



March 29, 2021

Citizens Environmental Quality Committee  
Winona, Minnesota 55987

Dear Committee Members:

The next meeting of the Citizens Environmental Quality Committee meeting will be held virtually on **Thursday, April 1, 2021 at 4:30 p.m.** We will be using Zoom to video conference, with a call in option as well. To access Zoom:

Join Zoom Meeting: <https://us02web.zoom.us/j/85610993614>

Passcode: 55987

Optional Call in: +1 312 626 6799 Meeting ID (Web and call in): 856 1099 3614

1. **Call to Order**
2. **Review of February Meeting Minutes**
3. **Sustainability Plan Engagement Discussion (30 minutes)**
4. **Noise Pollution Discussion (10 Minutes)**
5. **Community Garden Planning Update (5 minutes)**
6. **Community Commercial Shared Kitchens (10 minutes)**
7. **Other Business (5 minutes)**
8. **Adjournment**

Sincerely,

John Howard

Natural Resources Sustainability Coordinator

## **CITIZENS ENVIRONMENTAL QUALITY COMMITTEE MEETING NOTES**

DATE: Thursday March. 4, 2021  
TIME: Scheduled for 4:30 pm (Virtual Zoom Meeting)  
PRESENT: Dan Hall, David Ruff, Niki Ciulla, Lynette Power  
GUESTS: John Finn, Daniel Botz  
STAFF: John Howard, Katie Grannes (Community Forestry Corps), Kelsie Travers (GreenCorps)

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1. **Call to Order:** Call to order at 4:34 PM by Dan Hall (Chair)
2. **Review and Approval of Feb. 2021 Meeting Minutes:** Motion by David, second by Dan Hall. Approval unanimous.
3. **Noise Pollution:**

Dan asked for Mr. Finn to describe the noise issues he was encountering in his neighborhood just to the west of downtown. Dan stated that noise is “in the ear of the beholder”, and can be variable between people. Mr. Finn says the issue is primarily use of “Jake Brakes” in trucks. Mr. Finn explained that this method of braking utilizes the engine as an air compressor, and if installed with muffler, noise is minimal. However, many trucks have the muffler removed so they are quite loud. The noise often come from the bridge. Mr. Finn said many cities have signage notifying that use of “Jake Brakes” is not allowed, but often not enforced. Dan said Winona has this signage. Dan wonders if moving the 30 mph limit on the bridge to earlier on the incline could lead to less “Jake Braking”. Mr. Finn said this would require highway department cooperation.

Dan asked if any point sources cause issues. Mr. Finn noted one point source is rail car vibration, which creates a buzzing/humming sound, but it is not constant.

Dan asked if John had researched state and local ordinances about noise pollution. John said the City has a code chapter related to noise pollution, and shared it on his screen. John will shared the code with the CEQC and meeting attendees. John stated that the code prohibits modifying vehicles to create unnecessary noise, and how has limits on noise in residential areas. Thus, the City may be able to measure the noise and provide recourse for violations.

Dan asked if any specific decibel limits are described in the code. John scrolled to the applicable section of code, and stated that residential areas have a daytime upper limit of 65 decibels. Dan gave a primer based on his experience with noise monitoring.

Lynette noted that truck traffic noise is miserable on Franklin, and even worse on Mankato Blvd. Monitoring of all truck routes, and enforcement needs to be more serious.

Mr. Finn noted that industrial noise is more an annoyance while outdoors, while the vehicle noise is even a problem inside.

John to send out the applicable regulations, and determine City's ability to monitor noise pollution.

4. **Citizens Climate Lobby:**

Mr. Botz provided a summary of the carbon fee and dividend concept that is a central tenet of Citizens Climate Lobby.

The local chapter of the organization began in September, and has 14 members.

Dan asked for Mr. Botz's request for CEQC action. Dan was unsure of how CEQC could be involved. It may be more suitable for CEQC members to participate on their own time.

Lynette asked if support for carbon trading is included in the GreenStep Cities program. John was not aware of this being a consideration in the GreenStep program. Dan clarified this proposal is a carbon tax, rather than carbon trading. Discussion on environmental attribute trading ensued.

Dan suggested for John to determine if CCL proposal is applicable to GreenStep and City plan. Dan suggested Mr. Botz might have more success with business outreach.

5. **Community Garden Update:** John began by explaining that the Mayor announced he is forming a task force to explore community garden. This group will explore the need, research future expansion areas, and search for funding and how to sustain the garden. Niki described that her capstone group is doing a multi-prong feasibility study looking at: mapping gardens and current areas, looking at the feasibility of other sites, and drafting a community survey on need and interest.

Dan asked if Niki was involved with the Mayor's task force, and she said she is likely to be a member. Lynette added that one of her neighbors, who is a WSU professor, has students who could help with the survey preparation. Lynette wonders if Bruno was contacted, and John said he was and has expressed interest in the task force.

Lynette shared that a friend tried to reserve an East Rec. Center community garden plot, and only one plot was available.

6. **Sustainability Planning update:** John said that the advisory committee is up and running. Engagement and outreach is ongoing. At a later meeting, John will have a link to a survey. John plans to bring some questions and discussion items to the CEQC for April. Lynette believes noise and light pollution should be on the table for discussion as part of the plan.

7. **Other Business:** Lynette would like the City to make plans to avoid the catastrophe in heat and water that affected Texas. Mr. Botz said Texas was an anomaly since they are not used to cold weather. Lynette wondered about making a separate energy system to sustain in case of grid failure. John said there is discussion in the sustainability committee about islanding a micro-grid powered by renewable energy.

Lynette feels it would be valuable to have a guide on which community solar options are available, and alternative energy education in general. Lynette said wind farms are increasing all the time. John relayed that he and Kelsie held an educational session with the Citizens Utility Board this winter, and it seemed well received by the attendees.

John said he hopes to continue the weed treatment at the West Lake using similar methods as last year. This is separate from the phosphorus control via alum treatment.

8. **Adjournment:** Meeting adjourned at 5:43 pm. Motion by Lynette, seconded by Lynette. Approval unanimous.

Notes prepared by John Howard.

DRAFT

# CITIZENS ENVIRONMENTAL QUALITY COMMITTEE

**AGENDA ITEM: 3. Sustainability Plan Discussion**

**PREPARED BY: John Howard**

**DATE: April 1, 2021**

The City has begun public engagement and outreach for the forthcoming Sustainability plan. The City is working closely with Brian Voerding of Engage Winona to coordinate the effort. Brian will attend to get input from the CEQC about plan priorities and to discuss what sustainability means to you.

Another facet of the engagement and outreach strategy is an online survey. It would be great if you would share the link below with your networks to ensure a diverse and robust response. You are also welcome to take the survey.

Survey link: <https://www.surveymonkey.com/r/sustainabilityplansurvey>.

Questions to consider for the discussion with Brian:

- How do you define sustainability?
- What are the biggest challenges to sustainability Winona faces in this moment?
- What are the biggest sustainability projects or opportunities for the City to take advantage of right now?
- What are Winona's most important natural resources, and why? How well do you think they are managed or protected? What could change to make that better?
- Food, water, energy, materials+waste, transportation, and natural areas management are the six key plan areas - which one is most important to work on in this moment, and why?

# **CITIZENS ENVIRONMENTAL QUALITY COMMITTEE**

**AGENDA ITEM: 4. Noise Pollution Discussion**

**PREPARED BY: John Howard**

**DATE: April 1, 2021**

At the March meeting, the CEQC heard from a local resident, Mr. J. Finn, about noise pollution concerns. Chapter 39 of City code was reviewed briefly, and is included for your reference. Since then, another community member in a nearby neighborhood, C. Dretske also reached out to express similar concerns.

Their message is as follows:

“I’m writing after noticing the Citizens Environmental Quality Commission had an agenda item called Noise Pollution considerations. I’ve been interested in contacting the city about some noise pollution control for some time now and this seemed like a perfect opportunity.

I would like to have the commission address a couple items. The first is trucks and semis that jake brake coming down off the bridge. We live near Windom Park and often the jake braking noise is very loud even this far away. I can’t imagine how bothersome it may be for the residents of the apartments near the bridge or how workers in the new Fastenal building will feel about the noise.

The second item is in regard to motorcycles (though it could be other vehicles as well) driving down 5th Street and Broadway using excessive acceleration. I have also found (pre-Covid) when dining outside at Blooming Grounds that motorcycles will drive down 3rd Street and rev their bikes unnecessarily. It makes for a very unpleasant dining experience.”

**CHAPTER 39**  
**NOISE POLLUTION**

**39.01 DECLARATION OF POLICY**

**39.02 DEFINITIONS**

**39.03 SOURCE REQUIREMENTS**

**39.04 MOTOR VEHICLE SOUND LEVEL REQUIREMENTS**

**39.04.1 PROHIBITIONS**

**39.04.2 NOISY PARTIES AND GATHERINGS**

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**39.07 INSPECTIONS**

**39.08 ACCESS TO PREMISES AND RECORDS**

**39.09 INTERFERENCE WITH OR HINDRANCE OF A CITY OFFICIAL**

**39.10 REMOVAL AND CORRECTION OF VIOLATIONS**

**39.11 APPEAL**

**39.12 PENALTY**

**NOISE POLLUTION****39.01 DECLARATION OF POLICY**

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

**39.02 DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Noise Pollution is:**

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

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

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

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

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

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

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

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

Ord. No. 2589 09/08/81

**39.03 SOURCE REQUIREMENTS**

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

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

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

**39.04 MOTOR VEHICLE SOUND LEVEL REQUIREMENTS**

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

**39.04.1 PROHIBITIONS**

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

**39.04.2 NOISY PARTIES AND GATHERINGS**

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

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

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

Ord. 3530 06/03/02

### 39.05 DECLARATION OF NUISANCES

The following acts are declared to be public nuisances:

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

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

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

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

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

**39.05.1 PERMIT**

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

Ord. No. 2589 09/08/81

**39.06 REGULATIONS FOR TESTING AND MEASUREMENT**

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

**39.07 INSPECTIONS**

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

**39.08 ACCESS TO PREMISES AND RECORDS**

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

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

**39.09 INTERFERENCE WITH OR HINDRANCE OF A CITY OFFICIAL**

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

**39.10 REMOVAL AND CORRECTION OF VIOLATIONS**

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

**39.11 APPEAL**

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

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

**39.12 PENALTY**

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