



**Eugene City Council**

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# EUGENE CITY COUNCIL AGENDA

May 23, 2022

## 5:30 p.m. CITY COUNCIL WORK SESSION

As the state and community recover from the COVID-19 pandemic, City Council meetings will continue to be held using hybrid meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

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### Meeting of May 23, 2022; Her Honor Mayor Lucy Vinis Presiding

#### Councilors

Claire Syrett, President  
Mike Clark  
Randy Groves  
Jennifer Yeh

Matt Keating, Vice President  
Greg Evans  
Emily Semple  
Alan Zelenka

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## 5:30 p.m. CITY COUNCIL WORK SESSION

### 1. WORK SESSION: Addressing Chronic Toxic Polluters

For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010  
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May 23, 2022 Work Session

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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## Work Session: Addressing Chronic Toxic Polluters

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Meeting Date: May 23, 2022  
Department: Central Services  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: 1  
Staff Contact: Jason Dedrick  
Contact Telephone Number: 541-682-5033

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### ISSUE STATEMENT

Pollution and associated toxins in the environment present an important health and social equity issue. This Council-initiated work session is an opportunity for council to review the City's current role in the regulation of pollutants, the role of other regulatory authorities and to discuss any desired changes to the City's role or regulations.

### BACKGROUND

At the most basic level, pollution is the introduction into the environment of a substance or thing that has harmful effects. Given the breadth of possible pollutants, the regulatory environment associated with pollutants is complex and multi-layered. For the purposes of this work session, staff will be organizing pollutants into four broad categories: air, water, land and noise (including vibration). Information contained in this document as well as in the staff presentation are intended to provide a basic summary of the regulatory framework and not a complete consideration of the pollutants and regulatory components.

The City of Eugene has a regulatory role in each of these categories. The extent of the City's role and its relationship to other regulatory entities vary greatly by category. A brief description of the regulatory setting for each category of pollutant is provided below, with more detailed information on the City of Eugene's role and possible areas of additional focus provided in Attachment A.

#### Air

The introduction of toxins into the air can have profound impacts on human health. In addition, air pollutants can eventually become land and water pollutants over time. In most urban settings, air pollution is the result of a human-caused release of particulate matter, ozone and other pollutants most commonly associated with industrial uses. The federal Clean Air Act directs the Environmental Protection Agency (EPA) to regulate air pollution at the federal level. It sets national health-based standards for air quality. The Oregon Department of Environmental Quality (DEQ) is charged with ensuring that the federal standards are met within Oregon through its own regulations, permitting and enforcement activities. The State has delegated much of its air pollution regulation, permitting and enforcement responsibilities in Lane County to the State's only regional air quality control authority: the Lane Regional Air Protection Agency (LRAPA). As

such, LRAPA is responsible for air quality monitoring and permitting in Lane County, including Eugene. LRAPA's work is guided by a nine-member Board of Directors, with four members appointed by the Eugene City Council. This participation on the LRAPA Board constitutes the City of Eugene's most direct involvement in air quality. However, Attachment A details other current and potential intersections between City programs and policies and air quality in Eugene.

### Water

Water quality is critically important to human health and is most commonly considered in the context of drinking water. However human contact with polluted water through water-based activities is also of concern. In addition, the quality of surface water can have profound impacts on the health of plants and animals. Finally, groundwater quality is also an important parameter.

Similar to air pollutants, the EPA has regulatory authority at the federal level, as set out in the Federal Clean Water Act. Oregon DEQ has responsibility for implementing the part of that federal law that pertains to the issuance and enforcement of National Pollutant Discharge Elimination System (NPDES) permits to ensure state-wide compliance with the federal standards. Parts of DEQ's responsibility have been delegated to the City, (i.e. erosion prevention permitting and enforcement). In addition, the City itself holds an NPDES permit requiring that effluent from the City's stormwater and wastewater systems meets federal standards. This has resulted in a robust combination of City regulations relating to the quantity and quality of runoff from development, protecting areas that are near waterways, and requiring pretreatment prior to industrial discharge into the City's wastewater system. Attachment A provides further details on additional city programs and functions that have a strong nexus with water quality.

### Land

Land-based pollutants include a broad set of considerations, with municipal solid waste, hazardous waste, transport of hazardous materials, soil contamination and pesticides/fertilizers considered some of the more impactful to cities. In addition to direct human contact with contaminated ground, these pollutants can leach into groundwater or become airborne pollution if the ground is disturbed.

Given the complex and varied nature of land-based pollutants, there is a correspondingly complex regulatory environment. The EPA regulates many of these pollutants, with DEQ administering and enforcing rules and regulations that ensure federal compliance. This includes regulations related to municipal solid waste (landfills), many important household hazardous materials, industrial and other sources of pollutants that may cause soil contamination and pesticides and fertilizers. Regarding the transportation of potentially hazardous materials, regulations and enforcement are addressed by both DEQ and the Oregon Department of Transportation, however they are consistent with a fairly rigid set of federal regulations on interstate commerce. Emergency response plans are also an important component of land pollutants, particularly as it relates to transportation. A Eugene Charter provision requires certain manufactures to provide information to the public concerning the use and disposition of federally listed hazardous substances. The City's Toxics Right-To-Know program manages this information. Additional information on other regulations as well as City programs that intersect with land pollution are detailed in Attachment A.

## Noise

Noise pollution (including vibration) has received increased attention in recent years as having potentially significant impacts on human health. At the federal level, noise pollution is primarily regulated as it relates to national commerce, leaving most other sources of noise pollution to state and local governments. The State of Oregon has administrative rules related to noise pollution, however all regulation and enforcement of these rules was suspended in 1991 when the DEQ Noise Control Program was terminated by the Legislature. Given these factors, the Eugene Code is the primary source of noise regulations and enforcement parameters in the community (Attachment B).

The City's noise regulations apply broadly to noise produced by commercial, industrial and residential uses as well as noise produced by construction activity. The regulations set standards related to the time of day and decibels, but also allow for various exemptions and variances. Recently, community members have expressed concern about vibrations associated with industrial activity. It is worth noting that vibration is not addressed in the City's existing noise regulations (with the exception of the Clear Lake Overlay Zone) nor in State rules. Additional details on the City's nexus with noise pollution are provided in Attachment A.

## Related Work Sessions

City Council has previously expressed interest in topics related to pollution that will be discussed at future work sessions. On July 25, 2022, Council will have an initial discussion on a Public Health Overlay Zone and how this tool could be applied in Eugene. This concept is relatively broad and could have linkages to all four major types of pollutants. A work session in Fall of 2022 will address Fossil Fuel Risk Bonds, which also could have linkages to many types of pollutants. Other work session topics with a link to pollution that are upcoming include Gas Stations and Fireworks.

## **PREVIOUS COUNCIL DIRECTION**

This is the first Council Work Session on this topic.

## **CITY MANAGER RECOMMENDATION**

This agenda item is for discussion only.

## **ATTACHMENTS**

- A. Summary of Pollutant Regulator Authority & Programs in Eugene
- B. City of Eugene Noise Code

## **FOR MORE INFORMATION**

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Staff E-Mail: [jdedrick@eugene-or.gov](mailto:jdedrick@eugene-or.gov)

Attachment A: Summary of Pollutant Regulator Authority & Programs in Eugene

Pollutant	Lead Regulator in Eugene	Complaint Process	City of Eugene Related Regulations	City of Eugene Related Programs	Other Tools
Air	LRAPA (delegated by DEQ)	<ul style="list-style-type: none"> <li>• Submit complaint to LRAPA (pollutants)</li> <li>• Submit complaint to City (land use)</li> </ul>	<ul style="list-style-type: none"> <li>• Clear Lake Overlay Zone</li> <li>• Zoning/Planning (use adjacency, permitted uses, etc.)</li> <li>• Fireworks ban</li> </ul>	<ul style="list-style-type: none"> <li>• Council-appointed LRAPA board members</li> <li>• Eugene Toxics Right-to-Know Program/Toxics Board</li> <li>• Climate Recovery Ordinance</li> <li>• EV strategy/electric mobility program (Council action)</li> <li>• TransPlan (transportation system plan)</li> </ul>	<p><u>Policy</u></p> <ul style="list-style-type: none"> <li>• Lobbying (rules, staffing/funding, enforcement)</li> <li>• Particulate restrictions on poor air quality days (via LRAPA)</li> <li>• Economic development strategies (promote green businesses)</li> <li>• Risk Bonds/insurance requirements (future Council work session)</li> </ul> <p><u>Operations</u></p> <ul style="list-style-type: none"> <li>• Additional monitoring (\$/FTE)</li> <li>• Regulation of specific uses (i.e., gas-powered leaf blowers, fueling stations, etc.)</li> <li>• Inspections (Fire, Building, etc.)</li> </ul> <p><u>Community Members</u></p> <ul style="list-style-type: none"> <li>• Homeowner assistance (grants for HEPA filters)</li> <li>• Education and information (home wood heating, idling engines)</li> <li>• Community engagement (DEQ Site Assessment Program)</li> </ul>

Pollutant	Lead Regulator in Eugene	Complaint Process	City of Eugene Related Regulations	City of Eugene Related Programs	Other Tools
Water	Oregon DEQ	<ul style="list-style-type: none"> <li>• Submit complaint to DEQ</li> <li>• Submit complaint to City (stormwater, erosion)</li> </ul>	<ul style="list-style-type: none"> <li>• NPDES permit (wastewater, stormwater) (regulated)</li> <li>• Stormwater drywells (regulated)</li> <li>• TMDL Plan/provisions (regulated)</li> <li>• Stormwater permit (1200- CA (construction) (regulated)</li> <li>• Erosion prevention (code/permits) (regulator)</li> <li>• Industrial stormwater (permits) (regulator)</li> <li>• Illicit discharge detection and elimination (regulator)</li> <li>• Stormwater standards for new and re-development (regulator)</li> <li>• Zoning/Planning (use adjacency, permitted uses, etc.)</li> <li>• Storage tank permitting</li> </ul>	<ul style="list-style-type: none"> <li>• Industrial Wastewater Pretreatment Program</li> <li>• Stormwater Management and Monitoring plans (i.e., green infrastructure)</li> <li>• Water Quality (WQ) Overlay Zone</li> <li>• MWMC (biosolid management)</li> <li>• Eugene Toxics Right-to-Know Program/Toxics Board</li> <li>• COE outreach, information and education</li> <li>• ROW maintenance (street sweeping, leaf collection, etc.)</li> </ul>	<p><u>Policy</u></p> <ul style="list-style-type: none"> <li>• Lobbying (rules, staffing/funding, enforcement)</li> </ul> <p><u>Operations</u></p> <ul style="list-style-type: none"> <li>• Additional monitoring (\$/FTE)</li> <li>• Development incentives and offsets for scaled stormwater approach</li> </ul>

Pollutant	Lead Regulator in Eugene	Complaint Process	City of Eugene Related Regulations	City of Eugene Related Programs	Other Tools
Land	Oregon DEQ	<ul style="list-style-type: none"> <li>• Submit complaint to DEQ</li> </ul>	<ul style="list-style-type: none"> <li>• Zoning/Planning (use adjacency, permitted uses, etc.)</li> <li>• Storage tank permitting</li> <li>• Single Use Ordinances</li> <li>• Solid Waste Hauler regulation</li> </ul>	<ul style="list-style-type: none"> <li>• Eugene Toxics Right-to-Know Program/Toxics Board</li> <li>• City of Eugene Emergency Management Plan</li> <li>• Waste Prevention Program (Love Food Not Waste)</li> <li>• Brownfields Assessment Grant</li> <li>• ESF Extremely Hazardous Substance Plan</li> <li>• Hazardous Substance Information System Survey (FMO)</li> <li>• Storage tank tracking</li> </ul>	<p><u>Policy</u></p> <ul style="list-style-type: none"> <li>• Zoning/Planning</li> <li>• Risk bonds/insurance requirements (future Council work session)</li> </ul>
Noise & Vibration	City of Eugene	<ul style="list-style-type: none"> <li>• Submit complaint to City (Building/Zoning, Animal Services or Police)</li> </ul>	<ul style="list-style-type: none"> <li>• Eugene Code (4.080-4.084; 6.750-6.755) (see Attachment B)</li> <li>• Clear Lake Overlay Zone (vibration)</li> <li>• Fireworks ban</li> </ul>	<ul style="list-style-type: none"> <li>• Railroad Quiet Zone</li> </ul>	<p><u>Policy</u></p> <ul style="list-style-type: none"> <li>• Adoption of vibration regulations</li> </ul> <p><u>Operations</u></p> <ul style="list-style-type: none"> <li>• Regulation of specific uses (i.e., leaf blowers, etc.)</li> <li>• Increased FTE/\$ for noise complaint response/enforcement</li> </ul>

#### 4.080 Noise Disturbance – Prohibited.

(1) For purposes of this section, and sections [4.081](#), [4.083](#) and [4.084](#) of this code:

(a) Noise disturbance means any sound which:

1. Injures or endangers the safety or health of a human;
2. Annoys or disturbs a reasonable person of normal sensitivities; or
3. Endangers or injures personal or real property.

(b) Plainly audible means where the listener clearly can hear the content of the sound produced by the noise source. Sounds which may be clearly audible include, but are not limited to, musical rhythms, spoken words, vocal sounds, and engine noises.

(2) It shall be unlawful for any person to intentionally or recklessly create or continue any noise disturbance.

(Section 4.080 amended by Ordinance No. 16299, enacted September 13, 1971; Ordinance No. 19274, enacted August 13, 1984; and Ordinance No. 19902, enacted February 17, 1993, effective March 19, 1993.)

#### 4.081 Noise Disturbance – Repetition and Failure to Cease.

It shall be unlawful for any person responsible for a noise disturbance caused by electronically amplified sound or a gathering of five or more people to.

(a) Fail within 30 minutes to eliminate or cease such noise disturbance after receiving a citation or other notice of a violation of this section or section [4.080](#) of this code, or

(b) Intentionally or recklessly create the same or a similar noise disturbance within six months of having received a citation or other notice of a violation of this section or section [4.080](#) of this code.

(Section 4.081 added by Ordinance No. 19902, enacted February 17, 1993, effective March 19, 1993.)

#### 4.083 Noise Disturbance – Specific Prohibitions.

Unless exempted by section [4.084](#) of this code, the following acts are declared to be noise disturbances – however this enumeration shall not be deemed an exclusive list of the violations of section [4.080\(2\)](#) or section [4.081](#) of this code, nor shall the recitation of specific prohibitions below be deemed the exclusive and entire listing of unlawful noise disturbances for each subcategory.

(a) *Sound producing, amplifying or reproducing equipment.* Operating or permitting the use or operation of any device designed for sound production, amplification, or reproduction, including but not limited to a radio, drums and other musical instruments, phonograph, television set, tape recorder, loud speaker, or other similar device:

(1) Between the hours of 10 p.m. and 7 a.m. the following day so as to be plainly audible within any dwelling unit which is not the source of the sound; or

(2) On public property or on a public right-of-way so as to be plainly audible fifty feet or more from such device, except as specifically authorized in writing by the city, county, state or federal government.

(b) *Animals.* Keeping, or permitting the keeping of any animal or fowl otherwise permitted to be kept which, by any sound, cry or behavior causes vocal or other sounds on a sustained basis during a 15-minute period shall constitute a noise disturbance.

(Section 4.083 added by Ordinance No. 16229, enacted September 13, 1971; amended by Ordinance No. 17434, enacted July 28, 1975; Ordinance No. 19274, enacted August 13, 1984; Ordinance No. 19697, enacted June 25, 1990; Ordinance No. 19770, enacted April 22, 1991, effective May 22, 1991; Ordinance No. 19902, enacted February 17, 1993, effective March 19, 1993; Ordinance No. 20301, enacted November 10, 2003, effective December 10, 2003; and Ordinance No. 20378, enacted February 26, 2007, effective April 4, 2007.)

#### 4.084 Noise Disturbance – Exemptions.

The following sounds are exempted from the provisions of sections [4.080](#), [4.081](#) and [4.083](#) of this code.

(a) Sounds made by warning devices to protect persons or property from imminent exposure to danger, provided however that burglar or fire alarms shall not operate continuously for more than fifteen minutes.

(b) Sounds made by an emergency vehicle, as defined in ORS 801.260, when responding to or from an emergency or when in pursuit of an actual or suspected violator of the law.

(c) Sounds produced pursuant to a specific variance granted by the Oregon Environmental Quality Commission, or by the city manager or hearings official under subsection [\(2\)](#) of section [6.755](#) of this code.

(d) Sounds caused by sources regulated as to sound production by federal law or sounds caused by sources the regulation of which is preempted by state law.

(e) Sounds not electronically amplified, created by athletic and entertainment events other than motor vehicle racing events or fireworks displays.

(f) Electronically amplified announcements at athletic events other than motor vehicle racing events.

(g) The sounding of any horn or signaling device on an automobile, motorcycle, or other vehicle reasonably required by the exigencies of vehicular or pedestrian traffic.

(h) Sounds specifically authorized under a permit or license issued by the city.

(Section 4.084 added by Ordinance No. 17435, enacted July 28, 1975, and amended by Ordinance No. 19274, enacted August 13, 1984; Ordinance No. 19606 enacted February 27, 1989; Ordinance No. 19697, enacted June 25, 1990; Ordinance No. 19902, enacted February 17, 1993, effective March 19, 1993; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20378, enacted February 26, 2007, effective April 4, 2007.)

## 6.750 Environmental Noise Disturbance – Specific Prohibitions.

Unless exempted by section [6.755](#) of this code, the following acts are declared to be noise disturbances, as that term is defined in section [4.080](#) of this code – however this enumeration shall not be deemed an exclusive list of the violations of this section, nor shall the recitation of specific prohibitions below be deemed the exclusive and entire listing of unlawful noise disturbances for each subcategory.

(a) *Exhausts.* Discharging into the open air the exhaust of any steam engine, stationary internal combustion engine, motorboat, motor vehicle, or any mechanical device operated by compressed air or steam without a muffler or other device which will effectively prevent the emission of loud or explosive noises except where such discharge is from vehicles used for participation in vehicle spectator sports activities between the hours of 7 a.m. and 10 p.m., and the activities are properly licensed by the city and consistent with its zoning ordinance.

(b) *Idling engines.* Operating for more than 15 consecutive minutes any idling engine in such a manner as to be plainly audible within any dwelling unit between 10 p.m. and 7 a.m. the following day.

(c) *Loading, unloading, opening boxes.* Loading or unloading any vehicle or opening, closing or destroying bales, boxes, crates and containers, between the hours of 10 p.m. and 7 a.m. the following day, so as to create a noise disturbance.

(d) *Construction or repair of buildings, streets, etc.* Constructing (including excavating), demolishing, altering, or repairing any building, street, sidewalk, driveway, sewer or utility line between the hours of 7 p.m. and 7 a.m. the following day.

(e) *Pile drivers, hammers, leaf blowers lawnmowers, etc.* Operating any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, leaf blower, or lawnmower between the hours of 9 p.m. and 7 a.m. the following day. No single powered leaf blower shall produce a noise level exceeding 70dBA measured at a distance of 50 feet. No powered leaf blower shall be operated within a 100-foot radius of another powered leaf blower simultaneously. On a single-family residential property, the 70 dBA at 50 feet restriction shall not apply if operated for fewer than 10 minutes during any consecutive sixty minute period.

- (f) *Residential pumps, fans and air conditioners.* Operating any heat pumps, residential fans, air conditioners, stationary pumps, stationary cooling towers, stationary compressors, or similar mechanical device or any combination thereof installed after [the effective date of this ordinance] so as to create any noise which would cause the maximum noise level to exceed 60 dBA at any point on the property line of the affected residential property.
- (g) *Commercial and industrial noise.* Operating any equipment and conducting activities so as to create any noise which would cause the maximum noise level to exceed a one-hour equivalent sound pressure level of 60 dBA at any point on the property line of an affected residential property zoned R-1, R-2, R-3 or R-4.
- (h) *Steam whistles, sirens, and other aural warning devices.* Operating or permitting the operation of a steam whistle, siren, or other aural warning device except where necessary to provide a warning of fire or danger.
- (i) *Other.* Any sound source exceeding the standards set out in section [9.2530\(20\)](#) of this code and not otherwise exempt therefrom.

(Section 6.750 adopted by Ordinance No. 20378, enacted February 26, 2007, effective April 4, 2007.

## 6.755 Environmental Noise Disturbance – Exemptions, Variances.

- (1) *Exemptions.* The following sounds are exempted from the provisions of section [6.750](#) of this code:
- (a) Sounds made by work necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from imminent exposure to danger.
  - (b) Sounds made by warning devices to protect persons or property from imminent exposure to danger, provided however that burglar or fire alarms shall not operate continuously for more than fifteen minutes.
  - (c) Sounds made by an emergency vehicle, as defined in ORS 801.260, when responding to or from an emergency or when in pursuit of an actual or suspected violator of the law.
  - (d) Sounds made by current employment of land and buildings for farm uses, i.e., for the purpose of obtaining a profit in money by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals or honeybees, or the produce thereof, or for dairying and the sale of dairy products or any other agricultural or horticultural operations or any combination thereof including the preparation and storage of the products raised for man's use and animal use and disposal by marketing or otherwise by a farmer on such farm.
  - (e) Sounds produced by work performed by the city, county or state, and persons under contract with them for repairs or maintenance of roads, water wells, water service lines, trees and landscape, as well as street sweeping, garbage removal, and similar activities.

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- (f) Sounds produced pursuant to a specific variance granted by the Oregon Environmental Quality Commission, or by the city manager or hearings official under subsection [\(2\)](#) of this section.
  - (g) Sounds caused by sources regulated as to sound production by federal law or sounds caused by sources the regulation of which is preempted by state law.
  - (h) Sounds not electronically amplified, created by athletic and entertainment events other than motor vehicle racing events or fireworks displays.
  - (i) Electronically amplified announcements at athletic events other than motor vehicle racing events.
  - (j) The sounding of any horn or signaling device on an automobile, motorcycle, or other vehicle reasonably required by the exigencies of vehicular or pedestrian traffic.
  - (k) Sounds specifically authorized under a permit or license issued by the city.
  - (l) Sounds produced by leaf blowers and street sweepers being used to clean parking lots and adjacent areas in commercial or employment and industrial zones.
- (2) *Variances.* Any person who owns, controls, or operates any sound source which does not comply with section [6.750](#) of this code may apply to the city manager for a variance. As used herein, “city manager” includes a designee of the city manager.
- (a) *Application.* An application for a variance shall be in writing on a form provided by the city, contain the information required by the city manager, and be accompanied by a fee in an amount set under section [2.020](#) of this code. No application shall be considered received until all required information and the fee have been submitted.
  - (b) *Public notification.* The city shall give written notice of the application to any officially recognized neighborhood association in whose boundaries the sound source is located. The city shall also post written notice at the sound source location and provide copies of the notice to owners and occupants of properties located within 300 feet of the sound source location. The notice shall state the date by which the application will be considered, the nature of the variance to be considered, and where persons may file written comments regarding the application.
  - (c) *Decision.*
    1. The city manager shall grant or deny the variance within 14 days of receiving a complete variance application. The time for decision may be extended to 30 days if a public hearing on the application is held.
    2. The city manager may, on the city’s manager’s own motion, hold a public hearing on the application before deciding to grant or deny the variance.

3. The city manager may grant a variance after considering the written application for variance, any written comments, and the applicant's compliance with variance conditions previously imposed. The variance may be granted by the city manager when it appears that compliance with the standards from which the variance is sought will produce unnecessary hardship to the applicant without equal or greater benefit to the public or that the purposes of the noise disturbance provisions can be served without a strict application thereof.
4. The city manager may impose limitations and conditions granting the variance in order to protect affected persons from the noise disturbance. A violation of any such condition or limitation shall constitute a violation of section 6.075 of this code and grounds for revocation of the variance.
5. A decision to grant or deny a variance shall be in writing and shall state the reasons for such decision. The city manager shall notify the applicant of the decision and shall make it available to any person who has submitted written comments on the application.
6. The city manager may revoke a variance without a hearing upon finding that:
  - a. The applicant has provided false or misleading information, or omitted disclosure of a material fact, on the application or related material;
  - b. The applicant is operating the sound source in violation of this code or applicable local, state or federal law;
  - c. The applicant has violated a condition of variance approval; or,
  - d. New information shows that the permitted activity or device would endanger property or the public health or safety.
7. The action of the city manager in denying a variance application or in revoking an issued variance may be appealed in the manner provided by section [2.021](#) of this code. The decision of a hearings official on any such appeal is final. The action of the city manager in approving a variance may be appealed under the same procedures if such appeal can be decided in a timely way.

(Section 6.755 adopted by Ordinance No. 20378, enacted February 26, 2007, effective April 4, 2007; clerically corrected May 1, 2008; and amended by Ordinance No. 20528, enacted May 14, 2014, effective June 23, 2014.)