TO:	**HONORABLE MAYOR AND CITY COUNCIL**	**DATE:**	**AUGUST 8, 2002**
FROM:	**GLEN E. SHISHIDO CITY ATTORNEY**	**RE:**	**GENERAL INFORMATION**

EXCESSIVE NOISE

Council member Parsons has asked us to summarize the numerous local and state laws utilized by the City to deal with the problem of excessive noise.

The following Penal Code and Vehicle Code sections are heavily used by our Police Department:

Penal Code Section 415(2) - Noise

"Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than ninety (90) days, a fine of not more than four-hundred dollars ($400), or both such imprisonment and fine:

(2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise."

Vehicle Code Section 27007 - Sound Amplification Devices

No driver of a vehicle shall operate, or permit the operation of, any sound amplification system which can be heard outside the vehicle from 50 or more feet when the vehicle is being operated upon a highway, unless that system is being operated to request assistance or warn of a hazardous situation. This section shall not apply to authorized emergency vehicles or vehicles operated by gas, electric, communications, or water utilities.

Vehicle Code 27150 - Adequate Muffler Required

(A) "Every motor vehicle subject to registration shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise …."

The following sections from our Hawthorne Municipal Code have been utilized by Code Enforcement, Planning Department and our Police Department.

9.34.010 – Noisy Animals

No person shall keep, maintain or permit upon any lot or parcel of land, occupied by him or under his control, any animal, including fowl, which by any sound or cry shall disturb the peace and comfort of any neighborhood, or interfere with any person in the reasonable and comfortable enjoyment of his life or property.

9.34.020 – Amplified Sound

No person shall knowingly or wantonly use or operate, in or upon private property, any mechanical device, machine, apparatus or instrument for the intensification or amplification of the human voice or other sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants.

9.34.030 – Unnecessary Noise

No person shall make 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 place as to occasion physical discomfort.

9.35.010 – Disturbances Caused by Loud, Unnecessary and Unusual Noise

Notwithstanding any other provisions of this code and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.

The standard which may be considered in determining whether a violation of the provisions of this section exists may include, without limitation, the following:

a. The level of noise;
b. Whether the nature of the noise is usual or unusual;
c. Whether the origin of the noise is natural or unnatural;
d. The level and intensity of the background noise;
e. The proximity of the noise to residential sleeping facilities;
f. The nature and zoning of area within which the noise emanates;
g. The density of the inhabitation of the area within which the noise emanates;
h. The time of day and night the noise occurs;
i. The duration of the noise;
j. Whether the noise is recurrent, intermittent, or constant; and
k. Whether the noise is produced by a commercial or noncommercial activity.

9.35.020 – Liability for Cause of Subsequent Responses to Disturbances

Upon the initial response of the police department to any disturbance involving loud, unnecessary or unusual noise, the Chief of Police or his designee may, in lieu of or in addition to taking other action authorized by law, give notice to the person or persons in actual or apparent control of the activity creating the disturbance, or to the person or persons in actual or apparent control of the property or premises wherein the disturbance has occurred, or both, that liability may be imposed upon the person or persons receiving such notice for the costs to the City of any subsequent response by the police department in connection with any continuation or resumption of such disturbance. Such notification shall be in such form as may be approved by the Chief of Police. The costs of any subsequent response shall be assessed to the person or persons receiving such notice and shall include all costs reasonably incurred by the City in providing law enforcement services and equipment at the scene of the disturbance, including the cost or value of the time expended by police department personnel in making any subsequent response. The City Council shall establish the amounts of said fees and charges by resolution. The Finance Department shall invoice such fees and charges to the person or persons liable therefore under this Chapter, and all costs shall constitute a debt to the City and be collectible by the City in the same manner as in the case of an obligation under a contract, expressed or implied, however, that in no event shall a person(s) liability hereunder exceed one thousand dollars ($1,000) for any single subsequent request.

In addition to the provisions above, the zoning provisions of Title 17 of the Hawthorne Municipal Code also contain noise restrictions. The following provision pertaining to the R-1 zone is also found in zoning provisions for the R-2, R-3, R-4, C-1, Horticultural, Urban Open Space, C-2 and C-M zones:

17.14.120 Special Noise Sources

A. Radios, Television Sets and Similar Devices.

1. Use Restricted. It is unlawful for any person within any R-1 zone of the City to use or operate any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the producing or reproducing of sound, between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day, in such a manner as to disturb the peace, quiet and comfort of neighboring residents or any reasonable person of normal sensitivity residing in the area.
2. Prima Facie Violation. Any noise exceeding the ambient noise level at the property line of any property or, in the case of a condominium or apartment house unit, within any adjoining apartment, by more than five decibels shall be deemed to be prima facie evidence of a violation of the provisions of this section.

B. Machinery, Equipment, Fans and Air Conditioning.

1. Use Restricted. It is unlawful for any person 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 property line of any property to exceed the ambient noise level by more than five decibels. This

subsection shall not apply to the performance of emergency work.

C. Ambient Noise Base Level.

1. For purposes of this section, the ambient noise level shall not in any event be less than the following levels at the respective times and zones, irrespective of the ambient noise level actually measured:

ZONE	TIME	DECIBELS
Property zoned R-1 and all property abutting such R-1 zoned property	10:00 p.m. to 07:00 a.m.	50 dbA
Property zoned R-1 and all property abutting such R-1 zoned property	7:00 a.m. to 10:00 p.m.	60 dbA

2. If the ambient noise level actually measured exceeds the above levels at the times and within the zones specified above, then the noise level actually measured shall be used as the "ambient noise level" for the purposes of application of this subsection.

D. Decibel Measurement Criteria.

1. Any decibel measurement made pursuant to the provisions of this section shall be based on a reference sound pressure of 0.0002 microbars as measured in any octave band with center frequency, in cycles per second, as follows: 63, 125, 250, 500, 1,000, 2,000, 4,000 and 8,000, or as measured with a sound level meter using the "A" weighting network, using the slow meter response.
2. Measurements shall be taken with the microphone located at any point on the property line, but not closer than three feet from any wall and not less than three feet above the ground.
3. A minimum of three readings shall be taken at two-minute intervals. The sound level shall be the average of these readings.

(For R-2 zone, see 17.16.120; for R-3 zone; see 17.18.110; for R-4 zone, see 17.20.110; for Condominiums, see 17.21.165; for Horticultural zone, see 17.22.030; for Urban Open Space zone, see 17.24.110; for C-1 zone, see 17.25.070; for C-2 zone, see 17.26.070; and for C-M zone, see 17.28.070).

The following provision pertaining to the M-P (Industrial Park) zone is also found in the sections pertaining to the M-1 and M-2 zones:

17.30.030(G) The Following standards of Performance shall be Conformed to:

1. Sound shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness; the measurement of sound shall be measured at the exterior property lines and shall be measured to decibels with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Maximum permissible sound pressure levels shall comply with the following standards:

Octave Band in Cycles per Second	Decibels at Lot Line of Use in the M-P Zone	Decibels at Adjacent Residential District Boundaries
0-75	79	72
75-150	74	59
150-300	66	52
300-600	59	46
600-1200	53	42
1200-2400	47	39
2400-4800	41	34
4800-above	39	32

(For M-1 zone, see 17.32.030(C); for M-2 zone, see 17.34.040(C)).