. 11-78. Hours for operation of engines other than on public highways.—The operation or use of any automobile, motorcycle, or other vehicle, engine, or motor of whatever size, stationary or moving, when used on tracks or courses, not being public highways, between the hours of 10:30 p.m. and 8:00 a.m. on weekdays and 12:00 midnight on Sundays shall be unlawful. (1953 Code, Ch. 30, § 4; Ord. No. 2070, § 1, 8-1-60)

Sec. 11-79. Noise by street vendors, advertisers.—It shall be unlawful to produce any sound in connection with the sale, advertising, or display of merchandise from a pushcart, bicycle, or vehicle as bicycle and vehicle are defined in section 20-1 of this Code:

Sec. 11-79(1). In excess of 70 decibels of sound, "C"-scale, measured at a distance of 50 feet from the said pushcart, vehicle or bicycle; or

Sec. 11-79(2). While such pushcart, bicycle, or vehicle is not in motion; or

Sec. 11-79(3). Between the hours of 1:00 p.m. and 3:00 p.m. and between the hours of 9:00 p.m. and 10:00 a.m. (1953 Code, Ch. 30, § 4a; Ord. No. 2086, § 1, 10-3-60)

Cross references.—Bond required for transient merchant, § 19-27; licensee fee for peddlers, § 19-28(105).

Sec. 11-80. Hours of operation of repair shops near residences, motels, hotels, hospitals, etc.—It shall be unlawful for the owner of, or any person employed in or about any repair shop in the city, situate within or partly within a distance of four hundred feet from any residence, dwellinghouse, lodginghouse, hotel, motel or hospital to do or permit to be done, between the hours of 11:00 p.m. and 7:00 a.m. of the next day, any repair work requiring hammering, pounding, filing, sawing, drilling or the operation of any machinery or machines, or the use of any other tools and implements which can be heard outside of the premises occupied by such repair shop. (1953 Code, Ch. 18, § 44)

Sec. 11-81. Violations declared nuisances.—Any act in violation of this article is hereby declared to be a nuisance. (1953 Code, Ch. 30, § 5; Ord. No. 2070, § 1, 8-1-60)

Sec. 11-82. Notice and abatement of violations.—Upon complaint to the police department by any person disturbed or annoyed by noises in violation of this article, the police department shall investigate such complaint and, if found justified, shall issue notice of such complaint to the person causing or permitting the continuance of such noises, notifying him immediately to abate the nuisances. If the person so notified refuses or neglects to abate the same forthwith, complaint shall be filed against the offending person. Any person, however, may be arrested for violation of this article upon the direct complaint of any other person. (1953 Code, Ch. 30, § 6; Ord. No. 2070, § 1, 8-1-60)

Sec. 11-83. Exemptions.—None of the terms or prohibitions of this article shall apply to or be enforced against:

Sec. 11-83(1). Any vehicle of the city while engaged upon necessary public business;

Sec. 11-83(2). Excavations or repairs of bridges, streets or highways by or on behalf

of the city, State of Arizona, or other governmental agency; and

Sec. 11-83(3). The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character, provided such amplifiers or loudspeakers are not used from any vehicle while in motion. (1953 Code, Ch. 30, § 7; Ord. No. 2070, § 1, 8-1-60; Ord. No. 2086, §§ 2, 3, 10-3-60)

Planning and Zoning

Sec. 23-322(5). *Manufacturing.* Manufacturing, treatment, converting, altering, finishing or body and fender work, or assembling may be carried on in any part of any building, but only when a necessary incidental accessory to a permitted principal use, provided not more than twenty-five percent of the total area of the building is used for such purposes; however, any such use which, in the opinion of the building inspector, may be noxious or offensive or injurious in a "B-2A" business district by reason of the emission of odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse matter or water-carried wastes, so as to be detrimental to the public health, safety or general welfare, shall be permitted only by authorization of the board of adjustment, as provided in section 23-496.

Sec. 23-336. *Manufacturing limited.*—Manufacturing, treatment, converting, altering, finishing or body and fender work, or assembling may be carried on in any part of any building, but only when a necessary incidental accessory to a permitted principal use, provided not more than one-third of the total floor area of the building is used for such purposes; however, any such use which, in the opinion of the building inspector, may be noxious or offensive or injurious in a "B-2" business district by reason of the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried wastes, so as to be detrimental to the public health, safety or general welfare, shall be permitted only by authorization or the board of adjustment, as provided in section 23-496(3) (a). (1953 Code, Ch. 21, § 10)

Sec. 23-391(18). *Noise.*: At no point on the boundary of residential or business districts shall the sound pressure level of any individual operation or plant exceed the decibel levels in the designated octave bands shown below. (Excluding operation of motor vehicles or other transportation facilities).

Octave band cycles per second:	Maximum sound pressure level in decibels 0.002 dynes per CM ²
0 to 75-----	72
75 to 150-----	67
150 to 300-----	59
300 to 600-----	52
600 to 1200-----	46
1200 to 2400-----	40
2400 to 4800-----	34
Above 4800-----	32

Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards prescribed provided that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this section, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels. Noises incapable of being so measured, such as those of an irregular or intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

Sec. 23-391(22). *Vibration.* No vibration shall be permitted which is discernible be-

yond the lot line to the human sense of feeling for three minutes or more duration in any one hour of the day between the hours of 7:00 a.m. to 7:00 p.m., or of thirty seconds or more duration in any one hour during the hours of 7:00 p.m. and 7:00 a.m.

Sec. 23-404(15). Noise: At no point on the boundary of property having zoning other than I-2 shall the sound pressure level of any individual operation or plant exceed the decibel levels in the designated octave bands shown below. (Excluding operation of motor vehicles or other transportation facilities).

Octave band cycles per second:	Maximum sound pressure level in decibels 0.002 dynes per cm ²
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
Above 4800	32

Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed in the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards prescribed provided that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this section shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels. Noises incapable of being so measured, such as those of an irregular or intermittent nature, shall be controlled so as not to become a nuisance to adjacent users.

Warwick, R.I.
8, 4, 9 Noise

Light Industrial Districts.—Industrial noise shall be measured from any property line of the tract on which the industrial operation is located. Industrial noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness.

Heavy Industrial Districts.—Industrial noise shall be measured from the nearest Heavy Industrial District boundary line. Industrial noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness.

At the specified points of measurement the sound pressure level of noise radiated continuously from a facility at nighttime shall not exceed the values given in Tables I and II in any octave band frequency. The sound pressure level shall be measured with a Sound Level Meter and an Octave Band Analyzer that conform to specifications published by the American Standards Association. (American Standards Sound Level Meters for Measurement of Noise and Other Sounds, Z24.3-1944, and American Standard Specifications for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards Association, Inc., New York, N.Y., shall be used.)

TABLE I

Maximum permissible sound-pressure levels at specified points of measurement for noise radiated continuously from a facility between the hours of 10:00 p.m. and 7:00 a.m.

Frequency band cycles per second:	Sound Pressure Levels: Decibels*
20- 75	69
75- 150	54
150- 300	47
300- 600	41

Frequency band cycles per second:	Sound Pressure Levels: Decibels*
600- 1,200	37
1,200- 2,400	34
2,400- 4,800	31
4,800-10,000	28

*According to the following formula
Sound pressure Level in Decibels equal

$$40 \log \frac{P1}{P2}$$

where P2 equals 0.0002 dynes/cm²

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections in Table II below shall be added to or subtracted from each of the decibel levels given above in Table I.

TABLE II

Type of operation or character of noise:	Correction in Decibels
Daytime operation only (plus)	5
Noise source operates less than 20% of any one hour period (plus)	*5
Noise source operates less than 5% of any one hour period (plus)	*10
Noise source operates less than 1% of any one hour period (plus)	*15
Noise of impulsive character (hammering, etc.) (minus)	5
Noise of periodic character (hum, screech, etc.) (minus)	5

* Apply one of these corrections only (8-21-58, 10-16-58.)

OEO NEIGHBORHOOD LEGAL SERVICES PROGRAM

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. GUDE. Mr. Speaker, William Raspberry of the Washington Post has written a column about a subject which I feel is of considerable interest to my colleagues at this time. His article deals with the OEO neighborhood legal services program. As you know, the Senate has passed an amendment to the anti-poverty authorization bill which would give State Governors an item veto of legal services projects and eliminate the director's authority to override that veto. I am convinced that the amendment can do nothing but harm to the effectiveness of the legal services program. If we permit State Governors to immunize State agencies or other defendants from lawsuits on behalf of the poor, we will be denying the poor equal access to the law. I do not believe our Governors will be very comfortable with the power to deprive their indigent citizens of the rights more fortunate citizens can take for granted.

As a member of the District Committee, I am familiar with the success of the neighborhood legal services program here. The continued development of effective representation of the poor is surely one of our best hopes for orderly social reform, and I hope that when the OEO amendment comes to the floor for consideration, we will reaffirm our commitment to provide equal access to the peaceful processes of law. Mr. Raspberry's observations deserve serious thought.

The article follows:

[From the Washington Post, Oct. 24, 1969]
DEVELOPMENT OF POVERTY LAW IS THREATENED BY SENATOR MURPHY

(By William Raspberry)

It is easy to confuse the function of the Neighborhood Legal Services with that of other lawyers—say public defenders or court-appointed attorneys—who handle legal matters for poor people.

Much of the NLS work is precisely like that of the old-line programs, providing routine legal representation for people who can't afford to purchase it.

But if that were all there was to it, NLS would not have become the vital force it is. Nor, of course, would it have aroused the hackles of Sen. George Murphy (R-Calif.)

Where NLS has made its mark is not so much in the routine practice of law as in the development of poverty law.

Take landlord-tenant law, which had undergone virtually no change at all over the past hundred years. Then came the Neighborhood Legal Services with its suits on behalf of poor tenants, suits which are beginning to clarify the rights of tenants in courts that have traditionally been the handmaidens of landlords.

Much law is being made in the process. It is no longer, for example, just a matter of having a judge consider whether an eviction has been properly carried out in terms of sufficient notice and that sort of thing.

The courts had always acted on the assumption that a landlord could evict, absent a lease, anytime he chose to do so. They had never addressed themselves to such questions as retaliatory evictions against tenants who exercised their right to complain about housing code violations or to organize tenants' groups or otherwise "make trouble" for landlords.

Now it seems clear that there is underway a legal trend that will lead to unprecedented protection of tenants, rich as well as poor, against the whims of their landlords.

This sort of case law development is difficult enough for litigants who can pay for good legal counsel. It would be impossible for poor people except through something very much like the Neighborhood Legal Service.

Much of the work done by NLS attorneys has been directed at reform of state and local government institutions—the attack on welfare residency rules, for example.

And therein lies the real mischief of Sen. Murphy's amendment to the antipoverty authorization bill. The amendment would give governors final veto power over NLS activities. (Under present law, a governor's veto can be overridden by the Office of Economic Opportunity.)

Can you imagine the governor of New York (or the mayor of Washington, D.C., for that matter) not exercising his veto over NLS attempts to knock down the one-year residency requirement for welfare recipients? Or the governor of California holding still while NLS lawyers attacked his attempt to whack \$16 million off the state's Medicaid program?

These are matters of vital interest to poor people, even when they run counter to what state officials see as their own best interest.

The Murphy amendment says it's all right for poverty lawyers to act so long as they don't interfere with the institutions and attitudes that are keeping poor people poor. If the amendment is adopted, it could reduce the NLS to the sort of band-aid legal assistance that court-appointed lawyers provide.

Fortunately, opposition to the Murphy proposal is coming from such irreproachable sources as the board of governors of the American Bar Association and the National Legal Aid and Defender Association.

Congress' choice is either to kill the Murphy amendment or to kill effective poverty law.

PRICING HOUSING OUT OF SIGHT

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. PATMAN. Mr. Speaker, certain members of the banking fraternity and the administration have taken to publicly whimpering that the rising cost of labor and materials are driving the price of housing beyond the reach of the Nation's low- and moderate-income families. They wring their hands, chant the national housing goals and declare that the goals cannot be attained. If they would stop listening to their mutual lament long enough to study the figures they would be forced to admit that the cost of money is the reason our national housing goals are not being achieved.

The figures they should steel themselves to acknowledge have been developed by Dr. Michael Sumichrast, chief economist of the National Association of Home Builders. He recently supplied them in testimony to the Joint Economic Committee's Fiscal Policy Subcommittee.

Among other things, Dr. Sumichrast shows that the cost of labor is just the opposite of the description given in the tired routine of the bankers and the administration. Far from being the main thrust in the climbing price of houses, onsite labor in 1969 represented only 18 percent of the overall cost of a home. In fact it has diminished by nearly one-half from the 33 percent that was its share 20 years ago in 1949. Furthermore, the cost of materials over the same period has risen all of 2 percent, from 36 to 38 percent of the cost of a house.

But what has happened to the cost of financing while labor's share of the cost of housing has plummeted and the share represented by the cost of materials has remained static? The cost of financing, says Dr. Sumichrast, has done nothing less than double its share of the overall cost, going from a forgotten 5 percent in 1949 to an agonizingly burdensome 10 percent in 1969.

Moreover, the cost of financing, thanks to restrictive monetary policies over the past 3 years alone, has handed the home buyer the dubious opportunity of paying 42 percent more in interest. Finance charges on permanent mortgages in 1966 came to 6 percent, now they are 8.5 percent. Which is another way of saying that a home buyer who could afford a \$26,000 house 3 years ago now will find he is buying a \$20,000 home over the same term making the same payments. In other words he is getting 25 percent less house for the same amount of money. Put still another way, increasing finance charges now require the home buyer to have a minimum income which is nearly \$1,400 more than it was 3 years ago in order to afford the same house at virtually the same price. Part of this appalling landscape is the fact that financial charges connected with construction of residential units have more than doubled and other charges such as fees, discounts, and points have also been pushed rapidly upward during the 36-month period.

All of these things, as Dr. Sumichrast indicated, add up to an enormous inequity in terms of benefiting the consumer. Exorbitant increases in the cost of financing the construction and purchase of a home do not produce a better, larger or more luxurious dwelling. Rather, they tend to reduce quality and size and put luxuries out of the question. The only benefits provided are construed solely on the money lender, who after all wants only to know if the home buyer can afford what he is purchasing, not whether he is satisfied with a transaction that now demands that he pay \$32,000 on his \$20,000 home over the 30-year term of the mortgage.

Mr. Speaker, the promise made by Congress to fulfill the Nation's housing goals of 26 million units in 10 years—6 million units of the total for low- and moderate-income families—will remain empty so long as these completely unjustifiable high interest rates prevail.

The tables compiled by Dr. Sumichrast graphically illustrate the problem and its effect, and I inserted them in the RECORD at this point:

TABLE 1.—BREAKDOWN OF SOME MAJOR COMPONENTS OF A TYPICAL SINGLE-FAMILY HOUSE¹

Item	Cost	Percentage of total
Land cost	\$2,620.00	10.16
Land improvement:		
Financing	49.40	
Bonding fees	36.40	
Land planning	176.80	
Engineering	140.40	
Rough grading	140.40	
Street grading	296.40	
Street paving	413.20	
Curbs and gutters	213.20	
Sidewalls	150.00	
Storm sewer and drainage	210.00	
Major drainage ditches	220.00	
Sanitary sewers	355.00	
Mains and water supply lines	350.00	
Water connection charges	85.80	
Gas	13.00	
Subtotal	2,850.00	11.05
Total land	5,470.00	21.20
STRUCTURE		
Preparation:		
Permits and fees	70.00	
Engineering	91.00	
Site work	99.00	
Utility connections	559.00	
Footings and foundations	1,307.00	
Subtotal	1,856.00	7.19
Rough structure:		
Structural steel	75.00	
Framing	2,852.00	
Concrete	780.00	
Rough sheet metal	70.00	
Rough electrical	226.00	
Rough plumbing	536.00	
Rough heating	169.00	
Others	476.00	
Subtotal	5,184.00	20.09
Full enclosure:		
Roofing	190.00	
Masonry	1,200.00	
Windows and doors	257.00	
Insulation	155.00	
Exterior trim	271.00	
Exterior paint	213.00	
Stairs	21.00	
Others	68.00	
Subtotal	2,375.00	9.21
Finish trades:		
Drywall and plaster	707.00	
Tile	88.00	
Finish trim	1,035.00	
Flooring and covering	655.00	
Cabinets and vanities	263.00	
Interior decoration	361.00	
Finish electrical	221.00	
Finish plumbing	540.00	

TABLE 1.—BREAKDOWN OF SOME MAJOR COMPONENTS OF A TYPICAL SINGLE-FAMILY HOUSE¹—Continued

Item	Cost	Percentage of total
STRUCTURE—Con.		
Finish trades:		
Finish heat	\$168.00	
Finish metal	99.00	
Appliances	283.00	
Subtotal	4,420.00	17.13
Completion and inspection:		
Cleanup	140.00	
Landscaping	304.00	
Final inspection	70.00	
Others	195.00	
Subtotal	709.00	2.75
OVERHEAD, PROFIT, AND SALES EXPENSE		
Overhead	970.00	
Profit	1,274.00	
Sales expense	900.00	
Subtotal	3,144.00	12.19
FINANCING EXPENSES		
Interim financing	689.00	
Fees and appraisals	221.00	
Inspections	62.00	
Title and recordings	39.00	
Fees-commitment	200.00	
Interest on notes	70.00	
Discount on mortgage	1,200.00	
Closing cost paid for customer	140.00	
Hazard or builder's risk insurance	21.00	
Subtotal	2,642.00	10.24
Selling price	25,800.00	100.00

¹ For illustration purposes only since there is no such thing as a "typical" house. Cost was derived from the NAHB Metropolitan Cost of Homebuilding, being developed as a quarterly reporting of cost for several metropolitan areas. The sales price was derived from current median sales price as published by the Bureau of Census in their C-25 series. Discounts are based on current FNMA prices of FHA loans; assumed 20 percent downpayment and 25-year loan. The disclosure of discounts among financial charges is only to illustrate the impact of this direct payment on total cost. Up to now, discounts are not allowed to be included in the overall cost of the unit by the FHA, although they are unquestionably a part of the total cost and cannot be ignored.

TABLE 2.—SUMMARY OF COST, 1949 AND 1969
[In percent]

Item	1949	1969
Structure	70	56
Onsite labor	33	18
Materials	36	38
Land	11	21
Overhead and profit	15	13
Financing	5	10
Average price	\$9,780	\$20,534

Source: Bureau of Labor Statistics and NAHB Economics Department.

TABLE 3

CONSTRUCTION LOANS

[75 percent, 6-month loan]

	June 1968	July 21, 1969	Aug. 11, 1969
Loan required	\$18,750	\$19,012.50	\$19,106.25
Interest rate (percent)	6.97	8.50	8.40
Discounts (points)	0.80	1.09	1.30
6-month interest charge	\$653.43	\$808.03	\$802.46
Discounts	150.00	207.24	248.84
Total financial charge	803.43	1,015.27	1,050.84
Effective interest rate (percent)	8.57	10.68	11.00
Increase in financial charge		26.40	3.50

TABLE 3—Continued
CONVENTIONAL MORTGAGE
[25 years, 20 percent down]

	June 1968	July 21, 1969	Aug. 11, 1969
Selling price of house	\$25,000	\$25,350	\$25,475
Downpayment	5,000	5,070	5,095
Amount of loan	20,000	20,280	20,380
Interest rate (percent)	6.87	7.98	8.02
Monthly payments, principal and interest	\$139.80	\$156.16	\$156.96
Taxes	35.50	39.65	41.51
Insurance	5.70	5.78	5.81
Additional annual expense		247.08	32.28

TABLE 3—Continued
CONVENTIONAL MORTGAGE—Continued
[25 years, 20 percent down]

	June 1968	July 21, 1969	Aug. 11, 1969
Annual income needed:			
PITIX60	\$10,860.00	\$12,095.40	\$12,256.80
Required additional		1,235.40	161.40
Increased costs due to financial charges:			
June 1968 to July 21, 1969:			
1-time increase equals			\$341.76
Monthly payment increases			20.59
July 21, 1969 to Aug. 11, 1969:			
1-time increases			105.75
Monthly payment increases			2.69

TABLE 3—Continued
MORTGAGE DISCOUNTS PAID BY BUILDER

	June 1969	July 21, 1969	Aug. 11, 1969
Discount rate (points)	0.77	1.12	1.39
Discount paid	\$154.00	\$283.92	\$354.10
Increase in discount rate (percent)		45.00	24.10
Increase in discount paid (percent)		84.40	24.70

Source: NAHB Economics Department, Builders Economic Council Weekly Survey, August 1969.

TABLE 4.—MONTHLY PAYMENTS FOR INTEREST AND PRINCIPAL AT VARIOUS INTEREST RATES AND WHAT A \$100 MORTGAGE WILL BUY AT THESE RATES¹

	[In percentages]						
	5.5	6	6½	7	7½	8	9
Monthly payment at \$1,000	6.140875	6.443014	6.752072	7.067792	7.389912	7.718162	8.391964
Monthly payment (\$20,000 loan)	\$122.96	\$128.86	\$135.04	\$141.35	\$147.79	\$154.36	\$167.84
Annual payments	1,475.52	1,546.32	1,620.48	1,646.20	1,773.40	1,852.32	2,014.08
What a \$100 monthly mortgage payment will buy (25-year mortgage)	16,280.00	15,520.00	14,810.00	14,148.00	13,532.00	12,956.00	11,916.00
Change from—							
5.5 percent to 8 percent						25.5	
6 percent to 8 percent						19.8	
Change in the price of house \$100 will buy—							
5.5 percent to 8 percent						-20.42	
6 percent to 8 percent						-16.52	

¹ The same monthly payments today at 8.5-percent interest rate will buy only a \$20,200 house (with \$16,000 mortgage) as compared to \$26,000 priced house (with \$20,800 mortgage) at 6 percent in 1966.

Source: "Monthly Payment Direct Reduction Loan Amortization Schedule"; Financial Publishing Co., Boston, Mass.

TABLE 5.—MONTHLY REAL ESTATE TAXES ON FHA 203B HOMES

Year	Median monthly taxes		Year	Median monthly taxes	
	New	Existing		New	Existing
1963	\$18.07	\$18.81	1969:		
1964	19.20	19.80	1st quarter	\$27.08	\$24.75
1965	19.49	21.11	2d quarter	27.16	24.09
1966	20.66	21.72	Percent change:		
1967	21.23	23.39	1963-68	37.1	30.5
1968	24.77	24.54	1963: 2d quarter 1969	50.3	28.1
1967:			1st quarter 1967 to 1st quarter 1968	13.8	9.7
1st quarter	21.45	22.30	1st quarter 1968 to 1st quarter 1969	11.0	1.2
2d quarter	20.35	22.95	1st quarter 1967 to 1st quarter 1969	26.2	11.0
3d quarter	21.77	24.16	2d quarter 1967 to 2d quarter 1968	20.1	6.1
4th quarter	24.35	24.26	2d quarter 1968 to 2d quarter 1969	11.1	-1.0
1968:			2d quarter 1967 to 2d quarter 1969	33.5	5.0
1st quarter	24.40	24.46	Average annual percent change, 1963-68	6.2	4.7
2d quarter	24.44	24.34			
3d quarter	25.90	24.72			
4th quarter	25.48	24.74			

Source: 1963-66, Series Data Handbook, a supplement to FHA trends covering sec. 203b, home mortgage characteristics, Department of HUD, Federal Housing Administration, Division of Research and Statistics, Statistics Section; 1967: 2d quarter 1969, FHA trends of home mortgage

characteristics, Department of HUD, Federal Housing Administration, Division of Research and Statistics, Statistics Section; June 16, 1969.

TABLE 6.—TOTAL FIXED MONTHLY OBLIGATIONS, PERCENT OF AVERAGE MONTHLY GROSS EARNINGS

Year	Average monthly gross earnings		Median total monthly fixed obligations, FHA ²	Earnings as percent of fixed obligations	
	U.S. production workers	U.S. FHA purchaser ¹		Production workers	FHA purchaser
	Year	U.S. production workers		U.S. FHA purchaser ¹	Production workers
1962	\$418.43	\$641.24	\$189.32	45.2	29.5
1963	430.65	666.50	200.13	46.5	30.0
1964	446.20	676.66	210.68	47.2	31.1
1965	465.96	696.15	219.63	47.1	31.5
1966	486.81	749.36	243.14	49.9	32.4
1967	497.90	820.20	266.20	53.5	32.5
1968	530.88	869.56	282.81	53.3	32.5
1967 (quarter):					
1st	487.47	807.21	263.69	54.1	32.7
2d	491.56	816.52	264.78	53.9	32.4
3d	497.94	831.87	269.15	54.1	32.4
4th	509.63	852.21	271.92	53.4	31.9
1968 (quarter):					
1st	\$515.47	\$855.55	\$277.05	53.7	32.4
2d	525.08	866.30	279.49	53.2	32.3
3d	532.65	897.31	295.78	55.5	33.0
4th	547.83	897.24	297.31	54.3	33.1
1969 (quarter):					
1st	545.93	921.39	307.89	56.4	33.4
2d	556.90	950.74	323.20	58.0	34.0
Percentage changed:					
1962-68	26.9	35.6	49.4		
1962, 2d quarter 1969	33.1	48.3	70.7		
1st quarter 1967, 1st quarter 1968	5.7	6.0	5.1		
1st quarter 1968, 1st quarter 1969	5.9	7.7	11.1		
1st quarter 1967, 1st quarter 1969	12.0	14.1	16.8		
2d quarter 1967, 2d quarter 1968	6.8	6.1	5.6		
2d quarter 1968, 2d quarter 1969	6.1	9.7	15.6		
2d quarter 1967, 2d quarter 1969	13.3	16.6	22.1		

¹ Average effective monthly income.
² Includes monthly housing expense, State income tax, life insurance policy premium, compulsory contribution to retirement fund, payments on installment accounts, mortgage payments on other real estate, payments on other loans and accounts, and similar items.

Note: Average annual percent change, 1962, 2d quarter 1969.

Source: Col. 1, Survey of Current Business, U.S. Department of Commerce, Office of Business Economics, labor force employment and earnings, weekly and hourly earnings, manufacturing establishments; cols. 2 and 3, 1962-66 series data handbook, a supplement to FHA Trends, DHUD, FHA, Division of Research and Statistics Section, covering sec. 203b, home mortgage characteristics; 1967, 2d quarter 1969 FHA Trends of Home Mortgage Characteristics, Department of Housing and Urban Development, Federal Housing Administration, Division of Research and Statistics, statistics section, June 16, 1969.

TABLE 6-A.—SALES PRICE, INCOME AND PAYMENT REVIEW, NEW UNITS

	Median property value	Median monthly mortgage payment	Median total fixed obligations	Median family income (total current income)		Median property value	Median monthly mortgage payment	Median total fixed obligations	Median family income (total current income)
1960	\$14,607	\$103.81	\$175.10	\$7,733	1969:				
1961	14,918	106.60	185.87	7,882	1st quarter	\$19,753	\$160.66	\$307.89	\$11,202
1962	15,151	105.20	189.32	7,899	2d quarter	20,187	170.80	323.20	11,474
1963	15,789	108.94	200.13	8,237	Percentage changed:				
1964	16,063	111.49	210.68	8,484	1960-68	28.7	38.2	61.5	37.0
1965	16,561	114.26	219.63	8,777	1960 to 2d quarter 1969	38.2	64.5	84.6	48.4
1966	17,163	122.41	243.14	9,226	1st quarter 1967 to 1st quarter 1968	3.3	5.6	5.1	5.7
1967	17,992	113.14	266.20	10,008	1st quarter 1968 to 1st quarter 1969	6.5	15.5	11.1	7.6
1968	18,797	143.45	282.81	10,597	1st quarter 1967 to 1st quarter 1969	10.6	21.9	16.8	13.7
1st quarter	17,854	131.82	263.69	9,855	2d quarter 1967 to 2d quarter 1968	4.8	7.2	5.6	6.0
2d quarter	17,955	131.83	264.78	9,977	2d quarter 1968 to 2d quarter 1969	7.3	20.8	15.6	8.4
3d quarter	18,127	135.01	269.15	10,169	2d quarter 1967 to 2d quarter 1969	12.4	29.6	22.1	15.0
4th quarter	18,645	139.43	271.92	10,332	Average annual income, 1960 to 2d quarter 1969	4.0	6.8	8.9	5.1
1968:									
1st quarter	18,548	139.15	277.05	10,414					
2d quarter	18,808	141.36	279.49	10,580					
3d quarter	19,125	152.38	295.78	10,849					
4th quarter	19,349	154.66	297.31	10,813					

Source: 1960-66: Series Data Handbook, a supplement to FHA Trends, DHUD, FHA, Division of Research and Statistics, Statistics Section, covering sec. 203b, home mortgage characteristics; 1967 to 2d quarter 1969, FHA trends of home mortgage characteristics, Department of HUD,

Federal Housing Administration, Division of Research and Statistics, Statistics Section, June 16, 1969.

AID TO THE ENEMY

HON. PAUL J. FANNIN

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Wednesday, October 29, 1969

Mr. FANNIN. Mr. President, several Senators are greatly respected for their military expertise and interest in national security affairs. The Senator from South Carolina (Mr. THURMOND) is one of the most listened-to men in this field. Since my background does not include the exposure to military matters that the Senator from South Carolina and other Senators enjoy, I find myself listening with a great deal of interest when they speak.

Two distinguished columnists, Robert S. Allen and John A. Goldsmith, have called public attention to a recent message by the Senator from South Carolina concerning the recent and lengthy debate in the Chamber on the ABM.

Having been involved in that debate myself, more as a layman than a military expert, I find the points made by the distinguished Senator in his critique of that debate most interesting. It concerns me to think that it was necessary for Department of Defense spokesmen to reveal so much of our military strategy and secrets in order to answer opponents who were irresponsible in their charges.

I can quite agree that our American system depends upon free and open debate and discussion of ideas, but I think it particularly incumbent upon men who are entrusted with public office to be responsible in their discussion and opposition. These wanton and blunderbuss attacks upon the military, particularly upon military men, and in wholesale fashion, cannot be categorized as responsible opposition.

There is a phrase used in British political life in which the party out of power is called "the loyal opposition." During the time I have served in Congress as a member of the minority party, and while

a member of the opposition party occupied the White House, I endeavored to mount my opposition or support within that framework. Since the shoe is on the other foot, so far as the executive branch goes, I believe it would be in the best interests of America if we all take stock of our motives and our actions in supporting or opposing the President.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HELPING THE ENEMY

(By Robert S. Allen and John A. Goldsmith)

WASHINGTON, October 28, 1969.—Senator Strom Thurmond is sternly rebuking his colleagues for thoughtlessly revealing vital military information "that our enemies would have to pay millions to espionage agents to obtain."

A particularly glaring instance of this was the Senate's recent protracted consideration of the \$20 billion military procurement authorization bill. For more than eight weeks, pacifist and "peacenik" senators sought to delete or slash major weapons programs—wholly to no avail.

During the prolonged stormy discussions, Thurmond points out, both opponents and proponents in their verbal battles made public "vast amounts of classified information."

"Our entire military strategy and concepts were enumerated in full," said the South Carolinian, a ranking Republican member of the Armed Services Committees and a major general in the Army Reserve. "We talked about the '2 and 1/2' concept, about our commitments abroad, our strategy of attacks, the strength of our Navy, the shortage of submarines."

"We talked about our balance of deterrents, the approaching weakness of our manned bombers, the successes and failures of our anti-ballistic missiles, the characteristics of our new battle tank, the naval strategy involving our aircraft carrier forces, the approaching obsolescence of our Air Force, the strategic concepts upon which the C-5A is based, and other extremely important matters."

All this highly valuable information, Thurmond asserts, was printed in the Congressional Record for any and all to read.

"A copy of the Congressional Record sells for a few cents," he declares, "and anyone can buy it. It is not hard to imagine the excitement of communist military leaders throughout the world as they pore over the Congressional Record and extract information vital to their development of an effective strategy against us. Can you imagine the copies of the Congressional Record which have been shipped to Russia, China, Cuba and other hostile countries in the last month?"

SCARING OUR FRIENDS

The "peaceniks" long fight to block development of an anti-ballistic missile (ABM) and the new main battle tank (MBT-70) was singled out by Thurmond for severe condemnation for revealing especially important military information.

"The debate on the ABM," the veteran legislator said, "precisely pinpointed the location of our planned defensive missiles, the capabilities and shortcomings of the multiple independent re-entry (MIRV) techniques, the size and power of our warheads, the number and range of our ABMs, the dispersion of our Sprints and Spartans."

"This debate laid bare the strength of our ICBMs, our Polaris and Poseidon forces, the make-up of our strategic bomber squadrons, the expected points of interception of our missiles, the problems with chaff, and the strength and failures of the radar which control and guide defensive missiles."

The opposition's wrangling over the MBT-70 was even worse in some respects. Not only was crucial information disclosed, but our allies were shocked because this new weapons system is being developed in cooperation with them.

"This is a joint project with West Germany," Thurmond pointed out, "and our allies must be in a state of shock over the fact that we unveiled to potential enemies all the strengths and weaknesses of a vehicle in which our allies may some day have to place their young men and commit them to battle. It is very likely that the MBT-70 will be the last joint development project any nation will ever undertake with the U.S., the land of open and free discussion."

Thurmond frankly says he doesn't know the answer to this grave problem.

He doesn't question the right of any senator to "challenge any item in any bill on the floor of the Senate." Neither does he question the democratic process "which has made our government and nation powerful and influential."

"I do not know what the answer is," says Thurmond, "but I hope it is something other than what we have just been through. But it must be fully realized that in the many weeks that the military procurement bill was debated item by item, highly classified information on weapons systems vital to the defense of our country was spread across the public record for all to see.

"This problem is complicated by the fact that our enemies operate in closed societies. Discussions of their military problems never reach the public ear or printed word, and they have an advantage because of the oppressive nature of the political systems under which they operate. While we cannot do anything about their system, it does seem that thought must be given to finding adequate methods to provide the necessary security for ourselves.

"The debate on this year's military authorization bill amounted to a new phenomenon never before witnessed in the Senate. The requests of the military were about the same as those of last year, during the Johnson Administration, when no item was seriously questioned on the floor, even the expensive Sentinel ABM which involved a commitment much greater than the Safeguard ABM.

"Secrecy is not bad when it involves the defense of our loved ones, our homes, our businesses, our cities and our nation. There is a difficult area here, and we must find the right place to draw the line between the people's right to know and the point at which our security is being compromised. Surely we cannot continue to lay bare our military secrets as was done during the debate on the 1970 military procurement bill. We simply cannot continue such a menacing and shocking situation."

DEMONSTRATIONS AGAINST THE GOVERNMENT

HON. RICHARD L. ROUDEBUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. ROUDEBUSH. Mr. Speaker, commentary continues on the recent October 15 demonstrations against the Government, and likely will continue as more disruptions are planned in November.

Mr. Jack Overmyer, editor of the Rochester, Ind., Sentinel, has written a penetrating editorial concerning these events which I commend to the Congress.

Dr. James D. Atkinson, a graduate of Indiana University and now a professor of government at Georgetown University, also has an interesting statement on his activities of October 15 which will be of interest to the Congress.

The articles follow:

[From the Rochester (Ind.) Sentinel, Oct. 20, 1969]

CONSIDERED COMMENT

Who among us likes war?

Robert E. Lee, gazing upon the Union carnage at the field of Fredericksburg, was overheard to say, almost to himself, "it is well that war is so terrible, else we should become fond of it."

In an unguarded moment, the great Confederate general thus expressed his irreconcilable inner conflict between an innate humanitarianism and the tug of Southern patriotism.

As it was with Lee, so must it be with many Americans today as they survey the national dilemma of U.S. participation in the Vietnam war.

None of us want the war, barring those who profit from it and who are venal enough to wish secretly for its continuance. Such vermin always exist.

Yet the vast majority of Americans are proud of our nation and of the principles for which it stands. They know that we want nothing from this war except to provide a people with a fair chance to choose their own government.

Still, it is only a half-war. Our forces are held in check; we cannot, or do not, use all the weaponry at our disposal. We shrink, as shrink we should from bringing up the most terrifying aspect of our strength, nuclear force.

And the war drags on. And more American boys die every day. And the peace talks in Paris pursue their weary, interminable conversations.

President Nixon has halted the bombing of North Vietnam; he has ordered a halt to offensive U.S. operations and has started the withdrawal of American forces. Surely this is proof enough to the enemy, if the enemy really seeks proof, that U.S. desires are to seek an honorable peace.

Yet Americans pour into the streets in every major city of the country, as they did last week on Vietnam Moratorium Day, to call for an immediate end to U.S. participation in the war. They cry that America should pull out . . . now!

And while the demonstrations were peaceful, they have not ended. Already the antiwar forces are gathering for another widespread protest in November. This one may not be as placid.

President Nixon was right in stating that he would not be swayed in his Vietnam policies by demonstrations. Does anyone in his right mind expect the leader of the United States to bow to the will of mobs?

These demonstrations are fueled mainly by young people. It is fitting and proper that they can dissent, for this is a basic tenet of democracy. Furthermore, we would grant them the propriety of their positions that the Vietnam war is immoral, for all wars are immoral; that the nation has problems of its own that need attention, for the evidence is all about us.

But we submit that the way to continue America's greatness is not to create divisiveness among its people in a capricious manner. For it seems to us that the antiwar faction's whole position in the matter is frivolous.

Get out of Vietnam by quitting? After 40,000 dead men on the field of combat? When the world's prime example of freedom in the affairs of men has committed itself to not let Communism overrun yet another nation? To withdraw and thus deny both these facts would be shameful.

This nation cannot accept shame. It cannot, by leaving Vietnam unilaterally, abandon that nation to a totalitarian system that is the sworn enemy of every freedom that allows demonstrations to take the streets in the U.S.

President Nixon knows that the nation is weary of this war. We believe he is sincerely, diligently and wisely pursuing a course that will take us out of it.

What America needs, therefore, is less irresponsible dissent and more constructive opposition. There will be no peace at the Paris talks when the enemy knows our government's support is wavering.

It would be more fitting if, in the next few weeks, the responsible forces in our society organized demonstrations to show the world that while we abhor this war, we shall not give it up until South Vietnam can be assured of its continued existence.

For the war is a fact. Argue the reasons for its beginning, the complexity of its causes . . . it is a fact. Wishing it away, even if that were possible, would not still the currents it has stirred in the affairs of this globe.—J.K.O.

STATEMENT BY PROF. J. D. ATKINSON, DEPARTMENT OF GOVERNMENT, GEORGETOWN UNIVERSITY

The Moratorium Day Committee requested University Professors in colleges and universities across the entire United States to do something meaningful on October 15, 1969, relating to the war in Vietnam and the U.S. involvement in that war. Accordingly, in my class on the Conduct of U.S. Diplomacy at 10:15 a.m. on Wednesday, October 15, 1969, I, Professor J. D. Atkinson, Department of Government, Georgetown University, responded with a discussion of the foreign policy issues relating to the Vietnam war, following which I read a short prayer which I had composed for the occasion.

I composed this prayer with the thought that the clergy—many of whom were adopting what seemed to be a political stance on the Vietnam Moratorium—would not object to a layman reading a prayer. I also attempted to compose a prayer to which members of the Jewish faith, Protestants of all churches, and Roman Catholics would all alike subscribe to, if they wished. This is the prayer:

O God of Israel, of Abraham, of Isaac and Jacob, whom we Americans acknowledge in our own Declaration of Independence, grant that we do not dishonor our nation by denying freedom to the people of South Vietnam.

Grant, O Lord that the Americans who have given their lives in Vietnam have not died in vain.

Strike down the hand of the wicked, enlighten the minds of the weak, of the ignorant, and of the misguided that the United States may honor the pledge of Thy late servant, President John Fitzgerald Kennedy, not to abandon the poor people of South Vietnam.

Do not deliver them, O Lord, into the hands of the brutalitarian Communists of North Vietnam whose crimes against humanity far exceed even those of Stalin and of Hitler, but order that the peasants, the workers, and the other good people of South Vietnam be kept under Thy protection. As we Americans have trusted in Thee and as the South Vietnamese have trusted in us, do not, O Lord God, abandon either us or them. Amen.

WHAT'S AHEAD FOR THE PRIVATE BUSINESS SCHOOL?

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Wednesday, October 29, 1969

Mr. JAVITS. Mr. President, the October 1969 issue of the American Vocational Journal, published by the American Vocational Association, contains an interesting article entitled "What's Ahead for the Private Business School?" written by Mr. Larry Luing, president of the Berkeley Schools of New York City and White Plains, N.Y., and East Orange, N.J. The Berkeley Schools are a group of privately owned, taxpaying educational institutions training executive secretaries. Mr. Luing discusses the advent of big publicly held corporations into the independent business school field, noting that:

Since these corporations are knowledgeable investors with capable research facilities at their disposal, there must be a future in proprietary education.

The article is most timely because here in Washington, on October 27, 28, and 29,

1969, the United States Schools Association will be holding its 57th annual convention. UBSA is composed of some 500 independent business schools from all over the country. Among other activities, the association founded and sponsors The Accrediting Commission for Business Schools which, since 1956, has been designated by the U.S. Office of Education as a "nationally recognized accrediting agency"; accreditation is a key factor in determining institutional eligibility in the many Federal programs of student financial aid such as the college work-study, guaranteed student loan, and national defense student loan programs; and the only major student financial aid from which proprietary school students are now excluded is the educational opportunity grant program.

I ask unanimous consent that Mr. Luing's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT'S AHEAD FOR THE PRIVATE BUSINESS SCHOOL?

(By Larry L. Luing)

Much has been written about the private business school, its role in American education, and its struggle for recognition. Granted that business education had its beginnings in that bastion of free enterprise, the proprietary institution, and that it has been a major source of innovation, what does the future hold in store for this maverick institution? Or, indeed, does it have a future?

Historically, the business school movement in America dates back to colonial days when curriculums consisted almost entirely of penmanship, bookkeeping, and rapid calculation; but it was the invention of the typewriter in the 1870's that led early proprietors to develop and promote the twin arts of typewriting and stenography, which are the central core of business education today. Based on the idea that education should be useful in the practical affairs of life, business education was for many years an alternative to a high school education.

During this period the business schools had to train their own teachers and, in many instances, prepare their own instructional materials. As a result, several of our leading teacher training colleges and business education publishers can trace their origins to private business schools.

John Robert Gregg, for instance, operated his own schools in Boston and Chicago as the initial step in trying to popularize his shorthand system. Naturally, the oldest of our professional organizations, such as Eastern Business Teachers Association and North Central Business Education Association (formerly National Business Teachers Association), were founded exclusively by and for educators from these proprietary institutions.

DEMISE PREDICTED

As the demand for business-trained personnel grew and the high schools began to add business subjects to their offerings, many predicted the demise of the independent business school. However, these schools merely upgraded their offerings and reestablished themselves as post-high school institutions. For a number of years they continued to train business teachers—for the secondary schools now in addition to their own.

As different types of office machines and equipment, new office techniques, and more sophisticated processes were introduced into the business community, appropriate training programs were established, usually several years in advance of the slower-moving public school systems.

At the time business education was introduced into the colleges and universities, the prophets of doom again foresaw the end of private business schools. When the era of community colleges and public technical institutes began to reach full stride, a few years ago, these pessimists were all the more convinced that such private institutions could not hope to compete against their tax-supported counterparts. The independent businessmen-educators, however, showed their flexibility once more by strengthening their traditional ties with the business community, critically updating their curriculums, expanding their placement facilities, and otherwise creating unique features for their clientele.

Just as it was the private business school that first recognized the potential of the typewriter some hundred years ago, so this group first foresaw the tremendous employment opportunities and training needs inherent in electronic data processing. Courses ranging from key-punch operation to computer programming were offered in private schools perhaps a decade before public school systems took any significant steps to meet this need. This historical pattern of innovation applies equally to methodology and techniques, as well as content.

But the question remains: In this age of free post-high school education for everyone, has the private business school outlived its usefulness? Far from it! We predict that the industry is about to change once more its appearance and function, like the perennial chameleon, and that it will emerge from the seventies with the following characteristics:

WILL BECOME MORE COMPETITIVE

With the advent during the sixties of tax-supported community colleges and technical training centers on a large scale, private business schools have felt increasing competitive pressures. These pressures will continue and accelerate.

The typical business school will itself become more competitive by sharpening its marketing skills, improving its physical facilities, and upgrading its programs. Although some private schools will undoubtedly be forced out of existence, they will be primarily the small substandard schools and those staid old institutions whose managements insist upon looking to past glories rather than to the future.

MEDIA SOPHISTICATION

The "electronic classroom" will be standard in all but the smallest of schools. Dictation laboratories with six or more channels will be commonplace. The shorthand instructor will have at his disposal a library of several hundred dictation tapes from which he may make appropriate selections for speed building takes, for mailable letters, for office-style dictation, or for specialized dictation from a variety of career fields.

The equipment itself will be easier to use, will be geared to giving maximum individual help at each student station, and will incorporate many technical improvements designed to obviate annoying service problems currently so prevalent.

Most typing rooms will also be equipped with multichannel receiving stations so that students may progress at their individual rates and take remedial work as needed. Much of the recorded material will be the product of innovative private school instructors, because commercial sources are not providing the quantity and variety of recordings needed.

Learning centers will be established where students may, at their convenience and at their own pace, utilize units of instruction that have been prerecorded on cartridges and correlated with visual materials. Super-8 projectors for film loops and Carousel slide projectors are especially appropriate for operation in carrels. There is also a new technique

by which a 60-second message can be recorded on a 35-millimeter slide. These learning centers will be open evenings as well as throughout the day.

MORE OFFICE MACHINES ROOMS

The investment in office machines rooms will grow substantially as the latest models of computer-type calculators, stencil-producing photocopiers, automatic typewriters, and other newly perfected machines and systems are introduced. Because of the diversity of equipment on which instruction must be given, schools will rely more and more upon multisensory media.

Carrels with the same type of projective and audio devices as used in the learning laboratories will be utilized in the office machines laboratory. Instructors will devote more time to the creative work of developing programs on tape and film, and technician-assistants will do much of the routine classroom work with students.

Data processing departments, too, will become more advanced as additional schools get their own computers and all attempt to keep up with technological advances.

The overhead projector and wall-or-ceiling-mounted screen will all but replace the chalkboard. In addition to giving the instructor far more flexibility in his own presentations, this arrangement makes possible the use of a large variety of commercially prepared transparencies.

Closed-circuit television will come into its own during the seventies. Business schools will use it for skill subjects as well as for charm and personality development courses. It will become a daily staple rather than the experimental novelty that it is in business schools today. There will be more cooperation between institutions, with a sharing of television facilities and programs. Satellites will make worldwide educational television possible so that students may witness historic events and far-off cultural activities firsthand.

A more sophisticated system of teaching telephone techniques will be devised. This, and other aspects of communication and human relations which are frequently poorly taught in schools, will be singled out for improvement.

Computer-assisted instruction will be introduced on an experimental basis, creating new opportunities for innovating in the traditional business subjects.

BETTER-TRAINED FACULTY

Business school management can no longer afford to keep marginal teachers. It will take highly qualified, creative personnel to keep the business school in the running in the competitive seventies. Even with such simplified equipment as cassette tape recorders and cartridge projectors, the private school instructor has his work cut out for him!

An intellectual curiosity and innovative nature are needed to take advantage of the opportunities that exist. Since publishers and audiovisual suppliers do not have materials available for most of the areas just discussed, it is up to the business school instructor to create his own. Traditionally, he has been quicker to recognize the need for change and to pioneer new techniques than has his counterpart in the tax-supported institution. Since suppliers rarely produce new instructional materials until a market is established, it is frequently the private business school that makes the market for the entire field of business education.

The private school instructor must also be professionally prepared to handle the counseling duties he is expected to perform.

INDIVIDUAL INSTRUCTION AGAIN

Throughout the history of private business schools, the ability to give individual attention to its students has been one of that institution's greatest sources of strength. In

recent years, as schools became more collegiate in nature, this strength was de-emphasized in outward appearance, if not in fact.

Now, with programed instruction, multi-channel tape laboratories, multimedia learning carrels, and other such innovations, it is the "in thing" to allow a maximum of individual instruction at all levels of education. The business school is at the forefront of this movement because it has had over 100 years of experience with the individual progress system.

New efforts will be made to improve grouping techniques and program planning. Diagnostic equipment, such as the Diatype for typewriting, will make it easier to prescribe individualized drill assignments. The introduction of programed shorthand will help to solve the perennial problem of individual differences.

Although it will be done within the framework of a college program, there will be a resurgence during the seventies of classic business school attention to the individual. This will be true in all aspects of counseling as well as the academic realm. And this will be one of the major characteristics differentiating the private business school from other types of post-high school institutions.

MORE IMAGINATIVE PROGRAMS

Because the business school owes its existence largely to its ability to discover training needs first and to meet them better, it must keep in constant close touch with both the business community and the youth of its area. When a shortage of trained backoffice personnel forced Wall Street to cut back to a four-day trading week, a chain of private schools quickly introduced an appropriate new program to train personnel for the financial community; this is a good example of the role of the private school.

As the secretary assumes more and more of her employer's managerial duties, her preparation must be upgraded. New academic specializations must also be added as new industries emerge. For instance, with the advent of the supersonic jet, international travel will increase significantly, and with it the demand for bilingual secretaries. International workshops and conferences will become as commonplace as regional ones are today. The stenographer and clerk-typist, as we now know them, will largely disappear, but the demand for well-educated executive secretaries will continue to grow.

In the future, business schools may be expected to originate even more imaginative programs than they have in the past. And these will not necessarily be limited to academics but will involve the areas of placement, inservice training, research, and service bureaus of various types.

Sales power will play a substantial role in the seventies. The competitive situation will emphasize the need for creative marketing approaches. This will be done in a professional manner, however, and will attempt to glamorize business careers and to "sell" the entire field of business education, thus serving an important function in our economy.

FACILITIES WILL IMPROVE

Many schools will continue their flight to the suburbs, where they can offer their students attractive, modern school plants with adequate parking and other such accoutrements. More attention will be given to function and design. Schools attempting to appeal to young adults who wish their vocational training in a collegiate atmosphere will offer on-campus dormitories, landscaped grounds, and recreational facilities.

The urban institution will likely be located in one of the city's newest office structures, project an air of efficiency, and specialize in accelerated programs for certain

groups, such as the underprivileged or those needing retraining. The third-floor walk-up of yesterday faces a very limited future.

WILL FORGE NEW PARTNERSHIP

Over the years business school executives have resisted the encroachment of the government into what they considered their domain. This attitude has been largely dispelled through participation in a number of government programs—the G.I. Bill, Manpower Development and Training, student loans, college work-study programs, and others.

Happily, these programs have caused many business schools to accelerate their efforts toward national accreditation. At the same time, government has learned that private business schools can make an effective contribution to education.

There now exist many opportunities for private institutions to use their facilities and know-how to help solve the problems of the underprivileged. In Philadelphia recently, for instance, private business interests and the federal government formed a consortium to undertake one of the largest job-training programs for hard-core unemployed ever attempted in that area.

The seventies will bring fuller utilization of private business schools in a variety of federal programs. There will also be more recognition from state governments in the form of degree-granting privileges and transferability of credits earned at business schools.

STRONGER TIES WITH BUSINESS

To stay in the forefront, the business school must maintain and even strengthen its ties with business. Through cooperative training programs, industry-sponsored scholarships, and the development of specialized programs to meet specific needs, the businessman and the business educator are finding new avenues of mutual interest.

An especially intriguing phenomenon is the advent of the big corporation into the independent business school field, which traditionally has been dominated by family groups and small, closely held corporations. In keeping with the overall business judgment that education is a glamour field for the future, such companies as Crowell Collier, Lear Siegler, International Telephone & Telegraph, International Industries, Ling-Temco-Vought, and U.S. Industries all operate business schools.

Since these corporations are knowledgeable investors with capable research facilities at their disposal, there must be a future in proprietary education.

Fortunately, the prevailing attitude today seems to be that good education is good business; this portends well for the future. To the extent that business schools are in the hands of publicly held corporations, one might say that private business schools have gone public.

THERE WILL BE A CHAIN REACTION

The activity of the big corporations is resulting in multiple-unit organizations which, whether called "chains" or not, are reminiscent of the business school chains of old—Bryant & Stratton, Draughon's, and Brown's. Lear Siegler, for instance, has schools located from coast to coast. This trend will undoubtedly continue in the seventies, for there are obvious advantages to industry's being able to use one source of office personnel on a national level and to graduates' having access to national placement facilities.

The "topping out" of the Bryant & Stratton chain in the 1860's marked the beginning of the greatest growth period in business school history. Could history now be in the process of repeating itself?

SOVIET SCENE 1969: FARMERS BETTER OFF—WOMEN CARRY HEAVY LOAD

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. STEED. Mr. Speaker, today I include in the RECORD parts 3 and 4 of the series by Charles L. Bennett, managing editor of the Daily Oklahoman, Oklahoma City, describing Russia today as seen in his recent 16-day tour with a group of 10 members of the American Society of Newspaper Editors.

Additional articles in the series will follow. Parts 3 and 4 follow:

[From the Oklahoma City (Okla.) Daily Oklahoman, Sept. 30, 1969]

SOVIET FARMERS BETTER OFF—III

(By Charles L. Bennett)

Nomadic herdsmen or peasants working the fields of wealthy land-owners only a few generations ago, today's Soviet farmers produce more, are better housed, better educated and have more machinery to work with.

But are they happier than their ancestors, or than their cousins working in the shops and factories of the Soviet cities?

If you had seen the gay party on a collective farm in Georgia, or talked with the piano-playing daughter of a farm couple outside of Minsk, as our group of touring editors did, it might be easy to conclude that everything is fine, down on the Soviet farm.

But then, hearing the problems of farming where winter brings months of 50-below weather in Siberia, or seeing sad-faced old women doing heavy farm chores might have made you wonder.

Kazakhstan's one-time nomads are settled down but still care for 30 million sheep as well as raising cotton, sugar beets, hogs and cattle.

A Siberian agriculture experiment station manager showed us "the most cold-resistant apple in the world"—about the size of a pea—and told how farmers there produce a cash crop from 300 varieties of gladiolus. None could be grown there 20 years ago, in a climate where only one month a year is free from frost.

Outside Minsk, in the Byelorussian Republic, we visited a collective farm. We were eager to discuss the "big issues" of Soviet agriculture—like the trend away from collectives and toward state farms, and the bold "new lands" experiment that had a role in Khrushchev's downfall.

But it was quickly obvious that Farm Manager Vasily Shemansky and his staff were more concerned—like farmers everywhere—with whether it would rain tomorrow and how the new insecticide was working. We did discuss the "big issues" there, though, and with the deputy minister of agriculture in Kazakhstan and a variety of other authorities across the country.

Added to our personal impressions, the comments we heard seemed to add up to these conclusions: The "new lands" project has had both successes and failures. Under new management that is concentrating on grain production, these millions of acres that previously had never been plowed are producing fairly well, except in drought years.

The trend away from collective farms and toward "state farms" on which the workers are paid wages, rather than being cooperative members sharing proceeds of the collective, is real. It is a slow, inexorable process and most of the Soviet spokesmen deny it is

happening. It may have slowed down from the pace that existed under Krushchev, but the fact that state farms produce more efficiently means—in the Soviet style of doing things—that the die is cast.

Are the private plots allotted to collective farmers important to them? You can bet on it. They can raise poultry, vegetables, fruit, a cow, hogs, and other produce on those plots. Whatever surplus produce they sell is profit that goes into their own pockets.

We saw the private-sale market places in Moscow and Minsk and were told that 80 per cent of the eggs bought in Moscow come from farmers' private plots.

(A U.S. State Department publication says that while the private plots comprise only 4 per cent of the cultivated area of Soviet farms, they account for 33 per cent of all agricultural production.)

Georgia is considered the "richest" agricultural republic because farmers there grow tea, grapes, tangerines, lemons, peaches and figs. The Georgian farmer who raises tangerines can gather a few sacks of them from his private orchard, take them to Moscow by plane, sell them, pay his fare and expenses, and still return with several hundred rubles in his pocket.

A tractor driver on the collective outside Minsk, whose skill is considered the highest on the farm, or a worker on a grape farm in Georgia may earn 200 to 225 rubles a month, compared to the Soviet's average wage of 120 rubles a month. If profits from a private plot are added, the member of a collective farm may make out quite well. State farm workers, on the other hand, usually earn higher wages than the average collective farmer, but they don't have the benefit of an assigned private plot.

On the Minsk collective, Shemansky said, "Sometimes families here have much more living space than in the city, with three or four people in a 100 square meter (1,076 square feet) home." So far, everyone at that farm lives in private, individual frame homes. Other farms, though, have apartments and the first ones are going up on the Minsk collective.

We visited one of those homes, halfway down a dirt road lined with wooden houses set off by fences and surrounded by luxuriant flowers.

The startled 17-year-old daughter of the family greeted us, showed us through the immaculate rooms and, at our insistence, played a Mozart composition, excellently, on the living room piano.

Modern furniture crowded the rather small rooms. The kitchen had an open sink, two wooden cabinets and a four-burner gas stove. The toilet was outside. On a tree was nailed a wooden rack holding a wash basin and the family toothbrushes. Over all, the impression was like visiting a country farmhouse of 40 years ago in America.

A music student planning to be a teacher, Gallia insisted we all have a drink of light Georgian wine before leaving.

Her enthusiasm for music was explained when we visited the farm's music school and were entertained by giggling students from 8 to about 16 years of age. They played, in accomplished style, piano, violin, accordion and tsambaly solos. The tsambaly is the Byelorussian national instrument, a zither-like harp played with mallets.

The music school is one of eight schools on the farm, along with a hospital and children's nursery. Nearly half of the workers on state farms are women, we learned, and the nurseries and canteens for noon-time meals are a necessity in order to allow the mothers to work.

Shemansky, a one-armed war hero, labelled his farm "not the best, but not the worst." Its paved work-roads and brick barns made us think it might be nearer the top of the list, compared to others we had glimpsed along the way.

With 12,250 acres, the Minsk-area farm grows grains, corn, potatoes and beets, has

a large dairy and meat operation with 3,000 cattle, and 375 acres of pear and apple orchards. Byelorussia exports dairy products to the rest of the Soviet. All crop production is coordinated with plans for the Republic and the U.S.S.R. under signed agreements setting out goals for each year's production.

Some complicated figuring involving hectares, acres, centares, kilograms, pounds and bushels finally produced the fact that this Byelorussian farm's wheat production averages 28-29 bushels an acre, an exact match for Oklahoma's average. They use Jubilee and Miranov varieties of winter wheat and are just beginning to use mineral fertilizers.

There are 500 members in this particular collective, but 1,900 people live on the farm, including dependents and pensioners. Harvest-time brings 1,000 to 1,200 part-time workers to the farm, including vacationing students. "Some of them like it here enough so that they return when they finish their schooling," one farm aide said.

We were surprised when Shemansky said the average work-day was seven hours increasing to eight or nine in harvest-time. We commented that most American farmers would consider those hours a holiday. He made no response.

When the Soviet Union started collective farms, with peasants turning their newly-gained holdings into huge cooperatives like Shemansky's, political scientists looked on the move as the ultimate in socialism. Agriculture experts thought the Soviets might have found an efficient answer to the problem of providing enough food for a huge and growing country.

But it wasn't long, as history goes, before a different approach was taken. The state farm, an agriculture factory paying its workers wages, instead of letting them share in the proceeds of the collective, became the new system for farming.

On and off, ever since, outsiders have debated the merits—and future—of the two systems.

At the collective farm near Minsk, Manager Shemansky commented that "If we offered to give the people back their land, they wouldn't want it. They would push it away." He added: "The state farm seems to predominate right now and there is a trend to have collectives evolve into state farms."

There are two basic differences, he explained. One is that on a collective the chairman (manager) is elected by the members for a two-year term, and may be removed on their vote. On a state farm, the manager is appointed by the minister of agriculture. The other is that, while both kinds of farms achieve profits which they can divide among the people working on the farm, the collective's profits are divided on a cooperative basis but the state farm's profits can be paid to the workers as bonuses.

In the past, collective farmers only shared whatever income the farm achieved after fulfilling its sometimes unreasonably high production pledge to the state. Since 1966, however, even the collective farmers have been guaranteed minimum wages similar to the scales paid on state farms.

A high official in the planning apparatus for the entire Soviet Union said in Moscow: "It's not a problem of whether there will be a shift away from collective farms and toward state farms. The need is to raise productivity and efficiency on both types. In some areas, it is preferable to have state farms. In others, where collective farms are now, there may be some shift to state farms in the future, but this is not a principle of our policy."

Another official of the planning group added: "It is not correct to say there is a trend away from collectives and toward state farms. There are 36,000 collective farms in the country and 14,000 state farms. Both are developing satisfactorily."

Nikolai Baybakov, a vice premier of the Soviet Union and chairman of the State (U.S.S.R.) Planning Board said: "In the

new lands, we did create state farms . . . in such areas as Novosibirsk. We are building an 800-kilometer canal there, and water works wonders. We are even setting up cotton farms there but it is incorrect to say we are trying to turn collective farms into state farms. The pay on collective farms is now close to that received on state farms, because collective income has grown."

A knowledgeable Soviet citizen (who shall remain anonymous) said, "It will all go over to state farms, because they produce better and are easier to manage. Besides, the present generation doesn't remember private farms and has forgotten about the land and animals turned over by the peasants to start the collectives in the first place."

High production is the hope and the goal and, on the plains of Siberia, biological and botanical miracles have had to be wrought to make agriculture a paying proposition.

At the agricultural experiment farm outside Novosibirsk, Manager Andre Christo told us how they had developed the tiny cold-resistant wild apples of the Altai mountains into a normal-sized apple that thrives in the rigorous Siberian climate.

Cows have to be kept in the barn 200 days of the year there and beehives have to be cached in underground chambers in order to survive the winter.

A Novosibirsk editor said he understood Soviet agriculture is now at a stage where each farmer produces enough food to support seven people.

Some of the scientific institutes at Novosibirsk devote their efforts to developing more heat and cold-resistant crops, better breeds of animals, irrigation methods and to the problems of making the "new lands" more productive.

Under the new lands program, initiated by Khrushchev in 1954, 75 million acres of previously unplowed land—mainly in Kazakhstan and Siberia—were put into cultivation. Two-thirds of this land produces wheat.

Kazakhstan Deputy Minister of Agriculture Ramazanov rejected our description of the new lands as "an experiment."

Opening these lands has been a huge success, he said, increasing Kazakhstan's cultivated land by nearly three times and its production of grains by more than 3.5 times.

Population in the new lands area has more than doubled, Ramazanov said.

Bad years, caused by drought, were 1955, 1957, 1963 and 1965. The later two were the years that forced the Soviets to buy \$1.5 billion worth of wheat from western countries, including \$140 million worth from the U.S.

Ramazanov bristled when we asked him how Kazakhstan's new lands wheat production compared, for instance, with the Ukraine's. He pointed out that the Ukraine has nearly twice as much rainfall and better soil. "But the new lands operation has certainly been profitable for us," he added.

Days before, as we rode the fine "Red Arrow" train from Moscow to Leningrad, several of us rolled out of our berths at daylight, eager to get our first glimpses of the Russian countryside.

Flat green and gold fields were broken by occasional patches of birch and pine woods. We flashed past picturesque wooden houses with brightly painted shutters. The most common early morning sight was that of a lone man or woman, each with a single cow, slowly walking to or from the fields.

Remembering the cramped apartments and crowded streets of Moscow, we shared the thought that, at least, out here in the Soviet countryside, there is living room.

SOVIET WOMEN CARRY HEAVY LOAD OF WORK—IV

(By Charles L. Bennett)

Soviet women came out of the kitchen long ago and into the working world of business and industry—but one of their continuing problems is that, on top of their jobs,

they still have the tasks of bringing up their children and doing all the cooking, cleaning and household chores that are the lot of women everywhere.

While they have a choice of whether to take a regular job or not, 75 per cent of them do and, as one Soviet working-housewife put it: "For us, it is much harder than for the men because they can rest when they get home."

"Our women do not have so many machines in the home as you do in the United States," an official of the Soviet Women's Committee pointed out. "We're working on this to try to free women from household drudgery. It's a national problem and we're trying to make services available and financially feasible to ease their burden."

Washing machine production is being stepped up sharply, one Soviet publication notes. We asked the Women's Committee members if they were satisfied with the attention being given to production of labor-saving devices for homes. "We think much has been done," replied Ksenia Proskurnikova, vice-chairman of the group. Most families have a refrigerator, washing machine, vacuum cleaner and floor polisher now, at comparatively cheap prices.

"Nevertheless," she added, "we feel there is much still to be done to improve the quality, lower costs and increase production. Naturally, we think this is very important."

"Another need," she said, "is for better facilities for the care of pre-school children whose mothers work. We have places for nine million children now, but need places for at least another million children. We also want to reduce the number of children under the care of each attendant."

At Novosibirsk, in Siberia, our touring group of editors learned, the shortage of child-care centers created a serious problem in keeping women from taking available jobs.

A short supply of services such as dry-cleaning, laundry and shoe repair also creates problems for the working housewife. Nikolai Baybakov, a vice premier of the Soviet Union and chief of planning for the whole country, acknowledged that "Better organization and improvement of the quality of such services is one of our major problems."

Shopping for food, clothing and other necessities also must be an exasperating time-consuming burden for Soviet women. Most food stores still are one-item concerns, such as bakeries, meat markets, green grocers and sweet shops. Anything resembling the American supermarket is practically nonexistent except in the largest cities, where they are just beginning to appear. Department stores everywhere are jammed with people and service is slow.

New emphasis is being put on ready-to-serve food catering shops, particularly to aid the working wife, but Soviet publications continually underline the need for faster improvement "in the services sphere."

We had insisted, to our journalist hosts, that we must be given an opportunity to talk with some Soviet women about their role in the society. When we met the Women's Committee staff, in their Moscow office, Madame Proskurnikova was smilingly curious as to why this was so important. We explained that our newspapers had lots of women readers, as well as men, and that seemed to answer the question satisfactorily.

The Women's Committee has lots of readers, too. One of its functions is to publish a large variety of magazines and pamphlets, in most of the languages of the Soviet Union, as well as in English and other foreign languages.

Do you cover fashions in these magazines, we asked. "Yes, naturally," Madame Proskurnikova replied. "We do not cover the world fashion markets directly. But we have fashion houses with research workers. They study the fashion markets of the world and we

tend toward having our fashions reflect our national character. We have fashion shows with French, Italian and U.S. designers coming here to show their styles. The larger cities and republics also have their own fashion magazines."

One of the visiting editors commented that, since his previous visit to Russia in 1961, one of the most striking changes on Moscow's streets was the great improvement in the style and quality of women's clothes.

Founded during World War II to mobilize Soviet women in support of the war effort, the Women's Committee recruited workers to replace men in the factories and fields. "They also took part in the fighting," English-speaking Lyudmila Balakhovskaya commented. Driving trucks, acting as scouts and snipers, and even piloting aircraft and fighting as partisans behind the German lines "they carried a large part of the war burden," she added.

Care of the large numbers of war orphans was another task and, "in this, we received much aid from women of Britain and the U.S."

International contacts, Madame Balakhovskaya's particular field, also are a large part of the activities of the national Women's Committee. "We maintain contacts with the women of more than 100 countries," she said, "and recently held a seminar under the auspices of UNESCO for African women. We also have been participating in a campaign of solidarity for the women of Vietnam, by sending them medicines, food and textiles."

The Women's Committee consists of 260 delegates named by areas, professions, and special-interest groups all over the country. They are volunteers and participate in the committee work in addition to their regular jobs. An elected presidium of 26 members is the governing body and there is a small, full-time staff. Similar committees operate in each of the republics across the country.

Political activity of Soviet women is illustrated by the fact that the national head of the Women's Committee, Astronaut Valentina Tereshkova, also is one of the 11 deputy premiers of the U.S.S.R. Nearly half of the elected deputies of local Soviets (city councils) also are women.

"In other fields, with women representing 58 percent of all Soviet citizens with high school or college educations, women fare well in their job opportunities," Madame Proskurnikova said. In the way all Soviet officials seem to have of quoting statistics at every opportunity, she pointed out that in the U.S.S.R. women are 72 percent of the teachers, 33 percent of the judges, 30 percent of the engineers, 60 percent of the economists, 45 percent of the scientific workers and even 27 percent of the construction workers.

That last statistic brought up the much-debated subject of women doing heavy, dirty and dangerous jobs in the Soviet Union. We saw women operating huge overhead cranes in a factory making pre-fabricated concrete slabs for apartment buildings, doing house painting and the perpetual hand-sweeping of streets that goes on in all Soviet cities, driving trucks and even cleaning out sewers.

Madame Proskurnikova acknowledged that this question frequently came up but added, "You will find that fewer and fewer women on jobs that are difficult to do. This is one of the principal changes of recent years." For example, she said, "Women cannot work on underground jobs (like mining and tunnel-building) and in some of the chemical industries."

Our interpreter, radioman Joe Adamov, later commented, "Those old women sweeping the streets hit every foreigner in the eye. But they have no skills and can't do anything else. Those jobs—and many of them work only part-time—give them some-

thing to do and a little money. Anyway, it isn't hard work. What about your American housewives who have to scrub the floors and clean the toilets, drive the kids to school, do the gardening and cooking and cleaning and laundry?"

Perhaps the most unpleasant work we saw women doing was in the sprawling new textile mill at Alma Ata. In a tremendous room the size of a couple football fields, there were more than 2,000 cloth-making looms operating, attended almost entirely by young women. The noise level made by the clacking, pounding looms was almost unbearable even for a brief visit—yet, the workers wore no earmuffs or other protection for their hearing.

It was at that same mill that we met an example of the female leadership exerted by Soviet women in many parts of the country's economy. Her name was Raisa Panova and this red-haired, green-eyed dynamo was described by one of our group as "an 18-cylinder woman."

Her job is Communist party secretary for the plant, which means she is in charge of all the political education and activity of the workers, among other things. It was clear that she knew as much about the mill's operations as any official and had a major role in running things.

We asked the Women's Committee if there was any difficulty about women being promoted as bosses over men, and the answer was a quick "Nyet."

"It all depends," Madame Proskurnikova said, "on the individual's characteristics, not just whether it is a man or woman. We have women who are heads of schools, manufacturing plants, research centers, hospitals and many other kinds of enterprises."

We mentioned the problem of jealousy among other women, against women bosses, and she commented: "Maybe that's because the United States has so few women bosses."

Influencing laws proposed for the country is another activity carried on through the women's committee. They mentioned that when the Soviet Union's new marriage and family law was under consideration the committee and its publications gave extensive consideration to all its provisions.

Valentina Vavilina, editor of one of their magazines, "The Working Woman," said her publication received 80,000 letters commenting about the proposals and that such discussion was effective in shaping the law as it was finally passed.

We asked about the official attitude toward birth control and whether there is a problem with the population explosion. Madame Proskurnikova summed it up this way: "There is no problem of family planning here such as is so popular in the outside world. Birth rates vary from republic to republic and it is not a problem for the U.S.S.R." (Official so advice on contraception etc. is at a high level and publications note that the Soviet birth rate has been declining somewhat, but is still above the rates in most Western countries.)

"Some individual families, for egotistic reasons," Madame Proskurnikova continued, "don't have enough children. There is a consultation center network all over the country, available to all. Abortions are legal. Statistics show that when abortions were made legal, the number did not increase. When abortions are forbidden, women went to people who were not qualified and this sometimes led to tragedy."

Atina Zhaketova, editor of a women's magazine in Kazakhstan, told us later that many Kazakh families still have 10 or 11 children.

All Soviet citizens must love flowers, because we saw scores of flower sellers along the streets of every city we visited. A frequent sight was a Soviet man, obviously on his way home from work, carefully carrying a bouquet to the little woman.

And a sign that Soviet family life has some similarities to that in the United States came when we asked a university director in Novosibirsk if he thought his pay was high enough.

"I get enough," he replied. "Even my wife is satisfied."

DU PONT'S PRESIDENT DISCUSSES THE NEED FOR POLLUTION ABATEMENT

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Wednesday, October 29, 1969

Mr. BOGGS. Mr. President, for 2 days last week, the Department of the Interior conducted a National Executives Conference on Water Pollution Abatement. Several hundred executives from the United States and abroad attended these enlightening sessions to discuss the hard fact and harsh realities of water pollution abatement.

One of the speakers was Charles B. McCoy, the president of E. I. du Pont de Nemours & Co. I consider his remarks to be important, and I would, therefore, like to share them with Senators. Mr. McCoy stresses the interrelationship between various forms of pollution—water, air, solid waste. Too often his relationship is overlooked in a fragmented effort to solve pollution problems, Mr. McCoy argues. Such a view is noteworthy because Du Pont has been a leader in the field of industrial pollution abatement.

Mr. McCoy states:

In terms of our own manufacturing operations, we adopted a firm policy many years ago: No new plant may be built, no new process approved, unless the plans include workable methods of waste disposal or treatment.

Du Pont has invested \$125 million in pollution control equipment, and the company spends another \$26 million yearly to operate and maintain that equipment.

Mr. McCoy's views, I believe, are most worthy of study and consideration by anyone seeking to understand the questions involved with programs to enhance our environment. I ask unanimous consent that they be printed in the Extensions of Remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TOWARD A POLICY ON POLLUTION (Remarks by Charles B. McCoy)

It is a pleasure to be here, and to participate in an exchange of views on a subject of such vital importance. All of us are striving for a better understanding of what can and should be done in the future by industry and government in the field of water pollution abatement. The Department of the Interior is to be commended for sponsoring a conference dedicated to this purpose.

In the organization I represent, we begin with the conviction that industry can be a partner in a joint effort with government. This effort involves all segments of society, and calls for maximum cooperation on all sides.

There are some areas of action where the responsibility rests with us in the chemical industry. But our policies and actions can-

not be divorced from national considerations and national priorities.

With that in mind, it is fair to say that all of us, in government and industry alike, are part of a single effort; we're all trying to help develop and implement a workable national policy for protecting and improving the environment. This effort has been going on for several years, and we still have some distance to go. We are aware that this job occupies the thoughts of a great many people in government, including the Cabinet level group recently formed by the President. As many of you know from personal experience, this job also occupies the attention of a great many businessmen. I can assure you it is a key factor in our thinking in the chemical industry.

None of us would want to suggest that industry—or indeed, any other segment of society—has the special wisdom to set forth an appropriate national policy and make it work. But by the same token, industry can contribute to the development of sound policy, and has a continuing role to play in its execution.

In this context, there are four points I want to discuss:

The way we approach the problem;

The costs;

The criteria we set up; and

The basic role that the public must play in deciding what the goals will be.

Each of these factors needs to be considered in setting policy, and each involves industry directly or indirectly.

First, the way we approach the problem. If an effective national policy is to be created, it must be based on the pollution problem as a whole, and not just its separate parts. In some of our past actions, we have honored this principle in the breach. Rather than point the finger at anyone else, let me give you an example from my own company.

At one of our plants, several years ago, it became necessary to remove more solids from plant wastes, in order to meet new standards that were to be adopted by a local regulatory agency. A filtration system was installed.

The system solved the water problem, but the inorganic solids then had to be disposed of in a landfill, and the organic solids had to be burned. The landfill caused no difficulty. However, the incinerator wasn't efficient enough to handle the organic solids, so there was an air pollution problem.

Installing a more efficient incinerator took care of that, but the incinerator made so much noise we began to get complaints from the neighbors.

Finally, we installed an elaborate muffling system that cut down the noise, and only then was the problem really solved. Perhaps this type of example has a familiar ring to some of you.

Industry is not alone in the piecemeal attack on pollution. In government, too, there have been separate efforts to solve separate parts of the problem. In some degree this may have been inevitable, for the scale of the problem has made it necessary for the government to divide it into manageable pieces. However, in the process of subdividing direction and control, we have not always had adequate coordination among agencies and programs. At times different agencies have given us overlapping or conflicting guidelines to follow. Occasionally, one level of government or one agency has set forth standards at variance with the standards of another agency, in an area where both have jurisdiction. Until the confusion has been straightened out, progress has been held up.

I don't intend this as criticism of any particular agency. To the contrary, the point is raised only to stress the fact that many of us have been approaching interrelated problems in bits and pieces. We have worked on water pollution or air pollution or solid

waste problems or noise problems—as though each existed independently.

All the time we've been doing this, ecologists have been trying to tell us that the environment is a closed system; that everything in it—including man—is interdependent. We accept that idea in principle, but don't always carry it over to the day-to-day fight against pollution.

It's time we did. We have to tackle problems in terms of the total environment, and this would seem to be a logical first step in setting an over-all national policy.

As a second element in our thinking, we must pay more attention to the cost-benefit equation. Many other people have brought up this subject, and it has been thoroughly discussed in many meetings. Permit me to reinforce a few points mentioned before.

It is very clear to me that most of the steps we take together to solve our pollution problems are going to have to be measured by an economic yardstick. Industry cannot afford, nor can the nation afford, to do the maximum job of pollution abatement everywhere or all at once.

We would all like to be more optimistic about this. Everybody would be delighted if Du Pont or some other company could report that it has found a way to turn the expense of pollution control into an asset. It just isn't possible.

To be sure, the chemical industry has been trying to find ways to retrieve useful materials from liquid outfalls and stack gases. A few of these efforts have succeeded. But most have failed because of the economics involved. We'll keep on trying, but as we look to the future we must be realistic. Most of the economically valuable products that might be recovered from effluents already are being recovered. From now on, with a few exceptions, what goes down the pipe or up the stack has to be considered as waste with little or no value. The question is what to do with it, and that question is proving to be expensive to answer.

Du Pont's total investment in pollution control facilities now totals more than \$125 million. We spend about \$26 million a year to operate and maintain these facilities. The equivalent of nearly 1000 full-time employees are engaged in pollution control work and antipollution research. Like most companies today, Du Pont considers this to be an integral part of the cost of doing business. All of us should be entirely candid about this, not only with each other but with the public as well. Any significant improvement on a national scale is going to cost major amounts of money and affect the prices people pay for products, or show up in their tax bill.

This leads to a third observation: We can help keep the costs within reason by setting goals that permit different standards in different areas. In water pollution, for example, legislation must apply equitably to all jurisdictions, but if the guidelines are made identical for every river or lake system, the overall costs will be astronomical.

In our view the best approach is to base laws and regulations on the uses people have in mind for different lakes and rivers, and on the specific characteristics of each water system. As we all know, different streams have different properties—width, depth, flow rate. They differ in their ability to purify themselves. Some are in densely populated areas where the water is used primarily as an artery of transportation. Others are in resort and recreation areas we want to protect for swimming. To put all these under a single set of standards would be prohibitively expensive. To establish arbitrary percentage guidelines would be even worse.

Above all, we must avoid simplistic formulas. If, for instance, we require each industrial company to reduce what it is putting into a river by some fixed percentage, we would be attaching a special penalty to the

companies that have made the biggest efforts to reduce pollution. They may have already cut down on their effluents by process changes and in-plant controls. To ask them to reduce the residual by 75 or 85 per cent would put them in a severe cost bind, and be grossly unjust.

Other companies that have done less and spent less would be favored. They would start at a higher base point, and could meet the percentage requirement more easily. Thus, the percentage approach would have exactly the opposite effect from what is wanted. It would help the foot-draggers and hurt the leaders.

We must make improvements in the quality of our rivers and streams—that is agreed but we want to buy the right amount of improvements for the right kind of money. Criteria based on intended use, acknowledging the different characteristics of different bodies of water, and giving credit for improvements already made, would help us meet that goal.

That brings up an obvious question. What is the right amount of improvement, and who says so? Here, the cost-benefit equation moves beyond the realm of dollars alone.

In part, the question has technical overtones, with special reference to the chemical industry. We can help identify improvements that can be handled with existing technology. We can point out some areas where present technology has not been fully utilized, and where better application would save all of us money. We can come up with cost estimates on various alternatives, and offer some judgments about the types of R&D projects that look most promising and timely.

We have only scratched the surface in R&D. To offer a few examples, I'm told that very little is known about the effects on living organisms of low-level exposure to pollutants over long periods of time. We have only begun to explore the relationships of various contaminants to our ecology. We are still far away from an adequate mathematical description of natural water systems subject to pollution. We lack knowledge about the molecular nature of substances in these water systems.

But we have made a start, and we have a good idea of what to do next. Just last month a subcommittee of the American Chemical Society released a major report on the environment. This is much more than just another study. It is a technically sound statement of what needs to be done, and it includes dozens of specific recommendations for research, development, and engineering projects. A number of these fall within our competence in the chemical industry, and some are projects on which work is already under way.

R&D is only part of the answer. There are still questions of cost and priority, and these are questions that only the public can answer. How much is the nation willing to pay? How much environmental improvement can we undertake without jeopardizing the nation's economic health? How much of our R&D should be focused here? Must we defer action on other national problems which may be just as pressing?

These are not business or technical questions. They are public and social judgments. The answers can come only from the people. Thus, to state the fourth point, it seems to me that the Federal Government has a primary and basic role to play in measuring the public's wishes, and shaping an appropriate national policy.

No other organization in society has a charter to speak for the nation as a whole. The Federal Government is the only organization that can draw together the many views that have to be accommodated. The states and municipalities, and certainly private industry, must look to the Federal level not just for coordination and specific legis-

lation, but first of all for a clear, consistent statement of the national will.

This is hardly a new idea. As you know, the need for Federal leadership in setting policy was discussed two summers ago at a joint House-Senate colloquium. Support for the idea has come from members of both houses of Congress. Legislation has been introduced. The principle of a coordinated approach at a high level was recognized by President Nixon in his decision to set up the Environmental Quality Council and Citizens' Advisory Committee on Environmental Quality.

Whether our basic policy is set forth by the existing Federal structure, or is drafted by some group yet to be formed, we look to the Federal mechanism as the coalescing force.

Industry's role, as I see it, is one of active involvement in all aspects of this work. A great many corporations have had years of experience in pollution control, and these companies represent a rich source of practical knowledge as well as research capability. We can apply more of this practical knowledge without waiting for all of the results to come in from research. In Du Pont, we have been trying to make contributions in a number of areas.

In terms of our own manufacturing operations, we adopted a firm policy many years ago: No new plant may be built, no new process approved, unless the plans include workable methods of waste disposal or treatment. The methods must meet or exceed all legal requirements. We are trying to bring our older plants and processes into line with the same policy.

On our staff, working in pollution control, are technologists in many fields, including chemistry, engineering, toxicology, medicine, meteorology, and the biological sciences. Many of these experts are active in assisting and advising organizations outside the company. These include various industry associations and civic and governmental groups concerned with pollution abatement.

Du Pont has developed equipment to detect, measure, and analyze various pollutants and to help reduce or modify emissions. These include an instrument for monitoring stack emissions; a catalyst support used in fume abatement; fibers especially suited for use in dust-collecting filter bags; liners of synthetic rubber for brine pits in oil fields; a manifold reactor which greatly reduces hydrocarbon emissions from automobiles; and a reverse osmosis device which has a number of applications, such as desalting brackish water and helping to purify industrial waste streams.

Other companies have also developed devices, products, and technical information which can be of great value in our common fight against pollution.

All of these are available to help in the national effort. Perhaps if we work more closely with one another, on a cooperative basis, we can find more ways to pull these contributions together and make them more effective. On that score we are open to any and all suggestions.

We have a lot of work to do, but I for one am encouraged. If we're not as well organized as we need to be, if we still lack a clear-cut national consensus on goals and priorities, at least we seem to be moving toward a coordinated approach. Our mutual concerns about environmental problems can be transformed into unified and effective programs.

Industry alone can't solve these problems. Government agencies alone can't solve them. But just as each of us bears some responsibility for the present condition of our environment, all of us—together—can meet the responsibility of developing sound, workable, affordable plans for cleaning it up.

Speaking for Du Pont, let me assure you that we will help in every way we can.

THE JOBS PROGRAM

HON. FLETCHER THOMPSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. THOMPSON of Georgia. Mr. Speaker, the National Alliance of Businessmen, in cooperation with the U.S. Department of Labor and the chambers of commerce in this Nation, have jointly embarked upon the laudible enterprise of helping solve the unemployment problem among the deprived citizens of our country by turning to the business community. We all are familiar with the Job Opportunities in the Business Sector program, commonly known as JOBS, which has proven that business can do a better job of finding jobs and job training for the Job Corps unemployed and overemployed, than government.

JOBS had to tackle the difficult situation of unemployment existing in the midst of a highly productive, affluent economy, and in the midst of an unfilled demand for workers. Each Member here knows about thousands of jobs available in his State and at the same time thousands of unemployed persons who cannot fit into these jobs. Past methods of dealing with unemployment simply have not worked in, so to speak, finding the right peg for the right hole.

Some of the job training and employment programs in the past have produced people with skills which simply were inapplicable to positions available. The JOBS program has dealt with this problem by entirely remodeling some job applicants so that their skills meet the demands of today. The program has had spectacular success.

Recently, the president of the National Alliance of Businessmen, Mr. Paul W. Kayser, addressed the Council of State Chambers of Commerce in my State and explained to them how the JOBS program functions and why it has been so successful. I know my fellow Members are interested in the details because of their conviction that the business community and local communities are better equipped to deal with problems in their own localities. For that reason and with the permission of the Chair, I insert into the RECORD the text of Mr. Kayser's remarks so that all may read about a program which is working and which is a step away from bureaucratic mismanagement and waste which sadly has marked some programs in the past.

ADDRESS OF PAUL W. KAYSER, PRESIDENT OF THE NATIONAL ALLIANCE OF BUSINESSMEN, TO THE COUNCIL OF STATE CHAMBERS OF COMMERCE AT ITS ANNUAL MEETING, IN SAVANNAH, GEORGIA, ON SEPTEMBER 11, 1969

Gentlemen, I want to thank you very much for inviting me to be here, and for the opportunity to speak to you about a matter that is of extreme importance to me and, I believe, to all of us.

I'd like to tell you about the organization I represent—the National Alliance of Businessmen—and what the NAB is doing to help solve a major national problem. And I'd like to ask for the help of each and every one of you and the State Chambers you represent. I think you will feel as I do that the goals and ideals of the National Alliance of Busi-

nessmen—and of your organizations—are very much the same.

Both the Alliance and your Chambers are voluntary, private organizations concerned with the health of our country and of the free enterprise system. We believe that the energies and talents of business and professional organizations offer great untapped potential for helping build a stronger nation. And we believe that this will be a better, stronger country when more Americans work to solve problems through their own efforts—rather than turning all the big problems over to government—and then cussing about an expanding government bureaucracy.

The National Alliance of Businessmen represents a remarkable new departure by government in turning back to the business community the opportunity—and the responsibility—of meeting a major national challenge.

The Alliance was created in response to a proposal by the President in his Manpower Message to Congress of January 1968. I think the title of that message is important: "To earn a living . . . the right of every American."

In an era when many businessmen had been complaining about the increasing involvement of government in every part of our lives—when we businessmen were the first to say we thought the government was trying to do too much—the President threw us a challenge. He asked us, in the private sector of the economy, to take on the responsibility of meeting a major national challenge—finding jobs and job training for the hardcore unemployed and underemployed.

The basic problem we are dealing with at NAB—and in the program we call JOBS—for Job Opportunities in the Business Sector—is the existence of unemployment in the midst of a highly productive, affluent economy—and in the midst of unfilled demand for workers.

I don't need to cite the figures on the number of people who live below the level of poverty—trying to feed a family of four on less than thirty-three hundred dollars a year. But we all know that in an era of unparalleled success, some of our people have been left out. Many of them are black, but not all—many are white, others are Mexican-American and American Indian. They are both urban and rural—and many are new urban residents who have moved from rural areas—such as Appalachia and the farms—since the end of World War II.

Why can't these people find and keep jobs?

There are a number of reasons. One is an inadequate education that left them without skills and barely able to read or write. Another is an inadequate diet which drains them of health and energy. A third is a syndrome of failure which destroys their faith in themselves and convinces them they're not wanted in the society of people who make decent money for a day's work.

What can private business do about this problem—about those people who live in a different world from you and me, but in the same country? Does it make sense for private employers and private citizens to worry about jobs for the unemployed and underemployed, and about better job opportunities for the working poor?

The National Alliance of Businessmen believes private employers can—and should—take on a large share of the responsibility for finding jobs and job training for the disadvantaged. We believe we must intensify our efforts to bring the left-out of the past into our economy—as well as to provide jobs and job training for many Vietnam veterans who will soon be returning to civilian life without skills immediately transferrable to meaningful civilian employment.

No one argues with the fact that welfare is not the answer to unemployment. As President Nixon has said, the welfare system is a failure. Everyone agrees that the answer is

jobs—meaningful, permanent jobs with a chance for advancement.

The government agrees that the answer is jobs—not welfare—and they have turned to us in the private sector for our help.

Six out of every seven jobs in our country are in the private sector of our economy. We businessmen are the ones who have the jobs. We are also the ones who best know what a worker needs to learn to do on a job. If we can place the unemployed and the underemployed in meaningful jobs, teach them how to do these jobs, and keep them employed, we will have made a major inroad on poverty in our nation.

Bringing the unemployed into the mainstream of our economy is not just humanitarianism. It pays off in dollars and cents—for the company, which gains a worker, and for the government, which saves welfare and gains a taxpayer.

It pays off for private enterprise—by proving that business and private citizens can do this job better than big government.

And it pays off for our country. I say this because the events of the last several years have made it evident that we're not likely to have a country united in purpose and goals until the men and women who have been left out can find the help they need to hold a job and improve their lives. To this extent, the choice between a united nation and one perpetually divided belongs to you and me—to the businessmen and other private employers of America.

Next, let me look more closely at the National Alliance of Businessmen and what we are trying to do about this situation.

As I said a moment ago, our program is called JOBS—Job Opportunities in the Business Sector.

The motto of the JOBS program is "hire—train—retain".

Most programs to help the hardcore unemployed in the past have been government programs focused on "employability". They have attempted to bring the unemployed up to a level of education and skill that would enable them to then go out and find jobs. These programs have had only limited success. Too often, their graduates have still lacked the specific vocational skills they would need for the specific jobs available to them. Or else, potential employers have simply lacked confidence in the men and women referred to them from these programs.

The JOBS program of the National Alliance of Businessmen operates on a "hire-first" principle. An individual business or private non-profit organization agrees to hire a certain number of unemployed or underemployed men or women for jobs in its plants or office. Candidates are referred to the employer by the State Employment Service or by the local office of the Department of Labor. The employer then hires the men or women he chooses, and is responsible for providing them with training, counseling and other special services that will help them become productive workers and remain on the job.

Businessmen run the program. The national office and local offices are staffed principally by businessmen on loan from their companies. Other executives on loan from their companies make up the majority of the job solicitors—the businessmen who call on companies in their area to ask for job pledges for the unemployed. It is up to the company doing the hiring—with help from us and from the local NAB office—to provide the training and other special help that will keep the new employee on the job.

Government contracts are available to reimburse employers for the extraordinary costs of hiring and training the hardcore unemployed. These contracts enable many smaller companies to join the JOBS program, and help even the largest companies to make the full commitment of resources and management skill needed for a successful training program.

In its first year, the National Alliance of Businessmen began its work in the fifty largest metropolitan areas of the country. The Chairman of the NAB was Henry Ford II. My predecessor was Leo Beebe, Vice President of Ford and now Vice President of its Philco Division. Leading local businessmen took on the job of metropolitan chairman for each of these original fifty cities, and assigned outstanding youngster executives, loaned by their companies, to take on the full-time job of directing the NAB program in their cities.

NAB's first-year goal was to have 100,000 hardcore unemployed and underemployed workers hired and on the job by June 30, 1969. We met that goal one month ahead of schedule with 102,000 workers hired and on the job in NAB participating companies.

As of last month, NAB had helped in the hiring and training of a total of 229,679 workers. Of these, 124,935 are still on the job. This means that the turnover rate for these workers—whom many thought could never be brought into the mainstream of American production—is not much higher than the turnover rate American industry normally experiences with new workers.

When President Nixon took office, one of his first acts was to pledge his Administration's "complete and unqualified support" to the JOBS program. At his urging, the program was expanded from the initial fifty cities to 125 metropolitan areas. The goal for workers hired, trained and on the job by June 1971, has now been raised to 614,000. And we expect to be in a position later this year to expand the program to cover the entire country.

The Nixon Administration has backed up this pledge with the fullest cooperation of the Department of Labor—and it has greatly increased the funds available to reimburse NAB companies for the added costs of hiring, training, upgrading and retaining the hardcore unemployed and underemployed on the job.

As the second year pledge campaign continues, and the new "expansion" metros begin to get their programs established, the number of jobs pledged and the numbers of men and women hired and on the job continue to grow. As of reports received this month we now have a total of 19,070 companies pledging 312,537 jobs for disadvantaged workers.

Now let me turn for a moment to the role of the National Alliance of Businessmen under President Nixon's proposals for extensive changes in national welfare and manpower training programs.

These proposals will greatly increase the role of American private enterprise in meeting the problems of unemployment and underemployment in our country.

Mr. Nixon's proposed plan will be the first sweeping change in the United States' welfare system since it was created 34 years ago. It is aimed squarely at getting people off welfare rolls and onto payrolls.

Under the proposed system, welfare payments would be tied to a requirement that everyone on welfare register for employment or employment training—and accept employment or training if it is offered.

At the same time there will be incentives for those now on welfare to go to work. A family would be allowed to keep the first \$720 a year of earned income without any reduction in its federal welfare payment of \$1,600 a year.

For the next \$2,200 of earnings, a family would have its welfare payments reduced—but on a sliding scale, so that every time the family's earnings increase, its income will also increase.

Furthermore, new day-care centers will be provided for the children of working mothers. This will give welfare mothers the opportunity to get out and work, or at least train for a decent job.

From a businessman's point of view, these incentives for men and women to get off welfare and onto jobs make a great deal of sense. And whatever their controversial aspects may be I am sure you will agree that proposals designed to help men and women earn their own living are, at the very least, heading in the right direction.

But the President's whole program will stand or fall on private enterprise providing the jobs and the effective job training needed to get welfare recipients onto jobs. And bear in mind that because the new plan will cover families headed by a man as well as those headed by a woman, the potential pool of people eligible for welfare will be much greater than at present—*unless jobs and job training are available.*

There has been a good deal of talk in recent years about the government being "the employer of last resort"—suggesting that the government should go out and hire everybody who's unemployed.

The President's proposal reverses this. It is aimed directly at the private sector and fits right in with the basic belief of the National Alliance of Businessmen that the private sector should be "the employer of first resort".

This will add a new dimension, strength, and long-term involvement of the private sector in meeting an important problem of American life.

It also puts the ball squarely in our court. It is up to us to prove that the private sector of the economy—with the appropriate assistance to cover the extra costs of hiring and training unskilled and disadvantaged workers—can provide the job opportunities that will make the President's program work.

The National Alliance of Businessmen will step up to this challenge. We are determined to intensify our efforts to hire, train and retain disadvantaged men and women for jobs in the private sector of our economy.

This is not an easy task, of course, and we don't pretend that it is.

When we ask a businessman to join with us in this program, we don't want him to undertake the task under any illusions. We have to be realistic about the difficulties. It is not an ordinary industry hiring program. If any businessman thinks he is going to do his part by simply hiring someone sent to him through a government recruiting program, and just shrug his shoulders if that man doesn't show up the next day or the next week, then he's kidding himself.

He not only doesn't realize what the problems are, but he's piling another load of failure on the very person he's supposed to be helping. And if that's what happens, then the business community is bound to become part of the problem rather than being part of the solution.

We don't intend to see that happen. I don't think any one of you, as businessmen and citizens of American cities, can afford to let that happen either. The stakes are too great—for us, for the community, for the nation, and most of all for the disadvantaged.

Quite bluntly, the JOBS program means that we must entirely remold our hiring processes, our personnel and supervisory methods. It means taking on people we wouldn't even have let past the plant gatekeepers in the past. We've got to look beneath prison records, lack of education, lack of steady employment in the past, poor health records. Instead of screening out people our tests and records define as "undesirables" or "misfits", we've got to start seeking and screening in untapped and overlooked potential. The plain fact is that we have to switch from a criterion of qualification to a criterion of need—and of long-range potential—and then provide the special training and assistance that will turn losers into winners. This is not easy. But we've got to hit hardest where the problem is toughest.

Now, what can each of you and your State

Chambers do to help us step up to this challenge and meet our goals?

First, we need each of you, as individuals, to help us spread awareness of what it is the National Alliance of Businessmen is doing—of why we have taken on this task and why we believe it is important that the businessmen of America hire and train the unemployed.

A program like ours needs missionaries. To be perfectly frank, not every businessman in the country understands that the future of our society and of our free enterprise system depends on all of us doing our part to help meet major national problems. But the fact is that when it comes to employment and employment training, if we don't do it, the government will. That's not what we want—not what you want—not what any businessman wants.

The National Alliance of Businessmen is doing a good job of contacting the large and middle-sized employers in NAB towns. But the nation is not made up of corporate giants—or even of employers with more than fifty or a hundred people on the payrolls. There are over 3,300,000 employers in this country with fewer than fifty employees. Hundreds of thousands of these small employers could each train one or two or three of the unemployed for permanent, productive and meaningful jobs.

We will solve the problem of unemployment and underemployment in this country only when we do have this grass-roots involvement of smaller employers and middle-management. The number of people small employers can hire, taken as a group, is enormous. And perhaps even more significant, the small employer or the middle manager in a large company or plant is in a position to give personal attention to the individual work problems and training needs of new employees. This kind of personal involvement and training is often the key to helping a disadvantaged individual overcome the problems of lack of education, skill, motivation, and self-confidence which have made him a member of the hardcore unemployed.

In addition to the work you can do for us as individuals in your own communities, the State Chambers can help us in two very specific ways.

First, in our efforts to see that important mailings on the JOBS program get to every potential employer in the country. The Council of State Chambers has already helped us greatly in this task. We would like to be able to call upon the State Chambers—as well as the Council—to bring information about our program to the attention of every one of their members.

For example, within the next few weeks we are going to begin sending out to thousands of employers a booklet explaining a new contract under which employers can be reimbursed for the extraordinary costs of hiring and training disadvantaged workers.

The Department of Labor has in effect designed these contracts to meet the suggestions and needs that we at the National Alliance of Businessmen have brought to them. The contracts have been greatly simplified over any similar job-training contracts available in the past. They are particularly designed to slash the red tape and the needlessly detailed proposal and reporting requirements that have made it difficult for small employers to participate in this program in the past. We think the contracts will meet a real need for small and medium-sized businessmen by providing them, for the first time, with a practical way they can train new employees from the unskilled labor market without losing money on the costs involved in bringing these workers up to average levels of productivity.

It would be of immense help to us—and I believe also of assistance to your members—if the State Chambers of Commerce would

send out to each member business the booklet we are preparing which describes this new contract and how an employer could use it to train new workers for his needs.

Second, we hope that the State Chambers might sponsor workshops or panels for their members on the problems and opportunities businesses face in hiring and training the disadvantaged. As I pointed out, this is not an ordinary industry hiring program. Just as hiring standards have to be revised, training and counseling programs must be prepared to meet the needs and problems of the new pool of workers we are reaching into for the first time.

Workshops sponsored by organizations such as State Chambers can help the exchange of practical ideas on how business can bring the disadvantaged into the mainstream of the work economy. For example, they can bring businessmen with experience in hiring and training the disadvantaged into contact with other businessmen who are beginning similar programs in their own companies, or who want to know more about how this kind of training program works before they enter into one.

It may sound awesome but the task of NAB—and of the business community—is really a simple one, if all of us will but dedicate ourselves to it. We don't have to concern ourselves with legislation, with housing, or with other social welfare programs. What we are being asked to do is what business knows how to do better than anyone else—provide jobs for people.

I think the eyes of a great many people are on the business and professional community today, as never before. They want to see, at this time of crisis in America's history, just how we measure up. This is particularly true of our young people. Youth is always idealistic, and that's as it should be. But this generation of youth on campus is more outspoken idealistic than any in a long time.

And what they see in American business these days doesn't match the human values they want to see society meet. We are, they say, too concerned with profits and not enough with human beings. That's why it's so hard for business to recruit on campus these days.

Whether you agree or not, we've been measured by these young people—and have been found wanting in our social responsibilities.

And yet, this generation of twenty year olds represents the future of America. We must be committed to them—and that we're 30 or over doesn't lessen that fact. It's time we showed them—and the rest of America—that our generation can rise to the challenge—and that we can be their hope and salvation.

You can help us make sure every businessman in America sees this opportunity and understands its importance. In this way we can find those jobs for the unemployed and underemployed. Real jobs, lasting jobs, jobs that will lead a man on to a progressive path of success.

Years ago, Justice Oliver Wendell Holmes said: "It is required of a man that he feel the passion and action of his time, at peril of being judged not to have lived."

Gentlemen, our future, and the future of our country, lie ahead.

SALUTE TO FORMER PRESIDENT
EISENHOWER

HON. EDWARD W. BROOKE

OF MASSACHUSETTS

IN THE SENATE OF THE UNITED STATES

Wednesday, October 29, 1969

Mr. BROOKE. Mr. President, the National Poet Laureate of the AMVETS is,

I am proud to say, Mr. James G. Egan, a resident of Malden, Mass. One of his favorite tasks over the years has been the writing of poems to commemorate the achievements of American Presidents. None are his equal in patriotic effort and enjoyment.

In order that others may also benefit from his thoughts and expressions, I ask unanimous consent that his recent verse commemorating the late President Dwight D. Eisenhower be printed in the RECORD.

There being no objection, the verse was ordered to be printed in the RECORD, as follows:

PRESIDENT EISENHOWER

(By James G. Egan)

Dwight D. Eisenhower raised in Kansas
Was destined to achieve great-ness
A West Point graduate serving in the army
His rise was meteoric militarily

As allied commander against Germany
His expeditionary force gained victory
Later he was president of Columbia Uni-
versity
And was sought as a candidate for the U.S.
presidency

He served two terms in Washington
Both times defeating Adlai E. Stevenson
During this administration Alaska, and Ha-
waii attained statehood
And the Eisenhower Doctrine was promul-
gated.

COMPREHENSIVE REFORM OF OUR TAX LAWS

HON. HOWARD W. POLLOCK

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. POLLOCK. Mr. Speaker, today I have introduced a bill which, if enacted, would cure some of the inequities in our present internal revenue structure.

Specifically, my bill would increase the personal income tax exemption of a single taxpayer from \$600 to \$1,200. This increase would also apply to additional exemptions for a spouse and a dependent, as well as for the aged and the blind. Raising the dollar amount of these exemptions would help to alleviate the great burden which currently is imposed on all taxpayers by our ever increasing cost of living. The true magnitude of this increase is graphically illustrated by the Consumer Price Index which has risen 51.9 percent since 1948 when the \$600 exemption was first written into the Internal Revenue Code.

My bill has an additional salutary feature: it provides for further increases in the dollar amount of the exemptions outlined above for taxpayers who reside in States where the cost of living is above the national average. The amount of each exemption would be increased by a percentage of the amount of that exemption equal to the percentage by which the cost of living level in a particular State exceeds the national average. In this way, beleaguered taxpayers in such States as Alaska, California, and Illinois, where the cost of living is significantly higher than the national average, would receive a well deserved tax break to com-

pensate them for the large sums which they must spend to obtain the necessities of life. Moreover, increasing the dollar amount of each exemption in proportion to the cost of living in a given State would bring a new flexibility to our tax laws, that, in the past, have been incapable of responding to the varying cost structures which exist in different States.

Mr. Speaker, in recent months, many Members of Congress have worked long and hard to reform our tax laws. These efforts have been very fruitful and, therefore, should not end with the passage of the tax reform bill. I feel that the legislation which I have introduced today can contribute something of value to our continuing dialog on tax reform, for my bill proposes some new approaches to old problems.

My distinguished colleagues, I respectfully urge your careful consideration of the suggestions which I have made. We have taken some giant strides toward a comprehensive reform of our tax laws, but much still remains undone.

WHY NOT HELP NIXON'S EFFORT?

HON. ED FOREMAN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. FOREMAN. Mr. Speaker, amid the loud cries for "peace at any price" and "bring all our boys home now," it is sometimes difficult to hear the more reasonable, realistic voices which tell us that immediate withdrawal of all our troops can only lead to more violence and agony for a South Vietnam overtaken by the terrorists of the North, and loss of respect and strength for the United States throughout the world.

One of those voices of reason may be heard in an editorial carried in the Casper (Wyo.) Star-Tribune, which urges support for the President's efforts to bring peace with honor in Vietnam. I am inserting this editorial in the RECORD:

WHY NOT HELP NIXON'S EFFORT?

It is a strange and frustrating war we are fighting halfway around the world—and here at home. We all want American troops home if possible. The real question is: Can we improve our hopes for peace by just pulling out and leaving the Communists to pick up the pieces?

President Johnson didn't think so and President Nixon doesn't think so. Now Nixon confronted by a state of calls to bring the boys home, has announced another and larger reduction of our forces in Vietnam.

Only two days earlier, Senator Mike Mansfield, Democratic majority leader, said the President by ordering resumption of bomber attacks on the enemy forces in South Vietnam had damaged peace prospects!

Hubert H. Humphrey, defeated Democratic nominee for President, says the only way out is for the South Vietnamese to face the "political realities"—that is, either "strengthen their government or make whatever concessions they need to." This sounds a lot like what Senators McGovern and Fulbright have been saying all along—just get out of Vietnam and we'll have peace.

Any more concessions, says General Ky, South Vietnamese vice president, would

bring an immediate military takeover of the government. Ky said he had told President Thieu "if we don't make a social revolution, someone else will."

A military coup, even if accomplished without bloodshed, would certainly be followed by accelerated stabs, by the North Vietnamese and prolong Vietnam's twenty years of agony.

It seems to us that the most vocal critics of President Nixon's efforts to gain peace with honor just haven't been paying attention to the Communist record. After we pulled out 25,000 men in the Mekong delta and turned over its defense to the South Vietnamese, there came word that North Vietnam regulars were infiltrating that area—for the first time. Viet Cong guerrillas had been doing the fighting there.

Nixon accompanied his announcement with a plea to North Vietnam to begin realistic efforts to negotiate a peace. The rude answer, as always, was: this is just a "manuver aimed at appeasing American and world public opinion." Hanoi reiterated that we should get out without any reciprocal pledge. Just what Senator McGovern has been saying.

We doubt if there is anything Nixon could do that would appease some of the American appeasers.

World opinion doesn't win wars, and appeasement has had a sorry record since Munich.

In his fight for peace, if nowhere else, we think the President deserves united support.

BOOM IN EVERY ROOM

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. HUNGATE. Mr. Speaker, as part of our continuing interest in sonic booms and the SST, I would like to call to the attention of my colleagues the following article:

BOOM IN EVERY ROOM

If you think the world is getting to be a pretty noisy place what with trucks roaring by in the street, planes screaming overhead, power mowers howling on the neighborhood lawns and construction machinery pounding in the background, just wait. Promoters of the supersonic transport plane, or SST, have some new jolts in store. You ain't, as the saying goes, heard nothing yet.

In the past, spokesmen for the SST forces have assured the public that sonic booms from the supersonic planes would be no problem because the planes would not be flown over land at supersonic speeds until the boom problem had been solved. But now that President Nixon has approved their request for development money they are dropping that sham. Sonic booms caused by planes flying faster than the speed of sound and capable of breaking windows and cracking foundations are just something people will have to get used to, they now say.

Colonel Robert Stephens, an Air Force officer on loan to the Federal Aviation Administration as technical adviser for SST development, doesn't see people as any great problem. Except when the booms break windows and do other damage, he says, people will become accustomed to them. "It will be just like a train passing their homes," he says. So much for people.

There is a chance, of course, that people will prove Colonel Stephens wrong, if and when they find out the noisy trick the government is playing on them. A lot of people don't want to live by a railroad track. Millions

of them have paid a lot of money to live as far as possible from the noise of trains and highways and they may not appreciate having their nerves jarred regularly by booms that sound like dynamite exploded next door, especially after our federal officials have assured us for years that it would never happen, and that the SST would fly only over the oceans.

It is all in the name of progress though it is a strange sort of progress that must be sneaked past the public under a layer of official deception. It is a strange kind of progress, too, that discounts, annoys or damages the property of hundreds of millions so that a few dozen can fly a little faster and a little higher and probably be stacked up a little longer over airports that can't handle the planes we already have. But at least Congress knows now what kind of tricky deal it is voting for if it approves the SST funds. It is joining with Mr. Nixon to put a boom in every room.

PROTEIN FROM PETROLEUM

HON. JOHN WOLD

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. WOLD. Mr. Speaker, the Republican task force on earth resources and population, of which I am a member, held a very educational briefing last week.

Our guest, George A. Doumani, is an internationally known geologist of versatile background with many international accolades to his credit.

The subject matter dealt with the current and future development of proteins from petroleum.

In view of our international problem of rapid population growth, it is encouraging to realize that private industry will be capable of marketing an inexpensive form of protein that will enable the world's population to acquire its daily requirement of nutrition.

Mr. Speaker, I offer Mr. Doumani's remarks for the RECORD for the benefit of my colleagues:

PROTEIN FROM PETROLEUM

(By George A. Doumani)

If you can manage to visualize the figure 6,588 with 18 zeros to the right, then you have a fair idea of the weight of the planet Earth—6 sextillion 588 quintillion short tons! If you strain your imagination further and multiply that figure 4,000 times, then you have a picture of the mass that can be produced by one single-cell microbe in 48 hours.

In theory, it has been calculated that a single-cell microbe weighing one-millionth of one-millionth of a gram, if given limitless space and nutrients, could generate in two days a mass 4,000 times the weight of the Earth, about half of it protein!

It sounds incredible. But the capability of these single-cell bacteria to produce protein has been recognized for many years, and several nations are presently engaged in experiments seeking the most feasible and economical way of providing man with protein produced by these microscopic organisms.

Before going into the details of this promising technology, let us look at the normal means of obtaining nutrition. By the process of photosynthesis, plant organisms utilize the energy from sunlight. These plants transfer their energy to animals and human beings through the feeding process.

Protein synthesis by agricultural crop plants is notoriously slow and inefficient in

terms of protein synthesized per unit area. Today, about half of the world's population is already undernourished. Approximately one sixth is dependent on artificial nitrogen (in the form of fertilizer) for its survival. And because the soil demands that its nitrogen be continuously replenished, scientists safely assume that the world's soils, via nitrogenous residues, can hardly be expected to take care of more than half of the 4 billion extra people expected to be alive by the year 2000.¹

At the present time world food production per head is declining. If we are to feed adequate amounts of protein to the population of the Earth during the remaining part of this century, we must seek new sources and more efficient methods of producing edible protein.

Fortunately for the human race, green plants are not the only organisms capable of upgrading nitrogen. Most microorganisms, such as bacteria, yeast, and moulds, are capable of utilizing simple forms of nitrogen. That gives them a starting point for the synthesis of their own cell protein. They obtain the energy for the process not from sunlight but by assimilating energy-rich materials, such as carbohydrates (starch and cellulose) and hydrocarbons.

POPULATION DOUBLING

Hundreds of thousands of years to Christian Era, ¼ billion.

A.D. to 1650, ½ billion (double).

Two centuries later (1850) 1 billion (double).

Eighty years (1930), 2 billion (double).

Forty-five years (1975), 4 billion (double).

Thirty years (2005), 8 billion (double).

By 2200 A.D., 500 billion.

Surface of all continents will have same present density as Washington, D.C.

Most of these processes have been studied, and some have been in use for many years. The idea of producing yeast for food is almost sixty years old. The possibility of growing algae on sewage holds some promise for areas where there are sewage purification problems. Algal culture is also being considered in the space program. Astronauts on long journeys need not only food, but also oxygen and waste disposal. Certain bacteria, for example, can utilize carbon dioxide and urine, give off oxygen, and produce protein. The prospect of perfecting and utilizing these potentials is simply tantalizing, but unappetizing.

What seems to be a more promising source, however, is the use of hydrocarbons as substrate for single-cell protein. Simply stated, the process involves microorganisms that feed on petroleum and produce edible protein. These organisms feed on either the paraffin waxes or the cheaper gas-oil refinery cut.

Without elaborating on the actual mechanics of the process, one is immediately struck by its potential, considering the enormous petroleum reserves that could produce protein.

STATE OF THE ART

Several companies are currently engaged in research on the production of single-cell protein. Among these are Esso Research and Engineering at Linden, N.J., working jointly with Switzerland's Nestlé Alimentana; British Petroleum's subsidiary, BP-France, in Lavera near Marseilles; Gulf Oil Corporation in Pittsburgh, Pa.; the Institute of Gas Technology in Chicago; Shell Oil Co.; and Mobile Oil Company.

Scientists in the Pittsburgh laboratories of Gulf Oil Corporation are already turning petroleum into cookies, soups, and cereals. Standard Oil Company of New Jersey is conducting small-scale production jointly be-

tween its Esso Research and Engineering Company at Linden and Switzerland's Nestlé Alimentana. The two companies have successfully operated a small-scale pilot plant, and a larger plant in the United States is currently testing single-cell protein for its chemical, physical, nutritional, and toxicological properties. Their final product is a bland, white powder with a neutral flavor which makes it attractive for blending with other foods.

Overseas, the British Petroleum Company's subsidiary in France has a facility at Lavera near Marseilles, which will be able to produce 16,000 tons of protein a year by 1970. The BP process was accidentally discovered ten years ago, by a team of French researchers studying the biological refining of crude oil, by adding bacteria that would feed on wax. Following this discovery two pilot plants were built for further study, one at Lavera using petroleum, and the other at Grangemouth, Scotland, using paraffin alone. According to BP, 100 tons of crude oil will yield 10 tons of protein, leaving 90 tons of wax-free petroleum of higher quality. In other words the bacteria do some of the "refining", producing in the meantime, a useful and highly nutritious product.

In 1963, BP began a long series of experiments, feeding its petroleum protein to 30,000 rats. Then the company advanced to quail, chicken, and fish, and the results indicated the absence of harmful effects. More experiments were conducted in the Netherlands, this time on cattle, poultry, and pigs. At a dinner in their London office, 250 BP employees were served two types of ham, one fattened by single-cell protein, the other by conventional feed. Eighty people favored the petroleum-fed ham, 86 preferred the conventional, and 84 were unable to tell the difference.

Other than activities in the United States and Britain, plants overseas are operating in the Soviet Union and Czechoslovakia, and similar research is currently under way in Japan and Cuba. In a Russian research project started in 1967, cattle and poultry were being fattened on 1000 tons a year of feed stuffs processed from petroleum. In Nigeria, pigs on an experimental stock farm were being raised on similar rations.

World interest was focused on this breakthrough during the World Petroleum Congress, held in Mexico City in April 1967, and at the International Conference on Global Impacts of Applied Microbiology, held at Addis Ababa in November of the same year.

ADVANTAGES

One of the most obvious advantages of obtaining protein from hydrocarbons is the ready availability of the basic requirements—petroleum and natural gas.

I do not intend to bore you with endless figures, but I must give you an idea of the extent of our holdings.

Current world output of crude oil is approximately 35 million barrels a day, and total world reserves are close to 500 billion barrels. Of these, our U.S. reserves at the end of 1967 were 40 billion barrels.² Since then, the North Slope discovery in Alaska, according to recent estimates, will easily approach the 20 million barrel mark, and the offshore oil reserves are at least another 20 billion barrels. These are only the known reserves; recent studies estimate that only 12% of the total offshore area has been explored, and that it will take at least 120 more years to finish just the preliminary exploration work.³

What is more significant yet is the fact that the majority of these reserves, the world over, are located in, or close to, underdeveloped

¹ Petroleum resources under the ocean floor. National Petroleum Council. March 1969.

² Oceanography Newsletter, October 13, 1969, p. 4.

³ Mayer, Jean. It's the Rich Doing Crowding. The Washington Post, July 20, 1969, p. B-1.

countries where nutrition is needed most. [I'll have something to say on the political aspects of this fact later.]

Most of the other advantages of protein from petroleum are technical. The production plants are compact, less space is needed than for an agricultural product, and no water. A yeast factory with ten fermentors could produce ten tons of yeast per day, roughly half of which is protein. To provide the same amount of protein from pork, it would be necessary to kill 80 pigs a day, 30,000 pigs a year. It would require 8,000 acres of wheat to produce the same amount of protein in a year.⁴

In the case of natural gas the advantages are even more striking. Most of us have seen an oil field at one time or another, with its ever present flares, burning away an unwanted by-product. That burning gas is methane. Yet some bacteria exist which have the ability to break the carbon-hydrogen bond and use methane to yield a protein-rich product. The final product has also the added advantage of purity, being free from residual chemical contamination.

And how much natural gas do we have? Current reserves are estimated at an astronomical figure exceeding one million billion cubic feet.⁵ It will be a long, long time before the human race could dispose of that much natural gas.

All this, of course, sounds like the ultimate promise. But there are problems yet to be solved and questions to be answered. These include the arduous task of searching for the right bacteria strain that would produce the greatest amount of protein, the development of efficient technology to make the process economically feasible and competitive, medical research into its effects on humans, psychological problems affecting its acceptance by the masses, and a multitude of other hurdles.

Dr. John G. McNab of ESSO Research and Engineering assured me that his process would need at least 10 years to reach the marketing stage. Money, he indicated, was not a major hurdle. Testing, particularly for toxicology and human consumption, simply has to take its normal course and time requirement. These things cannot be short circuited. The project is viable and the companies are earnestly pursuing their research.⁶

Some contend that increased protein production is not the only answer to the world's population problem. This is obviously true. But the World is already short of protein, and even if we could come up with an effective population control, the protein deficiency is unlikely to ameliorate.

Although we, in the United States, claim to have no immediate need for increased protein, it would seem most advisable to encourage and foster development in this area.⁷

Besides the social and economical impacts of this product, there are, of course, political considerations to be contemplated, both on

the national and international levels. This is immediately related to the occurrence of the petroleum reserves in other countries.

So far, in the formulation of our foreign policy we have considered oil merely as a fuel. Its potential as a major food source for a world population on the loose should now enter into the process of decision-making. The Middle East, for example, holds more than 85% of the world's petroleum reserves, a good portion of it in the hands of American interests. In formulating our policy for the Middle East, added emphasis should be given to its potential as probably the future bread basket of this planet. It is not unconceivable that in the near future our need would be more pressing for petroleum as a food rather than as a fuel.

FBI DIRECTOR WARNS OF CONTINUED THREAT TO OUR INTERNAL SECURITY

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. ICHORD. Mr. Speaker, there are in the United States today a number of subversive and extremist groups which advocate force and violence. They strive in every possible way to disrupt law and order and to inculcate hatred and bigotry that breed violence.

The Director of the FBI, Mr. J. Edgar Hoover, the greatest authority in our Nation on intelligence matters, has provided authoritative information in the FBI Annual Report for fiscal year 1969 on the continued threat to our internal security through the activities of subversive and extremist groups and other data of a similar nature. I feel that all American citizens should inform themselves about the real nature of the groups in our midst, which advocate force and violence, in order to develop a greater understanding of how they operate and what their goals are. Such factual knowledge will enable citizens to comprehend the true nature of the threat and thus be alert to prevent these nefarious groups from making further inroads into our society.

To help give Mr. Hoover's remarks on subversion and extremism the widest possible dissemination, his remarks on "Counterintelligence Activities" have been excerpted from the FBI Annual Report for fiscal year 1969. Due to their importance and topical nature, I insert them in the RECORD at this point:

COUNTERINTELLIGENCE ACTIVITIES: PROTECTING OUR NATIONAL SECURITY

The FBI has had the primary responsibility of protecting the internal security of the Nation since September 6, 1939. On that date, President Franklin D. Roosevelt issued a Presidential Directive calling upon all law enforcement agencies to promptly furnish to the FBI any information in their possession regarding espionage, sabotage and other subversive activities.

In carrying out its responsibilities, the FBI gathers both intelligence data and evidence which can be used in legal proceedings. The FBI also has the responsibility of immediately disseminating the data it has secured to the appropriate officials of the Government.

NEW LEFT MOVEMENT

The New Left movement continue to pose a serious threat to the Nation's internal security. During the last year, this extremist minority group, located primarily on college campuses, was involved in considerable violence, sabotage and revolutionary activity. Major disorders erupted on some 225 campuses, causing over \$3,000,000 in property damage and resulting in over 4,000 arrests. Almost incredible situations developed whereby rebellious students armed with shotguns and rifles seized academic buildings and defied legitimate authorities. Some 61 campus bombings and arsons occurred.

The militant core of New Left extremism is the Students for a Democratic Society (SDS). During the last year, this group has reflected an ever-increasing Marxist-Leninist revolutionary posture. Several SDS leaders publicly identified themselves as revolutionary communists. The SDS openly espouses the overthrow of our institutions of free society (called the "Establishment") through violent revolutionary action. Never before in American history has there been such a strong revolutionary Marxist movement of young people so eager to tear down established authority.

SDS has an estimated 250 chapters and claims some 40,000 members, but in actuality it has been able to influence the thinking and actions of many additional thousands of students. The SDS bitterly opposes the war in Vietnam, the draft, American foreign policy, "the military-industrial complex," ROTC, private industry, labor unions, and our educational system.

At SDS's National Convention in Chicago June 18-22, 1969, the Progressive Labor Party (PLP), a militant pro-Red Chinese revolutionary group, attempted to take control of the SDS. The national office faction of SDS, fearing a takeover by the PLP, split off and elected its own national officers and continues to function from national headquarters in Chicago. The PLP group elected a separate slate of officers.

The PLP-SDS faction launched an "SDS Summer Work-In" to penetrate and disrupt industry. The FBI determined that material issued by SDS for this purpose actually was identical with a "Vietnam Summer Work-In" sponsored by PLP during 1967. The PLP origin of the SDS anti-industry line materially reduced its effectiveness.

The great strength of the PLP in the SDS is further evidence of the shift of this New Left group to a hard-line Marxist-Leninist program. Though SDS is now split into warring factions, the dispute is not over allegiance to Marxist ideology, but over power and prestige in the SDS. Available indicators point to a long-range problem of campus-based subversion accompanied by violence and destruction.

RACIAL EXTREMISM

A problem closely related to New Left extremism has been black extremism, especially centering around the Black Panther Party (BPP). Black extremists detest constitutional government, encourage disrespect for the law, and advocate violence.

The BPP first came to national attention in May, 1967, when it sent an armed delegation to the State Capitol in Sacramento, California, to protest pending gun legislation. In October, 1967, its Minister of Defense, Huey P. Newton, was stopped for a traffic violation, and he shot and killed an Oakland police officer and wounded another. On September 8, 1968, Newton was convicted of voluntary manslaughter and sentenced to 2 to 15 years in prison.

The Black Panthers experienced a rapid growth when Leroy Eldridge Cleaver became a spokesman and its Minister of Information. The author of the best seller, "Soul on Ice," Cleaver spewed out his bitter hatred

⁴ Norris, J. R. Animal protein from unusual substrates including petroleum and methane. *Advancement of Science*, Dec. 1968. pp. 143-150.

⁵ Tanner, James C. Food from fuel. *Wall Street Journal*, June 9, 1967. Exact figure 1,040,807 billion cu. ft.

⁶ See also: Proteins grow on high-purity alkanes. *Chem. & Engin. News*, Jan. 9, 1967, pp. 46-48.

⁷ In the Sunday Newspaper Magazine "Parade" (Aug. 17, 1969) a question was asked if it were true that America's dogs are better fed than America's people. The answer: "Yes, according to many authorities, including James Corbin, of the Ralston Purina Company, providing the dogs are fed commercially prepared food. Such food is nutritionally well balanced, which is not true of the average American diet."

against society in a number of speeches and lectures. Cleaver is now a Federal fugitive growing out of California state criminal charges.

Membership in the BPP is estimated as being between 500 and 1,200, with over 40 chapters throughout the country. Many of its members are armed and have been involved in altercations with law enforcement officers (who are called "pigs" by the Panthers). The Panther political philosophy is based on the writings of Mao Tse-tung. Recently the Panthers have attempted to spread their doctrine of hate and revolution to college and high school students.

The Republic of New Africa (RNA) is another extremist black nationalist group. With headquarters in Detroit, it has established "consulates" in eight cities across the Nation.

RNA was established for the purpose of forming a black nation in the United States. Its founders proposed that efforts be made for international recognition with assistance from Cuba, Red China, and Tanzania. Steps have been taken to buy land in Mississippi where members want to build a landing strip long enough for "Chinese jets to land." RNA plans to establish a black army to be known as the Black Legion.

On the night of March 29, 1969, outside a church in Detroit where a session of the RNA Second National Convention had just ended, there was a confrontation with police and two Detroit police officers were shot, one being killed and the other critically wounded.

The riots and racial disturbances which have plagued the Nation since 1964 have materially abated, though there were some serious outbreaks of violence in 1969. The ingredients for racial violence remain, however, and the trend toward guerrilla warfare advocated by black extremists and revolutionaries as evidenced by the growing number of unprovoked attacks on law enforcement officers by snipers and fire bombers presents a serious danger to the safety of our cities.

The Student Nonviolent (now National) Coordinating Committee (SNCC), originally formed as a civil rights organization in 1960, received a new lease on life through the activities of James Forman, a SNCC staff member, and the so-called "Black Manifesto." This Manifesto, which has received wide publicity, was adopted by the National Black Economic Development Conference in Detroit in April, 1969. The Manifesto demands reparation payments to blacks totaling three billion dollars for past alleged injustices. Forman's activities have involved him in confrontations with white churches and synagogues. On May 4 and May 11, 1969, he personally disrupted services at the Riverside Church in New York City and called on black people across the country to arm themselves with shotguns to stop the violence of the "racist" white man.

During this period, Stokely Carmichael, former National Chairman of SNCC and later associated with the Black Panther Party, has been residing abroad.

Both black and New Left extremists have traveled abroad extensively. Among countries visited was Castro's Cuba.

COMMUNIST PARTY, USA, AND OTHER OLD LEFT GROUPS

The Communist Party, USA, remains obediently loyal to the policies of the Soviet Union. When the Warsaw Pact nations invaded Czechoslovakia in August, 1968, Gus Hall, General Secretary of the Communist Party, issued a statement praising the action of the Soviet Union and its allies. In June, 1969, Hall and other officials of the Party attended the International Conference of Communist and Workers Parties in Moscow. At this Conference as well as in the Preparatory Committee meetings for this Conference, Hall and his cohorts were

staunch allies of the Soviet Union in its attempt to restore its control over the international communist movement.

The Party held its 19th National Convention in New York City from April 30 through May 3, 1969. This Convention was viewed by Party leaders as "the most successful" in Party history. For the current leadership, this assessment is most accurate. Hall and Henry Winston, National Chairman, successfully stifled all opposition and criticism of their leadership. The Party has reflected dissident viewpoints, especially from Gilbert Green (New York) and Dorothy Healey (Southern California). Hall and Winston isolated this opposition so that the Convention adopted and unified the membership around their pro-Soviet position.

In addition, the Convention amended the Party's constitution to strengthen the communist principle of "democratic centralism," which means that criticism of the leadership and its decisions will not be tolerated.

The Party has been deeply interested in New Left and black extremism. Party members have been involved in New Left demonstrations and anti-Vietnam activities. The Party welcomes the anti-American sentiments and opinions of the New Leftists but is distrustful of the anarchist and anti-Soviet viewpoints of many of these young people.

Plans are now under way in the Party for the establishment of a new youth group to be directed toward youth in industry. The Party is hoping to recruit some of the young activists of the New Left, turning their enthusiasm toward support of Party discipline.

Another Old Left group, the Progressive Labor Party, has been highly effective in penetrating the SDS. The PLP, though hostile to the pro-Moscow Communist Party, is a Marxist-Leninist group which believes in the discipline and teachings of Mao Tse-tung. The PLP is militant and well organized.

The Socialist Workers Party (SWP) is the largest Trotskyite organization in the country. In January, 1969, the SWP and its youth affiliate, the Young Socialist Alliance, sent 14 members to Cuba as guests of the Cuban Government to observe the 10th anniversary celebration of the Cuban Revolution. During the past year, the SWP and the Young Socialist Alliance have been most active in antiwar and anti draft activities. Certain officers and members of these organizations have been instrumental in fomenting or perpetuating disorders on various college campuses. The Young Socialist Alliance has almost doubled its membership during the past year.

KLAN AND WHITE HATE GROUPS

The FBI has been busily engaged in investigating the 14 Klan-type organizations with a combined membership of approximately 6,800 individuals. The largest Klan group in the United States is the United Klans of America, Incorporated, Knights of the Ku Klux Klan, with headquarters in Tuscaloosa, Alabama. It has a membership of some 5,400 individuals.

Another prominent Klan organization is a group known as the White Knights of the Ku Klux Klan in Mississippi.

The American Nazi Party, founded by George Lincoln Rockwell, changed its name to the National Socialist White People's Party in December, 1966. This organization espouses hatred against Negroes and Jews. Rockwell was assassinated by a former member of the American Nazi Party in August, 1967, and since his death, the Party has been beset by internal strife.

The National States Rights Party maintains headquarters in Savannah, Georgia. It is dedicated to white supremacy and is highly anti-Negro and anti-Semitic. It has a membership of from 75 to 200 persons. The National Renaissance Party, based in New York City, and the White Party of America,

based in Alexandria, Virginia, are other hate-type organizations whose membership is restricted to Caucasians. Both are very small.

RED CHINESE AND CUBAN SUBVERSION

During the past year the FBI has experienced an increase in its Red Chinese investigations due to the continuing intelligence activities of Communist China aimed at procuring both covertly and overtly needed technical data in the United States. In addition, the Red Chinese have continued their efforts to infiltrate intelligence agents from mainland China into the United States under immigrant cover.

The past year was marked by bold attempts on the part of the Castro Government to become a major factor in the direction of New Left and black extremist movements in the United States. Intelligence personnel at the Cuban Mission to the United Nations in New York City established close liaison with selected leaders of these dissident movements and participated in the guidance of the groups' day-to-day activities.

The flow of refugees from communist Cuba continued during the past year with approximately 3,700 entering the United States each month. Despite the fact that the majority of these are disillusioned with Castro, experience has shown that some will have been given intelligence missions by the Cuban Government. Others will seek to oppose Havana actively by becoming involved in anti-Castro activities, some of which will be in violation of our laws.

In May and June, 1969, three members of the Cuban Nationalist Movement, a militant anti-Castro group, were arrested by the FBI and indicted by a Federal Grand Jury in Newark, New Jersey, for conspiring to injure or destroy the Cuban Consulate, Cuban Trade Mission, and Cuban steamships in Canada. The conspiracy charge carries a maximum penalty upon conviction of three years in prison and a \$5,000 fine.

SOVIET INTELLIGENCE

The Soviet Union, assisted by the intelligence services of Bulgaria, Poland, Hungary, Czechoslovakia, Romania and Mongolia, all of which have official establishments in the United States, considers the United States as a major espionage target. As of June 30, 1969, there were 957 Soviet and satellite-bloc personnel assigned to this country, accompanied by 1,376 dependents. A high proportion of these officials are also espionage agents.

The FBI finds that the Soviet espionage services are highly professional, well trained, and ready to expend unlimited time and effort to steal confidential information in this country. The Soviet spy networks show no abatement in their efforts to penetrate our security.

SABOTAGE

The increasing violence of extremism in the United States is reflected in the sentencing (5 years) in U.S. District Court, St. Louis, Missouri, of Michael Sherrod Siskind, a student member of SDS, on charges of sabotage, on February 20, 1969. Siskind had been apprehended while attempting to set off a fire bomb at the ROTC Building, Washington University, St. Louis, Missouri.

Between January 20 and 28, 1969, four high-powered transmission towers were dynamited in and around Denver, Colorado. Following an investigation, a Federal Grand Jury indicted Cameron David Bishop on February 14, 1969, on charges of sabotage. Since that date Bishop has been a fugitive and was placed on the FBI's "Ten Most Wanted Fugitives" list on April 11, 1969. He is being sought in the United States and abroad in connection with this matter.

MINUTEMEN

The activities of the Minutemen continue to be investigated. This group was led by Robert Bolivar DePugh who at the close

of the fiscal year was being sought as a Federal fugitive after having been indicted on charges of Bank Robbery-Conspiracy. The Minutemen desire the overthrow of the Government when and in the event it is taken over by communists. This overthrow is to be accomplished through guerrilla warfare.

REMARKS OF HON. G. ELLIOTT HAGAN

HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. DOWNING. Mr. Speaker, last week it was my genuine privilege to participate on a panel discussing the problems of the American merchant marine in the beautiful city of Savannah, Ga. The occasion was the annual convention of the National Propeller Clubs of the United States and it was a highly successful as well as enjoyable meeting.

The theme of the conference was "Our Merchant Marine—a National Conference." A number of distinguished men and women knowledgeable in the field of merchant marine affairs addressed the convention.

One of the outstanding speeches given in Savannah was delivered by the Honorable G. ELLIOTT HAGAN, the Congressman from the First District of Georgia. His remarks were most timely and I include his speech in the RECORD:

REMARKS OF REPRESENTATIVE G. ELLIOTT HAGAN AT 43D CONVENTION OF U.S. PROPELLER CLUB, SAVANNAH, GA., OCTOBER 17, 1969

It is a genuine honor and a privilege to welcome this distinguished gathering and my distinguished colleagues to the Hostess City of the South, Savannah, Georgia.

We are proud of Savannah, as a leading port with some of the world's most modern terminal facilities for economical, fast and efficient shipping services.

And I am personally proud that the U.S. Propeller Club chose Savannah for this convention, as we note the 150th anniversary of the sailing of the SS *Savannah*, the first vessel propelled by steam across the Atlantic, or any other ocean.

As some of you may or may not know, I have long been an advocate and a champion of the SS *Savannah's* illustrious successor, the Nuclear Ship *Savannah*, both as Representative of the First District of Georgia in Congress, and as a member of the House Armed Services Committee. You have many friends on that Committee. There is no stronger advocate of a modern, efficient American Merchant Marine for commerce and defense, than Chairman L. Mendel Rivers from our Good Neighbor State of South Carolina.

We on the House Armed Services Committee have long realized that the American Merchant Marine has been on a downhill spiral for the past few years.

The theme of this conference, "Our Merchant Marine . . . A National Crisis:" is a situation with which we in Congress are all too familiar.

The four of us on this panel have had some good company in our insistence that we must have a viable Merchant Marine, because every war this country has been in relied heavily on American flag shipping to win it.

Where would our troops in Viet Nam be today, if they were not outfitted and supplied by American flag ships, still carry-

ing ninety-eight percent of the war cargoes into Saigon?

If the average person in a foreign country visited a seaport for the first time and saw the NS *Savannah*, flying the American flag, then he would logically assume that our Merchant Marine is a world leader, a pace-setter. But that would be the furthest thing from the truth . . . Once a world leader on the high seas, our merchant fleet now occupies a shameful sixth place; American bottoms now carry less than five percent of all U.S. foreign commerce; over two thirds of the ships in our merchant fleet are over twenty years old; and our ship construction picture is just about as dismal; in that critical area, we rank eleventh among the maritime nations of the world.

Our situation was most aptly described in a recent article by author and syndicated columnist Jim Bishop, when he said: "The United States has cancer of the Merchant Marine!"

If that is true, and I think it is, then I must point out that we are applying First Aid where major surgery is indicated!

Current appropriations for merchant marine research and development are only twelve million dollars, as compared to three billion, 253 million, three hundred thousand dollars for National Aeronautics and Space Administration research and development.

While we have been dragging our feet, the Soviet Union's merchant fleet has been growing to an extent that has been called: "the most startling in world maritime history."

In 1950, Russia was in 21st position in world merchant fleets. By 1966, she had jumped to seventh place, and today, Russia threatens to push this nation out of sixth place among merchant fleets.

Reportedly, twenty-four percent of the merchant shipping on order throughout the world is for Russia. And the most recent survey shows that Soviet Russia currently has 297 merchant vessels on order, while the United States has only 36 on order, which is over an eight-to-one ratio.

One of the experts keeping a close eye on their merchant build-up, Naval Chief of Operations, Admiral Thomas H. Moorer, says the Russians are doing more than just transport cargo with their ships flying the Red Flag; not only do they use them for intelligence purposes, but they aid them in propagating their brand of Communism around the world, as their vessels call on six hundred ports in over ninety different countries.

The Soviet Union today has 1400 ships of some 10 million tons, while we have, as of January of this year, 842 vessels of one-thousand gross tons or over in the active ocean-going merchant marine, some 30 ships less than in January of 1968.

I think it is obvious that the increasing number of Soviet vessels on the high seas throughout the world also symbolizes for many of the under-developed nations, the progress attainable through Communism, a highly advantageous *political weapon* for the Russians.

In addition, more than 400 of Russia's newest ships are carrying into Hanoi over 99 percent of North Vietnam's war supplies.

Admiral Moorer says that Russia's seapower buildup has taken priority over its space program. He feels the Soviets have acquired an oceanic vision, seeing clearly the sea is the life-giving artery connecting Communism to the free world. Meanwhile, this country appears to have gone in the other direction.

I think it must be clear to thinking people that our merchant marine must be expanded and modernized, not just because of its continuing logistical importance in conflicts like Viet Nam, but for its commercial significance

in the peaceful pursuit of U.S. foreign trade, in improving our balance of payments posture and in the overall economic growth of this country.

The Russian merchant fleet can prove a formidable peacetime menace, with a real potential for driving freight rates down to less than breakeven levels for ships under other flags. And the Soviets plan to double their merchant ship tonnage in the next decade!

American-flag shipping contributes greatly to our economy, constituting a major contribution to the balance of payments; it is an important employer, taxpayer and customer of U.S. goods.

And I don't have to point out that the balance of payments affects the American taxpayer directly in three vital areas; interest rates, employment and prices.

Shipping has been accurately described as the lifeline of our expanding economy and the American businessman's partner in foreign trade. U.S. shipping plays an essential role in protecting the interests of American traders by assuring the availability of adequate, dependable shipping services at fair and reasonable prices. It also helps develop overseas marketing outlets for U.S. products.

Shipping is an important political instrument; vessels flying the American flag in ports around the world are symbols of America's strength and peaceful intentions—a global calling card of friendship.

These are some of the continuing U.S. shipping contributions which will become more critical as we move into the 1970's and 80's. The future of the nation's economy, its very lifeblood, may well depend on our expanded foreign trade.

As we stand on the threshold of the 1970's, we face this disquieting situation; the United States is ahead of the world in flags on the moon . . . but Soviet Russia is ahead and moving faster everyday, with flags on the high seas . . .

Will we let this situation stand, or will we take the proper steps to correct it?

Let's pray we have the good sense to move in the right direction . . . thank you.

GSA ADVISORY COUNCIL

HON. FRANK T. BOW

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. BOW. Mr. Speaker, congratulations are in order for Robert L. Kunzig, General Services Administrator, for his successful effort to obtain top level business management advice for the operation of his multibillion-dollar agency.

Mr. Kunzig organized recently the National General Services Public Advisory Council and the members have just completed their first series of meetings in Washington. He reports to me that they have made extremely valuable recommendations which can reduce the cost and improve the services of GSA.

Inasmuch as the smooth and efficient operation of almost every civilian agency depends in large measure upon the physical and support facilities provided by the GSA, this should come as good news to all agency and bureau heads.

The membership of the council is distinguished in the fields of business and administration, and I am pleased to take note that my good friend, John W. Galbreath of Columbus, Ohio, is one of these

experts. Mr. Galbreath started in the real estate business in Columbus in 1920 and has become one of our State's and the Nation's most successful businessmen, owner of the John W. Galbreath & Co. and other construction, insurance, and real estate operations.

Bob Kunzig tells me that John Galbreath's experience is proving to be of great value on the advisory council.

Among Mr. Galbreath's many interests outside the business world are baseball and racing. He is president and principal owner of the Pittsburgh Pirates Baseball Club and owner of Darby Dan Farm of Ohio and Kentucky. Thoroughbred horses he has raised include Chateaugay, who was named "Thoroughbred of the Year" after winning the 1963 Kentucky Derby and Belmont Stakes, and Proud Clarion, winner of the 1967 Derby.

Robert Kunzig has one of the most difficult administrative jobs in the United States and I believe he has taken a giant step forward in involving members of the public who can lend expert advice and guidance.

END HYPOCRISY AND REFORM CAMPAIGN SPENDING

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. HORTON. Mr. Speaker, for some time there has been much talk about reforming campaign spending. This is of deep importance to all of us since it directly affects our campaigns.

Today, I am pleased to cosponsor legislation introduced by my good friend and able colleague, Hon. BARBER B. CONABLE, to provide more sensible and comprehensive regulations in financing Federal elections.

At this time, there is a growing movement for reform in all sectors. There is a very healthy attitude flourishing in this country to dispense with hypocrisy and "tell it like it is."

The law, as it is presently set up, encourages juggling and disregard of spending limits. I believe that a breakdown of our system is the tendency to disrespect the law. As lawmakers, we should obey the law and not avoid it because the law is a bad law, or because it is not practical, or because penalties are easily avoided. We have a double responsibility: to make good laws and to obey the laws.

The bill that I am cosponsoring with Congressman CONABLE would restrict donors, candidates, and committees, and at the same time set a realistic limit on campaign expenditures.

The Election Reform Act, as this bill is called, sets a 25-cent limit per person that a candidate can spend in the area represented. For an average congressional district, this would mean a candidate could not spend over \$100,000.

In addition, the Election Reform Act prevents campaigns from being dominated by large donors. It limits a donor from contributing more than \$5,000 to a

Senate or House candidate, and \$10,000 for a presidential candidate. This bill places a limit of \$50,000 a year that a person can contribute to political causes and candidates for election.

The administration of this act would be in the hands of an independent regulatory agency, the Federal Election Commission. This five-member bipartisan commission would have the power to investigate, to compel disclosure, to compel cessation of an illegal act, and to impose civil penalties up to \$25,000 for a violation.

Currently, campaign limits are easily avoided through the budding of numerous and varied committees. My bill requires all political committees, intrastate, as well as interstate to file a statement of organization with the commission. Political committees must report all contributions they receive and all contributions they make to a candidate, both during convention and election campaigns.

The possibility of any candidate claiming his campaign expenses were unknown to him will be eliminated through this act. By requiring a candidate's authorization specifically on all contributions and expenses, he will be responsible for all expenditures. He will be required to file his campaign contributions received and spent with the Commission as well as with his local Federal district court.

Let me repeat, this bill is designed to enforce full disclosure of campaign cost, close the loopholes of avoidance, and limit the total amount which may be spent during a campaign.

Mr. Speaker, these spending limits may seem high, but they give a realistic picture in this age of electronic media of the cost of a campaign. I urge my colleagues to favorably consider this legislation as a means of protecting our integrity and presenting a true picture of the cost of campaigning to the people we represent.

WE MUST STAND WITH OUR PRESIDENT ON PRINCIPLES

HON. GLENARD P. LIPSCOMB

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. LIPSCOMB. Mr. Speaker, many Americans did not view October 15 as a day of opposition. In its editorial on this day, the Post Advocate of Alhambra, Calif., saw October 15 as a day to urge support for our President in his efforts to end the American involvement in Vietnam. It saw this day as a day of decision for the American people, a choice between the reality of Vietnam and the fantasy. I feel that this editorial states with particular emphasis the actuality of the choices facing our Nation.

Under leave to extend my remarks, I call this editorial to the attention of my colleagues with the hope that they will all join in supporting President Nixon in his endeavors to bring the conflict in Vietnam to an honorable conclusion:

WE MUST STAND WITH OUR PRESIDENT ON PRINCIPLES

Today the United States of America stands at a crossroads.

On the one hand we have a declared national policy to bring our participation in the Vietnam war to an honorable end as swiftly as our own national interest will permit.

On the other hand, we are confronted with organized groups which have propagandized United States citizens to join in a general condemnation of our participation in the Vietnam conflict.

Their protest is negative in every sense—simply a demand upon the President of the United States to withdraw all troops from Vietnam in pell mell fashion without regard to reality, practicality, the effect on our own future or the effect on mankind.

The people of the United States must look on the choice presented by this day in the hard context of reality.

It is reality that the war in Vietnam was brought to its present state by conditions that have festered for nearly two decades.

And it is reality that we cannot change that history; not by wishful thinking, by magic, mirrors—or by cowardice, either.

We will certainly not find the answer to Vietnam through a precipitated retreat, with all the bitter heritage that any retreat brings.

The answer will only come from a positive program—a cool evaluation of what the Vietnamese can do for themselves and what their allies must, on a declining scale, do to bring them to the point where they can stand up against the threat of enslavement.

This is the sound of the drum that President Nixon hears. Marching to that sound, in nine short months he has done more to point the United States undertaking in Vietnam toward an honorable end than anybody before him.

In the face of apathy at home and an enemy who really does not want peace, the President is standing firm on the principles that have made the United States of America great.

The people of our nation should stand with him.

RIGHT TO MARCH

HON. DAN KUYKENDALL

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. KUYKENDALL. Mr. Speaker, I was impressed recently by some thoughts expressed in a letter to the editor of the Memphis Press-Scimitar. I would like to share these thoughts with you. The letter was written by Paul E. Boyce of Memphis and follows as a part of these remarks:

MARCHERS REMINDED OF HOW RIGHT TO MARCH WAS WON

So you are going to march for peace? That's great and you have every right to do so. Please remember though you have this wonderful freedom because other young marchers from Bunker Hill to Vietnam heard a different drum and marched to a step that their conscience also dictated.

As you march, think too of how many governments besides your own allow those who are conscientiously opposed to war immunity from combat duty. Think also how Hanoi, Havana, Moscow and Peking would react if you even privately expressed your criticism of their "establishment," much less demonstrated it in the streets.

Contrary to popular opinion, some of us old squares understand your disgust with

the rocking chair generals both in and out of the service who scream "Go get 'em boys" while they clip their coupons. We understand because we heard the same noise ourselves not too many years ago.

So if your judgment and conscience tell you to be against war, you be just that. But please don't just be half against war, the United States half. You are not merely expressing dissent and conscience when you knowingly or unknowingly join with those who burn our flag, fly the Viet Cong colors and cheer for Communist leaders.

If you are caught in this trap, you are cursing a principle and a dream of a government of, by and for the people. Imperfect as it is, to many of us and you, too, it is still the one best hope of mankind and we'd like to study its suggested replacement before we completely do away with it.

PAUL E. BOYCE.

WE CAN'T LEAVE, NOT YET

HON. J. GLENN BEALL, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. BEALL of Maryland. Mr. Speaker, Western Maryland College is located in my district and, as was the custom, followed the lead of a number of other schools in holding a number of meetings and marches on October 15. One of the young men attending Western Maryland, Robert Chapman, of Frederick, Md., served in our armed services in Vietnam and chose to speak out during the moratorium in support of President Nixon.

This took no small courage in the face of the emotional climate that seemed to prevail on that day. I am, therefore, submitting a copy of his rebuttal to the protesters, entitled "We Can't Leave, Not Yet," for inclusion in the CONGRESSIONAL RECORD:

[From the Gold Bug, Oct. 24, 1969]

WE CAN'T LEAVE, NOT YET

(By Bob Chapman)

During the Vietnam Moratorium of last week many constructive issues were discussed, but several points were brought up that did a great injustice to both the men who have served and are presently serving there, and the South Vietnamese people as a whole. I feel it my duty to see that these points are made clear largely from my own personal experience with these people.

First, I believe that credit should be given where credit is due. The South Vietnamese soldier is gaining in ability and confidence every month. Fighting a guerrilla war with out-of-date weapons is a tremendous burden for any soldier to bear. However, his morale is improving with his ability and training with new material and fighting techniques. The figures for desertion of ARVN forces stated at the Moratorium are fictitious. These figures are at present unavailable. Even if the figures were available, I feel certain they would come nowhere near the 117,759 Viet Cong and North Vietnamese Army Regulars who have come over to our side in the last five years under "Chu Hoi" and various other open arm's policies. This does not even include any of the desertions of Communist forces who just left their units never to return. Thirty-six thousand, so far in 1969 alone, have come over under open arm's policies. When the present strength of Viet Cong and NVA troops is put at 200,000, does such a high defection rate lead

one to believe that the Viet Cong and North Vietnamese sincerely believe in the war they are waging?

The idea of a "sterile death" is a label given by those who have no idea of what it means to risk his life to defend his countrymen. These same men who drop bombs on Communist forces have helped relocate the homeless of Vietnam. In my own Squadron in Vietnam we regularly participated in helping the local orphanages in Hue. We insured that each child had his own bed, that there was enough food so that none would be hungry, and we made sure that these children were taught to read and write. These same men flew helicopters and fighters and performed their duty not with an inhuman detached efficiency, but because they knew the task must be done and they valued the lives of their countrymen and allies more than those who would destroy them and Freedom if given the opportunity. Whether or not we are morally right cannot be judged by us. When we are judged, may our cause be seen as just; I think it will be.

Lastly, I believe an immediate pull out of American troops would result in a terrible slaughter of innocent people. The fellows who have been there have seen the terror with which the Viet Cong rule. We also feel that the ARVN troops may not be militarily ready to handle the entire burden at present. A gradual pull out is the only answer, and that is taking place now. It must be done slowly at first, but as the ARVN's take up the slack, it can be increased. Before we resort to tagging the President with inappropriate names and throwing verbal rocks at him, we must look at what he has done thus far. Considering the circumstances, I think President Nixon has come a long way. Maybe if we remain patient we will see a faster tempo, after all has he really been given a chance?

THE TRUE SPIRIT OF OUR NATIONAL PURPOSE

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. LUJAN. Mr. Speaker, in this time of searching questions about our country's involvement in Vietnam, as in other instances throughout our country's history in conflict situations, there are moments of poignant reflection which seem to clear the clouds of doubt away and express so vividly the true spirit of our national purpose.

It has been my great pleasure this week to experience such a moment when I received from one of my constituents a copy of a letter written by a New Mexico father to his son stationed with an Air Force unit supporting troops in Vietnam.

I wish to share these vivid thoughts with all of my colleagues and with our fellow citizens as part of this great Nation's record:

MY DEAR SON: First, before I forget, for short-memory seems to be such an integral part of the "American way" . . . my heartfelt "Thanks!" to you and to the men who work for you and to the men for whom you work every day in your line-of-duty assignments. Our thanks to all of you for working those long hours, seven days a week. Your Mother and I thank you for having a sense of purpose in your work, a sense bigger than self. Our thanks for being proud enough of yourself, as a man, to give only your best to your job without promise of soft living,

handouts, or pay raises for overtime. Thanks for doing your job so well that others your age may be free to do their "thing" under peaceful skies here at home.

Thanks to you for understanding that a promise made by honorable men is a promise without compromise, without excuse, a promise with a history of hard-won freedom to be passed on with pride to the rest of the world. Thanks, Son, for learning to win—and that losing can become habit forming. Thanks for learning compassion and to care about others, the losers, after winning.

Thanks, for volunteering to take on problems bigger than yourself. With men such as you on guard tonight, even the dissenter is free to set fire to our hardwon symbols of liberty. He may, in time, do us, who do not speak up, do not participate, a real favor. He may, finally, trigger in our hearts a response which, as has happened so many times in our stormy history of survival, may be his complete and total undoing.

Americans are, my Son, the "Great Unpredictables" of all the Earth's people. We are the "proud mongrels" of today's hyphenated-to-pieces world society. Thank God, our national bloodstream runs with the best and the worst of all races. . . . because, within that bloodstream surges the one predominant element basic to every man, a desire to stand big, stand proud, to stay free!

To you, Sir, and to every Airman, Soldier, Sailor, Marine, Seabee and Coast Guardsman, from an old, but never too old, American who knows from experience why you're there. . . . humbly, sincerely . . . "Thank you!"—Dad.

THE SILENT GOOD

HON. JERRY L. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. PETTIS. Mr. Speaker, in these times of youth unrest, it is like a breath of fresh air to know that some young men are dedicating their time and energy to helping those less privileged. I sometimes wonder if the silent good are not the world's greatest hope. By the "silent good," I mean those who pass their lives in silent, often unrecognized, but persistent efforts to help fellow humans and make this a better, kinder world for all.

One such person is Mike Meadows of Colton, Calif., a fifth-grade teacher at Woodrow Wilson Elementary School and a 1967 graduate of California Polytechnic College at San Luis Obispo, who is organizing parents and citizens to help his youngsters have a midget football team.

This is not the first of his efforts in the area of helping those who most benefit from it. Mike assisted some 300 children through "Operation Summer-time."

Students in grades one through six attended cultural enrichment classes 6 hours a day, 5 days a week during their summer vacations. At the close of the "Operation," these young people made their own costumes and put on a show for their parents and the public in the San Bernardino High School auditorium. Norton Air Force Base hosted these children giving them a chance to visit the huge hangars and see the missiles and planes.

Mike said that:

The idea of the program was to take youngsters from low-income families and try to make it possible for them to associate with all socio-economic groups at school.

A recent "Mexican Potluck" dinner raised some \$300 toward the \$2,000 needed for buying the uniforms and equipment for the midget football team. Hometown citizens and businessmen are contributing to the fund.

When Mike recently married, the wedding and reception were held in the municipal park so his students and their families would be able to participate in the ceremonies and reception hosted by relatives, friends, and students.

I take real pleasure in commending this young man in his efforts and draw attention to other young people to what can be done when the spirit is there.

REPUBLIC OF CHINA

HON. MICHAEL A. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. FEIGHAN. Mr. Speaker, the recent 58th anniversary of the founding of the Republic of China is worthy of recognition for the great leadership this Republic is providing those people of Asia who desire freedom from tyranny and a return to normalcy on the mainland of China. On this occasion, President Chiang Kai-shek, leader of the Republic of China, speaking before a National Day rally including some 1,200 leaders of the Chinese overseas communities from all parts of the world dedicated to a return to mainland China stated:

The day of National recovery is drawing near. We should strengthen solidarity and strive toward the goal of national salvation. We shall continue and intensify this struggle. Whatever else may happen in the world, our determined confidence in mainland recovery and the liberation of our compatriots can never be shaken.

It has been exactly 20 years since the Republic of China was forced by the Communists to leave the mainland and establish itself on the offshore island of Taiwan. Since that time, the record of the Republic of China has been one of near miracles. The agricultural economy has been developed to a fantastic level, and through U.S. aid, Taiwan has become industrialized.

U.S. private investments on the island now exceed \$250,000,000. The Republic of China on Taiwan is now an exporting nation with a favorable balance of payments. Its military establishment with its 600,000 soldiers is rated as one of the best in the western Pacific.

The Republic of China is not reaping the harvest for itself alone. In 1968, the Chinese on Taiwan helped some 18 African nations in agricultural development projects teaching the Africans the lessons they learned so well. In many respects, the Republic of China has proven to be a true friend of freedom and a real embarrassment to Mao's China.

CALENDAR FISCAL YEAR

HON. ODIN LANGEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. LANGEN. Mr. Speaker, I have spoken many times on the waste and inefficiency which has been caused by the failure of the Congress to complete its business on a timely basis prior to the beginning of the fiscal year. I have also pointed out that the complexities of our present Federal Government require considerably more study than was the case when the Congress could complete its business and adjourn within 6 months. We are in a new era where the Federal Government pervades in some way every part of our national life.

In one of my previous statements before this body I outlined reasons why the present fiscal year raises the overall level of governmental spending, deprives the poor of effective and efficient programs, delays cooperative Federal programs by as much as a year and casts doubt on the credibility of governmental statistics. Now I note an editorial in the October 25 issue of the Armed Forces Journal which outlines this all-pervasive problem from the Defense Department point of view. I present this editorial now for your consideration:

MERGE THE FISCAL AND CALENDAR YEARS

(By James D. Hessman)

Now we're finally down to the nitty-gritty. After months of spectacular parliamentary thrashing about, House and Senate Conferees are getting set to wind up the great debate of FY 1970 on the pending Defense procurement authorization bill.

There's already general agreement (in the authorization bill at least—there is likely to be a renewed fight when the appropriations bill comes up for debate) on such major systems as ABM, AMSA, CVAN-69, etc. Agreement still has not been reached, however, on such items as the billion dollar ship add-on inserted into the House bill by Armed Services Committee Chairman L. Mendel Rivers (D-SC), the Heavy Lift Helicopter, the AWACS, and other such incidentals.

There's much more at stake in the \$21.3-billion measure (give or take a billion, as the boys in the back room at the Budget Bureau are wont to say) than the weapons systems themselves.

One big thing at stake, for example, is the common sense of the Congress, which must recognize, sooner or later (preferably sooner) that it cannot indefinitely continue the present financially irresponsible system of delaying action on appropriations bills until well into the fiscal year in which the funds appropriated are to be used. (With debate on the Defense authorization bill not likely to wind up prior to the end of this month, for example, it likely will be half past November before the FY 70 Defense appropriations bill is passed by both houses and goes to the White House for the President's signature—and this is only if there are no major teups on the funds measure such as bedevilled the authorization request.)

The system is ridiculous. Agency administrators are almost half way through the fiscal year before they know how much money they'll have to spend during the year. Programs are delayed—long leadtime items on a new carrier, for example, can't be ordered with any assurance that money to pay for same will be available when the bills fall due.

The system is also wasteful. If an ongoing

program is cancelled late in the fiscal year, there's no way to recover the money already spent. If funding for a program is reduced, rather than cut altogether, the entire reduction must be absorbed within a six or seven months period, rather than spread over the entire fiscal year. "It's a lot like being forced to go on a two-week crash diet to lose 15 pounds," one Pentagon budget analyst told *The Journal*, "but not being able to start the diet until Saturday of the first week."

(Another analogy that appeals to our domesticated ears is that of the husband halfway through the week's shopping before his wife presents him the shopping list and the grocery money—husbands everywhere will know what we mean.)

It is palpably a poor way to run a railroad, much less the greatest country in the world. No sensible Congressman (the phrase is not necessarily redundant) would run his own household in this manner.

We would not advocate that future legislative debates on the Defense procurement authorization and appropriations bills be cut short to satisfy the arbitrary 1 July deadline marking the start of the fiscal year. We think, in fact, the sessions are likely to get longer instead of shorter. And, despite the buffeting the military has received this past year from some of less-than-objective critics, we think this will be a good thing—the more the Congress and the public in general know about and are involved in defense affairs, the better we say.

But if the legislators can't change themselves, they can change the system. What Congress must do—quickly, in our opinion—is to scrap the fiscal year concept and put appropriations on a calendar year basis, with the proposed budget plan being submitted by the executive branch to Congress a full year in advance, instead of six months, as is now the case.

Under such a system (which has been suggested earlier by others—we merely second the motion), the President would submit his fiscal/calendar year 1971 budget to the Congress in January 1970, for example, and Congress would debate, amend, and finally approve the budget by October or November 1970. Agency heads thus still would have one or two months of orderly planning time left before the new budget year starts.

It is never easy to get action on any proposal—no matter how sensible or how meritorious—which requires our legislators to overcome their own inertia. But this is an idea whose time has come.

We submit that Congress and the Executive Branch must act, and act quickly, to restore order to the presently chaotic appropriations process.

BIG TEN SHOULD WAIVE PROHIBITION—SEND BUCKEYES TO ROSE BOWL DURING 100TH ANNIVERSARY OF COLLEGIATE FOOTBALL

HON. ROBERT TAFT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. TAFT. Mr. Speaker, at the risk of alienating some of my colleagues, who might be backers of other Big Ten universities, I believe the league should waive its prohibition against a team's consecutive participation in the Rose Bowl, and permit the 1969 Ohio State Buckeyes to go to the granddaddy of all bowl games, should they win the Big Ten title again this year.

I believe it would be unfortunate to deprive the Nation's football fans of the privilege of watching Coach Woody

Hayes' team during the annual bowl games, in this, the 100th anniversary of collegiate football.

For the benefit of my colleagues, I would like to review the Buckeyes' record, so far:

Ohio State 62, Texas Christian 0.
Ohio State 41, Washington 14.
Ohio State 54, Michigan State 21.
Ohio State 34, Minnesota 7.
Ohio State 41, Illinois 0.

HOOSIER JOURNALIST VIEWS MORATORIUM WITH ALARM BUT NOTES IT IS NOTHING NEW

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. LANDGREBE. Mr. Speaker, Frank A. White of Indianapolis is one of the most respected elder statesmen of Indiana journalism. His column, "The Hoosier Day," is printed in many newspapers throughout Indiana, including several in my own district, and his opinions are read and quoted by a vast, richly deserved audience.

In a recent column, which I have clipped from one of the many papers that carry his columns, the Monticello Daily Herald-Journal of October 20, 1969, Mr. White has some wise things to say about the recent day of infamy we know as the Vietnam moratorium.

One word of advice from Mr. White that I pass on to all my colleagues is this: Before hastily calling for a unilateral surrender in Vietnam, consider the consequences. Are you who supported the moratorium willing to accept the enslavement of millions of Vietnamese by Communist tyranny, the enslavement of a nation that trusted our Nation's word? Are you willing to mock the supreme sacrifice of 40,000 young Americans who died for the freedom of the Vietnamese people? If these consequences cause you no anguish, then, by all means, support the moratorium's goals. If, on the other hand, you value freedom, then support our Nation's efforts to defend it.

To those who see the moratorium as the wave of the future, I would also recommend careful reading of Mr. White's column. His perspective on history shows that the moratorium is nothing new, but is merely a rehash of the old isolationism of other years—the isolationism that led to the rise of Adolf Hitler.

Mr. Speaker, at this point, I am inserting into the RECORD the text of Mr. White's column:

THE HOOSIER DAY
(By Frank A. White)

We cannot believe thinking Readers can rejoice with Hanoi, the Communist party and our Yippies over the way the Vietnam Moratorium all but paralyzed our Nation.

More appropriately this shameful affair should have been a day of national shame and mourning . . . mourning for 40,000 of the bravest and best of American youths. They were killed in Vietnam and more than 250,000 maimed.

These youths, cream of the crop, wanted to live and we know from having been with jungle fighters. Yet, they had to die in a politically bungled "no win" war. One would be naive indeed to believe other than our Nation, most military powerful in the world, has lost the war, against a fifth rate nation or worse. It was lost through politics and fear.

On campuses of Indiana colleges communist oriented Mark Rudd, Jerry Rubin, Rhennie Davis of the "Conspiracy" group on trial in Chicago became men of the hour by addressing the students.

One hundred students on I.U. campus marched in a pre-moratorium demonstration, singing: "Ho Chi Minh, The Viet Cong are going to win." What does winning by the communist Viet Cong entail?

Consider Asia of which Vietnam is a doorway, has 2/3 of the population of the world. It is an enormous land mass, with untold natural resources. It lies astride of the world waterways. Turning Asia over to the communists committed to our destruction well may decide whether our children and children's children are free or communist slaves.

We dare say we belonged in Vietnam. We went into that war to guarantee that South Vietnam a small nation had the right of self-determination as it should have.

In connection with the Vietnam Moratorium hysteria, with bitterness we look back on history of our times. We heard the phony World War One slogan to make the world safe for democracy.

Washington echoed then as now, with the cry of get the boys home. We lost the peace. We recall front covers of national magazines in color picturing hospitalized legless veterans with a caption "Sucker."

Then and now the hue and cry was to destroy our military. Our professional military had saved us from enslavement by Hitler. Today it had the proud achievement of making it possible to land a man on the moon.

The Eisenhowers, Pattons and MacArthurs are vanquished in this mad thrust at our military, with exposures of a few crooks of an honorable profession. A Cuban communist MIG lands undetected next to the President's Air Force 1 in Florida.

The Soviets have a space platform in orbit that can drop hydrogen bombs anyplace in the world. The Soviets exploded a 5 Megaton nuclear bomb more powerful than any we have. The Soviet is building hundreds of Polaris type submarines that could destroy all big American cities. Awake America. The hour is late.

Is anyone stupid enough to be puzzled by the Viet Cong deadlock in Paris negotiations? Our bombing stopped a year ago. The Viet Cong is getting everything it hoped.

The President is undercut in his Paris negotiations by the clamor in the U.S. Senate and the country to bug out in Vietnam. The "peace at any price" advocates in Washington are falling over each other to get on the bandwagon of isolationism. Yes, 1970 and 1972 are election years. The prevailing wind is isolationist.

We are ashamed that names of some of Indiana's delegation in Congress have appeared prominently in the endorsement of the Vietnam Moratorium.

It is frightening to contemplate what will happen to a future America with a small minority of students, draft card burners, communists, anarchists and their dupes crippling our defenses. Louis Johnson, a popular past National Commander of the American Legion, as Defense Secretary disarmed us. Then came Pearl Harbor and his glamor evaporated before anger of the populace. History can repeat, often does.

"To allow government policy to be made in the streets would destroy the democrat processes" and invite anarchy.

GEORGE WYTHE, THE FATHER OF AMERICAN JURISPRUDENCE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Wednesday, October 29, 1969

Mr. HUNGATE. Mr. Speaker, I would like to call the Members' attention to an outstanding speech made recently by our colleague, Hon. THOMAS N. DOWNING, at a meeting of the Capitol Hill chapter of the Federal Bar Association:

GEORGE WYTHE, FATHER OF AMERICAN JURISPRUDENCE

(By Hon. THOMAS N. DOWNING)

Using the timetable of world history as a guideline, the United States has had to date only a short life as a nation. Yet in her almost 200 years of existence she has been blessed by the dedication of numbers of native sons and daughters who devoted a major portion of their own lives to her service.

As a Virginian I take what I hope is a pardonable measure of pride in the accomplishments of certain of "our boys." Washington, Jefferson, Henry, Mason, Marshall, Madison and Monroe are comparatively well known. They have not suffered any lack of press coverage despite the fact that their years of great service were approximately two centuries ago.

Of all of the eminent Virginians of the pre-Revolutionary, Revolutionary, and post-Revolutionary period, however, George Wythe is especially entitled to recognition. His accomplishments and particularly his influence were strongly effective in our quest for liberty. Regrettably he left no descendants. Unfortunately, few of his papers survive. To date he has had no Biographer. He lives only in scattered, brief writings of a few contemporaries. He is, however, enshrined in the character of the nation which he endowed.

Being a native like he was of the lower tip of the Peninsula between James and York Rivers, and serving from that section of the Commonwealth in the Congress of the United States as he did in the Continental Congress. I welcome this opportunity to talk about George Wythe and the impact that he has had on our lives today.

George Wythe was born on the family estate known as "Chesterfield" in what was then Elizabeth City County, Virginia. The house survived until it was destroyed by fire in 1910. The land is now part of Langley Air Force Base.

The year of his birth was 1726. The actual date has been lost in history.

The old law of primogeniture decreed that the estate of Thomas Wythe, the father, would pass to his elder son Thomas. Margaret Walker Wythe, an educated woman herself, determined early in George's life that her younger son must be prepared to make his place in the world. She gave him the benefits of her learning. As has been the case with many men, it was at the knee of his blessed mother that he gained his basic education. She taught him to read and write and gave him his foundation in mathematics, latin and greek. It was from this beginning that at the age of 14 he entered William and Mary.

This was followed by valuable apprenticeships in the law offices of Stephen Dewey (his uncle by marriage) in Prince George County and Benjamin Waller in Williamsburg.

He was admitted to the bar at Caroline Courthouse February 13, 1746, and was associated in practice with John Lewis. In De-

ember of the following year he married John's sister Ann. She died less than a year later and, unfortunately, there was no issue.

The courts in those days arranged their schedules so that attorneys could practice in one county after another, and Wythe was soon licensed to plead in county after county. He pursued a most active and productive career at the bar.

On January 21, 1754, due to absence in England of Peyton Randolph, Wythe was commissioned as Attorney General of the colony and Judge of the Court of Vice Admiralty of Virginia. Even though we do not know his actual birth date, it is safe to assume that he had not reached his 28th birthday. Virginia has had no other Attorney General at such a tender age before or since.

The elder Wythe had died when George was three years old. In 1755 his brother Thomas who had inherited the estate passed on, and George Wythe suddenly found himself a substantial landowner in Elizabeth City County. He made Williamsburg the seat of his practice, married Elizabeth Tallaferro, and moved into the fine brick home which is known today at the Wythe House. The house was devised to Wythe by his father-in-law.

George Wythe served in the House of Burgesses, was Clerk of the House, was a Member of the Continental Congress and the first Virginian to sign the Declaration of Independence. The honor of being the first to sign gives some indication of the esteem in which he was held by his fellow delegates; especially when it is considered that they included Thomas Jefferson, the author of the document, and Richard Henry Lee who moved its adoption.

Subsequently he was Speaker of the House of Delegates, one of the two prime codifiers of the laws of Virginia, a member of the three-judge high court of chancery, for ten years a member of the Virginia Supreme Court of Appeals, and finally the sole chancellor of Virginia.

He served as one of Virginia's delegates to the Constitutional Convention in 1787 and was Chairman of the Committee on Rules. He doubtless would have been a signer of the Constitution had the fatal illness of his wife not forced his return to Williamsburg. Their only child previously had died in infancy.

It is not possible today to give proper attention to all of the accomplishments of George Wythe. It is important, I feel, that we spend a few moments on a significant few of them.

As a landowner in Elizabeth City County he was appointed to the Court of Gentlemen Justices. These were not the simple magistrates of later years. They were the leaders of the respective counties. Washington and Mason were justices in Fairfax County. So was Jefferson in Albemarle; Richard Henry Lee in Westmoreland; and Edmund Pendleton in Caroline.

It was in this capacity that Wythe presided over the session of the Elizabeth City County Court when the Reverend Mr. Thomas Warrington brought forward his claim in one of the parson's cases. You will doubtless recall that Patrick Henry pleaded against the clergy in Hanover County in the most celebrated case of its kind. The Hanover Court found for the minister, but granted him only one penny in damages. The Elizabeth City County case has escaped significant notice; yet the court with Justice Wythe presiding found against Mr. Warrington.

His most far-reaching judicial opinion was delivered in 1782 in *Caton vs. Commonwealth* when he held that a court could undo an act of a legislative body. It is most interesting to note that among those who had gathered in the courtroom to hear him read his opinion was a young Richmond attorney named John Marshall who 21 years later as Chief Justice of the United States would deliver a similar opinion in the more celebrated case of *Marbury vs. Madison*.

When Virginians sat in convention to ratify the Constitution of 1787, it was George Wythe who presided over all of the debates as Chairman of the Committee of the Whole. His leadership is credited with providing the slim majority by which Virginia ratification was gained. This is considered the most significant action by any state. Without it, union would have been impossible.

As a leading figure in the colonial capital of Williamsburg, in 1762 George Wythe permitted a 19-year old redhead from the hill country surrounding Charlottesville, recently graduated from the College of William and Mary, to come into his home to read law. This was young Tom Jefferson who in later years would say, "Mr. Wythe continued to be my favorite and beloved mentor in youth and my most affectionate friend through life. In 1767 he led me into the practice of the law, at the bar of the general court, at which I continued 'til the Revolution shut up the courts of justice."

This was not a one-sided friendship. Wythe remained devoted to Jefferson throughout his life. When he drew his will in 1803, Jefferson was President and his former teacher willed him his library and "philosophical apparatus," expressing a hope that they might be worthy of inclusion in Jefferson's holdings.

In 1779 Governor Jefferson was a member of the Board of Visitors of the College of William and Mary. Having reaped the benefits of his law education under Wythe, it was only natural that at the first meeting of the board Jefferson successfully proposed the establishment of a chair of law and police as part of a reorganization of the curriculum. Wythe was immediately elected to fill the chair, making him the first professor of law at an institution of higher learning in America. Only Sir William Blackstone, who filled the vinerian chair of law at Oxford, preceded him in the English-speaking world.

Jefferson was by no means the only prominent Virginian who had studied in Wythe's home. Both James Monroe and Edmund Randolph, the latter our first attorney general and later secretary of state, had had the advantage of his training.

His students at the college included many who would become Members of Congress, governors, and high-ranking judges. Chief among them was a young Virginian who had served as a Captain in Washington's Army. His name was John Marshall, and the six weeks that he attended Professor Wythe's lectures in 1779 were the beginning of his legal education. Marshall's law notes, which still exist, give eloquent testimony to the importance of Wythe's teaching.

Wythe undoubtedly considered teaching his main purpose in life. During his tenure at William and Mary he wrote his good friend, John Adams, referring to Williamsburg as the place "where I have again settled, assisting, as Professor of Law and Police in the university there, to form such characters as may be fit to succeed those which have been ornamental and useful in the national councils of America."

Even then the teaching of the master was not limited to the classroom. Littleton Waller Tazewell, later Member of the House of Representatives, Senator, and Governor of Virginia, lived with Wythe and began study in his home as a mere boy of ten. This was most appropriate. Benjamin Waller, one of Wythe's early teachers, was Tazewell's grandfather.

Jefferson's reorganization at William and Mary had eliminated the study of Latin and Greek, supplanting them with modern foreign languages. Wythe obviously disapproved, knowing by personal experience the value of the classics to anyone who sought a career at the bar. He was considered Virginia's foremost classical scholar of his day, so he decided to teach Latin and Greek at his home, and advertised his classes in the newspaper.

Among his students was Peter Carr, Jefferson's nephew. When Jefferson was serving as Ambassador to France, Wythe wrote him that young Carr, while enrolled at William and Mary, was "learning French and Spanish languages, and with me he reads Aeschylus and Horace one day, and Herodotus and Cicero's orations the next."

Education under Wythe was certainly not restricted to lectures and reading. He held moot courts, participation in which was required of all those who were reading law. The Capital of Virginia having moved to Richmond, the old colonial capital building was left vacant. Wythe put it to good use, holding mock assemblies in which he gave practical lessons in debate and parliamentary procedure, thus equipping his students for careers in the legislative halls of the nation.

Discipline was Spartan. If you studied with Wythe, you started work at 5:30 in the morning and your attention was devoted to the physical sciences and religion until 8:00. After a breakfast break the study of law was pursued until noon. The afternoons were devoted to history, and according to Jefferson from "dark to bedtime belles lettres, criticism, rhetoric and oratory." This was the discipline which made men great. College and university curricula today represent at the very least a radical departure. This departure is perhaps significant in the failure of the United States to produce in recent years statesmen who might compare favorably with Jefferson, Monroe, Marshall, and the others.

After ten years with William and Mary, Wythe's judicial duties took him to Richmond. His influence nevertheless was still present at the college. In 1771 St. George Tucker had come from Bermuda to William and Mary to begin his education. It had already been decided that after his undergraduate days he would go to Oxford to study law and had already been entered there at the Inner Temple. A year after his arrival in Williamsburg, however, he wrote his father in Bermuda, requesting permission to remain in Virginia for his law education, feeling studies with George Wythe would be more beneficial to his career. Paternal permission was quick, and Tucker followed the route taken by Jefferson. After Wythe left William and Mary, Tucker succeeded him as the second Professor of Law and Police. Like Wythe he went on to a great career on the bench.

Wythe's teaching continued in Richmond. He engaged a 16-year old lad named Henry Clay as a clerk. For the next five years Clay attended him frequently, took his dictation and wrote the reports of all of Wythe's cases in the court and then departed for Kentucky to pursue his own career.

Almost 50 years later, reflecting upon his own service which had seen him as Speaker of the House of Representatives, Secretary of State, and one of the five foremost United States Senators of all time, Clay wrote, "I conclude it by an acknowledgment, demanded of me alike by justice and feelings of gratitude, that to no man was I more indebted, by his instructions, his advice, and his example, for the little intellectual improvement which I made . . ."

These are by no means all who benefitted from the knowledge of George Wythe and his desire to transmit that knowledge to younger men. Many, many studied with him and countless others who spent no period of formal training under his tutelage gained immeasurably from their daily association with him. He was not only one of our founding fathers himself; he was indeed father to so many of our founding fathers.

When one considers Wythe's own contributions to the Declaration of Independence, the Constitution of the United States, and his momentous legal opinions, they rate as sufficient accomplishment for any man of any age. He was, however, above everything else a teacher of young men. When one

considers Jefferson's authorship of the Declaration and of the Virginia Statutes for Religious Freedom, Marshall's far-reaching opinions as Chief Justice, the Monroe Doctrine, Clay's contributions to the Missouri Compromise and the Compromise of 1860, and Tucker's first American edition of Blackstone, it becomes obvious that Wythe's influence was more remarkable than he probably ever dreamed. Many disciples through the years have followed in his footsteps; yet it is doubtful whether any has been able to match his stride.

George Wythe loved to learn. At the time of his death in his 81st year, he was attempting to master yet another language; he was studying Hebrew with a rabbi in Richmond. And Wythe, like so many men who have no sons of their own, loved young men. To him the two of them, learning and young men, were perfect companions and he spent most of his life introducing the latter to the former. Had it not been for his interest in young men and for his desire to see them learn, one is inclined to doubt whether the names which we recognize quite readily as the keystones of our government would be recognized at all. It is decidedly worth remembering that the alumni of Wythe's law classes include two Presidents of the United States, our greatest Chief Justice, our first and three subsequent Secretaries of State, and our first and one additional Attorney General.

Of everything that has been and could be said about George Wythe, Jefferson made the great summation, "He was the honor of his own and model of future times."

ORDERLY MARKETING LEGISLATION OVERDUE

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. WYMAN. Mr. Speaker, it is difficult to understand why there should continue to be foot-dragging in the Congress and outright opposition in parts of the executive branch of the Government on the matter of legislative provision for orderly flow of imports into the American marketplace. The Orderly Marketing Act of 1969 (H.R. 733) provides a flexible basis for the adjustment by the U.S. economy to expanded trade and gives foreign nations a fair share of the growth or change in the U.S. market but no more. They are taking more than their fair share today and at the expense of the American working man and woman.

Representatives of congressional districts with either shoe or textile problems in this field should join forces in discharging this legislation from the committee that has it under consideration and which has steadfastly refused to report it. If they do join forces there will be more than a majority of the House which is a sufficient number.

Illustrative of the shoe problem is the following report on U.S. footwear imports from the Foreign Trade Committee of the National Footwear Manufacturers Association, covering the period of January to August 1969:

U.S. FOOTWEAR IMPORTS, JANUARY-AUGUST 1969

August imports of leather and vinyl footwear totaling 13.9 million pairs were nearly 15 and a half percent ahead of last year.

Leather and vinyl imports were 28.9% of an estimated domestic output of 48.0 million pairs. Shipments from Japan and Italy, in excess of nearly .7 million pairs each over last August, accounted for most of the gains in men's and women's leather and vinyl footwear.

To-date imports of leather and vinyl footwear of 139.1 million pairs have increased to nearly 14% ahead of last year. Average value per pair (f.o.b.) increased by 15.7% to

\$2.06 per pair. Shipments from foreign ports were 36% of domestic output, estimated at 390.8 million pairs and 26% of new supply (domestic output plus imports).

August gains of 23% for Spain and 7% for Taiwan indicate a softening of pace. Italy's increase of 24% indicates her grip continues strong in the market place. Japan's increase of 13% over last August has moved her another notch closer to last year's record. Details are shown below:

Shoes and slippers (leather and vinyl)	January-August				
	1969 pairs (thousands)	1968 pairs (thousands)	Percent change, pairs, 1969-68	Percent share of total 1969	1968
From:					
Japan.....	45,212.4	45,770.9	-1.2	32.5	37.4
Italy.....	44,329.3	42,361.3	+4.6	31.9	34.7
Spain.....	14,513.5	8,948.3	+62.2	10.4	7.3
France.....	2,144.2	2,210.4	-3.0	1.5	1.8
China T. (Taiwan).....	17,457.0	10,149.3	+72.0	12.6	8.3
Other countries.....	15,425.5	12,812.6	+20.4	11.1	10.5
Total pairs.....	139,082.0	122,252.7	+13.8	100.0	100.0

TOTAL IMPORTS OF OVER-THE-FOOT FOOTWEAR

Type of footwear	August 1969, pairs (thousands)	Percent change, August 1969- August 1968	8 months, 1969		Average value per pair	Percent change, 1969/1968	
			Pairs (thousands)	Value (thousands)		Pairs	Dollar value
Leather and vinyl, total.....	13,238.8	+13.9	134,438.6	\$282,248.2	\$2.10	+13.0	+31.3
Leather excluding slippers.....	6,227.3	+20.3	69,628.1	231,543.9	3.33	+15.4	+32.3
Men's, youths', boys'.....	2,111.0	+15.7	20,480.8	84,466.0	4.12	+29.1	+42.0
Women's, misses'.....	3,654.7	+27.4	43,238.3	132,723.7	3.07	+6.8	+25.8
Children's, infants'.....	181.6	-6.8	4,086.8	6,338.3	1.55	+94.2	+115.1
Moccasins.....	61.4	+30.1	450.9	547.0	1.21	-2.5	+9.1
Other leather (including work and athletic).....	218.6	-9.7	1,371.3	7,468.9	5.45	-2.1	+13.6
Slippers.....	44.6	-4	224.3	443.1	1.98	+3.2	-6.5
Vinylsupported uppers.....	6,996.9	+8.9	64,586.2	50,261.2	.78	+10.5	+27.5
Men's and boys'.....	797.3	+31.7	6,608.6	7,465.0	1.13	+22.1	+40.8
Women's and misses'.....	5,454.2	+7.0	50,989.9	38,243.5	.75	+6.9	+24.0
Children's and infants'.....	551.0	-2.5	5,753.1	3,918.8	.68	+35.4	+42.8
Soft soles.....	164.4	+28.3	1,234.6	633.8	.51	+13.7	+17.3
Other nonrubber types, total.....	652.8	+55.1	4,643.4	4,677.0	1.01	+41.2	+87.6
Wood.....	88.9	+391.2	662.7	1,578.7	2.38	+271.9	+300.6
Fabric uppers.....	468.9	+25.0	3,435.3	2,477.1	.62	+22.2	+33.2
Other, not elsewhere specified.....	95.0	+245.5	545.4	621.2	1.14	+82.8	+160.0
Nonrubber footwear, total.....	13,891.7	+15.4	139,082.0	286,925.1	2.06	+13.8	+32.0
Rubber-soled fabric uppers.....	3,252.0	-12.9	30,773.0	23,028.1	.75	-11.0	+10.3
Grand total, all types.....	17,143.7	+8.7	169,855.0	309,953.2	1.82	+8.3	+30.1

Note: Details may not add up due to rounding. Figures do not include imports of waterproof rubber footwear, zories, and slipper socks. Rubber-soled fabric upper footwear includes non-American selling price types.

Source: National Footwear Manufacturers Association estimates from census raw data. For further detailed information, address your inquiries to the National Footwear Manufacturers Association, room 302, 342 Madison Ave., New York, N.Y. 10017.

CRIME—SOMETHING MUST BE DONE

HON. BERTRAM L. PODELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. PODELL. Mr. Speaker, today the specter of violent crime haunts all urban citizens as never before. In Brooklyn, the small shopkeeper has often had to alter his business life to lessen dangers posed by holdup artists. Once tranquil neighborhoods are invaded by narcotics addicts seeking cash or merchandise to fence for drugs. New York City Police Department statistics reveal a growing menace.

In August 1969, crimes against per-

sons and property totaled 42,454. Crimes against the person increased 4.2 percent in August. Our police recorded increases in five of seven major categories, including murder, nonnegligent manslaughter, forcible rape, robbery, aggravated assault, and motor vehicle theft. For the 8-month period ending August 31, 1969, the crime index rose 2.7 percent.

New York City possesses the best police department in the land. Such increases cannot be laid at its door. Yet physical danger mounts to the average New Yorker, and it is inhibiting and deleting from the overall quality of their daily lives. We can and must do something about this situation, and solutions are available.

More police who are better paid, more visible, better educated, and on the streets is a major solution. You cannot

patrol the city through a car windshield. To make a law enforcement officer's life more worth while and motivated can, and should be, a prime goal of every urban jurisdiction.

The social causes of criminal behavior are well known, yet we are placing less emphasis on curing or preventing them than ever before. Slums spread while we spend money on war rather than housing. Urban recreation areas are losing ground compared to what we are allotting to weapons. Instead of better transit in the cities, we allocate vast sums to the SST. Drug education programs take a poor second place to subsidies for rich farmers. Our educational plant is deteriorating before our eyes. Libraries and hospitals are being deferred. All of these can be factors in reducing breeding grounds for criminals.

Causes or crime are by and large known to all of us. Elementary knowledge of this area can produce significant solutions, particularly in the area of education, both on the part of the average citizen and the felon. These avenues are not being explored, particularly in the area of prison reform. If we instituted more measurable rehabilitation programs within our institutions, numbers of repeaters or recidivists could be lowered appreciably, with an attendant gain by all society. Why must we place such reform last on society's list of priorities, when it costs us so much to ignore it?

Better lighting of all city streets is a goal easily within reach of almost every urban jurisdiction. Criminals do not operate too effectively in such well-lit environments. Here again, costs are minimal compared to consequences suffered by inattention. New equipment for law-enforcement officers would be a major aid. Today criminals too often operate with far better technical equipment than those charged with preventing their activities. Why should our police not have first-class equipment?

The drug problem is corroding the very foundations of our society, and I consider it the greatest internal menace facing America today. Yet instead of attacking it in the schools, on the streets, and at its source, we are ignoring it. Yet, to the people on the streets and doing business, the addict and his habit are a growing and omnipresent terror which inhibits their daily routine and pursuit of a decent life. We must mount a nationwide series of programs aimed at choking it off. This must be done, aiming at such poison peddlers domestically and abroad. I believe this to be so important that I shall address myself to it in a separate message entirely.

There is still another area where immediate reform is swiftly available. I refer to gun control specifically, because recently the Senate voted to repeal certain hard-won provisions of existing gun control legislation.

During the 1968 congressional gun control debate, the Justice Department released statistics showing States with strict gun control laws and lower murder rates than those without:

	Percent of murders by firearms	Overall murder rate per 100,000	
		1966	1968
Strong gun law States:			
Pennsylvania.....	43.2	3.2	4.0
New Jersey.....	38.6	3.5	5.1
New York.....	31.8	4.8	6.5
Massachusetts.....	35.5	2.4	3.5
Rhode Island.....	24.0	1.4	2.4
Weak gun law States:			
Arizona.....	66.4	6.1	6.3
Nevada.....	66.9	10.6	5.5
Texas.....	68.7	9.1	10.6
Mississippi.....	70.9	9.7	9.9
Louisiana.....	62.0	9.9	9.5

In New Jersey, with strict control, in 22 months authorities approved 94,221 weapon permits. Simultaneously, criminal records appeared in 7 percent of all applications; 1,659 were denied. In 1 year in California, police checks of dealer purchases thwarted more than 800 illegal buyers. Six hundred and ninety-seven were ex-convicts.

Dr. Milton Eisenhower's National Commission on Causes and Prevention of Violence connects firearms availability and violent crime, especially handguns. Firearms are virtually the only weapons used to kill police officers. From 1960 to 1967, 411 officers were killed in the line of duty. Guns were used in 96 percent of such fatal attacks. Of nine assassination attempts on American Presidents and candidates, all involved firearms.

The average citizen and small businessman lives in fear of a criminal with a gun for good reason. In 1968, 23 percent of all aggravated assaults were committed with guns, opposed to 13 percent in 1963. Two out of every three armed robberies are committed with guns.

Dr. Eisenhower's Commission called for Federal-State cooperation to remove 24 million handguns in private hands from circulation. Tight restrictive licensing is essential, yet the President opposes further gun-control legislation. There are now 90 million firearms in America. Of 60 million households, at least half own one weapon. Firearms purchases this year will be quadruple those in 1965.

Hunters have their rights, but at last report no one was stalking deer with 22-, 32-, 38-, and 45-caliber revolvers. Now even the weak controls enacted after the terrible spate of assassinations are under attack. Dealers now must record names and addresses of ammunition buyers. Yet the Senate recently repealed registration requirements on rifle and shotgun ammunition, coming close to repealing them on 22-caliber rimfire cartridges, which accounted for 37 percent of all handgun murders last year. Under the recent Senate action, ammunition used to kill President Kennedy, Dr. King, and Medgar Evers can again be sold over the counter with no questions or registration. Does anyone therefore wonder why our streets are unsafe and crime rates soar?

Our cities and suburbs cannot tolerate a situation which allows any lunatic, juvenile, or criminal to purchase deadly weapons and ammunition with impu-

nity. Tight gun laws in one jurisdiction are negated by loose ones elsewhere. To buy and possess is to eventually use.

Nor can we give credence to illogical blatherings of the professional gun lobby cowering behind the Constitution in order to defeat or water down essential national legislation.

There were 4,500 murders committed in the United States in 1967 with ammunition, which, under the recent Senate amendment, no longer would need to have its sale recorded by dealers. In the name of sport, we are legalizing murder in our cities. We are encouraging other invisible riflemen similar to those who murdered President Kennedy, Dr. King, and Mr. Evers.

YOUTH IN POLITICS—A NEW CHAPTER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. OTTINGER. Mr. Speaker, the young people of America have always been in the forefront of movements for social and political change, but in recent years their activities have been given more attention and notoriety than ever before. Politicians at every level have learned—sometimes painfully—that today's young people are not only informed and concerned, but prepared to actively involve themselves in the political system to accomplish their goals. Unfortunately, a few have insisted on destroying the system and their efforts have, to some extent tarnished and prejudiced the work of the majority.

One young man who has taken some dramatic steps to point out the need for changes within our political system is a constituent of mine, 14-year-old George C. Whipple III, who is campaigning for the office of supervisor of the town of Kent in Putnam County.

Under the law, George's name may not appear on the ballot in next week's election, and even should this write-in campaign prove successful, he could not serve. Nevertheless, his activities during the past 2 months have served to focus attention on a number of issues of vital concern to the citizens of Kent, and he has demonstrated a genuine awareness of the need for government to be responsive to all points of view within our society.

The Wall Street Journal and Life magazine this week gave prominent coverage to Whipple and his campaign. I know these articles will be of interest to my colleagues and I present them for inclusion in the RECORD:

LET'S WIN THIS ONE FOR THE WHIPPER

The youth movement is out of hand in the town of Kent, N.Y., 60 miles north of New York City. There George the Third, as young Mr. George C. Whipple III sometimes calls himself, is campaigning for supervisor. It is Saturday afternoon, the only time the board-

ing school he goes to will let him off. His campaign team, a bell-bottomed, beaded, mixed bag of 12- to 16-year-olds, has assembled a caravan of 10 parent-driven cars for a motorcade through the town.

The very idea is hopeless, of course; a write-in campaign by a 14-year-old against two major-party candidates. Whip, or Whipper—as the Third is more commonly known—manages to appear quite serious about it all. He has been at it, off and on, for four months.

Election laws on age requirements prevent him from being listed on the ballot or even serving should he win on a write-in. Nevertheless, Whipper has spent \$500 he earned himself on the campaign. Is he serious? What is he trying to accomplish?

Whipper has given some thought to those questions. "The voting age should be lowered to 18," he says. "Young people are a real political power now, and are old enough to vote and be elected. A mature electorate isn't going to elect a 3-year-old!"

As the cars honk their way through a housing development, two loudspeakers on top of the Whipples' old blue Mercedes (they also have a newer cream one) bark out George's plea for write-in votes. Occasionally someone appears from behind a glass-and-aluminum storm door, bewildered but amused. Whipper jumps from the car, brushing the hair out of his eyes, and introduces himself. He is earnest as he asks for their votes.

In the supermarket parking lot a few housewives ask him why he is running. His answer is ready: "Not all the youth in America today are rioting," he says. "Some of us want to work peacefully within the system." The mothers smile indulgently and pat him on the shoulder and wish him luck.

Not everyone in town is as tolerant of the campaign. Some think Whipple's parents are spoiling him by "letting him play this game. He's going to be crushed when he loses." Others are angry because they think he is making a joke of serious town problems. Their language suggests the gulf between themselves and "the rich people up on Gipsy Trail," where the Whipples live. A local editor vows: "He isn't going to indulge himself on the pages of our paper!" Over the loudspeaker, Whip is heard to say: "A lot of the problems in Kent are youth-oriented: police, education and recreation. We should be allowed to help politicians solve them."

The motorcade swings through another development and the kids jump out of the cars to stuff mailboxes. Then suddenly the parents are tired of honking their horns. Whipper's voice is cracking, the kids are getting a bit silly. Besides, everyone is starved. They head for home, where piles of sandwiches are waiting.

A 14-YEAR-OLD BOY RUNS FOR TOWN SUPERVISOR; SCHOOL RULES, LAW ON AGE HANDICAP EFFORT

(By Frank J. Prial)

KENT, N.Y.—When the election for town supervisor is held here next week, the candidate least likely to win is George C. Whipple III. Oh, he's campaigning hard. It's just that he's 14 years old.

"But," he hastens to note, "I'll be 15 when it comes time to take office next January."

Kent is a fast-growing, still semirural community of about 7,000 people located 60 miles north of Times Square. The supervisor is Kent's equivalent of a mayor. Kent has all the classic problems of a community rapidly changing from cow pastures to split-levels. There aren't enough roads, enough sewers or municipal services; the schools are on split schedules and taxes are zooming.

What makes a 14-year-old think he can handle these problems? "I'm young," says George, or Whipper, as his friends call him, "but many of the problems facing the people in Kent are caused by the young—our

schools, recreation, police protection, even dope. Taxes are high largely because of young people."

The chances that a plurality of Kent voters agree and will vote for George are exceedingly slim. For one thing, he's not on the ballot; for another, it would be illegal for him to take office. He had collected about half the signatures he needed to get on the ballot when someone pointed out that New York State says you have to be old enough to vote to be old enough to hold office.

CITING PRECEDENTS

This didn't bother Whipper. He decided to go for a write-in campaign.

But there are other problems. He can't drive, which means that his mother or an older teen-ager must chauffeur him around the hustings. Moreover, he has been able to spend almost no time on the hustings because he's a freshman at a preparatory school 80 miles from home that won't let him out to campaign.

Actually, the Choate School, in Wellingford, Conn., did unbend a bit. It gave George 48 hours, the weekend of Oct. 11 and 12, to race home and run for office. There was time for a motorcade, some meetings and a cocktail party at which the candidate couldn't drink. "We usually don't give them any weekends," says a Choate official, "but then, we've never had a freshman run for office before." The Whipper shrugs. "William McKinley ran from his front porch," he says, "and Michael Curley ran from jail, and they both won."

George's opponents are the incumbent, George Krauss, who's running on the Republican and Conservative tickets, and Democrat Frank Barbarita, a real estate man and former Putnam County Democratic chairman. Neither admits to taking the boy seriously. However, Mr. Barbarita has made a point of promising to give special attention to youth problems, and Mr. Krauss agrees that George could pull important votes. "It's going to be a close one," he says, "and a couple of hundred votes could be vital."

Will Whipper Whipple get that many write-in votes? "At first, I would have been surprised if he got two votes," his father says. "Now I hear people saying 200 or 400. I wouldn't dare to guess."

A TELEVISION APPEARANCE

The two regular candidates are running traditional campaigns, with plenty of newspaper coverage, colorful posters on Route 52 through town and speeches before local groups. Young George hasn't had time for the rubber chicken circuit. But before the school term started he did manage to appear on network television on NBC's Tonight Show.

"The kid's father is a big-shot advertising man in the city," says a local newspaper editor, "and he's putting the boy up to this." "Not true," says George C. Whipple Jr., a vice president at Benton & Bowles. "I'm very proud of what he's doing, but he's doing it all by himself." The elder Whipple does admit that a few family friends and associates have helped. One is Ted Allegretti, an experienced political campaign organizer who worked for George Romney and Robert F. Kennedy. "He's the only adult on my team," insists young George.

The Whipples are members of the Gipsy Trail Club, a private residential community and social club in Kent. There is considerable feeling among other Kent citizens, who include many retired New York City employees, that the Gipsy Trail people are unconcerned about rising taxes and other inflationary pressures that beset the less affluent.

"My dad's taxes are high, too," says Whipper, "and I don't see either of the other candidates offering a solution." His solution: "New industry, particularly corporate headquarters. The new highways coming through here will halve the driving time to New York,

making this an ideal place for firms to locate."

While some people question Whipper's sincerity in running, no one can doubt his enthusiasm for politics. "I swung a solid LBJ fourth grade over to Goldwater with one speech," he boasts.

Like most political candidates, the slight, fashionably long-haired Whipple boy's biggest problem is money. "I made \$300 working for a mail-order house last summer," he says, "but that's all gone."

He had hoped that the appearance on the Tonight Show with Johnny Carson would net some cash from viewers, and it did—about \$30. Unfortunately, there are two Kents in New York, and only the other one has a post office. The Whipples' post office is the town of Carmel. As it happens, the other Kent has a supervisor named Whipple—Manley Whipple—and he got a few of the dollars from Carson viewers. He sent them along to Whipper with his best wishes.

Young George sent out several campaign literature mailings, and his aides spread Whipple buttons and bumper stickers around Kent before the money ran out. "He's got another letter going out, asking for money," his mother, JoeAnn, a petite brunette, says. "I'd like to help him," she adds, "but I'm no Rose Kennedy."

Young George readily admits he'd be ineligible to take office if elected. "We'd have to go to court on that," he says. "After all, if I can't serve, it's a denial of the rights of the people who voted for me."

READING MATERIALS FOR THE HANDICAPPED

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. MILLER of Ohio. Mr. Speaker, the Ohio system of public libraries is one of the oldest and most extensive in the Nation. A lesser known but very worthwhile service provided by many Ohio libraries is the furnishing of special reading and information materials for handicapped persons.

Mrs. Claudine Smith, editor for the State Library of Ohio, has written an excellent article in the October 1969 issue of the Wonderful World of Ohio magazine that describes the efforts made in Ohio, to insure that library materials are made available to the handicapped. I offer the article for insertion in the Record at this point:

SPECIAL LIBRARY SERVICES FOR OHIOAN'S SPECIAL NEEDS

(By Mrs. Claudine Smith)

"Let's go to the library!" is often heard in Ohio, and library visitors carry home some 70 million books a year for their reading enjoyment. Ohio's libraries are among the most-used in the nation, and they are popular with people of all ages, from pre-school children to senior citizens.

But thousands of Ohioans can't get to the library—so the library goes to them. Ohio librarians have pioneered ways of taking collections of books to people who need them but are unable to get to the library. First, horse-drawn wagons and then bookmobiles carried books to people in neighborhoods and rural areas remote from libraries. Librarians took books to settlement houses and adult education centers, rest homes and hospitals, where they were needed.

The needs that reading satisfies for the average person are every bit as real for the

handicapped. This group, too, needs library service—as children to become acquainted with the world; as students in school; as adults learning a trade or profession; to get information, to fill leisure, to grow; and, above all, as people, to “push back” the four walls which often bound the limits of their existence.

Now, libraries have special materials and services for the thousands of Ohioans who are blind, physically handicapped, homebound or hospitalized. They encourage readers to use regular library services if they can, but to make use of special materials where necessary. Important differences arise from the need to compensate for physical handicaps, and “getting the right book in the right format” to these readers offers personal and rewarding relationships.

Technology has produced wonders to help. Talking book machines, recordings, tapes, mechanical page turners, bed specs and prism lens glasses are now available. The latter are a great comfort to bed patients; they serve as “periscopes” by angling the vision for reclined reading. Books come in braille, in large types, on records (talking books and magazines recorded on unbreakable micro-groove records) and tapes. The most popular and widely used of the special materials are the talking book machine and talking books. The talking book machine is a specially designed record player which plays the recorded books and magazines at 33½, 16½ and 8½ R.P.M. Most talking books are recorded at 16½ R.P.M., while magazines are or will be at the space saving 8½ speed. With talking books there is no need to learn to read braille “dots.” Immediate participation is possible. Involvement comes through listening, and frequently talking book “readers” develop preferences for certain narrators, which influence their choice of “books.”

The handicapped have the same diversified reading tastes as the sighted. A wide variety of reading is often the greatest source of profitable and recreational occupation open to them. Thus, the library's objective is to provide the widest range of subject material possible. That many libraries are successful in this is evidenced by the fact that many readers have developed a full range of reading tastes only after becoming handicapped.

The Cleveland Public Library's comprehensive service to the ill and handicapped is known throughout the world, annually attracting foreign librarians and social service workers. It maintains libraries in 54 agencies, such as hospitals and institutions; and for twenty-eight years has operated a monthly schedule of home visits by librarians to handicapped children and adults throughout the metropolitan area.

The Cincinnati Public Library, which also provides extensive service to the handicapped, is engaged in a special project of service to exceptional children (here meaning all children who are physically and mentally handicapped). The project has attracted nationwide attention from librarians and educators, as well as psychologists who work with handicapped and disturbed children. A film, “Reaching Out,” based on this project is inspiring similar programs in libraries throughout the nation.

Smaller libraries in Ohio also give individual services to the homebound or hospitalized. Many send a staff member with books and records to county homes, hospitals or people's homes. Some cooperate with Grey Ladies, Junior League and other community groups in giving this service. In Alliance, the Women's Division of the Chamber of Commerce assists with delivery of talking book machines. In Marion, the Junior Service Guild transports materials from the public library to and from shut-ins.

Ohio public libraries work with other agencies and volunteer groups to serve the handi-

capped. In Cleveland, replies to braille letters received from blind readers are transcribed into braille by a volunteer. For a variety of reasons, blind patrons only rarely visit the libraries; and, even when they do, usually prefer that the materials they select be mailed to them, since both braille and talking books are difficult to carry.

The services of two regional libraries for the blind and physically handicapped at Cleveland and Cincinnati are extended throughout the state with help of a number of volunteers and public agencies. Among them is the Ohio Bureau of Services for the Blind, which distributes talking book machines. The American Red Cross transcribes braille; some chapters of the Lions Club and the Multiple Sclerosis Society and private agencies for the blind also issue talking book machines. The Kingsbury Chapter of the Telephone Pioneers of America, a national volunteer group of senior telephone employees, repair and restore the talking book machines throughout the state. Ohio people who enjoy reading aloud often volunteer to make recordings of books and materials; others have learned how to transcribe in braille. Some organizational groups make this a community service project. Such programs are in operation in Akron, Canton, Cincinnati, Cleveland, Columbus, Toledo and Youngstown. The two regional libraries in Cleveland and Cincinnati regularly assist volunteers in getting started in this project.

Large type books especially designed for the visually handicapped (but also helpful to slow learners and persons with “tired eyes”) are available in many libraries. A 400-volume collection of large print books, made possible through a grant from the State Library, rotates among libraries in Ashland, Crestline, Gallon, Loudonville, Mansfield, Marion, Shelby and Willard. Many library reading rooms also include periodicals in large type (for example, the *Reader's Digest* and the *New York Times*.)

Ohio has two regional libraries for the blind and physically handicapped. The regional libraries in Cleveland and Cincinnati are part of a nationwide system working with the Library of Congress to serve the blind and physically handicapped. The librarian of any public library can put a reader in touch with the regional library.

As a result of a new Federal law, anyone with a physical or visual disability who cannot comfortably use a conventional book is eligible for this service. The law recognizes that many people have physical ailments or visual problems which incapacitate them, even though they are not blind. For example, anyone suffering from severe arthritis or the effects of a stroke, is eligible (as are victims of cerebral palsy, muscular dystrophy, multiple sclerosis, polio and diplegia). Temporary immobility which makes the use of conventional reading materials impossible, such as an injury resulting from an accident or a fracture, makes a reader eligible for this service, whether he is convalescing at home, in a hospital or in an institution.

The service is free. As many talking books as desired, plus a free record player, are available at no cost. Books in braille and tapes are also supplied. Supplied free are subscriptions to the *Braille Book Review* and *Talking Book Topics*, bimonthly publications of the Library of Congress which describe new books and contain order forms and articles on library resources. All materials are sent through the mail free of charge.

The State Library of Ohio also plays a role in providing services to the handicapped. The General Assembly appropriates money to the State Library Board to underwrite the costs of the statewide library service for the blind. From this, payments are made by the State Library to Cincinnati and Cleveland public libraries, which operate the regional libraries. Further expansion of the

services to the handicapped is possible under the new program in the Federal Library Services and Construction Act, which is administered by the State Library.

The partnership among Ohio Libraries, the State Library, the two Regional Libraries for the Blind and Physically Handicapped, and a variety of volunteer agencies is making certain that more and more of the Ohioans who can't “go to the library” can still have the many advantages of public library service.

PAN AM IS STILL TOPS IN AIR CARGO

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. MURPHY of New York. Mr. Speaker, it always gives me a great deal of pleasure to cite American leadership, particularly in the field of international air transportation. With the economy of our country presently in such a sensitive state, our ability to trade conveniently and effectively in order to maintain a favorable balance of payments should be of the gravest concern to all of us.

I am, therefore, proud to report that our international flag carrier, Pan American Airways, is maintaining its pre-eminence as the largest carrier of air cargo in the world.

It is most fitting that Pan Am display this leadership because it represents what might well be the beginning of a comeback by this great U.S. flag international airline which has been plagued by every conceivable hindrance during the last 2 years. Not only were new U.S. carriers put on its route—in one instance, the case of Hawaii, five—but Pan Am went through some of the most severe labor negotiations in the Nation's history. Hopefully these negotiations will result in labor peace between the company and the great unions which represent its employees for the next 3 years.

As a company it has pioneered many innovations in this field—all-cargo aircraft, containerization, worldwide marketing, computerized cargo terminal facilities to name just a few. Additionally, in the national interest Pan Am has most recently displayed its capability and willingness to serve by providing the greatest amount of civil airlift of both mail and material to our fighting men in Vietnam.

I include the article which appeared in the October issue of the *Air Transport World*, “Pan Am Is Still Tops in Air Cargo,” in the RECORD:

PAN AM IS STILL TOPS IN AIR CARGO—UNITED MOVED INTO NO. 2 SPOT IN 1968; 21 CARRIERS TOP 100 MILLION TKMS

Pan American has moved far out in front as the top airline of the world in air cargo. Its 851,881,000 tonne kilometres represents a 29% edge over second-place United Air Lines.

There was only a 2% spread, however, between United and third-place American Airlines which UAL overtook in 1968.

Twenty-one of the IATA carriers topped the 100-million tonne kilometre mark, and of these, 10 were U.S. airlines. The top non-U.S. airline in cargo is Lufthansa at 312 million tonne kms, a 12-million edge over

BOAC which was hampered by strikes in 1968.

The two U.S. IATA-member all cargo airlines—Seaboard World and Flying Tiger line ranked No. 9 and No. 16 respectively. Trans-Mediterranean Airways, Lebanese cargo carrier, has moved up to 24th in the IATA ranking in cargo. Here's how each carrier fared in declining order of tonne kms:

Rank and Airline:	Freight (000) Tonne Kms.
1. Pan Am	851,881
2. United	659,867
3. American	644,335
4. TWA	546,407
5. Lufthansa	312,706
6. BOAC	298,807
7. KLM	283,782
8. Northwest	247,348
9. Seaboard World	246,067
10. Air France	231,727
11. Japan	197,979
12. Air Canada	190,070
13. Eastern	179,599
14. Alitalia	173,568
15. SAS	170,000
16. Flying Tiger	163,902
17. Delta	146,251
18. Sabena	118,047
19. Swissair	107,584
20. Braniff International	105,065
21. Qantas	104,294
22. Varig	81,512
23. UTA	79,976
24. TMA	77,094
25. BEA	70,618
26. National	68,850
27. Air-India	61,617
28. Pakistan International	54,915
29. Air Afrique	54,860
30. Iberia	54,444
31. CP Air	53,130
32. El Al	50,998
33. Avianca	47,668
34. Continental	46,721
35. South African	37,723
36. Irish Int'l	37,188
37. Ansett	35,213
38. Aerolineas Argentinas	27,671
39. Trans-Australia	26,507
40. Olympic	24,257
41. BUA	23,505
42. East African	22,040
43. Philippine	20,936
44. MEA	19,476
45. Lan-Chile	19,050
46. Air New Zealand	18,719
47. Aeronaves de Mexico	17,180
48. TAP	16,933
49. Ethiopian	16,359
50. Viasa	14,056
51. Indian	10,462
52. CSA	8,900
53. NZNAC	7,975
54. Cubana	6,511
55. BWIA	6,203
56. Aerolineas Peruanas	6,096
57. United Arab	6,056
58. Finnair	6,050
59. Cruzeiro	5,844
60. VASP	5,556
61. Mohawk	4,982
62. Saudi Arabian	4,909
63. Nigeria	4,422
64. Kuwait	4,229
65. LOT	4,024
66. JAT	3,635
67. Iran	3,612
68. Air Vietnam	3,579
69. Austrian	3,101
70. Air Algerie	2,863
71. Eastern Provincial	2,821
72. THY (Turkish)	2,425
73. Flugfelag	2,285
74. Air Ceylon	1,933
75. China	1,848
76. Ladeco	1,795
77. Malta	1,793

Rank and Airline:	Freight (000) Tonne Kms.
78. Sudan	1,712
79. CAT	1,673
80. Air Mali	1,426
81. Cyprus	1,267
82. Libyan Arab	1,197
83. Iraqi	1,141
84. DTA	1,018
85. Caribair	929
86. Quebecair	926
87. Royal Jordanian	829
88. DETA	455
89. Air Malawi	375
90. Tunis	281
91. Comair	192
92. Syrian Arab	165
93. Air Guinea	80
94. New York	23
95. Central African	10

PARENTS RESENT BURYING NAMES

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. DUNCAN. Mr. Speaker, the letter I am placing in the RECORD is one for study, not just reading. Having lost a son in Vietnam, Mrs. F. J. Sherrod and her husband know agony and sorrow that does not strike many, and the questions she raises are good ones for all of us to ponder.

I recommend this letter to each Member of Congress, and especially urge those who were sympathetic to the peace moratorium to read and think about the searching questions my constituent poses.

The letter follows:

OCTOBER 14, 1969.

Congressman JOHN J. DUNCAN,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DUNCAN: I do not know if other mothers have written their government to express their feelings and ask the questions I am asking. Perhaps I am just one of many.

It will, no doubt, be quite a surprise to some that parents can be confused. There also comes a time when they can no longer remain silent.

We have an article dated Sept. 19 which states that the names of the Americans killed in Vietnam were to be deposited in a casket in November in Washington.

My husband and I resent this. We do not want our son's name used. We feel we have every right to ask the government's help. How much more are the parents supposed to take? Was not the loss of our son enough? The very thought of this action taking place has truly upset us.

We lost our son Aug. 8, 1966. It does not seem possible that our son is gone. I keep hoping that it was a mistake and that our son will come home altho I have been told there was no mistake.

Our son was in Korea at the time he volunteered to go to Vietnam. While home on leave he told me he was an American soldier, he owed it to his Country and government and that it was his wish that all little boys growing up now would never be in uniform.

It is obvious that we have in our government those that feel that our sons are no less than animals and feel no respon-

sibility where they are concerned except to use them politically.

When men in our government have their names called at the Paris peace table and Hanoi speaks openly of the help given them, as well as others you see on TV and read about, one can hardly keep from wondering where free speech stops and treason starts.

Every American who has ever served in Vietnam and those who are there now had every right to expect their government to be behind them. After all, who is responsible for them being there? Certainly not the Pentagon. I truly feel that this shows how little value has been placed on our sons' lives. Or is it only who dies that is important?

I can only ask where were these men when the first fighting troops were sent to Vietnam?

Where were they February, 1962 when Senator Robert Kennedy was in Saigon and said, "We are going to win this war in Vietnam. We will remain until we do win."

Isn't it true that it was not President Johnson who broke away from the Truman-Eisenhower policy?

Is it true that the statement was made, after the troops were sent to Vietnam, that it would show Khrushchev we meant business?

President Eisenhower's remark about "Military Complex" was brought up, but was his remark about the Communists or the one that no politician could conduct a war. Isn't it true he would not endorse sending the fighting troops to Vietnam?

The pressure was put on President Johnson to halt the bombing. Then we were told they would talk seriously about peace. Our sons died.

Has Hanoi ever shown any signs of wanting to stop fighting or to agree on anything that has been suggested?

If this is a civil war, as some say, why do they have troops in Laos? Why is there fighting there? Isn't it true that Hanoi does not tell its own people the truth? That they have wounded troops in Laos to keep them from being seen?

Isn't it true that they did not keep the agreement made with the French on withdrawing all Red forces north of the 17th parallel? Didn't they refuse an "on site" inspection and hid their weapons of war? Isn't it true that Canadian observers said the Reds murdered 11,500 South Vietnamese, these by terror?

In 1961 the Communists had a full-blown offensive mounted against Laos. Isn't it true that President Kennedy announced that he would never permit a Red dominated Laos?

At the time of the Pueblo affair there were those who instead of discussing the true seriousness of it used it to slap our country around and did not show any concern for the men. This also included the men lost on the plane and those in North Korea at the present time. How many Americans have been killed by the North Koreans altho there isn't much said about it?

How many men have died and how many times has the military been blamed for political mistakes?

I have an article, very small, which says, "Russia assures Washington that although it will build a base for its missile firing nuclear submarines no missiles will be stored on Cuban soil. None will be in Cuban hands." How much is truly known about what Cuba does have? What will the Americans have to pay for the advice given President Kennedy?

And for those who only think of money, remember the cost of the Bay of Pigs?

I can't remember how many times I've heard men in our government talk about the cost of the Vietnam war—money-wise—and never mention the loss of our sons, the

injured, the prisoners of war, or the ones lucky enough to live through the hell.

Because money came first with them, I will ask them to do this—think about how much your children mean to you, money-wise, now multiply it by 40,000.

I've heard the remarks made that some volunteers had done so for the extra money. This will, no doubt, come as a surprise. To get home from Korea before going to Vietnam, our son had to pay his own way. I have the papers, the cost was \$627.00. This he was paying off at so much a month. His duffel bag was lost on the way to Vietnam; he was never paid for it. We sent him the things he asked for. He also asked me to send him a gun cleaning outfit, which I did. I wrote the airline, after our son's death, to see if his duffel bag had been found. I wanted his things back in his room. I was informed it had not been found.

Why do we hear the phrase "American barbarism." Yet silence prevails at the barbarism of the enemy. Perhaps these bleeding hearts do not feel that what happens to our sons could be called barbarism. Yet you see and read about them upholding everything in the book, here at home.

We hear so much about "moral obligation," but where is it where our fighting men are concerned? Could it be that they expect our sons to salute them and say, "Oh, wonderful ones, we who are about to die, salute you."

How many of them have had or have at the present time sons fighting in Vietnam?

I heard the Vietnam war called "poor man's war." Our three sons and son-in-law were volunteers for the military service, but who can ignore the unfairness of the draft. When our government asks young men to put their lives on the line it has no right to play God and say you fight and die because of their financial situation. The draft should include all. Now we hear that we should have all volunteers. Would the situation be the same? By this I mean, those that can't get jobs, etc.? Wouldn't it still be more of the same—the haves and the have-nots?

We heard the words, "I'm sorry" by one in regard to the Gulf of Tonkin agreement. I think it is a condition rather than an expression of regret.

How many laws are passed by our government which they do not consider includes "me" and "mine?" Or has it become the "used" and the "users?" I saw my husband go through hell before, at the time our son was in Vietnam and our youngest in Italy and after our son's death, and only God knows how many Americans found themselves in same position. I wrote to Washington in 1965 and 1966. Our son died without knowing the truth. Our state could not be blamed.

How many known Communists are there in our Country? Isn't it true they can even work in our defense plants? Yet our sons died thousands of miles from home fighting them.

I think hundreds of our sons would be alive today if military decisions had not been ignored. The "arm chair generals" made the decisions. Yet some of the loudest critics were in on the "ground floor." Perhaps they thought that because they had not declared it a "war" they could change their minds. But wasn't it too late? Let them tell the dead and injured, not only of Vietnam but also of Korea, that it wasn't a war. I have heard that they do not receive full benefits because it wasn't a "declared" war. Is this true?

But how quick they are to criticize President Johnson, President Nixon, the military or any one else that doesn't agree with them. Or isn't it just to make themselves look good in the public eye and to "cover up" their poor decisions?

These great humanitarians at home with

the blood of our sons on their hands. Why should the Reds talk about peace? It gives you plenty to think about, your son fighting thousands of miles from home and the enemy being given encouragement by his own countrymen. What about our sons' rights? How can those in our government censor a member over money and not ask questions about the aid and comfort given North Vietnam?

My last two questions are: When is murder a murder? Will all the little boys, growing up now, be in uniform?

Sincerely,

Mrs. F. J. SHERROD.

DR. GEORGE H. HEARN SPEAKS ON TRANSPORTATION INDUSTRY

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. CAREY. Mr. Speaker, on October 1, COMMISSIONER George H. Hearn of the Federal Maritime Commission addressed the International Federation of Forwarding Agents Associations at the Waldorf-Astoria in New York.

Concentrating on the controversial subject of containerization and its interrelationship with the "nonvessel operating common carrier" and the independent ocean freight forwarder, Commissioner Hearn describes the Commission's concern for innovation and its efforts to create conditions that will permit the realization of its full potential for the industry and consumer alike.

I insert the full text of his remarks at this point in the RECORD:

COMMISSIONER GEORGE H. HEARN ADDRESSES 11TH WORLD CONGRESS OF THE INTERNATIONAL FEDERATION OF FORWARDING AGENTS ASSOCIATIONS AT THE WALDORF-ASTORIA

I have been looking forward with a great deal of personal pleasure to this meeting. It has been over a year now since my good friend, Jan Ramberg of Goteborg, had extended the tentative invitation to address this Congress and since he and your New York FIATA Committee Secretary, Cliff O'Hara, formalized this invitation, I have been waiting to visit and discuss with you the important international transportation problems of the day. I am honored not only to address you and moderate this panel on Container Transport, but I have arranged to spend several days here attending the Congress and seeing you all individually.

Three segments of the transportation industry have become major topics of discussion and controversy. These are containerization, the "non-vessel operating common carrier", and the independent ocean freight forwarder. To one or another member of the transportation industry one of these three areas seems most important; but it cannot be denied that it is the magnitude and interest in the activities of ocean freight forwarders and nonvessel operating common carriers.

Because of this causal connection the three areas have become so interrelated that none can be fully analyzed without reference to the others. As I present my comments to this panel I shall seek to explore that interrelationship.

I am sure you are all familiar with the concepts of the containerization, independent ocean freight forwarder and non-vessel

operating common carrier. For clarity, however, I will include some basic thoughts on the subjects.

Modern transportation, like other aspects of society, relies on speed. Very often—perhaps too often—the measure of success is directly proportional to the increase in speed by which our activities proceed. In transportation we seem to have found in containerization the key to rapidity.

Utilization of the container has resulted in time reductions in many stages in the process of transporting goods by water. For example, the movement of the goods from shipper to ship has been simplified; ship loading and unloading times have been sharply reduced; ship turn-around and transit time have been significantly shortened. When goods are transported in intermodal movements, their transfer from one mode to the other has been greatly facilitated.

These transportation advantages are of considerable importance; but containerization has not been the instant panacea for the problems of transportation which many had predicted. Containerization has not solved all transportation problems, and even has given rise to new ones.

I have already mentioned that speed is the essence of containerization. Unfortunately, however, the race for speed may have been too rapid. Containerization cannot replace break-bulk operations completely. In many situations containerization is not possible or desirable. I certainly do not substitute my opinion for that of management in moving into the container age. Yet a large part of the shipping industry has plunged headlong into containerization and as a result there are the problems of the industry sometimes overreaching itself, sometimes causing detriment to shipper requirements, and often creating conflict with other segments of the transportation industry.

The development of new technologies requires careful analysis; it is not enough to be first with the fastest. Containerization requires large capital expenditures; and an ill-planned and uncoordinated commitment to container operations can forestall the flow of their full advantages to the carrier and his customer. Consequently, containerization has not yet produced some of the results expected by many. As yet, decreased freight rates, lower insurance costs, minimized cargo theft and reduced damage in transit have not resulted to the extent anticipated.

In addition, the planning for a new technology must consider not only its own enhancement, but also the repercussions. Areas in which the effects of containerization have been widely felt include the activities of independent ocean freight forwarders and non-vessel operating common carriers—or NVO's. The freight forwarder and NVO provide essential services in the shipping industry; and the portent is for the operations of both to change substantially with the development of containerization. The freight forwarder and NVO may play new roles in transportation and may offer new services, and perhaps must do so in order to survive.

For example, the NVO has always possessed an ambiguous status in the transportation industry. Soon, however, his role may be clarified and even altered.

The Federal Maritime Commission recently instituted a non-adjudicatory proceeding to investigate matters relating to NVO's by water operating in our domestic off-shore and foreign commerce. The purpose of the investigation is to inform the Commission concerning the operation, current problems, or any need for regulatory changes with respect to NVO's.

NVO's have long been held by the Federal

Maritime Commission to be common carriers by water subject to the shipping acts. As common carriers by water NVO's must file their over-water, or port-to-port, rates with the Commission. This, however, may be an artificial filing because NVO's do not generally operate on a port-to-port basis. NVO's offer a through rate for a through transportation service, often originating and terminating at inland points; and such service usually includes a land or air movement. Shippers are interested only in the through rate, and not in its various segments such as the port-to-port segment. The Federal Maritime Commission accepts for filing the NVO's through rate but requires the NVO to separately state the port-to-port segment for filing and Commission scrutiny.

The value of NVO tariff filings is complicated further by the fact that NVO's operate in a dual capacity—as carrier and as shipper. NVO's are carriers when they offer and contract to transport goods for shippers. They are shippers when they purchase the services of vessel operators to actually carry the goods.

These circumstances surrounding NVO operations give rise to numerous problems concerning the appropriate status of the NVO in the shipping industry and the role of the Federal Maritime Commission in properly exercising its responsibilities. Consequently, the Commission has, as I have mentioned, begun an investigatory proceeding to provide the Commission with information for dealing with those problems. In general, the areas under investigation include:

1. whether NVO's must be licensed or certificated;
2. the extent to which common ownership of NVO's and vessel operating carriers should be permitted;
3. what tariff filings should be required; and
4. how NVO's should be related to carrier conferences.

The rapid growth of containerization has, of course, added to the difficulties in dealing with NVO problems by fostering NVO growth and widening the scope of possible NVO services. NVO's operate by soliciting cargo at inland points and consolidating small shipments. Such services benefit from and, in fact, may now depend upon the use of containers for their profitability. The shipper is charged a through rate involving a single bill of lading. The NVO either adds a profit factor to the combined transportation costs of the underlying carriers, or consolidates small shipments and then avails himself of full container rates of the underlying carriers.

The Federal Maritime Commission hopes that through its investigatory efforts, and with the cooperation of various segments of the shipping industry, it will be able to develop some viable solutions to problems such as I have mentioned concerning NVO's.

Independent ocean freight forwarders have also been affected by the growth of containerization. The challenge to the forwarder, however, differs from that to the NVO. In fact, containerization may work to the advantage of the NVO at the expense of the forwarder.

NVO services involve door-to-door full container shipments and consolidation of less than container load shipments at inland points. Freight forwarders feel the impact of such operations because shipper utilization of NVO services reduces the demand for traditional forwarding services. The position of the forwarder is compromised further by the fact that inland operations usually require operating rights granted by the Interstate Commerce Commission.

For persons holding such rights the commencement of NVO activities is easy because the offering of ocean transportation does not require the permission of any agency. Ocean freight forwarders, on the other hand, often

have difficulty in obtaining rights to operate inland.

Furthermore, in their efforts to expand inland, forwarders are met with additional competition. Ocean carriers are now offering cargo handling services by direct solicitation to shippers. To accomplish this the carriers are utilizing container operations to effectuate door-to-door or door-to-port delivery.

Forwarders must, therefore, seek to expand their activities into new areas and make containerization work to their advantage.

In New York the ocean freight forwarders have sought to do this by combining their efforts to form container consolidation stations. Success in their efforts will result in increased shipper participation in modern shipping methods. Labor difficulties have become involved there, however, and no judgment can yet be made of the project.

Efforts of forwarders should also be directed toward break-bulk cargo operations. Despite some predictions, I do not believe that all cargo is containerizable or that all trades are conducive to complete container systems. As trade experts, forwarders should be able to gain the advantage in such areas. Forwarders can assist in encouraging exports and developing new markets. They can assist government agencies and departments in export expansion programs. Many potential exporters and export markets remain unaware of each other and could well use forwarder services.

There is one further point which I would like to make concerning freight forwarders. I have stated it publicly many times and do so again now. I believe forwarders should be permitted to finance exports. The Federal Maritime Commission considered this issue several years ago in Docket No. 66-31. A majority of the Commission ruled that to permit forwarders to finance exports requires legislation. I disagree with that conclusion and believe the Commission's rules can be changed to allow this forwarder activity without legislative action.

While forwarder services are being encroached upon by new transportation systems, and our export commerce is in need of expansion, the restriction on export financing is an unnecessary burden for forwarders and for our international trade. If new legislation is indeed required, the Federal Maritime Commission should cooperate in proposing such action to the Congress.

While I would support such action by the Federal Maritime Commission, I must remind you of the limits on my freedom to comment in certain areas. I may not publicly express opinions or announce conclusions as to matters or issues which I might later be called upon to adjudicate. Consequently, to avoid pre-judgment, I approach with caution new problems and new concepts within the sphere of authority of the Federal Maritime Commission. But this quasi-judicial admonition certainly does not prevent me from attempting to observe and possibly contribute to the efforts to solve our transportation problems.

Modern containerization is a new concept; and the problems it engenders have been and continue to be brought before the Commission. The difficulties and uncertainties created for NVO's and freight forwarders are a sampling of these new problems.

There are many others, and I do not, by my caution, intend to give the impression that the Federal Maritime Commission is hesitant to deal with innovation in transportation.

We expressed our views on this subject last year in a famous case involving through intermodal rates proposed by Container Marine Lines in the United States/United Kingdom trade. In its report of the case, the Commission said:

... The Federal Maritime Commission can and must play an important role in encouraging improved services for shippers... Enlightened regulation is the key to effective regulation... Progressive regulation is required in the interest of encouraging the modernization of shipping services.

As to this, and before concluding, I would like to comment briefly on a matter currently before the Commission. That is the matter of joint rates for transportation between points within the United States and foreign points. In Docket No. 69-33, a proceeding pending before the Commission, a group of carrier conferences in the United States/South America trade are seeking to expand their authority to include joint rate cargo movements.

The Interstate Commerce Commission also has the matter under consideration in a rule-making proceeding, and has intervened in our Docket No. 69-33.

In addition, there is a different but related situation which has recently arisen. Less than two months ago the Federal Maritime Commission approved an agreement bearing F.M.C. number 9804. That agreement provides for a cooperative working arrangement whereby three carriers will operate LASH service. LASH stands for Lighter-Aboard-Ship. The LASH system enables vessels to carry their cargo in floating containers—or lighters. These containers can be loaded and discharged directly into the water by a traveling shipboard crane. This particular LASH operation will serve the trade between Europe and the United States South Atlantic and Gulf ports.

What is significant is that the port-to-port service will include service to and from places on inland waterways. I emphasize the word "places" because it could encompass locations which are not ports.

Thus the new LASH carrier probably will file tariffs naming through rates from foreign ports and places on inland waterways to ports and places on United States inland waterways. While no joint rates are involved, there will be service between inland points in the United States and abroad.

Here again you may note the challenge presented to NVO and freight forwarder operations.

This is the first such agreement to be filed with and approved by the Federal Maritime Commission. It represents an apparently logical extension of new transportation systems in our foreign commerce; and the new service will enable shippers, carriers and government agencies to gain experience upon which to base future action.

Now returning to the question of joint rates, both the Federal Maritime Commission and the Interstate Commerce Commission are seeking to establish rules and principles to facilitate the use of joint rates. The Federal Maritime Commission, it should be clear, is attempting to pursue its congressionally delegated authority to advance the public interest in improved cargo transportation. Traditional methods of moving cargo are rapidly being replaced by new techniques in transportation. The Federal Maritime Commission is well aware of these developments and seeks, wherever possible, to encourage the implementation of improved transportation systems.

Once again, however, I am constrained to say that this joint rate matter is sub judice; and I must be circumspect in my remarks.

Nonetheless, I have brought to your attention some of the important issues arising out of the container revolution, and also the manner in which the Federal Maritime Commission seeks to assist in their solution.

Despite the legal limitations I am at liberty to express my and the Commission's general views on the changes occurring in transportation. We at the Federal Maritime Com-

mission favor all changes in transportation which constitute an advancement in the state of the art.

As a matter of fact the Federal Maritime Commission has been and should continue to be in the forefront of the efforts to advance such concepts as intermodalism.

The Federal Maritime Commission is already involved in intermodal transportation through its regulation of NVO's; and I have already pointed out the Commission's efforts in that area. Also, the Commission took a great step forward in regulation by its decision in the famous *Container Marine Lines* case of last year involving rates between United States ports and inland points in the United Kingdom. Currently the Commission is considering the South American trade case, Docket No. 69-33, which I have discussed.

Thus the Commission has not sat idle and let transportation advances out-strip regulation. Such action is, moreover, consistent with our experience and expertise in international transportation. For over fifty years we and our predecessors have been engaged in the regulation of this nation's foreign waterborne commerce. The experience and expertise developed over so lengthy a period should not be considered lightly. The Federal Maritime Commission continues, therefore, to be the primary source of regulatory activity in the area of international water transportation. This is not to say that we would infringe on the domain of another regulatory body. We do, however, strongly adhere to the principle of keeping our regulatory policies in step with modern transportation.

Further, ocean carriers should be and are the carriers which are taking the initiative in intermodal transportation. As the dominant carriers in such cargo movements, ocean carriers have been moving rapidly into this area. The LASH operation and the South American conferences are two examples of this. A more recent development is that in which American President Lines has initiated discussions with American Airlines to provide a sea and air intermodal service. This parallels a long existing service offered by Farrell Steamship Company and Pan American World Airlines.

Ocean carriers provide the dominant leg of intermodal services and also assume the great risks and investments required in our foreign trade. Consequently, I foresee the ocean carriers being the leaders in the growth of intermodal movements, and the Federal Maritime Commission as the agency best equipped to provide the regulatory leadership and guidelines for that development.

The Federal Maritime Commission has received no high popularity ratings among those subject to its jurisdiction. This is true of all regulators and is a natural consequence of regulatory activity, especially in the sphere within which the Commission functions. The Commission does not, however, seek popularity with any particular group or interest. We act without regard to flag, not favoring one interest over another, but dispensing fairness to all.

The Federal Maritime Commission is concerned not only with each individual component of the transportation industry; but we are equally considerate of the consumer or user of transportation services. From every point of view the Commission is obligated to recognize innovation, and help create condition which will permit realization of its full potential for the industry and consumer alike.

To this end the Commission has undertaken to analyze the NVO so as to be able to encourage the greatest benefits to flow from this segment of the transportation industry. Similarly, the Commission is responsive to freight forwarders in exploring new areas of operation; and in this effort the Commission

approved, under its statutory authority, the agreement among the New York freight forwarders which I have mentioned. As I have discussed also, there will soon be forthcoming Federal Maritime Commission action in the area of joint rates.

Thus, the Federal Maritime Commission is ever watchful for opportunities to promote the benefits of containerization. You are aware, I am sure, that the Commission is not a maritime promotional agency for any nation. What we do promote is equal access for all to advances in ocean transportation.

I hope my remarks have set the tone for this panel and opened areas for discussion.

MANPOWER TRAINING FOR WATER QUALITY CONTROL PERSONNEL

HON. WILLIAM C. CRAMER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. CRAMER. Mr. Speaker, on March 10 of this year, I introduced a bill, H.R. 8516, to amend the Federal Water Pollution Control Act, as amended, to provide improved operation of the Nation's water quality control facilities. This bill was cosponsored by virtually all of the minority members of the Public Works Committee and was incorporated verbatim by the whole committee into H.R. 4148, which passed this body on April 16, 1969.

I have been in extensive correspondence with the Governors of the States, their administrators of education departments and natural resources departments, State water quality control boards, and educators.

For the benefit of those Members who have asked to be informed of the views of the States in regard to this legislation, I have culled some pertinent quotes from some of the answers to illustrate the general approval of the State authorities. I believe that they will find these quotes of great interest and if any Member would like a copy of the correspondence from which an extract is made, I would be delighted to provide him with it.

The quotations follow:

QUOTES

We have traineeships, provided by the USPHS, which have gone to waste for lack of interest or qualified applicants . . . In short, we have the staff, laboratories, and willingness to have a good program—we lack the students.

Another problem has been encountered in the stipend level for the graduate students. We have been unsuccessful in getting the federal government to raise these to a level whereby a student can exist in the Fairbanks economy. Our stipends are identical to all others, and they stipulate the recipient cannot engage in any other work. (Dr. Sage Murphy, Director of the Institute of Water Resources, University of Alaska.)

You are to be commended for your efforts in the water quality control field and the objectives that you have established in your sponsorship of H.R. 4148. (Russell W. Peterson, Governor, State of Delaware.)

The critical need in California, however, is the training of waste-water treatment plant operators and maintenance personnel. At

present the bulk of this training is being provided by the local sections of the California Water Pollution Control Association, large municipalities or districts, and dedicated individuals. Training is also being conducted for seven educational institutions. These institutes do not provide degrees for this program but some provide certificates.

Your bill should provide a much needed stimulus to the training of waste-water treatment plant personnel and we, therefore, wish to compliment you on its initiation. If you need additional information, please do not hesitate to contact this office. (Norman B. Livermore, Jr., Administrator, Secretary for Resources, The Resources Agency of California, Sacramento, California.)

From the above, it is obvious to me that H.R. 4148 would indeed be a major assistance in stimulating institutes in this State to enter the field of training of water quality control personnel.

As a former Member of the Board of Community Colleges and Occupational Education, I will do all that I am able to stimulate further offerings in the water quality control field by our community college system.

Please forgive the delay in the response to your inquiry. I hope this information, meager though it is, will lend support to your efforts toward passage of H.R. 4148. (J. W. Ten Eyck, Executive Director, Department of Natural Resources of Colorado.)

This is legislation in which we all should be very much concerned, and it is interesting to note that it has passed the House. (Lester Maddox, Governor of Georgia, Atlanta, Georgia.)

We appreciate your interest in this problem and expect that H.R. 4148 will help towards its solution. (Walter E. Washington, Commissioner, District of Columbia.)

We believe the critical needs today are for training and upgrading (on-the-job instruction) of present operators and developing additional manpower through programs provided by two-year colleges and technical schools. Professional training of engineers, biologists and chemists could be supported by a scholarship program.

We agree that legislation such as that contained in H.R. 4148 is sorely needed to meet present and future water quality control demands. We appreciate the opportunity to comment on this matter. (R. S. Howard, Jr., Executive Secretary, State Water Quality Control Board, Atlanta, Georgia.)

We in Hawaii are most interested in participating in the programs to be supported under Section 21 of H.R. 4148 and look forward to the enactment of this legislation and its funding by Congress. (John A. Burns, Governor, State of Hawaii.)

Idaho, as has the rest of the nation, has felt the shortage of personnel in the water quality control field. (Don Samuelson, Governor, State of Idaho.)

I wish you the best of luck with your bill. I think it will be a most useful instrument in helping to provide personnel in this all important area. I feel that whatever efforts the Federal Government can make to combat water pollution and to improve water quality must be done. (Kenneth M. Curtis, Governor, State of Maine.)

Nevada has prided itself on the percentage of its population that is being provided with a high degree of sewage treatment. Our small communities as well as our major population areas have invested large sums of money in modern treatment plants to protect the limited quantities of water in this state, but operational difficulties in several plants this

year has pointed to a serious need for highly trained, well qualified individuals that are capable of running these modern complex plants.

Neither the University nor the Health Division has adequate funding to provide the training courses which we now believe are necessary for proper operation of modern plants and receiving water quality control.

We concur with your opinion that the training grant or contract provisions of H.R. 4148 would be of value in meeting this vital need in training and enhancement of the profession to attract additional personnel. (Dr. John H. Carr, Acting State Health Officer, State of Nevada.)

I am pleased to note that H.R. 4148 has passed the House, and I am calling the attention of the schools here to this excellent legislation. (Tom McCall, Governor, State of Oregon.)

Your letter of 26 May 1969 to Governor Tiemann relative to H.R. 4148 was referred to me for comment. This subject is of vital importance to programs of water quality control and, therefore, we are glad to see this support from the national level.

The water pollution program, in our opinion, is not being realized because of the poor operation of the existing facilities. In short the best plant will not produce a satisfactory effluent unless properly operated. Properly trained operators are lacking in every area. Therefore, a support to this program will greatly enhance this responsibility. (T. A. Filipi, Exec. Sec., Water Pollution Control Council, Nebraska.)

We strongly support your aims and agree that proper technical training is an integral part of combating water pollution problems. If we can be of any assistance to you in this matter, or if you need additional information, please do not hesitate to call on us. (Paul W. McKee, Director, Dept. of Water Resources, Maryland.)

The State Department of Health is preparing a request to be made to the Federal Water Pollution Control Agency for funds for a project under which cooperative educational programs at two-year community colleges and institutes will be established for the training of individuals in water resources. Graduates will be granted an Associate Degree in Applied Science and will be qualified as wastewater treatment plant operators. Under the proposal, students would be given financial support in the form of tuition and stipends during attendance at school. They would be paid a salary from the project funds during the on-the-job training periods at wastewater treatment plants. (Alton G. Marshall, Exec. Officer to Governor, State of New York.)

It appears that one of the most serious water quality control problems nationally, as well as in New Mexico, is the inadequate training of water treatment plant operators.

With best wishes for success in your effort to improve the education and training of personnel who will be responsible for the operation, design, maintenance and functioning of our water quality control facilities. (David F. Cargo, Governor, State of New Mexico.)

Many of our masters degree students have been partially supported by either Public Health Service or Federal Water Pollution Control Traineeships. Without these student support-funds, the program would not be large enough to provide the high caliber faculty we now have.

Because of the growing problems of maintaining a quality environment in our urban areas, there is a great need to continue to train engineers and technicians in this specialized field. Student support-funds should continue to be made available for the train-

ing of engineers at the graduate level in both sanitary and environmental engineering. We also strongly support the concept of making training stipends available for water quality control facility personnel. Universities with existing programs can contribute to the training of plant operators by establishing one or two year programs in schools of technology much as the one we propose here at New Mexico State University. (R. B. Corbett, President, New Mexico State Univ., New Mexico.)

I am very encouraged by H.R. 4148, which, if enacted, will be another great step toward pollution abatement. (John P. Badalich, P.E., Exec. Dir., Minn. Pollution Control Agcy., State of Minnesota.)

I also enclose a copy of a circular describing the Clean Air and Water Scholarship Intern Program of this Department for your information. This Department has a vital interest in H.R. 4148 and we will follow the legislation and promote its use by New Jersey schools and colleges. (Ralph T. Fisher, Director, Office of Program Planning & Education, Dept. of Health, State of New Jersey.)

The provision for scholarships in H.R. 4148 will encourage secondary school graduates to take advantage of this training and enter the field of water pollution control operation. (Claude R. Kirk, Governor, State of Florida.)

Congratulations on your bill that was passed by the House which would provide scholarships and stipends for the training of persons to enter the water quality control field. This would be, I feel, a great step forward in the fight against water pollution. (Arch A. Moore, Jr., Governor, State of West Virginia.)

While we anticipate the need for a continued training and upgrading program under DNR auspices, it is our hope that the technically oriented educational institutions (vocational schools) will establish training programs to provide replacement personnel in both the waterworks and waste treatment plants. Some interest has already been shown by vocational schools in our high population areas.

The question is, however, whether local officials are as yet adequately aware of the need for hiring trained personnel and willing to pay a wage commensurate with the skills required.

To be successful, a financial assistance program should probably include both (1) instructional aid, and (2) an on-the-job training stipend which could be used as an incentive for communities to employ graduates of these technical schools. (Warren P. Knowles, Governor, State of Wisconsin.)

We concur with your concern over the lack of training and personnel in the field and are anxious to expand our program. Your comments and suggestions are encouraged. (Irvin D. Dunmire, Assistant to the Dean, Utah State University, Logan, Utah.)

We believe, as you do, that there is need for more technical personnel to combat the problems of controlling water pollution. (Robert K. Thomas, Academic Vice President, Brigham Young University, Provo, Utah.)

I am hopeful that in the interpretation of H.R. 4148, if it is enacted into law, scholarships and stipends will be available for the training of pollution biologists as they too are essential water quality control personnel. (W. E. Norris, Jr., Dean, Southwest Texas State College, San Marcos, Texas.)

Improving the education and training of personnel responsible for the design, operation, maintenance, and functioning of water quality control facilities is a most important topic, and I sincerely appreciate the opportunity to comment on this subject as it relates to South Carolina.

Section 21 of H.R. 4148 could provide a means by which South Carolina might very well expand its existing training programs in order to meet the future need for water quality control personnel. An appropriate approach for South Carolina under provisions of Section 21 of H.R. 4148 could very well be to expand these existing programs and where possible implement new training programs in South Carolina technical education centers, vocational schools, or other educational institutions.

It should also be noted that there is a continuing need for high education that will provide for a larger number of degrees in Sanitary Engineering.

I am in complete agreement with you that Section 21 of H.R. 4148, if enacted into law, will serve as a valuable tool in combating the problem created by the lack of trained water quality control personnel. (Robert E. McNair, Governor, State of South Carolina.)

With the passage of the Mandatory Certification Act (Pennsylvania Act 322 on November 18, 1968) there will be a tremendous increase in the need for training of existing and new water and wastewater treatment plant operators. There is also a need for additional consultants, technicians and faculty members in the water resources field. Your proposals incorporated in H.R. 4148 recognizes those needs.

I would suggest in order to broaden Sections 20-23 of H.R. 4148 that you include provisions to make State agencies providing training in the water and wastewater treatment field eligible to receive funds. We have found that many institutions of higher learning in Pennsylvania are not interested in providing training to existing and new water and wastewater treatment plant operators. In Pennsylvania the Public Service Institute of the Department of Public Instruction has a dynamic program consisting of short courses for training of water and wastewater treatment plant operators. The Public Service Institute receives funds from the George-Dean and George-Barden and Perkins Act No. 88-210. The total program receives 50% Federal and 50% State funds. (Raymond P. Shafer, Governor, State of Pennsylvania.)

The State of New Mexico has a training program for water treatment plant and waste water treatment plant operators. It is sponsored by the New Mexico Water Supply and Pollution Control Association, the Health and Social Services Department, and New Mexico State University. The Program receives no State funding and is sponsored solely by water utilities personnel. The program is far short of what is needed in the state to assure the delivery of safe drinking water and the proper treatment of waste water.

The establishment of a school, such as the one in Neoshow, Missouri, is an important step in the training of water utilities operating personnel. Personnel in the field see the need for more highly trained personnel in the operation of water related facilities. Generally speaking, we feel that operating personnel training should be at the college level with a sub-baccalaureate degree. Two years training, subsequent to high school, would be reasonable.

To date, salary ranges in the industry, as paid by municipalities, are not sufficient to attract well-trained personnel and the student enrollment would not be sufficient to support the program.

I would like very much to see some program developed whereby water utilities operator training could be supported during the interim period until sufficient awareness is developed to support the program through student participation. I would like to say that it will probably be futile to train water utilities personnel unless salary scales paid by municipalities comes into line with reality

of today's technological problems involved with water and wastewater treatment. (David F. Cargo, Governor, State of New Mexico.)

You are to be congratulated on your interest in this important area. (Warren G. Hill, Director of Higher Education, State of Connecticut.)

We seriously doubt that formal training for an extended period of time would serve the need of many small cities in Kansas, but rather we feel that training through state-approved courses in the immediate area of operators can be of greater value.

Both the University of Kansas and Kansas State University have undergraduate programs in sanitary engineering and allied water quality fields. The University of Kansas also has M. S. and Ph. D. programs in this field.

As I read H.R. 4148, it would appear that scholarships and stipends would be limited to plant operators. I feel that in Kansas, there is a greater need for graduates in sanitary engineering to enter the state regulatory agencies as well as related positions. The tremendous competition for these people with the federal government has been disabling at the most productive level. (Robert Docking, Governor, State of Kansas.)

Auburn has a unique opportunity to contribute to the development of engineers and scientists in this area of endeavor for the future as it has in the past. Funding is a major obstacle. Perhaps this HB 4148 will assist Universities such as Auburn reach a higher level of service. (Rex K. Rainier, Head Professor, Auburn University, Auburn, Alabama.)

I am sending to you a report on *Manpower Needs at Water Pollution Control Facilities* in New England prepared by the Federal Water Pollution Control Administration in cooperation with the New England states. Copies of the report have been forwarded to Mr. Cleveland and other members of the New England Congressional Delegation.

This report emphasizes the urgent and rapidly expanding need for trained and competent water pollution control facilities operators in New England. The report suggests, quite properly, that even the best-designed waste-water treatment facility will produce little in the way of clean water unless it is efficiently operated and maintained. The lack of a skilled pool of water pollution control facilities operators is presently a weak link in the entire water pollution control effort.

The report indicates that strong Federal and State leadership and new legislative action will be required to make satisfactory progress toward a solution to this problem. S. 7 and H.R. 4148, currently before the Congress, are constructive efforts in this direction. (New England River Basins Commission, Boston, Massachusetts.)

BIG TRUCK BILL

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. SCHWENGEL. Mr. Speaker, my editorial for today is from the Natchez (Miss.) Democrat, in the State of Mississippi. The editorial follows:

[From the Natchez (Miss.) Democrat, July 24, 1969]

MISSISSIPPI AAA OPPOSES TRUCK BILL

Club, a division of the American Automobile Association, has joined with other affiliated clubs in voicing strong opposition to

a bill now pending in Congress which would permit operation of larger and heavier trucks on highways.

"The present bill is almost identical with last year's measure which was swamped by an avalanche of public opinion and vigorous editorial criticism in the nation's press," Mr. R. C. Lawrence, Division Manager, commented. "The only difference is that a length limitation has been added—but this limit of 70 feet is higher than that allowed, except under special permit, in 48 of the 50 states. And history has shown that Federal maximums soon become state maximums."

The bill as its stands would apply only to the Interstate System, Mr. Lawrence said, but truck trips do not begin or end on the Interstate highways so they have to enter or leave by roads not a part of the system.

"The heavier vehicles will prematurely pound to pieces the pavement of the highways in which we have invested so many billions of dollars," the AAA official said. "It will place dangerous overstresses on many of the nation's bridges not built to sustain such heavy loads."

"There also is the matter of danger. Passing a passenger car on a two-lane highway is perilous enough; attempting to overtake and pass a 70-foot truck-train on anything less than a four-lane road will mean taking one's life in his hands."

Mr. Lawrence urged all motorists in the Mississippi Division to write to their Congressmen promptly to express their views on the current big truck bill, H.R. 11870, which is described in the following article:

WASHINGTON, D.C., July 15.—Bigger, heavier trucks on the highways would result in premature damage to pavement and bridges and would constitute a major hazard to others using the traffic lanes, the American Automobile Association told Congress today.

In testimony prepared for presentation to the House roads subcommittee, George F. Kachlein, Jr., AAA Executive Vice-President, said this was an "anti-safety bill" almost identical with the big-truck bill which failed of passage last year.

Basic research into the accident hazards posed by larger, wider trucks is lacking. Mr. Kachlein charged. "It does not seem logical to us," he said, "that Congress should be called upon to make a decision on this important matter without the factual information enabling it to estimate the safety effects of that decision. The lives and property of over 100 million drivers are involved in such a decision and we cannot ask them to be guinea pigs by increasing the sizes and weights and then researching the effects. The research should be done first."

Public opinion, as reflected in the news media, was strongly against last year's bill, he said. A review of editorial comment, he told the subcommittee, leads to the "inescapable conclusion that Americans were not last year, and are not this year, ready to accept the proposition that bigger trucks are good for them."

Mr. Kachlein quoted trucking industry statistics showing that heavy trucks account for only 1.54 percent of vehicle registrations and 5.33 percent of total mileage, but are involved in 11.6 percent of fatal accidents.

"When a truck collides with a passenger car, it is the operator and passengers in the smaller vehicle who are most likely to be killed," the AAA official said.

He reported that there are 9.3 fatal injuries per 100 persons in collisions between passenger car and a tractor-trailer combination, but "when the collision is between a passenger car and a tractor-two-trailer combination—a vehicle encouraged by the 70-foot length limit in this bill—the rate increases drastically to 13.3."

On the basis of extensive studies of the effect of heavier loads and axle weights on pavement and bridges, the AAA official said: "Men who have been charged with the re-

sponsibility of constructing and maintaining our highway plant at both the state and the Federal level have made it known that the increases in axle loadings permitted by the legislation will not only reduce the life of pavements in use, but will also necessitate the expenditure of billions of dollars for reconstruction of older pavements, and additional costs in highways yet to be constructed."

AMERICAN YOUTH: HOPE FOR THE COUNTRY'S FUTURE

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. BRAY. Mr. Speaker, American youth never ceases to be an inspiration to me. A recent example of the excellence of American youth is found in our own State of Indiana.

Gregory S. Gray, 17 years old and a student at Emerson High School, Gary, Ind., was elected governor of Boys State of 1969, that great youth program sponsored by the American Legion. Members of Indiana Boys State were 921 outstanding junior boys from 651 high schools in Indiana.

Gregory was sent from Indiana Boys State as one of the State's two representatives to Boys Nation in Washington, D.C., which was composed of two high school juniors from each of the 50 states. Gregory was elected president of 1969 Boys Nation.

Gregory is also president of his high school student council and quite active in other school, church, and community activities. Gregory did not come from a family of wealth and influence. He came from a religious, patriotic, working family—the type of family that has produced so many of America's great. His father has been employed at the Pullman Standard Car Manufacturing Co. for more than 20 years. Gregory is the middle child of five.

As president of Boys Nation, Gregory Gray was invited to speak at the 1969 national convention of the American Legion in Atlanta. At the close of his speech that great gathering rose as one and cheered wildly. His remarks, delivered in great sincerity, were an inspiration to all.

Gregory Gray is a Negro. But Gregory received his honor and acclaim from his high school colleagues, his fellows at Boys State and Boys Nation and from the American Legion national convention because he is a youth with ideals, with leadership ability, with a gift of giving inspiration and service to his fellowmen. That is the way it should be in America. It is as wrong to give anyone recognition and honor because he is black as it is to deny him the same because he is a member of a minority group.

Certainly Gregory Gray may have been given slights and insults in the past, and he doubtless will receive many throughout his lifetime. But who has succeeded in life, regardless of race or color, who has not received many slights and insults in that long battle to success? All who work and build, all who contribute to the

well-being of our society and the greatness of our country will suffer from the barbs launched by the unthinking, the cruel, the inferior and the jealous.

Today our country and our way of life faces many serious challenges. There are and always will be those at home and abroad who for various reasons would destroy America and all that it means.

Our country and its citizens do make mistakes, but despite those mistakes our country, our society, our economy, have given more people a higher degree of freedom and dignity, a greater opportunity, the highest standard of living the world has ever known. Our country and its citizens have unselfishly assisted more countries and people than any other country that has ever existed.

America is great, the greatest country on earth. It can and must become greater, developing and growing by the spiritual strength, dedication, efforts and leadership of young people such as Gregory Gray.

The speech by Gregory Gray that electrified the American Legion national convention in Atlanta follows:

National Commander Doyle, Members of the Clergy, Legionnaires, Auxiliary Members, Ladies and Gentlemen: Our youth play a leading role in our country. As the country's leaders of tomorrow, great tasks will gradually confront our youth. The American Legion, through its dedication to peacetime service to God and Country, gives its youth participants the preparation needed for life now, and in the future through its various annual youth training programs which teach the principles of American self-government, its Baseball program, the National High School Oratorical Contest, its Boy Scout Troops, its support of Boys' Clubs of America, sponsorship of the Sons of The American Legion and, of course, its Boys State-Boys Nation program. Though youths are somewhat divided in ideas, because of organizations such as The American Legion, we are more united in our efforts than ever before. The various programs of The American Legion help teach young men and women:

To think, knowing always where we are going, why we are going, and how we're going to get there.

To know no discouragement, and to present no alibi.

To know how to lead, without being dictatorial; for true leaders are humble.

To lead for the good of the most concerned, and not for the personal gratification of our own ideas.

To play, with concern, not mainly on victory on the scoreboard, but victory as far as conquering the most difficult fundamentals of the game.

To march with the group, interpreting correctly the signs on the pathway that leads to success.

To seek the best for those we serve.

To work, looking upon all obstacles we are confronted with, not as problems, but as challenges; that we might go about solving them with enthusiasm.

To speak, remembering to always put our brains in gear, before putting our mouths in motion.

To hold our heads in the clouds, but with our feet on the ground.

Summing it all up, through American Legion programs, youths learn how to live. In this world of ours, what more can any institution do for a young man or woman, than to teach one how to live? In a sense, The American Legion is indirectly working to answer a particular prayer written by Gen-

eral MacArthur during the early days of World War II. It goes thus:

"Build me a son, O Lord, who will be strong enough to know when he is weak, and brave enough to face himself when he is afraid; one who will be proud and unbending in honest defeat, and humble and gentle in victory.

"Build me a son whose wishes will not take the place of deeds, a son who will know Thee—and that to know himself is the foundation stone of knowledge.

"Lead him, I pray, not in the path of ease and comfort, but under the stress and spur of difficulties and challenge. Here let him learn to stand up in the storm, here let him learn compassion for those who fall.

"Build me a son whose heart will be clear, whose goal will be high; a son who will master himself, before he seeks to master other men; one who will reach into the future, yet never forget the past.

"And after all these things are his, add, I pray, enough of a sense of humor so that he may always be serious, yet never take himself too seriously. Give him humility, so that he may always remember the simplicity of true greatness, the open mind of true wisdom, and the meekness of true strength.

"Then I, his father, will dare to whisper, 'I have not lived in vain.'"

In closing, I would just like to say, praise be to God, encouragement be given to man, and hats off to The American Legion.

THE VETERANS' ADMINISTRATION PICKS NEW HOSPITAL HEAD AT BUFFALO

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. DULSKI. Mr. Speaker, the Veterans' Administration Hospital at Buffalo has a proud record of service to the veterans in our area of western New York State.

It has pioneered in several areas of hospital care and is a credit to the effort being made by our Government to take care of those who have served their country in time of war and conflict.

This week, the hospital gained a new director, Eugene E. Speer, Jr., a career employee of the VA who came to Buffalo from the position of administrator of the VA hospital in Louisville, Ky.

Mr. Speer has made a fine impression in his first few days on the job in Buffalo and we look forward to continuing progress in veterans' care at Buffalo under his leadership. He carries excellent credentials.

Mr. Speer succeeds Dr. M. Herbert Fineberg, who has retired after long service in VA hospitals. He had headed the Buffalo hospital since August 1962.

Mr. Speaker, I am well aware of the responsibilities which our citizens feel for these veterans. And, through my membership on the Committee on Veterans' Affairs, I am in close touch with the progress that is being made generally in veterans care.

I am the fifth ranking member of the full committee and am a member of the Subcommittee on Hospitals.

An interview with the new director at Buffalo, Mr. Speer, appeared in the October 23 edition of the Buffalo Courier-Express, as follows:

MAGNITUDE OF BUFFALO'S VA HOSPITAL CONTRIBUTES CHALLENGE TO NEW CHIEF

(By Mary C. Rahill)

A 900-bed hospital with a \$15 million budget should prove no more difficult to manage than one half that size and with half its budget, the new director of Buffalo Veterans Administration Hospital believes.

Eugene E. Speer Jr., who assumed his post Monday, said bigness and complexity are not synonymous. His previous position as administrator of the Louisville (Ky.) Veteran Administration Hospital entailed half the number of beds and half the budget of the Buffalo facility.

"The problems of management," he contends, "are about the same and on the plus side, in a larger facility you have a lot more people to help you worry about them."

Short of stature and robust of figure, Speer brings 23 years' experience to his role. He exudes the confidence of that experience when he speaks.

THREE ESSENTIALS OF CARE

For instance, when stressing the importance of research in a hospital: "Patient care, research and education have to be viewed as the three essentials of good hospital management. All three aspects are interdependent, and the end result for the patient is better care and treatment."

He added that it's sometimes impossible to attract some of the good medical men without research facilities. As for a hospital's connection with educational facilities, Speer said the best way of ensuring good patient care is to see to it that those being educated in the medical profession are exposed to the newest techniques and latest advances.

Buffalo veterans at present has 41 persons engaged in research and the hospital is affiliated in a training program with the University of Buffalo School of Medicine. Many staff physicians are on the UB Medical School faculty.

PACEMAKER DEVELOPED AT BUFFALO

The pacemaker—a battery operated device for keeping a defective heart in operation—as Speer pointed out, was developed by Dr. William E. Chaddock when he was on the staff of Buffalo Veterans Hospital.

The new director noted an aspect of management often neglected—the importance of the "pat on the back." He argued that a good administrator finds ways of extending his influence down through all the various levels of employment so that each individual comes to realize the importance of his role in the general operation.

"Regardless of the job," he said, "if it's sweeping down a back stairwell, it's necessary to the good operation of this institution. I hope to get that across."

NEED TO SAY THANKS

From his experience it's not too difficult an idea to get across to employees, he said. "It's just a 'thank you,' a word or two about a job well done, something to make them know they belong and that what they do is needed."

Within the next few months, he expects to make himself known to all of the hospital's more than 1,200 employees.

A native of Decatur, Ala., the director earned a bachelor's degree in mathematics at Athens College, Athens, Ala., and did graduate work at the University of Alabama and George Washington University.

From 1934-39 he served in the Decatur public schools as principal and vocational adviser. His entrance into the medical field came as a field representative with the American Red Cross in 1942. From 1942-46, he served in the Medical Administrative Corps of the USAAF. He entered service as a private and was discharged as a captain. He was decorated with the Army Commendation Medal with one oak leaf cluster.

JOINED VA IN 1946

He joined the Veterans Administration upon his discharge in 1946 as executive officer of the physical and rehabilitation program in the upper Midwest area. From 1951-55, he was medical administrative officer, hospital operations, at the Veterans Administration Central Office, Washington.

He became special assistant to the manager, Veterans Hospital, Augusta, Ga., 1955-57, and assistant manager of the Veterans Administration Domiciliary, Clinton, Iowa, 1957-58. He was assistant manager of the Veterans Hospital, McKinney, Texas, 1958-59, and assistant director, Veterans Administration Consolidated Center, Wadsworth, Kan., 1959-63.

He headed the Registrar Service of the Veterans Administration Central Office from 1963-66, at which time he was named director of the Louisville Veterans' Hospital.

RECEIVED HIGH HONORS

Speer received recognition awards for his work, including the Veterans Administration Chief Medical Director's Commendation in 1965 and the Agency Administrator's Commendation in 1963.

He was presented a special meritorious Commendation by the national commander, American Veterans of World War II, in 1967 and was cited by the Veterans of Foreign Wars of the United States for service and dedication earlier this year.

In his 23 years with the Veterans Administration, Speer and his wife, Jessie Pridmore Speer, have moved 13 times. They are living in the home provided by the hospital in LeBrun Rd., Eggertsville.

The couple has no children. Through the years both have devoted a good deal of time to youth activities. He likes fishing and occasionally a little golf for relaxation, and Mrs. Speer enjoys gardening. He said he would rather be involved in civic affairs. He likes working with organizations with a "definite mission and practical goals."

In the last few years, he has become interested in a special hobby, the building of electronic hi-fi and stereo equipment. He has an ambition which he expects to realize in Buffalo—that of building an organ. Does he play? No, but he will worry about that after he builds the organ.

Earlier, the Buffalo Courier-Express had an article on the retirement of Dr. Fineberg, in part as follows:

DIRECTOR OF VA HOSPITAL HERE TO RETIRE

Dr. M. Herbert Fineberg, 69, is retiring as director of the Buffalo Veterans Administration Hospital.

The physician-administrator said he and his wife, Louise, will make their home in the Boston, Mass. area. They have one daughter, Mrs. Norman Spector, of Malden, Mass.

NATIVE OF CLEVELAND

A native of Cleveland, Dr. Fineberg has been associated with VA hospitals since his discharge from the Army with the rank of colonel in June, 1946. He served with the Student Army Training Corps at Columbia University during World War I and spent five years in military service during World War II.

After a period of service as chief of medicine at the Aberdeen Proving Ground, Aberdeen, Md., in World War II, he served for two years as commanding officer of an Army hospital that moved with the troops through the Pacific. For a time, he was chief of medicine at Camp Columbia, Brisbane, Australia.

Following his discharge from the Army, he directed veterans hospitals in Dwight, Ill., Wilkes-Barre, Pa., and East Orange, N.J., before coming here to succeed Howard E. Fuller as director of the 951-bed Buffalo VA hospital.

HONOR STUDENT

Before entering the Army during World War II, Dr. Fineberg was in private practice for 12 years in Cleveland and then served as director of Beth Israel Hospital in Boston.

After a period as a student at Harvard University, where he played violin in the Harvard Orchestra, he entered Western Reserve University where he received his bachelor's and doctor of medicine degrees.

He was an honor student at Western Reserve and a member of Phi Beta Kappa. Following internship in a Cleveland hospital, he was a resident in internal medicine in Montefiore Hospital, New York City.

Dr. Fineberg is a diplomat of the American Board of Internal Medicine, and a fellow of the American College of Physicians and the American College of Hospital Administrators. He belongs to the American Medical Assn. and is assistant clinical professor of medicine at the University of Buffalo Medical School.

ELIMINATING THE SOURCES OF ILLEGAL DRUGS

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. CHARLES H. WILSON. Mr. Speaker, international law consists of a body of rules governing the relations between states. It is a system of jurisprudence which, for the most part, has evolved out of the experiences and the necessities of situations that have arisen throughout the world from time to time. It has developed and progressed as civilization has grown and advanced. International law has been the framework for foreign policies and actions with the increasing realization by nations that their relationship, if not their existence, must be governed by and dependent upon rules of law that are fairly certain and generally reasonable. Prof. J. L. Brierly in 1936 wrote:

We must expand our interpretation of the term "international law." We must cease to think of it as merely a set of principles to be applied by courts of law, and understand that it includes the whole legal organization of international life on the basis of peace and order.

But what happens when a state encounters a situation that does not fall within the contemporary conception of international law's jurisdiction and yet effects the relationship between nations. Specifically, I am referring to the tremendous domestic difficulties in the United States directly brought about by the illegal importation of narcotics into it. How should the United States protect its citizens from this evil when the countries where the narcotic materials originate cannot or will not take measures to eliminate the source of supply? What action should our Government take to combat it? What should our approach be to the foreign ministries of the other countries involved?

Undoubtedly, we must strengthen our port of entry surveillance and detection procedures. We must also crack down on organized crime here within the United

States. We must work to identify the underlying causes of narcotic addiction and drug abuse and then eliminate them. These, however, are domestic actions. We must also deal with Mexico, Turkey, Syria, Lebanon, Nepal, and other drug-producing nations. International law provides some assistance in combating the problem but it is not the proper vehicle for action within those countries. Our State Department must take cognizance of the fact that in certain areas, cultivation of the poppy is a legitimate agricultural endeavor of that region and has been an honest enterprise for the natives of the area for generations. While it is to the benefit of the United States to destroy the sources of illegal supply, we must not simply demand the destruction of the livelihood of thousands of, in their own society's terms, honest and hard-working farmers. The Agency for International Development has acted as our agent in this area and has taken steps to establish viable farming enterprises to replace destroyed narcotic-producing crops. Through diplomatic channels our concern is communicated to the law enforcement agencies of these nations. National and international police agencies are cooperating to stop the worldwide traffic in narcotics, including Interpol, the Sureté, and Scotland Yard.

But not nearly enough is being done. We are dealing with a coordinated international criminal organization, the affluence of which is staggering. Foreign policy considerations must take this into account. Graft and corruption of officials is a favorite modus operandi, the method of operating of this sinister criminal brotherhood. Multimillion dollar profits are reaped by it from illicit sales within the United States and Western Europe. Many addicts need \$150 a day to support their habit. And the only way for them to raise that type of money is to burglarize homes, rob stores, and assault people on the streets. Thousands die because of overdoses and innocent people cannot walk the streets of our cities without fear. The situation is intolerable and must be corrected. To do so requires a concentrated domestic effort. It also requires a coordinated international attack on the globetrotting hoodlums responsible for bringing death and misery to thousands.

Our allies and friends must help us defeat this profitable conspiracy of the underworld. They must act within their own environs to destroy the drug source. We must help them, providing the economic assistance necessary to divert the growers, who receive little money for their stock anyway, to other more profitable and acceptable crops. Our Treasury Department agents, our customs personnel, our FBI operatives must coordinate their efforts with not only Middle Eastern and Southeast Asian nations, but with European law enforcement agencies and Far Eastern police departments as well. It is a worldwide problem and it is time for the world to declare war on the underworld, on these, the international peddlers for profit of disease and death.

AIR TRAFFIC CONTROL

HON. DONALD E. LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. LUKENS. Mr. Speaker, every American is concerned about the future of air traffic control and the apparent lack of air traffic safety in many instances.

I have had the occasion to appear on the Dennis Wholey television show and have been very impressed by this young man's depth and concern for public causes. Recently a former air traffic controller, James Knecht, who worked at the Indianapolis airport, the site of a recent major air disaster, appeared on the Dennis Wholey show. I believe that Members of this body would be very interested in the transcript of this public interview with a gentleman who used to be involved daily with air traffic safety.

For the information and possible use of my colleagues and the average air traveler, I include the transcript in the RECORD at this point:

INTERVIEW AIR TRAFFIC CONTROLLER JAMES KNECHT

DENNIS WHOLEY. For a long time, we've been hearing newspaper and television reports about air traffic controllers, and their job, and sometimes the slowdowns that they've caused, supposedly to make flying safer for those that fly.

I have with me a gentleman by the name of James Knecht. Mr. Knecht is a former air traffic controller, because I understand, Mr. Knecht, that you have been fired from your job at the Indianapolis Airport. Is that correct?

JAMES KNECHT. In essence, that is correct. About the only thing I do right now is answer a telephone.

WHOLEY. Um-hmm. Let us go back and investigate that crash. I understand that you had just gone off duty about a half hour before the crash. Is that true?

KNECHT. That's correct. I got off at three; the accident occurred at approximately 3:30, and by four o'clock I was contacted by the national office of the NAGE—National Association of Government Employees, and they asked me what went on and I'd already made some checks, and I informed them that the information available to me indicated that it was the fault of radar—lack of good radar—that prevented the controller involved from seeing the smaller aircraft, and, as a result, he could not warn the larger aircraft of the presence of the smaller, and they collided, and I made a statement before the press about the quality of our equipment. I specifically stated that it was in essence a killer radar and that because of poor radar, people had needlessly died.

WHOLEY. Um-hmm. Let's kind of jump around for a moment. About how many major airports are there in the country?

KNECHT. There're approximately 100 airports that you might call major. The degree of importance varies, from the busiest, at O'Hare, to some of the medium-sized facilities as at Indianapolis and here at Cincinnati, also.

WHOLEY. And how many air controllers are there that work these airports throughout the country?

KNECHT. The total number of air traffic controllers such as myself—those people that actually separate aircraft—try to keep them from running together—is approximately 8,

900—roughly. And this includes the control tower operators, and the aircraft control center operators.

WHOLEY. Now, do they work in different locations? I don't quite understand what they do.

KNECHT. Well, the differences in their area of responsibility: in the control towers, they're responsible for the aircraft immediately around the airport or landing at the city or departing, and the center takes care of them while they're flying between cities.

WHOLEY. I see. I understand that now. Now, how many planes might be in the area of one airport at one time—say an airport like Indianapolis?

KNECHT. We might have, normally, six to ten controlled aircraft, and fifteen to twenty or more uncontrolled within a 20-25 miles radius of Indianapolis Airport.

WHOLEY. What is with the radar that are in most airports? We don't want to frighten people that fly, but from talking, I suppose, with other controllers that you must do from time to time, what is the quality of radar control? What are the chances of crashes at these 100 airports around the country?

KNECHT. The quality, in our opinion, is substandard, because there are weak spots and there're spots where we cannot see aircraft. I've seen some very large aircraft, supposedly, five miles from the radar antenna, and they're not apparent on the scope. The danger of collision increases every day—every day.

WHOLEY. Because of the added air traffic?

KNECHT. The number of aircraft that we're trying to control with the equipment and the number of people we've got—the equipment nor the amount of people.

WHOLEY. Now, there was a very serious accusation made in newspaper articles that I had read about that particular plane crash, that the controllers at the Indianapolis Airport had advised the FAA as to the poor quality of radar some months prior to that, and that the FAA had investigated and found that those complaints were indeed legitimate and yet, nothing was done. Do I understand that correctly?

KNECHT. Yes. Air traffic controllers—I've been in this business quite a few years, and we've constantly complained about the quality of the radar, the radios, the entire system, because it just isn't adequate to handle today's traffic, and the only thing that keeps it as safe as it is is the air traffic controller himself. He constantly has been complaining to his supervisor, to the FAA, his employer, about the system, about the equipment, and as a matter of routine, the FAA flightchecks their radar. They take a small aircraft out—or a large one, as the case may be, and they actually run certain patterns and watch it on radar and grade the quality of it, and in this particular system, about four months ago or so, in April, approximately they took a small aircraft—a Beechcraft Bonanza—and ran a flightcheck, an extensive flightcheck, and they said right then and there that they couldn't see him in all cases. This is a matter of their own records.

WHOLEY. Well, now, to force the issue—and you're probably not the person to answer the question—why, if they ran this check, did they not correct it? Why didn't they correct it?

KNECHT. That is an excellent question. An excellent question.

WHOLEY. Who does one put that question to, though?

KNECHT. The law, the 1958 Federal Aviation Act, commissioned the FAA with air traffic safety.

WHOLEY. Um-hmm?

KNECHT. I think it's rather specific. It says the FAA's in charge of air traffic safety.

WHOLEY. Well, now, the FAA is a govern-

mental agency, and air controllers, I was surprised to find out, are also governmental employees.

KNECHT. Yes. There are very very few non-government air traffic controllers in the United States—very few. Probably less than a hundred.

WHOLEY. So—but I mean if you're in the government already, who do you complain to to get something done?

KNECHT. We have been complaining to the government, to the branch that we work for, the FAA, for years. And now we're starting to talk to Congress, because these people control the purse strings that would provide us with the money that's needed to buy this radar.

As an example, a radar installation, including the transponder and the communications for it, installed, costs a little bit less than a million dollars. Now, the more elaborate, the better gear, is going to cost more money. That price I gave you was on current equipment, but we're talking about a program here of systems that need in the neighborhood of five billion dollars now.

WHOLEY. Throughout the country.

KNECHT. Right. Throughout the country. It's going to take \$25 billion over the next ten years if we're going to guarantee that people are going to live when they take off from here and they go to there.

WHOLEY. How many hours a day does a controller work?

KNECHT. Eight hours a day.

WHOLEY. But now what I've heard of the people who work the New York airports is that they complain of putting in twice that amount of time sometimes.

KNECHT. Ten-hour days in some areas are not uncommon at all, six days a week. Not uncommon at all. And it's pathetic. You work the position for eight solid hours or ten solid hours without relief, and in some cases, when I was working in the Air Traffic Control Center, I would take my lunch home with me—not enough people to provide relief for lunch. Been too busy to cut down the staffing temporarily so that people can get out for lunch.

WHOLEY. Do you see any hope for the immediate future as far as—I had a curious reaction. Many people from the Cincinnati area died in that crash, and the controllers have been kind of in the public eye for the last year or two, because of slowdowns and walkouts, especially in the New York airports. I had a curious reaction when I saw it, that possibly this plane crash might be the single thing that would trigger some good. Do you see that as a possibility?

KNECHT. Hopefully.

WHOLEY. I mean . . .

KNECHT. Hopefully.

WHOLEY. . . . that's a very hard thing for me to say when, you know, families . . .

KNECHT. Right.

WHOLEY. . . . of those people . . .

KNECHT. Right.

WHOLEY. . . . may be watching.

KNECHT. But all air traffic controllers are gravely concerned about air traffic safety, and this is why there's been such an uproar coming from air traffic controllers in the last year or so. We've finally realized that our branch of the government, the FAA, apparently isn't going to do anything about it.

WHOLEY. So what you're suggesting is we need better radar, more men . . .

KNECHT. Definitely. We need twice the men . . .

WHOLEY. . . . Highly trained . . .

KNECHT. . . . that we have right now.

WHOLEY. Highly trained men, and better working conditions, and in that, I mean number of hours . . .

KNECHT. Right. Right. Very definitely. As an example of the pressure that's put on an air traffic controller about this time a year ago, a 32-year-old man in Kansas City Air Traffic Control Center died of a heart attack

on duty after a very heavy period of traffic. Thirty two years old, on duty: he just fell dead.

WHOLEY. How do you think that we could do something with the power of this program or . . .

KNECHT. Congress has . . .

WHOLEY. . . . through the medium of television?

KNECHT. . . . before it a bill—a user-tax bill—wherein those people that use the system will pay for it, and they want the public to be willing to pay this tax: when you buy a ticket, an airline ticket, you pay a tax on that ticket. If you own a private aircraft and you buy gasoline for that aircraft, you'll pay tax on that gasoline, and this can produce \$2½ billion a year. Congress wants the public to be willing to shoulder the burden of this additional tax, so the people can write to their Congressman for as little as six cents on a stamp, for as little as a dollar with a Western Union telegram . . .

WHOLEY. You did say—you were saying airmail stamp . . .

KNECHT. I was almost ready—most of the first class mail goes by air mail.

WHOLEY. Yes. I just found that out the other day.

KNECHT. And they can write to their Congressmen, tell them that they want air traffic safety, if they're really . . .

WHOLEY. I suppose that . . .

KNECHT. . . . willing to pay that extra three dollars on the airline ticket or extra ten cents on a gallon of gas.

WHOLEY. I'd be glad to pay it.

KNECHT. Because I ask private pilots and the general public: how much is your life worth? Is it worth three dollars to you? Or ten cents on the gallon of gas?

WHOLEY. I've flown quite a bit in the past, and every single—well, you get to talk to the stewardesses on the plane more than ever talking to the crews; maybe at the end of a ride you might . . .

KNECHT. Yeah, right.

WHOLEY. . . . thank the crew or say something to them on the way out, but being in the kind of business that I'm in, I sometimes will introduce myself to crews and pilots and always to the girls, and ask them, "do they sympathize with the controllers," and I've not yet found one crew member or anyone who consistently flies who knows the inside of the story that you have been telling us, who has anything negative to say about the position of the controllers.

KNECHT. That's correct. There was a documentary on one of the national TV outlets, and they—it was about air traffic control and the problem with it, and a TWA pilot, a transcontinental pilot, stated that he wouldn't have an air traffic controller's job for twice his salary, and that would be between \$50 and \$60 thousand dollars—twice his salary.

WHOLEY. And now, because you have spoken out on this, to newspaper people and now on television, you're a telephone operator? Is that what you told me before?

KNECHT. That is correct. I—that's all I do, is answer telephones. I—the criticism I have voiced is not new; by fellow air traffic controllers have been saying the same thing for years. I realized that because of this accident attention would be focused on air traffic control systems, and I said, "I hate to see those people die, but I think it's even a bigger disgrace if they die without any good coming from it," so I must speak out now, that unless we change this system, more people will die in accidents quite similar to this, and in accidents where two airliners are run together, and it's just a matter of when and where, and if it's far enough into the future when the jumbo jets are flying, it is quite possible that two jumbo jets will collide and six to eight hundred people will die needlessly, because we know now that the possibility exists and we know now how we can eliminate this possibility. It takes

money; it takes work; and the ideas are present. They have been present for quite some time, but I cannot honestly say that the FAA has done its level best to assure air traffic safety.

WHOLEY. Thank you, Mr. Knecht.

THE NATO COMMITTEE ON CHALLENGES OF MODERN SOCIETY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. FINDLEY. Mr. Speaker, the President's message to Congress on legislative programs did not, of course, deal extensively with foreign affairs or overseas programs.

But it did refer to a "great goal of this administration"—and part of that goal was "to make old institutions responsive."

I want to call briefly to the attention of my colleagues one example of what this can mean in the international field.

One of the first things President Nixon did after taking office was to visit Europe—and his first stop was the North Atlantic Council in Brussels. The President said in effect that he wanted to raise the level and quality of political consultation in the council—that his administration wanted to listen to the views of our allies before reaching fixed policy positions. The allies were responsive, and we have since had highly successful consultations on the question of the East-West strategic balance, preparatory to negotiations with the Soviet Union on strategic arms limitations.

In addition, the allies are now seriously engaged in working out concrete proposals for balanced mutual force reductions in Europe—against the day when the Eastern side is ready to discuss this subject.

Finally, the President proposed that the NATO allies start considering how to deal cooperatively with problems common to modern industrial societies. A preliminary conference already has been held, further work is being done in 15 capitals, and a decision will be made by the ministers in December on how best to proceed in new areas of common concern.

Mr. Speaker, it seems to me that this is an excellent example of what can be done "to make old institutions responsive" to new conditions and new opportunities.

I am including at this point the very excellent remarks of Dr. Daniel P. Moynihan at the North Atlantic Assembly:

THE NATO COMMITTEE ON CHALLENGES OF MODERN SOCIETY

(By Daniel P. Moynihan)

There is to be encountered in one of the novels of Benjamin Disraeli a gentleman described as one "distinguished for ignorance" as he had but one idea and that was wrong. As with much else, this curiosity of the 19th century has become rather a commonplace of the 20th. It is the nature of the complex technological societies that have developed in our century that no one thing

about them is so specially and importantly true that other truths are of necessity subordinate. This in turn has had its effect on the way we think about our societies, of those problems we inherit from the past, and those we have created in the present. Every truth has its antitrueth, its qualifying truth, its mediating truth. Hence the only certainty is that the man with a single truth is not only sure to be wrong, but likely to be disastrously so.

It is in this spirit that I rise to address the North Atlantic Assembly, conscious both the honor of doing so, and the trust, implicitly imposed and explicitly acknowledged, that in speaking of the Committee on the Challenges of Modern Society, to be established as the newest subsidiary body of the North Atlantic Treaty Organization, I shall do so with careful regard to the earlier and still primary tasks of the Alliance, and also of the necessary interrelationship among all its activities.

The proposal for the creation of the Committee was, of course, first put forward by President Nixon in his address last April on the occasion of the twentieth anniversary of NATO. "The industrial nations," he declared, "share no challenge more urgently than that of bringing 20th century man and his environment to terms with one another—of making the world fit for man, and helping man learn how to remain in harmony with his rapidly changing world."

Article II of the North Atlantic Treaty may have envisaged such activity, pledging the parties to cooperate in "promoting conditions of stability and well-being." But that was 1949, and for Europe, as for much of the world, stability and well-being meant military security, combined with the rudiments of economic recovery. It is only as these two conditions have gradually been secured, especially that of economic growth, which is to say technological development, that a third dimension of the great Alliance has emerged not only as a feasible and possible effort, but increasingly as an urgent and necessary one.

Military defense and political consultation are, and will continue to be the first functions of the Alliance. But the time clearly is at hand to add a third dimension, provided for from the outset, but only now emerging as a concern and activity in its own right. That the United States regards this as a matter of the highest importance will have been obvious from the President's proposal, and subsequent consultations that have taken place with Allied governments. It would seem important, however, to go beyond the simple assertion of this concern to a fuller explication of it.

There could be no more appropriate forum in which to do so than the North Atlantic Assembly. It is, in general, the tradition of our democracies that the executive branch of function in government is accountable to the legislative component, and that this responsibility is in part met by periodic expositions as to what is proposed and why. The North Atlantic Assembly, if not the parliament of NATO, is unquestionably composed of NATO parliamentarians. It is owed a measure of accountability: by virtue both of the general principles of governance which shape and inform our actions, and of the specific nature of the work of the Committee on the Challenges of Modern Society which will require, in such great measure, the assent, support, and judgment of the legislatures of our several nations.

In speaking to this point, I would hope to reflect, without of course in any way committing, the views of the representatives from other nations with whom I was associated in the meeting of the Preparatory Committee that drew up a charter for the Committee on the Challenges of Modern Society.

The first and continuing challenge of modern society is to safeguard freedom and,

in an important sense, to expand it. The history of freedom in the Western world is not that of a fully formed idea gradually winning wider and more complete acceptance. To the contrary, the meaning of freedom, the content of the idea, has evolved through two early stages and is now manifestly entering a third. This evolution has been from simple to complex forms. It began with the securing of personal liberties for the individual. It went on to the assertion, and gradual establishment, of political liberties of the kind we associate with the democratic state. It has now moved beyond that into the elusive, often ambiguous, but extraordinarily challenging effort to provide a quality of life that releases the unique potential of every individual while maintaining a coherent and sustaining sense of community that binds one individual to another.

It will be evident enough that this is not an easy thing to do; it is not even an easy thing to define. But neither, then, were civil rights, or political freedoms, in the eras when they were evolving in the face of persistent incomprehension, hostility, and resistance. (Attitudes that continue to rule in far too great a portion of the world today.) What is different, what is singular, about the evolution of this newest dimension of freedom is that it is so extraordinarily dependent on the element of time. This is new; different. It is a fact, moreover, indispensable to an understanding of the challenge before us.

The newest dimension of freedom arises in the context of advancing technology. More accurately, it arises from advancing technology. First the folk technology of the early industrial revolution, and later the ever mounting and more systematic application of scientific knowledge to practical problems, has created an almost worldwide vision of societies of material plenty in which individual men become all they are capable of being. Personal liberty and democratic government would be the preconditions of such societies, but their unique achievement would be measured by the degree to which the men and women comprising them lived large, creative and fulfilling lives. This is a very large vision indeed. The difficulty with it is that it exists in the context of time constraints that make it, for a vision at once so powerful, also extraordinarily fragile. This is so, in a word, because the technology that created it only hours ago, in the history of mankind, threatens to destroy it only hours from now. Therein lies the difference between the evolution of this dimension of freedom and that of earlier ones. If *habeas corpus* was slow in coming, the reality, once it did arrive, was not diminished by the time that elapsed. And if thereafter it disappeared in this place or that, it could still return, again undiminished. Much the same can be said of the processes of political democracy. We have seen democratic societies broken, only to be made again and made whole. But technology has seemingly little patience with mankind. It seems to be offering us everything or nothing, and demanding that we make our choice almost this very moment.

There is, I believe, a not especially complicated explanation for this. Just as advancing technology has given rise to the central social vision of our age, so also has it become the central problem of the age. In massive and dominant proportion, the things that threaten modern society are the first, second, third, of whichever order effects of new technology. It is not that man has changed, has become any more irrational, any less inhibited by concerns of moral right and wrong. One must assume that man is no different now than he has ever been with respect to these primal failings. What has changed, simply, is that technology has created a world situation in which irrational and immoral behavior can and does lead to cataclysmic consequences. For a quarter century now,

mankind has lived with the possibility of the ultimate technological disaster, that of the nuclear holocaust. But more recently, it has come to be perceived that this would be only the most spectacular of the fates that might await us. The perils of the modern age are wondrous and protean, and if anything, accumulating. An ecological crisis is surely upon us; and developing at quite extraordinary rates. Thus we may expect that by the year 2000 the carbon dioxide content of the atmosphere, the result of the burning of fossil fuels, will have increased by a quarter. This could raise the temperature of the earth's atmosphere by 7 degrees Fahrenheit. This would likely raise the level of seas by ten feet. Thereby solving some of the urban problems of the world, but hardly improving the circumstances of mankind. No one is certain, of course, that this will happen. The computer will doubtless figure it out but has not yet done so. In the meantime, alternate theories, and some evidence, suggest that the earth's albedo is being affected by pollutants in such a way as to lower temperatures. Fire or Ice, as Robert Frost said. Either way, trouble.

In another area, the population trend makes its steady way toward cultural, if not biological, catastrophe, and very possibly to both. Examples abound. A publication of the European Cultural Foundation, headed by Prince Bernhard of the Netherlands, recently observed that industrial technology, which was the creation of European civilization, had become the foremost threat to its survival. As much or more may be said of the United States. Technology has been the great American art: the true Apollonian passion of our people. (I speak, *pari passu*, as a member of the American Philosophical Society which Benjamin Franklin founded in 1743 in Philadelphia, not for the pursuit of large abstractions concerning man's fate, but rather, in the words of our charter, "for promoting useful knowledge . . .") Our passion has rarely flagged, and it may, I think, be fairly stated that few peoples have been more successful in that quest. Nor got more things they hadn't bargained for. (Only three days ago a symbolic pinnacle of sorts was reached. The Secretary of Health, Education and Welfare announced that an ingredient in soft drinks used by millions of Americans to ward off the perils of overweight in an affluent society has on closer examination turned out with disturbing frequency to cause cancer in animals.)

Increasingly these separate phenomena are seen and described as crises. Yet it would be the most profound mistake to view them separately. In the worlds of the American physicist John Platt, "There is only one crisis in the world. It is the crisis of transformation." That is to say, of the change wrought in society by the introduction of technology. "Technology," Platt continues, "did not create human conflicts and inequities, but it has made them unendurable." And it has raised questions as to whether man himself will endure. Some years ago Leo Szilard estimated the half of mankind—to employ that useful term of the nuclear physicist—at something between ten and twenty years. Platt would argue that situation is worse today.

I think multiplication of domestic and international crises today will shorten that short half-life. In the continued absence of better ways of heading off these multiple crises, our half-life may no longer be 10 or 20 years, but more likely 5 to 10 years, or less. We may have even less than a 50-50 chance of living until 1980.

And yet our situation, if sorely pressed, is anything but hopeless. To the contrary we may be approaching the levelling out point of a great S curve. If we get through the next thirty years or so we may just have accomplished that great transformation, whence we would enter a new period

of stability offering the utmost promise for mankind.

There is no reason this should not be so; no reason the outcome should not be that. But such deliverance is not certain probably not even likely to come to pass if modern societies do not begin a quite unprecedented effort to ensure that it does. The impact of technology on society can only be mediated by the effective use of government. This amounts to saying that modern government must be made to direct itself to these issues, and to do so successfully. It must be made to work.

It isn't working very well. Or perhaps the more accurate thing is to say that it isn't working well enough. There is, I would hazard, hardly one of our nations that is not seized with the extraordinary difficulty of making modern government work: of bringing about the actual results which the societies in question desire, and which they were thought able to command.

Why is this? Again I think there is a not especially complicated answer. Modern governments fail because they are not modern. They face the problems created by technology with the mentality and the organization of a pre-technological society.

A variety of responses can be made to such a condition: all but out of which would seem doomed, even committed to failure. The demands on pre-technological systems of government cannot be met by rendering them even more simplistic and disoriented, or yet by making them more rigid and ideological. Only technology can cope with technology. What science has wrought only a higher science can reshape.

Modern government requires first of all the application of knowledge to problems. It requires, if you will, the art of technology. The essence of that art is the steady production of new knowledge, and the rapid transition from new knowledge to new realities in the form of changed technology. The task of government is to keep abreast of such new realities, which is to say that government has got to learn to respond to new knowledge at at least something like the rate at which technology does. Otherwise technology is always ahead on creating problems, and government is always behind on resolving them. (To take the process a further step, modern government must learn to respond to technologically induced difficulties with something of the same economy of talent that technology has devised. We cannot go on devising government arrangements that only extraordinary men can make work. Most of the work of the world has to be done by men of average endowment, energy, and social vision.)

Each of our governments is in one way or another struggling with this situation. With the advent of the North Atlantic Alliance Committee on the Challenges of Modern Society, however, it becomes possible to introduce a further measure of international cooperation into such efforts.

Why NATO?

There are any number of complex and subtle subsidiary answers to this query, but the primary answer could not be more direct: because it is there. NATO is unique. For almost two decades now it has carried on, at ever increasing levels of complexity, a massive system of technology transfer. There has been no such sustained experience in the history of the world. If technology is the issue, NATO is uniquely the forum in which to raise it. Moreover, if the issue is one of pressing urgency, which somehow does not seem to command the attention it deserves, NATO is doubly appropriate, for here is an institution which year in and year out has been able to command attention and response at the highest levels of government.

What are the specifics?

This will of course be for the Council of NATO to decide, having received proposals

from the Committee, but the interests of the Allies are already emerging. They deal with the degradation of the environment through pollution, the complex interaction of technology on individual and group motivation; the compelling issues of nutrition; the pressing matter of population growth and the use of space. It may be possible, for example, to begin a systematic inquiry into the impact on modern society of the automobile, which may be said to have had led to more of what economists call externalities than any phenomenon of the age save modern warfare itself. Surely it will be necessary to consider the whole matter of inadvertent weather changes. And very early one would hope to see some recognition of the matter of ocean pollution, for the North Atlantic itself is no more immune to environmental degradation than the now pathetic streams that once proudly flowed by the great cities of our nations. But examples abound, and the question is really one of operating procedure.

Our opportunities are twofold. First we can envision a kind of trade springing up among the Allies. The law of comparative advantage can come into effect: as one nation learns better to cope with this problem, another with that, these abilities can be exchanged to the benefit of both. To some extent this process already takes place: ours are anything but closed societies, and two decades of the Alliance have brought them much closer together. But the great fact of the age is that time is short, and governments get about their business with far greater urgency and effectiveness than they have done. The second benefit will come from common undertakings, agreements to act in concert with respect to this or that difficulty or opportunity as such present themselves. This has been the great feat of the Alliance with respect to matters of defense and political consultation. It can become a not less important feature of our response to the common peril of a threatened and threatening environment.

Perhaps our first need is to develop far more complex and yet workable analyses of just how our economic, social and political systems work. The possibilities of technology, the requirements of society, and the structure of policy making have to be coupled with far greater sensitivity than has ever been the case in the past. (This is not at all to suggest that any one component must direct the other, but only that they must be related. In the words of President Kennedy: "Scientists alone can establish the objectives of their research, but society, in extending support in science, must take account of its own needs.") In doing so, these couplings become critical: more interesting and in ways more important, as Dr. E. Pestel of the NATO Science Committee has observed, than the components themselves. An enormous task, but it is almost the nature of technology that what can be described can be created, and we should not in the least doubt that it is something we can do if we will it.

It is at all events, the view of the American government that we can and should. Not every nation will see the Committee on Challenges of Modern Society in these terms, and the committee when it comes into being will not only reflect the views of all governments, but will doubtless evolve in ways none can now foresee. (Most certainly for one thing it will be the desire of many nations to see that the activities of the North Atlantic Alliance CCMS draw upon and add to the work of bodies such as the Organization for Economic Cooperation and Development. Hopefully the CCMS will lead to much wider and more general forms of international cooperation, looking, for example, to the United Nations Conference on the Environment to be held in 1972.)

It would be unforgivable to announce results before the Committee has even met. It is precisely such avoidance of reality that has

brought us to this time of immediate if only dimly perceived crisis. But the committee will meet; efforts will begin; results will or will not follow. In President Nixon's words, those results will in no small measure determine our ability "to enhance our environments rather than destroy them." As mankind itself is part of those environments, the full implication of the outcome would seem evident.

AN URGENT NEED FOR SOME RATIONAL THINKING

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. FISHER. Mr. Speaker, in this time of emotionalism and panic concerning the war in Vietnam, there is urgent need for some rational thinking. America is at the crossroads and history is to be the judge of our capacity to deal with an extremely difficult situation.

In a recent article written by Ward Just he gives us something to think about. He concludes that the solution of Vietnam cannot be oversimplified; that we must face up to a responsibility that cannot be escaped. This discussion by Mr. Just is very thought provoking, and should be widely read. The article follows:

A REBUTTAL

(A commentary by Ward Just)

I suspect that Nicholas von Hoffman is right when he says that people in their heart of hearts don't care whether we bug out, run out, march out, stumble out, crawl out or fade out of South Vietnam. Who wants to negotiate about cancer? He is talking about a substantial minority in this country, people who have had it, as the President once said in another connection, up to *here*; thus frustrated, convinced the nation is acting immorally, they want to quit.

It would not be difficult to do, and sure as shooting there is a paper in the White House describing the scenario, how Kennedy and Johnson were responsible for the war, how Nixon, Kissinger and Company gave it the good college try but saddled with an impossible Saigon government and an intransigent and seemingly inexhaustible enemy, had concluded, for the good of the country, that losses must be cut. Add a few juicy charges of past mismanagement of the war (God knows there is enough evidence of it), and conclude that the South Vietnamese must now proceed on their own. America has done all it could, and Godspeed to the survivors. And the kids and their parents are pacified. They won't have to go to war in South Vietnam.

It is a pointless exercise to argue the politics of it, whether or not the loss of Vietnam will lead to the loss of Waikiki or even of Bangkok. Even so, that's a detail—arguable either way with most thoughtful men probably believing that yes, a loss in Vietnam probably means the "loss" of Southeast Asia, but if it did, when it might, so what. Southeast Asia, like China, is not our's to lose. "In the last analysis it's their war," President Kennedy said, blah blah blah. So it is necessary to set up the argument another way, to make it relevant, as they say, to what's happening now. This is to speak of the war in terms of its morals, and to do that is to examine it from the perspective of the Vietnamese.

Many of the Americans who so vehemently oppose the war do so from the position that the United States has virtually destroyed what it has tried to save. It is a fair point

and an accurate one, far fairer and more accurate than they might suspect.

The Vietcong had all but won the war in early 1965, before the introduction of American combat troops. The test of strength was decently fair, with the indigenous Southern army with American support fighting the indigenous Southern guerrillas with North Vietnamese support. It seemed clear then that the Communists had the support of the people of South Vietnam. There was the strong tide, and in that Buddhist nation, a nation with an ear tuned to the flow of history (in American political argot it means riding with the winner), the strong tide was the one that would win. The ordinary citizen, not wishing to be out of harmony, would go along; to refuse was to commit an unusual act of defiance. Defiance in that sense is not the Vietnamese way. So in 1965 the Saigon government was playing out a very weak hand, with little support in the country.

The Americans changed all that, first with the money and the men and then, in 1966, by taking charge of the prosecution of the war. What that did was free the South Vietnamese from the necessity for choice. The Americans ran the war now, and the South Vietnamese were obliged to go along with it—whether they wanted to or not. Many of them did. Others did not. Some of those who had managed to sit on the razor's edge were now forced to ante in with the allies. In a society as astoundingly resilient as South Vietnam's, many more continued to play both ends. But it became increasingly more difficult as 100,000 men became 200,000 men and finally half a million and \$30 billion a year. What this means is very simple. It is that the responsibility for prolonging the war is this country's, not Saigon's nor Hanoi's.

The problem is that the tragedy is much, much deeper than Nicholas von Hoffman and others would have it. It would be wonderful if we could just walk away from it, pull the boats up to Camranh Bay and steal away into the night, leaving Saigon and Hanoi to work things out their own way. But if you did that you would want the journalists to leave along with the soldiers because the stories that would come with the Communist victory would be pretty grim stories, 20 years of scores to settle.

Our responsibility is not to Thieu or Ky or any of the other generals or merchants, nor is it to the South Vietnamese constitution nor to Freedom, nor even to the Americans who have died there, almost 40,000 now and 250,000 wounded. The responsibility is to those South Vietnamese who have been obliged to fight or otherwise resist the Communists because the Americans disturbed the normal course of events and changed the war. That is why the responsibility goes so deep, and it is a responsibility that will not be discharged by importing three million Vietnamese and parking them in the middle of Utah. But it is either that or stand by and watch the slaughter. Of course there may be no slaughter. Possibly not, but I know of one who would make a bet on that. Twenty years of scores to settle.

That is not an argument bound to find much favor anywhere, because the Vietnamese are not nature's noblemen and we have had them around our necks for too long. For God's sake, for how much longer are we going to pick up the morning paper and find Vietnam all over page one? Whoever heard of Danang before 1965? The bitterness and anger sifts down and finally people say the hell with it. Get out, get out; get out, and we don't care how; get out, and get out right now; get out, or we'll blow the house down. And we don't care what happens later. What happens in the future doesn't matter, because nothing could be worse than the present.

But huh uh, kiddies, it don't work. This

particular tragedy isn't going to go away because American college students are excused from duty in the rice fields. It's there with us now, and is going to be there for a generation and the question the moralists ought to ask themselves is where they intend to assign the responsibility for the blood left in the wake of the American boats, pulled up there in such haste at Camranh Bay. When the newspaper displays the photographs of those killed, what do we do then? Avert our eyes? Blame Lyndon Johnson? Perhaps pretend it isn't as bad as it looks, that the victims are war profiteers, or corrupt generals, or pimps or double agents. To the neurotic young it won't matter; American imperialism will be to blame, and that will be that. But what of the rest of us?

All we can do now is play out the tragedy, and try to learn the right lessons. On the ground in South Vietnam, revise the rules of engagement, initiate a cease-fire, keep withdrawing troops, but keep security as well; try to keep people alive, our and theirs; wind all of it down, but in the winding be mindful that there are people whose lives are at the mercy of the Americans. What is entirely misunderstood in the current flight from reality is that this war is not Kennedy's war or Johnson's war or Nixon's war, it's America's war and we all bear some responsibility for it, and for its decent resolution. And the heroes of it are not in Sweden. The heroes are dead.

Our accountability to the South Vietnamese is not without end, but it is there for the immediate future. That is the price you pay for undertaking the direction of someone else's life. What extraordinary courage and toughness it will take now for Americans to be decent.

LASPAU

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. CONTE. Mr. Speaker, this is a crucial time in our relations with Latin America. The course of events down there attests to just how crucial this period is.

President Nixon recognizes this. On October 31, he will release the Rockefeller report. I am hopeful that it will go a long way toward readjusting U.S. policy to the realities of the current situation in Latin America.

It seems clear to me that our foreign aid program plays a big part in our relations with Latin America. I have studied this program closely during my 11 years on the House Appropriations Subcommittee on Foreign Operations. One thing I have learned is the importance of self-help measures geared to the needs of the people.

The Latin American Scholarship Program of American Universities, or LASPAU, is just such a program. Under it, Latin Americans study at U.S. universities in preparation for a teaching career back in their own universities. It is a good program, and it has worked well.

Mr. Speaker, I would like at this time to include some remarks that I prepared on LASPAU and on the Alliance for Progress:

SPEECH OF HON. SILVIO O. CONTE

I am honored to be with all of you at LASPAU's Third Annual Meeting. You have a tremendous program, and are to be congratulated for doing such an excellent job.

I only wish we had more AID programs like LASPAU. It represents a cooperative self-help effort at its finest. This is the way our foreign aid program should—and hopefully will—be moving. So in one respect, I look upon LASPAU as leading the way.

The goal of the program is noble—to strengthen the teaching staffs of Latin American universities.

The way the program is working out is equally admirable. At the moment, 75 percent of LASPAU students are pursuing studies declared to be of the highest priority to Latin American development—science and technology, teacher training and educational administration, and agriculture.

The Foreign Operations Subcommittee, on which I have sat for 11 years, is generally not known for its praise of the foreign aid program. However, in our report on the fiscal 1969 bill, we specifically noted the success of LASPAU and urged maximum funding for the project.

Those of you who read these reports should recognize that this was a rare and high compliment. I think special credit should be given to David Henry for his fine contributions to this project. Without it, such support would probably not have been forthcoming. I hope similar action will be taken on your \$3.1 million request for fiscal 1970.

Earlier this month, the highly acclaimed Pearson Commission Report was released. This comprehensive study of foreign aid comes at an important time—a time when, the report notes, enthusiasm for foreign aid is dwindling just as the drive for economic development is beginning.

The Pearson Report also gives a good answer to the question of "Why Aid?" when it appeals not only to morality but also to enlightened and constructive self-interest.

No country in the world has given out in aid what the United States has. From 1946 through 1968, our Economic Assistance Programs totaled \$94.7 billion. When you take away repayments and interest totaling \$16 billion, you are still left with \$78.7 billion. That represents quite an effort and commitment to world development.

Yet, as you all know, there are many problems in our foreign aid program. Some are related to misconceptions about the purpose of aid. One of these misconceptions is that aid would buy friends. Others are related to the administration of the program.

It is difficult to point a finger at any one overriding failure. However, at least over the past 15 to 20 years, there is one serious misunderstanding that cannot be overlooked. Simply stated, the United States has expected too much, too soon from the aid program.

We were successful beyond our wildest dreams with the Marshall Plan and post-war European development. Therefore we thought, rather naively, that if we could do it there, we could do it anywhere. We failed to acknowledge the all-too-obvious differences between Europe and the underdeveloped world. The foremost differences were, of course, a strong industrial base and a highly advanced political and economic structure.

This brings me to Latin America and the Alliance for Progress. It is a vitally important part of the world to us. It is also an area which, perhaps more than any other, has failed to live up to the high expectations we set for it back in 1961.

The Rockefeller Report will be released, in one form or another, in two days. I have worked for many years with our AID program, and I am sure that some of the problems I have seen will be mentioned in that report.

Sol Linowitz, former U.S. Ambassador to the OAS, stated, "What it all boils down to is that we cannot help Latin America solve its economic problems with bargain-basement tactics. We cannot do it on the cheap."

At the same time, although we cannot be cheap, we also cannot be lavish and wasteful in our spending. This would hurt the program just as much. Thus, as is so often done in so many other facets of life, a delicate balance must be struck between too much and too little.

In striking this balance, we should not become obsessed with money figures. They can be very deceiving. For example, since the Alliance was founded in 1961, we have provided \$8.3 billion worth of economic assistance. The net flow, after repayments and allowance for undelivered goods, amounts to less than \$4.1 billion or less than half the gross flow.

A good place to start improving the program would be to clear up a big misunderstanding that some people have. The Alliance for Progress is not a bilateral American aid program. It is a cooperative, self-help program to be carried out primarily by the people of Latin America.

This is something that LASPAU recognizes, but that many other programs unfortunately do not.

The picture, however, is not all bleak. There has been some progress in the Alliance. For example, economic growth has averaged about 5 percent per year. Farm output has expanded. Educational opportunities have been broadened. Far-reaching internal reforms have been initiated in the redistribution of land and the collection of taxes.

But very serious and very old problems remain. Some long-time observers of the Latin American scene maintain that the problems today are the same ones that existed ten years ago. This is how they explain the similarity between the way President Nixon was received in 1958 and Governor Rockefeller in 1969. I must admit that there seems to be some element of truth to this analysis.

I think the key drawback to progress in the Alliance is a staggeringly high birth rate. It permeates everything. It negates advances. It overshadows hopes for the future.

Population increases average between 2.5 and 3.5 percent per year. They cut an encouraging annual economic growth rate of 5 percent down to a per capita rate of 1.5 percent. This is a pitifully low rate, and one that prevents any dramatic and long range economic improvement.

This high birth rate also has added some 750,000 primary school-age children for whom there is no room in the schools. You can well imagine the effect this has had not only on the educational systems but also on the entire social environment.

To state the problem even more graphically, the population of Latin America equaled that of the United States in 1950. It will be double ours by the end of this century.

It is quite clear that this high birth rate must be slowed down if there is ever to be substantial progress. I am happy to see that the AID program will continue to give it the highest priority under the fiscal 1970 program.

While the population explosion may be the principal impediment to progress within Latin America, our AID program and trade policies are the principal source of friction between the two lands.

Those who argue that the Rockefeller trip was unnecessary point out that we already knew what the problems were. The Latins want higher prices in, and easier access to, U.S. markets for their exports. They want more aid and investment capital with fewer strings attached. They want more control over American corporations operating within their borders. And all of this, they go on to say, was made abundantly clear to President Nixon in the so-called Vina del Mar manifesto.

I agree that the current trade relationship between Latin America and the United States

could be vastly improved. In fact, it probably should be overhauled from top to bottom.

The subject of trade, however, cannot be dissociated from the subject of foreign aid. Complaints here focus on the strings we attach to this aid.

We tie aid to U.S. procurement to protect our balance of payments and to stimulate employment at home. We have succeeded in this respect. In fiscal 1969, for example, 98 percent of AID expenditures for goods financed with loans and grants to Latin America were tied to U.S. procurement.

But we have succeeded at the expense of the Alliance. The Latins bitterly resent this—and quite understandably so.

Moreover, AID opposes the lists of goods that Latin Americans are forced to buy from our assistance. This became apparent during hearings before the Treasury-Post Office Appropriations Subcommittee, on which I am the ranking minority member.

There is disagreement over these lists. Treasury favors them for economic reasons. AID, however, questions the need for them for foreign policy reasons.

So you can see that these "strings" have caused a stir up here as well as down in Latin America. The administration took a big step in the right direction when it recently terminated the "additionality" policy. I am hopeful they will continue to move in this direction to the extent that it is possible to do so without seriously affecting our balance of payments or domestic employment.

Another problem is that until recently most of our aid went to central governments for rapid industrialization rather than to the people for education, agriculture and various social programs. This has been changing during the past two years. The program for fiscal 1970 will continue this process and emphasize technical assistance geared to the needs of the people.

The problems in our relations with Latin America do not end with aid and trade policies. There is a rapidly rising tide of nationalism. The focus of this nationalistic fervor is often the American corporation doing business within the borders of every one of these countries.

United States business interests have a great stake in Latin America—more than \$10 billion worth. They employ almost 2 million Latin Americans. They account for 10 percent of the total output of goods in Latin America. They pay one-fifth of all taxes. And they produce one-third of all Latin exports.

American business has done a tremendous amount for Latin America. On the other hand, and not surprisingly in view of its magnitude, it has created problems. Some make the headlines, like Peru's seizure of oil properties or Chile's "negotiated nationalization" of copper interests. Some do not. But the problems persist.

The time has come for a thorough reevaluation of the role private American business should play in Latin America. I think the companies involved are quite aware of this. They are considering, or have made, some of the necessary adjustments. I also think the administration realizes this. Its emphasis on private aid seems to be based on a new approach to U.S. business interests abroad—an approach giving new recognition to internal development.

Finally, I would like to mention something that has troubled me for many years. I am referring to our military programs and missions in Latin America.

In 1967, I was successful in amending the foreign aid bill to prohibit the sale of sophisticated weapons to underdeveloped countries. In 1968, I was successful in tacking the same amendment on to the Foreign Assistance Act.

This was a step in the right direction, but only a first step. I do not see why we have

to maintain large, or for that matter any, military programs in Latin America.

As I already have pointed out, the United States shares responsibility for some of the problems in Latin America. And I believe our military assistance programs have contributed substantially to these problems.

Latin Americans do not have money to waste on military equipment. They should be putting that money into economic and social development—into agriculture, education, family planning, and the many other things they so desperately need.

No one has ever been able to explain to me why our military people have to sit around down there dreaming up things to do.

The recent Soccer War between Honduras and El Salvador had its roots in social and political problems of long duration. Even so, why do we need to have 18 military officers and men in Honduras and 22 in El Salvador? What possible function do they serve? I have yet to receive a satisfactory answer to those questions.

Whether or not necessary changes are made in the overall AID program to Latin America, one thing is clear. Congress today is in no mood to increase aid appropriations. That is a fact of life we must learn to live with.

This should not discourage LASPAU. As I said at the outset, LASPAU represents a cooperative self-help measure at its finest.

Self-help still remains the chief prerequisite to growth. There is no easy or short way to get around this.

The principal value of an international program in educational cooperation like LASPAU is two-fold.

First, it recognizes the importance of self-help.

Second, it focuses upon an absolutely essential area—education.

Therefore, LASPAU fits right in front of the kind of foreign aid program we will have in years to come. For this reason, I would guess that Congress will continue to look upon it with favor.

Thank you again for inviting me to be with you on this Third Annual Meeting of LASPAU. It has been an occasion that I will long remember.

THE VIETNAM WAR MUST END

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. BROWN of California. Mr. Speaker, our tragic adventurism in Vietnam bears down hard upon this Nation's conscience. Despite all we have heard, all we have read, "victory" in Vietnam is no closer today than it was over 6 years ago.

The price of our adventurism can never be fully measured. What value can we put on the lives of the 40,000 Americans sacrificed for the sake of upholding a repressive minority military junta? What value can be estimated for the hundreds of thousands of Vietnamese dead and dislocated? What is the true cost of the over \$100 billion allocated for this senseless war?

And yet, if we listen to the pleas of the Thieu-Ky government and its friends in the American Military Establishment, the cry is still for "more time," for continuation of present efforts.

Who among us is willing to pay the price of this bloody procrastination?

I cannot speak on the mood of our

entire Nation, but, here in Washington and as I travel, more and more people are saying that positive and rapid steps must be taken now to bring about a just and honorable settlement in Vietnam, and that the first move must be that of faster troop withdrawals, the pace of withdrawal limited only by steps to insure safety of our forces.

Throughout this year, I have joined with my colleagues time and again in calling for a more rapid deescalation of our troop forces in Vietnam. On March 26, I cosponsored with the gentlemen from Pennsylvania (Mr. MOORHEAD) and 15 other Members, House Concurrent Resolution 186, which proposed that we begin to reduce military involvement in Vietnam; on July 2, I joined with my friend from New York (Mr. KOCH) and six colleagues in House Concurrent Resolution 298 asking for immediate ceasefire and withdrawal of 100,000 American troops; recently, I was a sponsor of the House version of the McGovern resolution.

Now, what we in Congress have been calling for—and, of course, for many of us, we are repeating the same things we have been suggesting for 2 to 3 years—is gaining momentum throughout the Nation.

One excellent and most thoughtful commentary which I have read recently on Vietnam is a recent editorial by Mr. Eli Isenberg, editor and publisher of the Monterey Park, Calif., Progress.

I commend Mr. Isenberg for taking a courageous and forthright stand on this most important of all issues before our country. I think that the sentiment and recommendations made by Mr. Isenberg are both realistic and imperative, and I specifically endorse his asking for comments by the readers. The article follows:

THE VIETNAM WAR MUST END

Early in his term of office, President Nixon expressed the sentiment of the American people when he said the war must come to an end.

In a policy statement on Vietnam, the President said no useful purpose would be served by repeated inquiries into how and why we became involved, how and why we have not won or ended that conflict.

Our primary concern, said the President, is to get out of the war.

Political scholars will concern themselves with our Vietnam involvement so the errors of that experience—costly in blood and treasure—will not be repeated.

Today the American people, almost unanimously, yearn to be free of war.

It may not be possible—and we should face it—to end the war by treaty. Any settlement reached would have to provide for retention of the present Saigon government in power. America's future must not be inextricably intertwined with that regime.

And there is the matter of courage.

Do we have enough courage—as the strongest, richest and most powerful nation on earth—to say:

We cannot solve this problem.

We entered the Vietnam conflict with the best motives. We have not been able to solve the problems through war. We propose to withdraw our troops—all of them—unilaterally by June 1, 1970.

We hope the President of the United States will go before the United Nations and declare to all mankind that we cannot solve the problem, and that we are leaving this war.

We ask the United Nations—and this is not a condition of our withdrawal for we are withdrawing anyway—to establish a peace-keeping force in South Vietnam. And to carry on negotiations with Hanoi to establish a peace.

The United States, with its money, will support this peace-keeping effort. Once the peace is secured we will make our skills and resources available to all Vietnam—North and South—for reconstruction.

Americans love to win. But we win and lose every day, every week in our jobs, at school, on the sports field, in the stock market.

This war must come to an end.

The way to end this war is to withdraw. Unilaterally. Hopeful that the United Nations will try to win the peace. But if the U.N. shrugs its shoulders, to withdraw anyway.

This is our point of view.

Do you agree, disagree?

The Progress is interested in how you feel. So are members of Congress. So is the President.

You can reach President Nixon, Senator Alan Cranston and George Murphy, and Congressman George E. Brown by addressing them by title and adding Washington, D.C. Make a copy of the letters and send them to us.

FREEDOM OF CHOICE IS THE ONLY WAY TO SAVE QUALITY PUBLIC EDUCATION

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. GRIFFIN. Mr. Speaker, public education received a damaging blow today when the U.S. Supreme Court decided that ill-advised, hastily drawn desegregation school plans by HEW should be placed into effect immediately rather than at a later date so that adequate consideration could be given the issues involved.

Even though the case before the Court concerned 30 Mississippi school districts, the impact will be felt throughout the other 49 States. For example, last week the Ohio Civil Rights Commission reported that an overwhelming majority of Ohio schoolchildren were victims of discrimination because they were denied the classroom association of children of different ethnical, racial, and cultural backgrounds.

Mr. Speaker, that is the trend today. What about religious backgrounds? When this trend peaks, and surely it will, what will be the future of public education in Ohio, or in Mississippi?

Unless the Supreme Court is curbed, the answer to that question is obvious.

Mississippi has a history of surviving trials and tribulations. The latest will be no exception, and I predict that we will solve our educational crisis before other States in similar circumstances. There are educational jungles in multiple urban areas outside the South. The people of Mississippi are determined that it will not happen within its borders.

As I have said many times—the issue is education, not race.

Freedom of choice is the only way to save quality public education. Freedom

of choice—what can be more American? Or more democratic?

I include as a part of my remarks a statement I released to the news media this afternoon. It follows:

MISSISSIPPI SCHOOLS

(Statement of Representative CHARLES H. GRIFFIN, Democrat of Mississippi, Oct. 29, 1969)

The Decision was hardly unexpected, because the Supreme Court has followed the same pattern since 1954.

I am confident the parents of Mississippi will calmly accept the decision with a renewed determination to preserve quality public education.

Distorted as its view is, the Court has had the power to interpret the Constitution since the early history of our country. The only remedy, in my opinion, is through the process of Constitutional Amendment.

On January 6 of this year, I introduced H.J. Resolution 183, which would require reconfirmation of Supreme Court Justices every six years. My amendment would make the Court responsive to public opinion.

On March 31, I introduced H.J. Resolution 613, a proposed amendment to the Constitution, which would prohibit interference with the power of any State to regulate health, morals, education, and elections within its borders. This amendment would remove education from the jurisdiction of Federal Courts.

As I have done on many occasions, I will again insist that any HEW desegregation plans have the support of both the white and black parents of the school involved.

Most regrettably, the Court has lost sight of the fact that the education of children will be determined by parents—not Congress, State Legislatures, or Courts.

The people of every State in the Union are directly involved in this decision. They are aware of educational jungles in many places and I feel sure they will not sanction additional ones under the guise of anti-discrimination.

ELWYN INSTITUTE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. EILBERG. Mr. Speaker, Elwyn Institute was founded in 1852 as a non-profit private school and provides the most advanced and effective methods of care, education, and treatment for children and young adults with learning difficulties or problems in social and emotional adjustment.

The school has 1,100 resident students as well as 250 day students from the surrounding community. Many of the 1,100 resident students work in the community, which shows the student how to live independently. The 250 day students are those mentally retarded students from school districts that do not have facilities for these children.

Since 1959, the president, Dr. Gerald Clark, has instituted many new innovations at Elwyn Institute. The goal of Elwyn is "Independent Living in the Community." This goal is achieved through six giant steps: First, evaluation; second, academic school program; third, work study program; fourth,

contract works; fifth, trade courses; and fifth, community work—halfway house program. The brain damage, academic, and work study projects are the three major programs at Elwyn.

Recently my good friend, Michael von Moschzisker, of the Philadelphia Inquirer devoted his column to the work study program at Elwyn Institute.

Therefore, without objection, Mr. Speaker, I would like to enter his column in the RECORD at this point:

THERE IS MUCH TO LEARN AT ELWYN INSTITUTE

(By Michael von Moschzisker)

Earlier generations locked up what they called their "mentally retarded," provided them with custodial treatment only, ruled them with an iron hand, and kept them behind closed doors for life.

It no longer has to be that way. At Elwyn, Pa., just south of Media, this country's oldest private institution for students with severe learning difficulty, or dire social and emotional handicaps, has made an aboutface.

Instead of serving as a place where these children are locked up and forgotten, Elwyn Institute helps them prepare for independent living in the community. And it achieves this through educational programs that ordinary schools might well look to, if they want to improve.

Take Elwyn Institute's work-study program. Approximately one-half the teen-age boys and girls in it are from among those who board at the institute, but the rest of them come by day from the city of Chester, from Yeadon, from Upper Darby, from Marcus Hook, and from more than twenty other school districts.

Far from being the sons and daughters of the rich, they are children of various ethnic backgrounds, all of whom are too handicapped to benefit from the regular public schools, and whose school districts pay to have them go to Elwyn.

When Elwyn's work-study program opens, the children meet not with Director Earl Wilkie and other staff members, but with graduates, who explain the program, and how it helped them.

Wilkie says this starts the youngsters in orderly fashion, but without the feeling that authority is being rammed down their throats. These students are near drop-outs, remember, and sick of authority that comes from above and seems unresponsive to their particular needs.

After this the students are divided into groups, and for two weeks they rotate between staff members, discussing what rules the program should have, what social activities, and what special learning experiences (music, photography, dancing, etc.). In this way, the boys and girls learn that open communication with the faculty is the rule.

The student groups draft reports on the conclusions reached in their discussions. Then the staff meets—as they do every day—to discuss the reports. The recommendations are taken seriously, and some are adopted. This spirit of change and responsiveness to what the students feel they need last throughout the program.

At about the report evaluation stage, students begin to notice that no one is educating them yet. When they ask why, staff members for the first time mention the need for achievements tests and psychological examination.

Introduced in this way, the tests are not resented. Instead of being a vehicle for stigmatizing children by showing how retarded they are, the tests appear to the youngsters as a way of finding out where to start in their new educational program.

Then the children react well to being divided into groups for reading and mathe-

matics, even though the groups are set up to meet different levels of educational need and therefore reflect degrees of retardation. There is much movement up and down between groups, incidentally, as experience shows what the tests may have missed. It is all flexible.

There is training in science, in health and in community skills such as money-management too. In this, students of varying degrees of advancement mix freely. And the entire program operates in conjunction with vocational training so that the boys and girls can eventually get jobs as carpenters' helpers, as beauticians, as stock clerks, etc.

It works. The children acquire the skill to hold paying positions, which matters, and a feeling that they are here for a purpose, which matters even more. They are not "turned off" at Elwyn. If our regular schools progress as much in the next ten years as Elwyn has in the last five, we will be all right.

HAWAII TO CLAIM WORLD'S HIGHEST RESEARCH LABORATORY

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. MATSUNAGA. Mr. Speaker, where else but in Hawaii can one's view sweep, in a matter of moments, over the panoramic beauty of lush valleys of tropical and semitropical foliage to the snow-covered peaks of the highest mountain in the world. This distinctive contrast can be found on the "Big Island," the Island of Hawaii, where the highest island peak in the world—Mauna Kea—rises 32,000 feet above the ocean floor and 13,796 feet above sea level.

Amidst the languid beauty of old Hawaii there is also evident the growing power of the new Hawaii, particularly in its importance as a center for space science activities.

As we know, Hawaii has played an outstanding role in space vehicle and missile tracking operations, and was the first landfall of the returning moon voyagers in July of this year. Research and development activities continue to expand, and research in solar radiation and other astronomical phenomena is being carried on by several organizations.

In this regard, it is a distinct pleasure for me to call to the attention of my colleagues that on Mauna Kea's 13,796-foot summit, the University of Hawaii will shortly install and operate the highest telescope in the world.

Lawrence E. Davies has written a most interesting special report on the Mauna Kea Observatory for the New York Times. In his article, Dr. John T. Jefferies, the distinguished head of the Institute for Astronomy of the University of Hawaii, is quoted as saying that for astronomers, observing conditions at Mauna Kea are unsurpassed anywhere else in the world.

In order that my colleagues and others may read more about the highest research observatory in the world, I submit for inclusion in the CONGRESSIONAL RECORD the article, "Highest Observatory Being Built in Hawaii," from the

Tuesday, October 28, 1969, issue of the New York Times:

HIGHEST OBSERVATORY BEING BUILT IN HAWAII: BEST CONDITIONS IN WORLD ARE SEEN BY ASTRONOMER

(By Lawrence E. Davies)

MAUNA KEA OBSERVATORY, HAWAII, October 24.—Here in balmy Hawaii, 3,500 air miles from Alaska's frigid North Slope, the world's highest research observatory is being completed after work under rugged weather conditions.

Crews on the Arctic tundra in recent winters have built airstrips, living quarters and roads to facilitate the extraction of a rich store of crude oil in temperatures as low as 65 degrees below zero.

In Hawaii, the average February temperature at sea level is 72 degrees above zero. But the construction crews working nearly two and one-half miles up on this mountain peak not only had to put up with temperatures that reached 13 degrees below zero but they also had to contend with rarified atmosphere that made breathing difficult.

Dr. John T. Jefferies, an Australian-born astrophysicist who heads the Institute for Astronomy of the University of Hawaii, looks forward, however, to an eventual community of observatories dotted about the volcanic cones at the summit of 13,800-foot-high Mauna Kea, on the island of Hawaii.

For astronomers, he says, observing conditions here are unsurpassed anywhere else in the world.

\$6-MILLION COST SO FAR

An 88-inch mirror built by the Corning Glass Works is to be installed later in the year at the new facility. The total cost to date is about \$6-million, and the Hawaii Legislature has authorized the expenditure of \$2.5-million more for an access road, power lines and a support building lower down on the mountain where the staff will eat and sleep.

Of the money spent so far, \$3-million has been contributed by the National Aeronautics and Space Administration under a contract calling for the use of 25 per cent of the time on programs of interest to NASA.

"We anticipate spending considerably more than that for ourselves," Dr. Jefferies said during a trip to the observatory a few days ago with a party including the university regents. "People from other universities have written me asking for time on the instrument and I'm sure, when it is checked out, more and more will be interested."

The Air Force Research Laboratory at Cambridge, Mass., operates a 24-inch telescope near the new observatory. NASA has an identical one here with a program operated by Lowell Observatory to help provide selected coverage around the world for Mars and Jupiter.

On another cone of Mauna Kea is an eight-inch telescope of the University of Arizona, but it is not now operating. And on the rim of Haleakala Crater, 10,000 feet high on the island of Maui, are several observatories, one operated for the Department of Defense.

GOVERNOR SEEKS CONTROLS

In an interview at Honolulu, Gov. John A. Burns said: "We had a good science city at Haleakala but the place is being polluted by radio and television transmitters.

"I think we should restrict Mauna Kea to scientific usages compatible with one another and not interfere with it as a science center. There is considerable argument on where to put a paved road. People in Hilo and elsewhere want to drive up there with autos spewing contaminants."

Hans Boesgaard, project engineer for the new Mauna Kea Observatory, directed the

attention of visitors to a necklace of clouds at a 9,200-foot level to which crews employed by the contractor, Stewart Enterprises of Seattle, descend for meals and rest.

"Those," he said, "are typical trade wind clouds from the northeast, no higher than 9,000 or 10,000 feet. The air above them is always clear."

Paul Krausnick, general foreman on the job here two years related:

"It is hard to keep personnel. Guys who have trouble breathing the first couple of days give up and go back. The altitude takes about 35 per cent of a man's efficiency and we have recorded winds of 85 to 90 miles an hour. The maximum time a man is allowed to work is 14 hours. He is subject to the bends if he works longer. We work six days a week, 10 hours a day, then go down and lie on the beach for a day."

Mr. Krausnick said that on one occasion concrete being poured froze and work had to stop. He predicted snow in about three weeks.

Dr. Jefferies reported that from among the institute's staff of 100 persons, including 21 with the doctor of philosophy degree, he would assign astronomers to come up for periods from the Honolulu campus.

"It hits you hard if you come up from sea level," he said, "so that a man will come up about noon one day, stop at the lower level camp, come on up and observe during the night and go back to sleep the next day in a darkened room. We'll have a recreation area with television, books and so on." He added:

"Lunar and planetary astronomy will be a significant part of our activities. This is undoubtedly the highest research observatory in the world of any consequence, although maybe some one in the Andes has a three-inch telescope in his backyard."

BACKING FOR STATE ROLE IN REGULATING SAFETY STANDARDS FOR NUCLEAR POWER PLANTS

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. KASTENMEIER. Mr. Speaker, support for strengthening the State role in the regulation of nuclear power plants was voiced by Federal Power Commission Chairman John Nassikas during the current hearings of the Joint Committee on Atomic Energy on environmental effects of producing electric power. The views of Chairman Nassikas reflect the concern of many citizens regarding the safety regulations of nuclear plants and their desire to have their own States adopt standards which are more strict than those required by the AEC.

For a report of the Nassikas remarks to the JCAE, I call to the attention of my colleagues an article by Victor Cohn appearing in the October 29 Washington Post:

STATE ROLE IN POWER PLANT WASTE ASKED (By Victor Cohn)

Tougher state regulation of pollution-producing power plants—nuclear and conventional—was backed yesterday by Federal Power Commission chairman John N. Nassikas, despite a current Atomic Energy Commission fight with the state of Minnesota over such regulation.

Both Nassikas and presidential science adviser Dr. Lee A. DuBridge forecast growing public agitation against electric power plants that people think are despoiling their environment.

"I think" public protest is "going to get worse before it gets better," said Nassikas, a Manchester, N.H., utility and corporation lawyer named by President Nixon to succeed Lee C. White as federal power chief.

Both Nassikas and DuBridge testified as the Joint Committee on Atomic Energy began a major series of hearings on power plants' environmental effects, an issue now triggering fights in several states.

"Today," DuBridge said, "the problem is most intense in the Northeast, but it is just a matter of time—if in fact that time has not already arrived—when less crowded areas will point the ranks of those putting up 'not welcome here' signs."

The United States must double power. Nassikas reported that 23 new coal- or oil-burning plants and 23 nuclear plants are now being delayed, partly by technical problems and partly by environmentally oriented groups.

Delays or not, Nassikas in effect challenged the concept of complete federal control over nuclear power—the issue now alive in Minnesota—by praising "the initiative some states are taking to strengthen or institute new procedures" to maintain their environment.

Minnesota is trying to make new nuclear plants observe radioactivity controls tougher than the AEC's, although both the AEC and members of the Joint Committee maintain that federal law gives the AEC exclusive regulation over radioactive discharges into air and water.

Nassikas did not specifically refer in his remarks to the Minnesota fight but did say, "I regard effective states regulatory review, including coordinated review by all affected state agencies, as a most essential complement to the process of regulatory participation envisioned by FPC."

He praised Maryland legislation requiring all new plants to win a state certificate of necessity. This in itself is not unusual, he pointed out, but "it is unusual" that the Maryland Public Service Commission will consider "aesthetics, historic sites and effect on air and water."

This could make even more trouble than Minnesota's rules, conceded AEC Commissioner James T. Ramey, "depending on how tough Maryland gets." Several Maryland scientists and legislators—concerned over a new nuclear plant on Chesapeake Bay started before the new Maryland law took effect—have urged a tougher look at future plants.

Nassikas likewise described a new California State Power Siting Committee that is to review sites and intervene, if desired, before the California Public Utilities Commission or AEC. He said New York state has given its Atomic and Space Development Authority "significant authority" over nuclear sites.

VIETNAM MORATORIUM OBSERVANCES AT EXETER

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. RYAN. Mr. Speaker, the October 15 moratorium was observed by millions of citizens in the cities, suburbs, towns, villages, and campuses of America.

This outpouring of concern across the Nation reflected the deep desire of our people for an end to the war in Vietnam.

On October 15, activities varied in various parts of the country, but the theme was consistent—peace in Vietnam.

I should like to call to the attention of my colleagues the program for moratorium day in one community—Exeter, N.H., where a committee of business and professional men, clergy, housewives, and students of Exeter High School and the Phillips Exeter Academy worked out details of the observance.

On October 15 participating churches tolled their bells at 6 a.m. and again at 7, when they held services. A third tolling at 9 o'clock summoned marchers to assemble at the Swazey Parkway for a silent march to Shaw's Hill in Kensington, a distance of some 3 miles. There the marchers participated in "a special program of dedication to peace in Vietnam." Dominating the hill was a 30-foot figure representing the spirit of the war, which was constructed by local artists and students. Upon their return to Exeter the marchers joined with other townspeople in signing a resolution opposing continuation of the war.

I include at this point in the RECORD the statement of purpose of the Exeter Town Committee for the October 15 Vietnam moratorium which was written by Anne Murphy of Exeter High School and William Forbath of Phillips Exeter Academy:

EXETER TOWN COMMITTEE FOR THE OCTOBER 15 VIETNAM MORATORIUM: STATEMENT OF PURPOSE

Every member of the Exeter community has some feeling concerning the Vietnam war; every student, every housewife, every businessman, and every future draftee has formulated some opinion concerning the presence of American troops in South Vietnam. It is an issue that cannot be ignored. Arguments have been presented both in support and in opposition to the war. The Moratorium of October 15th is not a day of public debate on this issue. We feel that after 7 years of war, every individual should be prepared to take a stand on Vietnam, according to the dictates of his own conscience. The Moratorium of October 15th will be a nationwide statement of opposition to current government policy.

Today, the situation in human terms is worse than it has ever been before. One third of Vietnam's rural population have become refugees. Hundreds of thousands of acres of fertile land have been defoliated and countless villages razed. B-52 raids alone have torn 2½ million holes 40 feet in diameter and 30 feet deep, holes that serve as breeding grounds for malarial mosquitoes. More tons of explosives have been dropped on this small country than were dropped on all the axis powers during World War II.

A moratorium by definition means a cessation of normal activities. We do not expect public institutions or businesses to take any stand on this issue because of its political nature. It is rather the moral questions involved that will make October 15th a day of individual participation and personal involvement. We hope that every citizen in the Exeter community understands his responsibility in this democratic society to make that personal commitment.

The proposed activities for the Moratorium in Exeter call for a full day of withdrawal from normal daily schedules. The program is completely nonviolent and will be conducted in silence to emphasize the fact of personal commitment. (A day of silence is a day of reflection—we hope that every individual will reconsider his preconceived opinions and

justify them to his own mind.) The Moratorium will not be a political rally; it will consist of prayers for peace and for the nations, a day of fasting, a silent march, and signing of a prepared statement.

We hope that many people will participate in this nationwide protest on October 15th, the Vietnamese war affects us all, directly or indirectly. Most deeply concerned of all are young men who face induction in a few years or a few months. For them, the war is very close. It is close also to everyone whose friends or relatives have become statistics on a mortality list. The question, "Has the U.S. a right to be involved in this war?", concerns every American. On October 15th, every American will have the opportunity to make a public statement of his answer to that question.

The above statement was written by Anne Murphy, a Senior at Exeter High School and William Forbath, a Senior at Phillips Exeter Academy. We the undersigned adult and student members of the Exeter Moratorium Committee, participate in support of this view and encourage others who agree to support our students and their nationwide efforts for peace.

MEMBERS OF THE TOWN COMMITTEE

Kelley Bates, M.D., Newfields Road, Exeter.
David Barnett, P.E.A.
Rev. Randolph Dales, Exeter Road, Hampton Falls.
William Draper, P.E.A.
Libba Fonvielle, 7 Nelson Drive, Exeter.
Rev. Lloyd Fonvielle, 7 Nelson Drive, Exeter.
William Forbath, P.E.A.
Albert C. Ganley, 13 Main Street, Exeter.
Robert A. Grey, 11 Spring Street, Exeter.
William Hymes, P.E.A.
Mrs. Elizabeth Lameyer, Runawit Road, Exeter.
Kim Laviolette, 13 Stoney Brook Lane, Exeter.
Brooks R. Leavitt, P.E.A.
Mrs. Marcia McGill, 140 High Street, Exeter.
Anne Murphy, 45 Pine Street, Exeter.
Jon Sawyer, P.E.A.
Mrs. Nora Tuthill, Shaw's Hill Road, Kensington.
Sumner Winebaum, Hampton Falls Road, Exeter.

I also include the text of the petition which was signed by those who marched silently from Exeter and which was forwarded to the President and Members of Congress:

TEXT OF THE PETITION SIGNED BY EVERYONE WHO MARCHED FROM EXETER ON OCTOBER 15

We the undersigned—residents of Exeter, New Hampshire, and of neighboring towns—have in various ways interrupted our day's occupations to bear solemn witness against continued American involvement in the Vietnam War. In our judgement the war is destroying the country it purports to defend; it is weakening American prestige and capacity for good in the world at large; it is wasting our resources; and it is tearing apart the fabric of American society.

CONGRESSMAN ROBERT TAFT, JR., COMMENTS ON THE U.S. FOREIGN ASSISTANCE PROGRAM AND HIGHER EDUCATION AT HOME AND ABROAD

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. WHALEN. Mr. Speaker, last Saturday, our colleague, the Honorable

ROBERT TAFT, JR., addressed the College Day Convocation at Western College for Women in Oxford, Ohio, on the subject of "The U.S. Foreign Assistance Program and Higher Education."

As a distinguished member of the Foreign Affairs Committee, Congressman TAFT is eminently qualified to speak on the present status and the prospectus of this Nation's efforts in this most important area of foreign relations. I believe his remarks, particularly his observations concerning the redirection of U.S. excess counterpart foreign currencies to educational efforts of less-developed nations, will be of interest to all Members of the House. I insert Congressman TAFT's speech at this point of the RECORD:

THE U.S. FOREIGN ASSISTANCE PROGRAM AND HIGHER EDUCATION

President Spencer, distinguished scholars, members of the faculty and student body of Western College for Women, and ladies and gentlemen.

It is an honor and challenge to address this convention today on a subject which I feel sure will be of interest and a concern to all connected with this institution and one which should be of interest and a concern to all Americans.

Serving as I do on the Foreign Affairs Committee of the House of Representatives, over the last three years, I have been offered an overview of the relationship and problems of the U.S. Foreign Assistance program and the field of higher education in both the United States and abroad. The long-time international connections of this college with the international field, although it has not encompassed any formal partnership with the Agency for International Development, as far as I know, should make the subject appropriate to consider here. The contribution made by this institution, through its foreign student program over many years, has indeed been a forerunner of the worldwide efforts which have increased lately and which seem likely to expand further in the future.

Your tradition, I know, has been distinguished in training young leaders who could take from Oxford to their nations a better understanding of the United States and its educational ideas and concepts that could be adapted to other nations and societies, particularly in the less developed areas of the world. In doing so, I feel sure you have learned, and that others will come to realize, that direct transplant of Western ideas to such nations is often difficult and unrewarding, if not impossible. But the failures should not dim the dawning light of the broadened educational opportunity that is essential to the successful progress of the millions of peoples of these nations. At the same time, we must realize that there must be a good deal of imagination and ingenuity in application of our techniques.

Just recently, I read in Atlas magazine an article entitled "Holy Polygamy" in which a bright Kenyan author challenged the now Constitutional requirement of monogamy in Kenya and contrasted it to the acceptability and strength of a polygamist family tradition in parts of that country.

I was reminded of a story my father used to tell of the Mormon Senator-elect whose seating in the Senate was questioned on the basis of his beliefs, even though he had only one wife. The furor was considerably quieted down when one reflective soul allowed that he would have far less objection to sitting with a polygamist who didn't "polyg" than a number of monogamists who did not "monog." But the point is that our frustrations over setbacks and delays in educational and other progress in less developed countries must not bind us into thinking, "Will all be

solved, if only our precepts of education and society are adopted?" Too often, it seems, we are like Professor Henry Higgins of "My Fair Lady" in his plea of the opposite sex:

"Why can't a woman be more like a man? If I forget your silly birthday, will you fuss?"

"Nonsense!"

"Would you complain if I took out another fellow?"

"Never."

"Why can't a woman be more like us?"

This approach, of course, is only one of the pitfalls in the present and future expansion of our foreign aid program in the field of higher education. Before commenting on other traps and suggesting a few cautious guidelines, a review of the present scope of U.S. aid seems appropriate. As of December 31, 1968, the Agency for International Development had 293 active technical service contracts valued at \$211 million for projects in 40 countries, which were held by 114 U.S. colleges and universities. In almost every case, these contracts call for cooperative services between a U.S. college or university and a host country institution in one of the nations receiving technical assistance under our AID program. The purposes of such contracts ranged over such areas as education, agriculture, economic development, medical education, human resources, community development, veterinary medicine, sanitary engineering, industrial education, and public health.

The 1970 foreign aid program, as proposed by the Administration and presently pending before the House Foreign Affairs Committee, would increase materially the technical assistance program with a request for a total grant of 463 million dollars, as compared to last year's request for \$253 million. This has occurred, not through a general increase of the AID economic assistance budget, which at \$2.2 billion is the lowest economic assistance requested in 10 years, but by transfer of emphasis and support from development loans and other AID programs to technical assistance. This would seem to bode well for continuing a substantial program of assistance to American colleges and universities and similar sister institutions abroad through the technical assistance program of AID.

Before discussing special problems of such assistance through higher education grants of AID, it would be remiss not to mention a number of other important efforts being made by national and international agencies in this field. In particular, the Fulbright-Hayes Act for the Mutual Education and Cultural Exchange Program, instituted in 1961, continues to have a major impact in training scholars and promoting exchange of ideas in many fields of learning. Also, UNESCO, The International Bank for Reconstruction and Development, and our own Military Assistance Program, all have efforts in the field. It should be noted as well that Ohio has at least two important participations in the AID program in higher education, in the Ohio State contract in connection with Punjab State University at Ludhiana in India, which is part of a six-nation consortium that has had outstanding success in Indian agricultural research, and in the Ohio University International Education Institute's fine work in Northern and Western Nigeria in the teacher education program in that country. It is of current interest that Ohio University is also working closely with the Vietnam Government in developing faculties of pedagogy and teaching facilities at Saigon and Hue, as well as at the University of Can Tho. Whatever else we may feel about the U.S. presence in South Vietnam, it has triggered a geometric growth there of educational institutions and opportunity.

I should mention the International Education Act, which is still in embryo form, having been passed in 1966, but yet to be financed by the Congress. It would call for

a grant program for advanced and undergraduate international studies and has been budgeted in the 1970 budget for \$2 million dollars. Its fate this year in Congress as yet remains undetermined. The same objective has led the Congress to establish the Woodrow Wilson Institute of the Smithsonian. This, too, is at an unfinanced state, but its prospects seem good. I know that you realize that, despite the broad nature of these public programs and their many ramifications, the world-wide educational challenge is only being scratched.

Phillip H. Combs in his recent book, "The World Education Crisis," Oxford University Press, 1968, reported that educational assistance accounts for only about a tenth of total world development assistance effort, and this general average would seem to be borne out by the figures requested in our U.S. AID program. Of course, it must be recognized that while there is a rough correlation between amounts and effectiveness of the assistance, even small specific efforts can, at times, have a beneficial impact out of all proportion to their cost if directed by the right personnel and located in the right place at the right time. Thus, rapidly changing aspects of the problem are sometimes the most challenging. For example, teacher training programs and establishment of teacher training institutions are a "sine qua non" of the building of an educational system in a developing country, and our efforts in AID are frequently so directed. In a number of African nations, for instance, as in Tanzania, wide-scale use of Peace Corps Volunteers from the United States in elementary and secondary teaching has been entirely eliminated and teacher training programs have been substituted to fill the gap as quickly as possible and to go on broadening the educational resources of the country on its own.

Another major challenge that must be considered in connection with progress on the educational front is that of population control. Here a major breakthrough in acceptance and progress in research in population control programs are a hand, but much more research and effort are needed to implement the attitude changes. In many of the developing countries it is coming to be recognized that no matter how great an effort may be put into the improving literacy and education generally, it will be futile if at the same time some attack is not made upon the burgeoning number of children appearing on the scene and needing education and training. I am happy to report that earmarking for this purpose in the Foreign Assistance Acts in 1967 of 335 million dollars and in 1968 of \$50 million, and in the Committee in 1969 of \$100 million, in which I have been instrumental along with other concerned members of Congress, appears to have directed our program with new vigor toward this problem. Moreover, the research funds made available under the Foreign Assistance Act this year, if passed, will not be limited to any particular title for university research, which funds only 15 million dollars, but, rather, will run the entire gamut of the technical assistance program.

Another interesting concept that is being carefully studied and presents a real possibility in some less developed countries is the redirection of U.S. excess counterpart foreign currencies to educational efforts of the nations. In some such nations, as a result of our Food for Peace Program, large amounts of money have been built up. For instance, in India it amounts to approximately 1 billion dollars, and in Pakistan, Poland, and Yugoslavia there are very sizable amounts. However, the use of such funds is generally subject to host government restrictions and agreement, and this often results in rejections of our proposals because of the possible inflationary impact, or other undesired impact. There is also, of course,

an unfavorable foreign exchange impact for the host nation as compared to a U.S. dollar grant. But expenditures in the educational area would seem to be the least inflationary because it is certainly one of the most productive uses of such excess funds. Especially would this be true if they were directed toward other than physical facilities. It is a promising concept because U.S. agricultural surpluses seem likely to continue to create a disposal problem and thus could offer the chance to feed not merely the stomachs but also the minds of peoples of less developed nations. It should also be examined because our Food for Peace Program seems less likely to encounter increased resistance in Congress than our Foreign Assistance programs through loans, grants, and technical assistance.

CONCLUSIONS

In sum, we have an opportunity and a challenge that remain for the more advanced countries, and especially for the United States, to make a major contribution to the educational growth of the newer nations, a growth that is essential to their stability and viability in the free world. The contribution must necessarily involve higher education in America and elsewhere to an even greater extent than at present. To benefit from this effort, a flexible and imaginative approach is essential. As Combs says:

"There is one thing that virtually everyone has learned by now—namely, the right solution to educational reform in developing countries does not lie simply in importing standardized educational models from advanced countries, including the United States."

Ways must be found to maximize the impact of the efforts of higher educational training of scholars from less developed countries through minimizing the "brain drain" that results when trained nationals continue indefinitely to work or study abroad.

Public and private grants for the purposes of research and application should be coordinated by country and area and programs should be adapted to the desires, skills, and needs of the target peoples, as determined by them and only where they participate in the effort. To maintain the necessary support from the developed world and the United States especially, it will be necessary to better identify the nature of the project and to employ means of support, such as counterpart funds, that meet the least resistance. This should include an identification of the very real benefits, not merely dollars, to higher education in this country resulting from participation by our colleges and universities in these undertakings. The key to success both for the participating institutions for the U.S. and for the host countries, as in most human problems, lies in assignment of dedicated, first class human talent to the tasks. Western College for Women can do and is doing much to help provide that talent.

ACADEMIC FREEDOM AND THE PUBLIC

HON. GLENARD P. LIPSCOMB

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. LIPSCOMB. Mr. Speaker, academic freedom is a topic which has received much comment. Mr. Houston I. Flournoy, State controller of California and a former assistant professor of government, recently delivered an address on this subject which was excerpted in the Los Angeles Times on October 24. I feel that

Mr. Flournoy's article emphasizes an area which we sometimes seem to forget, the importance of communication between the public and the university. Although Mr. Flournoy specifically discusses the California system of higher education, I feel that his comments can certainly be extended to cover higher education as a whole in the United States.

Mr. Flournoy feels that a disregard for public attitudes by the university society, such as in the case of Angela Davis, jeopardizes not only academic freedom but also the quality of education. However, he goes on to state that it is vital to the continuance of "quality, public, higher education" that the public recognize the ability of students to differentiate and their ability to subject divergent ideas to which they are exposed to close scrutiny. Mr. Flournoy further believes that fear must be replaced by confidence in order for the public and the university to effectively understand each other's objectives.

Under leave to extend my remarks, I enter this article in the CONGRESSIONAL RECORD and call it to my colleagues attention:

ACADEMIC FREEDOM AND THE PUBLIC

(By Houston I. Flournoy)

One of the more important challenges of the moment, for higher education and the people of California as a whole, is the challenge of maintaining and improving a system of *quality, public, higher education*. I emphasize quality and public with good reason. I have no doubt that California will maintain a system of public higher education, no matter what may ensue upon our campuses, or how we meet the challenges today. But I think it is far from certain that we will maintain the *quality* of our institutions—a quality we have always assumed as a matter of course.

As one who spent 10 years teaching in higher education, and as one who is currently in my 10th year in elected public office, I am appalled at the "understanding gap" which separates our campuses and the general public today. It is an understanding gap which goes in both directions: it is reflected in faculty members' lack of understanding of the public's attitude towards the campuses, as well as in the public's lack of understanding of the attitudes of faculties and students.

There is no more reality in the attitude of some faculty members that the state colleges or the university are really no concern of the public or, if you will, the politicians, than there is in the attitude of many citizens that individuals who hold views alien to their own ought not to be allowed to set foot on any campus, much less be a part of the faculty.

One of the most critical aspects of the current challenge to quality higher education is the all-too-common notion among faculty members and students that the "public" as such should keep its nose out of their business. They too frequently ignore that we are talking about *public* quality higher education. By definition the public is involved, and furthermore, whether the public should interfere or not, they are involved if for no more than the prosaic reason that they are being asked to pay the bill.

PUBLIC HAS THE POWER

So long as we are trying to preserve and expand a system of public *quality* higher education, the public will, through its elected representatives at the very least, have the

ultimate power to effectuate its reaction to campus doings through the power of the purse, or through pressure upon the citizen governing boards.

In this context it is unbelievable that the chairman of the philosophy department at UCLA would assign Angela Davis to teach a course this quarter after the regents had initiated proceedings to dismiss her under circumstances where she was not originally scheduled to teach this quarter.

Whatever the final disposition of the Davis case in the courts, Prof. Kalish's action was unnecessarily provocative and inflaming. It showed a marked disdain for the public's interest and power, whether it resulted from deliberate intent or total lack of judgment.

The UCLA faculty, having chosen to defend academic freedom by challenging the regents' actions, now finds itself caught in the additional "flack" caused by Kalish's action. Defending academic freedom to the public upon the grounds of flagrant interference is difficult enough. Here the faculty is placed in the virtually impossible position of at least appearing to defend an at best dumb action in the name of academic freedom.

My point is not to denigrate the importance of academic freedom—because I feel it is absolutely necessary for *any* quality institution of higher education. My point is how unnecessarily it was jeopardized by the action of a faculty member either unmindful of, or oblivious to the public interest and power to downgrade that freedom if it so chooses.

On the other hand, I am equally concerned by the frequently manifested public attitude that attacks individual faculty appointments or guest appearances which result in the appointment or appearance of individuals of different viewpoints—often radically different from general public assumptions or values. This, too, is an attack upon the academic freedom which is so vital to quality in our public institutions of higher education.

In addition, it is based frequently upon a misconception of the function of higher education and a false assumption about the susceptibility of college students to a "pled piper" in the classroom or on the podium.

One of the great purposes of higher education is to provide the opportunity to evaluate and critique values and philosophies. It is a time for challenge and re-examination of basically inherited values and norms. I am not the least surprised that many of the students find it difficult to communicate with their parents and other elders. I am surprised to find that so much emphasis has been put upon the discovery of a "generation gap." There's always been a generation gap. It may be wider today because of the more rapid explosion of knowledge and the vast technological and social change. Their world and the one they face is far different than the one their parents grew up in.

If that seems difficult to understand, consider my own experience. I was born in October, 1929. I've been told that the day was "Black Monday" on the New York stock market. I lived through the depression years, but what little I remember of them of *my own* experience is almost of the "happy childhood memory" category. I will never have the appreciation for the depression that my parents had. Nor will I ever experience the nagging sensation that the next one is right around the corner because so many of the optimistic, "It can't happen," type forecasts are reminiscent of the prophecies of the booming Twenties.

To the students today, World War II has about as much meaning and relevance as World War I had to me. Korea, where I served, was happening about the time they were born. Computers and desegregation both came along after I graduated from college but these students have grown up with them.

So I'm not at all surprised that their outlook is different than their parents and elders. Furthermore, I think it is evidence that our system of higher education is not stagnating in a time of rapid change. I do not, however, consider the difference in outlook the result of being exposed to or captivated by "radical" professors. I have too great a regard for the ability of students to separate the wheat from the chaff, or to examine a virus without catching cold. I have talked with, and taught, too many students to believe that they are sponges merely absorbing and retaining what their professors and others propound to them as truth—at least in theory.

NO REAL THREAT EXISTS

The point is that the appointment of a particular faculty member of divergent views is hardly the threat to infect a whole institution or student body with their views that many often tend to fear. If the ideas are that effective, or the philosophy that infectious, I suspect that there are some fatal flaws in the assumptions and values of the objecting parties.

Yet the furor or threat or retribution over a single such appointment or invitation to a guest lecturer can do extensive damage to academic freedom and quality public higher education.

The challenge for higher education today is to replace fear with confidence. On the one hand, to restore the confidence of the faculties and administrators that the people of California are in fact committed to quality public higher education and the academic freedom that it requires. On the other hand, to restore the confidence of the public that the role of quality public higher education requires the interchange and examination of widely divergent views, the academic freedom necessary for any effective exchange and exposure.

Perhaps, above all, we need to restore our confidence in the values and ideals of the American nation, so that we are neither so concerned that they will lose in a critical comparison with any other philosophy that we fear their examination, nor so concerned that our youth will not have the requisite critical faculties to reaffirm their commitment to them.

FEDERAL CITY COLLEGE

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. CHARLES H. WILSON. Mr. Speaker, the birth of institutions of higher learning are joyful occasions. The struggling first steps of infancy are ones that will eventually be looked back on with pride and a sense of accomplishment. Here in Washington, we have witnessed the birth of Federal City College, a college that will serve the people of Washington, D.C., and be responsive to the needs of the community. It is an institution that will grow and expand and one whose graduates will bring honor and praise to it and to our Nation's Capital.

Innovation, experimentation, and creativeness characterize the atmosphere of learning and outlook of FCC. In the October 25 issue of the Christian Science Monitor, staff correspondent Lucia Mouat reports on the college as it enters its second academic year. She points out

that the faculty, administration, and the student body are attempting to combine a first-rate curriculum and an open admission policy without offering remedial programs. Voluntary tutoring is offered with a skills center in English and reading in existence and mathematics assistance available to desirous students. It is an effort of determined young individuals to get the most out of their college experience and should be commended. I am including the text of the article into the RECORD along with my best wishes for continued success to Federal City College:

FED CITY: "WE'RE GOING TO DO IT"

(By Lucia Mouat)

Some would say Federal City College was attempting the impossible.

This predominantly black public institution, now heading into its second academic year, is trying to combine a first-rate curriculum and an open admission policy without offering remedial programs.

Acting President Andress Taylor admits frankly that college officials do not yet know how they will go about achieving this goal. "Nobody has done it before," comments Dr. Taylor (who is an associate professor of English), "but we're going to do it."

One ingredient, he insists, is Federal City's provision that no graduate assistants are allowed to teach courses and that all Federal City professors must teach freshmen courses. Also, the four-year college now has a skills center with backup services in English and reading. The math department also offers some special help in mathematics. No one is forced to accept the tutoring offer of the center, but Dr. Taylor estimates that about 10 percent of the student body takes advantage of it.

As an urban land-grant institution, Federal City faces the awesome challenge of translating into city terms the whole land-grant approach of the county agents and extension service. Dr. Taylor, who serves as assistant dean in community education development, interprets the task as designing educational programs for dope addicts, jail inmates, the aged, and the like. The college offers a complete freshman program for credit at Lorton Reformatory.

Recently Federal City's faculty, after a lively controversy on the issue, voted to take the college's interdisciplinary black studies program out of the college and into the black community. Dr. Taylor points out it was only one of 26 degree programs offered by the college, and for an institution 97 percent black it was "a bit redundant anyway."

"We don't like the term black studies—that's for white universities."

Federal City's student body, he affirms, poses a special challenge to faculty. Forty percent of the student body is over 25. Many are married with grown children.

"It's a real challenge to deal with people who often lack the basic skills but may be more sophisticated than their teachers. We've had a lot of teachers who've simply buckled under in trying to meet the challenge. People who come in with a missionary attitude get thrown for a complete loop. It creates nothing but hostility for them."

Although Federal City now has no black studies per se, the nature of its student body has influenced other curriculum developments here. This year for instance a Caribbean studies program will be introduced. The history department combines the traditional historical approach with area studies to offer courses in the history of South America, the Caribbean, the Middle East, and Africa. Another course developed by two Federal City professors compares the history of slavery in United States with that in Latin America.

THE ADMINISTRATION PASSES THE BUCK

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. EILBERG. Mr. Speaker, the administration continues to fill the air with charges that the Congress is dragging its feet on passing needed legislation.

The fact remains that action in every committee of Congress has been stalled by the failure of the departments, agencies, and the Bureau of Budget to respond promptly and intelligently to congressional requests for reports on pending bills.

Unfortunately the American public does not fully understand this crucial part of the legislative process. The American public does not fully understand that a responsible Congress has no desire to write legislation which is inconsistent with the needs of the Nation. The Constitution mandates that the executive branch enforce and administer the laws that we in Congress write.

Subcommittee No. 1 on Immigration and Nationality of the Committee on the Judiciary, on which it is my privilege to serve, has been treated to the spectacle of a confused and disorganized administration impeding the legislative process.

After waiting almost the complete first session of this Congress for administration views on a specific but critically important bill, our subcommittee finally received the administration reports.

Three departments in a flurry of activity this month produced reports, only to discover that within days a fourth department would reverse their position and administration witnesses would repudiate from the committee witness stand the earlier position.

Suspense and surprise has its place in the theater and I enjoy a good cliff-hanger as much as anyone. But President Nixon's scenario writers should turn these talents elsewhere. The spectacle to which I and my colleagues have been treated recalls a relay race in which the baton is passed clumsily and the members of the team run in opposite directions.

It all started back in February.

On February 25, 1969, the Committee on the Judiciary requested the Departments of State, Justice, and Labor to submit reports on H.R. 7022. This bill would amend section 101(a)(15)(H) of the Immigration and Nationality Act, first, to allow nonimmigrant aliens who possess distinguished merit and ability to enter the United States temporarily to perform services of an exceptional nature requiring such merit and ability; and second, to allow nonimmigrant aliens to enter the United States temporarily to be employed on permanent type jobs. The existing law restricts both classes of aliens to temporary admission for employment that is only of a temporary nature.

Not until October 10, 1969, did the committee receive any departmental report in response to its request of Febru-

ary 1969. On October 10, 1969, the Department of Justice submitted a report on H.R. 7022 which was cleared by the Bureau of the Budget and supported the enactment of this legislation.

On October 14, 1969, the General Counsel of the Department of Commerce wrote to the committee fully supporting such amendments with the hope the committee would take early action to approve appropriate legislation. This letter had also been cleared through the Bureau of the Budget.

On October 20, 1969, a report was received from the Department of State, also favorable to the enactment of this legislation, and stating that there was no objection from a foreign policy point of view to the enactment of this legislation, but the Department would defer to the Department of Labor on the domestic labor policy implications.

On October 22, 1969, the U.S. Department of Labor finally submitted a report on H.R. 7022 opposing that part of H.R. 7022 which would allow nonimmigrant aliens to enter the United States temporarily to be employed on permanent type jobs.

Finally, on October 27, 1969, the Department of Labor presented a witness to the committee. Several previous hearing dates had to be canceled because the Department was unable to agree on a definite policy relative to the temporary admission of alien workers. The following colloquy took place during the hearing:

Mr. FEIGHAN. Mr. Weber, the Department of Commerce sent a letter to the Judiciary Committee in support of H visa revision and the addition of the proposed L category. The State Department testified favorably on both proposals. Now the Department of Labor opposes revision of the H-2 category and qualification of a new L category. It seems peculiar to me that the four agencies involved would assume differing positions on such a fundamental aspect of legislative proposal under consideration. Do you know what the position of the Administration is, or is each agency reflecting its own views?

Mr. WEBER. In this case all I can say is we are reflecting our view. We have conveyed and did convey our view on this issue to the Bureau of the Budget. We hope we did it in a timely fashion. In terms of which player is really the quarterback, that is something I am not prepared to pass judgment on.

On October 28, 1969, a witness from the Immigration and Naturalization Service representing the Department of Justice appeared before the committee to testify on the above legislation and in the course of his testimony he found it necessary to depart from the Department of Justice position of October 10 and stated that the position of the Department of Justice now was the position of the Department of Labor. He commented, "The position has matured."

The committee is cognizant that in many areas of industry there is a definite shortage of skilled workers. H.R. 7022 would have the effect of alleviating critical shortages by the temporary admission of alien workers. The committee has diligently sought an expression on this legislation from the executive branch of the Government. After waiting for 8 months, we find that several expressions

have been received—contradictory and confusing, buckpassing and irresponsible.

PRISONERS OF WAR IN VIETNAM

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. WHITEHURST. Mr. Speaker, I would like to call attention of the Congress to a statement of great importance on the cynical exploitation of American prisoners of war in Vietnam by Hanoi in collusion with elements of the so-called "peace movement."

I refer to a statement by the gentleman from California (Mr. BOB WILSON), a distinguished member of the Committee on Armed Services. Since my own congressional district is the home of wives and families of PW's, I am personally aware of the heartbreak involved when Hanoi uses human suffering in this nefarious manner. I share Congressman WILSON's views and wish to identify myself with his statement. Under unanimous consent I submit the statement for the information of all Members, as follows:

FROM THE OFFICE OF REPRESENTATIVE BOB WILSON, OCTOBER 28, 1969

Asserting that American prisoners of war in North Vietnam are being "cynically exploited" by "Hanoi-selected anti-war leaders", Rep. Bob Wilson, California Republican, today asked the New Mobilization Committee To End The War in Vietnam to demonstrate sincerity by turning over its now PW role to the American Red Cross.

Referring to the designation by Hanoi of the New Mobilization Committee as its agent in the issue of PW's, Wilson, who is a member of the House Armed Services Committee, said that if Mobilization leaders David T. Dellinger and Rennie Davis "are truly moved by humanitarian considerations, rather than calculated political objectives exploiting the PW's, they will see to it that the New Mobilization Committee invites the Red Cross to take over the PW functions offered the Committee by North Vietnam."

Representative Wilson charged that the release of PW's may be made contingent upon release of certain convicts and the exonerated of defendants in the current Chicago conspiracy trial. He said that a situation was being created in which Americans would be made dependent upon extremists "to obtain a list of living PW's or to correspond with the men or have any prospect of their ultimate release."

Envisaging a form of blackmail at the expense of PW's and their families, Wilson said "we are not witnessing a compassionate desire of humanitarian individuals to aid PW's and their families but a calculated international ploy to give greater clout to certain sections of anti-war activism."

Representative Wilson's statement follows: "Elements of the anti-war leadership in the United States, in collusion with the Government of North Vietnam, are attempting to use American prisoners of war as pawns in a cynical maneuver. It is a power play to make certain leaders of the 'peace movement' a state within a state by forcing the wives and children of U.S. PW's to rely upon such persons as David T. Dellinger and Rennie Davis rather than the State Department and Defense Department.

"There have even been suggestions by the Black Panthers that release of American PW's become contingent upon the release of persons convicted of crimes in the United States and defendants facing Federal charges in the

Chicago conspiracy trial. The PW's would become hostages, in effect, to protect extremist agitators in the United States. Mr. Dellinger and Mr. Davis, among others, are being tried with Panther leader Bobby Seale in the Chicago conspiracy case.

"We are torn with mixed emotions by the latest developments. The hearts of the American people go out to the families of the PW's. The PW's, numbering possibly over 1,000, have been held virtually incommunicado for as long as five years.

"But we are now confronted by a diabolical exploitation of human suffering. To strengthen the Hanoi-selected anti-war leaders, Mr. Dellinger and Mr. Davis, and the New Mobilization Committee To End The War in Vietnam, the North Vietnamese tacticians designated the Committee as its agent. The American people must depend upon this Committee to obtain a list of living PW's or to correspond with the men or have any prospect of their ultimate release.

"I find it shocking that Americans would trade on the brutal confinement of fellow citizens held in total contempt for the civilized requirements of the Geneva Convention. We are not witnessing a compassionate desire of humanitarian individuals to aid PW's and their families but a calculated international ploy to give greater clout to certain sections of anti-war activism.

"The office and staff that would handle information and communications pertaining to PW's should in all decency be removed from politics and turned over to the American Red Cross. The Red Cross could then establish normal relations with the international Red Cross.

"The test of sincerity of Mr. Dellinger and Mr. Davis is in whether they are agents of Hanoi or agents of humanity. If they are truly moved by humanitarian considerations, rather than calculated political objectives exploiting the PW's, they will see to it that the New Mobilization Committee invites the Red Cross to take over PW functions offered the Committee by North Vietnam.

"American PW's must not be used for blackmail. They and their families have suffered enough.

"Hanoi apparently intends to dribble out some PW information to strengthen the New Mobilization to bolster the forthcoming mid-November demonstrations. Let the New Mobilization prove its humanity to the American people, to the millions of decent anti-war Americans, by referring its PW role to the Red Cross.

"Lives are involved. People on both sides are dying every day. We need honesty and humanity, not manipulation and maneuvers."

DR. PAUL A. MILLER, PRESIDENT OF ROCHESTER INSTITUTE OF TECHNOLOGY, DELIVERS INSTALLATION ADDRESS AT GALLAUDET

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. CAREY. Mr. Speaker, in 1857 Amos Kendall, who had been Postmaster General in Andrew Jackson's Cabinet, persuaded the Congress to incorporate his school as the Columbia Institution for the Deaf. James Buchanan became its first Presidential patron. He hired Edward Miner Gallaudet, son of the founder of the first school for the deaf in the United States which still exists in Connecticut. In 1864 Congress, by an enabling act, granted authority for the corporation to "grant and confirm such degrees in liberal arts and sciences, as

are usually granted and conferred in colleges."

In the history of this institution, 1887 marked a milestone, women were admitted to the college making it coeducational.

In 1894 at the request of the alumni the college was renamed Gallaudet College in honor of Thomas Hopkins Gallaudet, father of the college's president and founder of the first school for the deaf in the United States.

Under Dr. Percival Hall who became the second president of the college in 1910 and Dr. Leonard Elstad who succeeded Dr. Hall in 1945, Gallaudet has prospered and flourished. Gallaudet College reached a high point in its history in 1957 when it was first accredited by the Commission on Institutions of Higher Education of the Middle States Association of Colleges and Secondary Schools.

I had the honor and pleasure of attending the installation of the fourth president of Gallaudet College, Edward Clifton Merrill, Jr., on Thursday, October 23, 1969. Dr. Merrill, in whom we place our trust that Gallaudet College will continue to serve the deaf young people of our Nation, has accepted the challenge of all of us who have had an interest in Gallaudet. Dr. Paul A. Miller, president of Rochester Institute of Technology has eloquently outlined that challenge in his address to install Dr. Merrill in the high office of academic president.

So that our colleagues may have the benefit of Dr. Miller's remarks, I include the full text of his address at this point in the RECORD:

Few, if any, of our public ceremonies have a more civilizing quality than the academic inauguration. To install a college president is to review the relation of learning to the social order, and, therefore, to pledge anew that the search for understanding by man—of himself and of his world—will be preserved and enlarged from one generation to the next. Accordingly, to install a man in the high office of the academic president is in one sense not the chief purpose of the inauguration. Rather, the inauguration is a ritual which helps all of us—patrons, faculties, students, leaders—to renew our loyalties for the highest ideals of a human institution. Thorstein Veblen once said that academic ceremony is nothing more than a vestige of antiquity; one may say also that it is nothing less, for the inauguration is rightly symbolic of time and purpose—ancient and new alike. The ritual is necessary for mortal man, because the college, more than most institutions, lives within the whipsaw of high esteem and devastating disloyalty. Its patrons are wont to stray from the path of continuous learning and truth; sometimes the very members of the college do also.

This meaning of the academic inauguration must have seeped into our minds and hearts as we prepared for this moment of calling ourselves aside and together at Kendall Green. For this is an unusual moment. As we reach out to Edward Clifton Merrill, Jr., and draw him to us, we join in a covenant—one and all—that has been made but three times before across more than a century of devoted leadership at Kendall Green. There is but one Gallaudet College. There is no other college like it anywhere in the world. No other center of learning devotes itself to sharing the liberating arts and sciences with those who have been denied the ability to use the nuances of human signals which sound and voice makes possible. No other liberal arts college is granted the public freedom of private direction, yet, and for

so long now, nurtured by the resources and understanding of the federal structure. I say to you that no one of us will likely join ever again in academic ceremony of such uniqueness. Yet, there is even a deeper and more lasting distinction. We must allow ourselves to be overcome by first the poignancy and then the joy of the memory of grown men and women who on this greensward created a college from having knelt down in love to clasp and to help a child to live fully in a world of silence.

However, Gallaudet College is one with that international community of learning that would teach its members to love justice, do mercy, and walk humbly together. The additional burdens of this college, as it strives as all other centers of education to propagate the language of evidence, makes it all the more historic and important that we proclaim the great promise of our new leader, Edward Clifton Merrill, Jr. Thus we are enabled to rise above the easy alienation from the leader, and from our frequent denials, even now in the academic precinct, that the president, if he is truly a president, shapes the destiny of the college more than any other person. For it is he who commonly suffers most on behalf of the institution, and, therefore, in the end, comes to love it most.

But even our throwing off the shallow dissection of the human frailties of leaders does not remove the paradox of the college president. His tasks are many and sometimes conflicting—fiscal accountant and executive, scholar, politician, fund-raiser, counselor to young and old, physical plant manager, public relations specialist, and, sometimes, master plumber and policeman. One might expect that a person of such magic would reign rather than serve. But the paradox of the college presidency, as it has always been, is that despite his responsibility, the incumbent enjoys little power. In order to function as a true college—a community of zealous companions in learning—extensive decentralization of power among many men must rule the day. Tidy and monolithic ways of doing things are not the earmarks of vigorous centers of learning. So, the college president, of whom so much is expected, (even demanded, these days) and in range and depth of talents, is an executive who is unable to use much executive power. He is normally among the first to suggest that this is the way it must be.

We gather, then, to install Edward Clifton Merrill, Jr. as the fourth president of Gallaudet College. On behalf of all his fellow presidents, those represented here today and all those who work at the worldwide perimeters of Gallaudet's service to deaf people, I hold out the hand of fellowship and aid as he takes up a presidency, with ramifications for service to academics and to the public much beyond our imagination. And we must embrace him, and pledge ourselves to walk with him, for what we are asking him to do—to lead at the very edge of human communication and learning—no man can do alone. Every college prospers or not from the results of its own unique seed, a truth for which Gallaudet stands as an unparalleled example. How that seed shall be tended here is being openly decided today for a long time to come.

We shall want to walk with Edward when he encounters the hazards of every college president. Perhaps the most common hazard is the erosion of character by the conflicting views and pressures so necessary to the lively college. By character I mean the individual's capacity for high purpose and his steadfastness in pursuing it. Since the college president must preside over and respect the diffusion of power, he is able to express clear ideas but unable to claim them for his own; instead, he presides over an incredible maze of committees, councils, and interlocking boards, all the while interpreting the goals of unity, even as he is presented with the most special of statutes, sometimes on more

than occasionally trivial matters. The college president must master the art of compromise and of helping the half-way solution to work. To live with the task of blending specialties into a unified whole, the ideas for which cannot be his alone, denotes a drain, which, in the absence of intellectual refreshment and renewed resolve, moves toward weakness and even timidity.

The second hazard of the college president is to succumb to the temptation to abandon educational statesmanship. While respecting the necessity that no idea of human experience should be isolated from the whole and thereby made vulnerable to distortion, the prime duty of the college president, I am being so bold as to suggest, is to serve as the chief educational leader of the institution. Every incumbent soon knows this, but almost every force in his daily routine seems to inhibit his own growth as a student of the mysteries of learning. The frequent clash between what he should be doing and what he in fact does can be a debilitating erosion of mind and heart. All college presidents must be guided in part by the knowledge that the truly great representatives of their craft—White of Cornell, Eliot of Harvard, Angell of Michigan, Griswold of Yale, Gilman of Johns Hopkins, Melikejohn of Amherst—were ruthless in managing their time so that reading, reflection, and scholarship were sustained in their lives. To do otherwise is to invite ruin, both for the intellect of the man and the vigor of the college.

The third common hazard of the college presidency is the isolation of high office. Perhaps it is necessary that isolation or detachment is related to rank. But it is a hazardous relationship, in that the college president may lose touch with those who see the institution in ways differing from his own. Indeed, even those closest to him, for such well-meaning reasons as to spare him worry, seldom tell him the whole truth about the place. If this happens for too long, there results a withering of that instinctive sense of the possibilities and limitations of the institutions as a whole. Should he become too removed from the issues of the day, his usefulness is threatened. Similarly, should he become too engrossed in routine, his usefulness is also threatened.

On this day, however, and in contrast to these hazards, it is pleasing to be able to report that Gallaudet College carries forward a history of able men who embodied long chapters of profound leadership and impact on the founding and the development of this distinctive center on Kendall Green. While times have changed to make the analogy less than perfect, the whole of academic America could learn today from Gallaudet's first president, Edward Miner Gallaudet, who for 47 years in that post gave his every attention to the hopes of deaf people everywhere, and brick by brick, inspiring a growing faculty with both learning and compassion, created what we bestow upon a new leader today. Or speak of that initial patron, Amos Kendall, wealthy enough to take up many causes, who loved the early Columbia Institution with a passion, who gave so much of himself away that there was little left to die, which he refused to do until he lived to attend the commencement in 1869 for the class of three graduates. Then came Percival Hall, who would serve through 35 hard years, and remain warmly human and humble, loved by students and alumni, concerned with the welfare of every graduate, even, in this day it must be said, standing at the top of the list of party chaperones.

We share also today a message of "well done" with the president who followed in 1945, Leonard M. Elstad, humanitarian, never too busy to do something more, or to be himself—convivial, affectionate, quick to laughter—builder, interpreter, architect of both academic and physical structure, who, because he cannot help it, will devote himself to the education of deaf students for so long

as he breathes. Or Albert W. Atwood, man of affairs, who has come back and forth to Kendall Green as a trustee for a third of a century, filled merrily himself with the delights of learning, finding in Gallaudet his cause of tenderheartedness. May the history of this College never grow dim that we forget Senator Clark of New Hampshire, who would not agree with many of his fellows in Congress that the education of deaf students could only be third-rate at best, and stood up tall in 1864 to save the legislation. And Congressman Homer Thornberry of Texas, fighting in 1954 for a modern charter and a change in name, to this day, with his wife Eloise, devoted servant of this College.

Such is part of the Gallaudet inheritance created and passed on for 105 years and more. We honor those who remain nameless as well, for we are passing on to Edward Clifton Merrill, clothed in a generous spirit of congratulation, a heritage which grew from the gifts of the men and women who gave the whole of their lives to it. As simply one representative of the academic world today, I am apologetic about how little many of my colleagues know of the drama of Kendall Green. The oversight reminds us all of the tenacious disparity between American rhetoric and practice in extending equal educational opportunity—how slow we are indeed with reaching out to those who lack resources, some human competence, or some elusive state of normalcy, to the poor, the infirm, the deprived. Spend one day on Kendall Green in the service of this College, and your interest will be captured forever; as has mine. This will happen to you, not because what occurs here is on the surface very different from any other college or university, but rather, due to how you will react to the courage of deaf students, teachers who must teach themselves more skills than you have, the natural inclination of the deaf student to art and creative performance. And moreover you will find an institution going about being its authentic self.

Paradoxically, the authentic institution in frequently unheralded, for it has found some consuming element in its mission that prevents self-centeredness, imitation, chasing one fad after another. It is equally ironic that sometimes these authentic places, either by design or accident, less tired perhaps from emulating what others are doing, wander into challenges which extend much beyond their own affairs. This authentic destiny of Gallaudet College comes now to Edward C. Merrill, Jr. as he prepares to accept the presidential medallion as the symbol of his committed leadership. But what of this destiny?

Gallaudet College cannot take the deeper meaning of human learning for granted, no tool of communication can be ignored, no slothfulness can be tolerated in knowing much about those who come to the college and those who depart it.

Gallaudet College is an international college, a beacon of hope for deaf people everywhere. The College is and must continue to be a center of concern for elevating communications as an instrument of dealing openly with old tensions and channeling energies from self-denigration to self-help.

Gallaudet College, a curious blend of private concern and public will, is a classic natural history of how educational institutions can manage themselves within the framework of both individual and governmental acts of benevolence.

Gallaudet College, forced to probe far beyond the ordinary into man thinking and learning, and because what most of us do in educational practice will not work on Kendall Green, is a vital development component in a society which spends billions on provoking new ideas in business, defense, health, and agriculture, but only a fraction of these sums on research and development in human learning.

Gallaudet College, with Kendall school and the unfolding Secondary School for the Deaf, uniquely counters the frequent snobbery and sometimes arrogance of higher education to march in partnership with the lower schools.

Gallaudet College, having opened the door for deaf people to the productive and creative efforts of man, teaches us how to reduce our doubts of the efficacy of education when we sense how puny it is when the most grievous problems to have ever afflicted the American spirit are confronted: racial discrimination, poverty amidst affluence, inefficient institutions, despoliation of the natural environment, and doubts of both private and public honesty.

Gallaudet College, where chaos would prevail in an instant without the action of human relationship amongst students, faculty, and administrators, has a message in its mission about the pridefulness which isolates wisdom, and reveals for us the urgency of restoring shared purpose between father and son, teacher and student, white and black, old and young, rich and poor.

Edward Clifton Merrill, Jr., no man can be asked to do more than this. More than your credentials, we have come to know something of your demeanor, and to admire it, something of your willingness to listen and to learn, and to treasure it, something of your sense of proportion, and to feel the need for it, something of your devoted family, which we also honor. All is well at Gallaudet.

The second president, Percival Hall, asked of the first one, Edward Miner Gallaudet: "A double portion of your spirit: that spirit which has secured for you the love and devotion of all concerned with this institution, that spirit which has guided it safely through calm and storm for over half a century." Edward, may your proportion be doubled also of all those who have gone before, knowing as we do that in all your waking hours you will be answering endlessly the question: what is best for Gallaudet?

Yet our prayers go with you and yours in the hope that you will be yourself, and that your presidency will be noted for your choice, in Frost's immortal line, "I took the road less travelled by, and that has made all the difference."

POPULATION

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. BUSH. Mr. Speaker, I recently received a letter from Dr. John A. Hannah, Administrator, Department of State, Agency for International Development, in which he delineated AID's progress in the field of population.

I hope that every Member of this body will take a moment to study it. Dr. Hannah's comparison of the interest in population at the beginning of this decade and the interest now is most encouraging. But as he points out, there is much more to be done:

DEPARTMENT OF STATE, AGENCY FOR
INTERNATIONAL DEVELOPMENT,
Washington, D.C., October 23, 1969.

HON. GEORGE BUSH,
Chairman, House Republican Task Force on
Earth Resources and Population, Long-
worth House Office Building, Wash-
ington, D.C.

DEAR Mr. BUSH: I would like to express the appreciation of this Agency for your interest in the population program, and most particularly for your remarks to the Con-

gress on September 23. It was interesting to learn from the letters of Mr. Moynihan and Dr. Egeberg of steps now being taken to implement the President's recommendations as defined in his July 28 message.

Population problems loom large among the obstacles to progress in the poor countries, and the Agency for International Development is proud of its evolving efforts in the population field. Over the long run, of course, the poor countries must make progress across-the-board in economic development, produce more food, and raise standards of health and education. But work on family planning and other population problems is and will be vital while these tasks go forward.

In many of the less developed countries, as you know, population matters are very difficult. But we have reasons to feel encouraged. At the start of this decade, for example only two of the developing nations had policies for reducing birth rates. For Fiscal Year 1970, by contrast, 45 countries have, as a matter of policy, requested population assistance from A.I.D. We hope to help them, and we hope that this favorable trend continues.

Thank you again for your continuing interest in the A.I.D. program.

Sincerely,

JOHN A. HANNAH.

TRANSPORTATION PROBLEM SOLVING

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. GUDE. Mr. Speaker, the Council of Government of Metropolitan Washington has again demonstrated its responsiveness to area problems. The COG Transportation Planning Board and its staff have the ability to chop problems down to manageable proportions, as they promote better transportation through a spirit of regional cooperation.

Mr. Speaker, I commend to my colleagues the following editorial from the Washington Evening Star of October 23, 1969, which focuses appropriate attention on some of COG's most recent transportation efforts:

URBAN INNOVATIONS

While the big arguments over Washington's transit and freeway programs rage on, the staff of the regional Council of Governments has been quietly pursuing the notion that transportation improvements need not be massively expensive or fiercely controversial to make sense.

One of its first proposals led to the current laudatory efforts to use buses more effectively to get District residents to job opportunities in the suburbs, rather than merely to cart suburbanites into the city during rush hours. Another campaign resulted in the recent provision of exclusive lanes for buses on a portion of Virginia's congested Shirley Highway. Since this change occurred, incidentally, patronage on the bus line reportedly is up more than 10 percent.

Now, in the same vein, the regional transportation staff suggests a more ambitious but equally sound idea: To pave about three and a half miles of the abandoned right of way of the Washington and Old Dominion Railroad, through the heart of Arlington, so this natural corridor may be used by buses for at least a part of their run to the city. The estimated benefit, which is that this project would allow buses to cut

in half the time required for the present surface-street service over the distance involved, sounds to us extremely conservative.

Considering the gain, furthermore, the cost—estimated at between \$450,000 and \$600,000—is modest. The Department of Housing and Urban Development, which already is informally looking at the possibility of assisting the project with a federal grant, should be entirely sympathetic. HUD is especially anxious to support ideas which encourage the use of public transit, which seek the maximum advantage for dollars spent and which strengthen regional transportation planning. The latest COG proposal, as in the case of the others mentioned above, meets each test.

EFFECT OF TAX REFORM ON CHARITABLE CONTRIBUTIONS

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. BUSH. Mr. Speaker, uncertainty over the outcome of the tax reform bill has had serious effects on charitable contributions to our major universities. Many donors are putting off decisions on gifts until they are sure of the outcome of the bill. For example, Yale University was the beneficiary of major gifts amounting to \$1.6 million during the period July 1 to September 30, 1968. For the same 3 months of 1969 there have been no donations.

I hope that every Member of this Congress will take a moment to read the letter from Mr. Kingman Brewster, Jr., one of the Nation's noted educators, on the problems our colleges are having in raising these badly needed funds. His letter is most impressive:

YALE UNIVERSITY,

New Haven, Conn., October 13, 1969.

HON. GEORGE BUSH,
Committee on Ways and Means,
House of Representatives,
Washington, D.C.

DEAR MR. BUSH: I know you have heard in great detail from the world of higher education on the subject of H.R. 13270. The purpose of this letter is not to comment once again on the substantive provisions of the tax reform bill, but rather to ask for help in solving a serious timing problem created by the pendency of the bill.

The uncertainty with respect to the bill's final provisions and their effective dates is causing many donors to put off decisions on gifts to charitable institutions. At Yale, for example, outright gifts from individuals were 39% greater last year from July 1 through September 30 than this year. There were major irrevocable deferred gifts to Yale valued at \$1.6 million in the same three months last year. This year there were none.

What troubles me now is that it seems likely the Congress will not be able to complete its consideration of tax reform until the last few days of 1969—at best—and possibly not until some time in 1970. Under these circumstances our major donors will not be able to make informed and timely decisions on all the tax consequences of their prospective 1969 gifts. The result will unquestionably be a continued wait and see attitude on their part and an abrupt decline in gifts against the expectation of which we have long since budgeted operations for the current academic year.

I appreciate that short of final enactment no one in or out of Congress can say with absolute certainty what kind of tax reform will be legislated by the 91st Congress. However, it does seem to me that if all or a responsible number of members of the Senate Committee on Finance and the House Ways and Means Committee were soon to join in a statement to the effect that they will support provisions making any final tax reform bill inapplicable to bona fide charitable gift transactions completed in 1969, then we could hope for a resumption of the private support on which we and so many other institutions depend.

There may be other formulations which would appropriately end the current uncertainty affecting charitable giving, but in any event our need is for a reasonably authoritative pronouncement emanating from the members of Congress having major responsibility for tax legislation.

I am writing a similar letter to Chairman Long. If you and he will help solve the problem I have outlined—which is not of your making or ours—then I should be most grateful, but more importantly, the causes of thousands of worthy charities would be served.

Sincerely,

KINGMAN BREWSTER, JR.

THE GENERAL DID HIS DUTY

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. BRAY. Mr. Speaker, probably the highest yet simplest words of praise that can ever be given a public servant are these: "He did his duty."

The following editorial from the October 22, 1969, Indianapolis Star, on Gen. Lewis B. Hershey, makes it clear that General Hershey did just that:

THE GENERAL DID HIS DUTY

Gen. Lewis Blaine Hershey, the homespun, earthy Hoosier who drafted some 15 million Americans for three different wars, is not the first man to be pilloried unjustly for doing his duty. Nor will he be the last. His stature is elevated, not lowered, by his detractors.

His foes crowed with glee when it was announced that he would retire early next year as director of Selective Service to become a presidential consultant on manpower. They chortled that he had been "kicked upstairs." They sneered that he had refused to quit while he was ahead.

But like most short-sighted critics they overlooked important things. One was that the general, who enlisted in the Indiana National Guard as a private in 1911 and rode against Pancho Villa on the Mexican border has served his country as a military man for more than 50 years. The crackerbarrel general, who learned the facts of life as an Indiana farm boy, is 76 years old. Few generals of any country or any time have served so long, so well.

The Selective Service System that he took over shortly before World War II was neighborhood oriented. It was, as he put it, "the one area in which people are more immediately participating in governing themselves by deciding on a local level who should go, and not to suit a lot of people."

It was no computerized, punch-card process. It was a hard job but a human job and one that had to be done. In Gen. Hershey the nation had a man with the heart and stomach for it, with no illusions about what was involved.

This brings up another matter the critics always seemed to forget. They acted as though Gen. Hershey was the draft. He was not, of course. The law was passed by Congress. The duty of carrying it out was assigned Hershey. And he did it.

"I'm probably shortsighted enough to think that in my lights I'm right," he said not too long ago. "I have felt that to the best of my knowledge and ability I was doing what I thought was good for my country, and that was selfishness because I have some children and some grandchildren. They're going to have to live in this country, and if there isn't a country, I don't know where they will live.

"And I happen to believe from what I know of our history and what I've lived, I just don't know any country I like better than this one. Ah, what is it? 'England, with all thy faults, I love thee still,' said somebody. And I could say the same thing about America."

As long as enough Americans go on feeling this way and being brave enough to back their feelings up, there will be an America.

AMERICAN ONCOLOGIC MARKS 65 YEARS OF SERVICE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. EILBERG. Mr. Speaker, on November 7 the American Oncologic Hospital, a nonprofit, nonsectarian institution, will celebrate its 65th anniversary. The hospital, located in my district in northeast Philadelphia, is truly an exceptional facility.

It is one of only nine hospitals in the Nation devoted exclusively to the care and treatment of cancer patients. It is the only hospital in Pennsylvania with this exclusive specialty.

As significantly, the work of its doctors, nurses, medical staff, technicians, administrators, employees, board members, and volunteers is truly outstanding and deserves our recognition.

On the occasion of this anniversary I extend my congratulations to these fine people and to the hospital's hard-working executive director, L. Rodman Page, Jr.

With the unanimous consent of my colleagues, I offer for inclusion in the RECORD this description of American oncologic and its achievements:

AMERICAN ONCOLOGIC MARKS 65 YEARS OF SERVICE

The American Oncologic Hospital was founded in 1904, and had been located at 33rd and Powelton Ave., Philadelphia, since 1911.

The Hospital is one of nine in the country, and the only one in Pennsylvania, devoted exclusively to the treatment of Cancer patients. American Oncologic pioneered the use of radium in cancer treatment, and was the first institution in the Philadelphia area to install a supervolt X-ray therapy unit.

In May 1966, American Oncologic affiliated with Jeanes Hospital and the Institute for Cancer Research to form the Fox Chase Center for Cancer and Medical Sciences. The hospital moved to Central and Shelmire Avenues in December 1967.

The Agreement was signed by George M. Dorrance, Jr., President of American Oncologic Hospital; Anthony H. Whitaker, president of The Institute for Cancer Re-

search, and J. Franklin Gaskill, President of Jeanes Hospital.

The Center is located on land made available by the trustees of Jeanes Hospital, American Oncologic is connected to Jeanes by an enclosed bridge.

The Fox Chase medical complex is a multimillion dollar project developed as a major cancer center which combines laboratories and medical facilities of each organization for both basic and clinical research, and hospital facilities for the diagnosis, study and treatment of cancer patients.

Each institution retains its name and autonomy, and the status of the separate professional and administrative staffs is not affected by the affiliation.

The goal of the Fox Chase Medical Center is to mount a coordinated attack on cancer by placing at one location the very best in resources, knowledge, talent and patient care.

American Oncologic's facilities and long experience in caring for cancer patients is complemented by the excellent general hospital facilities of Jeanes Hospital, and the highly developed basic cancer research programs of The Institute for Cancer Research, enabling each institution to broaden the scope and effectiveness of its services.

The highly specialized 50-bed hospital shares many services with Jeanes and I.C.R. on a 40-acre tract in the Fox Chase section of Philadelphia.

Institutional overtones were cast aside in the design in favor of an environment that unites the patient with nature and gives a feeling of harmony, hope, and reassurance.

Stress has been placed on creating privacy for patients while offering a home-like atmosphere to boost the patient's morale.

The unusual shape of the building lends itself to an excellent arrangement of interior

spaces with bedrooms divided into small groups of no more than six two-patient rooms on each segment of the three nursing floors. Every unit is served by lounges, solariums, terraces.

The hospital is flexible enough to permit shut-ins a high degree of selectivity in the privacy they seek. Bedrooms look out upon landscaped grounds and wooded areas. Each bedroom has a door opening onto a continuous terrace.

Because most of the hospital's activities center on the care of out-patients, facilities will accommodate 30,000 annual visits by out-patients.

Three waiting rooms for out-patients surround the two-and-one-half story lobby. Focal points of the lobby are clusters of sculptured metal leaves—a gift from the women's board—suspended from the ceiling, and tubs of live plants suggesting an arborum. A multi-colored glass skylight illuminates the central court area.

The hospital's walls are of colored stucco, to match Jeanes. Clay tile roofs reinforce the building's residential character. The basic structure is reinforced-concrete with waffle slabs.

During the fiscal year ended June 30, 1969 American Oncologic admitted 1,239 patients, representing a 42 per cent increase over the previous year. Patients received 17,546 days of nursing care, and the average patient stay was 14.2 days.

A 14 per cent increase was registered by 9,045 out-patient visits, and cobalt treatments, which came to 7,558, increased by 11 per cent over the previous year.

Other services included 3,632 X-ray diagnostic studies for 2,866 X-ray diagnostic patients, 56 radium placements, 614 isotope procedures, 47,457 laboratory studies and 1,199 operations.

The hospital is accredited by the Joint Commission on Accreditation of Hospitals, and is approved by the American College of Surgeons as one of nine cancer hospitals in the country.

ROY WHITTON'S ANSWER TO "VIETNAM MORATORIUM DAY"

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1969

Mr. BRAY. Mr. Speaker, there were many and varied reactions to Vietnam moratorium day last October 15, and the most fitting and unusual I have seen to date was initiated and put into practice by Mr. Roy Whitton, of Greenfield, Ind.

As the Indianapolis Star of October 10, 1969, gave his plans:

Roy Whitton, general manager of FM outlet WSMJ in Greenfield, has his own answer to Vietnam moratorium day, October 15. He will broadcast a series of editorials, one every 60 minutes that day during the hours he is on the air.

Only the editorials will be "The National Anthem," "The Battle Hymn of the Republic," "Yankee Doodle," etc.

I wish Hanoi could have heard WSMJ that day. Roy Whitton's attitude was much more indicative of general American sentiment, I am sure.

SENATE—Thursday, October 30, 1969

The Senate met at 12 o'clock meridian and was called to order by the President pro tempore.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who holdest in Thy hand the souls of the righteous; we give Thee thanksgiving and praise for all the generations of the faithful, who have served Thee in godliness and love, with patriotism and unselfish devotion, and who dwell forever in Thy presence. We bless Thee for all who have enriched the world with truth and beauty, who have labored in the service of their fellows, who have done great and noble things for Thee, and transmitted to us a gracious heritage. We bless Thee for all near and dear to us in sacred memory, fathers and mothers, brothers and sisters, for those who have helped and defended, loved and cherished us. Grant that all the good we have seen and known in them may continue to inspire and guide us.

Make us aware of that unseen cloud of witnesses before whom the race of life is run that we may be worthy of their labors, and when we have fulfilled our time make us partners with them in Thy kingdom everlasting. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of

Wednesday, October 29, 1969, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on October 27, 1969, the President had approved and signed the following acts:

S. 1242. An act to amend the Communications Act of 1934 by extending the provisions thereof relating to grants for construction of educational television or radio broadcasting facilities and the provisions relating to support of the Corporation of Public Broadcasting; and

S. 1471. An act to amend title 38 of the United States Code to increase the rates of dependency and indemnity compensation payable to widows of veterans, and for other purposes.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transactions of routine morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

FEDERAL COMMUNICATIONS COMMISSION

The bill clerk read the nomination of Dean Burch, of Arizona, to be a member of the Federal Communications Commission.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The bill clerk read the nomination of Robert Wells, of Kansas, to be a member of the Federal Communications Commission.

Mr. HART. Mr. President, during the course of the Senate Commerce Committee hearings on the nominations of Dean Burch and Robert Wells to the Federal Communications Commission, questions were raised with respect to the views of the nominees on employment practices and on media concentration.

Nothing in the replies from these two gentlemen indicated any previous lead-