

CHAPTER 389. - NOISE^[3]

Footnotes:

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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 CONTROL⁴

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

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(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	67
	Night, holiday, Sunday	73	71	65
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	65 dBA	50 dBA	55 dBA

(2008-Or-094, § 18, 12-12-08)