



Press Release – for Immediate Release

Subject: Special Events in City Parks and Noise Ordinance

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Date Issued: November 8, 2013

On the main page of the city’s website (traversecitymi.gov) features a link with the comprehensive materials featuring recommendations from staff regarding special events in city parks and the noise ordinance. These recommendations will be discussed by the City Commission at its November 18, 2013, Regular Meeting, which will begin at 7 p.m. and be held in the Commission Chambers, 2nd Floor, Governmental Center, 400 Boardman Avenue, Traverse City.

While anyone interested should refer to the materials or contact the City Clerk for further information, here are the highlights of changes proposed:

- For the Open Space and Clinch Park, in June, July and August, in addition to the Cherry Festival and Film Festival, there could be only one festival/high impact event in June, none in July and one in August. This would reduce the total number of possible events in Clinch Park and Open Space June through August from six to four.
- There could be no high impact events/festivals in any city parks on Memorial Day and Labor Day and the preceding Friday, Saturday and Sunday and none on Independence Day, the day before and the day after Independence Day.
- The city’s noise ordinance could be amended to incorporate “C-Scale Noise Limits,” which would largely address the noise that can be considered disturbing or annoying. This amendment would apply to all noise in the city, including noise at special events.
- Various fee options for use of the Open Space, which include increases, are offered for consideration by the City Commission – please see the online materials for further information.
- None of the changes recommended would apply to the National Cherry Festival or Traverse City Film Festival automatically – rather, specific terms of those festivals would be established in a contract approved by the City Commission.



The City of Traverse City

Communication to the City Commission

FOR THE CITY COMMISSION MEETING OF NOVEMBER 18, 2013

DATE: NOVEMBER 8, 2013

FROM: ⁵⁰JERED OTTENWESS, CITY MANAGER

SUBJECT: SPECIAL EVENTS IN CITY PARKS AND NOISE ORDINANCE

At the September 23 Study Session, the Commission discussed key issues with respect to special events. The Commission asked staff to bring recommendations to the new Commission for its consideration which would specifically address the following:

- 1.) Reducing the **frequency** of events, specifically at the Open Space
- 2.) Increasing the **fees** for use of the Open Space
- 3.) Cleanup of **trash** associated with events in city parks
- 4.) Changing the way the city regulates **noise** within the city, or establishing a “low frequency noise limit”, which would largely address the noise that can be considered disturbing or annoying

With respect to Items #1-3, attached is a memo from City Clerk Benjamin Marentette outlining staff’s recommendations to address these issues. Additionally, the City Clerk summarizes the current framework as well as other changes recommended, which were developed by staff now that nearly one year has passed since the policy was revamped.

With respect to Item #4 regarding noise, attached is a memo from City Attorney Lauren Tribble-Laucht outlining staff’s recommendation. It is important to keep in mind that while the recommendation regarding noise levels addresses noise that is annoying or disturbing to the human ear by using a benchmark established by noise experts and various communities throughout the country, it is unrealistic that these amendments will eliminate all complaints regarding noise in the city. Rather, the proposed amendments will create an additional tool – one not currently available – for enforcing noise frequencies that are particularly disturbing.

For the Commission meeting on November 18, I recommend the following format:

1. General opening comments by the City Manager and a review of the noise ordinance, Park and Public Land Use Policy amendments, and fees
2. Public comment
3. Deliberation by the City Commission and direction on how it would like to proceed – with possible outcomes as follows:
 - A.) Schedule for adoption recommended amendments to the policy, noise ordinance and fees and lift the moratorium on December 2. (A sample motion is below)
 - B.) Refer any issues to a future meeting for further Commission discussion in general or regarding specific topics
 - C.) Appoint an ad hoc committee to review any issues further, with a recommendation to be presented to the full Commission by a certain date

The following is a sample motion:

That an amendment to the Traverse City Code of Ordinances, *Noise Ordinance Amendment*, Sections 652.02; 652.03; and 652.04, which would make various regulatory changes to the city's noise ordinance, be introduced and scheduled for possible enactment on December 2, 2013; and that the City Commission consider approving changes to the Park and Public Land Use Policy and fees for park usage on December 2, 2013.

e-copy: Dave Green, Director of Public Services
 Michael Warren, Chief of Police

Memorandum

The City of Traverse City



TO: Jered Ottenwess, City Manager

COPY: Lauren Tribble-Laucht, City Attorney
Dave Green, Director of Public Services
Michael Warren, Chief of Police
Katie Lowran, Deputy City Clerk

FROM: Benjamin C. Marentette, City Clerk

DATE: Friday, November 8, 2013

SUBJECT: SPECIAL EVENTS IN CITY PARKS

A handwritten signature in blue ink, appearing to read "B. Marentette", is written over the "FROM:" line of the memorandum.

The purpose of this memo is to address the following, in the following order:

- Define what the current park use policy provides
- Outline staff's recommended changes based on the City Commission's September 23 Study Session as well as recommended changes now that we have had nearly a year of working with the current policy
- Broadly outline an approach to manage trash associated with events
- Discuss having a "city event ombudsman" – a liaison to ensure the city's rules are followed and interests are protected
- Present options that would considerably increase the fees for use of the Open Space

What the current park use policy provides:

Types of events defined:

The policy establishes two types of events: 1) High Impact Events; and 2) Low Impact Events.

A High Impact Event has any of the following elements:

- Use of city personnel is requested and/or required
- There is commercial or for-profit financial benefit; and/or
- Significant infrastructure, such as a large stage or large tent is set up; and/or
- Alcohol is sold; and/or
- Use of the park is three or more days in duration

A Low Impact Event has none of the above elements that define a High Impact Event. The vast majority of events held in the city's parks are Low Impact Events. Examples of Low Impact

Events are: 1) Family reunions; 2) Boy Scout gatherings; 3) Weddings; 4) School functions; and 5) Picnics. While there are some exceptions, Low Impact Events are the types of events that are generally considered typical, non-commercial uses of a park.

Frequency of High Impact Events allowed:

- Except for the Open Space, parks may have only one High Impact Event that is more than three days in duration annually
- Two High Impact events, that are three days or less in duration are allowed in a given park monthly
- Between Memorial Day and Labor Day, the Open Space may have one High Impact event that is more than three days in duration, except for the Cherry Festival & Film Festival
- High Impact Events may coincide with another event if all events mutually agree to share the same park in writing (which was the case with the Traverse City Music Festival and Traverse City Waterman Challenge in August)

Attached is a calendar view of all High Impact Events held this year and the related fees.

No limit on the number of Low Impact Events

There is no specifically-prescribed limit on the number of Low Impact events held in a park; however, the policy does provide that there must be a suitable period of time between events. Additionally, an event may only be held in a given park if determined appropriate by the City Manager based on the park's size, surroundings and history; additionally, there must be a suitable period of time between events held at a park.

Process:

All Low Impact Events, which are the vast majority, are approved by the Parks and Recreation Division.

All High Impact Events where the event itself is three days or less in duration (excluding set up and take down) are approved by the City Clerk's Office. However, the City Clerk is required to provide notification to the City Commission of such events and if any Commissioner requests that the City Commission be the approving body, the staff approval process is suspended and the request placed on the City Commission's meeting agenda.

High Impact Events four days or more in duration (excluding set up and take down) require a contract approved by the City Commission.

For High Impact Events, this office facilitates an organized, extensive review process, which involves various departments and agencies and event representative(s), to ensure the logistics of the event are properly coordinated and regulations are followed. After each event, this office follows-up to determine any necessary action points and to ensure continuous improvement. As necessary, a formal debrief is held with the event holder and staff, to ensure candid, open exchange of the city's expectations. This information is tracked from year-to-year. This is the

same intricate process we follow for street closure requests.

When this office considers approving events, we do so based solely on input from the departments and agencies, past experience, the Parks Policy and other regulations. As Commissioner Budros indicated in September, we must consider approving events solely based on if they meet the merits of the policy – the city cannot consider the content of the event.

National Cherry Festival and Traverse City Film Festival are exempt from the policy:

It should be noted that the policy specifically exempts the National Cherry Festival and Traverse City Film Festival from the provisions of the Parks Policy. The policy provides that all components of those events must be addressed in a letter of understanding approved by the City Commission. Therefore, in its current form, none of the provisions, or any contemplated changes to the policy or fees automatically apply to these two festivals unless this exemption was modified. Rather, those items are negotiated in an annual agreement that must be approved by the City Commission.

Proposed Changes – 1) To the policy; 2) How trash is managed; 3) Having an “ombudsman” / “event liaison”; and 4) Fees.

Proposed changes to the policy:

- Section II(j) - Refine the definition of Low Impact Event to provide that a Low Impact Event may be two days or less, excluding set up and take down, rather than including set up and take down. This would be less restrictive. (Often, low impact events are weddings, reunions, etc.; and the individual holding the event sets up a tent on a Friday, the event is on a Saturday, but they'd like to remove the tent on Monday rather than Sunday, to avoid paying the tent company extra dollars to remove the tent.) This change would accommodate such wishes.
- Section VI(a) - Provides that High Impact Events, where the event itself is three days or less in duration, may have up to three days for set up and take down combined. (Currently, the policy could be interpreted to mean that an event holder could have three days for set up and then three days for take down, for a total of six days set up and take down.) This change removes that possibility.
- Section VI(a) - This cleans up language to make it clear the event holders are to be charged for all days they use the park, including for set up and take down. (This has been our practice.)
- Section VI(a) - The policy says that there can only be two High Impact Events three days or less in actual duration monthly in each park. What if an event spans both months? Do we count against both months? This change provides that the event is counted against the month where the greatest number of days are used (including set up and take down). If a tie, then it would be counted against the first day in which the park is used.

Additionally, a change is proposed to deal with the intensity of uses of the

Open Space during the summer months. This change says that, for Clinch Park and the Open Space, other than the Cherry Festival and Film Festival, there could be only one High Impact Event in June; none in July and one in August. (The Taste of Traverse event organizers submitted a reservation request for their event in June 2014 and the Traverse City Music Festival and Waterman Challenge organizers have for August 2014; this means that, in 2014, in addition to the Cherry Festival and Film Festival, there would be no other High Impact Events in the Open Space from June through August 2014.)

The overall impact of this change is it would mean two less events in the Open Space / Clinch Park between June and August than are currently allowed.

- Section VI(h) - ***New as a result of the September 23 Study Session:*** This section would prohibit High Impact events on the summer holiday weekends (Memorial Day, Independence Day, and Labor Day). Specifically, it prohibits High Impact Events in city parks on the Friday, Saturday and Sunday preceding Memorial Day and Labor Day, as well as the actual holiday. It also prohibits High Impact Events from being in city parks on Independence Day, the day before, and the day after Independence Day. (Independence Day is handled differently because it does not always fall on a Monday unlike Memorial Day and Labor Day which do always fall on a Monday.)
- Section XII(a) Provides that whenever there is ambiguity in the policy, city staff shall apply it in the most restrictive fashion. In other words, if there is an issue regarding timing of events and there seems to be ambiguity, staff would use the more restrictive interpretation, which might mean that an event couldn't be held. Of course, the applicant can always appeal to the City Manager and then the City Commission.
- Section XIV(i) ***New as a result of September 23 Study Session:*** Deletes reference to specific noise limits and rather refers to the city's noise ordinance. This ensures there aren't conflicts between the policy and the ordinance.

Proposed Changes to How We Manage Trash Associated with Events in Parks:

City staff have identified costs associated with a thorough cleanup of trash, sidewalks, dirt, etc., during and after large-scale events in the Open Space.

We focus on the Open Space because it is the park that attracts and can accommodate large-scale events. (Therefore, the fee considerations for the Open Space take into account significant costs for thorough cleanup as a result of events, such as cleanup in the DDA area and other areas outside of the actual Open Space.) Depending on the scale of cleanup, the cost ranges between \$800 to \$2,000 per day for cleanup. Other than the Cherry Festival and Film Festival, it should be noted that most events would not require more than one "cleanup." The Cherry Festival and Film Festival require more because of the much higher number of attendees and breadth of venues throughout the city.

With respect to the Cherry Festival and Film Festival, as we discussed, when the Commission receives their proposed agreements, we will work with a City Commission Ad Hoc Committee to develop terms in their agreements that specifically deal with trash and cleanup.

Having an Ombudsman/City Liaison at High Impact Events:

City staff will work closely with the Police Department to ensure it is fully aware of all conditions of permit issuance, such as maximum number of cars allowed to be parked at the Open Space (for logistical/legit operational needs, etc.) A city police officer(s) will be stationed at events as necessary to ensure all city regulations and unique permit conditions are followed. As with other out-of-pocket costs, the cost of the police officer’s time will be billed to the permit holder.

Fees currently in place:

Below are the fees currently in place. The basis for the current High Impact Event fees was the cost of one hour of each staff member’s time associated with their attendance at an initial event review meeting – that amount was roughly \$400. Therefore, that became the maximum “first day fee.” City parks that could accommodate events were broken into three tiers – with the cost of using a Tier One park being the most expensive.

Additionally, as outlined below, \$500 is added to the permit cost if the event holder sells alcohol. This is because there is a greater intensity to such events and often a greater bottom line, and therefore such events would contribute more toward the city’s costs associated with special events and maintenance of our parks.

The fees currently in place are as follows:

Low Impact Events:

Low Impact Event Permit (Where no city services are needed and only minimal infrastructure/equipment is set up)	No fee
All other Low Impact Event Permits – city resident	\$15.00
All other Low Impact Event Permits – non-city resident	\$25.00

High Impact Events:

Permit Fees:

Tier One	1 st Day Fee For Profit and Non-Charitable	Each Additional Day Fee – For Profit and Non-Charitable	1st Day Fee – Charitable Organizations	Each Additional Day Fee-- Charitable
Open Space	\$400	\$100	\$200	\$50
Hickory Hills	\$400	\$100	\$200	\$50
Tier Two				

Clinch Park	\$200	\$50	\$100	\$25
F&M Park	\$200	\$50	\$100	\$25
Hull Park	\$200	\$50	\$100	\$25
Sunset Park	\$200	\$50	\$100	\$25
Volleyball Court Area	\$200	\$50	\$100	\$25
Tier Three				
Bryant Park	\$100	\$25	\$50	\$12.50
Clancy Park	\$100	\$25	\$50	\$12.50
East Bay Park	\$100	\$25	\$50	\$12.50
Grand Traverse Commons	\$100	\$25	\$50	\$12.50
Hannah Park	\$100	\$25	\$50	\$12.50
Senior Center	\$100	\$25	\$50	\$12.50
Veterans Memorial (aka the Dog Park)	\$100	\$25	\$50	\$12.50
West End Beach	\$100	\$25	\$50	\$12.50

If alcohol is sold = \$500 fee per event

Reservation Fee = \$200; credited against the permit fee if a permit is ultimately granted

Application Fee = \$200 for for-profits and non-charitable organizations; \$25 for charitable non-profits

Importantly, the city currently charges all direct, out-of-pocket costs associated with the actual event, such as Police, Fire and Parks overtime. For example, some events require Police Department presence, Fire Department presence and overtime work from the Parks Department. The city invoices the event holder for these direct costs.

Fee Changes for Consideration:

Most of the discussion has focused around use of the Open Space and a desire to increase the cost associated with use of the Open Space. With that in mind, I offer the following:

- Now that we have had a year to analyze our required level of involvement in reviewing event permits, the estimated staff cost associated with review of events is closer to \$1,000 rather than \$400. (Therefore, \$1,000 could be the initial fee basis rather than \$400.)
- A cleanup of trash, debris, sidewalks, etc., ranges from \$800 to \$2,000 per cleanup
- Currently, we charge a one-time fee of \$500 if alcohol is sold at the event; I recommend a \$500 per day fee

- Ultimately, of course, establishing fees is a public policy decision; however, the fee must be justified by services being given; i.e., cost of city staff time for reviewing events, maintenance of parks, etc.

The average event (excluding the Cherry and Film festivals), in the Open Space is two days plus two days for set up and take down, for a total of four days of park use.

Option	1st Day Fee For Profit and Charitable	Each additional day fee – for profit and non-charitable	1 st Day Fee – Charitable Organizations	Each additional day fee – charitable organizations	Permit Fee (including existing \$500 alcohol fee) for an event that uses Open Space total of four days (two days for event plus four days for set up and take down) For Profit and Non-Charitable / Charitable Organizations	Fee under current structure	Difference
High	\$3,000	\$1,500	\$2,250	\$1,125	\$9,500 / \$7,625	\$1,200 / \$850	\$8,300 / \$6,775
Medium	\$1,800	\$900	\$1,350	\$675	\$6,500 / \$5,375	\$1,200 / \$850	\$5,300 / \$4,525
Low	\$1,000	\$500	\$ 750	\$375	\$4,500 / \$3,875	\$1,200 / \$850	\$3,300 / \$3,025

Basis for fee options:

Option	Basis
High	1 st day is \$3,000 (\$2,000 for cleanup and \$1,000 for event review); each additional day is ½ the given amount. Charitables get 25% discount.
Medium	1 st day is \$1,800 (\$800 for cleanup and \$1,000 for event review); each additional day is ½ the given amount. Charitables get 25% discount.
Low	1 st day is \$1,000 (\$0 for cleanup and \$1,000 for event review); each additional day is ½ the given amount. Chartiables get 25% discount.

As a final note, we did not incorporate into any fee recommendations costs for noise equipment – that’s because no new noise equipment is necessary to address C-Scale measurement. Some minor expenses for training Officer Maxson (who can then train other city personnel so they can enforce the noise ordinance) exist, but as you stated, those are considered to be the normal cost of doing business and are not recommended to be passed on to event holders.

Ultimately, establishing fees is a public policy decision – some options outlined above would

increase actual revenue to the city while others would simply cover some, or most, of the city's actual costs associated with enhanced trash removal.

Again, I must apologize for the length of this memo – I do, however, hope this information is helpful to the Commission in making its decisions. As always, please let me know if you have any questions or if I may be of further service.

CITY OF TRAVERSE CITY
PARK AND PUBLIC LAND USE POLICY

I. PURPOSE

The purpose and intent of this Policy are as follows:

- (a) The purpose of this Policy is to manage and regulate Events (High Impact Events and Low Impact Events) including those sometimes known as festivals, on City Parks.
- (b) It is intended to regulate them as to time, place, and manner and not as to content.
- (c) It is recognized and appreciated that Events and festivals have become an important addition to the culture and vitality of Traverse City, and that they make a valuable contribution to the economic and social well-being of the City.
- (d) It is recognized and appreciated that the City's parks and open spaces are used by residents and visitors for recreational enjoyment in their natural state.
- (e) It is acknowledged that the City is charged with the responsibility to manage its assets, including City Parks, responsibly and equitably so that they may be enjoyed for all of the purposes above described and further that overuse of City Parks may result in damage which prevents any use of the Parks.
- (f) This Policy is intended to strike a balance between use of City Parks for organized Events and recreational enjoyment in order to protect all City Parks for their individual primary purposes and in particular, the Open Space for its primary and historic purpose of passive recreation and open space, i.e., free of structures and obstructions.
- (g) It is intended to keep bay front parks available for views of Grand Traverse Bay both from that space and across that space for the rest of the City.
- (h) It is recognized that the summer daylight hours are the most desirable time of the year to protect this Open Space use.
- (i) It is recognized that the National Cherry Festival has an important place in the history and society of Traverse City and that the Cherry Festival's interruption of the Open Space primary use has long been recognized as a benefit to and an integral party of this City's culture, making that interruption justified.
- (j) It is recognized that the Traverse City Film Festival has an important place in

Traverse City and that the Film Festival's interruption of the Open Space primary use is de minimus as it primarily occurs during the evening hours and outside of the most desirable time to protect the Open Space use.

- (k) It is important to recognize that even sites that have accommodated High Impact Events are for general public recreational use first, thus the regular use of a park must be respected.
- (l) Most City Parks accommodate a variety of uses including both active and passive recreational opportunities that may occur on a casual and/or organized level.
- (m) The majority of Parks have not been designed to accommodate large-scale Events, as many lack the necessary amenities, such as, washrooms, parking, and/or access to water or power to support High Impact Events.
- (n) In addition, most Parks have differing features and requirements; thus, what is appropriate in one Park may not be appropriate in another.
- (o) An objective of this Policy is to match events to an appropriate Park site. This is accomplished by delegating to the City Manager the authority to establish Individual Park Guidelines and determine which Parks are eligible for High Impact Events and which Parks are eligible for other categories of Events.
- (p) It sets forth the conditions within which sponsors and users of City Parks may use the City of Traverse City's parks and seeks to protect the citizens of Traverse City's use and investment in its City Parks.
- (q) It regulates the frequency of Events in Parks and establishes priority for holding Events.

II. DEFINITIONS

The following words and phrases shall have the corresponding definitions:

- (a) "City Clerk" means the person acting as City Clerk of the City of Traverse City or his or her designee.
- (b) "City Manager" means the person acting as City Manager of the City of Traverse City or his or her designee.
- (c) "For Profit Organization" means a partnership, corporation or unincorporated business organization which is not an official non-profit corporation.
- (d) "Parks" means those City-owned and officially dedicated parks as shown on the

attached map or public land owned by the City of Traverse City, excluding streets.

- (e) “Parks and Recreation **Division Department**” shall mean the City of Traverse City Parks and Recreation **Division Department**, under the direction of the Parks and Recreation ~~Department~~ Superintendent.
- (f) “Event” means a planned activity to use a Park. This includes those activities which have an attraction to the public, such as games or amplified sound. Events are categorized as High Impact Events or Low Impact Events.
- (f) “Park Use Permit” or “Permit” means a permit granted by the City to regulate Park properties used for Events.
- (g) “Open Space” means the Park located North of Grandview Parkway, from Parking Lot VB on the West to the Marina and Marina Seasonal Parking Lot on the East.
- (h) “City Sponsored Event” means an event where the City of Traverse City completes and submits the Permit Application.
- (i) “High Impact Event” means an event generally considered to be open to the public regardless of whether a fee for admission is charged with one or more of the following elements: use of City personnel requested or required; commercial or for-profit financial benefit; includes significant infrastructure such as set up of large tents, stages, amusements, concessions etc.; sale of alcohol.
- (j) “Low Impact Event” means an event ~~less than three (3) days in duration~~ **two days or less in duration, including excluding** set up and tear down with no commercial or for-profit financial benefit, which does not include use of city personnel, sale of alcohol or significant infrastructure in the Park.

III. PERMIT REQUIRED

An Event shall not be held or announced as going to be held at a Park until and unless a Park Use Permit has been issued pursuant to this Policy.

IV. NATIONAL CHERRY FESTIVAL

Because of its unique place in the history and culture of Traverse City, the National Cherry Festival is allowed annually for up to eight (8) consecutive days, excluding set-up and tear-down, which will be addressed in the Letter of Understanding, and is exempt from other provisions of this Policy. The National Cherry Festival will only be allowed if there is a Letter of Understanding with the City addressing the entire operation of the National Cherry Festival at the Open Space, other City sites and Parks. The National Cherry Festival shall have first priority on Park usage even if its application is received after another application for the use of the same Park.

V. TRAVERSE CITY FILM FESTIVAL

Because of its demonstrated benefit to the City of Traverse City and its de minimus impact on the primary purpose of the Open Space, the Traverse City Film Festival is allowed annually for up to eight (8) consecutive days, excluding set-up and tear-down, which will be addressed in the Letter of Understanding, and is exempt from other provisions of this Policy provided that the Traverse City Film Festival's use of the Open Space continues to have a de minimus impact on the primary purpose of the Open Space as determined by the City Manager. The Traverse City Film Festival will only be allowed if there is a Letter of Understanding with the City addressing the entire operation of the Traverse City Film Festival at the Open Space, other City sites and Parks. The Traverse City Film Festival shall have first priority on Park usage even if its application is received after another application for the use of the same Park, except for the application of the National Cherry Festival.

VI. HIGH IMPACT EVENTS

High Impact Events are subject to the following:

- (a) A High Impact Event may have a duration of up to three (3) consecutive days, excluding set-up and tear-down, which will be addressed in the Permit Application. Additional days may be requested in the Permit Application for a total of eight (8) consecutive days, excluding set-up and tear-down. The proposed permit holder for any High Impact Event with a duration of more than three (3) consecutive days (excluding set-up and tear-down) shall contract with the City for cost reimbursement and other obligations to the City; such contracts must be approved by the City Commission. High Impact Events shall be allowed three (3) days for set-up and tear-down combined. Any event that requires more than three (3) days for set up and tear down, shall receive approval from the City Commission. The permit holder shall be charged for each day they are utilizing the park, including for set up and tear down. ~~If an additional day is requested for set up and tear down, the daily permit rate will be charged for that day.~~
- (b) A High Impact Event shall only be held on a City Park if it is a Park that the City Manager has determined to be eligible for High Impact Events based on its size, surroundings and history.
- (c) Except for the Open Space, eligible Parks may have only one High Impact Event with a duration of more than three (3) consecutive days per year.
- (d) The Open Space may have one High Impact Event with a duration of more than three (3) consecutive days between Memorial Day weekend and Labor Day weekend in addition to the National Cherry Festival and the Traverse City Film

Festival.

- (e) High Impact Events may coincide with another Event if all Events mutually agree to share the same Park in writing and provide a copy of their written agreement with the Permit Application. The written agreement shall become part of any permit issued.
- (f) There shall be a suitable period of time between scheduled Events at a Park.
- (g) No more than two High Impact Events shall be held per park per month. If a High Impact use spans two months, it shall be counted against the month where the greatest number of days are used (including setup, tear down, and actual event dates); if a tie, then it shall be counted against the month in which the first day of park use occurs (including setup). For Clinch Park and the Open Space, with the exception of the National Cherry Festival and Traverse City Film Festival, there may be one High Impact Event in June, none in July, and one in August.
- (h) There shall be no High Impact Events in city parks on Memorial Day and Labor Day and the preceding Friday, Saturday and Sunday; and there shall be no High Impact Events in city parks on Independence Day, the day before and the day after Independence Day.

VII. LOW IMPACT EVENTS

- (a) Examples of Low Impact Events include but are not limited to weddings, family reunions and walks/running races which do not include commercial activity, picnics, school functions.
- (b) A Low Impact Event may be held on a City Park only if it is a Park that the City Manager has determined to be eligible for such an Event based on its size, surroundings and history and there shall be a suitable period of time between scheduled Events at a Park.
- (c) Low Impact Events may coincide with another Event if all Events mutually agree to share the same Park in writing and provide a copy of their written agreement with the Permit Application. The written agreement shall become part of any permit issued.

VIII. EXEMPT ACTIVITIES

General public use for recreation is exempt if it does not involve the reserving or setting aside of any Park or part of a Park and does not include organized games, fixed signs, sound broadcasting equipment, tents, bleachers or similar items. Brief use for movie or television production and other photographic activities is exempt unless in the opinion of the City Manager the activity will disrupt normal use. City-sponsored Events and instructional recreation programs endorsed by the

City are exempt. Permission for an exempt activity is automatically revoked if the user violates any law, ordinance or Park rule or regulation adopted pursuant to the Traverse City Code of Ordinances.

IX. PERMIT APPLICATIONS

Permit applications must be completed by the Applicant and the person or sponsoring organization who will be the Permit Holder and submitted to the City Parks and Recreation ~~Department~~ **Division**. The Parks and Recreation ~~Department~~ **Division** shall forward fees collected to the Treasurer's Department. The Parks and Recreation ~~Department~~ **Division** shall administer all Low Impact Events. Applications regarding all other Events shall be forwarded by the Parks and Recreation ~~Department~~ **Division** to the City Clerk's Office immediately upon receipt for processing. Such applications and the submittal of the applications shall comply with the following:

- (a) Time. Applications shall be filed ninety (90) days before an Event that is a High Impact Event. If an Application is filed more than one year before the Event, it shall be renewed in writing on the dates directed by the City Manager or it may be deemed untimely and withdrawn. If an Application is not submitted in compliance with the 90 day deadline, the application process may not be completed in time for the event to be held. The City may deny a permit automatically if the Application is not timely submitted.
- (b) Signature. The application shall be signed under oath or affirmation by the adult person who will attend and be in charge of the Event and activity or who can bind the organization requesting the permit.
- (c) Permit Holder. The application shall specify the name, address, and telephone number, cell phone number, e-mail address of the Permit Holder who shall be the sponsoring organization or individual and other information deemed relevant or necessary.
- (d) Fee. All applications, **except for fee-exempt Low Impact applications**, shall be accompanied by a non-refundable park useage application-processing fee. The City Commission by resolution and after recommendation of the City Manager shall establish application fees. The application fee shall be paid at the time of making the application. Applications submitted without the required fee shall automatically be deemed incomplete. Payment for any services to be provided by the City over normal service may be charged to the Applicant or Permit Holder. The application and permit fee shall be set by the City Commission by resolution. **Certain High Impact Event applicants, when required**, ~~All Permit holders~~ shall submit a security deposit in an amount determined by the City Clerk. The City Clerk may require such a deposit to be made in the form of a bond or certified check.

(e) Insurance. Unless waived by the City Clerk or City Commission, all Permit Holders shall provide insurance as follows:

- (1) Comprehensive general liability insurance - \$1,000,000 per occurrence and such additional insurance and coverages as may be required by the City Clerk for special activities.
- (2) The policy shall name the City of Traverse City as an additional insured in the policy coverage and shall include an endorsement to the policy naming the City of Traverse City as additional insured. Any amendment to or cancellation of such insurance shall require no less than thirty (30) days written notice provided to the City Clerk of such cancellation and/or amendment.
- (3) The duration of the insurance shall encompass the total length of time any equipment is placed on City property or the duration of the event, whichever is longer.
- (4) Suitable proof of insurance shall be submitted to the City Clerk prior to the Event taking place. In addition, the Applicant and Permit Holder shall execute a hold harmless and indemnification provision agreeing to hold the City and its officials, employees and volunteers harmless and to indemnify the City in the event of a claim resulting solely or partially from the Event or activity applied for.

(f) Description of Event. The Event shall be described with such detail as required by ~~the City Clerk and the City Commission, and~~ on the forms supplied by the City Clerk. The description shall include a detailed site plan.

(g) Noise Containment Plan. A plan for noise and vibration containment shall accompany the application.

(h) Filing Date. An application shall not be deemed to be filed until the City Clerk, **or for low impact events, the Parks and Recreation Division staff**, states in writing that it is complete. The date of such writing shall be the date of filing of that application. Once an application has been deemed complete. High Impact Events shall be processed in accordance with the City Clerk's procedure; Low Impact Events shall be processed by the Parks and Recreation ~~Department~~ **Division** in accordance with that ~~Department's~~ **Division's** procedure.

X. PRIORITY OF APPLICATIONS

Applications for Events shall be considered and decided on a first come-first serve basis as of the date they are filed and deemed complete. An application shall be decided promptly after it has

been properly and completely filed. Permit Holders with granted reservation requests shall have the scheduling priorities and rights as provided in this Policy.

XI. RESERVATION REQUESTS

If an Applicant wishes to hold an Event annually, after it is held for the first time the Permit Holder may request that the dates be reserved at a particular Park for subsequent years. Reservation requests may be granted if a prior Permit has not been violated, the Permit Holder has fulfilled all obligations to the City and the Event has not created any unreimbursed expense or burden to the City. A non-refundable reservation fee established by the City Commission may be charged. If dates are reserved, an application from that Permit Holder will be given preference over all other applications for those dates and Park. If the Reservation holder has not been issued a Permit or entered into a contract with the City for the Event at least 120 days before the Event is scheduled to occur, the Reservation shall be void. Reservation requests for more than three (3) years in advance will not be accepted. Reservation requests may be revoked by the City Manager based on the health, safety and welfare of the City, such as construction or development activities at that Park, the elimination or reduction of City employees or resources needed to service the Event, or any reason stated in this Policy for not granting the initial request or permit application.

XII. REVIEW OF PERMIT APPLICATIONS

(a) Permit applications for High Impact Events shall be approved or denied by the City Clerk or his or her designee after a staff review of the permit application in accordance with the procedure adopted by the City Clerk. Permit applications for Low Impact Events shall be approved or denied by the Parks and Recreation ~~Department~~ **Division**. The reviewing department/division may add conditions to any permit issued. **Whenever there is ambiguity as to the application of this policy, city staff shall apply it in the most restrictive fashion.**

(b) Appeal. Any person denied a Permit pursuant to the provisions of this Policy may appeal to the City Manager in writing, stating the reasons why the Permit should be granted. The City Manager shall respond to the appeal in writing within 10 days of receiving it. The City Manager may grant or deny the Permit. An Applicant may appeal the decision of the City Manager to the City Commission in writing, stating the reasons why the Permit should be granted. The City Commission may grant or deny the Permit after a public hearing at the next available City Commission meeting, and such decision shall be final. The City Commission may elect on its own motion to review any determination of the City Manager, City Clerk or Parks and Recreation ~~Department~~ **Division** in granting or denying a Permit

XIII. STANDARDS

The standards for granting approval of a Permit application are the following:

- (a) The activity is consistent, or can be made consistent by imposing conditions agreed to by the applicant with City guidelines that apply to the Park where the Event will take place. Individual Park Guidelines shall be adopted by the City Manager.

- (b) The activity will not unreasonably interfere with or detract from the general public's enjoyment of the Park or nearby public land.
- (c) The activity will not unreasonably disturb normal activity on surrounding private land.
- (d) The activity will not unreasonably interfere with or detract from the promotion of the public health, welfare, safety and recreation.
- (e) The activity does not cause a violation of any law, ordinance, rule, or regulation.
- (f) The facilities desired have not been reserved for other use on the date and hour requested in the application.
- (g) The activity will not cause damage to water, beaches, trees, benches, landscaping or other natural or man-made components of the Park.
- (h) The activity does not entail extraordinary or burdensome expense of operation by the City.
- (i) The activity does not materially impact the characteristics or functions of environmentally sensitive resources or properties.
- (j) The activity will not be exclusive, in whole or in part, but will be open to the general public without charge. Sporting contests such as volleyball may charge a participant fee.
- (k) The activity shall not occur so soon before or after another Event that it creates a burden on the Park facility, City staff or resources, or so soon that it unreasonably impedes the primary general public use of the Park.
- (l) The Event complies with all other provisions of this Policy.

XIV. GENERAL CONDITIONS

The following general conditions apply to all Events. Additional special conditions may be imposed in the Permit. All terms and representations specified in the permit application are automatically special conditions to the Permit unless changed or superseded by the general conditions or an additional condition.

- (a) **Equipment and Signs.** No other property, equipment or signs are to be used by participants in the Park, public land, and adjacent property or water except as listed in the permit. No signs shall be erected in violation of any City ordinance.

Placement of such equipment shall be coordinated with the City Manager. Unless authorized by the City Manager, all property, equipment and signs shall be removed from the Park on any day during which the Event, setup, or removal is not being conducted.

- (b) Cleanup. The Applicant and Permit Holder shall promptly and completely cleanup and restore the site immediately following the Event or activity.
- (c) Set Up and Removal. Set up and removal shall occur promptly and the time allowed therefor shall be restricted in the Permit.
- (d) City Cost. Damage to public properties or the City's cost incurred in cleanup and repair shall be the responsibility of the Applicant and the Permit Holder. Payment of any such assessment shall be due within thirty (30) days. The City Manager may require a bond, letter of credit, or cash deposit as security for cleanup and restoration.
- (e) Tents. If tents are used, the tent material shall be composed of noncombustible and flame-resistant fabric in accordance with the City Fire Code and erected to meet wind load requirements of the State Construction Code.
- (f) Advertising. Any advertising or public announcements of the Event that occurs before all necessary approvals from the City have been obtained, is not permitted. No signs are allowed in the City rights-of-way.
- (g) Time of Events. The Permit shall specify the days and hours of the event. Unless otherwise indicated in the Permit, all Events are limited to the hours of 10:00 am and 10:00 pm daily. The City Manager may approve a time extension for good reason.
- (h) Time of Amplified Sound. Unless otherwise allowed in the Permit, amplified music or sound shall be limited to no more than a total of six hours including normal breaks taken between the beginning and end of individual music performances between 10:00 am and 10:00 pm.
- (i) Noise. The Application shall include a current, active plan for the containment of noise and vibration attributed to the Event. Special conditions may be placed on any amplified sound to preserve the rights and enjoyment of those adjacent or near the Event. The City noise ordinance applies to all Events. ~~This shall include but not be limited to amplified music and speech, construction, and sounds emanating from groups or crowds connected with the Event. No person shall cause, suffer, allow, or permit the operation of any amplified sound reproduction device in such a manner that it crosses a real~~

~~property line of the Park and raises the total sound levels by the permissible sound level limits set forth below when measured within a building.~~

**~~AMPLIFIED SOUND REPRODUCTION DEVICE
MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS~~**

~~Indoors across a real property line
dB(C) ABOVE
INTERIOR AMBIENT SOUND LEVEL~~

<p>Week nights 10:00 p.m. – 7:00 a.m. Weekend nights 11:00 p.m and 9:00 a.m.</p>	<p>All other times</p>
<p>3 dB(C)</p>	<p>6 dB(C)</p>

- (j) Excavation. No digging, staking or any other ground disturbing activity shall be performed except as authorized in the permit and upon prior notification to the City Manager. Trenching, excavating, or other disturbance of the ground surface will require the applicant to notify MISS DIG to appropriately mark all areas where obstructions exist prior to disturbing the surface area.
- (k) Trash and Toilets. Portable toilet and trash receptacles shall be provided, as necessary, for all Events based on the anticipated size of the Event. These shall be provided at the expense of the Permit Holder. The number, type and location of all receptacles and toilets shall be listed on the Permit. At least one portable toilet must be ADA compliant/handicap accessible. The Permit Holder is responsible for the clean up of the area and removal of trash from the site.
- (l) Recycling. It shall be the policy of the City of Traverse City to encourage recycling whenever possible. The mandatory provision of an area(s) utilizing source separation containers for primary recycling materials shall be provided at all High Impact Events. A list of primary recycling materials shall be determined by the City Manager. The number and location of such area(s) shall be shown on the Permit.
- (m) Commercial Activity. Only incidental commercial activity is allowed for Low Impact Events. All such incidental commercial activity shall be under the control of the Permit Holder and shall not be operated independently by third parties unless the third party operated commercial activity is allowed in the Permit.

- (n) Vehicles. No trucks or other motor vehicles are allowed at the Park except in designated parking lots or except those conveying specialized equipment for the Event and allowed in the Permit.
- (o) Lights. No strobe lights or flashing lights are allowed. All lighting shall be directed at the Event and to the extent practical away from areas where the activity is not occurring. Portable or vehicle mounted generators are not allowed unless shielded from view and hearing by appropriate means approved by the City Manager.
- (p) Site Plan. Applicants shall provide a detailed site plan depicting facility locations, if any, to be used or installed during the Event.
- (q) References. In the event an applicant does not have history with the city in conducting an event, the city may require three (3) professional references be provided and verified by the City Clerk; additionally, in such instance, the applicant shall deposit with the City the City's anticipated out-of-pocket expenses prior to the permit being issued. If three (3) professional references are not available, an event planning committee consisting of at least three (3) city residents shall be established by the applicant; and the contact information for the event planning committee shall be provided on the application.

XV. REVOCATION OF USE

In addition to the penalties provided by Ordinance, a Permit may be revoked in writing at any time by the City Manager if it is determined that the holding of the Event authorized by the permit is no longer in the best interest of the public health, safety and welfare, or there has been a misrepresentation in the application or any material misstatement by the Applicant, or there has been a failure to follow this Policy, or other City ordinance, State law, or any condition attached to a Permit. The Applicant or Permit Holder whose Permit is revoked by the City Manager may appeal to the City Commission in writing within three (3) days. All activities under the permit will be suspended pending such appeal. Anyone acting pursuant to a permit that has been revoked or suspended shall be deemed to be trespassing, may be removed by City Police, and may, at the discretion of the City Manager, be charged with criminal trespass. In the event that a Permit has been revoked pursuant to the provisions of this section, the Applicant or Permit Holder shall be not be granted a Permit under this policy for two years following the date of revocation.

I hereby certify that the above Policy was adopted by the City Commission on March 16, 1998, and was amended in its entirety, at a regular meeting of the City Commission on March 17, 2008, and December 17, 2013, at a regular meeting of the City Commission and amended at the

_____ regular meeting of the City

Draft 11/2/13

Commission by a vote of Yes: _____, No: _____. at the
Commission Chambers, Governmental Center, 400
Boardman Avenue, Traverse City, Michigan.

Benjamin C. Marentette, City Clerk

Memorandum

The City of Traverse City



TO: Jered Ottenwess, City Manager

CC: Benjamin C. Marentette, City Clerk

FROM: Katie Lowran, Deputy City Clerk

DATE: September 18, 2013

SUBJECT: 2013 High Impact Events

Below is a list of the 2013 High Impact Events that were held in various parks and locations in the city, as well as the fees charged for application/permit. Attached are calendars of the events to provide a visual aide for your reference.

May 31-June 2 (3 days) **TART Trails Recycle A Bicycle Swap** (Old Town Parking Deck)

- ✓ Application Fee-\$25.00
- ✓ Permit Fee – No fee based on location

June 24-July 6 (13 days) **Cherry Festival** (Open Space)

- ✓ Application/Permit Fee – Under Contract – Capped at \$45,000 for out of pocket city expenditures

July 30-August 4 (6 days) **Film Festival** (Open Space)

- ✓ Application Fee – Under Contract - \$7,038 for out of pocket city expenditures

August 14-18 (5 days) **Traverse City Music Festival** (Open Space)

- ✓ Application Fee – 200.00
- ✓ Permit Fee – 1,300.00
- ✓ Total - \$1,500

August 16-18 (3 days) **TC Waterman Challenge & Expo** (Open Space West Section)

- ✓ Application Fee – N/A application submitted prior to implementation of Parks and Public Land Use Policy

August 16-17 (2 days) **HANDDS to the Rescue** (Hull Park)

- ✓ Application Fee – 25.00
- ✓ Permit Fee – 125.00
- ✓ Total = \$150.00

August 29-Sept 2 (5 days) **Bayside Festival** (Open Space)

- ✓ Application Fee – 25.00
- ✓ Permit Fee – 400.00
- ✓ Total - \$425.00

Sept 12 (1 day) **United Way Day of Caring** (Open Space)

- ✓ Application Fee – 25.00
- ✓ Permit Fee – 250.00
- ✓ Total = \$250.00

Sept 13-15 (3 days) **Taste of Traverse** (Open Space)

- ✓ Application Fee – 200.00
- ✓ Permit Fee – 1,100.00
- ✓ Total = \$1300.00

In addition for the above outlined fees, any and all out of pocket expenditures for the city are reimbursed by the event holder following the event for items such as street cleanup, police, fire, trash removal etc.

Thank you and please let me know if you have any questions.

JUNE 2013



HIGH IMPACT EVENTS

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					May 31 Old Town Parking Deck TART Recycle Bicycle Application Fee \$25 Set Up	1 Event
2 Tear Down	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24 Set Up	25	26 Permit Via Contract (City Expenses capped at \$45,000)	27 Open Space/Various Parks Cherry Festival	28	29 Event
30 Open Space/Various Parks Cherry Festival						

JULY 2013



HIGH IMPACT EVENTS

Sun	Mon	Tue	Wed	Thu	Fri	Sat	
	1	2	3	4	5	6	
	Open Space/Various Parks Cherry Festival						Tear Down
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				
		Open Space/Various Parks Traverse City Film Festival Set Up					

AUGUST 2013



HIGH IMPACT EVENTS

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1 Open Space/Various Parks Traverse City Film Festival Per Contract — City reimbursed for out of pocket costs = \$7,038	2 Open Space/Various Parks Traverse City Film Festival	3 Open Space/Various Parks Traverse City Film Festival
4 Open Space/ Various Parks TCFF Tear Down	5	6	7	8	9	10
11	12	13	14 Set Up	15 Open Space Traverse City Music Festival = \$1,500	16 Hull Park—5k HAANDS = \$150 Traverse City Music Festival = \$1,500 Waterman Paddle Board Race = N/A Application submitted prior to new Parks Policy	17 Hull Park—5k HAANDS = \$150
18 Tear Down Both Events	19	20	21	22	23	24
25	26	27	28	29 Set Up	30 Open Space Bayside Music Festival = \$425 Set Up	31 Open Space Bayside Music Festival = \$425 Set Up All Day Event

SEPTEMBER 2013



HIGH IMPACT EVENTS

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2 Open Space Bayside Music Festival All Day Event	3 Tear Down	4	5	6	7
8	9	10	11	12 Open Space United Way Day of Caring = \$275.00	13 Open Space Taste of Traverse City = \$1500 Set Up	14 Open Space Taste of Traverse City Event
15	16 Open Space Taste of TC Tear Down	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Memorandum

The City of Traverse City



TO: Benjamin C. Marentette, City Clerk
COPY: Jered Ottenwess, City Manager
FROM: Lauren Tribble-Laucht, City Attorney *LL*
DATE: November 4, 2013
SUBJECT: Suggested Revisions to Noise Ordinance

Attached is a draft of the revised Noise Control Ordinance with suggested changes in redline. I have drafted these changes after consulting with the Noise Control Officer, who consulted with his contacts at the Rutgers Noise Technical Assistance Center where he previously attended training (see also his attached memorandum). The recommendation of the Noise Control Officer is to include the C-Scale to address the more irritating noise frequencies. This would be used for residential properties only. The City currently possesses the equipment necessary to enforce the ordinance using the C-Scale, but it would require some additional training.

The definitions section of the ordinance has been revised to reflect the terms used when referring to the C-Scale. Basically, the proposed change would prohibit an increase in ambient noise in Residential and Multi-Family areas of 6dBC (7:00 a.m. to 10:00 p.m.) and 3dBC (10:00 p.m. to 7:00 a.m.). This would require the Noise Control Officer to obtain a “neighborhood residual sound level” and then measure the offending frequencies to determine whether they exceed the maximum allowable level on the C-Scale. Section 652.02G indicates that “noise sensitive areas” may be designated by the City Commission by resolution, however none have been established thus far.

In my discussion of this ordinance with the Noise Control Officer we agreed that it is important to note the goal of the ordinance cannot and should not be a complete absence of background noise. This would be unrealistic and unmanageable. The ordinance has been revised to add a tool for enforcement that can help to control the frequencies that are most irritating and typically arise from amplification systems used at special events.

Please also note that the fines allowable under the City Charter (Section 157) are limited to a maximum of \$500.00 per violation. Currently the Noise Control Ordinance deems a separate offense as one “committed each day during or on which a violation or noncompliance occurs or continues.” The Commission could consider changing this so that more than one violation per day could be ticketed. Additionally, the current Parks and Public Land Use Policy allows for revocation of a permit by the City Manager if it is determined that the Event failed to follow the Policy, City ordinance, State law or any condition of the Permit. Once a permit has been revoked all activities under the permit must cease and any person acting under the permit is deemed to be trespassing and may be removed by City Police. Finally, if it is necessary for the City Manager to take this step, the permit holder will not be granted a permit under the Policy for two years following the date of the revocation.

The City Of Traverse City

Police Department
851 Woodmere Avenue
Traverse City, Michigan
49686
(231) 995-5150



To: Chief M. Warren
From: Officer S. Maxson
Ref: Noise Enforcement Costs
Date: 10/15/13

Pursuant to your request, the following memo outlines the estimated costs associated with future noise enforcement training. It should be noted that after talking with Eric Zwierling (Director of the Rutgers Noise Technical Assistance Center), he indicated that it would be beneficial to take the Octave Band Analysis course along with the required Recertification course. He is aware of the problems that the City of Traverse City is having with amplified music and the proposed C-weighting language change to our ordinance to address it. Although the C-weighting approach may be appropriate at this time, Octave Band Analysis may give us another alternative to address low frequency issues. Typically both classes are not offered on consecutive days; however, Zwierling stated he would give me private instruction to avoid having to make two trips to New York/New Jersey.

1.	Recertification Course:	\$270.00	
2.	Octave Band Analysis Course:	\$270.00	- 0
3.	Lodging (3 nights):	\$750.00	- 500
4.	Airfare:	\$500.00	- 185
5.	Rental Car:	\$275.00	- 143
6.	Meals	<u>\$215.00</u>	<u>- 143</u>
		\$2280.00	1598

It should be noted that if the City decides to add Octave Band Analysis language into the Noise Ordinance, a new Noise Meter would have to be purchased with an estimated price of **\$4000.00**.

The City Of Traverse City

Police Department
851 Woodmere Avenue
Traverse City, Michigan 49686
(231) 995-5150



To: Chief M. Warren

From: Officer S. Maxson

Ref: Noise Enforcement Information

Date: September 14, 2013

Pursuant to your request, I have prepared this memo to address concerns surrounding our current noise ordinance. Presently our ordinance only measures noise using the A-scale, which most closely emulates human hearing. However, the A-scale poorly measures lower frequencies. It is these low frequency sounds (i.e., deep amplified base, diesel motors, etc.) that often are the sounds that are most irritating to persons. Additionally, manmade structures and natural barriers (earthen berms and vegetation) do a poor job with attenuation of the low frequency noises.

There are generally two ways to address these "irritating" sound/noise frequencies. Both of these methods rely on maximum permissible sound limits (different dB scales), rather than the *plainly audible* approach. First, you can conduct an Octave Band Analysis on the noise source. Essentially this breaks down the noise source into families of frequencies that are regulated individually. This allows a municipality to target specific "problematic" frequencies. The only caveat is the suspect source must be a pure tone, as defined by our ordinance. Our current ordinance does not allow for Octave Band Analysis.

The second method to address these "irritating" sound/noise frequencies is to measure the increase in total sound as compared to ambient sound levels within a residential property. This method can only be used for sound reproduction devices (i.e., amplified music and musical instruments, radios, etc.). Measurements of sound for this protocol are taken using the C-scale. A detractor to this method includes the need for a very involved ambient/background noise determination, as the C-scale is easily influenced by additional low frequency sound emitters (i.e., "road noise", engine noise, etc.). I have talked with Eric Zwerling from the Rutgers Noise Technical Assistance Center and he recommended the following limits using this technique:

Maximum Permissible Increase in Total Sound Level (above ambient)

10:00 PM – 7:00 AM 3 dBC

7:00 AM – 10:00 PM 6 dBC

Our current ordinance does not allow for any measurements using C-scale weighting. However, our sound meter is equipped to measure several weighting scales, including the C-scale.

It may also be advantageous to investigate the use of both *emission* and *immission* methods. *Emission* regulations are intended to control the sound output of the source without regard for any specific listener. These types of regulations are most often applied to moving sources where many persons may be impacted. *Immission* regulations are intended to control the sound input to a specific person, or persons, without regard for the sound output of the source. These types of regulations are most often applied to stationary sound sources. On occasion, both types necessarily may be included.

We may also want to revisit the applicability of the *plainly audible* (subjective vs. objective regulations) approach to enforcement; and specifically define it in section 652.02 (with removal from 652.03 (c) 2 and 3). Subjective regulations are based on the decisions of a noise control officer and his/her designees as to the degree of noise intrusion without reference to any sound level measurements. Obvious cases are complaints about voices and music. Noise disturbance and plainly audible criteria are applied here. It is very important that the enforcement official treat the noise source as "Content Neutral". Objective regulations are based on sound level measurements compared with maximum permitted sound level limits provided in an ordinance. They have the advantage of removing official bias, and the numbers are generally based on scientific studies of noise impact. They require the use of appropriate sound level meters. Obvious cases involve measurements of sound intrusion at property lines.

As there have been several conversations surrounding the noise due to truck traffic, it needs to be noted that the Federal Government typically prevents a local governmental entity from enacting noise controls associated with transportation in regard to interstate commerce (aircraft, railroad, trucks). The State has tried to address noise issues due to commercial motor vehicles, but thus far, no rules have been promulgated. It should be noted, Federal regulators utilize 40 CFR Part 205 for commercial motor vehicle noise enforcement, however, it is very "cumbersome" and requires a specifically designed testing location.

Finally, you inquired about a cost estimate to address some of the above mentioned solutions. The Rutgers University Noise Technical Assistance Center is the only entity that currently offers certification in Community Noise Enforcement. The following is a very rough estimate:

Community Noise Enforcement Recertification Course (New Brunswick, NJ): \$270.00*
Octave Band Analysis Course (New Brunswick, NJ): \$270.00*

*Would also require flight costs, rental car, hotel and meals

Noise Meter for Octave Band Analysis: \$4000.00

TRAVERSE CITY CODE OF ORDINANCES

ORDINANCE AMENDMENT NO. _____

Effective date: _____

TITLE: NOISE CONTROL

THE CITY OF TRAVERSE CITY ORDAINS:

That Section 652.02 and 652.04, of the Traverse City Code of Ordinances, be enacted/amended to read in its entirety as follows:

652.02 DEFINITIONS.

All terminology used in this chapter and not defined in this section shall be in conformity with applicable publications of the American National Standards Institute (ANSI) or its successor body. In addition, as used in this chapter:

- A. **Commercial area** means land primarily being used as office, governmental, retail, or other commercial type uses.
- B. **Decibel (dB)** means a unit of measuring the volume of sound, equal to twenty times the logarithm of the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).
- C. **Industrial area** means land primarily being used as a manufacturing or industrial site, including airports.
- D. **Multi-Family area** means land primarily being used for structures housing three or more families. If a multiple family use occurs as a mixed use with commercial uses, the primary use of the property will be determined by the ground floor.
- E. **Noise Control Officer** means the Chief of Police and his or her agents who have lead responsibility for the enforcement of this chapter.
- F. **Noise disturbance** means any sound which either exceeds the maximum permissible sound levels of this chapter or which endangers or injures the safety or health of humans or animals, annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.
- G. **Noise sensitive zone** means areas in the City which contain noise sensitive activities, such as schools, libraries, churches, hospitals and nursing homes, as designated by resolution of the City Commission.
- H. **Plainly audible** means any sound that can be detected by the Noise Control Officer, or his/her designee, using their unaided hearing faculties of normal acuity. The Noise Control Officer, or his/her designee, need not determine the title, specific words, or the artist performing a song. As an example, if the sound source under investigation is a sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound.
- I. **Pure Tone** means a single or compact range of frequency that may be perceived as a whine, hum, squeal, or buzz. The measured sound levels must not fluctuate by more than

plus or minus 3 dB. Such sound sources include, but are not limited to: heating, ventilating or air-conditioning units; refrigeration units; and transformers.

- J. **Real property boundary** 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 "real property boundary" shall be the nearest boundary of the public right-of-way.
- K. **Residential area** means land primarily being used as a one or two family dwelling and located adjacent to or near other such residentially used land.
- L. **Residual sound level** means that measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sound and the sound from the source of interest.
- M. **Sound level meter means** an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels and that meets the standards of ANSI S-14 1983 or its successor.
- N. **Sound production device** means any device whose primary function is the production of sound, including but not limited to any musical instrument, loudspeaker, radio, television, digital or analog music play, public address system or sound amplifying equipment.
- O. **Total sound level** means the measured level which represents the summation of the sounds from the source under investigation and the neighborhood residual sound level, excluding any extraneous sound, when measured on the property of an affected person.
- P. **Weighted sound level** means the sound pressure level in decibels as measured on a sound level meter using the A-weighting or C-weighting, "fast" response network. The level so read is designated dB(A) or dBA.

652.04 PROHIBITIONS.

- (a) Generally. No person shall unreasonably make or continue, or cause to be made or continued, any noise disturbance.
- (b) Radios, Musical Instruments and Similar Devices. No person shall operate or play, or permit the operation or playing of, any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to:
 - 1. Create a noise disturbance on public property or streets, across a real property boundary, or within a noise sensitive zone. If such a device is plainly audible on the property of another or within a building other than that within which the device is located, and if a complaint is made to the Noise Control Officer regarding annoyance or disturbance as a result of such device, this shall serve as prima-facie evidence of a violation.
 - 2. Create a noise disturbance when operated in or on a motor vehicle on a public right of way, public space or space open to the general public, or in a boat on public waters. If such a device is plainly audible at a distance of 50 feet in any direction, between the hours of 10 p.m. and 7 a.m. or 100 feet in any direction between the hours of 7 a.m. and 10 p.m., this shall serve as prima facie evidence of a violation.

- (c) Loudspeakers. No person shall use or operate for any noncommercial purpose any loudspeaker, public address system or similar device between 10:00 p.m. and 7:00 a.m. of the following day so that the sound there from creates a noise disturbance across a residential area or multi-family area boundary or within a noise sensitive zone. No person shall use or operate for any commercial purpose any loudspeaker, public address system or similar device so that the sound there from creates a noise disturbance across a real property boundary or within a noise sensitive zone, or between 10:00 p.m. and 7:00 a.m. of the following day on a public right of way or public space.
- (d) Sound Amplifiers. No person shall operate any sound amplifying device for the purpose of advertising announcing an event, or attracting the attention of the public. However, a school, governmental unit, or bona fide nonprofit organization may secure a permit from the Noise Control Officer to use such a device. No permit will be granted for such use on a Sunday or at any other time or duration or under any other conditions which, in the opinion of the Noise Control Officer will constitute a nuisance.
- (e) Heavy Equipment. Except for work on essential services, no person shall use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or other construction apparatus between 10:00 p.m. and 7:00 a.m. of the following day, within 600 feet of a residential area, multi-family area, or noise sensitive zone.
- (f) Loading and Unloading. No person shall load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage trucks, garbage cans or similar objects between 11:00 p.m. and 6:00 a.m. of the following day in such a manner as to cause a noise disturbance across the boundary of a residential area or multi-family area, or within a noise sensitive zone.
- (g) Stationary Non-emergency Signaling Devices. No person shall permit the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes. Such devices, when used in conjunction with places of religious worship, shall be exempt from this subsection.
- (h) Maximum Permissible Sound Levels by Receiving Land Use (A-weighted time). No person on private property shall create a continuous sound which exceeds the limits set forth for the receiving land category in the following table Maximum Sound Levels Table when measured at or within the property boundary of the receiving land which source of sound shall be deemed prima-facie to be a noise disturbance. "Continuous sound" means any sound having a duration of one second or more. For any source of sound which emits a pure tone, the maximum sound level limits set forth in the following table shall be reduced by five dBA.
- (i) Maximum permissible increase in total sound levels (above ambient). No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a real property boundary and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in the Maximum Sound Levels Table when measured within the residence of a complainant according to the techniques established by the noise control officer. These sound level measurements shall be conducted with the sound level meter set for "C-weighting", "fast" response.

MAXIMUM SOUND LEVELS TABLE

<u>Receiving Land Category</u>	<u>Sound Level Limit (dBA)</u>	<u>A-weighted Time</u>
Residential area	10:00 p.m. to 7:00 a.m.	60
Multi Family area	7:00 a.m. to 10:00 p.m.	65
Commercial area	10:00 p.m. to 7:00 a.m.	65
	7:00 a.m. to 10:00 p.m.	70
Industrial area	10:00 p.m. to 7:00 a.m.	70
	7:00 a.m. to 10:00 p.m.	75
Noise sensitive areas	10:00 p.m. to 7:00 a.m.	Established by
Noise sensitive areas	7:00 a.m. to 10:00 p.m.	Resolution

Receiving Land Category	Time	Sound Level Limit (dBA) A-weighted time	Maximum permissible increase in total sound levels (above ambient) - C-weighted, "fast" response (dBC)
Residential and Multi-Family area	10:00 p.m. to 7:00 a.m.	60	3
	7:00 a.m. to 10:00 p.m.	65	6
Commercial area	10:00 p.m. to 7:00 a.m.	65	N/A
	7:00 a.m. to 10:00 p.m.	70	N/A
Industrial area	10:00 p.m. to 7:00 a.m.	70	N/A
	7:00 a.m. to 10:00 p.m.	75	N/A
Noise sensitive areas	10:00 p.m. to 7:00 a.m.	Established by Resolution	Established by Resolution
Noise sensitive areas	7:00 a.m. to 10:00 p.m.	Established by Resolution	Established by Resolution

- (j) Impulsive Sound. Impulse sounds may exceed the permissible limits in the above Table by ten decibels if they occur less than ten times in any hour between 7 a.m. and 10 p.m., or less than four times in any hour between 10 p.m. and 7 a.m. If any impulsive sound exceeds these frequencies, then the permissible limits in the Table apply. "Impulsive sound" means any sound having a duration of less than one second.

The effective date of this Ordinance is the _____ day of _____, 2013.

I hereby certify the above ordinance amendment was

introduced on _____, at a regular meeting of the City Commission and was enacted on _____, at a regular meeting of the City Commission by a vote of Yes: ____ No: ____ at the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Michael Estes, Mayor

Benjamin C. Marentette, City Clerk

I hereby certify that a notice of adoption of the above ordinance was published in the Traverse City Record Eagle, a daily newspaper published in Traverse City, Michigan, on _____.

Benjamin C. Marentette, City Clerk