

## Part 6. Noise

506.01. **Definitions.** Subdivision 1. **General.** Words and phrases defined in this section have, when used in this ordinance, the meanings given below. Any other word or phrase used in this ordinance, and defined in regulations of the Minnesota Pollution Control Agency Noise Pollution Control Section, NPC-1 and NPC-4, has the meaning given in those regulations.

Subd 2. **Air Circulation Device** means a mechanism designed and used for the controlled flow of air used in ventilation, cooling, or conditioning, including but not limited to central and window air conditioning units.

Subd 3. **L10** means the sound level, expressed in decibels (dBA) which is exceeded 10 percent of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, and of the American National Standards Institute and using test procedures approved by the noise control officer.

Subd 4. **L50** means the sound level similarly expressed and measured which is exceeded 50 percent of the time for a one-hour period.

Subd 5. **Person** means an individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, "person" shall include employees and licensees.

506.02. **Noises Prohibited.** Subdivision 1. **General Prohibition.** No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of the following subdivisions.

Subd 2. **Motor Vehicles.** No person shall operate a motor vehicle in the city in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency.

Subd 3. **Horns, Audible Signaling Devices, Etc.** No person shall sound any signaling device on any vehicle except as a warning of danger. (M.S. 169.68.)

Subd 4. **Exhaust.** No person shall discharge the exhaust, or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises there from and complies with all applicable state law and regulations.

Subd 5. **Defective Vehicles or Loads.** No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

Subd 6. **Loading, Unloading, Unpacking.** No person shall create unreasonably loud or excessive noise in loading, unloading, or unpacking any vehicle.

Subd 7. **Radios, Phonographs, Paging Systems, Etc.** No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

Subd 8. **Participation in Noisy Parties or Gatherings.** No person shall participate in any party or other gathering of people giving rise to unreasonable noise, disturbing the peace, quiet, or repose of another person. When a peace officer, sheriff or deputy sheriff determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a peace, sheriff, or deputy officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

Subd 9. **Loudspeakers, Amplifiers for Advertising, Etc.** No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

~~Subd 10. **Animals.** No person owning, operating, having charge of, or occupying, any building or premise shall keep or allow to be kept, any animal which shall, by any noise, unreasonable disturb the peace and quiet of any person in the vicinity. The phrase "unreasonable disturb the peace and quiet" shall include, but is not limited to, the creation of any noise by any animal which can be heard by any person, including a law enforcement officer or animal control officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a five minute period of time with one minute or less lapse of time between each animal noise during the five minute period. (Repealed 11/21/05)~~

Subd 11. **Schools, Churches, Hospitals, Etc.** No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

Subd. 12. **Dynamic Engine Brakes.** No Dynamic engine brake shall be used within the limits of

the city. (Amended 11/16/98)

**506.03. Hourly Restriction on Certain Operations.** Subdivision 1. **Recreational Vehicles.** No person shall, between the hours of 10:00 p.m. and 7:00 a.m., drive or operate any minibike, snowmobile, or other recreational vehicle not licensed for travel on public highways.

Subd 2. **Domestic Power Equipment.** No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

Subd 3. **Refuse Hauling.** No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

**506.04. Receiving Land Use Standards.** Subdivision 1. **Maximum Noise Levels by Receiving Land Use Districts.** No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in Table 1 for the receiving land use category specified when measured at or within the property line of the receiving land use.

**Table 1. Sound Levels by Receiving Land Use Districts**

Land Use Districts	Day (7:00 a.m. - 10:00 p.m.)		Night (10:00 p.m. - 7:00 a.m.)	
	L10	L50	L10	L50
Residential	65	60	55	50
Commercial	70	65	70	65
Industrial	80	75	80	75

The limits of the most restrictive district shall apply at the boundaries between land use categories. The determination of land use shall be by its zoned designation.

Subd 2. **Exemptions.** The levels prescribed in Subdivision 1 do not apply to noise originating on public streets and alleys but noise shall be subject to other applicable sections of this ordinance.

**506.05. Air Circulation Devices.** No person shall permanently install or place any air circulation device, except a window air conditioning unit, in any outdoor location until the noise control officer determines that the device in that location will comply with the noise level standards

prescribed in Section 506.04 and issues a permit for the installation. The noise produced by any window unit and by any existing air circulation device shall be attenuated by means deemed appropriate by the noise control officer, including but not limited to, relocation of such device, if the noise results in or contributes to a violation of Section 506.04.

**506.06. Exception for Emergency Work.** Noise created exclusively in the performance of emergency work to preserve the public health, safety, or welfare, or in the performance of emergency work to restore a public service or eliminate a public hazard shall be exempt from the provisions of this ordinance for a period not to exceed 24 hours after the work is commenced. Persons responsible for such work shall inform the noise control officer of the need to initiate such work or, if the work is commenced during non-business hours of the city, at the beginning of business hours of the first business day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise.

**506.07. Powers and Duties of Noise Control Officer.** Subdivision 1. **Administering Officer.** The noise control program established by this ordinance shall be administered by the noise control officer, who shall be appointed by the council.

Subd 2. **Testing Procedures.** The noise control officer shall adopt guidelines establishing the test procedures and instruments to be used in enforcing the provisions to be used in enforcing the provisions of Section 4 imposing noise standards. A copy of such guidelines will be kept on file in the office of the noise control officer and shall be available to the public for reference during office hours.

Subd 3. **Studies, Etc.** The noise control officer shall conduct such research, monitoring, and other studies related to sound as are necessary or useful in enforcing this ordinance and reducing noise in the City. He/she shall make such investigations and inspections in accordance with law as required in applying ordinance requirements.

Subd 4. **Noise Impact Statements.** The noise control officer may require any person applying to the city for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the officer. He/she shall evaluate each such statement and make appropriate recommendations to the council or other agency or officer authorized to take the action or approve the license or permit applied for.

Subd 5. **Other Powers and Duties.** The noise control officer shall exercise such other powers and perform such other duties as are reasonable and necessary to enforce this ordinance.

**506.08. Variances.** Subdivision 1. **Authority.** The noise control officer shall have authority, consistent with this section, to grant variances from the requirements of any section of this ordinance.

Subd. 2. **Application.** Any person seeking a variance shall file an application with the noise control officer on a form prescribed by the officer. The application shall state the dates during which the variance is proposed, the location of the noise source and times of operation, the nature of the noise source, reasons why the variance is sought, steps taken to minimize the noise level, and such other information as is required by the noise control officer. If the application is for a variance for more than three days, the noise control officer shall give mailed notice to the requested variance to all owners within 500 feet of the noise source. Any person claiming to be adversely affected by the variance applied for may, within 20 days of mailing of the notice, file a statement with the noise control officer in support of his/her claim.

Subd 3. **Action on Application.** If the noise control officer finds that sufficient controversy exists regarding the proposed variance, he/she may hold a public hearing on the proposal at which all persons affected shall be given an opportunity to be heard. He/she shall also hold such a hearing upon request of the applicant or any person claiming to be adversely affected by the variance applied for. Within 30 days of receipt of the application, the officer shall approve or deny the application. It may be approved only if the officer finds that full compliance with the requirements of the ordinance would constitute an unreasonable hardship on the applicant, on other persons, or on the community. In determining whether to grant or deny the application, the officer shall balance the hardship to the applicant against the adverse impact on the health, safety, and welfare of the persons affected, the adverse impact on property affected, and any other adverse effects of granting the variance. The variance may be granted subject to conditions, including a time limit, which shall be clearly stated.

Subd 4. **Appeals.** Either the applicant or any party aggrieved may, within 20 days of the decision on the variance application, appeal to the city council for a review of the decision. The appeal shall be filed in writing with the city clerk. The appeal shall be heard as soon as practicable and within 20 days of the filing of the appeal, and the applicant and any person who has filed a statement on the application for a variance with the noise control officer shall be given at least 10 days mailed notice of the time when and place where the appeal will be considered by the council. The council may affirm, modify, or overrule the action of the noise control officer on the basis of the criteria set out in Subdivision 3.

506.09. **Enforcement.** Subdivision 1. **Notice of Certain Violations.** When the noise control officer determines that a noise exceeds the maximum sound level permitted under Section 506.04, he/she shall give written notice of the violation to the owner or occupant of the premises where the noise originates and orders such person to correct or remove each specified violation within such reasonable time as is prescribed in the notice. The failure to remove or correct any such violation within the time so prescribed constitutes a violation of this ordinance.

Subd 2. **Civil Remedies.** This ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

Subd 3. **Criminal Penalties.** Any violation of this ordinance involving the operation of a motor

vehicle is a petty misdemeanor and, upon conviction, the violator shall be punished by a fine plus the cost of prosecution. Every person who violates any other provision of this ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed \$1000 or imprisonment for 90 days, or both, plus, in either case, the costs of prosecution. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

506.10. **Severability.** If any provision of this ordinance or the application of any provision to be a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the ordinance and the application of the ordinance to any other situation shall not be invalidated.