

SECTION 605
PUBLIC NUISANCES

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605.100: PUBLIC NUISANCE DEFINED: Any condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public, or interferes with, obstructs, or renders dangerous for passage, any public highway or right of way, or waters used by the public is a public nuisance.

605.200: SPECIFIC CONDITIONS AND ACTIVITIES: The following conditions are public nuisances whenever they may be found within the City:

- (1) Any weeds, dirt or rubbish, or any will, offal, garbage (except in authorized containers), ashes, manure, yard cleanings, dead animals, or any other foul or unhealthy material;
- (2) Fallen trees, fallen tree limbs, dead trees and dead tree limbs which in the opinion of authorized enforcement officers constitute a health, safety or fire hazard or threaten the public welfare;
- (3) Any sewer, private drain, sinkpool, cesspool, outhouse, privy vault, putrid or unsound flesh, meat, fish, skin, carcass, garbage, stagnant water, vegetable matter, rodents or any other substance that is offensive, nauseous, dangerous or uncomfortable to any person or to the neighborhood.
- (4) Failure to promptly pay any and all false alarm penalties as defined in Section 806.300 of the Prior Lake City Code.
- (5) Allowing any soil or other debris to wash or erode from private property or construction sites onto the public street, drainage system, adjacent property, ponds, wetlands or lake system.
(ord. Amd. 111-04, pub. 5/7/11)

- (6) Failure to take appropriate measures to contain soil or sediment on a property or construction site from eroding, as described in subparagraph (5) above.
(ord. Amd. 111-04, pub. 5/7/11)

605.201 Anyone carrying on or working in any trade or employment which shall be dangerous to the public health, hurtful to the inhabitants of the City or injurious to neighboring property or from which noisome odors arise shall be guilty of a violation of this Section if such person fails to cease and desist from such trade or employment within forty eight (48) hours from the time the City Manager, or authorized designees gives notice to such person to cease and desist.

605.300: PERMITTING NUISANCE TO EXIST: It is unlawful for any person to permit any public nuisance to remain on any premises owned or controlled by such person within the City. Such nuisances may be abated by the City in the manner prescribed by this Section.

605.400: NOTICE TO ABATE: When there exists on private property a condition which is in violation of this Section, the City Manager, or authorized designees shall cause a notice to abate such nuisance to be served personally upon the owner of said premises, his agent, or the occupant of the premises, if the name of such person can be readily ascertained. Such notice may be served by mail in all cases where such owner, agent or occupant is not in the City or cannot be found therein, and if his post office address is known. Such notice shall designate therein the time after the service, or the mailing, or the posting of said notice, which the City considers a reasonable time for the abatement or removal of said nuisance.

605.500: POSTING PLACARD ON DANGEROUS BUILDING: When a nuisance shall be such as to render the occupancy of any building or premises within the City dangerous or unhealthy, the City Manager or authorized designees shall cause to be placed upon such building or premises a placard warning the public that such building or premises are unhealthy and should not be occupied until placed in a sanitary condition. Such placard shall be placed upon such building in cases where the nuisance is not abated within thirty six (36) hours after written notice to the owner or agent of such building or premises to abate such nuisance.

605.600: ABATEMENT BY CITY: If, at the end of the period fixed for the abatement or removal of a public nuisance, the nuisance has not been abated or removed by the owner, agent or occupant, the City may cause the same to be abated or removed in any manner deemed appropriate.

605.700: SECURING VACANT BUILDINGS: Minnesota Statutes 463.251 grants cities the authority to secure buildings that are vacant and unoccupied. That statute sets

forth procedures for securing vacant buildings in: (1) non-emergency and (2) emergency situations.

605.701: Definitions

Secure: "Secure" may include, but is not limited to, installing locks, repairing windows and doors, boarding windows and doors, posting "no-trespassing" signs, installing exterior lighting or motion-detecting lights, fencing the property, and installing a monitored alarm or other security system.

Unoccupied Building: A building which is not being used for legal occupancy.

Unsecured Building: A building or portion of a building that is open to entry by unauthorized persons without the use of tools.

Vacant Building: A building or a portion of a building that meets one or more of the following conditions:

- (1) Vacant or unoccupied and foreclosed upon as identified by the county.
- (2) Unoccupied and windows or entrances to the premises are boarded up or closed off, or multiple window panes are broken and unrepaired.
- (3) Unoccupied and doors to the premises are smashed through, broken off, unhinged, or continuously unlocked.
- (4) Unoccupied and gas, electric, or water service to the premises has been terminated.
- (5) Unoccupied and rubbish, trash, or debris has accumulated on the mortgaged premises.
- (6) Unoccupied and the police or sheriff's office has received at least two reports of trespassers on the premises, or of vandalism or other illegal acts being committed on the premises.
- (7) Unoccupied and the premises are deteriorating and are either below or are in imminent danger of falling below minimum community standards for public safety and sanitation.

605.702: Securing Vacant Buildings, Non-Emergency Situation: In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured, and the building could be made safe by securing the building, the City Council may order the building secured and shall cause notice of the order to be served consistent with Minn. Stat. § 463.251, subd. 2. The notice must be served upon the owner of record of the premises or the owner's agent, the taxpayer identified in the property tax records for the parcel, the holder of the mortgage or sheriff's certificate, and any neighborhood association for the neighborhood in which the building is located that has requested notice. The

notice is served by delivery or mail. Service by mail is complete upon mailing. The notice must be in writing and must include, at a minimum, a statement that:

- (1) Informs the owner and the holder of any mortgage or sheriff's certificate of the requirements found in subdivision Minn. Stat. § 463.251, subd. 3 that the owner or holder of the certificate has six (6) days to comply with the order or provide the council with a reasonable plan and schedule to comply with the order and that costs may be assessed against the property if the person does not secure the building.
- (2) Informs the owner and the holder of any mortgage or sheriff's certificate that, within six (6) days of the order being served, the person may request a hearing before the City Council challenging the Council's determination that the property is vacant or unoccupied and hazardous.
- (3) Notifies the holder of any sheriff's certificate of the holder's duty under Minn. Stat. § 582.031, subd. 1, paragraph (b), to enter the premises to protect the premises from waste and trespass if the order is not challenged or set aside and there is prima facie evidence of abandonment of the property as described in Minn. Stat. § 582.032, subd. 7.

605.703: The owner of the building or the holder of the sheriff's certificate of sale has six (6) days after the order is served to do one of the following:

- (1) Comply with the order;
- (2) Provide the Council with a reasonable plan and schedule to comply with an the order;
or
- (3) Request a hearing before the City Council to challenge the Council's determination that the property is vacant or unoccupied and hazardous.

If the owner or holder of the sheriff's certificate fails to take one of these actions within the allotted time, the City Council shall have the building properly secured.

605.704: Securing Vacant Buildings, Emergency Situation: Pursuant to Minn. Stat. § 463.251, subd. 4, when the City Manager or authorized designee determines an immediate danger exists with respect to the health or safety of persons in the community because a building is vacant and unoccupied and therefore deemed hazardous, and immediate boarding and securing of a building is required, the City Manager or authorized designee may waive all notice requirements herein and immediately board or otherwise secure the building, provided that:

- (1) The conditions the City Manager or authorized designee is relying on to determine an immediate danger to the health and safety of persons in the community exist are documented in writing.
- (2) Notice is mailed immediately by the City Manager or authorized designees to the owner of record of the premises, the taxpayer identified in the property tax records for the parcel, the holder of the mortgage or sheriff's certificate, and any neighborhood

association for the neighborhood in which the building is located that has requested notice.

605.705: Collection of Costs. All costs incurred by the city for securing a vacant building under this ordinance may be charged against the real property as a special assessment pursuant to Minn. Stat. §§ 463.251, 463.21, and 463.151.

605.800: RIGHT OF ENTRY: The City Manager or authorized designees shall enforce the provisions of this Section. Where reasonable cause exists to believe a public nuisance as defined in Section 605 exists, the City Manager or authorized designees may enter the property to investigate whether there is a violation of this Section.

605.900: COLLECTION OF ABATEMENT COSTS: All costs incurred by the City for the securing of a vacant building and for the abatement and removal of a public nuisance upon privately owned property may be charged against the real property as a special assessment pursuant to Minn. Stat. §§ 463.251, 463.21, and 463.151. (Ord. Amd. 111-06, publ. 06/25/11)

605.1000: NOISE: The purpose of this Section is to restrict noise by establishing maximum allowable levels of noise that may occur in the outdoor atmosphere; and to restrict or prevent certain activities that constitute a public nuisance because they emit noise which unreasonably annoys, disturbs, injures or endangers health, peace, safety, order or the general welfare, or which interferes with the enjoyment of public or private property.

To accomplish the purpose of this Section, the City hereby adopts and incorporates herein Minnesota Statute Section 116.07, Minnesota Rules Parts 7030.0010 to 7030.0080, and Minnesota Statute Section 412.221, Subdivisions 23, 24 and 32, as they may be amended from time to time. These statutes and rules deal with the regulation of sound and the public welfare.

605.1001 **City Responsibility for Noise Control.**

- (1) The City is responsible, pursuant to Minnesota Statute Section 116.07, Subdivisions 2 and 4 and Minnesota Rules Part 7030.0030, for taking “reasonable measures” to prevent the establishment of land use activities listed in Noise Area Classifications (NAC) 1, 2, or 3 in any location where the standards established in Part 7030.0040 will be “violated immediately” upon establishment of the land use.
- (2) The City may not establish noise standards which are more stringent than those set out in Minnesota Rule Part 7030.0040.

605.1002 **City Authority to Define Nuisances.** In addition to the responsibility of the City pursuant to Minnesota Statute Section 116.07, Subdivisions 2 and 4, the City Council has the power provided for in Minnesota Statute Section 412. 221, Subdivisions. 23, 24 and 32, to adopt ordinances which:

- (1) Define nuisances and provide for their prevention and abatement;
- (2) Regulate noise or other disorder; and
- (3) Protect public and private property and promote health, safety, order, convenience, and the general welfare.

605.1003 **Definitions.** The definitions provided below, defined elsewhere in this Subsection, and defined in Minnesota Rules § 7030.0020, shall apply to the terms used in Section 605.

- (1) **A-weighted:** “A-weighted” means a specific weighting of sound pressure level for the purpose of determining the human response to sound.
- (2) **Daytime:** The hours between 7:00 a.m. to 10:00 p.m.
- (3) **dB (A):** “dB (A)” means a unit of sound level expressed in decibels (dB) and A-weighted.
- (4) **Decibel:** “Decibel” means a unit of sound pressure level, abbreviated as dB.
- (5) **Impulsive noise:** “Impulsive noise” means either a single sound pressure peak (with either a rise time of less than 20 milliseconds or total duration less than 200 milliseconds) or multiple sound peaks (with either rise times less than 200 milliseconds or total durations less than 200 milliseconds) spaced at least by 200 millisecond pauses.
- (6) **L10:** “L10” means the sound level, expressed in dB(A), which is exceeded 10 percent of the time in a one hour survey.
- (7) **L50:** “L50” means the sound level, expressed in dB(A), which is exceeded 50 percent of the time in a one hour survey..
- (8) **Nighttime:** The hours between 10:00 p.m. to 7:00 a.m.
- (9) **Noise Area Classification:** “Noise Area Classification” (NAC) is a matrix that groups land use activities into four (4) categories based on the land use activity at the location of the receiver and determines the noise standards applicable to that land use activity.
- (10) **Noise Standards:** “Noise standards” are the limiting levels of sound established on the basis of present knowledge for the preservation of public health and welfare. The noise standards established in Minnesota Rules Part 7030.0040 are consistent with speech, sleep, annoyance, and hearing conversation requirements for receivers within areas grouped according to land activities by the noise area classification (NAC) system established in Minnesota Rules Part 7030.0050.
- (11) **Person:** “Person” means any human being, any municipality or other governmental or political subdivision or other department or agency, any public or private corporation, any partnership, firm, association, or other organization, any receivership, trustee, assignee, agency, legal entity, other than a court of law, or any legal representative of any of the foregoing.
- (12) **Public Nuisance:** “Public nuisance” has the same meaning in this Subsection as it has in Subsection 605.100.

605.1004 **Noise Level Standards and Measurement Procedures.**

- (1) **Noise Levels.** The noise level standards established in Minnesota Rule Part 7030.40 consider the types of noises, the frequency with which noises recur, the time period for which noises continue, the times of day during which noises occur,

and such other factors as could affect the extent to which noises may be injurious to human health and welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life or property.

The standards are objective rather than subjective.

- (2) The Measurement Procedures. The City will use the noise measurement procedure described in Minnesota Rule Part 7030.0060 when it conducts a noise test. The procedure sets out criteria for conducting sound measurement tests; including:
 - Measurement location;
 - Equipment specifications;
 - Calibration;
 - Measurement procedures; and
 - Data documentation.
- (3) Sound is measured within the applicable NAC (Neighborhood Area Classification) at the point of human activity which is nearest to the noise source. All measurements are made outdoors.

605.1005 **Impulsive or Intermittent Noise.** The City will not conduct noise tests on impulsive noises or on non-stationary noise sources (trucks, motorcycles, snow mobiles, and other motorized vehicles) that operate on streets and roads within the City.

605.1006: **Nuisance Noise.** A nuisance or nuisance noise is a noise from a human activity or non-stationary source that occurs at an inappropriate time of day, is loud, raucous, unnecessarily long, or inconsistent with a reasonable person's expectation regarding the use and enjoyment of his or her property. The following activities are a nuisance or create a nuisance noise:

- (1) Unnecessary Noise:
 - (a) No person, in any public or private place, may make or assist in making, by any manner or means, any loud, unpleasant, or raucous noise disturbing to others, unless the noise is reasonably necessary to the preservation of life, health, safety or property.
 - (b) No person may use operate, or permit the use or operation of, any radio, television, musical instrument, musical device, sound-amplifying equipment, or other device for producing or reproducing sound when it creates noise so loud and unnatural in its time, place, use or operation as to annoy, injure, or endanger the safety, health, comfort, or repose of a reasonable person.
- (2) Noisy Assembly:
 - (a) A Noisy Assembly is a gathering of two or more persons assembled in a residential or commercial area or building therein between the hours of 10:00 P.M. and 7:00 A.M. that produces or causes noise, regardless of the source that unreasonably disturbs the peace, quiet, repose or enjoyment of property.

- (b) Prohibition: It is unlawful for a person to:
 - 1) Participate in, visit, or remain at a gathering knowing or having reason to know that the gathering is a noisy assembly, except persons who have come to the gathering-for the sole purpose of abating the disturbance.
 - 2) Knowingly permit real estate under their care or control to be used for a noisy assembly.
 - (c) Exception: Outdoor Event Permit - any event or gathering which has obtained an Outdoor Event Permit, as provided for in Section 307 of the City Code, is exempted from this section.
- (3) Excessive Vehicle Noise:
- (a) For purposes of this subsection, the term "vehicle" shall mean any motor boat; car, truck or other motor vehicle; motor cycle; all-terrain vehicle (ATV); snowmobile; or personal water craft.
 - (b) Prohibition: The following uses, which are declared to be nuisances affecting public health, safety, peace, or welfare, shall be unlawful:
 - 1) The discharging of the exhaust or permitting the discharge of the exhaust of any internal combustion engine or of any vehicle, except through a muffler or other device that effectively prevents loud or explosive noise therefrom and complies with all applicable state laws and regulations.
 - 2) The use of a vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other excessive noise.
 - 3) Any unreasonably loud or excessive noise in the loading, unloading, or unpacking of any vehicle.
 - 4) Applying an engine brake or using an exhaust brake system (a practice commonly known as "Jake Braking") when operating a vehicle when that use of brakes results in unreasonably loud or excessive noise.

605.1007: **Equipment and Construction Activity Noise Regulations.**

- (1) The following activities are only allowed on public or private property between the hours of 7:00 A.M. and 7:00 P.M., Mondays through Saturdays, and between the hours of 8:00 A.M. and 7:00 P.M. on Sundays and legal holidays:
 - (a) Construction activity, including but not limited to: operation, repair, servicing and engine start-up/warm-up of heavy construction equipment; loading and unloading of heavy equipment; and delivery of supplies;
 - (b) The use of any power tools for construction activity including, but not limited to: saws jackhammers, nail drivers, impact wrenches, and air compressors; and

- (c) Commercial repair and servicing of motor vehicles, recreational vehicles or other vehicles or equipment.
- (2) Earlier Start-Time Permit. The City Manager or Manager's designee may grant a permit to allow construction activity to begin before 7 a.m., but no earlier than 6 a.m., where it is determined that to do so would be in the best interest of the public or City. The application shall include, together with other information requested by the City: a work plan outline, a narrative explaining why an earlier start time is needed to adhere to an accelerated or established project schedule, an assurance that an early start time permit is not being requested for the mere convenience of the contractor, and an explanation of the types of activities that will occur before 7 a.m.
- (3) Exemptions. The following activities are specifically exempted from the prohibitions under this Subsection 605.1007:
 - (a) Snow removal activities on public or private property;
 - (b) Parking lot maintenance or sweeping; and
 - (c) Public Improvement projects. In order to be exempt, an early start time permit in accordance with 605.1007(2) must be approved in advance and the City or other municipality responsible for the public improvement project must provide homes within the scope of the project area with notice of the project schedule.

605.1008 **Exceptions for Residential Maintenance.**

- (1) The use of power lawn or landscape maintenance equipment, including but not limited to: lawn mowers, hedge clippers, grass/weed trimmers, garden tillers, chainsaws, leaf blowers, or wood chippers by individual homeowners or occupants is permitted between the hours of 7:00 A.M. and 9:00 P.M., Mondays through Saturdays, and between the hours of 8:00 A.M. and 7:00 P.M. on Sundays and legal holidays.
- (2) The repair and servicing of personal motor vehicles, recreational vehicles or other vehicles or equipment by individual homeowners or occupants, in a manner consistent with the provisions of Sections 803.900 through 803.905 of the City Code, is permitted between the hours of 7 a.m. and 9 p.m., Mondays through Saturdays, and between the hours of 8 a.m. and 7 pm. on Sundays and legal holidays.

605.1009 **Emergency Exceptions.** Emergency situations are exempt from the operational limits of this ordinance when immediate work is necessary to restore property to a safe condition or when immediate work is required to protect persons or property from imminent exposure to danger are exempt from operational limits.

605.1010 **Complaints and Violations.**

- (1) Investigation of noise complaints. The City will investigate noise complaints as follows:

- (a) The Prior Lake Code Enforcement Officer will have the primary responsibility for investigating complaints pertaining to noise from land uses and stationary sources.
 - (b) The Prior Lake Police Department will have the primary responsibility for investigating complainants pertaining to nuisance noise.
- (2) Exception. The Chief of Police, or designee, shall determine if the Police Department has available resources to investigate a noise complaint at a given time. The City may not be able to investigate all noise complaints.

605.1011. **Noise Testing:**

- (1) The following criteria will be used to determine if and under what circumstances the City will conduct a noise study:
- (a) The source of the noise, the number of times the noise has occurred, the day of the week and time of day the noise occurs, the duration of the noise, the number of times the City has received a complaint concerning the noise, the number of individuals that have complained about the noise, whether the City has investigated or conducted a test for the same noise at the same location within the preceding twelve (12) months, whether the City can obtain written permission to enter the property of the complainant, and such other factors as the City Manager determines are prudent.
 - (b) Based on an analysis of the criteria set out above, the City may elect to conduct a noise test to determine whether the land use activity at the location of the receiver is within the noise standards allowed by Minnesota Rules §7030.40 based on the applicable Noise Area Classification.
 - (c) Noise tests will comply with the Measurement Methodology set out in Minnesota Rules §7030.0060.
 - (d) To the extent that it is possible, and insofar as it is consistent with the above provisions, including the methodology set out in Minnesota Rules § 7030.0060, the City will conduct noise tests at the same location and at the same time of day as the complained-of noise, the City will seek to secure the complainants confirmation that the test is being performed at the same location and time of day as the complained-of noise.

The results of the City's noise test shall be deemed accurate. If the complainant or the owner or operator of the property emitting the noise disputes the results of the City's noise test, the burden shall be on the complainant, owner or operator to provide the City with a noise test, conducted at their sole cost and expense, by an individual who has the requisite credentials to conduct the test as determined by the City, using the measurement methodology set out in Minnesota Rule Part 7030.0060. If the City is provided with the results of a noise test that shows that a violation of the noise standards has occurred when the City's test showed that one had not, or if the City is provided with the results of a noise test that shows that a violation of the noise

standards has not occurred when the City's noise showed that one had, the City may cause a third noise test to be performed, at City expense, by an independent third party, which may be a consultant, an official from another city or county in the Greater Twin Cities metropolitan area or the Minnesota Pollution Control Agency. The results of the third test shall be conclusive. The City will reimburse a complainant, owner, or operator who provides a test, but only if one of the following circumstances applies:

- (a) the finding of the provided test—that a violation of the noise standards has or has not occurred—is confirmed by the third test; or
- (b) as a result of the provided test, the City reverses its initial determination that a violation of the noise standards has or has not occurred.

The City will not offer reimbursement where the findings of the provided test confirm the City's determination; nor will it offer reimbursement where the findings of the third test confirm the City's initial determination. In addition, the City will not offer reimbursement to a complainant, owner, or operator for more than one test. The amount of reimbursement offered shall not exceed the actual cost to the complainant, owner, or operator of the provided test; nor shall it exceed the amount that the City would generally pay for such a test and in any case shall not exceed \$1500.

- (2) The owner or operator of the property where the land use activity is exceeding the NAC noise standards must, within thirty (30) days written notice of the noise standard violation, submit an abatement plan and schedule to the City identifying the remedial actions the property owner or operator will take to bring the noise level of the land use activity into compliance with the applicable noise standard.
 - (a) If the property owner fails to submit an abatement plan and schedule acceptable to the City, the City may proceed with enforcement of this Subsection as provided for in Subsection 605.1100.
- (3) The City will not investigate subsequent complaints concerning the same source of a noise at the same location within twelve (12) months of a previous investigation unless the facts and circumstances relating to the subsequent noise complaint demonstrate a significant change in circumstances.

(Ord. Amd. 112-03, publ. 6/9/2012)

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