

ORDINANCE NO. 509

AN ORDINANCE OF THE TOWN OF ATHERTON ADDING A NEW NOISE CONTROL CHAPTER 8.16 TO THE ATHERTON MUNICIPAL CODE AND REPEALING THE EXISTING NOISE CONTROL CHAPTER

The City Council of the Town of Atherton, California, does hereby ordain as follows:

SECTION 1.

A new Chapter 8.16 “Noise Control” is hereby added to the Atherton Municipal Code to read as follows:

Chapter 8.16

NOISE CONTROL

Sections:

8.16.010	Declaration of policy.
8.16.020	Definitions.
8.16.030	Basic noise regulation.
8.16.040	Noise Disturbance Prohibited.
8.16.050	Special provisions and exceptions.
8.16.060	Aircraft regulations.
8.16.070	Permit to exceed noise levels.
8.16.080	Administration
8.16.090	Violations

8.16.010 Declaration of policy.

In accordance with the Atherton General Plan, which seeks to maintain Atherton as “a rural residential area,” it is the policy of the Town to protect the peace, health and safety of its citizens from unnecessary and unreasonable noise produced by any person, machine, animal or device.

8.16.020 Definitions.

As used in this chapter:

- A. “A-weighted Sound Level” is the sound level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

- B. “Ambient” is the composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.
- C. “Construction” means the act or process of building including but not limited to site preparation, alteration, repair, remodeling, assembly, erection, or similar action, of buildings, structures, pavement, flat work and other works including the use of power equipment in connection with activities therewith. Construction activities do not include radios or other forms of amplified music on a construction site.
- D. “Delivery” means delivery of building materials or equipment to any construction project.
- E. “Emergency” means an unforeseen combination of circumstances which require immediate action.
- F. “Noise Disturbance” means any source of sound which exceeds the noise limitations permitted in Section 8.16.030 of this Chapter. For purposes of this Section sources of sound shall include but not be limited to the following: Amplified music, loudspeakers, radios, televisions, stereos, musical instruments, powered toys or models, swimming pools or spas, pile drivers, air compressors, paint sprayers, motors, pumps, blowers, air conditioners, cooling towers, ventilating fans, fork lifts, loaders, tractors, animals, concerts, mechanical equipment, human voices, electrical appliances, vacuum cleaners, powered equipment, chain saws, motor vehicles and attached equipment not operated on a street or highway.
- G. “Noise level” means the maximum continuous sound level or repetitive peak level measured using the “A” scale set on “slow.”
- H. “Precision sound level meter” means a device for measuring sound pressure level in decibel units according to the American National Standards Institute Type 1 or Type 2 measuring instruments.
- I. “Sound level” shall be expressed in decibels (dBA) as defined by the American National Standards Institute using the A-level scale.
- J. “Vehicle” means any device by which any person or property may be propelled, moved or drawn upon a highway or street or private property.

8.16.030 Basic noise regulation.

Except as otherwise permitted under this chapter, no person shall cause and no property owner shall permit on such owners' property, a noise produced by any person, machine, animal or device, or any combination thereof, in excess of the sound level limits set forth in this section to emanate from any property, public or private, beyond the property line. Any sound in excess of the sound level limits set forth in this section shall constitute a noise disturbance. For purposes of determining sound levels, sound level measurements shall be made at any location on the receiving property.

Sound Level Limits

7 AM to 10 PM - 60 dBA

10 PM to 7 AM - 50 dBA

- A. In the event the alleged offensive noise contains a steady, audible tone, such as a whine, beating, pulsating, throbbing, or hum, the standards set forth in Section 8.16.030 shall be reduced by 5 dB.
- B. In the event the ambient sound level equals or exceeds the Sound Level Limit then the limit shall be 5 dBA over the ambient. .

8.16.040 Noise Disturbance Prohibited.

- A. Any and all excessively annoying, loud or unusual noises or vibrations such as offend the peace and quiet of persons of ordinary sensibilities and which interfere with the comfortable enjoyment of life or property and affect at the same time an entire neighborhood or any considerable number of persons shall be considered a noise disturbance.
- B. It shall be unlawful to create, permit, allow, or maintain a noise disturbance in the town of Atherton.

8.16.050 Special provisions and exceptions.

The basic noise regulation specified in Section 8.16.030 may be exceeded without permit in the instances listed below. At all other times, noise from the listed activity shall not exceed the basic noise regulation established in Section 8.16.030:

- A. **Construction**
 - 1. Construction and delivery are exempt from the basic noise regulation between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday only. That exemption does not apply on holidays.

2. Residents/Property Owners when personally operating equipment are exempt from the basic noise regulation when they are personally undertaking construction activities to maintain or improve their property on Saturdays, Sundays, or Holidays between the hours of 10:00 a.m. and 5:00 p.m. Such activities are restricted to the use of hand and power tools only.
3. At all times loud and raucous noise emanating from any construction or delivery site, whether in the form of broadcast or amplified music or any other form, which is audible on any property other than the property from which it emanates, is prohibited.

B. Power Garden Equipment

1. Power garden equipment including but not limited to, leaf-blowers, vacuums, power mowers, rototillers, and other similar equipment are exempt from the basic noise regulation between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday, 10:00 a.m. and 5:00 p.m. on Saturday and 10:00 a.m. and 3:00 p.m. on Sunday.
2. Heavy duty equipment including but not limited to wood-chippers, chain-saws, stump-removers and other similar equipment are exempt from the basic noise regulation between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday only.
3. All garden, maintenance and construction equipment used in the town must be equipped with a muffler where applicable and be in good repair.

C. Motor Vehicles. Motor vehicles may be operated on public streets and highways within the town in accordance with the noise emission standards prescribed by the state Vehicle Code. It is the town's policy that all sworn personnel be trained in the enforcement of this section of the Vehicle Code.

D. Social Gatherings. The noise from social gatherings may exceed the basic noise regulation between the hours of 10:00 a.m. and midnight, Fridays and Saturdays, and 10:00 am and 10:00 pm Sundays and holidays. The noise levels produced by such gatherings shall not exceed 75 dBA when measured from any adjacent residential property.

E. Animals. Sounds from animals are exempt unless such animal howls, barks, meows, squawks, or makes other noises continuously and/or incessantly for a period of 5 minutes or intermittently for 1/2 hour.

- F. Emergency and Safety Devices.** The provisions of this chapter shall not apply to: (a) the emission of sound for the purpose of alerting persons to the existence of an emergency, (b) the emission of sound in the performance of emergency response, or (c) the emission of sound in connection with the protection of the health and safety of Atherton residents or their property during emergency conditions. Warning devices necessary for the protection of public safety, as for example, police, fire and ambulance sirens, and train horns, shall be exempted from the provisions of this Chapter.

8.16.060 Aircraft regulations.

It shall be the policy of the town to work with nearby communities and other interested agencies to bring about a reduction of noise levels by private, military, public and commercial airplanes and helicopters.

8.16.070 Permit to exceed noise levels.

A. The Police Chief may grant a permit to waive time and noise level limitations on equipment when it is required to protect lives or property.

B. Special events or circumstances may warrant temporary exception to noise levels established in this section. In such cases application for a permit may be made to the Chief of Police, stating in writing; (1) the name, address and telephone number of the property owner responsible for the activity; and (2) the purpose for which such permit is applied, the date and beginning and ending time thereof, and a description of the sound-producing or sound-amplifying device to be used, together with a full statement of reasons justifying noncompliance. Such permits shall be issued or maybe denied at the time of application based upon a balancing of the interests of the applicant against those of surrounding residents, to include consideration of duration of the permit, frequency of occurrence, number of persons benefited by the activity and other similar factors.

C. An appeal from the decision by the Chief of Police on a permit to exceed noise levels shall be in writing and state the facts upon which an error, omission or abuse of discretion is alleged. All appeals shall be made within 10 calendar days from the date of the decision. The appeal shall be made to the City Clerk who shall place the item on the agenda for next available City Council meeting which shall be at least 15 calendar days from the date of appeal. All interested parties shall have the opportunity to speak on the item at the City Council meeting. The City Council shall act on the appeal within 60 days of the hearing and may affirm, reverse or modify the decision of the Chief of Police, based upon appropriate findings.

D. All permits issued under this chapter shall be issued for a limited time period.

8.06.080 Administration.

The provisions of this Chapter shall be administered by the Chief of Police and his or her authorized representatives, except where expressly provided otherwise. All other officers and employees of the Town shall assist and cooperate in the administration and enforcement of this Chapter.

8.16.090 Violations.

First time violators will be warned and subsequent violations of the provisions of this Chapter shall be guilty of an infraction and shall be punished as provided in Section 1.20.050.

SECTION 2.

Existing Chapter 8.16 of the City of Atherton Municipal Code is hereby repealed in its entirety.

SECTION 3.

The City Council hereby declares it would have passed this ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that the provisions of this ordinance are severable and, if for any reason any sentence, paragraph, or section of this ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 4.

This ordinance shall be posted on the official bulletin boards of the Town of Atherton, and shall take effect and be in force from and after thirty (30) days following its passage and adoption.

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I hereby certify the foregoing ordinance was introduced at a regular meeting of the City Council of the Town of Atherton held on September 29, 1999, and was thereafter, at a regular meeting of said Council held on October 20, 1999 passed and adopted by the following roll call vote, to wit:

AYES:	5	Councilmembers:	Carlson, Conwell, Dudley, Fisher, Chapman
NOES:	0	Councilmembers:	
ABSENT:	0	Councilmembers:	
ABSTAIN:	0	Councilmembers:	

Nanette F. Chapman
Mayor, Town of Atherton

ATTEST:

Sharon Barker
City Clerk