

2005-Or-___

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

By _____

Amending Title 15, Chapter 389 of the Minneapolis Code of Ordinances relating to Noise.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 389.30 of the above-entitled ordinance be amended to read as follows:

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

Ambient noise level: The sound level which exists at a point of measurement in the absence of the sound the noise emission of which is measured, being the total effect of all other sounds coming from near and far. 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).

A-weighted sound level: A measure of sound pressure level designed to reflect the acuity of the human ear, which does not respond equally to all frequencies. The ear is less efficient at low and high frequencies than at medium or speech-range frequencies. To describe a sound containing a wide range of frequencies in a manner representative of the ear's response, it is necessary to reduce the effects of the low and high frequencies with respect to the medium frequencies. The resultant sound level is said to be A-weighted, and the units are dB(A). The A-weighted sound level is also called the noise level. Sound level meters have an A-weighting network for measuring A-weighted sound level.

Audible: Heard or perceived by the human ear.

Background noise: The total of all noise in a system or situation, independent of the presence of the desired signal. In acoustical measurements, strictly speaking, the term "background noise" means electrical noise in the measurement system. The term background noise is often used to mean the noise in the environment, other than the noise from the source of interest.

Band: Any segment of the frequency spectrum.

Calibrator (acoustical): A device which produces a known sound pressure on the microphone of a sound level measurement system, and is used to adjust the system to standard specifications.

Continuous: Continuing without intermission and seemingly without end.

Construction equipment: Any vehicle or device such as a jackhammer, hammerdrill, bulldozer, dump truck, front end loader, bobcat, crane or backhoe used in a construction project which has a defined beginning and end.

Cycles per second: A measure of frequency numerically equivalent to hertz.

Daytime: 6:00 a.m. to 6:00 p.m. of the same day.

dB(A): Composite abbreviation for decibel and A-weighted sound level. The weighted sound pressure level by the use of the A metering characteristic and weighting specified in ANSI Specification of Sound Level Meters, S1.4-1983. dB(A) is used as a measure of human response to sound.

Disturbing, excessive or offensive noise: Any sound or noise conflicting with the criteria or levels set forth in this article.

Equivalent A-weighted sound level (Leq): The constant sound level that, in a given time period, would convey the same sound energy as the actual time-varying A-weighted sound level.

Hearing: The subjective human response to sound.

Hearing level: A measured threshold of hearing at a specified frequency, expressed in decibels relative to a specified standard of normal hearing. The deviation in decibels of an individual's threshold from the zero reference of the audiometer.

Hertz (Hz): Unit of measurement of frequency, numerically equal to cycles per second.

Impact sound: The sound produced by the collision of two (2) solid objects. Typical sources are footsteps, dropped objects, etc., on an interior surface (wall, floor, or ceiling) of a building.

Impulsive noise: Impulsive noise means a 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.

Intensity: The sound energy flow through a unit area in a unit time.

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

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

Level: The logarithm of the ratio of a quantity to a reference quantity of the same kind. The base of the logarithm, the reference quantity, and the kind of level must be specified.

Logarithm: The exponent that indicates the power to which a number must be raised to produce a given number. For example, for the base ten (10) logarithm, used in acoustics, two (2) is the logarithm of one hundred (100).

Loudness: The subjective judgment of intensity of a sound by humans. Loudness depends upon the sound pressure and frequency of the stimulus. Over much of the frequency range it takes about a threefold increase in sound pressure, a tenfold increase in acoustical energy, or, ten (10) dB(A) to produce a doubling of loudness.

Loudness level: Measured in phones it is numerically equal to the median sound pressure level (dB) of a free progressive one thousand (1,000) Hz wave presented to listeners facing the source, which in a number of trials is judged by the listeners to be equally loud.

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.

Masking noise: A noise that is intense enough to render inaudible or unintelligible another sound that is also present.

Medium: A substance carrying a sound wave.

Mobile refrigeration unit: A refrigeration chiller powered by an auxiliary engine or electric motor that is mounted on a truck body or a trailer container for the purpose of providing chilled air to the contents of the truck container or trailer.

Noise: Any sound which is unwanted, or does not occur in the natural environment (e.g., aircraft, highways, industrial, commercial, residential), or has an erratic, intermittent, or statistically random oscillation.

Noise area classification or noise classification area: The noise area classifications and activities included in Minnesota Rules, Chapter 7030, administered by the Minnesota Pollution Control Agency, except where specifically altered herein.

Noise level: The sound level. For airborne sound, unless specified to the contrary, it is the A-weighted sound level.

Noisy or unruly assembly: For the purposes of sections 389.65 (c)(1) and 389.65 (c)(2), the term "noisy or unruly assembly" shall mean a gathering of ~~more than one person~~ two or more persons in a residentially zoned or used area or building ~~between the hours of 10:00 p.m. and 6:00 a.m. that~~ whose excessively loud or unruly conduct would be likely to disturb the quiet enjoyment of neighboring or nearby private property or to disturb or 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. Should such a gathering take place between the hours of 10:00 p.m. and 6:00 a.m. a rebuttable presumption shall exist that any excessively loud or unruly conduct constitutes a noisy or unruly assembly as defined by this section. Notwithstanding this presumption, a noisy or unruly assembly may be found to exist outside of such hours should all other requirements of this section be met. Such assemblies include, but are not limited to, 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.

Non-impulsive noise: All noise not included in the definition of impulsive noise.

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

Peak sound pressure: The maximum absolute value of the instantaneous sound pressure in a specific time interval. Note: In the case of a periodic wave, if the time interval considered is a complete period, the peak sound pressure becomes identical with the maximum sound pressure.

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.

Property line: The real or imaginary line and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person and separates real property from the public premise.

Premise: Any building, structure, land, utility or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.

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.

Residentially zoned area: Any property or area which is located in a zoning district intended for any kind of residential use and with an "R" designation of any kind pursuant to the Minneapolis Zoning Code and the associated official zoning map.

Reverberation: The persistence of sound in an enclosed space, as a result of multiple reflections, after the sound source has stopped.

Shielding: The attenuation of a sound, achieved by placing barriers between a sound source and the receiver.

Sound:

1. An oscillation in pressure, stress, particle displacement, particle velocity, etc., in an elastic or partially elastic medium, or the superposition of such propagated alterations.
2. An auditory sensation evoked by the oscillation described above. Not all sound waves can evoke an auditory sensation (e.g., ultrasound).

Sound level: A quantity measured with a sound level meter and expressed in decibels. The weighted sound level meter and frequency weighting network, such as A, B, C as specified in ANSI specifications for sound level meters (ANSI S1.4-1983, or the latest approved revision). If the frequency weighting employed is not indicated, the A-weighting is implied.

Sound level meter: An instrument or combination of instruments, which meets or exceeds the requirements for a type S1A or S2A sound level meter as specified in American National Standards Institute specification for sound level meters S1.4-1983, or its latest revision. It is comprised of a microphone, amplified, output meter, and frequency-weighting networks which is used for the measurement of noise and sound levels.

Spectrum: The description of a sound wave's resolution into its components of frequency and amplitude.

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.

Threshold of audibility: The minimum sound pressure level at which a person can hear or detect a specified frequency of sound over a specified number of trials.

Threshold of pain: The minimum sound pressure level of a sound outside the ear that will produce a transition from discomfort to definite pain.

Tone: A sound of definite pitch. A pure tone has a sinusoidal wave form which changes from discomfort to pain.

Vibration: An oscillatory motion of solid bodies described by displacement, velocity, of acceleration with respect to a given reference point.

Wave: A disturbance that travels through a medium by virtue of the elastic properties of that medium.

Wavelength: For a periodic wave (such as sound in air), the distance between analogous points on any two (2) successive waves. The wavelength of sound in air or in water is inversely proportional to the frequency of the sound.

Weighting. Prescribed frequency filtering provided in a sound level meter.

Windscreen. A porous device used to cover the microphone of a sound level measurement system which is designed to minimize the effects of winds and wind gusts on the sound levels being measured. Typically made of open cell polyurethane foam and spherically shaped.

Section 2. That Section 389.65 of the above-entitled ordinance be amended to read as follows:

389.65. Public nuisance noise. (a) It shall be unlawful for any person to make, continue, permit, or cause to be made or continued within the city, any loud, disturbing

or excessive noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area.

- (b) The characteristics and conditions which shall be considered in determining whether a noise is loud, disturbing, or excessive for the purposes of paragraph (a) of this section, shall include, but not be limited to the following:
 - (1) Whether the nature of the noise is usual or unusual.
 - (2) Whether the origin of the noise is natural or unnatural.
 - (3) The proximity of the noise to sleeping facilities.
 - (4) The land use, nature, and zoning of the area from which the noise emanates and the area where it is received.
 - (5) The time of day or night when the noise occurs.
 - (6) The duration of the noise.
 - (7) Whether the noise is recurrent, intermittent, or constant.
 - (8) Whether the noise is produced by a commercial or noncommercial activity.
 - (9) Whether or not noise abatement measures are possible and whether or not they are used to reduce the sound level.
 - (10) The number of people and their activities that are affected by the noise.
 - (11) The sound peak pressure level of the noise on the A scale, if known.
 - (12) The A scale level of ambient noise, if known.
 - (13) The nature of any communicative content of the noise shall not be considered, for the purpose of this section, except:
 - a. No noise shall be prohibited or restricted by 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.
- b. No noise shall be prohibited or restricted by 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.
- (c) Activities which constitute a public nuisance. The following acts are violations of this section, subject to enforcement through criminal, civil and administrative means, without reference to the standards of paragraphs (a) and (b) of this section, with the exception of section 389.65 (b) (13), namely:
- (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 and to the potential imposition of administrative special security costs as further described in this section.
 - b. A notice of noisy or unruly assembly shall be sent 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. Additionally, a copy of the notice shall be securely posted on the premises in a prominent location. This posting may be completed immediately by a designated agent of the Minneapolis Police Department, and in no event shall the posting take place more than thirty days after the date of the noisy or unruly assembly. The Minneapolis Police Department may, upon determining that the issuance or posting of a notice would be contrary to public policy, refrain from such issuance or posting 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.

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 and held directly and vicariously liable for any special security costs expended during subsequent responses to the premises for additional noisy or unruly assemblies within twelve months of the date of the previous noisy or unruly assembly. Each notice shall further state the date of expiration for the notice, which shall be twelve months from the date of the noisy and unruly assembly which triggered the notice, and that any persons present at or participating in additional noisy or unruly assemblies will be subject to potential criminal, civil or administrative liability. 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 posting. An owner, rental license holder, landlord, tenant or resident of a posted premises may contest the posting of the notice 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 posting was justified pursuant to the provisions of this chapter. An owner, rental license holder or landlord of a posted premises, at any time after the posting or mailing of the notice, may petition the designated agent of the Minneapolis Police Department for a written order permitting the removal of the notice on the grounds that he or she has taken reasonable and necessary actions, such as evicting a tenant responsible for the violation, 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.

3. Removal of unexpired notice prohibited. The owner, rental license holder, landlord, tenant or resident of a posted premises shall be responsible for ensuring that the notice is not removed, defaced or concealed. No such person shall allow an unexpired posted notice to remain in a removed, defaced or concealed state for more than 72 hours. All such persons shall inform the Minneapolis Police Department when a notice has been removed or defaced and, if removed or defaced, obtain and post a replacement notice or otherwise ensure that a replacement notice is posted in the same location prior to the expiration of the 72-hour period. If the notice has been concealed but not removed or defaced, all such persons shall ensure that the concealed notice is made fully visible within the 72-hour period. The Minneapolis Police Department may post a replacement notice at any time upon being advised that an unexpired notice has been removed, defaced or concealed. No person shall remove, deface or conceal a posted notice of noisy or unruly assembly.

4. 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. Special security costs. When the police department, fire department or other emergency response personnel respond to a noisy or unruly assembly at the same premises within twelve months of the date of any previous noisy or unruly assembly for which a notice of noisy or unruly assembly was served, 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, inclusive of the city's actual costs of providing special security service for the response to the noisy or unruly assembly plus any additionally prescribed civil fine amount. Special security service response costs include all reasonably associated personnel and equipment expenditures.

- (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 while not in motion, except as a danger signal or traffic warning.
- (4) Keeping animals or birds. The keeping of any animal or bird which causes long, frequent, and/or continuous noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area.
- (5) 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.
- (6) Amplified sound from vehicles. Except as provided in section 389.105, the playing or operation, or permitting the playing, use or operation, of any radio, tape player, disc player, loud speaker, or other electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle 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 or reproduced by any such device that is located in a motor vehicle, the motor vehicle's owner, if present when the violation occurs, is 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.
- (7) Amplified sound. The playing or operation, or permitting the playing, use or operation, of any radio tape player, loud speaker or other electronic device used for the amplification of sound (except as specifically permitted under section 389.105) located inside or outside, the sound of which carries to points of habitation on adjacent properties, and is audible above the level of conversational speech at a distance of fifty (50) feet or more from the point of origin of the amplified sound.