

Salt Lake Valley Health Department

Health Regulation

#21

**COMMUNITY NOISE
POLLUTION CONTROL**

**Adopted by the Salt Lake Valley Board of Health
September 6, 1984**

**Amended:
August 1, 1991,
December 7, 1995,
May 3, 2001,
August 7, 2008
August 2, 2012**

**Under Authority of Section 26A-1-114
Utah Code Ann.**

1. PURPOSE & APPLICABILITY OF REGULATION

- 1.1 The purpose of this Regulation is to establish standards for the control of noise pollution within Salt Lake County and to reduce the making and creation of harmful sound to secure, protect, and promote the public health and safety of the residents of Salt Lake County.

2. DEFINITIONS

- 2.1 “dBA or A-Weighted Sound Pressure Level” shall mean the sound pressure level in decibels as measured with a sound level meter using the A-weighting network. The unit for reporting is dB(A) or dBA. Sounds measured with the “A” weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.
- 2.2 “Ambient Sound” shall mean the sound pressure level which represents the summation of the sound from all the discrete sources affecting a given site at a given time, exclusive of the source under investigation.
- 2.3 “Best Management Practices or BMPs” shall mean auxiliary operational procedures implemented by a business or facility that effectively reduce noise levels. BMPs include but are not limited to scheduling of activities, prohibitions of practices, maintenance procedures, and other management practices or institutional controls that prevent or reduce noise decibel levels.
- 2.4 “CFR” shall mean Code of Federal Regulations.
- 2.5 “Construction” shall mean any site preparation, assembly, erection, substantial repair, alteration or similar action.
- 2.6 “Construction equipment” shall mean any mechanical apparatus used in excavation, construction or demolition.
- 2.7 “Decibel” shall mean a logarithmic unit used in measuring the magnitude of sound. Decibel is abbreviated dB.
- 2.8 “Demolition” shall mean any dismantling, intentional destruction or removal of any right- of-way surfaces, building, structure, utility or similar property.
- 2.9 “Department” shall mean the Salt Lake Valley Health Department (SLVHD).

- 2.10 “Director” shall mean the Director of the Salt Lake Valley Health Department or his or her designated representative.
- 2.11 “Dwelling” shall mean a building or structure that is intended or designed to be used, rented, leased, let or hired out for human habitation.
- 2.12 “Dynamic braking device” shall mean a device used to transform a motor vehicle’s internal combustion engine into an air compressor for the purpose of braking without the use of wheel brakes, commonly referred to as “Jake brakes,” “compression brakes,” or “engine brakes.”
- 2.13 “Emergency power generator” shall mean the equipment used to generate electrical power in the event of an interruption, malfunction, or failure of the electrical power otherwise supplied by the service provider.
- 2.14 “Emergency vehicle” shall mean an authorized motor vehicle, motorboat, or aircraft which can lawfully be used for the transportation of emergency personnel, equipment, and supplies while responding to the scene of an emergency.
- 2.15 “Emergency work” shall mean;
- 2.15.1 Work required to restore property to a safe condition following a disaster or declaration of emergency;
 - 2.15.2 Work required to protect persons or property from an imminent exposure to danger; or
 - 2.15.3 Work that absolutely cannot be done otherwise during the daytime hours to protect the public’s health by private or public entities for providing or restoring immediately necessary utility service.
- 2.16 “EPA” shall mean the U.S. Environmental Protection Agency.
- 2.17 “Exhaust system” shall mean all components responsible for conducting exhaust gasses or reducing sound from a motor vehicle or motorboat including, but not limited to, mufflers, baffles, header pipes, manifolds, air intakes, or any other similar component.
- 2.18 “Gross Vehicle Weight Rating” or “GVWR” shall mean the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination of vehicle, shall be used.
- 2.19 “Heating, Ventilation, and Air Conditioning (HVAC)” shall mean any system installed on or within a dwelling, facility, building or structure for the purpose of providing heating, ventilation, or air conditioning. HVAC may include furnaces, air exchangers,

central air condensing units, evaporative “swamp” coolers, heat pumps, exhaust fans, and other heating and cooling equipment.

- 2.20 “Impulse sound” shall mean sound of short duration, generally less than one second, especially of high intensity, abrupt onset and rapid decay, and often rapidly changing spectral composition.
- 2.21 “Infrasound” includes any sound frequency less than or equal to 16 Hz.
- 2.22 “ L_{eq} ” shall mean the average measure of continuous noise that has the equivalent acoustic energy of the fluctuating signal over the same time period. For the purposes of this Regulation, an L_{eq} measurement will be taken for a minimum of two minutes.
- 2.23 “ L_{max} ” shall mean the highest root-mean-square (RMS) sound level measured over 1000 milliseconds in a slow response. For the purpose of this Regulation L_{max} will be the highest A-weighted sound level occurring during a noise event.
- 2.24 “Motor vehicle” shall mean any vehicle required to be licensed for on-road use in the State of Utah, and is propelled by a motorized power source.
- 2.25 “Muffler” shall mean a properly functioning sound dissipative device or system consisting of a series of chambers, baffle plates, or other mechanical devices for abating the sound of escaping exhaust gases.
- 2.26 “Multi-dwelling unit building” shall mean any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.
- 2.27 “Municipal Approved Event” shall mean an assembly of people which continues, and can reasonably be expected to continue for two or more hours per day, and has received a permit, license or authorization from the municipality in whose jurisdiction the event is located.
- 2.28 “Noise” shall mean sound that may be harmful to health.
- 2.29 “Noise control system” shall mean parts, mufflers, assemblies or systems, including all exhaust system components, originally installed by the manufacturer which controls or reduces noise emissions.
- 2.30 “Octave band” shall mean an interval in Hertz between two frequencies having a ratio of 2:1. For purposes of this Regulation, octave band sound pressure levels shall be measured at any of the following center frequencies: 31.5, 63, 125, 250, 500, 1,000, 2,000, 4,000 and 8,000 Hz.
- 2.31 “Off-highway vehicle” shall mean any vehicle not permitted to be licensed for on-road use in the State of Utah and is propelled by an engine.

- 2.32 “Owner” shall mean any person who alone or jointly and severally with others:
- 2.32.3 has legal title to any premise, dwelling, or dwelling unit with or without accompanying actual possession thereof; or
 - 2.32.4 has charge, care, or control of any premises, dwelling, or dwelling unit, as legal or equitable owner, agent of the owner, or is an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.
- 2.33 “Person” shall mean any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institutions, bureau or agency thereof, municipal corporation, county, city, or any legal entity recognized by the law.
- 2.34 “Public assembly” shall mean an activity regardless of whether or not a ticket or payment of any type is required for admission.
- 2.35 “Pure tone” shall mean any sound that can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this Regulation a pure tone shall exist if the one-third octave band sound pressure level, within the investigated band of the tone and frequency range, exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by:
- 15 dB for bands with center frequencies less than 160 Hz
 - 8 dB for bands with center frequencies of 160 Hz to 400 Hz
 - 5 dB for bands with center frequencies greater than 400 Hz
- 2.36 “Receiving property” shall mean any property, including an individual unit of a multi-dwelling or multi-use property, that is adversely affected by noise transmitted by another property or from another unit within the same multi-dwelling or multi-use property.
- 2.37 “Repetitive impulse sound” shall mean any impulse sound repeated at intervals such that a sound level meter set at “fast” meter characteristic will show changes in sound pressure level greater than 10 dB(A) within one second.
- 2.38 “Salt Lake Valley Board of Health” shall mean the Salt Lake Valley Board of Health as authorized by Section 26A-1-109, Utah Code Ann.
- 2.39 “Snow removal equipment” shall mean any mechanical equipment used for removing snow from land or building surfaces including snow plows, snow blowers, snow sweepers, and any spreader or applicator employed to apply a snow or ice melting product.

- 2.40 “Sound” shall mean an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with interval forces that cause compression or rarefaction of the medium.
- 2.41 “Sound level meter” shall mean an instrument that includes a microphone, amplifier, RMS detector, integrator, or time averager, output meter and weighing networks used to measure sound pressure levels.
- 2.42 “Sound pressure level” shall mean twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20 micronewtons per square meter). The sound pressure level is denoted Lp or SPL and is expressed in decibels (dB).
- 2.43 “Ultrasound” includes any sound frequency higher than 20 kHz.
- 2.44 “Z-Weighted Sound Pressure Level or dBZ or dB(Z)” shall mean the sound pressure level in decibels as measured with a sound level meter using the Z-weighted filter. Infrasound shall be measured with the Z-weighted filter.

3. GENERAL PROVISIONS

3.1 Jurisdiction of the Department.

3.1.1 This Regulation is promulgated by the Salt Lake Valley Board of Health as authorized by Section 26A-1-121(1), Utah Code Ann. and Chapter 9.04, Salt Lake County Code of Ordinances.

3.1.2 The Department is empowered to enforce this Regulation in all incorporated and unincorporated areas served by the Department as authorized by Section 26A-1-114(1)(a), Utah Code Ann. and Chapter 9.04, Salt Lake County Code of Ordinances.

3.2 The Department and local law enforcement agencies shall have enforcement responsibility for this Regulation.

3.3 Except as otherwise provided for, it shall be unlawful for any person not to comply with any regulation promulgated by the Department unless granted an express variance by the Salt Lake Valley Board of Health.

3.4 Compliance with this Regulation does not constitute a defense if charged with any environmental crime or violation of any local, state, or federal law.

3.5 Legal action taken by the Department under this Regulation does not preclude prosecution for any environmental crime that may have been committed or violation of any other local, state, or federal law.

3.6 Nothing in this Regulation affects or modifies in any way the obligations or liability of any person under any other regulation or provision thereof issued by the Department, any ordinance adopted by Salt Lake County or any municipality located within Salt Lake County, or any state or federally issued law, including common law. However, except as otherwise provided for, Departmental regulations supersede other existing local and county standards, regulations and ordinances pertaining to similar subject matter that are inconsistent.

3.7 **Severance.** If any section, sub-section, sentence, clause, or phrase of this Regulation is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Regulation.

4. SUBSTANTIVE PROVISIONS

4.1 **General Prohibition of Noise.** Notwithstanding the specific noise restrictions in Sub-section 4.7, no person shall emit, nor shall any person cause, allow, permit, or fail to control the emission of any noise source so as to exceed the maximum allowable sound pressure levels set forth in Sub-section 4.2 Tables 1a and Sub-section 4.7 Table 2 when measured from the receiving property.

4.2 **Maximum Permissible Sound Pressure Level Tables.**

Table 1a
Maximum Permissible Sound Pressure Levels (L_{eq}) Table

Receiving Property Use*	Between 10:00 p.m. and 7:00 a.m.	Between 7:00 a.m. and 10:00 p.m.
Type A	5 dBA above ambient sound not to exceed 50 dBA	10 dBA above ambient sound not to exceed 60 dBA
Type B	5 dBA above ambient sound not to exceed 55 dBA	10 dBA above ambient sound not to exceed 65 dBA
Type C	5 dBA above ambient sound not to exceed 70 dBA	10 dBA above ambient sound not to exceed 70 dBA
Type D	5 dBA above ambient sound not to exceed 75 dBA	10 dBA above ambient sound not to exceed 75 dBA

*See Appendix A referencing property use examples.

Table 1b
Maximum Permissible Sound Pressure Levels (L_{max}) Table

Receiving Property Use*	Between 10:00 p.m. and 7:00 a.m.	Between 7:00 a.m. and 10:00 p.m.
Type A & B	70 dBA	100 dBA
Type C & D	100 dBA	100 dBA

*See Appendix A referencing property use examples.

4.3 Sound Pressure Level Measurements.

4.3.1 Sound pressure level measurements shall be made with a calibrated and certified Type 2 sound level meter or better instrument as specified in the American National Standards Institute’s (ANSI) publication S1.4-1983 (Reaffirmed 2001) entitled, “Specifications for Sound Level Meters”, or its current successor; or the International Electrochemical Commission (IEC) class or type 1 and 2 standard 61672.

4.3.2 All sound level measurements required by this Regulation shall be taken in dBA, unless specifically measuring infrasound and ultrasound which shall be taken in dBZ.

4.4 **Infrasound and Ultrasound.** For any source of sound which emits infrasound (below 16 Hz) or ultrasound (above 20 kHz) frequencies, the sound pressure level shall not exceed 100 dBZ when measured from the receiving property.

4.5 **Pure Tone and Repetitive Impulse Sound.** For any stationary source of sound which emits a pure tone or repetitive impulse sound, the limits set forth in Tables 1a shall be reduced by 5 dBA when measured between the hours of 7:00 a.m. to 10:00 p.m. and reduced by 10 dBA for Type A and Type B property use when measured between the hours of 10:00 p.m. to 7:00 a.m.

4.6 **Non-Sound Based Vibrations.** The transmission of vibrations that are not sound based and cannot be measured by a sound pressure meter are not restricted by this Regulation.

4.7 Specific Noise Restrictions.

4.7.1 **Commercial Refuse Compactors.** No person shall operate or use, nor shall any person cause, allow, permit or fail to control the operation or use of any

commercial refuse compactor within 300 feet of a Type A or Type B property use between the hours of 10 p.m. and 7 a.m. unless the responsible party demonstrates to the Department compliance with Sub-section 4.2 Tables 1a and 1b.

- 4.7.2 **Construction Equipment and Activities.** No person shall operate nor shall any person cause, allow, permit, or fail to control the operation of any mechanical construction equipment or conduct any construction or demolition activities outside between the hours of 10 p.m. and 7 a.m. unless a permit has been issued in accordance with Section 5.
- 4.7.3 **Fireworks or Explosives.** No person shall use fireworks or other explosive devices between the hours of 10 p.m. and 7 a.m. unless the responsible party demonstrates to the Department compliance with Sub-section 4.2 Tables 1a and 1b.
- 4.7.4 **Garbage Collection.** No person shall collect garbage, waste, or refuse nor shall any person cause, allow, permit, or fail to control the collection of garbage, waste, or refuse within 300 feet of a Type A or Type B property use between the hours of 10 p.m. and 7 a.m. unless the responsible party demonstrates to the Department compliance with Sub-section 4.2 Tables 1a, 1b and Sub-section 4.7 Table 2.
- 4.7.5 **Loading/Unloading Operations.** No person shall load or unload any equipment, vehicle, box, crate, container, garbage container, or other object or open, close, or otherwise handle these objects within 300 feet of a Type A or Type B property use between the hours of 10 p.m. and 7 a.m. unless the responsible party demonstrates to the Department compliance with Sub-section 4.2 Tables 1a, 1b and Sub-section 4.7 Table 2.
- 4.7.6 **Motor Vehicles.**
- (i) No person shall operate or use, nor shall any person cause, allow, permit, or fail to control the operation or use of any motor vehicle:
 - a. Without a noise control system that meets the original specifications installed by the manufacturer;
 - b. Unless the noise control system is in constant operation and free of defects that affect sound reduction;
 - c. With any cut out, bypass or similar device which increases sound pressure levels;
 - d. When the noise control system has been modified, punctured, or rendered inoperative; and

- e. Unless the noise control system of the motor vehicle or combination of vehicles of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration does not exceed the maximum allowable sound pressure levels set forth in Table 2 at a distance of 25 feet or more for the category of motor vehicle, based on the legal speed limit, posted or not, of the road on which such vehicle or vehicles are operated using testing methods as prescribed by the Department.

Table 2
Maximum Sound Pressure Levels for Motor Vehicles
Sound Pressure Level, dBA

	Measured at a Distance of	Speed limit 40 mph or less	Speed limit over 40 mph
Any motor vehicle with a gross manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,000 pounds or more or any combination of vehicles towed by such motor vehicle	25 ft.	88 dBA	94 dBA
Any other motor vehicle and any combination of motor vehicles towed by such motor vehicle	25 ft.	80 dBA	84 dBA

- (ii) **Defect in Vehicle.** No person shall operate, nor shall any person cause, allow, permit, or fail to control the operation or use of any motor vehicle that emits excessive or unusual noises because of disrepair or mode of operation.
- (iii) **Dynamic Braking Devices.** No person shall operate, nor shall any person cause, allow, permit or fail to control the operation of any motor vehicle with a dynamic braking device engaged, except for the avoidance of imminent danger.
- (iv) **Motorcycles and Motorcycle Exhaust Systems.**
 - a. **EPA Noise Emission Control Requirements.** No person shall cause, allow, permit or fail to control the operation or use of any motorcycle manufactured after December 31, 1982, without its required Motorcycle Noise Emission Control Label on the motorcycle vehicle itself in accordance with 40 CFR § 205.158 and on any motorcycle exhaust system as required by 40 CFR § 205.169. i. The following is an example of an EPA Noise Control Label: “This (manufacturer’s name) exhaust system (serial

number) meets EPA Noise Emission Requirements of (noise emission standard) dB(A) for the following motorcycles: (list of model specific codes). Installation of this exhaust system on motorcycle models not specified may violate federal law.”

- b. **Label Tampering.** No person shall deface or allow any person to deface any noise emission control label required by federal law which is affixed to any motorcycle or motorcycle part for purposes of identifying the motorcycle or motorcycle part as a federally regulated product.
 - c. **Mismatched Mufflers.** No person shall operate, nor shall any person cause, allow, permit, or fail to control the operation of any motorcycle manufactured to federal noise law standards that does not bear a label or mark on the exhaust system that matches the model specific code of the motorcycle vehicle on which the system is installed.
 - d. **Competition Motorcycles.** No person shall operate, nor shall any person cause, allow, permit, or fail to control the operation of any motorcycle identified by the noise emission control label or mark as being for “competition use only” on any property other than within a motor sports facility for the purpose of participating in a practice session or racing event.
 - e. **Competition Motorcycle Exhaust System.** No person shall operate, nor shall any person cause, allow, permit, or fail to control the operation of any motorcycle fitted with an exhaust system or exhaust system component identified by the noise emission control label or mark as being for “competition motorcycles only” on any property other than a motor sports facility for the purpose of participating in a practice session or racing event.
- (iv) **Motor Vehicle Repair and Testing.** No person shall repair, rebuild, modify, idle, run, accelerate, or test any motor vehicle, nor any auxiliary equipment attached to such vehicle within 300 feet of a Type A or Type B property use between the hours of 10 p.m. and 7 a.m. unless this activity complies with Sub-section 4.2 Tables 1a, 1b and Sub-section 4.7 Table 2.
- (v) **Off-Highway Vehicles.** No person shall operate, nor shall any person cause, allow, permit, or fail to control the operation of any off-highway vehicle between the hours of 10 p.m. and 7 a.m. unless this activity complies with Sub-section 4.2 Tables 1a and 1b.

4.7.7 **Parking Lot or Road Sweepers.** No person shall operate, nor shall any person cause, allow, permit, or fail to control the operation of any motorized mechanical sweeper, blower or vacuum within 300 feet of a Type A or Type B property use between the hours of 10 p.m. and 7 a.m. unless the responsible party demonstrates to the Department compliance with Sub-section 4.2 Tables 1a, 1b and Sub-section 4.7 Table 2.

4.7.8 **Public Assembly.** No person shall operate, play, nor shall any person cause, allow, permit, or fail to control the operation or playing of any noise emitting device in such a manner:

- (i) That the maximum sound pressure level exceeds 100 dB(A) at a point normally occupied by a patron on the premises of a public assembly unless conspicuous and legible written notification is provided to the public prior to entrance into the event stating, “WARNING: SOUND LEVELS ON THESE PREMISES MAY CAUSE HEARING DAMAGE. HEARING PROTECTION IS AVAILABLE.” In the alternative, the above warning may be provided on a sign of a color and lettering design in high contrast with its background and posted where it is plainly visible at each public entrance in bold letters of at least 1 inch in height. This Sub-part shall not be construed to permit conduct prohibited by any other provision of this Regulation; and
- (ii) Every public assembly with the potential of exceeding 100 dB(A) shall have readily available for public distribution, at a cost not excessive of the retail value, single-use earplugs that have a Noise Reduction Rating (NRR) of at least 20 decibels.

4.8 **Exemptions.**

4.8.1 In the rare event compliance causes extreme or undue hardship to a facility, business or community activity, the Department may allow the activity if the responsible party demonstrates to the Department best management practices are being applied.

4.8.2 **Emergency Events and Equipment.** Noise resulting from a response to any emergency event shall be exempt from this Regulation, including the use of emergency equipment, emergency vehicles, emergency relief valves, emergency work, and emergency power generators which provide emergency power or potable water to any hospital, health clinic, nursing home, similar facilities, or physician prescribed home based personal medical equipment as approved by the Department, where the loss of electrical power or potable water poses an immediate risk to the health, safety, and welfare of any person, or as required by federal or state law shall be exempt from this Regulation. During a power failure, other commercial or personal emergency power generators operating between the hours of 10 p.m. and 7 a.m. may reach but not exceed the

maximum day time sound pressure levels set forth in Sub-section 4.2 Table 1a and 1b when measured from the receiving property.

4.8.3 Fireworks and Explosives. Noise resulting from lawful fireworks and explosives shall be exempt from this Regulation when discharged:

- (i) For lawful mining activities between the hours of 7 a.m. and 10 p.m. the same day;
- (ii) By the public:
 - a. Between the hours of 11 a.m. and 11 p.m. on the days allowed by statute which include July 1 through July 7 and July 21 through July 27, except that on July 4 and July 24, the hours are 11:00 a.m. to midnight;
 - b. Between the hours of 11 a.m. December 31 and 1 a.m. the following day, except when New Year's Eve falls on a Sunday and the local municipality determines to celebrate New Year's Eve on the prior Saturday; and
 - c. Between the hours of 11 a.m. on Chinese New Year's Eve and 1 a.m. the following day.
- (iii) By a licensed display or special effects operator to conduct a professional fireworks display:
 - a. Between the hours of 7 a.m. and 10 p.m. the same day;
 - b. Between the hours of 11 a.m. and midnight on the day officially celebrated as and including July 4th and July 24th;
 - c. Between the hours of 11 a.m. and 11 p.m. for a special event sponsored by a local municipality, provided the municipality has made application and received a mass gathering permit;
 - d. Between the hours of 11 a.m. on December 31 and 1 a.m. the following day; and
 - e. Between the hours of 11 a.m. on Chinese New Year's Eve and 1 a.m. of the following day.

4.8.4 Heating, Ventilation, and Air Conditioning (HVAC). Noise resulting from the operation of a HVAC system used on or within a Type A property use, including central air conditioning units, evaporative coolers, or window cooling units, regardless of the time or frequency of operation, shall be exempt from this Regulation, provided the system is in good repair and operating within manufacturer's specifications.

- 4.8.5 **Mechanical Equipment.** Noise resulting from the use of portable mechanical equipment shall be exempt from this Regulation between the hours of 7 a.m. and 10 p.m. so long as the equipment is in good repair, performs a legitimate service, and is being used according to the manufacturer's specifications.
- 4.8.6 **Municipal Approved Event.** Except as otherwise provided for, noise resulting from a municipal approved event shall be exempt from this Regulation on the condition that the municipality shall assume responsibility for responding to any noise-related matters associated with the event approved by the municipality. The Department shall, upon request, provide noise related technical assistance to a municipality.
- 4.8.7 **Public Assembly.** Noise directly resulting from crowd noise associated with a public assembly shall be exempt from this Regulation.
- 4.8.8 **Snow Removal.** Noise resulting from the operation of snow removal equipment shall be exempt from this Regulation;
- (i) Beginning at 4 a.m. when snow has accumulated during the prior 12 hours for a Type A or Type B property use;
 - (ii) At any time for a Type C or Type D property use NOT within 300 feet of a Type A or Type B property use; and
 - (iii) At any time on any street, avenue, road, boulevard or highway by a governing entity.

5. TEMPORARY NOISE PERMIT and FEES

- 5.1 **Department Authority.** The Department has the authority to permit the requirements and restrictions of this Regulation on the basis of undue hardship or for a temporary event. The Department may prescribe any reasonable conditions or requirements upon a permit deemed necessary to minimize adverse health effects upon a community or the surrounding neighborhood.
- 5.2 **Temporary Noise Permit Requirements.**
- 5.2.1 To apply for a Temporary Noise Permit, the applicant shall complete and submit the Department-approved application form.
- 5.2.2 Permit Duration: A Temporary Noise Permit is valid only at the location stated in the application and for the length of time approved by the Department on the application.
- 5.3 **Notice Requirements.**

5.3.1 Upon approval of any permit granted by the Department, the applicant shall notify, in writing, each dwelling and facility located within 800 feet of the event or activity, unless otherwise required by the Department, at least 48 hours in advance. The Department shall approve the content of each notice before it is distributed.

5.3.2 The notice shall contain the following information:

- (i) The name of the event or company name;
- (ii) The name of the coordinator or project manager;
- (iii) The contact phone number(s) of the coordinator or project manager;
- (iv) The name and contact phone number(s) of the on-site manager;
- (v) The address of the event;
- (vi) The specific date(s) and operating time;
- (vii) A detailed description of the activities; and
- (viii) A brief description of all measures taken to maximize the abatement of the noise emission (or to minimize the noise emission) by means of Source Reduction Practices, Best Management Practices, and Best Operational Practices.

5.4 The Department may establish and collect appropriate fees for licenses, certificates, and permits as set out in this Regulation. The Department may collect appropriate fees as set out in this Regulation for the performance of services, including plan reviews. If information on a license, certificate, or permit application changes, the applicant shall notify the Department in writing within 20 calendar days.

5.4.1 **Temporary Noise Permit Fee.** Any applicant who applies for a Temporary Noise Permit shall remit to the Department a Permit fee in the amount of \$120.

5.4.2 The Department may waive the temporary noise permit fees for governmental agencies, departments or municipalities provided compliance with all other requirements of Section 5 are met.

5.4.3 If a governmental agency, department or municipality approves an activity otherwise regulated by the Department as a temporary noise permitted activity, the Department may waive the temporary noise permit fee provided compliance with all other requirements of Section 5 are met.

5.5 **Late Fees.**

- 5.5.1 The Department may impose upon any party subject to this Regulation penalties and charges for failure to timely pay service and permit fees as set out in this Regulation. Attorney's fees and collection fees may also be applied.
- 5.5.2 Fees unpaid to the Department after one month of the due date will be assessed a penalty of 10% of the outstanding balance. Failure to pay the fees and additional charges after two months of the due date will be assessed an additional penalty of 15% of the outstanding balance including previous penalties. Failure to pay the fees and additional charges after 100 days of the due date will result in suspension of the permit and the right to operate. A \$40.00 charge will be assessed for each returned check.
- 5.5.3 An applicant who fails to give at least a ten (10) day notice to the Department of their intent to obtain a Temporary Noise permit shall remit to the Department a late notification fee of \$35.

5.6 **Denial, Suspension, or Revocation of License or Permit.** Any permit applied for or issued pursuant to this Regulation may be denied, suspended, or revoked by the Department for any of the following reasons:

- 5.6.1 Failure of the applicant to show that the temporary noise event will be held or operated in accordance with the requirements of this Regulation;
- 5.6.2 Submission of incorrect, incomplete, or false information in the application;
- 5.6.3 Failure to pay applicable fees;
- 5.6.4 The temporary noise event will be in violation of law;
- 5.6.5 Failure of the coordinator, owner, or operator at a temporary noise event to allow the Department to conduct inspections as necessary to determine compliance with this Regulation;
- 5.6.6 Operation of a temporary noise event in a way that causes or creates a hazard to the public health, safety, or welfare;
- 5.6.7 Failure to operate or maintain the temporary noise event in accordance with the application, report, plans, and specifications approved by the Department; or
- 5.6.8 Failure to comply with any provision of this Regulation.

6. INSPECTIONS & INVESTIGATIONS

6.1. To ensure compliance, the Department has the authority to perform inspections, investigations, reviews, and other actions as necessary.

6.2. **Authority for Department to Enter Premises.**

6.2.1. **Regulated Commercial Premises.** Upon presenting proper identification, authorized representatives of the Department may enter upon the premises of properties regulated by the Department to perform routine inspections to ensure compliance with rules, standards, regulations, and ordinances adopted by the Department, the Departments of Health & Environmental Quality, county or municipal governing bodies, or the Division of Occupational and Professional Licensing.

6.2.2. **Unregulated Commercial Properties.** The Department may enter upon the premises of commercial properties not pervasively regulated by the Department upon the consent of the owner or other party having legal authority or upon a court order.

6.2.3. **Private Dwellings.** Inspections of private dwellings are made by consent of the owner or other party having legal authority or upon a court order.

6.2.4. **Consent by Permit.** The Department shall require permit holders to allow access for inspections as part of their permit. Failure to allow access for inspections as set out in the permit may result in the suspension or revocation of the permit.

7. **ENFORCEMENT MECHANISMS** If the Department has investigated or inspected any property or facility and believes the property owner or other responsible party is in violation of this Regulation or the Department has other reasonable grounds to believe that there has been a violation of any part of this Regulation or that the property owner or otherwise responsible party is not in compliance with this Regulation, the Department may take civil enforcement action as authorized by statute, rule, ordinance, and regulation and may also refer the matter for criminal prosecution. Civil enforcement may involve court or administrative actions, injunctive actions, and closures and may involve cost recovery, penalties, and other remedies. Civil and criminal actions may be brought simultaneously. A person does not need to be first adjudged liable in a civil matter before facing criminal charges.

7.1. **Criminal Enforcement Actions.** The Department may recommend criminal prosecution for environmental violations either alone or in conjunction with civil enforcement. Criminal prosecutions for environmental violations of state or federal law may be filed by the District Attorney, Utah Attorney General, United States Department of Justice, or other enforcement entity. Factors that the Department may

consider in recommending criminal enforcement include the following factors and any other relevant factors:

- 7.1.1. The nature and seriousness of the offense including the immediacy of the threat of danger to the life or safety of another or the harm or threatened harm to human health or environment;
 - 7.1.2. The degree to which the violation was designed to provide economic gain or cost avoidance, or involved a pattern of conduct or a common attitude of illegal conduct;
 - 7.1.3. The degree to which the offender is a known violator and has avoided prior actions by the Department;
 - 7.1.4. The degree to which prosecution might deter future violations;
 - 7.1.5. The person's actual culpability in connection with the offense including the presence in connection with the offense including the presence of criminal intent;
 - 7.1.6. The person's willingness to cooperate in the investigation including whether the violator has attempted to conceal evidence or prosecution of others;
 - 7.1.7. The appropriateness of referring the case to other agencies having prosecutorial interest; and
 - 7.1.8. Possibilities of civil remedies which would be more appropriate than initiating the criminal justice process.
- 7.2. **Civil Enforcement Actions.** The Department may request that the District Attorney bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.
- 7.3. **Administrative Actions.**
- 7.3.1. The Department may, at its discretion, issue a Notice of Violation & Order of Compliance (NOV).
 - 7.3.2. **Service of NOV.** The Department may provide notice to the owner of the property or otherwise responsible person by sending the NOV via certified mail to the last known address of the owner of the property or other responsible person. If notice is returned undeliverable, the owner of the property or other responsible person may be personally served or be given notice by other methods reasonably calculated to give actual notice to the owner or other responsible party.

7.3.3. **Contents of NOV.** The NOV shall:

- (i) Describe the property and the persons believed to be in violation;
- (ii) Describe the violation;
- (iii) Describe remedial action that will comply with the provisions of this Regulation;
- (iv) Set a reasonable time for the performance of any required remedial action(s);
- (v) Describe the procedure to contest the NOV and the time limits for such a contest; and
- (vi) Notify the owner or other responsible person that if no written contest is filed within the time required, the NOV will become final and unappealable to any administrative entity or court.

7.3.4. **Challenging an NOV.** As detailed in the SLVHD's Adjudicative Hearing Procedures, a party aggrieved by an NOV may request a departmental conference, departmental hearing, or departmental appeal in writing within ten (10) days of the date of the NOV.

7.3.5. **Departmental Conference, Settlement Agreements, and Stipulations & Orders.**

- (i) After issuance of the NOV, the alleged violator has the option to request and attend a Departmental Conference to discuss the NOV and settlement with the Department and its legal counsel. No hearing officer will be present. The process of requesting a Departmental Conference is more fully described in the SLVHD's Adjudicative Hearing Procedures.
- (ii) If the parties agree to a settlement, the Department will prepare, in conjunction with the District Attorney's Office, a binding Settlement Agreement or Stipulation & Consent Order which may require the payment of penalties and the costs of investigation. Parties may also agree to a settlement at any time subsequent to the Departmental Conference. After signing a Settlement Agreement or Stipulation & Consent Decree, the parties waive all rights to further department and court hearings or appeals. Settlement Agreements or Stipulation & Consent orders may be enforced in state courts.

7.3.6. **Hearings & Appeals.** Parties Aggrieved by an NOV may also request a Departmental Hearing or a Departmental Appeal. A hearing officer is present at

these proceedings and makes a written determination. The methods of challenging an NOV are more fully described in the SLVHD's Adjudicative Hearing Procedures. Departmental Hearing Orders and Departmental Appeal Orders may be appealed to the entities and within the time limits set out in the SLVHD's Adjudicatory Hearing Procedures.

7.3.7. **Failing to respond to an NOV.** If a party fails to respond to an NOV within the required time, the NOV becomes a final order unappealable to any administrative entity or court. The Department may then enforce the order in state court.

7.4. **Additional Administrative Enforcement Authority.**

7.4.1. Any variances allowed by the Department to the requirements of this Regulation shall be only by written approval of the Salt Lake Valley Board of Health.

7.4.2. **Emergency Enforcement.** If the Director finds that an emergency exists that requires immediate action to protect the public health, he or she may without notice or hearing issue an order declaring the existence of an emergency and requiring that action be taken as he deems necessary to meet the emergency. The order shall be effective immediately. Any person to whom the order is directed shall comply and abate the nuisance immediately, but may petition the Director for a hearing in accordance with the SLVHD's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this Regulation, the Director shall continue the order in effect or modify or revoke it. If circumstances warrant because of the seriousness of the hazard, the Department may act to correct or abate the emergency without issuance of an order or directive or without waiting for the expiration of compliance time previously given in an order.

8. **CRIMINAL, CIVIL & ADMINISTRATIVE PENALTIES**

8.1. **Criminal Penalties.**

8.1.1. Any person who is found guilty by a court of violating any of the provisions of this Regulation, either by failing to do the acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Section 26A-1-123, Utah Code Ann.

8.1.2. Each day such violation is committed or permitted to continue shall constitute a separate violation.

8.1.3. Each similar subsequent violation occurring within two years of the initial violation may constitute a class A misdemeanor.

8.2. Civil & Administrative Penalties.

8.2.1. Penalties may be included in a Settlement Agreement or Stipulation & Consent Order. Penalties may be assessed according to the following factors:

- (i) The violator's history of compliance or non-compliance;
- (ii) The violator's economic benefit of non-compliance;
- (iii) The documented costs associated with environmental or health damage;
- (iv) The violator's degree of willfulness or negligence; and
- (v) The violator's good faith efforts to comply and cooperate.

8.2.2. The Director may multiply the penalty by the number of days the violation occurred.

8.3. Recovery of Investigation & Abatement Costs.

8.3.1. The Department may recover its inspection, investigative and abatement expenses and costs from owners or other responsible person.

8.3.2. The Department may record a judgment lien on a violator's property to recover its expenses and costs.

9. EFFECTIVE DATE

9.1. This Regulation shall become effective upon its adoption by the Salt Lake Valley Board of Health.

APPROVED AND ADOPTED this _____ day of _____, 2012.

SALT LAKE VALLEY BOARD OF HEALTH

By: _____
PAULA JULANDER, Chair

ATTEST:

Gary L. Edwards, M.S.
Executive Director
Salt Lake Valley Health Department

APPENDIX A

Noise Area Classifications

Type A Property Use Activities/Examples

- Single family residential structure that does not share a common wall with residential or any other use.

Type B Property Use Activities/Examples

- All other residential use not included in Type A including but not limited to:
 - Apartment/Condominium/Twin Home/Poli-Plex
 - Group home, community living
 - Residential hotel/motel
 - Mobile home park or court
 - Transient lodging
- Correctional institution
- Medical/other health service
- Religious, Church activity
- School, Educational Institution activity
- Cultural activity and nature exhibition
- Camping and picnicking areas (designated)
- Resort, group camp
- Other cultural, recreational activity

Type C Property Use Activities/Examples

- Retail trade
 - building materials
 - hardware
 - farm equipment
 - general merchandise
 - food, eating and drinking, other recreation (bar, discotheques, clubs)
 - automotive & accessories, gas stations
 - marine craft & accessories
 - aircraft & accessories
 - apparel & accessories
 - furniture, home furnishings and equipment
- Other retail trade
 - Finance, insurance, and real estate services
 - Personal services
 - Business services
 - Repair services
 - Legal services

- Other professional services
- Contract construction services
- Governmental services (except correctional institutions)
- Miscellaneous services (except religious activities)
- Amusements (except fairgrounds and amusement parks)
- Parks
- Automobile parking

Type D Property Use Activities/Examples

- Food and kindred products - manufacturing
- Textile mill products - manufacturing
- Apparel & other finished products made from fabrics, leather & similar materials - manufacturing
- Lumber and wood products (except furniture) – manufacturing
- Furniture and fixtures - manufacturing
- Paper and allied products- manufacturing
- Printing, publishing, and allied industries
- Chemicals and allied products – manufacturing
- Petroleum refining and related industries
- Rubber and miscellaneous plastic products – manufacturing
- Stone, clay, & glass products – manufacturing
- Primary metal industries
- Fabricated metal products - manufacturing
- Professional, scientific, and controlling instruments, photographic & optical goods, watches and clocks - manufacturing
- Miscellaneous manufacturing (except motion picture production)
- Railroad, rapid transit, and street railway transportation (except passenger terminals)
- Motor vehicle transportation (except passenger terminals)
- Aircraft transportation (except passenger terminals)
- Marine craft transportation (except passenger and freight terminals)
- Highway and street right-of-way Communication (except telegraph message centers)
- Utilities
- Other transportation, communication & utilities (except transportation services and arrangements)
- Event and entertainment venues
- Race tracks
- Fairgrounds and amusement parks
- Agricultural
- Agricultural and related activities
- Forestry activities and related services (including commercial forest land, timber production, and other related activities)
- Fishing activities and related services
- Mining activities and related services
- Other resource production and extraction

- All other activities not otherwise listed
- Undeveloped and unused land area (excluding noncommercial forest development)
- Noncommercial forest development
- Water areas
- Vacant floor area
- Under construction
- Other undeveloped land and water areas
- All other property uses not previously identified