CHAPTER 38; ENVIRONMENTAL

ARTICLE I. In General

Section 38-1. Unreasonable noise.

Purpose. It is the intent of the City Council by means of this section to protect the public health, safety, and general welfare by restricting activities which emit noise that unreasonably annoys, disturbs, injures, or endangers the comfort, health, peace, safety, or welfare of any person or persons, or precludes their enjoyment of property, or adversely affects their property's value.

(b) *Definitions.* Words and phrases defined in this section have, when used in this ordinance, the meanings given below. Any other word or phrase used in this ordinance, and defined in regulations of the Minnesota Pollution Control Agency Noise Pollution Control Rules Chapter 7030, has the meaning given in those regulations.

(1) L10. Means the sound level, expressed in decibels (dBA) which is exceeded 10 percent of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute and using test procedures approved by the police department.

(2) L50. Means the sound level, expressed in decibels (dBA) which is exceeded 50 percent of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute and using test procedures approved by the police department.

(3) Person. Means an individual, firm, partnership, corporation, trustee, associate, the state and its agencies and subdivisions, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, "person" shall include employees and licensees.

(c) *Noise Restrictions.*

(1) Night Restrictions. The following shall be prohibited between the hours of 10 p.m. and 7 a.m.

a. Participation in noisy parties or gatherings. No person shall participate in any party or gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or response of another person at any time. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

b. Domestic Power Equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment. Snow removal equipment is exempt from this provision.

c. Heavy Machinery Use. No person or persons shall engage in or permit heavy machinery activity involving the use of any kind of electric, diesel or gas-powered machine or other power.

d. Construction Activity. No person shall engage in or permit construction activities involving any type of equipment, mechanical or non-mechanical.

(2) Day Restrictions. The following shall be restricted between the hours of 7 a.m. and 10 p.m.

a. No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in Table 1 for the receiving land usage category specified when measured at a point of normal human activity of the receiving land use.

Table 1. Sound Level by Receiving Land Use (dBA)		
Land Use Districts	Day (7:00 a.m.- 10:00 p.m.)	
	L10	L50
Residential	65	60
Commercial	70	65
Industrial	80	75

(d) *Permitted Noise.* The following acts or noises are permitted between the hours of 10:00 p.m. and 7:00 a.m. daily:

(1) Equipment used in connection with special events or activities which are authorized, sponsored, permitted or approved by the city council or City Manager, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;

(2) Church bells, chimes or carillons, school bells, or emergency civil defense warning signals;

(3) Anti-theft devices;

(4) Machines or devices for the production of sound on or in authorized emergency vehicles.

(5) Situations wherein immediate work is necessary to restore property to a safe condition or when immediate work is required to protect persons or property from eminent exposure to danger are exempt from operational limits.

(e) *Procedure to Measure Sound.* When measuring sound between the hours of 7 a.m. and 10 p.m., the following procedure shall be followed to accurately measure the sound.

(1) Measurement location. Measurement of sound must be made at or within the applicable NAC at the point of human activity which is nearest to the noise source. All measurements shall be made outdoors.

(2) Equipment specifications. All sound level measuring devices must meet Type O, I, II, or S specifications under American National Standards Institute S1.4-1983.

(3) Calibration. All sound level measuring devices must, at a minimum, be externally field calibrated before and after monitoring using a calibration device of known frequency and sound pressure level.

(4) Measurement procedures. The following procedures must be used to obtain representative sound level measurements:

a. Measurements must be made at least three feet off the ground or surface and away from natural or artificial structures which would prevent an accurate measurement.

b. Measurements must be made using the A-weighting and fast response characteristics of the sound measuring device as specified in American National Standards Institute S1.4-1983.

c. Measurements must not be made in sustained winds or in precipitation which results in a difference of less than ten decibels between the background noise level and the noise source being measured.

d. Measurements must be made using a microphone which is protected from ambient conditions which would prevent an accurate measurement.

(5) Data documentation. A summary sheet for all sound level measurement shall be completed and signed by the person making the measurements. At a minimum, the summary sheet shall include:

a. date;
b. time;
c. location;
d. noise source;
e. wind speed and direction;
f. temperature;
g. humidity;
h. make, model, and serial number of measuring equipment;
i. field calibration results;
j. monitored levels; and
k. site sketch indicating noise source, measurement location, directions, distances, and obstructions.

(f) *Public Nuisance.* It shall be unlawful for any person to make, continue, permit or cause to be made or continued any loud, unnecessary, or unusual noise or any noise within the City which would be likely to annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of a reasonable person of ordinary sensibilities.

(1) The following acts constitute a presumptive public nuisance.

a. Horns, signaling devices, etc. The continual sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle for a period of at least 15 seconds even if interrupted by short gaps in sound, on any street, public place, or private property within the City except as a danger warning;

b. Radios, phonographs, etc. The use, operation, or permitting the playing, use, or operation of any radio receiving set, musical instrument, phonograph, or other machine or device for the amplification, production or reproduction of sound at any time in such manner as to be likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities who might be in its vicinity or between the hours of 10:00 P.M. and 7:00 A.M. at such a volume so as to be plainly audible at the real property boundary of the building, structure, residence or other area in which the device is located.

c. Amplified sound from a motor vehicle. The use, operation or permitting the playing, use or operation of any radio receiving set, musical instrument, or other machine or device for the amplification, production or reproduction of sound within a motor vehicle at a volume where it is audible by any person from a distance of fifty (50) feet or a distance of five (5) motor vehicle lengths or more from the source. Where the motor vehicle's owner is present that person is responsible for any violation of this subsection. If the owner is not present, the driver or person in control of the vehicle is responsible for any violation of this subsection. In addition to an owner or driver, any person who controls or assists with the amplification, production or reproduction of the sound in violation of this subsection is an additional responsible party.

d. Loud speakers, amplifiers for advertising, etc. The use, operation, or permitting the playing, use, or operation of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the production or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

e. Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or loud singing on the public streets within fifty (50) feet of a residential dwelling unit or sleeping facility, between the hours of 10:00 P.M. and 7:00 A.M.

f. Defective vehicle, loads or noisy vehicle operation. The non-emergency use or operation of any automobile, motorcycle, scooter, recreational vehicle, or other type of motor vehicle, which by its out-of-repair condition, manner of loading or operation at such speeds or in such manner as to create loud and unnecessary grating, grinding, squealing of tires, rattling, or other noise so as to be likely to annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities in its vicinity.

g. Engine-braking. The use of a compression engine brake device in non-emergency situations to slow the speed of an internal combustion engine powered motor vehicle on City streets or highways without an exhaust muffler in good working order or other device that is effective in preventing loud engine roaring, staccato popping or growling resulting from the use of the compression engine brake.

(g) *Enforcement.* Any person who violates the provisions of this section shall be guilty of a misdemeanor as defined by State law.

Section 38-2 through 30-29. Reserved.