

Planning Commission

Meeting Agenda (Amended)

Thursday, November 13, 2014

7:00 p.m., Council Chambers

NOTE CHANGE OF DATE



City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – October 2, 2014
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda
6. New Business – Approve 2015 Meeting Schedule
7. Unfinished Business
 - a) Draft Noise Ordinance Review
8. Commissioner Comments
9. Adjourn

RESPECTFULLY SUBMITTED,
Linda Anderson, Zoning Administrator

South Haven City Hall is Barrier-free and the City of South Haven will provide the necessary reasonable auxiliary aids and services for persons with disabilities, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities at the meeting upon seven (7) days notice to the South Haven City Clerk. Individuals with disabilities requiring services should contact the City Clerk by writing or calling South Haven City Hall at (269) 637-0700.



Agenda Item #7 Draft Noise Ordinance Hearing

City of South Haven

Background Information:

Since March 26, 2014, a subcommittee of the planning commission has been working on amendments to the city noise ordinance. This is a project requested of the planning commission by the city council to complete one of their 2014-2015 adopted goals. As part of this process, the subcommittee met with the city mayor, police chief and the directors/managers of the City Housing Commission and Old Harbor Village. The attached narrative explains the process used by the subcommittee in detail.

The draft ordinance, as well as all attachments, will be presented to the city council in a worksession. It is necessary that the entire planning commission review the draft before that happens.

Recommendation:

The planning commission members should review all attachments and be prepared to discuss the draft ordinance at the November meeting.

Support Material:

Narrative

Exhibits A and B

Draft Noise Ordinance (Deleted text is shown with ~~strikethrough~~, additions to text in **bold**)

Respectfully submitted,
Linda Anderson
Zoning Administrator

PLANNING COMMISSION NOISE ORDINANCE AMENDMENT RECOMMENDATIONS

Background

Since March 26, 2014, a subcommittee of the planning commission has been working on amendments to the city noise ordinance. This is a project requested of the planning commission by the city council to complete one of their 2014-2015 adopted goals.

It was important to the subcommittee members and the planning commission to draft amendments that would make the ordinance easy to understand and enforce while providing protection to residents and businesses. In reviewing the existing ordinance, the subcommittee found several areas where the language was vague or confusing.

Examples of these sections include Section 30-31 (5) d, which reads in part concerning daytime noise levels:

“The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the equipment and so that the volume is not unreasonably loud, raucous, jarring or disturbing to persons within the area of audibility”.

This language is unacceptable in ordinances. The descriptive term “unreasonably loud” is too subjective to be equitably enforced and it is difficult to defend in the event a citation is issued. In addition, the 100 foot distance reading is different than the decibel levels required during other times of day which are supposed to be taken at the property line. Similar subjective language is found in Section 30-29 (5) which reads (in part):

Machines or devices for producing or reproducing sound. Did then and there use, operate or permit to be operated, any radio receiving set, musical instrument, phonograph, magnetic tape player, compact disk player, or other machine or device for producing or reproducing of sound, from a moving or stationary_ vehicle in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the vehicle in which such machine or device is operated and who are voluntarily listeners thereto.

Additionally confusing is section 30-30 (a) which includes a table of acceptable decibel limits for day and night. This table requires police officers taking the readings to know the zoning districts and specific land use categories within the city as the table sets the limits based not on the source of the noise but the adjacent zoning. This section also includes confusing and vague additional daytime regulations in addition to the decibel limits, such as:

The operation of use between 9:00 a.m. and 10:00 p.m. of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds, whether stationary or mounted on a vehicle... shall be controlled so that it will not be audible for a distance in excess of 100 feet from the equipment and so that the volume is not unreasonably loud, raucous, jarring or disturbing to persons within the area of audibility.

Another problem, which became more apparent as the subcommittee continued their research, was the conflicting language related to the location where decibel readings were to be taken. The city code (Sec. 30-30 a. Decibel Level Limitations) reads, "*Such noise levels shall be measured on the property line or on the adjacent property which is receiving the noise*".

It was not difficult for the subcommittee members to see how and where the readings were taken may have been confusing. An ordinance that references taking decibel readings at 100 foot setbacks from the noise source in one section and property line readings in another, zoning district and land use differentiation for decibel readings and amplified limits for parts of the day in another section is confusing.

Methodology

As part of this process, the subcommittee met with the city mayor, police chief and the directors/managers of the City Housing Commission and Old Harbor Village to secure input from individuals who were identified as having suggestions for changes to the noise ordinance. In May of this year, the subcommittee, with the help of the police department and Listiak Auditorium, heard a demonstration of decibel levels to aid in establishing maximum acceptable noise levels.

To date, the subcommittee has met eleven (11) times to work on the requested amendments. In addition, the full planning commission held a public hearing in August, 2014. There were many comments received concerning the noise ordinance both at the hearing and in the preceding days. Overall, the majority of comments (4:1) were in support of the local food and drink establishments and in keeping the noise levels as currently written. Those speaking in favor of lowering the decibel limits were most notably owners and managers of Old Harbor Inn and Nichols Hotel.

In addition to their work sessions, the subcommittee members also scheduled a field trip with members of the police department. On August 16, 2014, the subcommittee members, along with Officer Chris Mersman, undertook a site visit to the local bars to hear firsthand the sound level and see the actual decibel readings near the midnight hours. The members agreed that it would be beneficial to actually hear the noise and see the decibels to help determine recommendations for acceptable levels.

It was after this first site visit that the subcommittee members noticed that the readings they observed at the bars were higher than those which had been reported over the summer. In an effort to explain this, the police chief and subcommittee member Heinig went back to the locations the following Saturday night and repeated the decibel test noting the decibels at the noise source (i.e. the property line) and from a distance (i.e. the adjacent property).

After some discussion with the police chief and other officers it was discovered that the summer readings were taken on the neighboring properties and not at the property lines¹. It was further found that decibel levels diminish rapidly when recorded even ten (10) feet from the noise source which resulted in the lower readings reported on the summer weekends. Generally it was found that the readings taken at a distance were in the 52-58 decibel range. Those taken at the property line of the businesses the evening of the study were around 69-74 decibels.

The subcommittee worked with the city GIS staff and police department in creating maps that would illustrate how the decibels decrease from the property line to the point where readings were usually taken (See Attachment A). Since by this time the summer was over, it was not possible to get the actual peak decibel readings at the property lines to illustrate the true decline as the decibel readers moved away from the noise source.

A formula, which is described below, was used to calculate the existing Db(A) readings, specifically those taken at varying distances from the noise sources, into the approximate decibel level at the property line.

$L_2 = L_1 + | 10 \cdot \text{Log}[r_1/r_2]^2 |$ where L2 is the unknown Db(A) reading at a desired distance r2 from the noise source and L1 is the measured Db(A) reading taken at distance r1 from the source.

This theoretically derived formula is based on several assumptions, such as a specific air density and lack of wind. Most problematic to the work is the assumption of no background noise. Since noise level dissipates with distance, the closer the existing readings to the source the less background noise will influence the calculations. The close proximity of various noise sources in our area renders even the closest existing readings subject to some need for interpretation.

The source of the noise must be evaluated at each site. At the Black River Tavern the source is within an enclosed building so for the purpose of noise measurements the noise emanates from the building at open windows and doors. This is taken as the source for measurement purposes as shown on the site map (Attachment A). The source of noise at open air sites must be measured from the location of the band or amplification source as shown on the site maps for Joe's Bar, Captain Lou's, The Idler, York's Landing and Admiral Jack's.

The decibel measurement sites proposed in the ordinance are located on the property line nearest the main building entrance. Our public safety department has realized the importance of taking enforcement readings at a consistent location and has proposed marking the locations at each business with an identifying mark.

The subcommittee has found no more accurate method than this. Setting of an appropriate Db(A) reading at the property line based on the existing readings does require interpretation of the data. We have used only those readings taken within 100 feet of the noise source and then applied some additional judgment to the calculated noise levels. To the subcommittee, this is a

¹ The city code (Sec. 30-30 a. Decibel Level Limitations) actually reads, "Such noise levels shall be measured on the property line *or on the adjacent property which is receiving the noise*" (emphasis added). If the city chooses to continue to use the adjacent property as the point of reference, the current 60 decibel limits is probably adequate. The property line is definitely a more accurate location to read decibels as there is less ambient noise to distort the reading.

more fact based method than when the existing ordinance was adopted and the best available to us at this time.

As is shown on the maps, the decibel readings taken at a distance (50'+) are generally in the upper 40s and 50s. With the current ordinance decibel limit set at 60, these readings appeared to be compliant with the city code. By using the formula described above to calculate the noise level at the property line, it is seen that the decibels actually read between 99 and 101. When the subcommittee members visited the sites with a police officer over the summer, the decibel readings they actually observed at the property lines were found to be between 65 and 75.

The members concluded that a property line decibel reading of 75 will continue to have decibel readings on adjacent properties at the acceptable levels of readings in the low to mid 50s². If the city chooses to continue to use the adjacent property as the point of reference, the current 60 decibel limit is probably adequate. The property line is definitely a more accurate location to read decibels as there is less ambient noise to distort the reading.

Additional Recommended Code Amendment

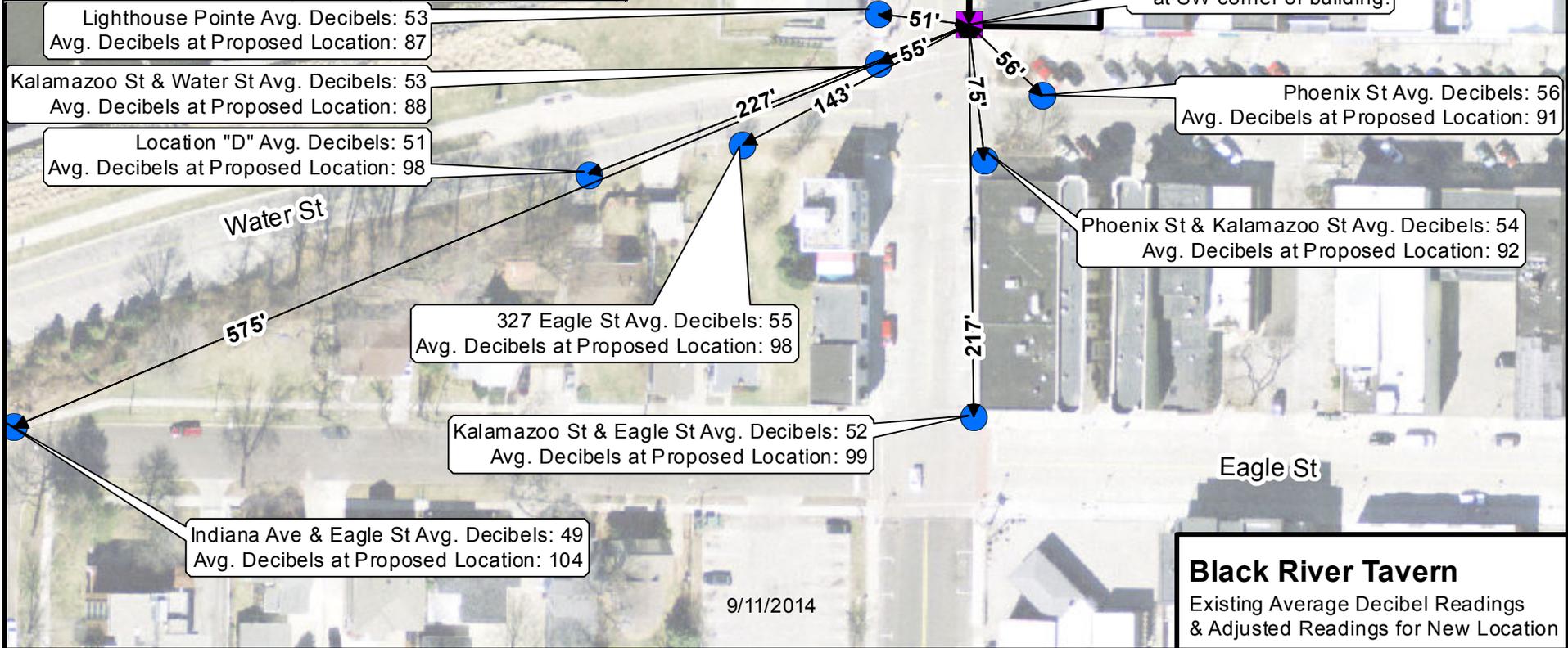
The planning commission also recommends increasing the fines for violators from \$50.00 for the first offense to at least \$100.00.

The draft recommendations for amendments to the noise ordinance are included as Attachment B.

² According to the American Academy of Otolaryngology, noise levels at 50 decibels equal the sound of moderate rainfall and 60 decibels is similar to normal conversation or clothes dryer. Ambient noise in the downtown was around 65 decibels except when vehicles passed on the street. Vehicles over the Dyckman Bridge registered 83 decibels.

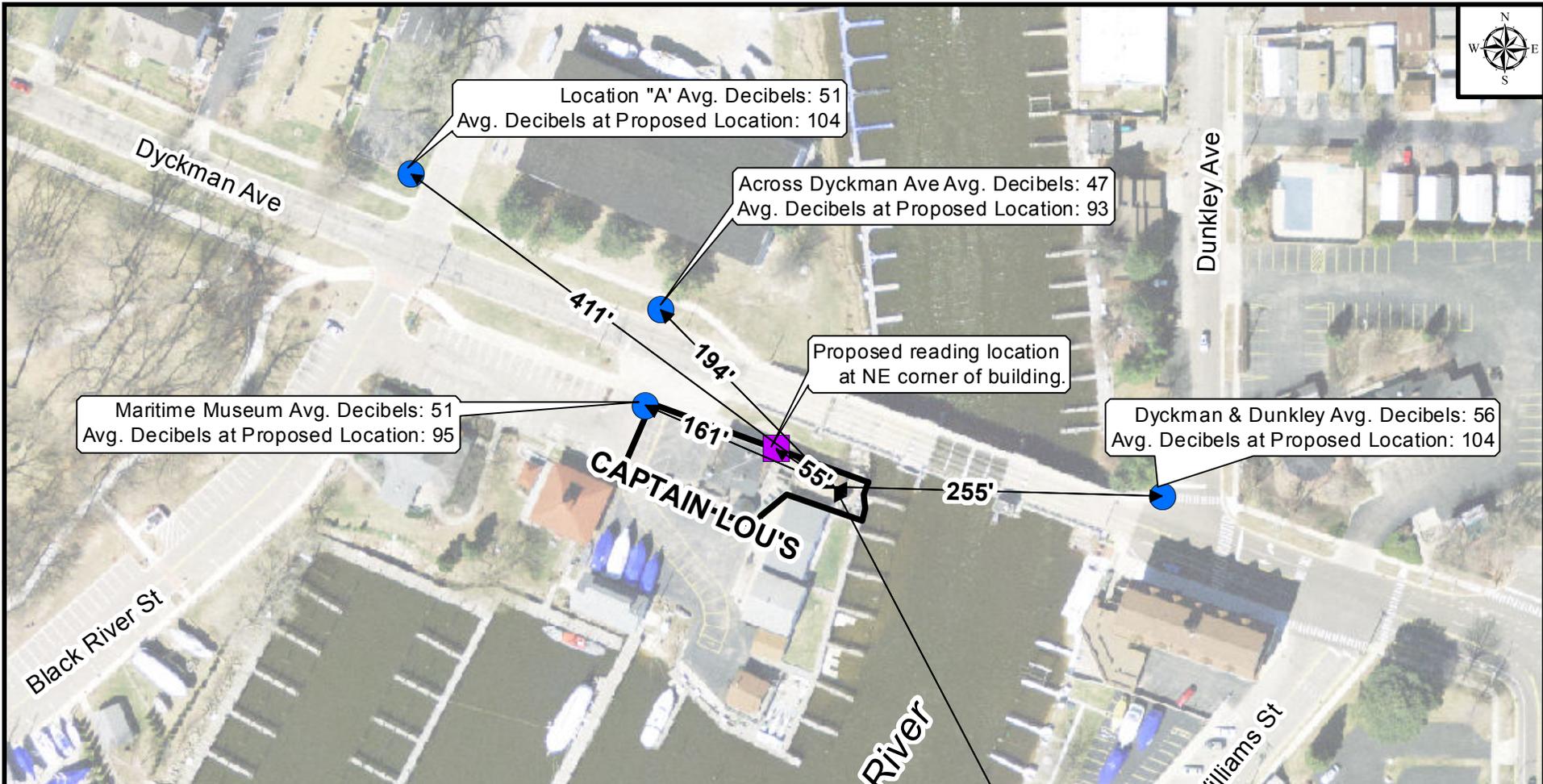
Data From 5/30/2014 - 7/27/2014

Location	# of Readings	Avg. Decibels	Weighted Avg. Decibels at New Reading Location
327 Eagle St	1	55	98
D	34	51	98
Indiana Ave & Eagle St	1	49	104
Kalamazoo St & Eagle St	5	52	99
Kalamazoo St & Water St	19	53	88
Lighthouse Pointe	4	53	87
Phoenix St	1	56	91
Phoenix St & Kalamazoo St	1	54	92
Williams St	1	58	106
Total Readings:	67	52	94.6



Name	Date	Time	Read Location	Decibels	P or C	Note
Black River Tavern	5/30/2014	23:15	Kalamazoo St & Water St	60.1	P	
Black River Tavern	5/31/2014	22:50	Kalamazoo St & Water St	54.2	P	
Black River Tavern	5/31/2014	23:18	Kalamazoo St & Water St	57.9	P	
Black River Tavern	6/1/2014	22:05	Williams St	58	P	
Black River Tavern	6/2/2014	0:05	Phoenix St	56	P	
Black River Tavern	6/2/2014	1:42	Kalamazoo St & Water St	48.4	P	
Black River Tavern	6/2/2014	2:34	Kalamazoo St & Water St	46.8	P	
Black River Tavern	6/11/2014	23:36	Phoenix St & Kalamazoo St	54	P	
Black River Tavern	6/12/2014	21:16	Kalamazoo St & Water St	53	P	
Black River Tavern	6/12/2014	23:18	Kalamazoo St & Water St	49	P	
Black River Tavern	6/13/2014	0:10	Kalamazoo St & Water St	52	P	
Black River Tavern	6/13/2014	1:03	Kalamazoo St & Water St	44	P	
Black River Tavern	6/18/2014	18:25	Lighthouse Pointe	54.3	P	
Black River Tavern	6/18/2014	19:30	Lighthouse Pointe	52.2	P	
Black River Tavern	6/18/2014	20:20	Lighthouse Pointe	51.4	P	
Black River Tavern	6/18/2014	21:52	Lighthouse Pointe	53.6	P	
Black River Tavern	6/19/2014	0:04	D	56	P	
Black River Tavern	6/19/2014	1:11	D	56	P	
Black River Tavern	6/19/2014	1:56	D	56	P	
Black River Tavern	6/19/2014	21:25	Kalamazoo St & Water St	54	P	
Black River Tavern	6/19/2014	22:18	Kalamazoo St & Water St	57	P	
Black River Tavern	6/19/2014	22:53	Kalamazoo St & Water St	56	P	
Black River Tavern	6/19/2014	23:37	D	57	P	
Black River Tavern	6/20/2014	0:34	D	56	P	
Black River Tavern	6/20/2014	0:57	Kalamazoo St & Water St	52	P	
Black River Tavern	6/20/2014	19:05	Kalamazoo St & Water St	54	P	
Black River Tavern	6/20/2014	20:00	Kalamazoo St & Water St	57	P	
Black River Tavern	6/20/2014	22:05	Kalamazoo St & Water St	55	P	
Black River Tavern	6/20/2014	23:01	Kalamazoo St & Water St	57	P	
Black River Tavern	6/20/2014	23:12	D	52	P	
Black River Tavern	6/20/2014	23:57	D	50	P	
Black River Tavern	6/21/2014	1:49	D	50	P	
Black River Tavern	6/21/2014	1:30	Kalamazoo St & Water St	56	P	
Black River Tavern	6/21/2014	1:50	Kalamazoo St & Water St	53	P	
Black River Tavern	6/21/2014	21:39	Kalamazoo St & Eagle St	52	P	
Black River Tavern	6/21/2014	22:26	D	55	P	Background
Black River Tavern	6/21/2014	23:19	Kalamazoo St & Eagle St	55	P	
Black River Tavern	6/22/2014	1:33	Kalamazoo St & Eagle St	51	P	
Black River Tavern	6/22/2014	1:54	Kalamazoo St & Eagle St	51	P	
Black River Tavern	6/22/2014	2:22	Indiana Ave & Eagle St	49	P	
Black River Tavern	6/22/2014	2:59	Kalamazoo St & Eagle St	51	P	
Black River Tavern	6/23/2014	23:37	D	55	P	
Black River Tavern	7/2/2014	23:36	327 Eagle St	55	P	
Black River Tavern	7/6/2014	23:17	D	54	P	
Black River Tavern	7/7/2014	0:29	D	54	P	

Name	Date	Time	Read Location	Decibels	P or C	Note
Black River Tavern	7/7/2014	1:41	D	53	P	
Black River Tavern	7/8/2014	0:00	D	52	P	
Black River Tavern	7/8/2014	0:08	D	50	P	
Black River Tavern	7/8/2014	0:27	D	51	P	
Black River Tavern	7/8/2014	2:02	D	49	P	
Black River Tavern	7/12/2014	22:36	D	52	P	
Black River Tavern	7/13/2014	0:21	D	53	P	
Black River Tavern	7/13/2014	2:36	D	48	P	
Black River Tavern	7/13/2014	22:05	D	48	P	
Black River Tavern	7/13/2014	22:32	D	45	P	
Black River Tavern	7/14/2014	0:02	D	45	P	
Black River Tavern	7/14/2014	0:49	D	46	P	
Black River Tavern	7/14/2014	1:16	D	43	P	
Black River Tavern	7/25/2014	23:00	D	48	P	
Black River Tavern	7/26/2014	0:02	D	47	P	
Black River Tavern	7/26/2014	0:38	D	48	P	
Black River Tavern	7/26/2014	21:07	D	56	P	Background
Black River Tavern	7/26/2014	22:42	D	52	P	
Black River Tavern	7/26/2014	23:45	D	49	P	
Black River Tavern	7/27/2014	0:37	D	52	P	
Black River Tavern	7/27/2014	1:17	D	51	P	
Black River Tavern	7/27/2014	22:26	D	55	P	
Total Readings:	67	Avg. Decibels:	52			



Maritime Museum Avg. Decibels: 51
Avg. Decibels at Proposed Location: 95

Location "A" Avg. Decibels: 51
Avg. Decibels at Proposed Location: 104

Across Dyckman Ave Avg. Decibels: 47
Avg. Decibels at Proposed Location: 93

Proposed reading location
at NE corner of building.

Dyckman & Dunkley Ave. Decibels: 56
Avg. Decibels at Proposed Location: 104

540 Williams St Avg. Decibels: 54
Avg. Decibels at Proposed Location: 108

Data From 5/30/2014 - 7/27/2014

Location	# of Readings	Avg. Decibels	Weighted Avg. Decibels at New Reading Location
Location "A" at Bridgeport Condos	45	51	104
Maritime Museum	19	51	95
Across Dyckman Ave	1	47	93
Dyckman Ave & Dunkley Ave	3	56	104
540 Williams St	1	54	108
Total Readings:	69	51	101

9/11/2014

Captain Lou's

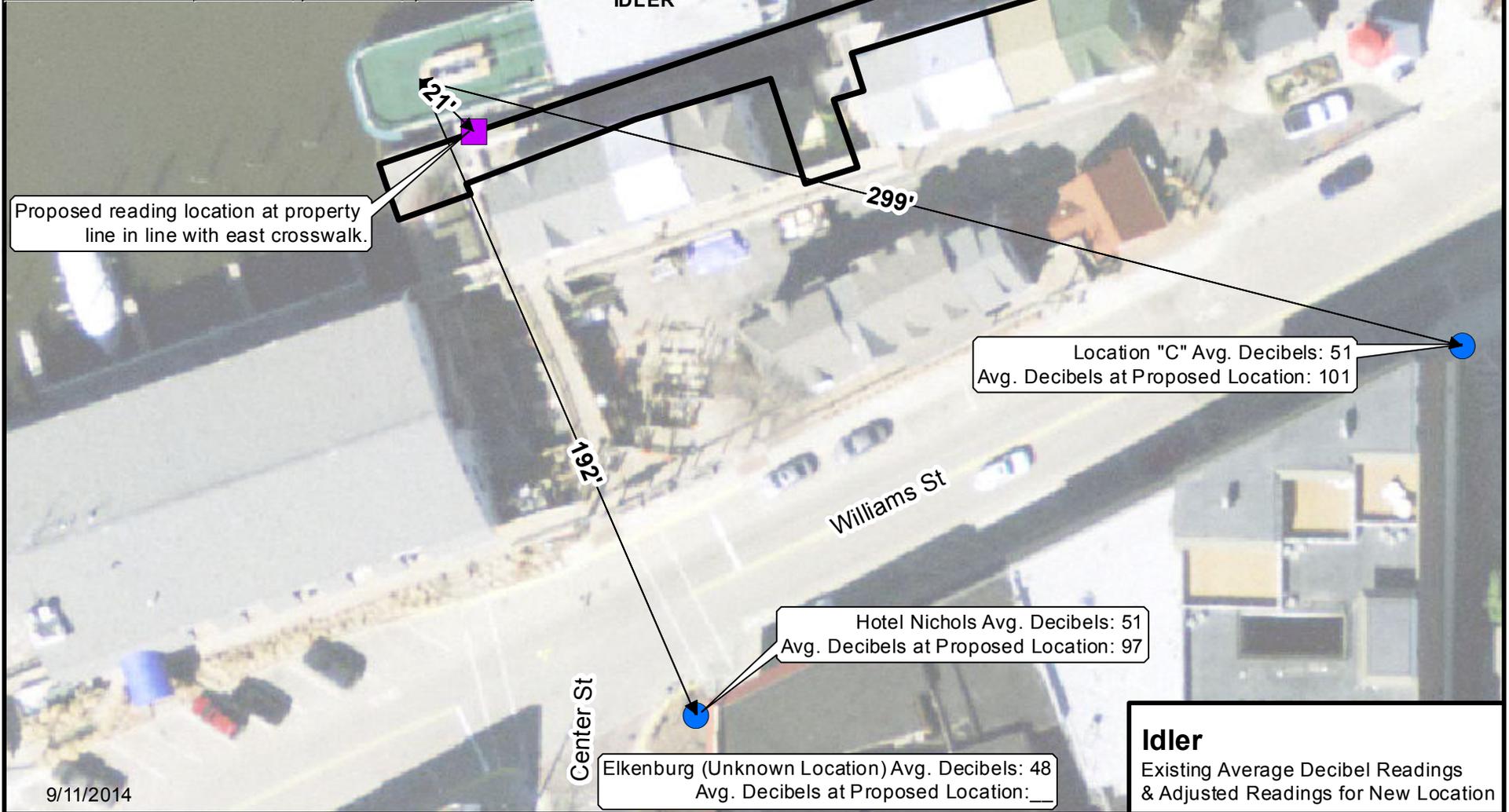
Existing Average Decibel Readings
& Adjusted Readings for New Location

Name	Date	Time	Read Location	Decibels	P or C	Note
Captain Lou's	5/30/2014	23:34	Dyckman Ave & Dunkley Ave	51.5	P	
Captain Lou's	5/31/2014	22:30	Maritime Museum	52.7	P	
Captain Lou's	5/31/2014	23:22	Dyckman Ave & Dunkley Ave	58.2	P	
Captain Lou's	6/1/2014	0:50	Dyckman Ave & Dunkley Ave	57.3	P	
Captain Lou's	6/1/2014	22:23	Maritime Museum	52	P	
Captain Lou's	6/1/2014	22:59	Maritime Museum	49.1	P	
Captain Lou's	6/2/2014	0:47	Maritime Museum	47	P	
Captain Lou's	6/2/2014	1:36	Maritime Museum	45	P	
Captain Lou's	6/2/2014	2:15	Maritime Museum	50.2	P	
Captain Lou's	6/12/2014	23:23	Maritime Museum	50	P	
Captain Lou's	6/12/2014	23:52	Across Dyckman	47	P	
Captain Lou's	6/18/2014	18:12	Bridgeport Condos	52	P	
Captain Lou's	6/18/2014	19:10	Bridgeport Condos	47.3	P	
Captain Lou's	6/18/2014	20:12	Bridgeport Condos	50	P	
Captain Lou's	6/18/2014	21:38	Bridgeport Condos	51.2	P	
Captain Lou's	6/19/2014	0:16	A	58	P	
Captain Lou's	6/19/2014	1:15	A	57	P	
Captain Lou's	6/19/2014	2:00	A	54	P	
Captain Lou's	6/19/2014	21:34	Maritime Museum	55	P	
Captain Lou's	6/19/2014	23:08	Maritime Museum	48	P	
Captain Lou's	6/19/2014	23:57	A	56	P	
Captain Lou's	6/20/2014	1:26	A	53	P	
Captain Lou's	6/20/2014	0:52	Maritime Museum	41	P	
Captain Lou's	6/20/2014	19:14	Maritime Museum	54	P	
Captain Lou's	6/20/2014	22:10	Maritime Museum	56	P	
Captain Lou's	6/20/2014	23:18	Maritime Museum	57	P	
Captain Lou's	6/20/2014	23:40	Maritime Museum	56	P	
Captain Lou's	6/20/2014	23:16	A	53	P	
Captain Lou's	6/20/2014	23:59	A	52	P	
Captain Lou's	6/21/2014	1:53	A	52	P	Closed
Captain Lou's	6/21/2014	1:19	Maritime Museum	54	P	
Captain Lou's	6/21/2014	2:10	Maritime Museum	46	P	
Captain Lou's	6/21/2014	21:53	A	54	P	Closed
Captain Lou's	6/21/2014	23:59	Maritime Museum	51	P	
Captain Lou's	6/22/2014	1:08	Maritime Museum	52	P	
Captain Lou's	6/22/2014	1:38	Maritime Museum	52	P	
Captain Lou's	6/23/2014	23:28	A	56	P	
Captain Lou's	6/24/2014	0:27	A	55	P	
Captain Lou's	7/2/2014	22:23	A	53	P	
Captain Lou's	7/2/2014	22:37	A	53	P	
Captain Lou's	7/3/2014	0:51	Bridgeport Condos	56	P	
Captain Lou's	7/6/2014	22:32	A	56	P	
Captain Lou's	7/6/2014	23:28	A	54	P	
Captain Lou's	7/7/2014	0:33	A	53	P	
Captian Lou's	7/8/2014	0:00	A	48	P	

Name	Date	Time	Read Location	Decibels	P or C	Note
Captian Lou's	7/8/2014	0:00	A	49	P	
Captian Lou's	7/8/2014	0:30	A	48	P	
Captian Lou's	7/8/2014	2:20	A	46	P	
Captain Lou's	7/12/2014	22:07	A	54	P	
Captain Lou's	7/12/2014	22:40	A	53	P	
Captain Lou's	7/13/2014	0:14	A	54	P	
Captain Lou's	7/13/2014	2:32	A	48	P	
Captain Lou's	7/13/2014	21:40	A	44	P	
Captain Lou's	7/13/2014	22:03	A	45	P	
Captain Lou's	7/13/2014	22:40	A	42	P	
Captain Lou's	7/13/2014	23:55	A	42	P	
Captain Lou's	7/14/2014	0:43	A	42	P	
Captain Lou's	7/14/2014	1:09	A	43	P	
Captain Lou's	7/25/2014	23:07	A	51	P	
Captain Lou's	7/25/2014	23:54	A	50	P	
Captain Lou's	7/26/2014	0:40	A	50	P	
Captain Lou's	7/26/2014	21:05	A	57	P	Background
Captain Lou's	7/26/2014	22:34	A	51	P	
Captain Lou's	7/27/2014	0:02	A	54	P	
Captain Lou's	7/27/2014	0:53	A	54	P	
Captain Lou's	7/27/2014	1:10	540 Williams St	54	P	Ordered by Mayor
Captain Lou's	7/27/2014	1:38	A	54	P	
Captain Lou's	7/27/2014	2:03	A	52	P	
Captain Lou's	7/27/2014	21:53	A	54	P	
Total Readings:	69	Avg. Decibels:	51			

Data From 6/18/2014 - 7/28/2014

Location	# of Readings	Avg. Decibels	Weighted Avg. Decibels at New Reading
Location "C"	39	51	101
Elkenburg Reading	1	48	
Hotel Nichols	6	53	97
Total Readings:	46	51	99



Proposed reading location at property line in line with east crosswalk.

Location "C" Avg. Decibels: 51
Avg. Decibels at Proposed Location: 101

Hotel Nichols Avg. Decibels: 51
Avg. Decibels at Proposed Location: 97

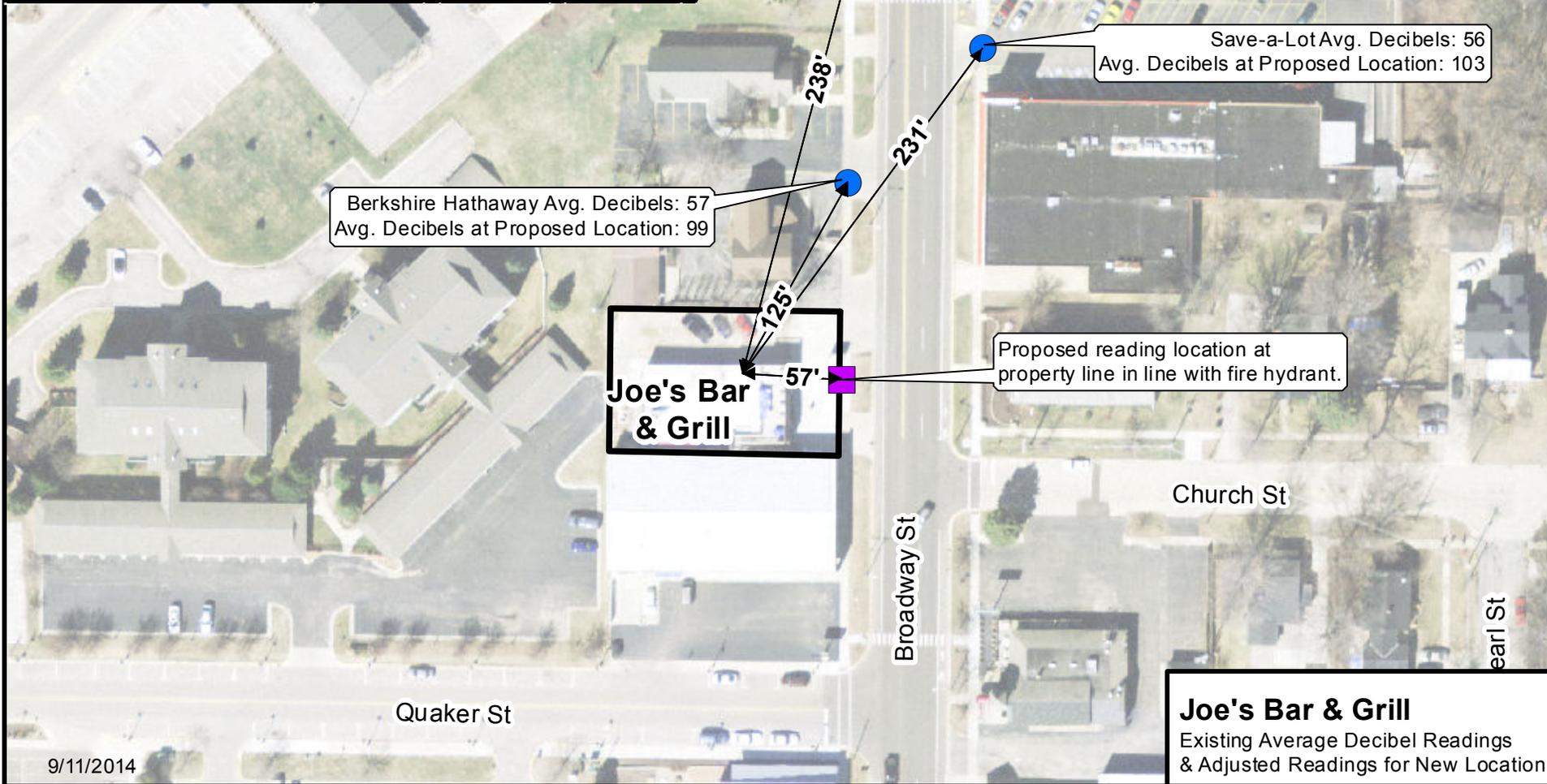
Elkenburg (Unknown Location) Avg. Decibels: 48
Avg. Decibels at Proposed Location: __

Idler
Existing Average Decibel Readings & Adjusted Readings for New Location

Name	Date	Time	Read Location	Decibels	P or C	Note
The Idler	6/18/2014	18:20	Hotel Nichols	50.4	P	
The Idler	6/18/2014	19:20	Hotel Nichols	50	P	
The Idler	6/18/2014	20:52	Hotel Nichols	52.4	P	
The Idler	6/18/2014	21:46	Hotel Nichols	51.6	P	
The Idler	6/19/2014	0:06	C	57	P	
The Idler	6/19/2014	1:13	C	56	P	
The Idler	6/19/2014	1:58	C	54	P	
The Idler	6/19/2014	23:32	C	56	P	Background
The Idler	6/20/2014	0:39	c	53	P	
The Idler	6/21/2014	21:51	C	51	P	
The Idler	6/20/2014	23:14	C	53	P	
The Idler	6/20/2014	23:58	C	52	P	Closed
The Idler	6/21/2014	1:51	C	52	P	Closed
The Idler	6/22/2014	0:02	C	54	P	Closed
The Idler	6/23/2014	23:34	C	56	P	
The Idler	6/24/2014	0:00	C	54	P	
The Idler	6/24/2014	0:02	Hotel Nichols	63	P	Reference BOL
The Idler	7/2/2014	22:52	C	50	P	
The Idler	7/2/2014	23:07	Elkenburg Reading	48	P	
The Idler	7/6/2014	22:51	C	55	P	
The Idler	7/6/2014	23:31	C	52	P	
The Idler	7/7/2014	0:31	C	52	P	
The Idler	7/7/2014	23:19	C	49	P	
The Idler	7/8/2014	0:06	C	50	P	
The Idler	7/8/2014	0:28	C	50	P	
The Idler	7/8/2014	2:00	C	48	P	
The Idler	7/12/2014	22:50	C	54	P	
The Idler	7/13/2014	0:22	C	48	P	
The Idler	7/13/2014	21:46	C	47	P	
The Idler	7/13/2014	22:00	C	46	P	
The Idler	7/13/2014	22:35	C	45	P	
The Idler	7/13/2014	23:58	C	43	P	
The Idler	7/14/2014	0:50	C	44	P	
The Idler	7/14/2014	1:11	C	43	P	
The Idler	7/25/2014	23:05	C	50	P	
The Idler	7/25/2014	23:59	C	49	P	
The Idler	7/26/2014	0:45	C	47	P	
The Idler	7/26/2014	21:09	C	56	P	
The Idler	7/26/2014	22:00	C	52	P	
The Idler	7/26/2014	22:31	C	56	P	
The Idler	7/27/2014	0:17	C	47	P	Reference Noise Complaint
The Idler	7/27/2014	0:19	Hotel Nichols	53	P	Reference Noise Complaint
The Idler	7/27/2014	1:04	C	54	P	
The Idler	7/27/2014	2:00	C	51	P	
The Idler	7/27/2014	21:51	C	51	P	
The Idler	7/28/2014	0:02	C	54	P	
Total Readings:	46	Avg. Decibels:	51			

Data From 5/30/2014 - 7/27/2014

Location	# of Readings	Avg. Decibels	Weighted Avg. Decibels at New Reading Location
Location "B" / River Terrace	47	52	100
Berkshire Hathaway	1	57	99
Save-a-Lot	22	56	103
Total Readings:	70	54	101



Location "B" / River Terrace Apt. Avg. Decibels: 52
Avg. Decibels at Proposed Location: 100

Save-a-Lot Avg. Decibels: 56
Avg. Decibels at Proposed Location: 103

Berkshire Hathaway Avg. Decibels: 57
Avg. Decibels at Proposed Location: 99

Proposed reading location at property line in line with fire hydrant.

Joe's Bar & Grill

Church St

Broadway St

Earl St

Quaker St

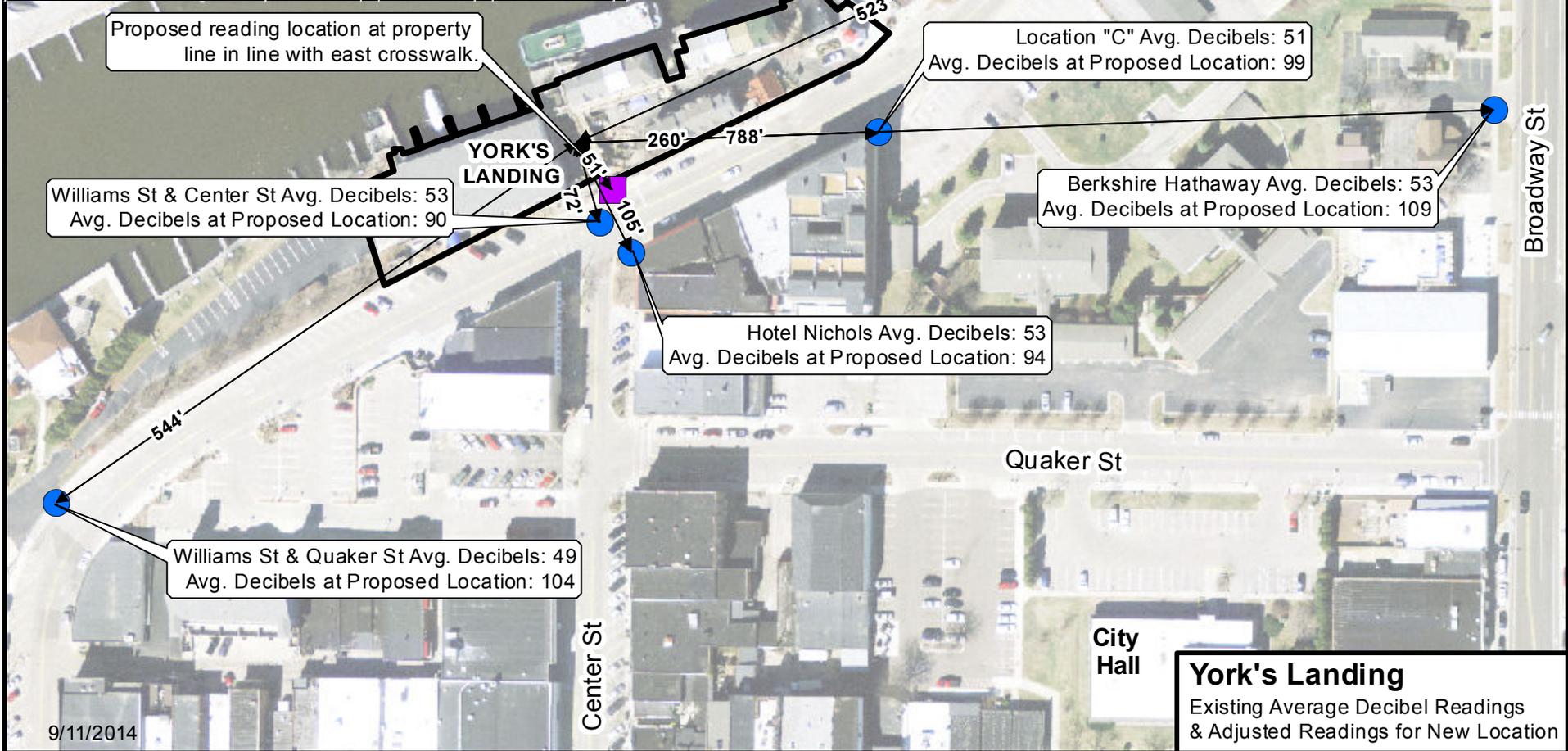
Joe's Bar & Grill
Existing Average Decibel Readings & Adjusted Readings for New Location

Name	Date	Time	Read Location	Decibels	P or C	Note
Joe's Bar & Grill	5/30/2014	22:30	Save-A-Lot	60	P	
Joe's Bar & Grill	5/30/2014	23:40	Save-A-Lot	53.7	P	
Joe's Bar & Grill	5/30/2014	23:50	Save-A-Lot	60.2	P	
Joe's Bar & Grill	5/31/2014	0:10	Save-A-Lot	60.1	P	Started writing ticket, manager shut music down.
Joe's Bar & Grill	5/31/2014	22:25	Save-A-Lot	58	P	
Joe's Bar & Grill	5/31/2014	23:27	Save-A-Lot	68.2	P	Issued Citation #45204
Joe's Bar & Grill	6/1/2014	1:15	Save-A-Lot	61	P	
Joe's Bar & Grill	6/1/2014	1:20	Save-A-Lot	66	P	Issued Citation #24904
Joe's Bar & Grill	6/1/2014	22:30	Save-A-Lot	49	P	
Joe's Bar & Grill	6/2/2014	1:39	Save-A-Lot	50.1	P	
Joe's Bar & Grill	6/2/2014	2:18	Save-A-Lot	53.4	P	
Joe's Bar & Grill	6/11/2014	23:33	Save-A-Lot	55	P	
Joe's Bar & Grill	6/12/2014	0:46	Save-A-Lot	49	P	
Joe's Bar & Grill	6/18/2014	18:00	River Terrace Apartments	52	P	
Joe's Bar & Grill	6/18/2014	19:04	River Terrace Apartments	50.4	P	
Joe's Bar & Grill	6/18/2014	20:01	River Terrace Apartments	51.5	P	
Joe's Bar & Grill	6/18/2014	21:23	River Terrace Apartments	51.8	P	
Joe's Bar & Grill	6/19/2014	0:10	B	54	P	
Joe's Bar & Grill	6/19/2014	1:17	B	54	P	Closed
Joe's Bar & Grill	6/19/2014	21:37	Save-A-Lot	58	P	
Joe's Bar & Grill	6/19/2014	22:22	Save-A-Lot	53	P	
Joe's Bar & Grill	6/19/2014	23:02	Save-A-Lot	54	P	
Joe's Bar & Grill	6/20/2014	0:01	B	54	P	
Joe's Bar & Grill	6/20/2014	0:53	B	53	P	
Joe's Bar & Grill	6/20/2014	1:06	Save-A-Lot	50	P	
Joe's Bar & Grill	6/20/2014	19:32	Save-A-Lot	53	P	
Joe's Bar & Grill	6/20/2014	22:13	Save-A-Lot	55	P	
Joe's Bar & Grill	6/20/2014	23:15	Save-A-Lot	57	P	
Joe's Bar & Grill	6/20/2014	23:07	B	50	P	
Joe's Bar & Grill	6/21/2014	0:01	B	53	P	
Joe's Bar & Grill	6/21/2014	1:55	B	51	P	Closed
Joe's Bar & Grill	6/21/2014	1:36	Save-A-Lot	59	P	
Joe's Bar & Grill	6/21/2014	1:50	Save-A-Lot	51	P	
Joe's Bar & Grill	6/21/2014	21:23	River Terrace Apartments	54	P	
Joe's Bar & Grill	6/21/2014	22:24	B	55	P	
Joe's Bar & Grill	6/22/2014	1:20	Berkshire Hathaway	57	P	Background / Closed
Joe's Bar & Grill	6/22/2014	1:39	River Terrace Apartments	55	P	
Joe's Bar & Grill	6/22/2014	2:39	River Terrace Apartments	53	P	
Joe's Bar & Grill	6/22/2014	3:05	River Terrace Apartments	52	P	
Joe's Bar & Grill	6/23/2014	23:30	B	57	P	
Joe's Bar & Grill	6/24/2014	0:24	B	54	P	
Joe's Bar & Grill	7/2/2014	22:20	B	57	P	
Joe's Bar & Grill	7/3/2014	1:01	River Terrace Apartments	50	P	
Joe's Bar & Grill	7/6/2014	23:20	B	56	P	
Joe's Bar & Grill	7/6/2014	23:34	B	53	P	
Joe's Bar & Grill	7/7/2014	0:35	B	54	P	
Joe's Bar & Grill	7/6/2014	23:20	B	56	P	

Name	Date	Time	Read Location	Decibels	P or C	Note
Joe's Bar & Grill	7/6/2014	23:34	B	53	P	
Joe's Bar & Grill	7/7/2014	0:35	B	54	P	
Joe's Bar & Grill	7/7/2014	23:15	B	53	P	
Joe's Bar & Grill	7/7/2014	23:58	B	52	P	
Joe's Bar & Grill	7/8/2014	0:32	B	51	P	
Joe's Bar & Grill	7/7/2014	2:18	B	44	P	
Joe's Bar & Grill	7/13/2014	2:34	B	46	P	
Joe's Bar & Grill	7/13/2014	0:17	B	50	P	
Joe's Bar & Grill	7/13/2014	21:48	B	53	P	
Joe's Bar & Grill	7/13/2014	22:03	B	51	P	
Joe's Bar & Grill	7/13/2014	22:48	B	50	P	
Joe's Bar & Grill	7/14/2014	0:07	B	45	P	
Joe's Bar & Grill	7/14/2014	0:46	B	42	P	
Joe's Bar & Grill	7/14/2014	1:14	B	42	P	
Joe's Bar & Grill	7/25/2014	23:04	B	54	P	
Joe's Bar & Grill	7/25/2014	23:58	B	50	P	
Joe's Bar & Grill	7/26/2014	0:43	B	52	P	
Joe's Bar & Grill	7/26/2014	21:11	B	58	P	Background
Joe's Bar & Grill	7/26/2014	22:05	B	56	P	
Joe's Bar & Grill	7/26/2014	22:37	B	53	P	
Joe's Bar & Grill	7/26/2014	22:37	B	57	P	
Joe's Bar & Grill	7/27/2014	0:57	B	55	P	
Joe's Bar & Grill	7/27/2014	22:42	B	55	P	
Total Readings:	70	Avg.	Decibels:	54		

Data From 6/1/2014 - 7/28/2014

Location	# of Readings	Avg. Decibels	Weighted Avg. Decibels at New Reading Location
Berkshire Hathaway	3	53	109
Location "C"	39	51	99
Hotel Nichols	6	53	94
River Terrace Apartments	1	49	103
Williams St & Center St	12	53	90
Williams St & Quaker St	5	49	104
Total Readings:	66	51	100



York's Landing
Existing Average Decibel Readings & Adjusted Readings for New Location

Name	Date	Time	Read Location	Decibels	P or C	Note
York's Landing	6/1/2014	22:10	Williams St & Quaker St	51.1		
York's Landing	6/1/2014	23:01	Williams St & Quaker St	50		
York's Landing	6/2/2014	0:02	Williams St & Quaker St	48		
York's Landing	6/2/2014	1:46	Williams St & Quaker St	47.2		
York's Landing	6/2/2014	2:21	Williams St & Quaker St	47		
York's Landing	6/18/2014	18:20	Hotel Nichols	50.4	P	
York's Landing	6/18/2014	19:20	Hotel Nichols	50	P	
York's Landing	6/18/2014	20:52	Hotel Nichols	52.4	P	
York's Landing	6/18/2014	21:46	Hotel Nichols	51.6	P	
York's Landing	6/19/2014	0:06	C	57	P	
York's Landing	6/19/2014	1:13	C	56	P	
York's Landing	6/19/2014	1:58	C	54	P	
York's Landing	6/19/2014	21:29	Williams St & Center St	51	P	
York's Landing	6/19/2014	23:05	Williams St & Center St	52	P	
York's Landing	6/19/2014	23:32	C	56	P	Background
York's Landing	6/20/2014	0:39	c	53	p	
York's Landing	6/20/2014	0:55	Williams St & Center St	47	P	
York's Landing	6/20/2014	19:08	Williams St & Center St	52	P	
York's Landing	6/20/2014	20:03	Williams St & Center St	56	P	
York's Landing	6/20/2014	21:37	Williams St & Center St	58	P	
York's Landing	6/20/2014	22:07	Williams St & Center St	55	P	
York's Landing	6/20/2014	23:10	Williams St & Center St	56	P	
York's Landing	6/20/2014	23:14	C	53	P	
York's Landing	6/20/2014	23:58	C	52	P	Closed
York's Landing	6/21/2014	1:51	C	52	P	Closed
York's Landing	6/21/2014	1:42	Williams St & Center St	50	P	
York's Landing	6/21/2014	21:43	Berkshire Hathaway	53	P	
York's Landing	6/21/2014	21:51	C	51	P	
York's Landing	6/21/2014	23:43	Berkshire Hathaway	54	P	
York's Landing	6/22/2014	0:02	C	54	P	Closed
York's Landing	6/22/2014	1:36	Berkshire Hathaway	51	P	
York's Landing	6/22/2014	1:56	Williams St & Center St	53	P	
York's Landing	6/22/2014	2:12	River Terrace Apartments	49	P	
York's Landing	6/22/2014	2:38	Williams St & Center St	52	P	
York's Landing	6/22/2014	3:04	Williams St & Center St	49	P	
York's Landing	6/23/2014	23:34	C	56	P	
York's Landing	6/24/2014	0:00	C	54	P	
York's Landing	6/24/2014	0:02	Hotel Nichols	63	P	Reference BOL
York's Landing	7/2/2014	22:52	C	50	P	
York's Landing	7/6/2014	22:51	C	55	P	
York's Landing	7/6/2014	23:31	C	52	P	
York's Landing	7/7/2014	0:31	C	52	P	
York's Landing	7/7/2014	23:19	C	49	P	
York's Landing	7/8/2014	0:06	C	50	P	
York's Landing	7/8/2014	0:28	C	50	P	
York's Landing	7/8/2014	2:00	C	48	P	
York's Landing	7/12/2014	22:50	C	54	P	
York's Landing	7/13/2014	0:22	C	48	P	

Name	Date	Time	Read Location	Decibels	P or C	Note
York's Landing	7/13/2014	21:46	C	47	P	
York's Landing	7/13/2014	22:00	C	46	P	
York's Landing	7/13/2014	22:35	C	45	P	
York's Landing	7/13/2014	23:58	C	43	P	
York's Landing	7/14/2014	0:50	C	44	P	
York's Landing	7/14/2014	1:11	C	43	P	
York's Landing	7/25/2014	23:05	C	50	P	
York's Landing	7/25/2014	23:59	C	49	P	
York's Landing	7/26/2014	0:45	C	47	P	
York's Landing	7/26/2014	21:09	C	56	P	
York's Landing	7/26/2014	22:00	C	52	P	
York's Landing	7/26/2014	22:31	C	56	P	
York's Landing	7/27/2014	0:17	C	47	P	Reference Noise Complaint
York's Landing	7/27/2014	0:19	Hotel Nichols	53	P	Reference Noise Complaint
York's Landing	7/27/2014	1:04	C	54	P	
York's Landing	7/27/2014	2:00	C	51	P	
York's Landing	7/27/2014	21:51	C	51	P	
York's Landing	7/28/2014	0:02	C	54	P	
Total Readings:	66	Avg.				
		Decibels:	51			

ENVIRONMENT

ARTICLE I. IN GENERAL

Secs. 30-1—30-26. Reserved.

ARTICLE II. NOISE

Sec. 30-27. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient Noise Level (or Continuous Background Sound Level) means the amount of inherent background noise at a given location. This includes, but is not limited to, traffic, essential machinery, normal speaking voices and interaction of the wind with the landscape as measured on the dB(A) weight scale defined by the American National Standards Institute.

Commercial means property located within the following Zoning District Designations: CBD Central Business District; B-1 Neighborhood Business District; B-2 General Business District; B-3 Waterfront Business District; and PUD Planned Unit Development – Residential or PUD Planned Unit Development – Commercial.

Decibel means a unit of sound level on a logarithmic scale measured relative to the threshold of audible sound to the human ear, in compliance with American National Standards Institute Standard S 1.1-1960.

Decibel on the A-weighted network or dB(A), means decibels measured on the A-weighted network of a calibrated sound level meter utilizing the A-Level weight scale and the fast meter response, as specified in American National Standards Institute standards S1.4-1971.

Fast Meter response means the meter ballistics of meter dynamic characteristics as specified by American national Standards Institute Standard S 1.4-1971

Industrial means property located within the following Zoning District Designations: I-1 Light Industrial Districts; and I-2 General Industrial District.

Property line means the imaginary line which represents the legal limits of property; including an apartment, condominium, room or other dwelling unit, owned, leased or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the property line shall be the nearest boundary of the public right-of-way.

Residential means property located within the following Zoning District Designations: R-1 and R-2 One Family Residential Districts and RM-1 Multiple Family Residential District.

Sec. 30-28 General Prohibitions.

No person shall create, assist in creating, permit, continue or permit the continuance of any noise that exceeds the limitations set forth in this article within the city. All noises that violate the restrictions of this division are hereby declared to be public nuisances.

Sec. 30-29. Specific Prohibitions.

No person shall conduct or permit any of the following activities if such activity produces frequent or long-continued noise that is clearly audible at or beyond the property line of the property on which they are conducted. The prohibitions of this section apply even if the sound level produced by a prohibited activity does not exceed the applicable level specified in Section 30-30.

- (1) *Insect or animal control devices.* The operation, between 10:00 p. m. and 7:00 a.m. of any device which produces an audible sound for the purpose of killing, trapping, attracting, or repelling insects or animals.
- (2) *Animal or bird sounds.* The keeping of any animal or bird which creates frequent or long-continued noise.
- (3) *Attention arresters.* The sounding, between 10:00 p.m. and 7:00 a.m. of bells, chimes, sirens, whistles or similar devices.
- (4) *Shouting and whistling.* Yelling, shouting, shooting, whistling or singing on the public street between the hours of 10:00 p.m. and 7:00 a.m.
- (5) *Machines or devices for producing or reproducing sound.* Use, operate or permit to be operated, any radio receiving set, musical instrument, phonograph, magnetic tape player, compact disk player, or other machine or device for producing or reproducing of sound, from a moving or stationary vehicle in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the vehicle in which such machine or device is operated and who are voluntarily listeners thereto. The operation of any such set, instrument, photograph, machine or device in such a manner as to be plainly audible at a distance of 25 feet from the property line during the hours of 11:00 p.m. to 7:00 a.m. or 50 feet from the hours of 7:00 a.m. to 11:00 p.m. in any area whether inside or outside of the vehicle in which it is located. ~~shall be prima facie evidence of violation of this section, in violation of South Haven City Code Section 30-29(5).~~

Sec. 30-30. Decibel Level Limitations.

- (a) No person shall conduct or permit any activity, including those specific prohibitions listed in Section 30-29 that produces a dB(A) at or beyond the property line of the property on which it is conducted which exceeds the levels specified in Table I. Such noise levels shall be measured on the property line **in a specific, permanent location as designated by the police chief or his representative.** ~~or on the adjacent property which is receiving the noise. Where property is used for both residential and commercial purposes, the limitations set forth for commercial property shall apply.~~

Table I

Producing the Sound	Receiving the Sound	Use of Property 7:00 a.m. to 11:00 p.m.	Use of Property 11:00 p.m. to 7:00 a.m.
Residential	Residential	75	60
Commercial	Residential	80	60
Residential	Commercial	80	60
Commercial	Commercial	90	75
Industrial	Commercial	90	75-60
Industrial	Residential	80	60

Table I

Land Use producing the sound	7:00 a.m. to 11:00 p.m. dB(A)	11 p.m. to 1:30 a.m. dB(A)	1:30 a.m. to 7:00 a.m.
Residential/ Commercial	75	75	Ambient Noise Level Only
Industrial	75	75	75 dB(A)

- ~~(b) The following limited activities are exempted from the sound limitations of this section.~~

~~(1) *Equipment operations.* Operations, between 7:00 a.m. and 6:00 p.m. of power equipment that does not produce a sound level exceeding 100 DBA at or beyond the property line of the property on which the equipment is operated.~~

~~(2) *Construction sounds.* Construction, repair, remodeling, demolition, drilling, wood cutting or excavating work conducted between 7:00 a.m.~~

~~and 6:00 p.m. Mondays through Saturdays, except legal holidays, which does not produce a sound level exceeding 100 DBA at or beyond the property line of the property on which the work is being conducted.~~

~~(3) Snow removal equipment operation. Operation of snow removal equipment which does not produce a sound level exceeding 90 DBA at or beyond the property line of the property on which the equipment is operated.~~

Sec. 30-31 General Exemptions.

The following activities are exempted from the sound level limitations of this division:

- (1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, to restore public utilities or to protect persons or property from imminent danger.
- (2) Sound made to alert persons to the existence of an emergency, danger or attempted crime.
- (3) Activities or operations of governmental units or agencies.
- (4) Parades, concerts, festivals, fairs or similar activities subject to any sound limitations included in the approval by the city.
- ~~(5) The operation of use between 9:00 a.m. and 10:00 p.m. of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds, whether stationary or mounted on a vehicle, subject to the following:~~
 - ~~a. The only sounds permitted are human speech or music.~~
 - ~~b. Operations are permitted for a period not in excess of three hours daily.~~
 - ~~c. Sound amplifying equipment mounted on a vehicle shall not be operated unless the vehicle upon which such equipment is mounted is operated at a speed of at least ten miles per hour except when the vehicle is stopped or impeded by traffic.~~
 - ~~d. The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the equipment and so that the volume is not unreasonably loud, raucous, jarring or disturbing to persons within the area of audibility.~~

- ~~e. No sound-amplifying equipment shall be operated with an excess of 16 watts of power in the last stage of amplification.~~
- ~~f. The use for noncommercial purposes of one or more bells or chimes which does not exceed 90 seconds duration in an hour between 9:00 a.m. and 10:00 p.m.~~
- ~~g. Carillon playing between 9:00 a.m. and 10:00 p.m.~~
- ~~h. Any noise resulting from activities of a temporary duration permitted by law and/or for which a waiver has been granted by the city.~~

- (5) Lawn maintenance and snow removal on individual lots between 7:00 a.m. and 8:00 p.m. for periods not to exceed two (2) hours.**
- (6) *Construction sounds.* Construction, repair, remodeling, demolition, drilling, wood cutting or excavating work conducted between 7:00 a.m. and 6:00 p.m. Mondays through Saturdays, except legal holidays, which does not produce a sound level exceeding 100 dB(A) at or beyond the property line of the property on which the work is being conducted.**

Sec. 30-32. Test Procedures.

(a) *Generally.* Test instruments and procedures used for implementation and enforcement of this section shall substantially conform with applicable standards and recommended practices established by the Society of Automotive Engineers, Inc. and the American National Standards Institute, Inc. for the measurement of motor vehicle sound levels. The department of state transportation (MDOT) has promulgated rules establishing these test procedures.

(b) *Exemptions for time to comply.* Upon good cause shown by the owner or responsible party for any noise source, the City Manager shall have the power to grant an exemption from the requirement of this ordinance in order to allow sufficient time for an installation of needed control equipment, facilities, or modifications to achieve compliance, not to exceed ten (10) days, provided that such exemption may be renewed as necessary, but only if satisfactory progress toward compliance is shown. A request for exemption shall be filed in writing with the City Manager.

Sec. 30-33. Special Waivers.

(a) The City Manager shall have the authority, consistent with this ordinance, to grant special waivers.

(b) Any person seeking a special waiver pursuant to this ordinance shall file a written application with the City Manager. The written application shall contain information which demonstrates that bringing the source of sound or activity for which the special waiver is sought into compliance with the ordinance would constitute an unreasonable hardship on the applicant, on the community, or for another purpose.

(c) In determining whether to grant or deny the application, the City Manager shall balance the hardship to the applicant, the community, and other persons of not granting the special waiver against the adverse impact on the health, safety and welfare of persons affected, the adverse impact of granting a special waiver.

(d) Special waivers shall be granted by notice to the applicant and may include all necessary conditions, including time limits on the permitted activity. The special waiver shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special waiver shall terminate it and subject the person to holding it to those provisions of this ordinance regulating the source of sounds or activity for which the special waiver was granted.

Sec. 30-34. Social Gatherings and Parties.

(a) Any person who is planning a social gathering or party at which it is anticipated that the noise levels will exceed those set forth in Section 30-30 herein may file a written application with the City Manager for a special waiver from said noise levels.

(b) Any persons seeking such a special waiver shall indicate in his or her application to the City Manager the specific reason why he or she will not be able to meet the established noise levels. The applicant shall also include a written statement that he or she has personally contacted all residents of properties abutting the property in question and none oppose the special waiver being requested. For purposes of the preceding sentence, when an applicant's property abuts on a street the applicant will also be required to notify and receive permission from residents directly across said street.

(c) Should the applicant be granted a special waiver pursuant to this subsection, it will be subject to the condition that any such special waiver will expire at 10:00 p.m. on Sunday through Thursday evenings and midnight on Friday and Saturday evenings.

Sec. 30-35. Enforcement and Penalties.

(a) *Generally.*

(1) Any person who violates any portion of this ordinance, first offense, shall receive a civil infraction citation.

- (2) If the order to cease or abate the noise is not complied with, or is complied with and then violated again within sixty (60) days, the person or persons responsible for the noise under Section 30-28 shall be charged with a misdemeanor offense subject to imprisonment for up to ninety (90) days and/or up to \$500 fine or both.

Should any of the article, section, paragraphs, sentences, clauses or phrases of this chapter be declared unconstitutional or invalid, at the valid judgment or decision of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of the chapter in its entirety or any of the remaining articles, sections, paragraphs, sentences, clauses and phrases.

Revised September 17, 2014