

ARTICLE 5. - NOISE CONTROL<sup>[6]</sup>

Footnotes:

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**Cross reference**— Noise control in Monroe Center Mall, § 3.111.

Sec. 9.61. - Title and Purpose.

- (1) Article 5 of Chapter 151 shall be known as the "Noise Control Ordinance" of the City of Grand Rapids.
- (2) The purposes of this Article are to abate certain loud, unnecessary, unnatural and unusual noises and to establish maximum noise limits from motor vehicle and transportation noise, construction power equipment noise, and other general environmental noise.

(Ord. No. 73-8, 2-6-73)

Sec. 9.62. - Definitions.

For the purpose of this Article, certain terms are defined as follows:

- (1) ANSI shall mean American National Standards Institute or its successor bodies. All acoustical terminology shall be that contained in ANSI S1.1 "Acoustical Terminology."
- (2) ARI shall mean Air Conditioning and Refrigeration Institute or its successor bodies.
- (3) ASHRAE shall mean American Society of Heating, Refrigerating and Air Conditioning Engineers or its successor bodies.
- (4) ASTM shall mean American Society for Testing Materials or its successors bodies.
- (5) Director shall mean the Environmental Protection Director or his or her duly authorized representative.
- (6) Decibel shall mean a logarithmic unit of measurement which indicates the ratio between two (2) quantities (commonly electrical or sound energy levels, or pressure levels). (See Sound pressure level)
- (7) Discrete Tone shall mean a sound wave whose instantaneous sound pressure varies essentially as a sinusoidal function of time.
- (8) Essential Services shall mean the erection, construction, alteration or maintenance by public utilities, municipal Departments or Commissions, or any governmental agencies of street or right-of-way facilities, underground or overhead gas, electrical, steam, water, or other transmission or distribution system, collection, communication, supply or disposal system, including poles, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of utility service by such public utilities, municipal Departments, Commission or any governmental agencies, or for the public health, safety or welfare. Essential Services in this Chapter shall also mean Michigan Department of Transportation work including: capital preventive maintenance, light duty rehabilitation, rotomilling and resurfacing, pavement

restriping, asset management related repairs, alterations or improvements, emergency repairs that are essential to the operational functionality, safety and maintenance of the transportation network and such other activities approved in writing by the City Engineer.

- (9) Fluctuating Noise shall mean a noise whose sound pressure level varies significantly but does not equal the ambient environmental level more than once during the period of observation.
- (10) IEC shall mean International Electrotechnical Commission or its successor bodies.
- (11) Impulse Noise is characterized by brief excursions of sound pressure which significantly exceed the ambient environmental sound pressure. The duration of a single impulse is usually less than one (1) second.
- (12) Intermittent Noise shall mean a noise whose sound pressure level equals the ambient environmental level two (2) or more times during the period of observation. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient noise level is on the order of one (1) second or more.
- (13) ISO shall mean International Organization for Standardization or its successor bodies.
- (14) Motor Vehicle shall mean any passenger vehicle, truck, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.
- (15) Octave Band shall mean a frequency band with lower and upper cut-off frequencies having a ratio of 2. The cut-off frequencies of 707 Hertz and 1414 Hertz define an octave band in common use.
- (16) Period of Observation shall mean the time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and should also be at least ten (10) times as long as the response time of the instrumentation. The greater the variance in indicated sound level, the longer must be the observation time for a given expected accuracy of the measurement.
- (17) Person shall mean every natural person, partnership, association or corporation which may own, operate or control those devices or facilities herein described.
- (18) Repetitive Impulse Noise shall mean more than five (5) impulses per hour.
- (19) SAE shall mean Society of Automotive Engineers or its successor bodies.
- (20) Sound Level or Noise Level shall mean, for airborne sound, a weighted sound pressure level, obtained by the use of metering characteristics and A-weighting as specified in the referenced standards. When the A-weighting is employed it must be indicated.
- (21) Sound Pressure Level of a sound, in decibels, is twenty (20) times the logarithm to the base 10 of the ratio of the pressure of this sound to the reference sound pressure having the value of  $2 \times 10^{-4}$  dynes per square centimeter.
- (22) Steady Noise shall mean a noise whose level remains essentially constant.
- (23) Zoning District shall mean districts established by the Zoning Ordinance of the City of Grand Rapids and found in Chapter 61 of Title V of this Code.
- (24) Helicopter shall mean an aircraft which has its support in the air derived chiefly from the aerodynamic forces acting on one or more rotors turning about a substantially vertical axis.
- (25) Emergency Landings and Takeoffs shall mean rescue and ambulance missions and other landings and takeoffs necessary to deal with unforeseeable occurrences or sudden and urgent occasions requiring specific evacuation measures in which a helicopter would be needed.

(Ord. No. 73-8, 2-6-73; Ord. No. 83-56, 9-27-83; Ord. No. 99-65, § 1, 11-23-99; Ord. No. 2013-74, § 1, 11-19-13)

Sec. 9.63. - Prohibited Noise.

- (1) No person shall make, or cause, permit or allow to be made, upon a public way, or in such close proximity to a public way as to be distinctly and loudly audible upon such public way, any noise of any kind by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound amplifying or other similar electronic device; provided that a licensed peddler is not hereby restricted or prohibited so long as he or she shall have met the requirements and conditions hereinafter specified in subsection (5) nor does this prohibition apply to all bands and orchestras or similar musical bodies utilized as part of a parade or similar authorized musical production.
- (2) No person shall use or perform any hand organ or other musical instrument or device, in any public way or public place of the City before 7:00 a.m. or after 10:00 p.m. of any day.
- (3) No person shall use any premises or suffer any premises under his or her care or control to be used which shall destroy the peace and tranquility of the surrounding neighborhood.
- (4) No person shall use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or any other mechanical apparatus in building or construction operations between the hours of 10:00 p.m. and 7:00 a.m. except for work on essential services, within six hundred (600) feet of a residence or hospital.
- (5) No person shall activate or cause or suffer to be activated any horn or audible signal device on any motor vehicle of any kind except as a warning of danger or peril as provided in the Traffic Ordinance.
- (6) No person shall operate or allow to be operated any motor of a motor vehicle which weighs in excess of five (5) tons (ten thousand (10,000) pounds) for a consecutive period of longer than two (2) minutes while such vehicle is in a stationary location on private property located within one hundred fifty (150) feet of property devoted to residential uses.

Except that, the provisions of this subsection shall not apply:

- (a) When the vehicle or motor is being used in the course of normal productive work,
- (b) When the vehicle or motor is being used by a public utility, municipal department, Commission or other governmental agency to provide essential services as hereinbefore defined.
- (c) To buses operated for the transportation of passengers while standing in established bus turnarounds, terminals or storage yards,
- (d) To any vehicle standing within a completely enclosed structure.
- (7) No person shall sell, or offer for sale, a new motor vehicle that produces a maximum noise exceeding the following noise limit at a distance of fifty (50) feet from the center line of travel, under test procedures, standards and recommended practices as itemized below and with reference to Sections 9.64 and 9.65 of this Article. Such stock as is certified to the Director on the effective date of this Article shall be exempt from the prohibition contained in this subsection. Test procedures shall be in substantial conformity with standards and recommended practices established by the Society of Automotive Engineers, Inc., including SAE Recommended Practice J 184, and ANSI Standards S1.1 1960 and S1.4, 1961.

1. Type of Vehicle	Date of Manufacture	Noise Limit dB(A)
Motorcycle	Before 1 July 1973	88

Same	After 1 July 1973	86
Same	After January 1975	84
Same	After 1 January 1980	80
Test procedures according to SAE Proposed Standard J-331.		

2. Type of Vehicle	Date of Manufacture	Noise Limit dB(A)
Any motor vehicle with a gross vehicle weight of 10,000 pounds or more	Before 1 July 1973	88
Same	After 1 July 1973	86
Same	After 1 January 1975	84
Test procedures according to SAE Standard J-366a.		

3. Type of Vehicle	Date of Manufacture	Noise Limit dB(A)
Passenger car, motor driven cycle and any other motor vehicle	Before 1 January 1973	86
Same	After 1 January 1973	84
Same	After 1 January 1975	80
Test procedures according to SAE Standard J-986a.		

- (8) (a) No person shall operate within the speed limits specified in this Section either a motor vehicle or combination of vehicles of a type subject to registration at any time or under any condition as to exceed the following noise limit for the category of motor vehicle, measured at a distance of not less than fifty (50) feet from the centerline of travel, under ANSI Standards S1.1, 1960, and S1.4, 1961, and SAE Standard J-184 with meter set for fast response and the A-weighted scale.

Type of Vehicle	Noise Limit in Relation to Posted Speed Limit	
	1. Any motor vehicle with a manufacturer's GVW rating of 10,000 lbs. or more, and any combination of vehicles towed by such motor vehicle	35 mph or less
Before 1 July 1973	88 dB(A)	90 dB(A)
After 1 July 1973	86 dB(A)	90 dB(A)
2. Any motorcycle		
Before 1 July 1978	82 dB(A)	86 dB(A)
After 1 July 1978	78 dB(A)	82 dB(A)
3. Any other motor vehicle and any combination of motor vehicles towed by such vehicle		
Before 1 July 1978	78 dB(A)	82 dB(A)
After 1 July 1978	73 dB(A)	79 dB(A)

This Section applies 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 Code relating to motor vehicle mufflers for noise control.

- (8) (b) No person shall operate a motor vehicle or combination of vehicles, of a type subject to registration, at any time or under any condition when the noise limit herein established is exceeded under stationary test procedures as outlined for this Section by the regulations as promulgated under Section 9.68.

Type of Vehicle	Stationary Engine Speed	Microphone Distance From Vehicle	Noise Limit dB(A)
1. Any motor vehicle with a manufacturer's GVW rating of 10,000 lbs. or more, and any combination of vehicles towed by such motor vehicle	Maximum Governor speed (not applicable to vehicles without Governors). Ungoverned vehicles of this class shall be tested as provided for in Section 9.63(8)(a).	35 ft. from center line of vehicle	93
2. Any motorcycle	75 percent of motor speed at maximum developed horsepower	75 inches from near side of vehicle	
Before 1 July 1978			99
After 1 July 1978			95
3. Any other motor vehicle and any combination of motor vehicles towed by such vehicle	3000 Revolutions Per Minute (RPM)	20 inches from end of tailpipe	
Before 1 July 1978			94
After 1 July 1978			90

(9) No person shall sell, lease or agree to sell or lease any of the types of equipment herein enumerated which shall exceed the noise level herein established at a distance of fifty (50) feet, under test procedures and Standards SAE J-184, SAE J-952b, ANSI S1.1, 1960, ANSI S1.4, 1961, and with reference to Sections 9.64 and 9.65 of this Article.

Type of Equipment	Noise Limit dB(A)

1. Construction and industrial machinery, such as crawlers-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, wagons, pavement breakers, compressors, and pneumatic powered equipment, etc., but not including pile drivers:	
Manufactured after 1 July 1973	88
Manufactured after 1 January 1975	86
Manufactured after 1 January 1980	80
2. Agricultural tractors and equipment:	
Manufactured after 1 July 1973	88
Manufactured after 1 January 1975	86
Manufactured after 1 January 1980	80
3. Powered commercial equipment of 20 hp or less intended for infrequent use in a residential area, such as chainsaws, pavement breakers, log chippers, powered hand tools, etc.:	
Manufactured after 1 July 1973	84
Manufactured after 1 January 1980	80
4. Powered equipment intended for repetitive use in residential area (such equipment includes lawn mowers, small lawn and garden tools, riding tractors, snow removal equipment):	
Manufactured after 1 July 1973	74
Manufactured after 1 January 1975	70
Manufactured after 1 January 1978	65

- (10) No person shall alter, modify or change any exhaust muffler, intake muffler or other equipment designed to abate noise on any motor equipment unless such alteration, modification or change shall reduce the noise emitted by such equipment. Nothing in this Section shall be interpreted to prohibit the replacement of worn noise abatement equipment certified as meeting or exceeding specifications of the manufacturer's original equipment.
- (11) In I-1 Light Industrial Zoning Districts and PID, Planned Industrial Districts, at no point on the boundary of a Residence, Business, or Commercial district shall the sound pressure level of any individual operation or plant, or the combined operations of any person, firm or corporation, exceed the decibel levels in the designated octave bands shown below for the zoning districts indicated as measured using test equipment per ANSI Standards S1.1—1960, S1.4—1961, S1.11—1966, and S1-12—1967, and SAE J-184, and with reference to Sections 9.64 and 9.65 of this Article.

Octave Band Center Frequency (Hz)	Maximum Sound Pressure Levels (dB) Along District Boundaries (Daytime, Steady Noise)	
	Residence	Business and Commercial
31.5	72	79
63	71	78
125	65	72
250	57	64
500	51	58
1000	45	52
2000	39	46
4000	34	41
8000	32	39
Maximum repetitive impulse noise sound pressure levels to be 10 (dB) lower than the values shown for steady noise.		

For monitoring purposes, the A scale levels (slow response) of 55 dB(A) and 62 dB(A), respectively, for Residence and Business-Commercial districts may be used. Any noise level in excess of these values constitute a violation of this subsection of the Article.



Where noise levels below the abovementioned 55 dB(A) and 62 dB(A) are measured, the octave band test is to be applied in order to determine compliance with this subsection.

Maximum nighttime sound pressure levels (10:00 p.m. to 7:00 a.m.) are to be 7 (db) lower than the values shown for daytime steady noise for each octave band center frequency.

(12) In I-2 Heavy Industrial Zoning Districts, at no point either on the boundary of a Residence, Business or Commercial district, or at one hundred twenty-five (125) feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of any individual operation or plant, or the combined operations of any person, firm or corporation, exceed the decibel levels in the designated octave bands shown below for the zoning districts included, as measured using test equipment per ANSI Standards S1.1—1960, S1.4—1961, S1.11—1966, and S1.12—1867, and SAE J-184, and with reference to Sections 9.64 and 9.65 of this Article.

Octave Band Center Frequency (Hz)	Maximum Sound Pressure Levels (dB) Along District Boundaries (Daytime, Steady Noise)	
	Residence	Business and Commercial
31.5	75	80
63	74	79
125	69	74
250	64	69
500	58	63
1000	52	57
2000	47	52
4000	43	48
8000	40	45
	Maximum repetitive impulse noise sound pressure levels to be 10 (db) lower than the values shown for steady noise.	

For monitoring purposes the A scale levels (slow response) of 61 dB(A) and 66 dB(A), respectively, for Residence and Business-Commercial districts may be used. Any noise levels in excess of these values

constitute a violation of this subsection of the Article. Where noise levels below the abovementioned 61 dB(A) and 66 dB(A) values are measured, the octave band test is to be applied in order to determine compliance with this subsection.

Maximum nighttime sound pressure levels (10:00 p.m. to 7:00 a.m.) are to be 7 (db) lower than the values shown for daytime steady noise for each octave band center frequency.

(13) In Business and Commercial zoning districts, all activities involving the production, processing, cleaning, servicing, testing, repair of materials, goods or products, or any property use shall conform with the performance standards stated in subsection (11), above, provided that performance standards shall in every case be applied at the boundaries of the lot on which any such activities take place.

(14) In Residential zoning districts, any property use shall conform with the performance standards stated in subsection (11) above, for Residence district boundaries, provided that performance standards shall in every case be applied at the boundaries of the lot on which such use is established.

(15) The maximum sound pressure levels established in subsections (11), (12), (13) and (14) to be applied to the boundaries of a lot shall not apply to construction sites. Construction site noise level shall be regulated by subsection (4) above.

(16) In all instances in which an I-2 Heavy Industrial District does not adjoin a Residence, Business or Commercial district, the performance standards governing noise for the I-1 Light Industrial Districts shall apply at the nearest Residence or Commercial district boundary line, as these districts are defined and designated under the provisions of the Grand Rapids Zoning Ordinance.

(17) Any property uses established in an Industrial, Business or Commercial district shall be so operated as to comply with the performance standards governing vibrations set forth:

(a) In an I-2 Heavy Industrial Zoning District any property use creating intense or shaking vibrations such as are created by drop forges or heavy hydraulic surges shall be set back at least three hundred (300) feet from the zoning district line of any Residence or Commercial zoning district and at least one hundred fifty (150) feet from the zoning district line in any I-1 or PID Industrial zoning district unless such operation is controlled in such manner as to prevent such transmission beyond the zoning district line of earth shaking vibrations perceptible without the aid of instruments.

(b) In an I-1, PID Industrial Zoning District, Business or Commercial zoning district, any property use creating earth-shaking vibrations such as are created by drop forges or hydraulic surges shall be controlled in such manner as to prevent transmission beyond the lot lines of earth-shaking vibrations perceptible without the aid of instruments.

(18) No person shall sell or offer for sale any engine powered pleasure vessel, engine powered craft or motorboat which may exceed the following noise limit as measured at the distance of fifty (50) feet under test procedures per SAE J-952b and with reference to SAE J-184 and ANSI Standards S1.1, 1960, S1.4, 1961, and Sections 9.64 and 9.65 of this Article.

	Noise Limit
Manufactured before 1 January 1975	85 dB(A)
Manufactured after 1 January 1975	76 dB(A)

(19) No person shall sell or offer for sale a new power driven recreational or off-highway vehicle including dune buggies and snowmobiles, go-karts, and minibikes that produce noise measured at the distance of fifty (50) feet exceeding the following, under test procedures per SAE J-952b and with reference to SAE J-184 and ANSI Standards S1.1, 1960, S1.4, 1961, and Sections 9.64 and 9.65 of this Article.

Type of Vehicle	Date of Manufacture	Noise Limit dB(A)
Snowmobile	After 1 July 1973	82
Same	After 1 July 1974	73
Any other vehicle including dune buggy,		
all-terrain vehicle,	After 1 July 1973	82
go-kart, mini bike	After 1 July 1975	73

This subsection shall not be interpreted to include motor homes, off-highway trucks, construction equipment and other equipment included under subsections (7) and (9), above.

(20) No person shall operate a motor driven vehicle of a type not subject to registration for road use, at any time or under any condition of acceleration or deceleration as to exceed the following noise limits as measured from the distance of fifty (50) feet under ANSI Standards S1.1, 1960, and S1.4, 1961, and SAE Standard J-184 with meter set for fast response and the A-weighted scale.

Date of Manufacture	Noise Limit
Before 1 July 1973	86 dB(A)
After 1 July 1973	82 dB(A)

This subsection shall not be interpreted to include the operation of off-highway trucks and construction equipment, regulated under subsection 9.63(9) of this Article.

(21) Landing and Takeoff Limitations.

- (a) No person shall cause or permit a helicopter to land or take off in a CBD Zoned District between the hours of 11:00 p.m. and 7:00 a.m., nor shall any person cause or permit more than fifteen (15) landings and fifteen (15) takeoffs a month from any one (1) site, nor more than two (2) landings and two (2) takeoffs per day from any one (1) site.

(b) The City Manager may grant written permission for additional landings and takeoffs in conjunction with special events of community importance.

(22) Helicopter Landing and Takeoff Noise Limitations. No person shall operate a helicopter or permit a helicopter to be operated so as to exceed the following noise limit:

(a) Microphone Distance from Helicopter	Maximum dB(A) Slow Meter Response	Maximum Duration
Meter used at perimeter of structure or property containing landing site at the public right-of-way level	110 dB(A)	30 seconds

(b) A helicopter shall not remain in operation at a landing site for a duration of more than three (3) minutes.

(23) Exemption. The provisions of this Article shall not apply to emergency landings and takeoffs.

(Ord. No. 73-8, 2-6-73; Ord. No. 75-36, 4-29-75; Ord. No. 76-2, 1-6-76; Ord. No. 78-27, 4-18-78; Ord. No. 83-56, 9-27-83)

Sec. 9.64. - Test Procedures.

Test procedures as to noise levels emitted by motor vehicles and by engine powered equipment when offered for sale shall conform to SAE Standards and Recommended Practices:

SAE J-184	Qualifying a Sound Data Acquisition System, SAE Recommended Practice
SAE J-331	SAE Standard for Sound Levels for Motorcycles, as it is proposed on the effective date of this Article
SAE J-366a	Exterior Sound Level for Heavy Trucks and Buses, SAE Recommended Practice
SAE J-952b	Sound Levels for Engine Powered Equipment, SAE Standard
SAE J-986a	Sound Levels for Passenger Cars and Light Trucks, SAE Standard

and such other and further standards as may be propounded in the Code of Recommended Practices of the Director.

(Ord. No. 73-8, 2-6-73)

Sec. 9.65. - Test Equipment Standards.

Test equipment standards applicable to tests and measurements described and required herein are:

ANSI S1.1, 1960	Acoustic Terminology (ISO R131) (IEC 50-08)
ANSI S1.4, 1961	General Purpose Sound Level Meters (IEC-123-1961)
ANSI S1.11, 1966	Octave, Half Octave and Third Octave Band Filter Sets (IEC 225-1966)
ANSI S1.12, 1967	Laboratory Standard Microphones
IEC 179, 1965	Precision Sound Level Meters

and such other and further standards as may be propounded in the Code of Recommended Practices of the Director.

(Ord. No. 73-8, 2-6-73)

Sec. 9.66. - Certification of Compliance.

The Director may require, upon reasonable notice, that the manufacturer, distributor, importer, or designated agent shall certify in writing to the City that his or her vehicles or equipment sold or offered for sale within the City comply with the applicable provisions of the appropriate subsections of this Article.

(Ord. No. 73-8, 2-6-73)

Sec. 9.67. - Adjustment of Standards.

It is the intent of the City of Grand Rapids to periodically reevaluate the future noise level limits and other standards contained in this noise control ordinance, and, if it is determined to be appropriate, to adjust such standards either upward or downward in light of future possible advances in technology or the state of the art.

(Ord. No. 73-8, 2-6-73)

Sec. 9.68. - Regulations.

- (1) The City Manager may establish regulations for the implementation or enforcement of Article 5, Chapter 151, of Title IX of the Code of the City of Grand Rapids. Any regulation promulgated under this Section shall pertain only to the means, manner or method of implementation or enforcement of the Article and shall not change, alter or amend the requirements of the Article. The regulations promulgated hereunder, or amendments or changes thereof, shall become effective upon review and approval by the City Commission.
- (2) Violation of the regulations promulgated under this provision shall be punished as provided for in Section 1.13 of this Code.

- (3) Copies of the Regulations promulgated under this Section shall be kept on file at the Office of the City Clerk and at the Office of the Director. These regulations shall be available for public inspection and copying during normal business hours.

(Ord. No. 75-36, 4-29-75)

Sec. 9.69. - Variances.

- (1) The provisions of this Article shall not apply to those events, activities or locations which have been granted a variance, as hereinafter set out, by the City Commission.
- (2) The City Commission shall have the authority to grant variances subject to the conditions and under the circumstances set out in this Section. These variances, to be known and entitled as Noise Variances, shall exclude the event, activity or location for which the permit is issued from the operation and requirements of this Article, subject to the provisions of this Section.
- (3) Any person seeking a variance pursuant to this Section shall file an application with the City Clerk on a form prescribed by the City Manager. The application shall contain, in addition to such information as shall be required by the City Manager, information demonstrating that bringing the source of sound for which the variance is sought or the activity involved into compliance with this Article, would cause an unreasonable hardship for the applicant, the community or for other persons. Upon receiving such an application, the Clerk shall submit it to the City Manager. Upon receipt of an application, the City Manager shall cause such investigation as he or she deems necessary to be made concerning the application. This investigation may include, but need not be limited to, consulting with such City Departments as he or she may deem necessary or desirable. The City Manager, subject to the provisions of subsection (4) of this Section may, in his or her discretion, cause a public hearing to be held on any application for a Noise Variance. If no public hearing is held, the City Manager, subject to the provisions of subsection (4) of this Section, shall allow interested parties to submit written comments concerning an application for a Noise Variance. The applicant shall, prior to the investigation of the application by the City Manager, cause a public notice of said application for a Noise Variance to be published at least twice in a daily newspaper of general circulation published in the City of Grand Rapids, in a form prescribed by the City Manager.
- (4) The City Manager, in addition to such other investigation as he or she may deem necessary:
  - (a) Shall require applicant to show that the notice requirements herein provided for have been met;
  - (b) Shall permit applicant to offer such evidence as it desires to establish applicant's position that a variance should be granted;
  - (c) Shall permit those opposing applicant's request for a variance to offer evidence in opposition to the granting of a variance;
  - (d) May, in his or her discretion, refuse to receive or hear evidence that is merely cumulative, and may reasonably limit the time allowed to present evidence by those supporting and those opposing the application.
- (5) The City Manager shall consider all evidence received pursuant to this Section and based upon this evidence and the results of his or her investigation, shall make a recommendation to the City Commission as to whether a Noise Variance should be granted. The City Manager shall make his or her recommendation based upon the factors set out in subsection (6), and shall state the reasons for his or her recommendation in writing. The application and the recommendation of the City Manager shall be placed on the agenda of the City Commission and shall be considered in due course according to the Rules of the City Commission. In deciding whether to grant the Noise Variance, the City Commission shall consider the factors set out in subsection (6) of this Section. The City Commission shall, by resolution, grant or deny the Variance. If a resolution approving a Noise Variance is passed, the City Clerk shall issue a Noise Variance subject to the terms of this Section.
- (6) The following factors shall be considered in determining whether to grant the variance;

- (a) The balance of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other effects of the granting of the variance.
  - (b) The number, if any, of previous variances granted to the applicant, or for the same location or activity.
  - (c) The nearness of any residence or residences, or any other use which would be adversely affected by noise in excess of the limits prescribed by this Article.
  - (d) The sound level of the sound to be generated by the event or activity.
  - (e) Whether the type of noise to be produced by the event is usual or unusual for the location or area for which the variance is requested.
  - (f) The density of population of the area in which the event or activity is to take place.
  - (g) The time of day or night which the activity or event will take place.
  - (h) The nature of the sound to be produced, including but not limited to whether the sound will be steady, intermittent or of a repetitive impulse nature.
- (7) Neither the City Manager nor the City Commission shall consider the communicative content of the activity or event in determining whether to grant or deny a variance. The rights of all interested persons to due process of law and equal protection of law shall not be denied.
- (8) Variances shall only be granted subject to the following conditions:
- (a) That the event or activity for which the permit is sought shall be held in a public place.
  - (b) That the event or activity for which the permit is sought shall be open to the public. There shall be no discrimination on the basis of race, color, creed, national origin or sex.
  - (c) Variances issued shall be subject to such reasonable conditions as the City Commission shall require, including, but not limited to, conditions:
    - (i) Limiting the days of the week for which the variance is valid.
    - (ii) Limiting the number of days for which the variance is valid.
    - (iii) Limiting the hours of the day, or days, for which the variance is valid.

Such conditions shall be noted on the variance issued to the applicant and noncompliance with any condition of the variance shall terminate the variance and subject the applicant, event or activity to the provisions of this Article. The variance shall not be valid unless all conditions thereof are agreed to by the applicant, or its duly authorized officer or agent, in writing.
- (9) Any variance issued pursuant to this Section shall be kept at the site of the event or activity for which the variance was obtained. The variance shall be displayed, on request, to any law enforcement officer, Environmental Protection Department employee or park patrol officer. The requirements of this subsection are hereby made express conditions of the granting of the variance and failure to comply with these conditions shall cause the variance to terminate as provided for in subsection (8).
- (10) The City Commission, in granting or denying a variance pursuant to this Section, shall be an administrative body acting in a quasi-judicial capacity, subject to review as provided in Article 6, Section 28, of the Michigan Constitution of 1963.

(Ord. No. 76-20, 3-23-76)

Sec. 9.70. - Sound Systems in Vehicles.

No person operating or in control of a stopped or moving motor vehicle shall operate or permit the operation of a sound system in the vehicle so as to produce sound that is clearly audible at a distance of

fifty (50) feet from the vehicle between the hours of 7:00 a.m. and 7:00 p.m., or clearly audible at a distance of twenty-five (25) feet from the vehicle between the hours of 7:00 p.m. and 7:00 a.m.; provided, however, this section shall not apply to the sound system of a police, fire or other public service vehicle while the public service vehicle is being used in the performance of public service work. Notwithstanding any other provision of this Code, a person convicted of violation of this Section shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00) in addition to other penalties provided for by law and by this Code.

(Ord. No. 95-67, § 1, 11-14-95)