

CITY OF NORMAN, OKLAHOMA
**CITY COUNCIL COMMUNITY PLANNING AND
TRANSPORTATION COMMITTEE AGENDA**

**Municipal Building Conference Room
201 West Gray**

Thursday, October 27, 2016

4:30 P.M.

- 1. CLEVELAND AREA RAPID TRANSIT (CART) RIDERSHIP REPORT INCLUDING SAFERIDE AND EXTENDED SERVICE FOR THE MONTH OF SEPTEMBER 2016 AND OTHER CART ACTIVITIES.**
- 2. DISCUSSION REGARDING THE DEFINITION OF LIVE ENTERTAINMENT IN THE ZONING ORDINANCE.**

Community Planning & Transportation Committee

CART Monthly Report, September 2016

CART – Ridership Report Summary

- CART transported 173,011 passengers in September – a 7% increase over September 2015. September’s daily average ridership was 8,054, an increase of 556 or 7%. CART continues to encourage riders to use the Park and Ride lots located at Sooner Mall, Bethel Baptist Church, Memorial Presbyterian Church, and the LNC.
- Fiscal year to date ridership (July – September) is 302,590 – an increase of 10% over the same period last year.
- For the one-week manual count in September, there were 258 riders who traveled with bicycles (0.6%) and 81 with wheelchairs (0.2%). 10-Main St carried the most passengers with bicycles (49) and the most with wheelchairs (27).

CARTaccess – Ridership Report Summary

- CARTaccess transported 3,118 riders in September – an increase of 10% over the same month last year. Average daily ridership was 136, an increase of 12. Primary Zone ridership increased by 260 or 11% in September; Secondary Zone ridership increased by 26 or 7%.
- For FY17 year to date (July to September), CARTaccess ridership is 9,488 – an increase of 11%. Primary Zone ridership has increased by 790 or 10% FYTD; Secondary Zone ridership has increased by 176 or 19%. Secondary Zone ridership comprises 12% of all CARTaccess trips FYTD.

CART Activities

- Doug Myers met with Steve Lewis and received a standing sign approval to place park and ride signs for 60 days each semester at 3 bus stops that provide park and ride lots – Sooner Mall, Bethel Baptist, and Memorial Presbyterian.
- CART received 5 proposals from bike share companies. Students, faculty, and staff are currently reviewing the proposals and will make a recommendation on what company to proceed with. The RFP from OU stated that the successful proposal must begin with 10-15 stations and at least 50 bikes, and be able to expand to 10-23 stations and at least 100 bikes. Station locations are to be identified by the successful proposer and approved by OU.
- Marketing Manager Vicky Holland will take over as manager of operations for OU Parking Services. She will continue to take care of ad buys and other marketing initiatives for CART.
- Participated in a New Employee Resource Fair on Sept. 22 at the OU Union. Handed out CART materials and answered questions about routes, etc.
- CART took a trolley to the annual Touch-A-Truck celebration at Cleveland County Fairgrounds on Sept. 24th.
- Marketing manager spoke to Mary Martin’s OU class of new international students about how CART is the answer to their parking woes.
- CART advertised its annual football shuttle on Facebook and Twitter before the Sept. 10th and 17th home games.
- The four park-and-ride lots were featured in quarter-page ads in the OU Daily on Sept. 1st and 12th.
- CART had a one-page ad run in the Oklahoman on Sept. 21st with rider’s comments about the service. You can see the ad in Attachment 1.

Bus Stop Improvements.

- Permit application to add a shelter and landing pad at stop 71-Main/12th NE (CSBI) was approved by City staff. Shelter placement was complete October 18 (see Attachment 2).

CART Detours/Construction

- Route 10-Main Street currently has two parts of its route under construction.
 - The Lindsey Street/I-35 overpass has been closed since April 2016 and will remain closed until spring 2017. During construction, the route uses 28th Street, Hwy 9, and 24th SW before resuming route at Lindsey and 24th SW. To accommodate passenger’s requests, CART has added two stops along this detour.
 - Berry Road is closed from Acres St. to Denison Dr. for new waterline construction. For this detour, the bus uses Foreman Ave., Foreman Cir., Barbour Ave., and Denison Dr., before returning to Berry Rd. back on route.
 - Between October 24 and the end of the year, Bus Stop 24 at 24th SW/Lindsey will be closed and a temporary stop used north of the north driveway to the Savannah House Apartments (see Attachment 3).
- Lindsey Street between Pickard and Berry Road closed July 5th for reconstruction of the Imhoff Creek Bridge. Route 12-Lindsey West bus will detour on Pickard to Brooks Street to Berry until construction is completed later this fall.

Attachment 1

CART. We connect you.

"Oh I've been riding probably since this bus system started in Norman. I haven't had a car for a very long time. I probably ride the bus about two or three times a week. It's very convenient because I don't drive and I don't have another way to get around. I am very glad that the drivers get up and come to work every day so I can get where I need to go. I don't have any complaints about the bus system."

— **Danny Parker, Alameda/Main Street passenger**



"I just transferred to OU from A&M. I ride the bus every day that I need to be on campus. I really like that the buses are pretty quick and that they are usually here twice in one hour, so I really don't have to wait very long normally."

— **Courtney Mack, Lindsey East passenger**

I have been riding the bus for about maybe four or five years. I ride the bus pretty much everywhere and I ride it every day — anywhere that I need to go. I like to go to the library and Target mainly. I like that the bus is convenient to take and fairly inexpensive."

— **Broderick Willis, East Lindsey passenger**



"I ride the bus every day ... since I don't have a car. I really like that the drivers are always really nice. They are always ready to help you. I also like that the buses typically aren't very crowded. That makes them really comfortable."

— **Hyeon Joon "Harry" Jun, Apartment Loop/Main Street passenger**

"I have been riding the bus for about three years now. I used to ride the bus every day, but I have been trying to be more healthy and walk more so I take it about three times a week now. I mainly take the bus to Target, Sprouts and to the Campus Depot. I like the buses because they are my only means of transportation. Without them, I would have to walk everywhere and you can't really do that in Oklahoma."

— **Paola Conte, Main Street passenger**



Cleveland Area Rapid Transit
510 E. Chesapeake
Norman, OK 73019-5128

(405) 325-2278

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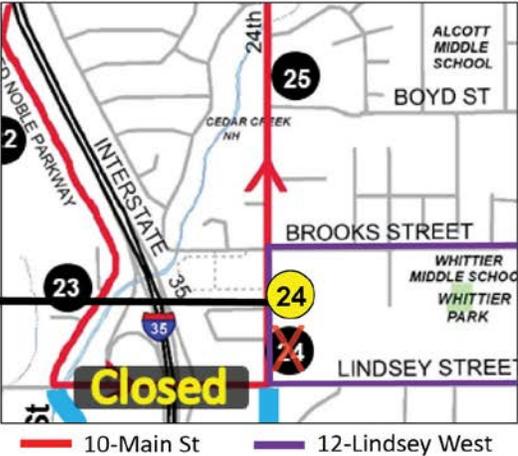
Download the "CART Norman" app!

Attachment 2



Attachment 3

Routes 10-Main St & 12-Lindsey West Temporary Stop for 24-24th SW/Lindsey



Due to construction at the intersection of 24th Avenue SW and Lindsey Street, Stop 24-24th SW/Lindsey will be inaccessible from October 24th to at least the end of 2016. The temporary stop location will be the north driveway to the Savannah House, just north of the current stop. Please wait by the driveway and wave at the approaching bus.

CART staff will work to keep the riders informed. We appreciate your patience as CART works diligently to ensure riders reach their destinations.

Download the "CART Norman" app for Apple or Android.

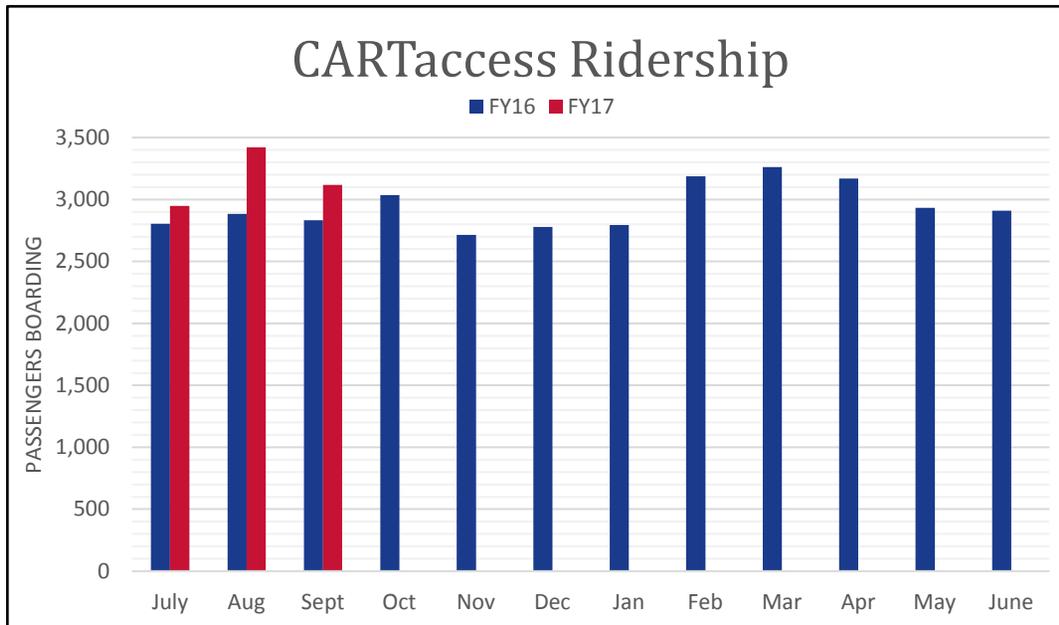


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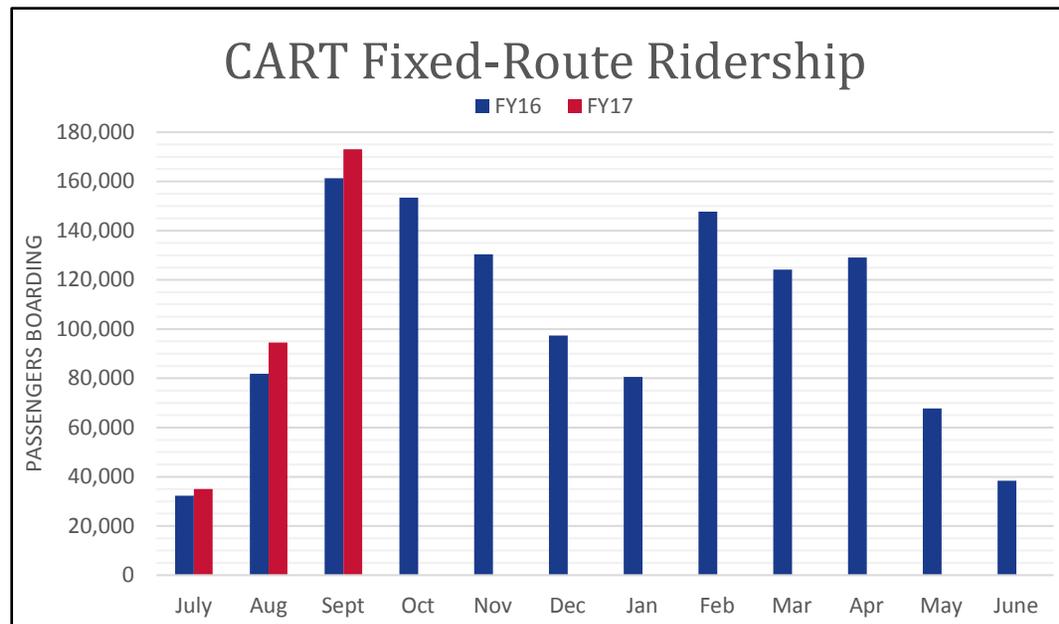


CART Ridership Summary

City of Norman Community Planning & Transportation Committee



	FY16	FY17	Change
July	2,805	2,948	5%
Aug	2,885	3,422	19%
Sept	2,832	3,118	10%
Oct	3,036		
Nov	2,714		
Dec	2,779		
Jan	2,793		
Feb	3,186		
Mar	3,261		
Apr	3,169		
May	2,934		
June	2,909		
July-Sept	8,522	9,488	11%
FY16 Total	35,303		



	FY16	FY17	Change
July	32,324	35,072	9%
Aug	81,922	94,507	15%
Sept	161,337	173,011	7%
Oct	153,446		
Nov	130,388		
Dec	97,383		
Jan	80,577		
Feb	147,725		
Mar	124,175		
Apr	129,037		
May	67,714		
June	38,436		
July-Sept	275,583	302,590	10%
FY16 Total	1,244,464		

FY16: July 1, 2015 - June 30, 2016

FY17: July 1, 2016 - June 30, 2017



office memorandum

TO: Community Planning and Transportation Committee Members

FROM: Susan Connors, AICP, Director of Planning and Community Development *SFC*

DATE: October 21, 2016

RE: Discussion of Special Use for Live Entertainment - Indoor vs. Outdoor

BACKGROUND

At the September 27th City Council meeting, Council voted to table an application for Special Use for an "Outdoor Live Entertainment Venue", sending the item to the Community Planning and Transportation Committee for additional research and discussion. To our knowledge, City staff has never received a request for an outdoor live entertainment venue, in the downtown area or other areas of the City. This application in question is for a restaurant, Puebla Tacos y Tequileria, located at 305 East Main Street. The area proposed for the live entertainment is on the patio area, adjacent to the alley.

Previous applications submitted as Special Uses for Live Entertainment Venues have not designated between indoor vs. outdoor proposals; therefore, staff has always processed the applications for an indoor use.

Staff was directed to investigate the possibility of changes to the existing ordinances and/or impacts of outdoor live entertainment in the downtown area, along Main Street.

DISCUSSION

Although outdoor live music venues are not a new thing, in recent years they have become more prevalent at small venues such as restaurants/outdoor patios and street cafés. These music venues can consist of amplified or non-amplified music and a capella or instrumental music. In any case the music venue can reach decibel levels higher than allowed by ordinance and extend past property boundaries. The venues can be a nuisance to adjacent properties – commercial and/or residential uses. Many municipalities have struggled with how to regulate the music venues and minimize the impacts on adjacent properties.

Noise is usually measured in decibels. What is a decibel? Many do not know what a decibel is or what to compare it to when discussing sound levels. Staff found the attached Noise Level Chart/decibel scale for reference, Exhibit A, to assist in the discussion of this issue. This chart gives the reader an idea of what levels of sound are when trying to determine how loud something may be when adjacent to a property or venue. The standard decibel level noted in the majority of the research is 55 decibels; research indicates that 50 decibels is equal to two people having a conversation at home and 60 decibels is comparable to a conversation that takes place at a restaurant.

In recent years Council has had the opportunity to review, reject or adopt several ordinances for varying Live Entertainment Special Use requests along Main Street and the general vicinity:

- Special Use – 321 East Main Street, Blue Bonnet Bar: Bar, Lounge or Tavern (Approved May 31, 1977)
- Special Use – 318 West Main Street, The Black Owl Café: Nightclub (Live Entertainment) (Denied - Did not receive super majority vote required by 20% protest, March 26, 2002)
- Special Use – 113 North Crawford Avenue, Opolis: Nightclub (Live Entertainment) (Approved April 23, 2002)
- Special Use – 113 North Crawford Avenue, Opolis: Bar Lounge or Tavern (Approved October 23, 2012)
- Special Use – 300 East Main Street, Main Street Event Center: Bar, Lounge or Tavern with Live Entertainment (Approved March 13, 2012)

Zoning Ordinance Discussion

The Zoning Ordinance (Z.O.) is cumulative in the commercial zoning districts; for example, a use allowed by right in the C-1, Local Commercial District is allowed by right in the C-2, General Commercial District and again in the C-3, Intensive Commercial District. In addition, the majority of Special Uses in the C-1 District are also allowed by right in the C-2 and C-3 Districts. Live Entertainment Venue is not an allowed use or a Special Use in the C-1 District; therefore, a request for Special Use for a Live Entertainment Venue in the C-2 and C-3 zones requires a Special Use application for consideration and adoption by City Council.

In the C-1 District, a restaurant is an allowed use; by definition a restaurant can have live entertainment and/or a dance floor as an accessory use as long as all such activity is fully within an enclosed building and provided the kitchen remains open with full food service whenever live entertainment is offered. This use then carries over as allowed in C-2 and C-3 zones.

The outdoor live entertainment Puebla wants to provide to their guests is not an allowed use in the C-3 District. However, since they are a restaurant, they are allowed to have live music inside the building. The definition of Live Entertainment Venue in the Z.O. is as follows:

"LIVE ENTERTAINMENT VENUE. An establishment where a major component of the business includes live or electronically amplified music, dancing, or other entertainment, and which may impose an admission charge or cover charge to observe that entertainment. Nightclubs, bars, and dance halls are typical uses within this category. This category shall not include, in any manner, any Adult Entertainment Establishment."

The definition of Live Entertainment Venue in the Z.O. does not restrict or delineate indoor or outdoor uses. However, historical data shows that Special Use applications for Live Entertainment have been processed as indoor

venues. What requires Puebla to request Special Use is the fact that their request for a live entertainment venue is located outside the restaurant on the back patio, adjacent to the back alley.

The existing regulations regarding night clubs and live entertainment in the Zoning Ordinance date back to the 1954 adoption with amendments in the 70's, 90's and early 2000's.

Research

Research shows that the greater majority of the cities that staff looked at do not allow outdoor live entertainment as an allowed use or under Special Use, amplified or acoustical, on patios whether they are adjacent to a residential area or not; the majority require separate "Noise Permits" for the specific event. The welfare, the contentment and the feeling of well-being of citizens/residents is of great concern.

Several cities have additional restrictions on sound measured at the property line. For example, one city requires a restaurant/bar that has a live entertainment venue inside the building to not exceed 70 to 85 decibels at the property line. This was standard in the research when reviewing the impacts of noise on adjacent property owners, both commercial and residential.

While many articles discuss the financial and artistic negative impacts of restrictive noise ordinances controlling the level of music allowed on a site, the attached research shows the majority of the municipalities continue to maintain strict ordinances to control or minimize impacts on adjacent businesses and residents as shown in these cities, exhibits attached:

- o Exhibit B – City of Columbia, MO
- o Exhibit C – City of Denton, TX
- o Exhibit D – City of Manhattan, KS
- o Exhibit E – City of Minneapolis, MN
- o Exhibit F – City of Austin, TX
- o Exhibit G – City of Hastings, MN
- o Exhibit H – City of Norman, OK

The majority of the Ordinances reviewed were similar to what the City of Norman currently has in place to control noise nuisances. The majority have the opportunity for residents and businesses, same as Norman, to request a Noise Permit for the occasional music venue or festival.

With the ongoing review of the proposed Center City Form Based Code/Center City PUD; a planning model that places higher density housing, urban renewal, residential and mixed uses in close proximity to one another, adding the allowance for possible outdoor live entertainment venues in such close proximity may create nuisance issues.

While the downtown area of Norman, businesses located along Main Street, could be an ideal location for outdoor live entertainment, to allow a 24/7/365 venue for such live entertainment outdoors would be a disservice to the business and citizens of Norman as a whole. If the Z.O. is amended to allow for such outdoor live entertainment, and it is not limited to the downtown area, there will be more businesses requesting such Special Uses, possibly impacting adjacent property owners. For example: Campus Corner is a very compact business district, with residential scattered in close proximity. Allowing for outdoor live entertainment creates an opportunity for greater impacts to the business sector and residential area in such close proximity.

Allowing music, as long as it is below a set decibel level, is a great plan on paper; however, the average citizen doesn't really know what 55 or 75 decibels really equates to so Norman PD is required to intervene between two properties or business owners that have concerns about the level of sound coming from an adjacent property.

Residential uses and businesses located around music venues have a right to be protected from the impacts live music venues create. If changes are made to the ordinances which allow outdoor live music venues, without also looking at the aspects of development ordinances to establish guidelines for sound proofing glass/windows/doors and other protective measures for existing and new developments in the downtown area, we may be creating a new problem.

The Z.O. has not been updated recently; it lacks the ability to control or monitor some of the newer issues and uses establishing in Norman. The authors of the Z.O. did not foresee that they needed to account for protection of adjacent properties from live entertainment venues; the Z.O. was written so there is enough ambiguity for some uses to occupy areas not initially intended for that use. Staff proposes amendments to the Z.O. to alleviate future issues.

Many cities that do allow outdoor live entertainment venues already have an established entertainment district where the live music is allowed during specified periods. Without the establishment of a defined Art and Entertainment District staff sees no valid supporting evidence that changes need to be made to allow an option for outdoor live entertainment venues. Staff does recommend that until an Arts and Entertainment District is established, an amendment to the Z.O. be processed to specifically state the restrictions for live entertainment venues, as well as tighter restrictions on audible amplified music levels at a property line.

RECOMMENDATIONS FOR AMENDMENTS TO ZONING ORDINANCE

Live Entertainment Venue is defined in two places in the Zoning Ordinance, under the definition for Accessory and the definition for Live Entertainment Venue:

"ACCESSORY. ... Live entertainment, when offered in conjunction with an otherwise unrelated legal commercial use, will be considered an accessory use when it constitutes no more than ten (10) percent of the gross monthly revenue of the establishment."....

"LIVE ENTERTAINMENT VENUE. An establishment where a major component of the business includes live or electronically amplified music, dancing, or other entertainment, and which may impose an admission charge or cover charge to observe that entertainment. Nightclubs, bars, and dance halls are typical uses within this category. This category shall not include, in any manner, any Adult Entertainment Establishment."

Changes to the definitions of Live Entertainment should include clarification of indoor vs. outdoor areas allowing live entertainment as well as including a definition of "outdoor music venue."

"ACCESSORY.Indoor Live entertainment, when offered in conjunction with an otherwise unrelated legal commercial use, will be considered an accessory use when it constitutes no more than ten (10) percent of the gross monthly revenue of the establishment."...

"LIVE ENTERTAINMENT VENUE. An establishment where a major component of the business includes live or electronically amplified music, dancing, or other entertainment, and which may impose an admission charge or cover charge to observe that entertainment. Nightclubs, bars, and dance halls are typical uses within this category **and all activities are located within a fully enclosed building.** This category shall not include, in any manner, any Adult Entertainment Establishment."

"OUTDOOR MUSIC VENUE. A commercial venue or property where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof. (Not currently allowed in any zoning district)

NORMAN NOISE ORDINANCE

Currently, if a business wants to have outdoor amplified entertainment over the allowed decibels they are required to apply for a Noise Variance Permit, following the restrictions and guidelines set forth in the permit. (Exhibit H)

The Code of Ordinances, Article III. Noise Control outlines the requirements for a Noise Permit. Applications for a permit for relief from the noise restrictions may be made to the City Manager or authorized representative (in this case Norman Police Department). If a permit is granted, it shall contain all conditions for which the permit has been granted, including but not limited to the effective dates, time of day, location, sound pressure level, or equipment limitations. The relief from the noise restrictions requested may be granted on good and sufficient showing that:

- (1) Additional time is needed for the applicant to alter or modify the activity or operation to comply;
- (2) The activity, operation or noise source will be of a temporary duration;
- (3) There is not a reasonable alternative available to the applicant for the event.

With the variance, additional conditions or requirements may be required to minimize adverse effects on the community or surrounding neighborhood. A permit can be approved for a maximum of up to four consecutive days, and no more than seven permits per site annually. However, an applicant may petition for additional permits on appeal to City Council.

Aside from decisions to amend the Zoning Ordinance, any sounds, whether live or recorded music or loud noises in general, everyone must meet the standards of the adopted Noise Ordinance. If the standards of the Noise Ordinance cannot be met an application to the Norman Police Department for a Noise Variance Permit is required.

Staff suggests the Noise Ordinance, Article III. Noise Control, remain with no changes at this time and amend the Z.O. as noted.

CONCLUSION

The following are the main suggestions, based on our research:

1. Amend the Zoning Ordinance to prohibit outdoor live entertainment venues as a Special Use and clarify definitions. Setting specific guidelines for Live Entertainment – restrict to indoor only unless a Noise Permit from the Norman Police Department has been issued to allow for the amplified live music, both indoors and outdoors.
2. Establish specific guidelines prohibiting live music on public rights-of-way/sidewalk cafés.
3. Establish additional opportunities for Music Festival allowances for amplified/live music.

Home

Examples of noise
How it affects you

SOLUTIONS!

Ear plugs, ear muffs
White noise
Noise cancellation
Soundproofing
Quieter products
More ideas ...

Facts & figures
Fun & function

Mail from readers

Latest site updates

Site map

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Noise Level Chart

Like 285

A noise level chart showing examples of sounds with dB levels ranging from 0 to 180 decibels.

dB(A)	Example	Home & Yard Appliances	Workshop & Construction
0	healthy hearing threshold		
10	a pin dropping		
20	rustling leaves		
30	whisper		
40	babbling brook	computer	
50	light traffic	refrigerator	
60	conversational speech	air conditioner	
70	shower	dishwasher	
75	toilet flushing	vacuum cleaner	
80	alarm clock	garbage disposal	
85	passing diesel truck	snow blower	
90	squeeze toy	lawn mower	arc welder
95	inside subway car	food processor	belt sander
100	motorcycle (riding)		handheld drill
105	sporting event		table saw
110	rock band		jackhammer
115	emergency vehicle siren		riveter
120	thunderclap		oxygen torch
125	balloon popping		
130	peak stadium crowd noise		
135	air raid siren		
140	jet engine at takeoff		
145	firecracker		
150	fighter jet launch		
155	cap gun		
160	shotgun		
165	.357 magnum revolver		
170	safety airbag		
175	howitzer cannon		
180	rocket launch		
...			
194	sound waves become shock waves		

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[Safe Noise Exposure Chart](#)
[Safe iPod Use](#)
[Hearing Protection for Kids](#)
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Sarinne Fox
 Creator and author of noisehelp.com

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Most noise levels are given in **dB(A)**, which are decibels adjusted to reflect the ear's response to different frequencies of sound. Sudden, brief impulse sounds, like many of those shown at 120 dB or greater, are often given in dB (no adjustment).

Noise Chart

Specifics about the measurement of a particular sound source can be found in the [Noise Navigator® Sound Level Database, E-A-R 88-34/HP, by Elliott H Berger, Rick Neitzel, and Cynthia A Kladden, E•A•RCAL Laboratory, 3M Occupational Health & Environmental Safety Division](#), an extensive compilation of data on noise level measurements, including many of the values appearing on this chart.

Learn more:
[What is a decibel?](#)
[What are the safe noise exposure limits?](#)

ARTICLE III. - NOISE^[8]

EXHIBIT B

Footnotes:

--- (8) ---

Cross reference— Barking, annoying dogs prohibited, § 5-56.

DIVISION 1. - GENERALLY

Sec. 16-256. - Loud noises prohibited.

- (a) It shall be unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city. This subsection shall not apply to sounds from any radio, phonograph, tape player, compact disc player, musical instrument or any similar device for producing or amplifying sound. This subsection shall not apply to shouting, singing, whistling or verbal utterances.
- (b) The acts described in this division, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.

(Code 1964, § 7.265; Ord. No. 20630, § 1, 5-17-10)

Sec. 16-257. - Horns and signaling devices.

The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creating by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up, is hereby declared unlawful.

(Code 1964, § 7.270)

Cross reference— Motor vehicles and traffic, Ch. 14.

Sec. 16-258. - Radios, phonographs, etc. outside the downtown area.

- (a) It shall be unlawful to play or permit to be played any radio, phonograph, tape player, compact disc player, musical instrument or any similar device for producing or amplifying sound in a manner that disturbs the peace, quiet or comfort of the neighboring inhabitants.
- (b)

Playing or permitting to be played any device described in subsection (a) between 11:00 p.m. and 7:00 a.m. so that it is plainly audible at a distance of fifty (50) feet from the building, structure or outdoor area in which the device is located shall be prima facie evidence of a violation of this section.

- (c) Playing or permitting to be played any device described in subsection (a) between 7:00 a.m. and 11:00 p.m. so that it is plainly audible at a distance of one hundred (100) feet from the building, structure or outdoor area in which the device is located shall be prima facie evidence of a violation of this section.
- (d) Except as allowed in division 2 of this article, it shall be unlawful for the operator of any vehicle to play or permit to be played any sound producing or sound amplifying device in or on the vehicle so that it is plainly audible at a distance of fifty (50) feet from the vehicle.
- (e) This section shall not apply to the downtown area as defined in section 16-258.1.

(Code 1964, § 7.275; Ord. No. 12912 § 1, 3-18-91; Ord. No. 16182, § 1, 9-20-99; Ord. No. 20630, § 1, 5-17-10)

Sec. 16-258.1. - Radios, phonographs, etc. in the downtown area.

- (a) As used in this section, "Downtown area" means the area included within the following boundaries: Beginning at the intersection of Providence Road and Ash Street; thence east along the centerline of Ash Street to the centerline of Tenth Street; thence north along the centerline of Tenth Street to the centerline of Park Avenue; thence east along the centerline of Park Avenue to the southwest corner of Lot 3 of Harbison's Addition and COLT Railroad Administrative Plat; thence clockwise around the boundary of Lot 3 of Harbison's Addition and COLT Railroad Administrative Plat to a point opposite the centerline of Orr Street; thence south along the centerline of Orr Street to the centerline of Ash Street; thence east along the centerline of Ash Street to the centerline of College Avenue; thence south along the centerline of College Avenue to the centerline of Locust Street; thence west along the centerline of Locust Street to the centerline of Hitt Street; thence south along the centerline of Hitt Street to the centerline of Elm Street; thence west along the centerline of Elm Street to the centerline of Watson Place; thence south along the centerline of Watson Place to an east-west alley; thence west along the centerline of the alley to the centerline of Ninth Street; thence north along the centerline of Ninth Street to the centerline of Elm Street; thence west along the centerline of Elm Street to the centerline of Providence Road; thence north along the centerline of Providence Road to the point of beginning.
- (b) It shall be unlawful to play or permit to be played, in the downtown area, any radio, phonograph, tape player, compact disc player, musical instrument or any similar device for producing or amplifying sound in a manner that either:
 - (1) Unreasonably disturbs the peace, quiet or comfort of any person in or outside the downtown area, or
 - (2) Is plainly audible at the following distances from the building, structure or outdoor area where the device is located at the following times:
 - 300 feet Sunday through Wednesday from 7:00 a.m. to 10:00 p.m.

150 feet Sunday through Wednesday from 10:00 p.m. to 1:30 a.m.

300 feet Thursday through Saturday from 7:00 a.m. to 11:00 p.m.

150 feet Thursday through Saturday from 11:00 p.m. to 1:30 a.m.

50 feet every day from 1:30 a.m. to 7:00 a.m.

- (c) Sounds escaping from the opening of exterior doors for entry and exit shall not constitute a violation of this section. This subsection shall not apply to sounds escaping from a door that has been propped open.
- (d) Subsection (b) shall not apply to any sounds generated in connection with an event or activity for which the city council has authorized a street closure.
- (e) Subsection (b) shall not apply to any sounds generated in compliance with a noise permit issued by the city manager. The city manager is authorized to issue noise permits for special occasions such as University of Missouri home football games and outdoor festivals.
- (f) Except as allowed in division 2 of this article, it shall be unlawful for the operator of any vehicle to play or permit to be played any sound producing or sound amplifying device in or on the vehicle so that it is plainly audible at a distance of fifty (50) feet from the vehicle from 7:00 a.m. to 10:00 p.m. and five (5) feet from the vehicle from 10:00 p.m. to 7:00 a.m.
- (g) It shall be unlawful to play or permit to be played, outdoors in the downtown area, any radio, phonograph, tape player, compact disc player, musical instrument or any similar device for producing or amplifying sound, before 7:00 a.m. on any day or after 10:00 p.m. Sunday through Wednesday or after 11:00 p.m. Thursday through Saturday.

(Ord. No. 20630, § 1, 5-17-10)

Sec. 16-259. - Shouting, etc.

- (a) It shall be unlawful to shout, sing, whistle or make any verbal utterance or noise at a volume that disturbs the peace, quiet or comfort of the neighboring inhabitants.
- (b) Shouting, singing, whistling or making other verbal utterances or noises between 11:00 p.m. and 7:00 a.m. that is plainly audible at a distance of fifty (50) feet from the building, structure or outdoor area in which the person is located shall be prima facie evidence of a violation of this section.

(Code 1964, § 7.280; Ord. No. 18941, § 1, 3-6-06)

Sec. 16-260. - Animals and birds.

The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity is hereby declared unlawful.

(Code 1964, § 7.285)

Cross reference— Animals and fowl, Ch. 5.

Sec. 16-261. - Blowing whistles.

The blowing of any locomotive whistle or whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper city authorities, is hereby declared unlawful.

(Code 1964, § 7.290)

Sec. 16-262. - Mufflers required.

The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is hereby declared unlawful.

(Code 1964, § 7.295)

Cross reference— Motor vehicles and traffic, Ch. 14.

Sec. 16-263. - Motors out of repair; loads.

The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling, or other noise, is hereby declared unlawful.

(Code 1964, § 7.300)

Sec. 16-264. - Loading and unloading.

The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers is hereby declared unlawful.

(Code 1964, § 7.305)

Sec. 16-265. - Construction, repair and demolition of buildings, streets and utilities.

- (a) *Buildings*. It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by demolishing, constructing, altering or repairing any building or structure other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays.
- (b) *Streets*. It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by excavating, grading, paving, constructing, altering or repairing any public or private street, drive or parking lot other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00

a.m. and 5:00 p.m. on Saturdays. Nothing in this article shall prevent work on any public street, including utility installation, removal or repair, when the director of public works has determined that the work is necessary in order to minimize traffic disruption.

- (c) *Utilities.* It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by installing, removing or repairing any utility other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays. Nothing in this article shall prevent work on any utility in order to maintain or restore utility service.
- (d) *Site preparation.* It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by operating any earthmoving, excavating, paving or tree cutting equipment other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays.
- (e) *Permits.* Upon application, the director of public works may grant a permit to any person extending the hours of work set forth in subparagraphs (a) through (d) for an identified project. The permit shall state the nature, location and extended hours of the work to be done. The permit may be granted for a period of time not to exceed three (3) days and may be renewed for periods not to exceed three (3) days on an emergency basis only as determined by the director of public works. A permit authorized by this subsection shall be granted only if the director of public works first determines that the public health and safety will not be impaired by the permitted work and that significant loss or inconvenience would result to any party if the permit were not granted.

(Ord. No. 12622, § 1, 6-4-90; Ord. No. 13202, § 1, 12-16-91)

Editor's note— Section 1 of Ord. No. 12622, adopted June 4, 1990, repealed former § 16-265 and enacted new provisions in lieu thereof to read as herein set out. The repealed provisions pertained to erection, repair and demolition of buildings and derived from Code 1964, § 7.310.

Cross reference— Buildings and building regulations, Ch. 6.

Sec. 16-266. - In vicinity of schools, hospitals, churches, etc.

The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while the same is in use; or, adjacent to any hospital; which unreasonably interferes with the working of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street, is hereby declared unlawful.

(Code 1964, § 7.315)

Sec. 16-267. - Hawkers and peddlers.

The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood is hereby declared unlawful.

(Code 1964, § 7.320)

Cross reference— Licenses, permits and miscellaneous business regulations, Ch. 13.

Sec. 16-268. - Noise at sales.

The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale, is hereby declared unlawful.

(Code 1964, § 7.325)

Sec. 16-269. - Transportation of iron, steel, etc.

The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places, is hereby declared unlawful.

(Code 1964, § 7.330)

Sec. 16-270. - Motorbuses.

The causing, permitting or continuing of any excessive, unnecessary and avoidable noise in the operation of a motorbus or coach is hereby declared unlawful.

(Code 1964, § 7.335)

Sec. 16-271. - Pile drivers, derricks, etc.

The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise, is hereby declared unlawful.

(Code 1964, § 7.340)

Sec. 16-271.1. - Quarries, blasting, etc.

(a) The operation between the hours of 10:00 p.m. and 7:00 a.m. of any equipment which is used in the mining or quarrying of any rock, mineral or ore, or any equipment to prepare, finish, or wash any rock, mineral, or ore is hereby declared to be a public nuisance and is unlawful.

(b)

Blasting in conjunction with any quarrying or mining operation between the hours of 5:00 p.m. and 8:00 a.m. is hereby declared to be a public nuisance and is unlawful.

(c) Violation of this section shall be punished as a Class C misdemeanor.

(Ord. No. 10690, § 1(7.343), 9-3-85)

Editor's note— Section 1 of Ord. No. 10690, adopted Sept. 3, 1985, amended the Code 1964 by the addition of § 7.343, which at the discretion of the editor has been included herein as § 16-271.1.

Sec. 16-272. - Blowers, power fans, etc.

The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise, is hereby declared unlawful.

(Code 1964, § 7.345)

Sec. 16-273. - Engine brakes.

(a) It shall be unlawful for any person operating a motor vehicle to use an engine brake.

(b) An "engine brake" is a device that retards the forward motion of a motor vehicle by the use of the compression of the engine of the motor vehicle.

(c) This section shall not apply to public safety vehicles.

(Ord. No. 19721, § 1, 11-5-07)

Sec. 16-274. - Penalty.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be punished by a fine of not less than seventy-five dollars (\$75.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment for not exceeding three (3) months, or by both such fine and imprisonment.

(Code 1964, § 7.350; Ord. No. 12912 § 1, 3-18-91; Ord. No. 17052, § 1, 10-1-01)

Sec. 16-275. - University of Missouri homecoming.^[9]

The provisions of Division 1 of this article shall not apply to any construction noise emanating from the area bounded by Providence Road, Kentucky Boulevard, Maryland Avenue and Turner Avenue between the hours of 9:00 a.m. and 12:00 midnight on the Wednesday, Thursday or Friday before the annual University of Missouri homecoming weekend.

(Ord. No. 13486, §§ 1-2, 10-19-92)

Footnotes:

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Editor's note—Ord. No. 13486 § 1, adopted October 19, 1992, repealed former § 16-275, relative to the Boone County Fair and enacted in lieu thereof a new § 16-275 to read as herein set out. The provisions of former § 16-275 derived from Ord. No. 13044 § 1, enacted on July 15, 1991.

Sec. 16-276. - School marching bands,

The provisions of division 1 of this article shall not apply to any junior or senior high school marching band practicing on school grounds between the hours of 6:30 a.m. and 8:30 p.m. during the academic school year.

(Ord. No. 14975, § 1, 9-3-96; Ord. No. 20495, § 1, 12-7-09)

Sec. 16-277—16-280. - Reserved.

DIVISION 2. - SOUND-AMPLIFYING EQUIPMENT AND TRUCKS^[10]*Footnotes:*

--- (10) ---

Cross reference— Motor vehicles and traffic, Ch. 14.

Sec. 16-281. - Definitions.

As used in this division, the following terms shall have the meaning indicated in this section:

Sound amplifying equipment: Any machine or device for the amplification of the human voice, music or any other sound amplifying equipment, including a megaphone, amplifier, "walkie-talkie, " amplifiers on fronts of business buildings or other sound device. "Sound amplifying equipment, " shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic purposes.

Sound truck or other conveyances: Any vehicle, whether motorized or not, and any airplane, balloon, dirigible or any other type of aircraft, having mounted therein, thereon or attached thereto, any sound amplifying equipment.

(Code 1964, § 7.355)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 16-282. - Commercial advertising prohibited.

No person shall operate, or cause to be operated, any sound amplifying equipment or sound truck or other conveyance for commercial sound advertising purposes on any street or on any public or private alley in the city or in the air over the city, with sound amplifying equipment in operation; and no person shall operate, or cause to be operated, any sound amplifying equipment on any public square, public street or public playground for commercial advertising purposes in the city.

(Code 1964, § 7.360)

Cross reference— License, permits and miscellaneous business regulations, Ch. 13.

Sec. 16-283. - Reserved.

Editor's note— Ord. No. 22038, § 1, adopted April 21, 2014, repealed § 16-283, which pertained to noncommercial use—registration statement required and derived from § 7.365 of the 1964 Code.

Sec. 16-284. - Noncommercial use—Form and contents of registration statement.

The registration statement required by section 16-283 shall be in writing, shall be filed in duplicate and shall state the following information:

- (a) Name and home address of the applicant.
- (b) Address and place of business of applicant.
- (c) Type, license number and motor number of the sound truck or other conveyance to be used by applicant.
- (d) Name and address of person who owns the sound truck or sound amplifying equipment.
- (e) Name and address of person having direct charge of the sound truck and sound amplifying equipment.
- (f) Name and address of all persons who will use or operate the sound truck or sound amplifying equipment.
- (g) The purpose for which the sound truck or sound amplifying equipment will be used.
- (h) A general statement as to the section of the city, in or over which the sound truck or other conveyance will be used or the public parks or public playgrounds at which the sound amplifying equipment will be used.
- (i) The proposed hours of operation of the sound truck or sound amplifying equipment.
- (j) The number of days of proposed operation of the sound truck or sound amplifying equipment.
- (k) A general description of the sound amplifying equipment which is to be used.
- (l) The maximum sound-producing power of the sound amplifying equipment, or otherwise, stating the following:
 - (1) The wattage to be used.

- (2) The volume in decibels of the sound which will be produced.
- (3) The approximate maximum distance for which sound will be thrown from the sound truck or sound amplifying equipment.

(Code 1964, § 7.370)

Sec. 16-285. - Same—Amendments to registration statement.

All persons using, or causing to be used, sound trucks or sound amplifying equipment for noncommercial purposes shall amend any registration statement filed pursuant to section 16-283 of this chapter within forty-eight (48) hours after any change in the information furnished in such statement.

(Code 1964, § 7.375)

Sec. 16-286. - Signed copy of registration statement; identification.

The chief of police or other authorized member of the police department shall return to each applicant under section 16-283 of this chapter one copy of such registration statement duly signed by the chief of police or other authorized member of the police department and such copy shall be in the possession of any person operating the sound truck or sound amplifying equipment at all times while the sound equipment is in operation. Such copy shall be promptly displayed and shown to any police officer of the city upon request.

(Code 1964, § 7.380)

Sec. 16-287. - Regulations for use—On streets.

The noncommercial use of sound amplifying equipment or sound trucks on any of the permitted streets in the city, with sound amplifying equipment in operation, shall be subject to the following regulations:

- (1) The only sounds permitted shall be music or human speech.
- (2) Operations shall be permitted between the hours of 9:30 a.m. and 11:00 p.m. each day.
- (3) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least five (5) miles per hour, except when such truck is stopped or impeded by traffic. Where stopped by traffic, the sound amplifying equipment shall not be operated for longer than one minute at each stop.
- (4) Sound shall not be issued within one hundred (100) yards of hospitals, schools or churches.
- (5) No sound truck with its amplifying device in operation shall be operated on any street or on any public or private alley within the fire limits of the city.
- (6) The human speech and music amplified shall not be profane, lewd, indecent or slanderous.

- (7) The volume of sound shall be controlled so that it will not be audible for a distance in excess of two hundred (200) feet from the sound truck, and so that such volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility; provided, however, that, the limitation of audibility to a distance not in excess of two hundred (200) feet shall not apply to sound issued from aircraft.
- (8) No sound amplifying equipment shall be operated having in excess of fifteen (15) watts of power in the last stage of amplification.

(Code 1964, § 7.385)

Sec. 16-288. - Same—In public parks and playgrounds.

The regulations provided in section 16-287 of this chapter insofar as applicable, shall apply to any noncommercial use of any sound amplifying equipment in any public park or public playground within the corporate limits of the city; provided, however, that operations shall be authorized on all days including Sundays and legal holidays; except that no such sound amplifying equipment shall be used on any public playground in connection with any public school building on days on which such public building is being used for school purposes; and provided, further, that, the volume of sound from such sound amplification equipment when used on public parks and public playgrounds shall be controlled so that it will not be audible for a distance in excess of three hundred (300) feet from the sound amplifying equipment.

(Code 1964, § 7.390)

Secs. 16-289—16-300. - Reserved.



Noise and Odors Ordinance

Sec. 17-20. - Noise

(a)

Declaration of intent. It is hereby declared to be the policy of the city to minimize the exposure of citizens to the potential physiological and psychological harm of excessive **noise** and to protect, promote, and preserve the public health, comfort, convenience, safety, and welfare. It is the express intent of the city council to control the level of **noise** in a manner that promotes commerce; protects the sleep and repose of citizens; promotes the use, value, and enjoyment of property; and preserves the quality of the environment.

(b)

Sound measurement criteria. For purposes of this chapter, sound measurements will be made using the A-weighting scale on an approved sound-level meter, based on the reference sound pressure (0 dba). Measurement times will be no less than two (2) minutes in length, and violations will be determined based on the highest registered reading in that measurement period. All measurement levels will be inclusive of any ambient **noise** that exists at the time of the measurement.

(c)

*General **noise** violations.*

(1)

It shall be unlawful for a person to make or cause any unreasonably loud or disturbing **noise**, which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof.

(2)

It shall be unlawful for any person to make or cause any **noise** of such character, intensity and continued duration as to substantially interfere with the comfortable enjoyment of private homes by persons of ordinary sensibilities.

(3)

The following acts, among others, are declared to be **noise nuisances** in violation of this chapter, but such enumeration shall not be deemed to be exclusive:

a.

The playing of any phonograph, television, radio, or any musical instrument in such manner or with such volume, so as to be clearly audible to a person in a residence the person playing the instrument does not have the right to occupy; and

1.

During the daytime, measure more than sixty-five (65) dba on the A-weighting scale on an approved sound-level meter at more than fifty (50) feet from the source; or

2.

During the nighttime, measure more than sixty-five (65) dba on the A-weighting scale on an approved sound-level meter at more than fifty (50) feet from the source; or

3.

During the daytime, in a multi-family dwelling, measure more than fifty (50) dba on the A-weighting scale on an approved sound-level meter in any adjacent unit; or

4.

During the nighttime, in a multi-family dwelling, be clearly audible within any unit that is not the source of the sound.

b.

The use of any stationary loudspeaker, amplifier, musical instrument, or sound amplifying equipment in such a manner or with such volume so as to be clearly audible to a person in a residence the person using the instrument does not have the right to occupy; and

1.

During the daytime, be of such intensity and volume so as to measure more than sixty-five (65) dba on the A-weighting scale on a sound-level measuring device at more than fifty (50) feet from the source; or

2.

During the nighttime, be of such intensity and volume so as to measure more than sixty-five (65) dba on the A-weighting scale on a sound-level measuring device at more than fifty (50) feet from the source; or

3.

During the daytime, in a multi-family dwelling, measure more than fifty (50) dba on the A-weighting scale on an approved sound-level meter in any adjacent unit; or

4.

During the nighttime, in a multi-family dwelling, be clearly audible within any unit that is not the source of the sound; or

5.

At any time on Sunday.

Provided, however, that the city council may make exceptions upon application for sound levels or hours of operation when the public interest will be served thereby.

c.

The creation of vibration or bass reverberations at any time that is perceptible inside a complaining person's residence, through the sense of touch, or through visual observation of moving objects, or through the sense of hearing.

d.

The use of any radio, stereo, amplifier, sound amplifying equipment, or other musical device installed or contained in a motor vehicle at a volume such that it is clearly audible to any person from more than thirty-five (35) feet from the vehicle.

e.

The blowing of any steam whistle attached to any stationary boiler or the blowing of any other loud or far-reaching steam whistle within the city limits, except to give notice of the time to begin or stop work or as a warning of danger;

f.

The erection, excavation, demolition, alteration, or repair work on any building at anytime other than between the hours of 6:00 a.m. and 8:30 p.m. Monday through Friday from June 1 to September 30; between 7:00 a.m. and 8:30 p.m. Monday through Friday from October 1 to May 31; between 8:00 a.m. and 8:30 p.m. on Saturday; and between 1:00 p.m. and 8:30 p.m. on Sunday; provided, however, that the city council may issue special permits for such work at other hours in case of urgent necessity and in the interest of public safety and convenience;

g.

The creation of any loud and excessive **noise** in connection with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates or containers;

h.

The use of any drum, loudspeaker, or other instrument or device for the purpose of attracting attention by the creation of **noises** to any performance, show, theater, motion picture house, sale of merchandise, or display which causes crowds or people to block or congregate upon the sidewalks or streets near or adjacent thereto.

(d)

Outdoor music festivals. At any outdoor music festival, it shall be unlawful for any person or group sponsoring the event to make, cause, allow, or permit any **noise** that:

(1)
Exceeds seventy (70) dba on an approved sound-level meter when measured at the established perimeter of the event.

(2)
Provided, the city council may make exceptions upon application for sound levels or hours of operation when the public interest will be served thereby.

(e)
Prosecution for an offense under this section does not prevent the use of other enforcement remedies or procedures applicable to the person charged with or the conduct involved in the offense.

Sec. 17-21. - Odors. 

(a)
It shall be unlawful for any person to create or cause any unreasonably noxious, unpleasant or strong odor which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof.

(b)
It shall be unlawful for any person to create or cause any odor, stench or smell of such character, strength or continued duration as to substantially interfere with the comfortable enjoyment of private homes by persons of ordinary sensibilities.

(c)
The following acts or conditions, among others, are declared to be odor nuisances in violation of this chapter, but such enumeration shall not be deemed to be exclusive:

(1)
Offensive odors from cow lots, hog pens, fowl coops and other similar places where animals are kept or fed which disturb the comfort and repose of persons of ordinary sensibilities;

(2)
Offensive odors from privies and other similar places;

(3)
Offensive odors from the use or possession of chemicals or from industrial processes or activities which disturb the comfort and repose of persons of ordinary sensibilities;

(4)
Offensive odors from smoke from the burning of trash, rubbish, rubber, chemicals or other things or substances; or

(5)

Offensive odors from stagnant pools allowed to remain on any premises or from rotting garbage, refuse, offal or dead animals on any premises.

Noise Exceptions

Section 20-1, Noise, as amended by ordinance 2001-265 of the City of Denton Code of Ordinances prohibits any unreasonably loud, disturbing, or unnecessary noise. The noise ordinance uses two criteria for a violation:

- hours of operation - or, the time the noise is created.
- sound measurement level, - or, how loud is the sound.

No sound is allowed to be of a greater intensity than 65 DBA when measured 50 feet from the source; or 50 DBA in a multi-family dwelling during the day, or be clearly audible within any unit that is not the source of the sound during the night. In addition, it is a violation of the ordinance to play musical instruments, or produce amplified sound that is clearly audible in another person's residence. The noise ordinance does allow Council to make exception to the ordinance - if a public interest is served.

If you plan on using musical instruments, your event is outside, and you meet certain additional requirements, you may qualify as an outdoor music festival. To discuss the requirements of an outdoor music festival, please call (940) 349-8272.

The following steps are taken to process an exception to the noise ordinance:

1. The requestor must submit a letter requesting an exception to the noise ordinance.

The letter should provide the following information:

- a. Date
- b. Time
- c. Location
- d. Activities to be conducted
- e. Explanation of how the public interest will be served.

2. You must return your letter of request to the following address at least four to six weeks before your event.

Janie McLeod
Community Events Coordinator
City Hall East
601 E. Hickory, Suite B
Denton, TX 76205

Large events that are historically well attended events, or new events that are expected to attract over large amounts of people should start the noise exception process well in advance of their event date. Failure to meet the above requirements may delay or lead to a denial of your noise exception request.

If you have additional questions, please call (940) 349-8272.

Article V - OFFENSES AGAINST PUBLIC PEACE^[5]

EXHIBIT D

*Footnotes:**--- (5) ---*

Cross reference— Disorderly conduct on premises selling cereal malt beverages, § 4-44; profanity and abusive language at airport, § 7-58; disorderly conduct at airport, § 7-60; blocking or impairing passage at airport, § 7-63; false statements about weapons or explosives at airport, § 7-73.

State Law reference— Crimes against the public peace, K.S.A. 21-4101 et seq.

Sec. 22-46. - Reserved.

Editor's note— Ord. No. 4595, § 1, adopted Aug. 15, 1989, in part repealed § 22-46, which pertained to disturbance of the peace and derived from § 14-301 of the city's 1973 Code. For similar provisions, see section 22-54 et seq.

Sec. 22-54. - Loud, disturbing noises—Prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which unreasonably either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

(Ord. No. 4595, § 2, 8-15-89)

Editor's note— Ord. No. 4595, § 2, adopted Aug. 15, 1989, amended § 22-54 in its entirety, in effect repealing the former provisions relative to loudspeaker, sound amplifier and calliope and enacting new provisions in lieu thereof to read as set out in § 22-54. Formerly, § 22-54 derived from §§ 14-311—14-314 of the city's 1973 Code.

Sec. 22-55. - Same—Unnecessary noise standard.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of section 22-54, but said enumeration shall not be deemed to be exclusive, to-wit:

- (1) *Radios, phonographs, etc.* The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at anytime with louder volume than is necessary for convenient hearing by the person or persons who are in the room, vehicle, or on the property upon which such machine or device is operated and who are voluntary listeners thereto. The operation of any such

set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be ~~plainly audible at a distance of 50 feet from the building~~, structure, vehicle or property upon which it is located shall be prima facie evidence of a violation of section 22-54.

- (2) *Loudspeakers, amplifiers for advertising.* The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (3) *Animals, birds, etc.* The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any persons in the vicinity.

(Ord. No. 4595, § 3, 8-15-89)

Sec. 22-56. - Same—Factors to be considered.

The factors which shall be considered in determining whether a violation of section 22-54 exists shall include, but shall not be limited to, the following:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or unnatural.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to residential sleeping facilities.
- (7) The nature and zoning of the area within which the noise emanates, as well as where the noise can be heard.
- (8) The density of inhabitation of the area within which the noise emanates.
- (9) The time of the day or night the noise occurs.
- (10) The duration of the noise.
- (11) Whether the noise is recurrent, intermittent or consistent.
- (12) Whether the noise is produced by a commercial or noncommercial activity.

(Ord. No. 4595, § 3, 8-15-89)

Sec. 22-57. - Same—Exemptions.

The following uses and activities shall be exempt from the provisions of section 22-54:

- (1) Noises emanating from a park or similar open space owned and maintained by a governmental entity.

- (2) Noise resulting from activities permitted by law and for which a license or permit or other authorization has been granted by a governmental entity.

(Ord. No. 4595, § 3, 8-15-89)

Sec. 22-58. - Same—Application for special permit.

- (a) A person may apply for a permit for an exemption from the provisions of section 22-54 for a specific date and time by completing an application on the form provided by the city. The application shall be accompanied by a nonrefundable \$25.00 application fee and shall be submitted at least seven days in advance of the date of the exemption requested on the application.
- (b) A permit shall only allow an exemption from the provisions of section 22-54 on Fridays and Saturdays, between the hours of 8:00 a.m. and 10:45 p.m., and on Sundays, between the hours of 8:00 a.m. and 8:00 p.m. Provided that, a permit may be issued for the hours of 8:00 a.m. and 10:45 p.m. on the day immediately preceding Memorial Day; July 3; the day immediately preceding Labor Day; and December 31, regardless of the day of the week. Further, a permit may be issued for July 4, Memorial Day, Labor Day and January 1, between the hours of 8:00 a.m. and 10:45 p.m., unless such holiday falls on a weekday, and then the permit shall only be issued between 8:00 a.m. and 8:00 p.m.
- (c) Any permit issued by the city manager, or his designee, may include conditions that the city manager, or his designee, deems necessary to minimize the adverse effects of the noise upon the community or the surrounding neighborhood. Such conditions may include an occupancy limit for the event or location. All conditions shall be listed on the permit, and the permit holder shall conspicuously display the permit during the permitted activity, so it is readily visible from the exterior of the premises. Further, the permit holder shall conspicuously display a sign, provided by the city, outside the premises, stating that a noise permit has been issued and indicating the date and hours for which it was issued. The sign shall be posted 24 hours prior to the permit start time, and shall be promptly removed following the expiration of the permit.
- (d) The city manager, or an officer of the Riley County Police Department, may revoke a permit, during the permitted activity, in the following circumstances:
- (1) If the conditions of the permit are violated; or
 - (2) If criminal activity occurs during the permitted activity, for which a citation is issued or an arrest made, that is reasonably likely to cause injury or threat to persons or property or to create an unreasonable disturbance.

Such revocation renders the permit null and void, and the permit holder shall comply with the requirements of section 22-54.

- (e) If a permit holder has a permit revoked, as provided in subsection (d), the permit holder, or the organization upon whose behalf the permit was issued, may not be issued another permit for a period of two years following the date of revocation.

Sound Permit (Outdoor Amplified Sound Permit)

About

Required for anyone operating outdoor amplified sound (i.e. speaker system). The sound system cannot be operated before 7:00am and after 10:00pm.

Permit fees can be found in the [Director's Fee Schedule](#).

[Outdoor Amplified Sound Permit \(pdf\)](#)

[Outdoor Amplified Sound Notification Template \(pdf\)](#)

Sound Permit Ordinance

389.105. Permits for sound amplifying equipment. Except as provided in section 389.60(e)(5), no person shall use or maintain any outside sound amplifying equipment except under specific permit from the assistant city coordinator for regulatory services or their designee. The fees for this permit shall be as established in the director's fee schedule pursuant to section 91.70 for each calendar day for which amplified sound is played or operated subject to the following conditions:

(1) A daytime permit is required for outside sound amplifying equipment used between the hours of 7:00 a.m. and 10:00 p.m. An extended hours permit shall be required for outside sound amplifying equipment used outside of the hours specified in this subsection and may be issued only if: (A) outside amplified sound equipment is being used as part of a large block event and is explicitly allowed by the terms of the large block event permit issued pursuant to Chapter 455 of this code; or (B) outside amplified sound equipment is being used on publicly owned and controlled property in the Central Business District, or (C) approved by the assistant city coordinator for regulatory services or the assistant city coordinator's designee.

(2) Amplification that does not meet the limits of section 389.60 shall be limited to twelve (12) hours in any one (1) day, twenty-four (24) hours in any seven (7) day period and thirty-six (36) hours in any twenty-eight-day period for the same property. The assistant city coordinator for regulatory services, or their designee, may permit amplified sound in excess of these limitations if, and only if, the outside amplified sound equipment is being used on publicly owned and controlled property in the Central Business District.

(3) Sound measured at fifty (50) feet from the source shall not exceed ninety (90) dB(A).

(4) Sound measured off the property where the equipment is allowed under the permit shall never be more than fifteen (15) dB(A) above the ambient noise level.

(5) Compliance with section 389.65 (a) and (b).

Permits shall be obtained in advance of the proposed extended hours of operation. (92-Or-122, § 1, 10-9-92; 97-Or-063, § 12, 7-11-97; 2006-Or-033, § 5, 4-28-06; 2008-Or-094, § 12, 12-12-08)



For reasonable accommodations or alternative formats please contact the Minneapolis Health Department at 612-673-2301 or health@minneapolismn.gov. People who are deaf or hard of hearing can use a relay service to call 311 at 612-673-3000. TTY users call 612-673-2157 or 612-673-2626.

Para asistencia 612-673-2700 - Rau kev pab 612-673-2800 - Hadii aad Caawimaad u baahantahay 612-673-3500.

Last updated Jul 28, 2016

Connect with the City



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CHAPTER 389. - NOISE^[3]*Footnotes:**--- (3) ---**Charter reference— Authority to prevent noise, Ch. 4, § 5(3).**Cross reference— Noise from musical jukeboxes, § 267.990; unnecessary sounding of train whistle, § 397.10; provisions of zoning ordinance relative to noise control in manufacturing districts, § 535.620.*

ARTICLE I. - GENERALLY

389.05. - Declaration.

There have come into being within the city certain loud, avoidable, unnatural and unnecessary noises, which under certain circumstances and conditions, constitute a serious threat to the health, the welfare, the contentment and the feeling of well-being of our people. Therefore, the city council does declare that the doing of such things in a manner prohibited by, or not in conformity with, the terms of this article constitutes an undesirable noise and shall be punished as hereinafter provided. (Code 1960, As Amend., § 948.010; 97-Or-063, § 1, 7-11-97)

389.10. - Findings.

- (a) Excessive noise degrades the environment of the city and the city has a substantial and, in some cases, compelling interest in controlling such noise.
- (b) Excessive noise degrades the environment to a degree that:
 - (1) is harmful to the health, welfare and safety of its inhabitants.
 - (2) interferes with the comfortable enjoyment of life and property.
 - (3) interferes with the well being, tranquility, and privacy of the home.
 - (4) causes and/or aggravates health problems.
- (c) Individuals are not required to welcome unwanted noise into their own homes and there simply is no right to force unwanted noise into the home of an unwilling listener and there is a compelling interest in prohibiting such noise on a content neutral basis.
- (d) Effective control and elimination of excessive noise is essential to the health and welfare of the city's inhabitants and to the conduct of the normal pursuits of life, including recreation and communication.
- (e) It is the intent of the city council to prevent excessive noise without unreasonably infringing upon the rights of the city's inhabitants and visitors.
- (f) It is the intent of the city council to prevent excessive noise, whenever possible, without substantially burdening the free exercise of religion and in every case within the constraints set by the Minnesota and U.S. Constitutions and applicable statutes and this ordinance is intended to be interpreted as

consistent with all such constraints.

- (g) The city's interest in regulating noise should and does take into account the time, place, and manner of such noise.
- (h) Certain short term easing of noise restrictions is essential to allow the maintenance and continuation of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the city.
- (i) A substantial body of science and technology exists by which excessive sound may be substantially abated.
- (j) Uses of sound amplifying equipment in certain ways and at certain times and places unreasonably invades the personal privacy, peace, and personal freedom of citizens and visitors of the city.
- (k) The city council feels obligated to reasonably regulate on a content neutral basis the time, place, and manner of using sound amplifying equipment in order to protect the correlative constitutional rights of the citizens and visitors of this community to personal privacy, peace, and personal freedom from diminishment by invasive and unwanted noise which is unnecessary or for which there are ample alternative channels. (97-Or-063, § 2, 7-11-97; 2008-Or-094, § 1, 12-12-08)

389.15. - Incorporation by reference.

Minnesota Rules, Chapter 7030, and A Guide to Noise Control in Minnesota, as adopted and revised from time to time by the Minnesota Pollution Control Agency are hereby incorporated by reference into this chapter and made a part hereof. (97-Or-063, § 3, 7-11-97; 2008-Or-094, § 2, 12-12-08)

389.20. - Reserved.

Editor's note— Ord. No. 2008-Or-094, § 3, adopted December 12, 2008, repealed § 389.20, which pertained to other remedies preserved. See also the Code Comparative Table.

389.30. - Definitions.

The following terms whenever used in this article shall have the following respective meanings:

Ambient noise level: The total of all noise in the environment, other than the noise from the source of interest. This term is used interchangeably with background noise.

ANSI: The American National Standards Institute.

Attenuation: The reduction of sound intensity by various means (e.g., air, humidity porous materials).

Band: Any segment of the frequency spectrum.

Construction equipment: Any vehicle or device used for the purposes of construction, or used to transport equipment, materials, supplies or debris to or from a construction site, including, but not limited to a jackhammer, hammerdrill, bulldozer, dump truck, front end loader, bobcat, crane or backhoe.

dB(C): Composite abbreviation for decibel and C-weighted sound level.

Impulsive noise: Sound of short duration, usually one second or less with abrupt onset and rapid decay. Impulsive noises include but are not limited to metal impacts, hammers, gunshots, explosions, and drop forge impacts.

Leq: Equivalent continuous sound level or time-averaged sound level. A single-number value that expresses the time-varying sound level for the specified period as though it were a constant sound level with the same total sound energy as the time-varying level.

Masking:

- (1) The process by which the threshold of audibility for a sound is raised by the presence of another (masking) sound.
- (2) The amount by which the threshold of audibility of a sound is raised by the presence of another (masking) sound.

Noisy or unruly assembly: For the purposes of sections 389.65(a)(1) and 389.65(a)(2), the term "noisy or unruly assembly" shall mean a gathering of more than one person in a residentially zoned or used area or building between the hours of 10:00 p.m. and 6:00 a.m. whose noisy or illegal conduct would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area considering the time of day and the residential character of the area. Noisy or unruly assemblies may include, but are not limited to, those involving excessive noise, obstruction of public ways by crowds or vehicles, consumption of alcohol by minors, provision of alcohol to minors, fighting, disturbing the peace, disorderly conduct, littering, and public urination or defecation.

Octave: The interval between two (2) sounds having a frequency ratio of two (2). There are eight (8) octaves on the keyboard of a standard piano.

One-third (1/3) octave band: A frequency band whose cutoff frequencies have a ratio of 2 to the one-third (1/3) power, which is approximately 1.26. The cutoff frequencies of 891 Hz and 1,112 Hz define the 1,000 Hz third-octave band in common use.

Points of habitation: Any point inside a dwelling and any deck, patio, or other outdoor area that contains seating or cooking areas designed for the use of the occupants and within thirty (30) feet of the adjoining dwelling. Outdoor areas are a point of habitation only during the period between April 15 and November 15.

Publicly owned and controlled property: Any land owned and controlled by a government or quasi-government agency including, but not limited to, the City of Minneapolis, Minneapolis Park and Recreation Board, Minneapolis School Board, Hennepin County, State of Minnesota, Metropolitan Sports Commission, University of Minnesota, and the United States of America.

Pure tone: A sound for which the sound pressure is a simple sinusoidal function of the time, and characterized by its singleness of pitch.

Residentially used area: Any building or portion thereof designed or used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings without regard to their size or location within the city plus any area within five hundred (500) feet of such building or portion thereof which is so used. Residentially used area shall include any mixed use building which contains a dwelling unit as defined in section 522.40 of this Code plus any area within five hundred (500) feet of such dwelling unit. Residentially used area shall not be established by the locations of buildings which are principally hotels, motels, or rooming houses.

Steady-state sound: Sounds whose average characteristics remain relatively constant in time. A practical example of a steady-state sound source is an air conditioning unit. (Code 1960, As Amend., § 948.090; 82-Or-163, § 1, 8-13-82; 86-Or-105, § 1, 5-9-86; 97-Or-063, § 4, 7-11-97; 98-Or-099, § 1, 10-2-98; 98-Or-144, § 1, 12-4-98; 2005-Or-007, § 1, 2-11-05; 2006-Or-005, § 1, 2-10-06; 2006-Or-033, § 1, 4-28-06; 2008-Or-094, § 4, 12-12-08)

389.40. - Enforcement.

The assistant city coordinator for regulatory services and the chief of police, or their designees, are authorized and directed to administer and enforce the provisions of this article. (Code 1960, As Amend., § 948.100; Ord. of 5-11-73, § 1; 97-Or-063, § 5, 7-11-97; 2006-Or-033, § 2, 4-28-06)

389.45. - Measurement of noise levels.

All sound level measurements shall be taken using written procedures approved by the assistant city coordinator of regulatory services or the assistant city coordinator's designee. The written procedures shall conform to applicable law and shall be made available to the public upon request. (2008-Or-094, § 5, 12-12-08)

389.50. - Noise prohibited.

It shall be unlawful to make, continue or cause to be made or continued any noise in excess of the noise levels set forth in section 389.60 unless such noise is reasonably necessary to the preservation of life, health, safety or property. (Code 1960, As Amend., § 948.020)

389.60. - What constitutes violation.

(a) Activities generating sound that is ten (10) dB(C) Leq or more above the ambient noise level during the daytime or five (5) dB(C) Leq or more above the ambient noise level during the nighttime when measured within a building occupied by the complainant. All measurements pursuant to this subsection shall be made using the C-weighted network, and taken indoors with the doors and windows closed, and within the unit occupied by the complainant. If separation of low frequency noise cannot be determined with the meter using dB(C) and low frequency tones are clearly audible, a sound level measurement in terms of one-third (1/3) octave band frequencies shall be utilized. If this approach is required, a ten (10) dB(C) increase over ambient levels in any one-third (1/3) octave band due to the amplified music shall be considered a violation of this chapter.

(b) Any sound measured outside in excess of the limits as set forth in Minnesota Rules, Chapter 7030 provided that such sound is five (5) dB(A) or more above ambient noise levels.

(c) Sounds emanating from the operation of the following are exempt from the provisions of this section and section 389.65(a):

- (1) Motor vehicles on traffic ways of the city.
- (2) Aircraft in flight.
- (3) Outdoor implements, such as power lawn mowers, leaf blowers, snow blowers, power hedge clippers and power saws.
- (4) Pile drivers, jackhammers, cranes, scrapers, dump trucks, backhoes, bulldozers and other construction equipment.
- (5) Official athletic activities at outdoor stadiums owned or operated by the University of Minnesota or the Minnesota Ballpark Authority.
- (6) Lawful and properly permitted organized athletic activities on school grounds, and officially designated playgrounds used for recreation by children under supervision, and parks or places wherein athletic contests take place between the hours of 7:00 a.m. and 10:00 p.m.
- (7) Rail traffic.
- (8) Repairs and maintenance of utility structures when the utility structures pose a clear and immediate danger to life or health or significant loss of property, and the repairs and maintenance are necessary for the safety and commercial vitality of the city.
- (9) Sounds created by bells, chimes, carillons or sounds associated with religious worship no more than ten (10) minutes in any one (1) hour and no more than sixty (60) minutes in a twenty-four-hour period, between the hours of 7:00 a.m. and 10:00 p.m.
- (10) Sounds emanating from amplifying equipment that is in full compliance with a permit issued pursuant to section 389.105.

(d)

No noise shall be prohibited or restricted under the authority of this section which substantially burdens a person's exercise of religion unless it is demonstrated that application of the burden to the person is:

- (1) In furtherance of a compelling governmental interest.
 - (2) The least restrictive means of furthering that compelling governmental interest.
 - (3) Consistent with Article I, Section 16 of the Minnesota Constitution.
- (e) No noise shall be prohibited or restricted under the authority of this section which substantially limits speech unless such a prohibition or restriction:
- (1) Serves a significant governmental interest as applied in a particular case.
 - (2) As applied in the particular case there are other ample alternative channels for communication of the information.
 - (3) Application of the regulation in the particular case promotes a substantial government interest that would be achieved less effectively absent application of the regulation. (Code 1960, As Amend., § 948.030; Ord. of 9-27-74, § 1; 79-Or-036, § 1, 2-23-79; 82-Or-163, §§ 2, 3, 8-13-82; 83-Or-205, § 1, 8-26-83; 86-Or-105, § 2, 5-9-86; 97-Or-063, § 6, 7-11-97; 97-Or-067, § 1, 7-25-97; 98-Or-099, § 2, 10-2-98; 2006-Or-033, § 3, 4-28-06; 2008-Or-094, § 6, 12-12-08)

389.65. - Prohibited acts.

(a) The following acts are violations of this section, subject to enforcement through criminal, civil and administrative means:

- (1) *Noisy or unruly assembly.* Participating in, conducting, visiting, or remaining at a gathering knowing or having reason to know that the gathering is a noisy or unruly assembly, as defined in section 389.30, except person(s) who have come to the gathering for the sole purpose of abating the disturbance.
 - a. The premises at which a noisy or unruly assembly occurs shall additionally be subject to a notice of noisy or unruly assembly as further described in this section.
 - b. A notice of noisy or unruly assembly shall be sent within ten (10) business days via first class mail to the owner and/or rental license holder of record of any premises at which a noisy or unruly assembly is determined to have taken place by the Minneapolis Police Department. The Minneapolis Police Department may, upon determining that the issuance of a notice would be contrary to public policy, refrain from such issuance when emergency services were summoned by a person taking part in the noisy or unruly assembly, or when the noisy or unruly assembly was created primarily by the occurrence of an incident of domestic abuse, as that term is defined in Minnesota Statute Section 518B.01, or wholly through the actions of uninvited guests or trespassers.

1.

Each notice of noisy or unruly assembly shall state that a noisy or unruly assembly has occurred on the premises; the date, time and nature of the noisy or unruly assembly; and that the owner, rental license holder or landlord may be issued an administrative citation should police respond to any additional noisy or unruly assemblies within one hundred eighty (180) days of the date of the noisy or unruly assembly which triggered the notice. Each notice shall further state the date of expiration for the notice, which shall be one hundred eighty (180) days from the date of the noisy or unruly assembly which triggered the notice. The notice shall direct the owner, rental license holder or landlord to take steps to ensure that the premises are not used for additional noisy or unruly assemblies.

2. Right to contest issuance of notice. An owner, rental license holder or landlord who receives a notice may contest its issuance by requesting an administrative hearing pursuant to Chapter 2 of this Code. The hearing shall proceed pursuant to and be governed by the administrative hearing procedures of Chapter 2. At the hearing, the city shall bear the burden of proving by a preponderance of the evidence that a noisy or unruly assembly occurred and that the issuance of the notice was justified pursuant to the provisions of this chapter. Should the owner, rental license holder or landlord of the property affirmatively demonstrate that the issuance was based wholly upon the actions of uninvited guests or trespassers, the notice shall be deemed invalid and rescinded. An owner, rental license holder or landlord who receives a notice, may at any time petition the designated agent of the Minneapolis Police Department for a written order rescinding the notice on the grounds that he or she has taken reasonable and necessary actions, as defined in section 389.30, to prevent the occurrence of subsequent noisy or unruly assemblies. The designated agent of the Minneapolis Police Department may grant or deny the request for good cause. A denial of such a request may be contested by requesting an administrative hearing pursuant to Chapter 2 of this Code. At the hearing, the petitioner shall bear the burden of proving by a preponderance of the evidence that the petitioner has taken reasonable and necessary actions to prevent subsequent noisy or unruly assemblies at the premises. Each notice of noisy or unruly assembly shall contain a recitation of these appeal rights. In any event, the notice shall be rescinded upon the presentation of adequate verification to the Minneapolis Police Department of the final departure from the unit that triggered the notice of every resident living in that unit at the time of the incident that formed the basis for the notice.
3. The criminal, civil or administrative enforcement of this section shall not preclude any additional enforcement or application of any other provisions of this Code, including but not limited to section 244.2020, Conduct on licensed premises or section 244.1940, Denial; non-renewal; revocation; suspension.

c.

Administrative enforcement. When the police department, fire department or other emergency response personnel respond to a noisy or unruly assembly at the same premises within one hundred eighty (180) days of the date of any previous noisy or unruly assembly for which a notice of noisy or unruly assembly was served and remains valid, the owner, rental license holder or landlord of the premises shall be issued an administrative citation pursuant to Chapter 2 of this Code in an amount as specified in the schedule of civil fines as adopted by resolution of the city council. However, in no case shall any such citation be issued pursuant to this section for any noisy or unruly assembly occurring within twenty-one (21) days of the mailing of the notice.

- d. *Applicability to multiple dwellings and duplexes.* Notwithstanding subdivision (c)(1)c. of this section, when a noisy or unruly assembly occurs on a premises on which any multiple dwelling, defined in section 244.40, or duplex is located, an administrative citation shall be issued pursuant to this section only if one (1) the following circumstances has occurred:
1. A previous notice of noisy or unruly assembly has been served and remains valid for an incident occurring in the same dwelling unit in which the incident occurred that forms the basis for the administrative citation;
 2. A previous notice of noisy or unruly assembly has been served and remains valid for an incident in which any resident or guest of a resident participated, and that same resident or guest of a resident also participated in the incident that forms the basis for the administrative citation; or
 3. A previous notice of noisy or unruly assembly has been served and remains valid for an incident occurring in any nondwelling structure, common area, outdoor area, or other nondwelling area of the premises, and the incident that forms the basis for the administrative citation also occurred in any one (1) of these areas.
- (2) *Permitting noisy or unruly assembly.* Knowingly permitting real estate under one's care or control to be used for a noisy or unruly assembly, as defined in section 389.30.
- (3) *Horns and other signal devices.* The sounding of any horn or signal device on an automobile, motorcycle, bus or other vehicle, except as a danger signal or traffic warning.
- (4) *Operation of vehicles.* The use of any automobile, pickup truck, motorcycle, or other vehicle which is not reasonably maintained and which causes noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area.
- (5) *Amplified sound from vehicles.* Except as provided in section 389.105, the operation of any electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle being operated on a public street or alley, or in commercial or residential parking facilities, which is audible by any person from a distance of fifty (50) feet or more from the vehicle. When sound violating this section is produced the motor vehicle's owner, if present when the violation occurs, is in violation of this section. If the motor vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is in

violation of this section. In addition to an owner or a driver, any person who controls or assists with the production of sound violating this section is in violation of this section. Violation of this subsection is a misdemeanor. A first violation of this subsection is punishable by a fine not to exceed five hundred dollars (\$500.00), a second violation is punishable by a fine not to exceed seven hundred dollars (\$700.00), and a third violation is punishable by a fine to the maximum amount.

- (6) *Amplified sound.* The playing of any electronic device used for the amplification of sound (except as specifically permitted under section 389.105) located inside or outside, which measures five (5) dB(A) or more above ambient levels on adjacent properties, including the public right-of-way.
- (7) *Alarms.* Operating any electronic theft or burglar alarm which sounds an audible signal without an automatic shutoff device to prohibit the audible signal from sounding continually for more than five (5) minutes or the intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device except in the following circumstances:
 - a. Existence of an emergency.
 - b. Testing the device, not to exceed four (4) minutes in an hourly period, unless approved by the director when there is no reasonable alternative to exceeding four (4) minutes of testing and the testing is required by state or federal laws, rules or regulations.
 - c. The sounding of a properly maintained car alarm subject to paragraph (6) of this section.
- (8) *Solid waste collection.* The loading or unloading of a solid waste compacting vehicle, solid waste processing vehicle, solid waste collection vehicle, or recycling collection vehicle outside of an insulated building in any residentially used area except during the hours of 6:00 a.m. and 10:00 p.m.
- (9) *Sweeping and snow plowing.* The operation of a parking lot sweeping equipment in any residentially zoned area except between the hours of 6:00 a.m. and 10:00 p.m. year round. The operation of any snow and ice control equipment in any residentially zoned area except between the hours of 6:00 a.m. and 10:00 p.m. during an official snow emergency or after winter precipitation events that cause icing or snow pack conditions that must be treated or plowed to provide for public safety. The Minneapolis Department of Public Works, Minneapolis Park and Recreation Board, and Hennepin County may operate snow and ice control equipment on public streets and other public areas at any time, as it is the judgment of the city engineer that such activities are in the public interest.
- (10) *Noise control device.* Removing or rendering inoperative any noise control device or the design of a product having those devices, by any person other than for purposes of maintenance, repair or replacement.
 - (b) No noise shall be prohibited or restricted under the authority of this section which substantially burdens a person's exercise of religion unless it is demonstrated that application of the burden to the person is:

- (1) In furtherance of a compelling governmental interest.
 - (2) The least restrictive means of furthering that compelling governmental interest.
 - (3) Consistent with Article I, Section 16 of the Minnesota Constitution.
- (c) No noise shall be prohibited or restricted under the authority of this section which substantially limits speech unless such a prohibition or restriction:
- (1) Serves a significant governmental interest as applied in a particular case.
 - (2) As applied in the particular case there are other ample alternative channels for communication of the information.
 - (3) Application of the regulation in the particular case promotes a substantial government interest that would be achieved less effectively absent application of the regulation. (97-Or-063, § 7, 7-11-97; 97-Or-067, § 2, 7-25-97; 2006-Or-005, § 2, 2-10-06; 2008-Or-094, § 7, 12-12-08)

389.70. - Reserved.

Editor's note— Ord. No. 2008-Or-094, § 8, adopted December 12, 2008, repealed § 389.70, which pertained to construction, demolition and commercial power maintenance equipment. See also the Code Comparative Table.

389.80. - Outdoor implements.

Any outdoor implement such as a power lawn mower, snow blower, power hedge clipper, power saw, leaf blower, or trimmer shall be operated only between the hours of 7:00 a.m. and 10:00 p.m. No leaf blowers shall be operated by any person without a muffler. A snow blower may be operated at any time during the pendency of an official snow emergency and at any time within twenty-four (24) hours following a snowfall of one (1) inch or greater. (Code 1960, As Amend., § 948.050; 97-Or-063, § 9, 7-11-97; 2008-Or-094, § 9, 12-12-08)

389.90. - Reserved.

Editor's note— Ord. No. 2008-Or-094, § 10, adopted December 12, 2008, repealed § 389.79, which pertained to temporary crushing activities. See also the Code Comparative Table.

389.95. - Reserved.

Editor's note— Ord. No. 97-Or-063, § 10, adopted July 11, 1997, repealed § 385.95 which pertained to radios, tape and disc players, etc. See the Code Comparative Table.

389.100. - Reserved.

Editor's note— Ord. No. 2008-Or-094, § 8, adopted December 12, 2008, repealed § 389.100, which pertained to prohibited acts. See also the Code Comparative Table. (97-Or-063, § 11, 7-11-97; 98-Or-099, § 4, 10-2-98; 98-Or-124, § 1, 10-23-98; 98-Or-144, § 2, 12-4-98; 2005-Or-007, § 2, 2-11-05; 2008-Or-021, § 1, 3-21-08; 2008-Or-094, § 11, 12-12-08)

389.105. - Permits for sound amplifying equipment.

Except as provided in section 389.60(e)(5), no person shall use or maintain any outside sound amplifying equipment except under specific permit from the assistant city coordinator for regulatory services or their designee. The fees for this permit shall be as established in the director's fee schedule pursuant to section 91.70 for each calendar day for which amplified sound is played or operated subject to the following conditions:

- (1) A daytime permit is required for outside sound amplifying equipment used between the hours of 7:00 a.m. and 10:00 p.m. An extended hours permit shall be required for outside sound amplifying equipment used outside of the hours specified in this subsection and may be issued only if: (A) outside amplified sound equipment is being used as part of a large block event and is explicitly allowed by the terms of the large block event permit issued pursuant to Chapter 455 of this code; or (B) outside amplified sound equipment is being used on publicly owned and controlled property in the Central Business District, or (C) approved by the assistant city coordinator for regulatory services or the assistant city coordinator's designee.
- (2) Amplification that does not meet the limits of section 389.60 shall be limited to twelve (12) hours in any one (1) day, twenty-four (24) hours in any seven (7) day period and thirty-six (36) hours in any twenty-eight-day period for the same property. The assistant city coordinator for regulatory services, or their designee, may permit amplified sound in excess of these limitations if, and only if, the outside amplified sound equipment is being used on publicly owned and controlled property in the Central Business District.
- (3) Sound measured at fifty (50) feet from the source shall not exceed ninety (90) dB(A).
- (4) Sound measured off the property where the equipment is allowed under the permit shall never be more than fifteen (15) dB(A) above the ambient noise level.
- (5) Compliance with section 389.65 (a) and (b).

Permits shall be obtained in advance of the proposed extended hours of operation. (92-Or-122, § 1, 10-9-92; 97-Or-063, § 12, 7-11-97; 2006-Or-033, § 5, 4-28-06; 2008-Or-094, § 12, 12-12-08)

389.110. - Reserved.

Editor's note— Ord. No. 2008-Or-094, § 8, adopted December 12, 2008, repealed § 389.110, which pertained to advertising by public address system. See also the Code Comparative Table.

389.115. - Severability.

Should any of the sections, paragraphs, sentences, clauses or phrases of this chapter, title or Code of Ordinances be declared unconstitutional or invalid, at the valid judgment or decision of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of this chapter in its entirety or any of the remaining sections, paragraphs, sentences, clauses and phrases. (97-Or-063, § 13, 7-11-97)

389.120. - Penalties.

In addition to any penalties specifically provided for by the terms of this chapter, violations of the provisions of this chapter may be enforced by any one, all, or any combination of the following penalties and remedies:

- (1) Violations shall be punishable as criminal offenses as stated in section 1.30 of the Minneapolis Code of Ordinances.
- (2) Violations may be enforced as administrative offenses pursuant to chapter 2 of the Minneapolis Code of Ordinances.
- (3) This chapter may also be enforced by injunction, abatement, mandamus, or any other appropriate remedy in any court of competent jurisdiction.
- (4) The failure to comply with the terms of this chapter by the holder of any license, provisional license or permit issued pursuant to this Code shall constitute good cause for adverse action against such license, provisional license or permit. (97-Or-063, § 14, 7-11-97; 97-Or-067, § 3, 7-25-97; 98-Or-099, § 5, 10-2-98; 2008-Or-094, § 14, 12-12-08)

389.125. - Violations deemed nuisances.

Violations of this chapter are deemed a public nuisance. As an additional remedy, the city attorney may, in a court of competent jurisdiction, seek appropriate equitable relief in enforcing this chapter including, but not limited to:

- (1) Declaratory relief pursuant to Minnesota Statutes Chapter 555 or other law; and/or
- (2) Injunctive relief on either an interim or permanent basis. (97-Or-063, § 15, 7-11-97)

389.130. - Waiver of ordinance as applied.

Any person who claims that the application or threatened application of this chapter or any section of this code regulating the generation of noise to such person violates their right to freedom of speech, freedom of assembly, equal protection, or to the free exercise of their religion as secured by the Minnesota Constitution or United States Constitution, should promptly apply to the director of inspections for a waiver. Application shall be made to the director on a form provided by the director. The matter shall then be heard by the director of inspections or the director's designee or referred to a hearing officer(s) as the director may determine. After hearing the matter or receiving the report of the hearing officer(s), the director or the

director's designee shall grant such waiver to the extent necessary to eliminate the violation if the director or director's designee determines based on the reliable evidence submitted or on the report of the reliable evidence presented that application of the ordinance in such case would violate the applicant's right to freedom of speech, freedom of assembly, equal protection, or to the free exercise of the applicant's religion as secured by the Minnesota Constitution or United States Constitution, section 389.60(g) or (h) of this chapter, or section 389.65 (b)(13) of this chapter. (97-Or-063, § 16, 7-11-97; 97-Or-067, § 4, 7-25-97)

ARTICLE II. - VEHICULAR NOISE CONTROL^[4]

Footnotes:

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Cross reference— Broadcasting vehicles, Ch. 275; provisions of traffic code relative to quiet zones, § 474.120.

389.140. - Purpose and scope.

It is the purpose of these regulations to state the maximum sound levels that vehicles shall be allowed to emit when used on trafficways of the city. These regulations are intended to limit such maximum sound levels to those consistent with the physical, mental and social well-being of the people. (Code 1960, As Amend., § 948.060)

389.150. - Applicability.

- (a) These regulations shall apply to all vehicles wherever operated on the trafficways of the city.
- (b) These regulations shall apply to sounds of any time duration.
- (c) For the purpose of these regulations, those persons who are the vehicle owner(s) or operator(s) may be held responsible separately or jointly for a violation. (Code 1960, As Amend., § 948.060)

389.160. - Exemptions.

The following are exempt from the provisions of this article:

- (a) All vehicular warning devices authorized for use under the traffic code of the city.
- (b) Back-up alarm devices on trucks when installed and operated in accordance with the Society of Automotive Engineers recommended practice J994, "Criteria for Back-up Alarm Devices." (Code 1960, As Amend., § 948.060)

389.170. - Light vehicles.

No person shall operate, nor shall its owner permit the operation of a vehicle with a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or less, or any auxiliary device attached to or required for the operation of said vehicle, on any traffic way in such a manner that it emits noise at levels in

excess of the limits specified in Table A.

TABLE A
NOISE LEVEL LIMITS FOR LIGHT VEHICLES

Posted Speed Limit	Measurement	Measurement	Measurement
	Distance 25 feet	Distance 50 feet	Distance 200 feet
25 MPH or less	69 db(A)	<u>67</u> db(A)	61 db(A)
30	71	69	<u>63</u>
35	73	71	<u>65</u>
<u>40</u>	75	73	<u>67</u>
45	77	75	69
50	79	77	71
<u>55</u>	81	79	73
60 MPH or more	83	81	75

(Code 1960, As Amend., § 948.060; 2008-Or-094, § 15, 12-12-08)

389.180. - Heavy vehicles.

No person shall operate, nor shall its owner permit the operation of, a vehicle with a manufacturer's gross vehicle weight rating of more than ten thousand (10,000) pounds, or any auxiliary device attached to or required for the operation of said vehicle, on any trafficway in such a manner that it emits noise at levels in excess of the limits specified in Table B.

TABLE B
NOISE LEVEL LIMITS FOR HEAVY VEHICLES

Posted Speed Limit	Time Periods When Applicable	Measurement Distance		
		20 Feet	25 Feet	50 Feet
35 mph or less	Daytime	83 db(A)	81 db(A)	75 db(A)
	Evening	75	73	<u>67</u>
	Night, holiday, Sunday	73	71	<u>65</u>
More than 35 mph	All	83	71	75

(Code 1960, As Amend., § 948.060; 79-Or-036, § 3, 2-23-79; 79-Or-112, § 2, 5-25-79; 79-Or-210, § 2, 10-26-79; 90-Or-119, § 2, 5-11-90; 2008-Or-094, § 16, 12-12-08)

389.190. - Mufflers.

(a) No person shall operate, nor shall its owner permit the operation of, a vehicle on a traffic way with a motor the exhaust system of which has been altered, modified or repaired in such a way that the noise emitted by said motor's exhaust system is increased above that emitted by the exhaust system with which said motor came originally equipped from the manufacturer.

(b)

The burden of proof shall be on the owner and/or operator of a vehicle with an altered, modified, repaired or reconstructed motor exhaust system to submit evidence that said system meets the provisions of subsection (a) of this section. (Code 1960, As Amend., § 948.060)

389.200. - Reserved.

Editor's note— Ord. No. 2008-Or-094, § 1, adopted December 12, 2008, repealed § 389.200, which pertained to measurement of noise level. See also the Code Comparative Table.

389.210. - Sound attenuation required in Industrial Living Overlay Districts.

New construction or remodeling that involves fifty (50) percent or more of a structure located in an Industrial Living Overlay District shall require installation of sound attenuating materials for all interior occupied space. The level of sound attenuation shall be such that the measured interior sound levels will, at the time of completion of the project, be at or below the levels specified in Table A:

TABLE A

Permissible occupied interior noise levels measured with all doors and windows closed			
Daytime		Nighttime	
L ₅₀	L ₁₀	L ₅₀	L ₁₀
60 dBA	<u>65</u> dBA	50 dBA	<u>55</u> dBA

(2008-Or-094, § 18, 12-12-08)

CHAPTER 9-2. - NOISE AND AMPLIFIED SOUND.

EXHIBIT F

ARTICLE 1. - GENERAL PROVISIONS.

§ 9-2-1 - DEFINITIONS.

In this chapter:

- (1) ACCOUNTABLE OFFICIAL means the City officer or employee designated by the city manager with a particular administrative or enforcement responsibility under this chapter.
- (2) C-WEIGHTING means a frequency response adjustment of a sound level meter with a "C-weighting" filter, as defined by the American National Standards Institute, that analyzes the sound source signal with approximately equal weight to all frequencies. Measurements made with this weighting are designated "dBC."
- (3) DECIBEL means sound pressure level as measured by a sound level meter using the "A" weighting network and either the slow or fast meter response as specified by the American National Standards Institute.
- (4) GOOD NEIGHBOR POLICY means a set of good business practices required as a condition of an Outdoor Music Venue permit issued under this chapter.
- (5) MOBILE RESPONSE CODE means a two-dimensional bar code that can be read through applications available on a smartphone or other mobile device and linked to information available online.
- (6) MUSIC OFFICE means the division or working group of a city department designated by the city manager with advisory and administrative functions related to permitting of outdoor live music.
- (7) NOISE means sound which:
 - (a) is louder than that permitted in this chapter, or
 - (b) disturbs a reasonable person of normal sensibilities.
- (8) OUTDOOR MUSIC VENUE means a commercial property where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof.
- (9) RESPONSIBLE PARTY means a sound engineer, audio professional, or other person authorized to make decisions regarding the use of sound equipment permitted under this chapter.
- (10) SIXTH STREET DISTRICT means the area:
 - (a) that begins at the intersection of IH-35 and Fifth Street (East);
 - (b) north along IH-35 to the intersection of Seventh Street (East);
 - (c) west along Seventh Street (East) to Congress Avenue;
 - (d) south along Congress Avenue to Fifth Street (East);

- (e) east along Fifth Street (East) to IH-35, the place of beginning.
- (11) SOUND EQUIPMENT means a loud speaker, public address system, amplification system, or other sound producing device.
- (12) SOUND IMPACT PLAN means a plan required in connection with approval of an Outdoor Music Venue permit under Section 9-2-39 (*Outdoor Music Venue Permit*).
- (13) SPECIAL EVENTS OFFICE means the division or working group of a city department designated by the city manager with planning, coordinating, and overseeing special events requiring city approval.
- (14) SPRING FESTIVAL SEASON means Friday of the second week in March through Sunday during the third week of March, unless the city manager designates an alternate ten-day period for a particular year.
- (15) TEMPORARY CHANGE OF USE PERMIT means a permit issued by the building or fire code official to authorize a temporary increase in occupancy levels allowed by applicable technical codes for a property or structure.
- (16) TEMPORARY EVENT IMPACT PLAN means a plan required in connection with approval of a temporary event permit under Section 9-2-52 (*Temporary Event Impact Plan*).
- (17) TEMPORARY USE PERMIT means a permit issued by the Planning and Development Review Department under Chapter 25-2, Article 6 (*Temporary Uses*) to authorize a temporary activity not otherwise allowed as a principal or accessory use in a base zoning district.
- (18) WAREHOUSE DISTRICT means the area:
- (a) that begins at the intersection of Congress Avenue and Cesar Chavez Street;
 - (b) north along Congress Avenue to Fifth Street (West);
 - (c) west along Fifth Street (West) to Guadalupe Street;
 - (d) south along Guadalupe Street to Cesar Chavez Street; and
 - (e) east along Cesar Chavez Street to Congress Avenue, the place of beginning.
- (19) WATERCRAFT means a boat or other structure designed to float on water, and includes a barge, marina, or similar floating object.

Source: 1992 Code Section 10-5-1; Ord. 031023-13; Ord. 031211-11; Ord. 20090312-017; Ord. 20090226-028; Ord. 20091105-026; Ord. 20110210-029; Ord. 20110609-039; Ord. 20111215-055; Ord. 20130822-033; Ord. No. 20141106-021, Pt. 1, 11-17-14.

§ 9-2-2 - APPLICABILITY.

(A) This chapter does not apply to:

- (1) an employee of a governmental entity engaged in the employee's official duty;
- (2) a person at a stadium or ball-park during a sports event;
- (3) a person at an authorized parade or street event;

- (4) a person operating a bell for a religious activity;
 - (5) a person operating an emergency vehicle; or
 - (6) a person operating an audible warning device on a vehicle or train as required by state law.
- (B) This article does not apply to a person issued a permit that authorizes the use of sound equipment.
- Source: 1992 Code Section 10-5-2; Ord. 031023-13; Ord. 031211-11.*

§ 9-2-3 - GENERAL RESTRICTIONS.

- (A) A person may not:
- (1) use or permit the use of sound equipment at a business in excess of the decibel limits prescribed by this chapter;
 - (2) make noise or play a musical instrument audible to an adjacent business or residence between 10:30 p.m. and 7:00 a.m.;
 - (3) operate a machine that separates, gathers, grades, loads, or unloads sand, rock, or gravel within 600 feet of a residence, church, hospital, hotel, or motel between 7:00 p.m. and 6:00 a.m., except for the installation of concrete as authorized under Section 9-2-15 (*Permit for Concrete Installation During Non-Peak Hour Periods*);
 - (4) use or authorize or allow the use of a vehicle, equipment, attachment, or device associated with a vehicle, for cold hold, refrigeration, or freezing of any consumable food or beverage product, including water in any form such as consumer ice or ice used to refrigerate food or beverage, between 7 p.m. and 6 a.m. if noise or sound originating from the vehicle or any associated equipment (such as an engine or generator, equipment, attachment, trailer or device) is audible or causes vibration at a residence;
 - (5) operate sound equipment in a vehicle audible or causing a vibration 30 feet from the equipment;
or
 - (6) operate sound equipment in a watercraft audible or causing a vibration 100 feet from the equipment.
- (B) It is an affirmative defense to a violation of this section that:
- (1) the audible sound or vibration occurred when the vehicle or associated equipment or device was being actively loaded, unloaded, or serviced in a manner that complied with all applicable codes, ordinances, and regulations;
 - (2) the audible sound or vibration:
 - (a) occurred when the use of the vehicle or associated equipment or device occurred for a period of 48 hours or less on or adjacent to the premises of a business licensed by the health authority to prepare, serve, or sell consumable food or beverage items; and
 - (b)

that the use was the minimum necessary for the licensee to achieve or maintain temporary cold hold, refrigeration, or freezing of potential hazardous food products because of a documented emergency at the licensed premises, such as an equipment or utility failure or malfunction that prevented or compromised the compliant operation of equipment necessary for food safety; or

- (3) at least 48 hours in advance of the alleged conduct:
- (a) the person charged obtained consent to the noise or vibration, as described in this chapter, from at least one adult resident of each affected dwelling unit located on a property within 600 feet of the location where vibration or sound was apparent; and
 - (b) the consent was provided in writing, on a form approved by the City.
- (C) The City Manager may authorize a department to adopt rules under § 1-2 (*Adoption of Rules*) to implement, administer, enforce, or comply with Chapter 9-2.
- (D) Violation of Chapter 9-2 or any rule adopted under § 1-2 pursuant to Chapter 9-2 is a violation of City Code, chargeable as a Class C misdemeanor by a fine upon conviction not to exceed \$500. Proof of a culpable mental state is expressly waived.

Source: 1992 Code Section 10-5-3; Ord. 031023-13; Ord. 031211-11; Ord. 20080618-036; Ord. 20091105-026; Ord. 20110609-039; Ord. 20111215-055.

§ 9-2-4 - RESTRICTION ON DECIBEL LEVEL.

A person may not operate sound equipment at a business that produces sound:

- (1) in excess of 85 decibels between 10:00 a.m. and 2:00 a.m., as measured at the property line of the business; or
- (2) is audible at the property line of the business between 2:00 a.m. and 10:00 a.m.

Source: 1992 Code Section 10-5-4; Ord. 031023-13; Ord. 031211-11.

§ 9-2-5 - RESTRICTION ON USE OF SOUND EQUIPMENT IN A RESIDENTIAL AREA.

- (A) This section applies to property zoned as residential under Section 25-2-32(B) (*Zoning Districts and Map Codes*).
- (B) A person may not use sound equipment that produces sound audible beyond the property line of a residence in a residential area between 10:00 p.m. and 10:00 a.m.
- (C) A person may not use sound equipment audible beyond the property line of a residence in a residential area that produces sound in excess of 75 decibels.

Source: 1992 Code Section 10-5-5; Ord. 031023-13; Ord. 031211-11.

ARTICLE 2. - PERMITTING AND OPERATIONAL REQUIREMENTS.

Division 1. - General Provisions

§ 9-2-11 - PERMIT REQUIRED.

A person must obtain a permit to:

- (1) operate sound equipment audible to the public as prescribed by this article, Chapter 8-1, Article 4 (*Restrictions on Amplified Sound*), and Section 14-8-34 (*Permit Required for the Use of Sound Equipment*); or
- (2) deliver, finish, place, or pour concrete between 7:00 p.m. and 6:00 a.m. in the Central Business District (CBD) base zoning district at property located within 600 feet of a residence, church, hospital, hotel, or motel.

Source: Ord. 20110210-029.

§ 9-2-12 - APPLICATION REQUIREMENTS.

- (A) A person seeking a permit to operate sound equipment must complete and file a written application for a permit with the accountable official on a form approved by the accountable official and pay the application fee established by ordinance.
- (B) In addition to any other information required by this chapter, an application for a sound amplification permit must include:
 - (1) the name, address, and telephone number of the applicant;
 - (2) the address or a description of the location of the property where the sound equipment will be used;
 - (3) the time during which the sound equipment will be used;
 - (4) an application fee, if required by separate ordinance; and
 - (5) a statement that the applicant has obtained a copy of this chapter and related administrative rules and agrees to comply with all applicable requirements.

Source: Ord. 20110210-029.

§ 9-2-13 - PERMIT ISSUANCE.

Except where otherwise provided in this chapter, the accountable official shall issue a permit to a person who submits an application that meets the requirements of this chapter and pays the applicable fee.

Source: Ord. 20110210-029.

§ 9-2-14 - RESTRICTIONS ON PERMITS IMPACTING RESIDENTIAL PROPERTIES.

- (A) The limitations in this section apply to all permits for the use of sound equipment authorized under this chapter.
- (B) The accountable official may not issue a permit for use of sound equipment within 100 feet of property zoned and used as residential, except as authorized under Section 9-2-21 (*Permit for Concrete Installation During Non-Peak Hour Periods*), Chapter 8-1, Article 4 (*Restrictions on Amplified Sound*), or Section 14-8-34 (*Permit Required for the Use of Sound Equipment*).
- (C) The accountable official may issue a permit for use of sound equipment, as authorized by this chapter, for property that is:
 - (1) beyond 100 feet but within 600 feet of property that is zoned and used as residential, between:
 - (a) 10:00 a.m. and 8:00 p.m. on Sunday through Thursday;
 - (b) 10:00 a.m. and 10:00 p.m. on Friday or Saturday; or
 - (c) 10:00 a.m. and 10:00 p.m. on Sunday through Thursday and 10:00 a.m. and 12:00 midnight on Friday or Saturday based on the following factors:
 - (i) agreements with owners and tenants of nearby property;
 - (ii) agreements with representatives of affected neighborhood organizations;
 - (iii) the code compliance history of the site; and
 - (iv) public health and safety based on compatibility with adjacent land uses; and
 - (2) beyond 600 feet of property that is zoned and used as residential, between 10:00 a.m. and 2:00 a.m.

Source: Ord. 20110210-029; Ord. 20120308-036; Ord. 20121018-024.

§ 9-2-15 - RESTRICTIONS ON MULTIPLE PERMITS FOR A SINGLE PROPERTY.

- (A) Except as otherwise provided under Chapter 8-1, Article 4 (*Restrictions on Amplified Sound*) or Section 9-2-21 (*Permit for Concrete Installation During Non-Peak Hour Periods*), the accountable official may not issue more than one sound amplification permit under this chapter for the same site or property within 30 days.
- (B) In calculating the number of days under Subsection (A) of this section, the first day is the day after expiration of the most recent sound amplification permit issued for the property.

Source: Ord. 20110210-029.

§ 9-2-16 - FEES.

The city council may establish application and permit fees by separate ordinance.

Source: Ord. 20110210-029.

§ 9-2-17 - ADMINISTRATIVE RULES.

The director may adopt administrative rules to implement the requirements of this chapter with Chapter 2-1 (Administrative Rules).

Source: Ord. 20110210-029.

Division 2. - Non-Music Sound Permits.

§ 9-2-21 - PERMIT FOR CONCRETE INSTALLATION DURING NON-PEAK HOUR PERIODS.

- (A) Subject to the limitations in Subsections (B) and (C) of this section, the director may issue a permit authorizing an applicant to deliver, place, or pour concrete during the non-peak hour period of 7:00 p.m. to 2:00 a.m. or, in special circumstances of limited duration, from 7:00 p.m. to 6:00 a.m., at property that is located within:
- (1) the Downtown Density Bonus area identified in Section 25-2-586(B) (*Downtown Density Bonus Program*) and one of the following zoning districts:
 - (a) the Central Business District (CBD) base zoning district; or
 - (b) the Public (P) zoning district; and
 - (2) 600 feet of a residence, church, hospital, hotel, or motel.
- (B) The director may issue a permit under subsection (A) of this section only if the director determines that the delivery, finishing, placement, or pouring of concrete during non-peak hour periods is in the interest of public health, safety, or welfare or is justified by urgent necessity.
- (C) A permit issued under this section must state the duration during which the authorized activity may occur, which may not exceed 72 hours.
- (D) In addition to information required by Section 9-2-12 (*Application Requirements*) an application to deliver, finish, place, or pour concrete during non-peak hour periods under Section 9-2-22 (*Restrictions on Permit*) must include:
- (1) the name, address, and telephone number of the applicant;
 - (2) the address or a description of the location of the property where the work will be performed; and
 - (3) the amount of time, up to 72 hours, needed to complete the work and the reason why the work cannot be completed during normal business hours.
- (E) To mitigate possible impacts and minimize disruptions to adjacent residential and commercial uses, the director shall require a permit applicant to:
- (1) contact adjacent property owners located next door or across the street, and representatives of property owners or residents within 600 feet, to inform them when the non-peak pour will occur and the duration of the project;
 - (2)

provide 24-hour contact information for the individual with primary responsibility for the project to adjacent property owners located next door or across the street, to representatives of property owners or residents within 600 feet, and to city staff; and

- (3) provide a sound and light mitigation plan, which must:
 - (a) identify where concrete trucks will queue to ensure minimal disruption to adjacent residences and businesses;
 - (b) locate the concrete pump and if necessary, relocate it to a location that will minimize disruption to adjacent residential uses;
 - (c) shield after-hour lighting associated with the concrete installation from adjacent residential uses; and
 - (d) require such other actions as the director determines are reasonably necessary to protect public health, safety, and welfare and to ensure reasonable expectations of a sound environment that does not preclude sleep.
- (F) Concrete finishing is permitted from 7:00 p.m. to 6:00 a.m., provided that it does not include delivery, placement, or pouring.
- (G) If an application for a building permit was submitted prior to December 1, 2014, the director shall:
 - (1) permit delivery, placement, or pouring of concrete in connection with construction of that building during the non-peak hour period of 7:00 p.m. to 6:00 a.m.; and
 - (2) require a sound and light mitigation plan, as provided in Subsection (E)(3) of this section.
- (H) The director shall adopt rules governing the "special circumstances" in which overnight concrete pours may be extended to 6:00 a.m., as provided in Subsection (A) of this section. Such rules shall, at a minimum, limit the number of overnight pour permits that may be issued for a project over a period of time and include restrictions on the days for which such permits may be issued.

Source: Ord. 20110210-029; Ord. No. 20141120-056, Pt. 1, 12-1-14.

Editor's note— Part 3 of Ordinance No. 20141120-056 is amended by Ord. No. 20150618-094 to state, "This ordinance expires on September 30, 2015."

§ 9-2-22 - PERMIT FOR SOUND EQUIPMENT ON VEHICLE.

- (A) The accountable official may issue a permit under this section for the use of sound equipment attached to or mounted on a vehicle, provided that the permit is limited to:
 - (1) 10:00 a.m. and 8:00 p.m. on Monday through Saturday; or
 - (2) 12:00 noon and 6:00 p.m. on Sunday.
- (B) A permit issued under this section is valid for a 24-hour period.

Source: Ord. 20110210-029.

§ 9-2-23 - PERMIT FOR OTHER PROPERTY.

A permit for the use of sound equipment not otherwise authorized by this division may be issued for a period of up to 24 hours, subject to the restrictions in Division 1 (*General Provisions*), except that a permit for an outdoor live music permit may only be issued in accordance with Division 3 (*Outdoor Music Permits*) of this article.

Source: Ord. 20110210-029.

§ 9-2-24 - ADMINISTRATIVE APPEALS.

- (A) If the accountable official denies an application for a sound permit under this division, an applicant may appeal the director's decision to the city manager under the requirements of this section.
- (B) An appeal must be filed with the city manager, in writing, no later than the 10th day after the date the decision is issued and must describe the decision being appealed and the specific grounds for the appeal.
- (C) No later than the 30th day after receiving a request for an appeal, the city manager shall schedule a hearing to consider the appeal.
- (D) The city manager may sustain, reverse, or modify the action appealed. The city manager's decision is final.

Source: Ord. 20110210-029.

Division 3. - Outdoor Music Permits.

Subpart A. - General Provisions

§ 9-2-30 - DECIBEL LIMITS FOR OUTDOOR MUSIC.

- (A) Unless a more restrictive decibel limit is required by a temporary event impact plan, a condition on an outdoor music venue permit, or by another provision of this code, sound equipment for which a permit has been issued under Subpart B (*Live Music Permits*) may be operated at the following decibel levels:
 - (1) Up to 85 decibels between 10:00 a.m. and:
 - (a) 10:30 p.m. on Sunday through Wednesday;
 - (b) 11:00 p.m. on Thursday; or
 - (c) 12:00 midnight on Friday or Saturday.
 - (2) Up to 85 decibels at an outdoor music venue with an occupancy capacity of 600 or fewer people located in the Warehouse District or Sixth Street District, between 10:00 a.m. and 2:00 a.m.
 - (3) Up to 85 decibels during the spring festival season, between 10 a.m. and 2 a.m.
- (B) In addition to the requirements of Subsection (A) of this section, use of sound equipment at an outdoor music venue is:

- (1) limited to 70 decibels if the venue is associated with a restaurant (general) use, as prescribed under Section 25-2-808 (*Restaurants and Cocktail Lounges*), and the hours of operation prescribed under Subsection (A) of this section; and
 - (2) subject to the decibel limits prescribed under Section 25-2-583 (*Commercial Recreation (CR) District Regulations*), if located in a commercial recreation district.
- (C) The decibel limits prescribed under this section must be measured with a decibel meter approved by the music office.

Source: Ord. 20110210-029; Ord. 20110303-012.

§ 9-2-31 - ADDITIONAL APPLICATION REQUIREMENTS.

- (A) In addition to the requirements in Section 9-2-12 (*Application Requirements*), an application for a permit requiring a temporary event impact plan must address:
- (1) each of the elements required by Section 9-2-52 (*Temporary Event Impact Plan*), including conditions or restrictions proposed by the applicant beyond those required under this chapter;
 - (2) the size of the venue and anticipated attendance; and
 - (3) whether the sale or consumption of alcohol will be allowed at the event.
- (B) An application for a permit under Section 9-2-38 (*Multi-Day Special Event Permit*) may be submitted no later than 30 days prior to the start of a proposed multi-day event.
- (C) The accountable official may require additional information, including a certified list of all property owners entitled to notice under Section 9-2-54 (*Notice of Application*) if ownership records are available through an automated database maintained by the county tax appraisal district.
- (D) Within 14 days after notice is provided under Section 9-2-54 (*Notice of Application*), an applicant for an outdoor music permit may voluntarily revise the application to request a permit of shorter duration. A revision under this section does not require additional notice.

Source: Ord. 20110210-029; Ord. 20111215-055.

§ 9-2-32 - NOTICE SIGN REQUIREMENTS FOR LIVE MUSIC PERMITS.

- (A) The owner or operator of a site or property for which a permit has been issued under Section 9-2-38 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Permit for an Outdoor Music Venue*) shall:
- (1) prominently post signs that include the information required under Subsection (B) of this Section; and
 - (2) keep copies of the permit and associated sound impact plan on-site and make them available for inspection.
- (B) The accountable official shall adopt requirements, in accordance with Chapter 1-2 (*Adoption of Rules*), governing the design, placement, and size of signs to be posted at all outdoor music venues. At a minimum, the signs shall specify the following:

- (1) the name and address of the site or property and the type of live music permit issued;
- (2) the name and address of the owner or operator of the site or property;
- (3) the decibel limits for operation of sound equipment at the site or property;
- (4) the hours during which sound equipment may be used at the site or property;
- (5) the date on which the permit for the site or property expires; and
- (6) if applicable, a mobile response code that links to the sound impact plan or temporary event impact plan required in connection with the amplified sound permit.

Source: Ord. 20130822-033; Ord. No. 20141106-021, Pt. 2, 11-17-14.

Subpart B. - Live Music Permits.

§ 9-2-35 - APPLICABILITY.

A live music permit is required under this subpart to use sound equipment for outdoor music that involves the amplification of sound from instruments, vocal and instrument microphones, turntables, and digital or analog devices used as part of a performance requiring human operation from song to song.

Source: Ord. 20110210-029.

§ 9-2-36 - TYPES OF LIVE MUSIC PERMITS.

Permit Type	Duration, Hours, and Decibel Levels	Event Impact Plan	Notice & Appeal
<u>Section 9-2-37:</u> 24-Hour Live Music	1-day permit, with hours of operation and decibel levels per <u>Sec. 9-2-30</u> , unless modified by accountable official.	Temporary Event Impact Plan required per <u>Sec. 9-2-52</u> .	-
<u>Section 9-2-38:</u> Multi-Day	4-day permit, with hours of operation and decibel levels per <u>Sec. 9-2-30</u> unless modified by the accountable	Temporary Event Impact	Notice per <u>Sec. 9-2-54</u> . Appeals per <u>Sec. 9-2-56</u> .

Special Event	official.	Plan required per <u>Sec. 9-2-52</u> .	
<u>Section 9-2-39:</u> Outdoor Music Venue	1-year permit, with hours of operation per <u>Sec. 9-2-30</u> unless modified by the accountable official.	Sound Impact Plan required per <u>Sec. 9-2-41</u> .	Notice per <u>Sec. 9-2-54</u> . Appeals per <u>Sec. 9-2-56</u> .

Source: Ord. 20110210-029; Ord. 20111215-055; 20130822-033.

§ 9-2-37 - 24-HOUR LIVE MUSIC PERMIT.

- (A) The accountable official may issue a 24-hour permit authorizing the use of sound equipment for outdoor music, subject to the requirements of Divisions 1 (*General Provisions*) and 3 (*Outdoor Music Permits*) of this article.
- (B) A permit under this section requires a temporary event impact plan under Section 9-2-51 (*Temporary Event Impact Plan*).
- (C) An application for a 1 day permit under the section must be submitted at least 21 days prior to the date of the proposed event.

Source: Ord. 20110210-029; Ord. 20111215-055.

§ 9-2-38 - MULTI-DAY SPECIAL EVENTS PERMIT.

- (A) The accountable official may issue a multi- day special event permit authorizing the use of sound equipment subject to the requirements of this section and Divisions 1 (*General Provisions*) and 3 (*Outdoor Music Permits*) of this article.
- (B) A permit issued under this section may authorize the use of sound equipment at a site or property for no more than four consecutive or non-consecutive days during a 30-day period.
- (C) No more than one permit may be issued under this section for the same site or property during the Spring Festival Season.
- (D) The use of sound equipment at the same site or property may not be authorized under this section for more than 16 days per calendar year. No more than four days may be consecutive for each permit.

- (E) A permit may not be issued for a site or property under this section unless any required temporary use or temporary change of use permit has been obtained.
- (F) A permit may not be issued under this section for a site or property that is used as a parking lot unless the lot is leased by an adjacent commercial structure.
- (G) A permit may not be issued under this section without the approval of a temporary event impact plan under Section 9-2-52 (*Temporary Event Impact Plan*).
- (H) Notice of an application under this section shall be provided in accordance with Section 9-2-54 (*Notice of Application*).
- (I) A decision by the accountable official to approve or deny a permit under this section may be appealed under Section 9-2-56 (*Administrative Appeal*).

Source: Ord. 20110210-029; Ord. 20111215-055.

§ 9-2-39 - OUTDOOR MUSIC VENUE PERMIT.

- (A) The accountable official may issue a 1-year permit authorizing the use of sound equipment for outdoor music on an ongoing basis, subject to the requirements of this section and Divisions 1 (*General Provisions*) and 3 (*Outdoor Music Permits*) of this article.
- (B) The accountable official shall provide notice of an application under this section in accordance with Section 9-2-54 (*Notice of Application*).
- (C) A decision by the accountable official to approve or deny a permit under this section may be appealed under Section 9-2-56 (*Administrative Appeal*).

Source: Ord. 20110210-029.

§ 9-2-40 - GOOD NEIGHBOR POLICY.

- (A) The purpose of the Good Neighbor Policy is to maintain the safety, quiet, and cleanliness of the area surrounding an Outdoor Music Venue.
- (B) A permit holder, as a condition of the Outdoor Music Venue permit, must comply with the requirements set forth in the Good Neighbor Policy.
- (C) The Good Neighbor Policy shall be adopted by rule in accordance with Chapter 1-2 (*Adoption of Rules*).

Source: Ord. 20130822-033.

§ 9-2-41 - SOUND IMPACT PLAN.

- (A) A sound impact plan is required for a permit issued under Section 9-2-39 (*Permit for an Outdoor Music Venue*).
- (B) The elements of a sound impact plan are:
 - (1) sound-mitigating design features;

- (2) prescribed decibel levels and hours of operating;
 - (3) availability and use of decibel meters on site;
 - (4) contact information and hours of availability for an individual responsible for sound;
 - (5) location for display of permit; and
 - (6) any other elements required by the accountable official.
- (C) After a permit has been issued, the accountable official may modify a sound impact plan. A sound impact plan may not be modified until a notice of intent to modify the sound impact plan has been provided to the permit holder.

Source: Ord. 20130822-033.

Subpart C. - Review, Notification, and Appeal.

§ 9-2-50 - MUSIC OFFICE REVIEW.

- (A) Within three (3) days of receiving an application for any of the following permits, the accountable official shall forward the application to the music office for review under this section:
- (1) Section 9-2-37 (*24-Hour Live Music Permit*);
 - (2) Section 9-2-38 (*Multi-Day Special Event Permit*); and
 - (3) Section 9-2-39 (*Outdoor Music Venue Permit*).
- (B) After receiving an application from the accountable official under Subsection (A) of this section, the music office shall conduct an appropriate level of investigation based on the type of permit sought and its potential impacts to the surrounding community. The investigation may include on-site inspections and sound measurements, discussions with nearby residents and business owners, and any additional research relevant to assessing potential impacts. For an event on city parkland for which review is required under Section 8-1-41 (*Use of Sound Equipment*), the music office shall coordinate its review and investigation with the director of the Parks and Recreation Department.
- (C) After conducting an investigation under Subsection (B) of this section, the music office shall prepare a report recommending approval or denial of the application and any appropriate conditions and restrictions. If necessary to protect public health and safety, the music office may recommend heightened restrictions for one or more of the following that exceed the standards required under Section 9-2-30 (*Decibel Limits for Outdoor Music*) or other provisions of this chapter:
- (1) limits on attendance and capacity;
 - (2) decibel limits, which may include a requirement to use C-weighting in addition to standard decibel measurements; and
 - (3) hours of operation.
- (D) The music office shall base its report under Subsection (C) of this section on the following factors:

- (1) suitability of the site for outdoor music based on topography and proximity to existing and future residential, commercial, and civic uses;
- (2) size and capacity of the site or venue covered by the permit;
- (3) sound-mitigating design features proposed in the application, including building design, stage construction and orientation, buffering, size, location, and orientation of speakers;
- (4) restrictions on decibel levels or hours of operation proposed by the applicant, if any, beyond those required by this chapter for the permit sought;
- (5) ownership and operation of decibel meters;
- (6) availability of a responsible party, as defined in Section 9-2-1 (Definitions), to attend and monitor outdoor music events;
- (7) potential for additional sound mitigation; and
- (8) history of noise complaints and violations at the site, as verified by the chief of police or the accountable official.

Source: Ord. 20110210-029; Ord. No. 20141106-021, Pt. 3, 11-17-14; Ord. No. 20141106-022, Pt. 2, 11-17-14

§ 9-2-51 - ADDITIONAL REVIEW FOR TEMPORARY EVENTS.

- (A) For an application under Section 9-2-37 (24-Hour Live Music Permit) or Section 9-2-38 (Multi-Day Special Event Permit), the special events office shall work directly with the music office in the review and recommendation required under Section 9-2-50 (Music Office Review).
- (B) In addition to the factors specified under Section 9-2-50 (Music Office Review), the music office and the special events office shall consider the following factors in reviewing an application under this section:
 - (1) anticipated attendance, based on event capacity and promotion;
 - (2) likely impacts on traffic and public right-of-way;
 - (3) availability of parking and loading for motor vehicles and parking for bicycles;
 - (4) adequacy of planning for security and emergency services;
 - (5) level of event insurance coverage;
 - (6) availability of food and alcohol;
 - (7) cumulative impacts of events in the vicinity of the proposed event, for which permits have been issued or applications submitted; and
 - (8) public health and safety.

Source: Ord. 20110210-029.

§ 9-2-52 - TEMPORARY EVENT IMPACT PLAN.

- (A) A temporary event impact plan approved by the music office and the special events office is required under this section for applications under Section 9-2-37 (*24-Hour Live Music Permit*) or Section 9-2-38 (*Multi-Day Special Event Permit*).
- (B) A temporary event impact plan must be based on the findings and recommendations under Section 9-2-50 (*Music Office Review*) and Section 9-2-51 (*Additional Review for Temporary Events*) and must include the following elements:
- (1) Appropriate restrictions for:
 - (a) stage construction and orientation;
 - (b) size, location, and orientation of speakers;
 - (c) appropriate sound buffering; and
 - (d) on-site decibel meters.
 - (2) A statement of all code requirements applicable to the permit under Division 1 (*General Provisions*) and Division 3 (*Outdoor Music Permits*) of this chapter.
 - (3) Identification and contact information of one or more responsible parties to be present at events requiring the use of sound equipment.
- (C) If necessary to protect public health and safety, the Music Office may require a temporary event impact plan to include heightened restrictions for one or more of the following that exceed the standards required under Section 9-2-30 (*Decibel Limits for Outdoor Music*) or other provisions of this chapter:
- (1) limits on attendance and capacity;
 - (2) decibel limits, which may include a requirement to use C-weighting in addition to standard decibel measurements; and
 - (3) hours of operation.
- (D) Unless the applicant agrees to additional time or the music office recommends denial of the application, the music office shall provide a recommended temporary event impact plan to the accountable official within thirty (30) days after receiving the application under Section 9-2-50 (*Music Office Review*).

Source: Ord. 20110210-029; Ord. 20111215-055; Ord. No. 20141106-021, Pt. 4, 11-17-14.

§ 9-2-53 - DECISION ON APPLICATION.

- (A) The accountable official shall approve an application under Section 9-2-37 (*24-Hour Live Music Permit*), Section 9-2-38 (*Multi-Day Special Event Permit*), or Section 9-2-39 (*Outdoor Music Venue Permit*) if:
- (1) the music office and the special events office have recommended a temporary event impact plan under Section 9-2-52 (*Temporary Event Impact Plan*), if applicable; and
 - (2) the accountable official finds that the conditions included in the temporary event impact plan or other recommendation of the music office are sufficient to:
 - (a)

- mitigate adverse impacts of the proposed venue on adjacent residential, commercial, and civic uses; and
- (b) protect the health and safety of residents living in areas adjacent to the proposed event or venue.
- (B) If the accountable official finds that an application does not meet the requirements in Subsection (A) of this section, the accountable official shall:
- (1) request that the music office reconsider its recommendation to include additional restrictions;
 - (2) approve the application subject to additional conditions and restrictions that the accountable official determines are sufficient to meet the requirements in Subsection (B) of this section; or
 - (3) deny the application.
- (C) The accountable official may not deny an initial permit for an outdoor music venue located within the footprint of a restaurant (general) use under Section 25-2-808 (*Restaurants and Cocktail Lounges*), but the accountable official may:
- (1) impose conditions on the permit, as provided in Subsection (B)(2) of this section; and
 - (2) deny an application to renew the permit under Section 9-2-62 (*Denial of Permit for Repeated Offenses*) based on repeated violation of applicable decibel limits.
- (D) A decision under this section must:
- (1) be in writing;
 - (2) describe conditions of approval, including requirements of the temporary event impact plan; or
 - (3) be mailed to the applicant and any interested party within three days after the decision is issued, per the requirements of Section 9-2-54 (*Notice of Application*).
- (E) The accountable official may not issue a decision under this section earlier than the 14th day after the date that notice of the application is provided under Section 9-2-54 (*Notice of Application*).

Source: Ord. 20110210-029; Ord. 20121018-024.

§ 9-2-54 - NOTICE OF APPLICATION.

- (A) Not later than the 14th day after receiving an application under Section 9-2-38 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Outdoor Music Venue Permit*), the accountable official shall provide notice of the application under this section.
- (B) Except as provided in Subsection (C) of this section, the accountable official shall mail notice to:
- (a) the applicant;
 - (b) notice owner of a single-family use located within 600 feet of the site or property included in the application;
 - (c) notice owner of a multi-family use located adjacent to the site or property included in the application; and
 - (d)

registered neighborhood organizations whose declared boundaries are within 600 feet of the site or property included in the application.

- (C) If the application is for renewal of an existing permit under Section 9-2-39 (*Outdoor Music Venue Permit*), the accountable official shall mail notice to:
- (1) the applicant;
 - (2) notice owner of a single-family use located within 600 feet of the property; and
 - (3) registered neighborhood organizations whose declared boundaries are within 600 feet of the site or property included in the application.
- (D) Notice required under this section must:
- (1) describe the general nature of the application;
 - (2) identify the applicant and the location of the site or property included in the application;
 - (3) describe:
 - (a) the venue and duration of proposed events;
 - (b) the size of the venue and anticipated attendance; and
 - (c) whether the sale or consumption of alcohol will be allowed at the event;
 - (4) provide contact information for the accountable official and the music office;
 - (5) state the earliest date that a decision on the application may be made; and
 - (6) describe the requirements for becoming an interested party and for appealing a decision on the application.
- (E) Notice required under this section is effective on the date a letter is deposited in a depository of the U.S. Post Office, postage paid, and addressed to:
- (1) an applicant, by mailing notice to the property owner or agent at the address shown on the application or on a written change of address form filed with the responsible director or building official;
 - (2) a notice owner of real property, by mailing notice to the owner shown on the records of the county tax appraisal district;
 - (3) a record owner of real property, by mailing notice to the owner at the street address of the property or, if the property does not have a street address, to the return address shown on the deed; and
 - (4) a neighborhood or environmental organization, by mailing notice to the agent or officer of the organization at the mailing address specified in the City's community registry.
- (F) Notice by hand delivery may be substituted for notice by mail if the addressee provides a receipt of delivery.
- (G) The accountable official shall forward notice provided under this section to appropriate City staff, including but not limited to the Austin Police Department, Special Events Unit; Transportation Department, Right of Way Management Division; and Austin Fire Department, Fire Marshall.

Source: Ord. 20110210-029; Ord. 20111215-055.

§ 9-2-55 - INTERESTED PARTIES.

- (A) Except as provided in subsection (B), a person is an interested party for an application requiring notice under Section 9-2-54 (*Notice of Application*) if the person:
- (1) is the applicant or the record owner of property for which the permit is sought; or
 - (2) communicates an interest in the application and is:
 - (a) an individual entitled to notice under Section 9-2-54 (*Notice of Application*); or
 - (b) a representative of a neighborhood organization entitled to notice under Section 9-2-54 (*Notice of Application*).
- (B) A person communicates an interest in a proposed outdoor music venue for purposes of Subsection (A) (2) of this section by communicating his or her concerns, in writing or by phone, to the accountable official. The communication must:
- (1) generally identify the issues of concern;
 - (2) include the person's name, telephone number, and mailing address;
 - (3) be delivered before the earliest date on which action on the application may occur under Subsection 9-2-53(G) (*Decision on Application*); and
 - (4) if the communication is by telephone, be confirmed in writing not later than seven days after the earliest date that a decision on the application can be made under Subsection 9-2-53(G) (*Decision on Application*).

Source: Ord. 20110210-029; Ord. 20121018-024.

§ 9-2-56 - ADMINISTRATIVE APPEAL.

- (A) Except as provided in Subsection (E) of this section, an interested party may appeal a decision by the accountable official on an application for a permit under Section 9-2-38 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Outdoor Music Venue Permit*).
- (B) An appeal under this section must be filed with the accountable official, in writing, no later than the 14th day after the date the decision is issued and must describe the decision being appealed and the specific grounds for the appeal.
- (C) Unless otherwise agreed to by the parties, a public hearing on an appeal shall be held at the earliest council meeting for which notice of the hearing can be timely provided.
- (D) At any time prior to an appeal hearing, the accountable official may revise a permit to include conditions agreed to by the parties that are within the scope of the accountable official's authority under this chapter.
- (E) In deciding an appeal, the city council may uphold, reverse, or modify a decision of the accountable official, including the requirements and conditions of a multi-day special event permit.

- (F) A neighborhood organization may not appeal a decision to approve a permit for property located within the following boundaries:
- (1) Eastern boundary: I-35;
 - (2) Southern boundary: the northern shore of Lady Bird Lake;
 - (3) Western boundary: north along the eastern shore of Shoal Creek, north along West Avenue to 7th Street, east along 7th Street to Lavaca Boulevard, north along Lavaca Boulevard to 11th Street; and
 - (4) Northern boundary: 11th Street.

Source: Ord. 20110210-029.

§ 9-2-57 - DENIAL OF PERMIT FOR REPEAT OFFENSES.

- (A) The accountable official may refuse to issue a permit to an applicant or to renew an existing permit if:
- (1) The permit holder is convicted of more than two violations of a permit issued under this chapter; or
 - (2) The property where the sound equipment will be used is the location of more than two violations of a permit issued under this chapter.
- (B) The accountable official may not issue a permit to an applicant if the accountable official or, after an appeal, the city council, revoked a prior permit issued under this chapter in the preceding six months.

Source: Ord. 20130822-033.

ARTICLE 3. - PENALTIES AND ENFORCEMENT.

§ 9-2-61 - OFFENSES.

- (A) A person commits an offense if the person makes noise or uses sound equipment in violation of a provision of this chapter or a sound impact plan or temporary event impact plan required under this chapter.
- (B) An offense under this chapter is a Class C misdemeanor, punishable by a fine up to \$500.
- (C) A culpable mental state is not required for the commission of an offense under this chapter.
- (D) Each occurrence of a violation of this chapter is a separate offense.
- (E) A violation of this chapter is a nuisance. The prosecution of an offense under this chapter does not limit the City's right to abate the nuisance, including the use of injunctive relief.

Source: Ord. 20130822-033; Ord. No. 20141106-021, Pt. 5, 11-17-14.

§ 9-2-62 - ENFORCEMENT POLICIES.

The police chief may adopt enforcement policies to measure sound levels under this chapter in accordance with Chapter 1-2 (Adoption of Rules).

Source: Ord. 20130822-033.

§ 9-2-63 - SUSPENSION OF A PERMIT.

- (A) The accountable official may suspend a permit if the official determines that:
- (1) the permit was issued in error; or
 - (2) at least four documented violations of the Temporary Event Impact Plan or Sound Impact Plan have occurred within a 45-day period.
- (B) A suspension is effective for up to two weeks.

Source: Ord. 20130822-033.

§ 9-2-64 - REVOCATION OF A PERMIT.

- (A) The accountable official may immediately revoke a permit issued pursuant to Section 9-2-38 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Permit for an Outdoor Music Venue*) that has been suspended if the accountable official determines that the Temporary Event Impact Plan or Sound Impact Plan have been violated:
- (1) during the suspension; or
 - (2) within six months after the end of the suspension.
- (B) A permit holder may appeal a revocation not later than 10 calendar days after the date of the revocation.
- (C) A notice of appeal must be on a form prescribed by the accountable official and must include:
- (1) the name, address, and telephone number of the appellant;
 - (2) the name, address, and telephone number of the venue; and
 - (3) the reasons the appellant believes the decision does not comply with the requirements of this chapter.
- (D) The city council shall hear the appeal at the next available scheduled meeting following seven days after the receipt of the notice of appeal.
- (E) A revocation order remains in effect during the pendency of an appeal under this section.

Source: Ord. 20130822-033.

§ 9-2-65 - NOTICE OF INTENT TO SUSPEND A PERMIT.

- (A) The accountable official may give notice to the permit holder of the official's intent to suspend a permit issued under Section 9-2-38 (*Multi-Day Special Event Permit*) or Section 9-2-39 (*Permit for an Outdoor Music Venue*).
- (B) The notice may include one or more of the following:
- (1) proposed modifications to the sound impact plan; or

(2) the time, date, and place for a mandatory meeting between the permit holder and City personnel.

Source: Ord. 20130822-033.

City of Hastings

City Council Memorandum

To: Mayor Hicks & City Councilmembers
From: Paul P. Schnell, Chief of Police & Dan Fluegel, City Attorney
Date: May 3, 2011
Item: Proposed change to City Noise Ordinance

Council Action Requested:

Initiate the consideration and public hearing to consider proposed changes to the City's Noise Ordinance, which will enhance the ability of the police department and prosecuting authority to take enforcement action.

Background Information:

Over the past several years, police department staff noted an increase in the number of noise complaints adversely impacting the livability and quality of life in City neighborhoods. Frequently, these complaints stem from loud car stereos, motor vehicle or motor cycle exhaust systems, or from dwellings where amplified music is being played. Nearly everyone has had the experience of being in their vehicle with the windows closed conversing with other occupants and another vehicle several car lengths away is playing music so loud that it disrupts or impedes the private conversation in the car. At present, if this occurs between the hours of 7 AM and 10 PM there is little police officers can do to intervene since the current law is time specific. To address these concerns and maximize clarity of expectation with regard to noise, the Hastings Police Department in conjunction with the Hastings City Attorney reviewed alternative noise ordinance language. The goal was to identify and propose language that could be easily communicated, understood, and enforced.

The essence of the change is that it is distance and volume specific, but does not demand a complex burden of proof. The simplicity of the proposed language serves as a benefit to City enforcement officials, as well as, members of the public as the expectations are articulable and understandable.

You will notice that the changes we propose are limited to certain types of noise. We recommend no change to the existing 95.23 (V) (2), which will be renumbered and relates to expectations around the use of power equipment, refuse hauling, or construction activities. The types of noise generated by those activities would continue to be time specific. No change is proposed to this section as staff have not noted significant or compelling problems with the current language and no evidence exists suggesting that a change would serve a broader public good.

Financial Impact:

No adverse impact.

Advisory Commission Discussion:

None

Council Committee Discussion:

None

Attachments:

Draft noise ordinance language changes

CITY OF HASTINGS, MINNESOTA

ORDINANCE NO. 2011-___, THIRD SERIES

An Ordinance of the City of Hastings Regulating Public Nuisances
Affecting Peace and Safety

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HASTINGS:

HASTINGS CITY CODE CHAPTER 95, SECTION 95.23 IS HEREBY AMENDED AS FOLLOWS (new language is underlined, strikethrough language is deleted):

§ 95.23 Public Nuisances Affecting Peace and Safety.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 48 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

~~(D) All obnoxious noises in violation of Minn. Rules, Chapter 7030, as it may be amended from time to time, which are hereby incorporated by reference into this code;~~

~~—(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;~~

~~—(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;~~

~~—(G) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to~~

do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

~~(D)~~ ~~(H)~~ Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under conditions as are permitted by this code or other applicable law;

~~(E)~~ ~~(I)~~ Radio aerials or television antennae erected or maintained in a dangerous manner;

~~(F)~~ ~~(J)~~ Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic, and the free use of the street or sidewalk;

~~(G)~~ ~~(K)~~ All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

~~(H)~~ ~~(L)~~ The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

~~(I)~~ ~~(M)~~ Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;

~~(J)~~ ~~(N)~~ All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

~~(K)~~ ~~(O)~~ Waste water cast upon or permitted to flow upon streets or other public properties;

~~(L)~~ ~~(P)~~ Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from accumulation;

~~(M)~~ ~~(Q)~~ Any well, hole, or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

~~(N)~~ ~~(R)~~ Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;

~~(O)~~ ~~(S)~~ The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

~~(P)~~ ~~(T)~~ The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

~~(Q)~~ ~~(U)~~ All other conditions or things which are likely to cause injury to the person or property of anyone;

~~(R)~~ ~~(V)~~ (1) *Prohibited Noises.*

(a) *General Prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section. All noises in violation of the Minnesota Pollution Control Agency Rules, Chapter 7030, as they may be amended from time to time, which are hereby incorporated by reference into this code, are prohibited.

~~(b) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.~~

~~(c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.~~

~~(d) *Radios, phonographs, paging systems, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.~~

~~(e) *Schools, churches, hospitals, and the like.* No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of the institution.~~

(b) *Nuisance Factors-Noises.* The characteristics and conditions which shall be considered in determining whether a noise unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value for the purposes of paragraph (a) of this subsection, shall include, without limitation, the following:

- (i) The time of day or night when the noise occurs;
- (ii) The duration of the noise;
- (iii) The proximity of the noise to a sleeping facility, residential area, church, school, institution of learning or hospital;

- (iv) The land use, nature and zoning of the area from which the noise emanates and the area where it is perceived;
- (v) The number of people and their activities that are affected or are likely to be affected by the noise; and
- (vi) The sound peak pressure level of the noise, in comparison to the level of ambient noise.

(c) Noisy Assembly.

- (i) Defined. The term "noisy assembly" shall mean a gathering of more than one person in a residentially zoned or used area or building that would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities present in the area, considering the time of day and the residential character of the area, due to loud, disturbing or excessive noise.
- (ii) Permitting Noisy Assembly. It shall be a violation of this section for any person having dominion, care or control of a residentially zoned or used area or building knowingly to permit a noisy assembly.
- (iii) Remaining at a Noisy Assembly. It shall be a violation of this section to participate in, visit or remain at a gathering knowing or having reason to know that the gathering is a noisy assembly, except any person(s) who has/have come to the gathering for the sole purpose of abating the noisy assembly.

(d) Animals. It shall be a violation of this section to own, keep, have in possession or harbor any animal or animals which make any noise to the reasonable annoyance of another person or persons. The phrase "to the reasonable annoyance of another person or persons" shall include, but is not limited to, the creation of any noise by any animal or animals which can be heard by any person, including the animal control officer or a law enforcement officer, from a location outside of the building or premises where the animal or animals are located and which animal noise occurs repeatedly over at least a five-minute period of time with no more than a one-minute lapse of time between each animal noise during the five-minute period.

(e) Amplified Sound. It shall be a violation of this section to play, operate or permit the playing, use or operation of any radio, tape player, disc player, loud speaker or other electronic device used for the amplification of sound, unless otherwise permitted by law, located inside or outside, the sound of which carries to points of habitation or adjacent properties, and is audible above the level of conversational speech at a distance of fifty (50) feet or more from the point of origin of the amplified sound.

(f) Motor Vehicles.

- (i) Generally. It shall be a violation of this section to use any automobile, truck, motorcycle, motorboat, all terrain vehicle,

snowmobile, recreational vehicle, other vehicle, or stationary internal combustion engine which causes or would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities present in the area due to loud, disturbing or excessive noise.

- (ii) *Amplified Sound from Motor Vehicles.* It shall be a violation of this section to play, operate or permit the playing, use or operation of any radio, tape player, disc player, loud speaker or other electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle on a public street or alley, or in a commercial or residential parking facility, which is audible by any person from a distance of fifty (50) feet or more from the motor vehicle. When sound violating this section is produced or reproduced by any such device that is located in a motor vehicle, the motor vehicle's owner, if present when the violation occurs, is guilty of the violation. If the motor vehicle's owner is not present at the time of the violation, the person who has dominion, care or control of the motor vehicle at the time of the violation is guilty of the violation. In addition to an owner or a driver, any person who controls or assists with the production, reproduction, or amplification of sound in violation of this section is guilty of the violation.
- (iii) *Horns and Other Signals.* It shall be a violation of this section to sound any horn or signal device on an automobile, motorcycle, bus or other vehicle, except as a danger signal or traffic warning, which would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities in the area.
- (iv) *Application of the MPCA Rules.* No person shall operate a motor vehicle in the city in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency Rules, Sections 7030.1000 through 7030.1060.

(2) *Hourly restriction of certain operations.*

(a) *Domestic Power Equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse Hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction Activities.* No person shall engage in or permit construction

activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Noise impact statements.* The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

~~(S)~~ ~~(W)~~ Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and 1 footcandle when abutting any commercial or industrial parcel; and

~~(T)~~ ~~(X)~~ Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and 1 footcandle when abutting any commercial or industrial parcel.

Penalty, see § 10.99.

Council member _____ moved a second to this Ordinance, and upon being put to a vote it was adopted by a majority of all Council members present.

Adopted by the Hastings City Council on this ____ day of _____, 2011, by the following vote:

Ayes
Nays:
Absent:

CITY OF HASTINGS

Paul J. Hicks, Mayor

ARTICLE III. - NOISE CONTROL^[5]

EXHIBIT H

Footnotes:

--- (5) ---

Cross reference— Duties of Department of Planning and Community Development, § 2-201; oil, gas and mineral production, § 13-1500 et seq.

Sec. 10-301. - Declaration of policy.

Whereas, the making and creation of excessive, unnecessary or unusually loud noises within the limits of Norman, Oklahoma is a condition which has existed for some time and the extent and magnitude of such noises is increasing; and

Whereas, the making, creation or maintenance of such excessive, unnecessary or unusually loud noises which are prolonged, unusual or unreasonable in their time, place and use affect and are a detriment to public health, comfort, convenience, safety and welfare of the residents of Norman, Oklahoma; and

Therefore, the necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of public policy, and the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and the peace and quiet of the inhabitants of Norman, Oklahoma.

(Ord. No. 0-7778-9)

Sec. 10-302. - City of Norman contracts and purchases.

- (a) *Compliance of City contractors and subcontractors.* It is the policy of the City of Norman to comply with the noise emission standards, as set forth in this chapter, in its own operations and the operations of its contractors and subcontractors shall be notified of and required to comply with the provisions of this article.
- (b) *City purchases.* It is the policy of the City of Norman to purchase only equipment which complies to the standards established for the same by this article.

(Ord. No. 0-7778-9)

Sec. 10-303. - Definitions and standards.

Terminology used in this article may be found in section 10-311, and if not defined therein shall be in conformance with applicable American National Standards Institute Publication, including but not limited to SI. 1-1960, R 1971, or those from its successor publications or bodies.

(Ord. No. 0-7778-9)

Sec. 10-304. - Use district noise levels.

(a) *Maximum permissible sound levels.* It shall be a violation of this article for any person to operate or permit to be operated any stationary source of sound which either:

- (1) Creates a sound level greater than 15dB(A) above the ambient sound level (L₉₀) within any land use district during any measurement period; or
- (2) Creates a ninetieth percentile sound level (L₉₀), a tenth percentile sound level (L₁₀) or a first percentile sound level (L₁) for any measurement period which exceeds the limits set forth for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise:

Use District	L ₉₀		L ₁₀		L ₁	
	9pm— 7am	7am— 9pm	9pm— 7am	7am— 9pm	9pm— 7am	7am— 9pm
Residential	50dB(A)	55dB(A)	60dB(A)	65dB(A)	65dB(A)	70dB(A)
Commercial	55dB(A)	60dB(A)	65dB(A)	70dB(A)	70dB(A)	75dB(A)
Industrial	65dB(A)	70dB(A)	75dB(A)	80dB(A)	80dB(A)	85dB(A)

When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories. For the purpose of enforcing these provisions a measurement period shall not be less than five (5) minutes nor more than fifteen (15) minutes.

(b) *Correction for character of sound.*

- (1) For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound, the limits set forth in subsection (a) above shall be reduced by 5 dB(A).
- (2) Notwithstanding compliance with part (1) of this subsection, it shall be a violation of this ordinance for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying or repetitive impulsive sound which creates a noise disturbance.

(Ord. No. 0-7778-9; Ord. No. 0-8081-5; Ord. No. 0-8283-110)

Sec. 10-305. - Motor vehicle noise.

(a) No person shall drive or move or cause or knowingly permit to be driven or moved a motor vehicle or combination of vehicles at any time in such a manner as to exceed the following noise limits for the category of motor vehicle shown below. The standard measurement height shall be five (5) feet (1.5 meters) and the measurement distance no less than twenty-five (25) feet (7.5m). The distance shall be measured from the near side of the nearest monitored traffic lane to the microphone.

	Sound Level, dB(A)
Motor vehicles with a manufacturers gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of ten thousand (10,000) pounds or more, or any combination of vehicles towed by such motor vehicle	88
Motorcycles	78
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	78

- (b) This section shall apply to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this title relating to motor vehicle mufflers for noise control.
- (c) No person shall operate or cause to be operated any motor vehicle unless the exhaust system of such vehicle is:
- (1) Free from defects which affect sound reduction;
 - (2) Equipped with a muffler or other noise dissipative device; and
 - (3) Not equipped with any cut-out, by-pass or similar device.

(Ord. No. 0-7778-9; Ord. No. 0-0304-56, § 1)

Sec. 10-306. - Sound level measurement.

Sound level measurements shall be made with a sound level meter Type II or better using the "A" weight scale, in accordance and conforming with the standards promulgated by the American National Standards Institute.

(Ord. No. 0-7778-9)

Sec. 10-307. - Noises prohibited.

- (a) *General prohibitions:* In addition to the specific prohibitions outlined in subsection (b) and sections 10-304 and 10-312 below of this article, it shall be unlawful for any person to make, continue, or cause to be made or continued any noise disturbance within the limits of Norman.
- (b) *Specific prohibitions:* The following acts are declared to be in violation of this article:
- (1) *Horns and signaling devices.* Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place therein except as a danger warning signal as provided in the vehicle code of the State of Oklahoma, or the sounding of any such signaling device for an unnecessary and unreasonable period of time.
 - (2) *Radios, television sets, musical instruments, and similar devices.*
 - a. Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound, except as provided for in paragraph (3) below, in such a manner as to violate section 10-304 or cause a noise disturbance.
 - b. The operating of any such device in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty (50) feet (fifteen (15) meters) from such device when operated in or on a vehicle on a public right-of-way or public space, or in a boat on public waters.
 - (3) *Public loudspeakers.* Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons in such a manner as to violate section 10-304 or cause a noise disturbance unless a permit as provided by section 10-309 is first obtained.
 - (4) *Hawkers and peddlers.* Selling anything by outcry (vocal, electrical, or mechanical amplification) within any area of the City therein zoned primarily for residential uses in such a manner as to violate section 10-304 or cause a noise disturbance. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.
 - (5) *Animals.* Owning, keeping, possessing, or harboring any animal which by frequent or habitual noisemaking, violates section 10-304 or causes a noise disturbance. The provisions of this section shall apply to all private and public facilities, including any animal pounds, which hold or treat animals.
 - (6) *Loading operation.* Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers or other objects between the hours of 9 p.m. and 7 a.m. the following day in such a manner as to violate section 10-304 or cause a noise disturbance.

- (7) *Construction work.* Operating, or causing to be used or operated, any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys, or appurtenances thereto:
- a. In residential or commercial land use districts between the hours of 9 p.m. and 7 a.m. the following day;
 - b. In any land use district where such operation exceeds the sound level limits for an industrial land use as set forth in section 10-304.
- (8) *Domestic power equipment.* Operating or permitting to be operated any power equipment used for home or building repair or grounds maintenance, including, but not limited to power saw, sander, lawn mower, or garden equipment, in residential or commercial zones:
- a. Outdoors between the hours of 9 p.m. and 7 a.m. the following day;
 - b. Any such power equipment which emits a sound level in excess of seventy-four (74) dB (A) measured at a distance of fifty (50) feet (fifteen (15) meters).
- (9) *Commercial power equipment.* Operating or permitting to be operated, any power equipment, except construction equipment used for construction activities, including, but not limited to chain saws, pavement breakers, log chippers, powered hand tools:
- a. In residential or commercial land use districts between the hours of 9 p.m. and 7 a.m. the following day;
 - b. In any land use district if such equipment emits a sound pressure level in excess of eighty-two (82) dB (A) measured at a distance of fifty (50) feet (fifteen (15) meters).
- (10) *Enclosed place of public entertainment.* Operating or permitting to be operated in any place of public entertainment any loudspeaker or other source of sound with produces, at a point that is normally occupied by a customer, maximum sound levels of ninety (90) dB (A) or greater as read with the slow response on a sound level meter, unless a conspicuous and legible sign at least two hundred twenty-five (225) square inches in area is posted near each public entrance stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT." This provision shall not be construed to allow the operation of any loudspeaker or other source of sound in such a manner as to violate section 10-304 of this article.
- (11) *Fireworks or explosives.* The use of explosives or fireworks, or the firing of guns or other explosive devices so as to be audible across a property boundary or on a public space or right-of-way, without first obtaining a permit as provided by section 10-309. This provision shall not be construed to permit conduct prohibited by other statutes, ordinances or regulations governing such activity.
- (12) *Racing events.* Permitting any motor vehicle racing event at any place in such manner as to violate section 10-304 or cause a noise disturbance, without first obtaining a permit as provided by section 10-309.
- (13)

Powered model mechanical devices. The flying of a model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-producing devices, between the hours of 9 p.m. and 7 a.m. the following day or in such a manner as to violate section 10-304 or cause a noise disturbance.

- (14) *Dynamic engine braking devices.* (Commonly referred to as Jacobs Brake.) Operating any motor vehicle with a dynamic engine braking device engaged except for the aversion of imminent danger.
- (15) *Defect in vehicle.* Operating or permitting to be operated or used any truck, automobile, motorcycle, or other motor vehicle which, by virtue of disrepair or manner of operation, violates section 10-304 or causes a noise disturbance.
- (16) *Refuse compacting vehicles.* The operating or causing or permitting to be operated or used any refuse compacting vehicles which creates a sound pressure level in excess of seventy-four (74) dB (A) at fifty (50) feet (fifteen (15) meters) from the vehicle.
- (17) *Garbage collection.* The collection of garbage, waste or refuse between the hours of 9 p.m. and 7 a.m. the following day:
- a. In any area zoned residential, or within three hundred (300) feet of an area zoned residential;
 - b. In any land use district so as to cause a noise disturbance.
- (18) *Standing motor vehicles.* The operating or causing or permitting to be operated any motor vehicle or any auxiliary equipment attached thereto in such a manner as to violate section 10-304 or cause a noise disturbance for a consecutive period longer than fifteen (15) minutes during which such vehicle is stationary in a residential zone.
- (19) *Quiet zones.* Creating noise in excess of the residential standard as defined in section 10-304 within the vicinity of any school, hospital, nursing home, institution of learning, court, or other designated area, while the same is in use, provided conspicuous signs are displayed in the streets indicating that the same is a quiet zone.
- (20) *Bells and chimes.* Sounding, operating or permitting to sound or operate an electronically amplified signal from any bell, chime or clock, including but not limited to bells, chimes or clocks in schools, houses of religious worship or governmental buildings, which fails to meet the sound level standards set forth in section 10-304 for more than five (5) minutes in any hour.
- (21) *Fixed sirens, whistles and horns.* The sounding or causing the sounding of any whistle, horn or siren as a signal for commencing or suspending work, or for any other purpose except as a sound signal of imminent danger or the testing of such equipment, in such a manner as to violate section 10-304 or cause a noise disturbance.
- (22) *Vehicle, recreational vehicle, or motorboat repairs and testing.* Repairing, rebuilding, modifying, or testing any vehicle, recreational vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a quiet zone.
- (23)

Groups of gatherings of people. Talking, laughing, yelling, singing, or otherwise making noise by two (2) or more people between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to violate section 10-304 or cause a noise disturbance.

- (24) *Emergency-type alarms.* The sounding, operating or permitting to sound or operate an electronically amplified signal from an alarm which fails to meet the sound level standards set forth in section 10-304 for more than fifteen (15) minutes in any hour; or the testing of such emergency alarm which fails to meet the sound level standards set forth in section 10-304 for more than five (5) minutes in any twenty-four-hour period. Testing of any emergency type alarm shall be prohibited between the hours of 9:00 p.m. and 7:00 a.m.

(Ord. No. 0-7778-9; Ord. No. 0-7879-52; Ord. No. 0-9900-31)

Sec. 10-308. - Exemptions.

- (a) The provisions of this article shall not apply to (a) the emission of sound for the purpose of alerting persons to the existence of an emergency, or (b) the emission of sound in the performance of emergency work, or (c) the authorized testing of public safety equipment. This shall include but not be limited to: safety signals and alarm devices, storm warning sirens or horns and the authorized testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency, and emergency pressure relief valves.
- (b) An organized school sponsored sporting event.
- (c) Public utilities under the authority of the Oklahoma Corporation Commission.
- (d) Interstate railway locomotives and trains en route, and aircraft under authorization by the Federal Aviation Administration.
- (e) Noise created or to be created as a result of a Noise Permit under Section 10-309, such that a permit shall be issued beforehand by the City Manager and/or his/her designee, and such event shall be conducted in accordance with the provisions of such permit.

(Ord. No. 0-7778-9; Ord. No. 0-0203-19)

Sec. 10-309. - Permit.

- (a) Applications for a permit for relief from the noise restrictions in these ordinances may be made to the City Manager of Norman. Any permit granted by the City Manager or his authorized representative shall contain all conditions upon which said permit has been granted, including but not limited to the effective dates, time of day, location, sound pressure level, or equipment limitation. The relief requested may be granted upon good and sufficient showing:
- (1) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this article; or
 - (2) That the activity, operation, or noise source will be of temporary duration and cannot be done in a manner that would comply with this ordinance; and

- (3) That no reasonable alternative is available to the applicant.
- (b) The City Manager may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.
- (c) A permit granted may be granted only for a maximum time period of up to four consecutive days. No more than 7 permits based on the premises or location, with the exception of public parks, may be issued in one year.

Requests for additional permits may be authorized by appeal to the City Council.

(Ord. No. 0-7778-9; Ord. No. 0-0203-19)

Sec. 10-310. - Reserved.

Editor's note— Ord. No. 0-0203-19, adopted Dec. 17, 2002, deleted § 10-310 which pertained to enforcement responsibility and derived from Ord. No. 0-7778-9.

Sec. 10-311. - Terminology.

For the purposes of this article, certain words and phrases used herein are defined as follows:

- (a) *A-weighted sound level*: The sound level as measured with a sound level meter using the A-weighting network. The standard notation is dB (A) or dBA.
- (b) *Ambient sound pressure level*: The sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources. It is also the A-weighted sound pressure level exceeded ninety (90) percent of the time based on a measurement period of not less than ten (10) minutes nor more than thirty (30) minutes.
- (c) *Continuous sound*: Any sound which exists, essentially without interruption, for a period of ten (10) minutes or more.
- (d) *Cyclically varying noise*: Any sound which varies in sound level such that the same level is obtained repetitively at reasonably uniform intervals of time.
- (e) *Decibel*: Logarithmic and dimensionless unit of measure used in describing the amplitude of sound. Decibel is denoted as dB.
- (f) *Device*: Any mechanism which is intended to produce, or which actually produces, noise when operated or handled.
- (g) *Dynamic braking device* (Commonly referred to as Jacobs Brake): A device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.
- (h) *Emergency work*: Work made necessary to restore property or a public utility to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.

- (i) *Emergency vehicle*: A motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.
- (j) *Impulsive noise*: A noise containing excursions, usually less than one second, of sound levels of twenty (20) dB(A) or more over the ambient sound level using the fast meter characteristic.
- (k) *Motor vehicle*: Any vehicle which is self-propelled by mechanical power, including but not limited to passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, minibikes, go-carts, mopeds, and racing vehicles.
- (l) *Muffler*: An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.
- (m) *Noise disturbance*: Any sound which annoys or disturbs reasonable persons with normal sensitivities, or which injures or endangers the comfort, repose, health, hearing, peace or safety of other persons.
- (n) *Noise*: Any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.
- (o) *Percentile sound pressure level*: Tenth percentile noise level—The A-weighted sound pressure level that is exceeded ten (10) percent of the time in any measurement period (such as the level that is exceeded for 1 minute in a 10-minute period) It is denoted L₁₀.
Ninetieth percentile noise level—The A-weighted sound pressure level that is exceeded ninety (90) per cent of the time in any measurement period (such as the level that is exceeded for nine (9) minutes in a 10 minute period). It is denoted L₉₀.
- (p) *Person*: Any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.
- (q) *Plainly audible noise*: Any noise for which the information content of that noise is unambiguously transferred to the listener, such as but not limited to understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.
- (r) *Property boundary*: An imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, which separates the real property owned by one person from that owner by another person or such imaginary line which separates individual living units in a multiple-family dwelling.
- (s) *Public right-of-way*: Any street, avenue, boulevard, highway, or alley or similar place which is owned or controlled by a public governmental entity.
- (t) *Pure tone*: Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third octave bands by five (5) dB for center frequencies of five hundred

(500) Hz and above, by eight (8) dB for center frequencies between one hundred sixty (160) and four hundred (400) Hz, and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.

- (u) *Repetitive impulsive noise*: Any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at "fast" meter characteristic will show changes in sound pressure level greater than ten (10) dB (A)
- (v) *Sound*: Sound is mechanical energy transmitted by a cyclic series of compressions and rarefactions of molecules of the material or materials through which it passes.
- (w) *Sound level meter*: An instrument, including a microphone, amplifier, RMS detector and integrator or time averager, output meter and/or visual display and weighting networks, used to measure sound levels. The sound level meter shall conform as a minimum to the requirements of ANSI S 1.4 - 1971 Type 2 or its successor publication; and be set to an A-weighted response. An acoustical calibrator accurate to within plus or minus one decibel shall be used to verify the before and after calibration of the sound level meter on each day noise measurements are taken.
- (x) *Sound pressure*: The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound.
- (y) *Sound pressure level*: Twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals. The sound pressure level is denoted L or SPL.
- (z) *Stationary noise source*: Any device, fixed or movable including motor vehicles, which is located or used on property other than a public right-of-way.
- (aa) *Steady noise*: A sound pressure level which remains essentially constant during the period of observation, i.e., does not vary more than six (6) dB (A) when measured with the "slow" meter characteristic of a sound level meter.
- (bb) *Use district*: Those districts established by the Norman Zoning Ordinances.

(Ord. No. 0-7778-9; Ord. No. 0-7778-61)

Sec. 10-312. - Penalties.

Any person violating any provision of this article may be punished by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00), or by imprisonment not to exceed sixty (60) days, or by both such fine and imprisonment. Each time such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Ord. No. 0-7778-9; Ord. No. 0-8081-5; Ord. No. 0-9596-45; Ord. No. 0-9900-11; Ord. No. 0-0506-10)

Sec. 10-313. - Additional remedies.

Violations of sections 10-304 through 10-309 of this article are deemed and declared to be a nuisance, and such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 0-7778-9)

NOISE VARIANCE PERMIT

CITY OF NORMAN ORDINANCE NO. 0-7778-9

NOTE: MAXIMUM PERMISSIBLE SOUND PRESSURE LEVEL WILL NOT EXCEED 80 dB(A)

1. DATE: _____

2. NAME: _____

3. ADDRESS: _____

4. PHONE: _____

5. ADDRESS WHERE LIMITATION WILL BE EXCEEDED:

INDOORS OUTDOORS

6. HOW LIMITATION WILL BE EXCEEDED:

BAND STEREO PA SYSTEM
OTHER (Specify) _____

7. BY REASON OF THE FOLLOWING EXCEPTIONS TO SECTION 10-304:

- Applicant requires additional time to modify or alter his activity to comply with Section 10-304.
- The operation or activity is of a temporary nature and cannot be done in a manner that would comply with Section 10-304.
- No other reasonable alternative is available to the applicant.

8. DATED INVOLVED: FROM _____ TO _____

9. HOURS INVOLVED: FROM _____ () .M. TO _____ () .M.

NOTE: No variance for entertainment or recreational purposes will be permitted earlier than 7:00 a.m. or later than 11:00 p.m. Sunday through Thursday, and no later than 12:00 a.m. (midnight) Friday and Saturday.

10. ADDITIONAL DETAILS: _____

I, the undersigned applicant, have read, understand, and accept all of the requirements and conditions as set forth in the Noise Variance Permit Conditions and Guidelines on the reverse side of this form.

SIGNATURE: _____

CONDITIONS AND GUIDELINES:

1. No more than seven Noise Variance Permits will be approved at the same premises or location per calendar year.
2. No variance for entertainment or recreational purposes shall be permitted earlier than 7:00 a.m. or later than 11:00 p.m. Sunday through Thursday and 12:00 a.m. (midnight) on Friday and Saturday.
3. Noise Variance Permits where two or more outside activities will occur within 500 feet of one another on the same date and time will not be issued if the events are in conflict with one another.
4. Application for Noise Variance Permits must be submitted at least two weeks prior to the date of the planned activity. Applications must be submitted in person at the Norman Police Department.
5. Noise Variance Permits may be revoked by, or at the direction of any commissioned supervisor of the Norman Police Department, or by another authorized City employee if violations of any City Ordinance occur at the location for which the Noise Variance Permit is issued. Permits will ordinarily be revoked in the event of the following violations:
 - Uncorrected or repeated violation of the noise level permitted.
 - Consumption or possession of alcoholic beverages by persons under 21 years old.
 - Intoxicated persons on the premises.
 - Narcotics use on the premises.
 - Disturbing the peace by fighting on the premises.
 - Persistent citizen complaints of disturbing the peace caused by the noise source.

A written report will be submitted by the official revoking the permit documenting the justification for revocation.

Any location which has a Noise Variance Permit revoked or at which one or more of the violations enumerated above has resulted in the filing of criminal charges shall not be issued another permit for a minimum of 6 months.

cc: City Clerk, City Manager, Chief of Police, Operations Bureau, Communications Division

Revised 4/30/13

FOR OFFICE USE ONLY		
APPROVED <input type="checkbox"/>	DISAPPROVED <input type="checkbox"/>	
Date: _____	By: _____	
	Norman Police Department	
FEE FOR APPLICATION IS \$25.00		
PAID <input type="checkbox"/>	RECEIPT # _____	DATE: _____