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NOISE POLLUTION**39.01 DECLARATION OF POLICY**

It is the public policy of the city to eliminate existing noise pollution; to limit, as much as is economically, socially, and technically feasible, further increases of sound levels; to protect human health and welfare, animal life and property, and the enjoyment of life and property in all residential, recreational, business, public and industrial areas in the city. It is necessary for the city to provide means for the control, prevention, prohibition and abatement of noise and noise pollution.

39.02 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this chapter:

Air Circulation Device: A mechanism designed and used for the controlled flow of air used in ventilation, cooling, or conditioning, including, but not limited to, central and window air conditioning units.

Ambient Sound: The all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources near and far.

City Official: Any representative of the city designated by the city manager.

Cut-Out or By-Pass or similar device: A mechanism which varies the exhaust system gas flow so as to discharge the exhaust gas and acoustic energy to the atmosphere without passing through the entire length of the exhaust system including all exhaust system sound attenuation components.

dBA: A unit of sound level. dBA is the weighted sound pressure level by the use of the "A" metering characteristic and weighting as specified in the American National Standards Institute (A.N.S.I.) Specification for Sound Level Meters, S1. 4-1971. For the purpose of this chapter dBA is used as a measure of human response to sound.

Decibel: A unit of sound pressure level, abbreviated dB.

Exhaust System: A combination of components which provides for enclosed flow of exhaust gas from engine parts to the atmosphere.

Highway: Any street, road, alley or public way in the city.

Holiday: Any day fixed by the United States or by Minnesota State law for suspension of business in whole or in part.

Lake Park: See definition in Section 55.11 of this Code.

L₁₀: The sound level, expressed in dBA, which is exceeded 10 percent of the time for a one hour survey, as measured by test procedures approved by the director of the Minnesota Pollution Control Agency.

L₅₀: The sound level, expressed in dBA, which is exceeded 50 percent of the time for a one hour survey, as measured by test procedures approved by the director of the Minnesota Pollution Control Agency.

Motor Vehicle: Any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle.

Noise: Any sound not occurring in the natural environment, including, but not limited to, sounds emanating from aircraft and highways, and industrial, commercial, and residential sources.

Noise Pollution is:

- (a) Noise which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public, or
- (b) The presence of a noise or combination of noises exceeding the source sound levels hereinafter set forth, or
- (c) An act enumerated herein as a public nuisance.

Person: Any individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body of persons, whether incorporated or not and with respect to acts prohibited or required herein shall include employees and licensees, owners, tenants, and occupants.

Sound: An oscillation in pressure, stress, particle displacement, particle velocity, etc., in an elastic or partially elastic medium, or the superposition of such prorogated alterations.

Sound Amplification Equipment: A radio, phonograph, or any device or apparatus for the reproduction or amplification of the human voice or other sounds.

Sound Level: A weighted sound pressure level obtained by the use of a sound level meter having characteristics, including the "A" weighting, as specified in A.N.S.I. Specifications for Sound Level Meters, S1. 4-1971. The reference pressure is 20 micronewtons per square meter.

Sound Pressure Level: Expressed in dB, is 20 times the logarithm to the base 10 of the ratio of the pressure of a sound to the reference pressure (20 micronewtons per square meter).

Sound Receiving Unit: A unit of property or a building containing a person, business, activity, animal life, or property which is affected by noise or noise pollution.

Vibration: Refers to the oscillation of a solid body or material, including, but not limited to, earth, concrete, machinery, building structures, or other similar materials. Within this chapter the term vibration shall refer to those oscillations which are disturbing, injurious, damaging, or dangerous.

Ord. No. 2589 09/08/81

39.03 SOURCE REQUIREMENTS

- (a) The source sound level requirements of this section shall apply at the property or zoning lines of the sound receiving unit. Measurements may be made at any location in zoning districts for evaluation purposes and to aid in the enforcement of other sections of this chapter.
- (b) The source sound levels as stated below in subsection (c) shall be the highest source levels permitted in each zoning district.
- (c) Source requirements:
 Ord. No. 3788 04/06/2009
 Ord. No. 4115 10/07/2019

Zoning District	Day (7 a.m. – 10 p.m.)		Night (10 p.m. - 7 a.m.)	
	L ₅₀	L ₁₀	L ₅₀	L ₁₀
R-S, R-R, R-1.5	60	65	50	55
R-1, R-2, R-3,AG/NR	60	65	50	55
MU-DC, MU-DF, MU-N, B-1, B-2, B-3	65	70	65	70
I-1, I-2	75	80	75	80

- (d) Sound levels resulting from travel of motor vehicles on state and county highways are exempt from these noise source requirements but not other sections of this chapter relating to motor vehicles operated in other areas. It is the intent of the city to reduce highway noise in the various land areas surrounding highways to or below the source requirements of this section when and wherever possible.
- (e) All sound levels originating in any development or property which contains one or more buildings and which is without property lines for each building shall not exceed the source requirements for the applicable zoning district measured at the area of human activity, or if this is ill-defined, at any point on a line, all of whose points are equidistant from any two buildings.

39.04 MOTOR VEHICLE SOUND LEVEL REQUIREMENTS

A motor vehicle operated or driven on any highway within the city shall comply with noise standards of the State of Minnesota. Minnesota Highway Traffic Regulations 169.69 (Mufflers) and 169.693 (Motor Vehicle Noise Limits) and Minnesota Pollution Control Agency NPC 4 (Motor Vehicle Noise Limits - 1977) are adopted and incorporated by reference. Three copies of each of these laws and regulations shall be on file in the office of the city clerk and each copy shall be marked "Official Copy."

39.04.1 PROHIBITIONS

No person shall cause, allow or permit noise pollution except governmental agencies or bodies or public utilities.

39.04.2 NOISY PARTIES AND GATHERINGS

- (1) Prohibition. No person shall, between the hours of 10:00 p.m. and 7:00 a.m. congregate at, or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person. No person shall knowingly remain at such a noisy party or gathering.
 - (a) Evidence. Noise of such volume as to be clearly audible at a distance of 50 feet from the structure or building in which the party or gathering is occurring; or in the case of apartment buildings, in the adjacent hallway or apartment, shall be prima facie evidence of a violation of this section.
 - (b) Duty to Disperse. When a police officer determines that a party or gathering is in violation of this section, the officer may order all persons present at the premises where the violation is occurring, other than the owner or tenants of the premises, to disperse immediately. No person shall knowingly remain at such a party or gathering.
 - (c) Exceptions. The following are exempt from a violation of this section:
 - (i) Activities which are duly authorized, sponsored or licensed by the City of Winona, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;
 - (ii) Church bells, chimes or carillons; and
 - (iii) Persons who have gone to a party for the sole purpose of abating the violation.
 - (d) Penalties. Every owner or tenant of the premises where a party or gathering in violation of this section occurs, who is present at such party or gathering, is guilty of a misdemeanor. Any person who refuses to disperse from a party or gathering in violation of this section after being ordered by a police officer to do so, is guilty of a misdemeanor.
 - (e) Enforcement. The Police Department shall be charged with the responsibility of enforcing this section.
- (2) Owner's Liability. For purposes of this section, owner is defined to include corporations and partnerships as well as individual owners.
 - (a) The owner of a licensed residential structure constituting one or more buildings (licensed premises) shall be responsible to cause persons occupying a rental dwelling unit situated within the licensed premises to conduct themselves in such a manner so as to not cause the licensed premises to be in violation of the prohibition against noisy parties and gatherings set forth in Section 39.04.2 of this Code.

- (b) Upon determination by the Police that the licensed premises or any rental dwelling unit within such were used in a manner in violation of Section 39.04.2, the Department of Community Development shall notify the owner and manager by regular mail of such violation and direct the owner and manager to take steps to prevent further violations at the licensed premises.
- (c) If another violation of the noise pollution regulations occurs at the licensed premises within twelve (12) months of an incident for which notice provided in subsection (b) of this section was given, the owner and manager shall be notified of the subsequent violation by the Department of Community Development and shall be required to submit a written report of actions taken by the owner and/or manager to eliminate future violations of the noise pollution ordinance. This written report shall be submitted to the Department of Community Development within five (5) days, excluding intervening weekends and holidays, of the notice of violation, and shall detail all actions taken by the owner and/or the manager in response to all notices of violations at the licensed premises within the preceding twelve (12) months.
- (d) Further violations of the noise pollution regulations shall be dealt with as follows:
 - (i) On licensed premises where a single rental dwelling unit is located, if another violation of the noise pollution regulations occurs on the licensed premises within twelve (12) months after receipt of notice pursuant to subsection (b), the city council may impose a civil fine not to exceed \$1,000 and, additionally, the rental housing license may be suspended or revoked for such dwelling unit.
 - (ii) On licensed premises where the licensed residential structure contains two or more rental dwelling units, if three violations of the noise pollution regulations have occurred in one rental dwelling unit or if four violations of the noise pollution regulations have occurred on the licensed premises within twelve (12) months after receipt of notice pursuant to subsection (b), the city council may impose the following sanctions. If three violations of the noise pollution regulations have occurred in one rental dwelling unit within such twelve (12) month period of time, the City Council may impose a civil fine not to exceed \$1,000 and, additionally, the rental housing license for such rental dwelling unit may be suspended or revoked. If four violations of the noise pollution regulations have occurred on the licensed premises within such twelve (12) month period of time, the City Council may impose a civil fine not to exceed \$1,000 and, additionally, the rental housing license may be suspended or revoked for the licensed premises.
- (e) Any decision to suspend or revoke a license or impose a civil fine shall be made by the City Council in accordance with the notice and hearing requirements of Section 51.03 of this Code.
- (f) The rental housing license may be reinstated by the Department of Community Development after suspension or revocation or payment of a fine by the licensee, upon receipt of payment to the City of a reinstatement fee as set forth in Chapter 51 of this Code.

- (g) No suspension or revocation shall be imposed for a violation of section (1) which occurred during the pendency of eviction proceedings (unlawful detainer) or within Thirty (30) days, or such other time period required by the lease, of notice given by the owner or manager to a tenant to vacate the premises, where the violation related to or occurred in the unit for which eviction proceedings were undertaken or notice to vacate was given. Eviction proceedings shall not be a bar to sanctions pursuant to this section unless the owner or manager provides a notarized copy to the Department of Community Development at the time of delivery to the tenants. No action shall be taken under this section against an owner who was himself/herself, or through his/her agent, the complainant on the underlying violation of Section 39.04.2. The owner or manager shall provide and maintain at the Department of Community Development a current listing of all managers, caretakers or agents to verify the preceding.
- (h) All written leases for licensed rental housing premises which shall be in effect after August 1, 2001, shall contain a clause providing that conduct which would be violative of subsection (a) of this section, shall constitute a material breach of the lease and grounds for termination of such lease.
- (i) It shall be irrelevant to proceedings hereunder that the dwelling owner or others were not criminally prosecuted or were acquitted of criminal charges for the incidents serving as the basis of the suspension or revocation, but a prerequisite to any action by the City Council hereunder shall be the arrest of either the dwelling owner or of others in attendance at a party or gathering.
- (j) Any person, firm, corporation or partnership that shall violate section (1) shall be guilty of a misdemeanor. Each violation of this section shall constitute a separate offense.

Ord. 3530 06/03/02

39.05 DECLARATION OF NUISANCES

The following acts are declared to be public nuisances:

- (a) The use of sound amplification equipment between the hours of 10:00 o'clock p.m. and 8:00 o'clock a.m.
 - (1) In Lake Park, or
 - (2) On any other public property not included in (1) hereof, provided, the use of sound amplification equipment is not a public nuisance if the sound produced cannot be heard on adjacent property, or
 - (3) In any other area of the city, provided, the use of sound amplification equipment is not a public nuisance if the sound produced cannot be heard beyond the property lines of the property from which the sound emanates.
- (b) The use of sound amplification equipment emitting music between the hours of 8:00 o'clock a.m. and 10:00 o'clock p.m. in Lake Park, provided the use of sound

amplification equipment emitting music is not a public nuisance if the sound produced cannot be heard beyond the boundaries of Lake Park.

- (c) Noise on any street adjacent to any school, learning institution, religious institution, or court, or adjacent to any hospital, or home for the aged, or other similar institution which interferes with the working of such institution or disturbs or annoys an inhabitant in the institution, provided that conspicuous signs indicating the presence of such institutions or buildings are displayed near streets by such institutions.
- (d) The operation of any motor vehicle or any minibike or motorbike or other similar vehicle or device in any way which results in the squealing of tires or other unnecessary noise on any highway, private road, public or private parking lot, driveway, or other property in the city, except when there is reason to do so for safe operation.
- (e) Repairing, building, rebuilding, running, operating or testing any motor vehicle or other internal combustion engine in such a manner to create unnecessary noise.
- (f) The operation of any radio receiving set, tape or disc player, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner, considering the time and place and the purpose for which the sound is produced, so as to disturb the peace, quiet or repose of a person or persons of ordinary sensibilities.
 - (1) The play, use or operation of any radio, tape or disc player, musical instrument, phonograph or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at a distance of fifty feet from such machine or device shall be prima facie evidence of a violation of this section.
 - (2) When sound violating this section is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicle's owner is guilty of the violation, provided, however, that if the 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 guilty of the violation.
 - (3) This section shall not apply to sound procured by the following:
 - (i) Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the City, so long as the activity is conducted pursuant to the conditions of the license, permit, or contract authorizing such activity;
 - (ii) Church bells, chimes or carillons;
 - (iii) School bells;
 - (iv) Anti-theft devices; or

- (v) Machines or devices for the production of sound on or in authorized emergency vehicles.
- (4) With the exception of the machines or devices listed in subsection (3) above, this subdivision shall apply to all radios, tape and disc players, musical instruments, phonographs, and machines and devices for the production or reproduction of sound, whether on public or private property.

Ord. No. 3336 04/07/97 Ord. No. 3449 05/01/00

39.05.1 PERMIT

Any person desiring to utilize sound amplification equipment contrary to the provisions of this Code may do so if permitted by the City Council. Application to the City Council shall be made at least two weeks in advance. Permission shall be granted only to (a) bona fide club, charitable organization, or non-profit organization conducting a community-wide celebration or event, or (b) a person or organization desiring to exercise the right of free speech. Permission shall not be granted for a period of time extending beyond 1:00 o'clock a.m. on weekdays and midnight on Sundays. Permission shall be granted only for a definite period of time and for a definite area. The permit shall require that the permittee have present at all times a person who will monitor sound levels to be sure that they are within permissible limits. In each case the City Council shall consider the impact on the public welfare and safety of persons in the vicinity and throughout the community. The Council may impose any reasonable conditions suitable for the particular occasion.

Ord. No. 2589 09/08/81

39.06 REGULATIONS FOR TESTING AND MEASUREMENT

The director of the department of community development or other authorized person as provided in writing by the city manager shall adopt regulations which shall define in precise detail the test procedures and instrumentation to be utilized in the enforcement of this chapter. These regulations shall cover such matters as procedures for making certain tests and measurements, and the type of instrumentation being used in the enforcement of this chapter. Such regulations and any amendments thereto shall be effective upon the filing of a copy with the city clerk who shall endorse thereon a date and time of filing.

39.07 INSPECTIONS

A city official shall inspect existing or potential noise, noise pollution, and vibration sources, and noise pollution control measures as frequently as may be necessary to insure compliance with this chapter.

39.08 ACCESS TO PREMISES AND RECORDS

The person on the premises who is responsible for any noise pollution control measure or allowing or causing any noise, noise pollution, or vibration shall, upon request of the city official, permit access to all parts of the area at any reasonable time for purposes of inspection and monitoring and shall exhibit and allow copying of any records relating to noise, noise pollution, or vibration, or noise pollution control as is necessary to determine compliance with this chapter.

A city official shall be permitted access to any sound receiver unit affected by a sound source under inspection in order to determine compliance with this chapter.

39.09 INTERFERENCE WITH OR HINDRANCE OF A CITY OFFICIAL

No person shall interfere with or hinder the city official in the performance of duties nor prevent the performance thereof.

39.10 REMOVAL AND CORRECTION OF VIOLATIONS

A person responsible for noise, noise pollution, or vibrations control measures, who allows or causes noise, noise pollution, or vibration and who has received a written inspection report from the city official giving notification of one or more violations of this chapter shall correct or remove each violation within the length of time set by the city official. The length of time for the correction or removal of each violation shall be stated on the inspection report. The failure to remove or correct each such violation within the time period noted on the inspection report shall constitute a separate violation of this chapter.

39.11 APPEAL

Any person affected by any order under this chapter or by any action taken in accordance with this chapter, including, but not limited to, an applicant for temporary noise permit, extension of compliance date or a person objecting to such applications may, within 10 days of the issuance of the order or action, appeal to the city manager. Appeals shall be held no sooner than 10 days and not more than 30 days after a request for such appeal is filed unless good cause is shown for an extension. Requests shall be made by filing with the city manager a notice of appeal specifying the grounds and relief sought. The city manager shall forthwith set a date, time, and place for the appeal and shall notify the person appealing at least 10 days in advance of the appeal date.

Any person affected by a decision of the city manager may appeal the decision to the city council. A notice of appeal to the city council must be filed with the city clerk within 5 days after the decision of the city manager. Notice of the date, time, place and nature of the matter under consideration shall be given by publication at least once in the official newspaper not less than 10 days prior to the appeal.

39.12 PENALTY

Any person violating these provisions of this chapter shall be guilty of a misdemeanor. As an additional remedy, any violation of these sections may be subject to abatement, injunction, or other appropriate action issued by a court of competent jurisdiction. Each day a violation continues to exist shall constitute a separate violation.