STATE AND MUNICIPAL NOISE CONTROL LEGISLATION

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Abstract. An overview of existing noise control legislation on the state (California) and municipal levels is provided. The basic principles utilized in municipal noise ordinances and the strengths and weaknesses of different types of regulations are described, with emphasis on the need for simple and practical enforcement procedures. Also, the present state laws governing motor vehicle noise and some implications for local enforcement activities are examined.

A summary of Federal, state and local activities in the control of aircraft and airport noise is included.

Finally, an outline of the requirements and difficulties with the present state requirements on local jurisdictions for preparation of noise elements is presented.

For many years, and during a time of otherwise intense environmental concern, noise control has been uniformly ignored by all except those unfortunate persons with a disturbing noise next door or down the street. Our human abilities to tolerate and adjust to excessive noise have been continually overburdened. Recently a change has been taking place. The noise control issue has begun to reach maturity. The consideration of noise as the price of a progressive society has been mercifully decreasing, and has been replaced by concern and even outrage over the common intrusions into our daily life.

Response to this new attitude toward unnecessary noise exposure is still uneven, but promising. The media has found it a latent source of popular interest at a time when water pollution and air pollution concerns have seemingly waned. Government and politicians have recently been showing not only genuine interest, but a willingness to initiate significant programs with broad scope, e.g. the Federal Noise Control Act of 1972. The stage for meaningful progress has been set over the past few years.

As I look at recent events and trends, I see two genuine frontiers in noise control today – areas in which great advances are needed and in which some expectations are beginning to be realized. The first frontier is the field of noise abatement efforts in new product design. The Walsh-Healy Act of 1969 and the Occupational Safety and Health Act of 1970 were significant contributors to this important effort, as well as direct consumer and governmental mandates. Manufacturers are still showing a reluctance to commit themselves to new quiet products prior to final government noise emission standards, but all appear to be engaged in appropriate abatement studies and some are now bringing quiet devices into the market place. The other frontier, and the one which I wish to consider today, is the development of useful and meaningful noise control legislation and enforcement programs. This is where the benefits can be reasonably obtained, or at least the possibility for benefits are greatest, right now. First I would like to discuss the most common types of local noise control regulations.
1. Types of Municipal Noise Ordinance Regulations

Regulations for controlling community noise may be divided into two broad categories depending upon their legal basis. The first type includes regulations which are mainly subjective in nature requiring a great deal of judgement in their application and enforcement. The second type of noise regulation can be considered mainly objective, being based upon some type of noise measurement. Many cities have some combination of the two types of regulations, but newer ordinances are stressing specific and measurable noise limits.

A. SUBJECTIVE NOISE REGULATIONS

Until only relatively recently all noise laws were based upon strictly judgemental evaluations and outright prohibitions. This caused their usefulness to be highly dependent upon those responsible for providing enforcement. Nevertheless, subjective noise regulations are still in widespread use and an understanding of the various types is important to any noise control effort.

1. General Nuisance and Disturbance Prohibitions

The common ‘disturbing the peace’ statutes are good examples of the general nuisance noise regulation. An extensive legal case history supports this concept, and the citizen’s right to peace and quiet is referred to in the U.S. Constitution. A prime contemporary example of this type of noise provision is found in the League of California Cities’ Model Noise Ordinance, General Noise Regulations: “... it shall be unlawful for any person to willfully make any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.”

The legal concept of the ‘reasonable person’ is the foundation for most subjective controls. As an engineer I must admit I am not particularly comfortable with noise laws stated in this way. Nevertheless, most lawyers and judges are used to dealing in these terms, and will continue to favor them until they are more familiar with objective limits.

2. Specific Activity Prohibitions

Outright bans on specific noisy activities during certain times of the day or in certain areas have been found throughout recorded history. In Roman times chariots were prohibited from the streets at night by popular decree. It is doubtful that a similar vehicular decree today would be very popular, but there are endless modern parallels in the law which attempt to maintain peace and tranquility by prohibiting certain disturbing activities.

The city of Memphis, Tennessee, which has a long record of success with community noise control, has several specific prohibitions, for example: “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 is hereby prohibited.”