

## Bloomington, MN Code of Ordinances

**ARTICLE IV: NOISE CODE****§ 10.29 FINDINGS AND DEFINITIONS.**

(a) The City Council finds that excessive noise is injurious to the public health, safety and welfare, interferes with the quiet enjoyment of life and property, and interferes with the tranquility and privacy of the home. Accordingly, the city has a compelling interest in imposing time, place and manner restrictions on such noise on a content neutral basis and in a manner that does not unreasonably infringe on the rights of the city's inhabitants and visitors to engage in free speech or the free exercise of religion.

(b) The following words and terms when used in this Article IV shall have the following meanings unless the context clearly indicates otherwise.

***A-WEIGHTED SOUND LEVEL.*** A specific weighting of the sound pressure level for the purpose of determining the human response to sound. The specific weighting characteristics and tolerances are those given in the American National Standards Institute (ANSI).

***AMBIENT NOISE LEVEL.*** The sound level that exists at a point of measurement in the absence of the sound from the source of interest, the noise emission of which is being measured, constituting the total effect of all other sounds coming from near and far. The total of all noise in the environment, other than the sound from the source of interest.

***CITY OFFICIAL.*** Any duly authorized representative of the city as designated by the City Manager.

***COMPRESSION ENGINE BRAKE.*** A braking system on an internal combustion engine powered vehicle that allows the driver to remove portions of the vehicle's engine compression from service by exhausting compressed engine gasses from the cylinders before they have a chance to force the cylinder back down thus depriving the engine of power and slowing the vehicle, but also creating a loud roar or growling sound.

***HIGHWAY.*** Any street, road or public way in the city.

***L10 LEVEL.*** The noise level, expressed in dBA, which is exceeded 10% of the time for a one-hour survey, as measured by test procedures approved by the city official.

***MOTOR VEHICLE.*** Any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead catenary wires but not operated upon rails, except snowmobiles.

***NOISE.*** Any erratic, intermittent and/or statistically random oscillations which result in disturbing, harmful or unwanted sound.

***NOISE LEVEL.*** See ***SOUND LEVEL.***

***PERSON.*** An individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body of persons whether incorporated or not. And, with respect to acts prohibited or required herein, ***PERSON*** shall include employees and licensees.

***SLEEPING FACILITY.*** Any structure or property normally used on a regular basis for overnight lodging, including without limitation hotels, motels, boarding houses and campgrounds.

**SOUND.** A temporal and spatial oscillation in pressure or other physical quantity in a medium with internal forces which causes compressions and rarefactions of that medium and which is propagable at finite speed to distant points.

**SOUND LEVEL (NOISE LEVEL).** The A-weighted sound pressure level, expressed in dBA, obtained by use of a sound-level meter having characteristics as specified in the American National Standards Institutes (ANSI) Standard S1-4-1961.

**SOUND PRESSURE LEVEL (SPL).** Expressed in decibels (dB), is 20 times the logarithm to the base ten of the ratio of the observed sound pressure to a reference pressure of 20 micropascals.

(1958 Code, § 166.01) (Ord. 168, passed 1-8-1952; Ord. 75-49, passed 9-22-1975; Ord. 2005-29, passed 7-18-2005)

### **§ 10.29.01 RESERVED.**

### **§ 10.29.015 MOTOR VEHICLE NOISE LIMITS.**

Minnesota Rules parts 7030.1000 through 7030.1060 and any subsequent amendments, are hereby adopted by reference and incorporated herein except to the extent specifically inconsistent with this Article IV. The provisions thereof shall be supplemental to the provisions of this Article IV and shall not preempt this city code unless such preemption is required by law.

(1975 Code, § \_\_\_ ) (Ord. 168, passed 1-8-1952; Ord. 76-8, passed 3-22-1976; Ord. 2005-29, passed 7-18-2005; Ord. 2009-2, passed 2-2-2009)

### **§ 10.29.02 NOISE SOURCE REQUIREMENTS.**

(a) A noise source (excluding motor vehicles operating on public highways, locomotives and railroad cars, snowmobiles, construction equipment at construction sites, maintenance of utility easements, and snow plowing of public streets and sidewalks by the city or county as detailed in Article IV of this chapter) within the following zoning districts (as defined in this code) shall not exceed the L10 noise levels set forth below.

(1) Industrial or freeway development zoning districts (which may include, but are not necessarily limited to, foundries, plastics extrusion, heavy-equipment repair, metal treating, cement handling, concrete products, excavation processes, junk-car disposal or any other manufacturing concern): 70 dBA as measured on the property line of the source.

(2) Business or commercial-recreational (which may include, but are not necessarily limited to, service stations, motels, restaurants, blue printers, lumber yards, drycleaners, experimental laboratories, schools, car washes and open sales lots): 65 dBA as measured on the property line of the source.

(3) Residential zoning district (which may include, but is not limited to, single-family dwellings, private schools, day care facilities, private garages, permitted home occupations, place(s) of assembly for worship, public stables, marinas, multiple dwellings and retail shops): 60 dBA in the daytime (7:00 a.m. to 10:00 p.m.) and 50 dBA in the nighttime (10:00 p.m. to 7:00 a.m.) as measured on the property line of the source.

(b) In the event that the property on which an industrial, freeway development, business, commercial-recreational or institutional noise source is located across a street, road or railroad track from, or abuts residentially zoned and residentially use property, the noise source in question shall not exceed an L10noise level of 60 dBA in the daytime (7:00 a.m. to 10:00 p.m.) and an L10noise level of 50 dBA in the nighttime

(10:00 p.m. to 7:00 a.m.) as measured on the property line of the source.

(c) Construction equipment, which may include, but is not necessarily limited to, front loaders, graders, cranes, pumps, saws and generators, being operated at a construction site shall not exceed an L10noise level of 85 dBA at a distance of 50 feet. See § 10.29.07(c) of this chapter for hours of operation.

(1958 Code, § 166.03) (Ord. 168, passed 1-8-1952; Ord. 75-49, passed 9-22-1975; Ord. 2006-49, passed 11-20-2006; Ord. 2009-2, passed 2-2-2009; Ord. 2009-36, passed 11-16-2009; Ord. 2012-2, passed 1-23-2012; Ord. 2015-6, passed 1-26-2015)

### **§ 10.29.03 GENERAL TESTING AND MEASUREMENT PROCEDURES.**

Noise measurement methodology used must be consistent with Minnesota Rules parts 7030.0060 through 7030.0070, and any subsequent amendments, except for the measurement location of source noise in § 10.29.02, which must be measured on the property line of the source.

(1958 Code, § 166.04) (Ord. 168, passed 1-8-1952; Ord. 75-49, passed 9-22-1975; Ord. 2009-2, passed 2-2-2009)

### **§ 10.29.04 NOISE IMPACT STATEMENTS.**

The city official may require noise impact statements in association with, but not limited to, changes in zoning classifications; the planning of a structure; or any operation, process, installation or alteration which may be considered as a potential noise source. Examples include, but are not limited to, the addition or replacement of generators, ventilation equipment or air heating or cooling equipment.

(1958 Code, § 166.05) (Ord. 168, passed 1-8-1952; Ord. 75-49, passed 9-22-1975; Ord. 2009-2, passed 2-2-2009)

### **§ 10.29.05 CENTRAL AIR CONDITIONING EQUIPMENT.**

The city official must approve the location of new installations of central air conditioning plants or equipment which are exterior to a building. If the city official determines that it is impossible to position a central air conditioning unit an acceptable distance from adjacent properties, then an alternate method of compliance shall be approved screening or buffering which will meet the requirements of § 10.29.02 of this chapter.

(1958 Code, § 166.06) (Ord. 168, passed 1-8-1952; Ord. 75-49, passed 9-22-1975)

### **§ 10.29.06 SNOWMOBILE REQUIREMENTS.**

Snowmobiles must meet the requirements of Minnesota Rules part 6100.5700, subpart 5 and any subsequent amendments.

(1958 Code, § 166.07) (Ord. 168, passed 1-8-1952; Ord. 75-49, passed 9-22-1975; Ord. 2009-2, passed 2-2-2009)

### **§ 10.29.07 OPERATIONAL LIMITS.**

(a) *Recreational motor vehicles.* See Chapter 8, Article III, Division D of this code. Golf course

operation and maintenance activities which can meet the requirements outlined in § 10.29.02 are exempt from the operating limits of this subsection (a) or Chapter 8, Article III, Division D of this code.

(b) *Outdoor power implements.* No person shall operate any outdoor power implement, including, but not limited to, power lawn mowers, snowblowers, power hedge clippers or such other implements designed primarily for outdoor use, at any time other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 9:00 p.m. on weekends and holidays. Golf course operation and maintenance activities which can meet the requirements outlined in § 10.29.02 are exempt from the operation limits of this subsection (b).

(c) *Construction activities.* No person shall engage in, permit or allow construction activities involving the use of power equipment, including, but not limited to, any kind of electric-, diesel- or gas-powered machine, on Sundays or at any time other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 9:00 p.m. on Saturdays. Construction activities which can meet the requirements outlined in § 10.29.02(a) and (b) are exempt from the operating limits of this subsection (c).

(d) *Refuse hauling.* All vehicles licensed in the city for hauling refuse shall limit their hours of operation as follows:

(1) On abutting, or across the street, road or railroad tracks from residentially zoned and used property, from 7:00 a.m. to 10:00 p.m. on weekdays and from 9:00 a.m. to 9:00 p.m. on weekends;

(2) In all other locations, the hours of operation for the hauling of refuse shall be unrestricted unless a public nuisance is declared as defined in § 12.01 of this code; and

(3) In the event that a nuisance is declared, the hours of pick-up in all locations other than those residentially zoned and used shall be limited to those allowed in residential zones.

(e) *Emergency exceptions.* Situations wherein immediate work is necessary to restore property to a safe condition or when immediate work is required to protect persons or property from eminent exposure to danger are exempt from operational limits such as, but not limited to, the removal of snow or trees following severe weather.

(1958 Code, § 166.08) (Ord. 168, passed 1-8-1952; Ord. 75-49, passed 9-22-1975; Ord. 2005-29, passed 7-18-2005; Ord. 2009-2, passed 2-2-2009; Ord. 2010-1, passed 1-4-2010; Ord. 2013-9, passed 4-1-2013)

### **§ 10.30 PUBLIC NUISANCE NOISES PROHIBITED.**

(a) It shall be unlawful for any person to make, continue, permit, or cause to be made or continued, any loud, unnecessary or unusual noise or any noise within the city which would be likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities. The following non-exclusive characteristics and conditions shall be considered in determining whether a noise is loud, disturbing or excessive for the purposes of this section:

(1) The time of day or night the noise occurs;

(2) The duration or recurrence of the noise;

(3) The proximity of the noise source to any location reasonably identifiable as a sleeping facility, residential dwelling unit, school, institution of learning, hospital, church, courthouse or office, such that it is reasonably likely to interfere with the peace, quiet, repose or operation of that property;

(4) The number of people and their activities that are affected or likely to be affected by the noise;

(5) The land use, nature and zoning of the area from which the noise emanates and the area where it is perceived; and

(6) The sound level, if known, in comparison to the level of ambient noise.

(b) The following acts constitute a presumptive public nuisance:

(1) *Horns, signaling devices and the like.* The continual sounding of any horn or signaling device on any automobile, motorcycle or other vehicle for a period of at least 15 seconds even if interrupted by short gaps in sound, on any street, public place or private property within the city except as a danger warning;

(2) *Radios, phonographs and the like.* The use, operation or permitting the playing, use or operation of any radio receiving set, musical instrument, phonograph or other machine or device for the amplification, production or reproduction of sound at any time in such manner as to be likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities who might be in its vicinity or between the hours of 10:00 p.m. and 7:00 a.m. at such a volume so as to be plainly audible at the real property boundary of the building, structure, residence or other area in which the device is located;

(3) *Amplified sound from a motor vehicle.* The use, operation or permitting the playing, use or operation of any radio receiving set, musical instrument or other machine or device for the amplification, production or reproduction of sound within a motor vehicle at a volume where it is audible by any person from a distance of 50 feet or a distance of five motor vehicle lengths or more from the source. Where the motor vehicle's owner is present that person is responsible for any violation of this subsection (b)(3). If the owner is not present, the driver or person in control of the vehicle is responsible for any violation of this subsection (b)(3). In addition to an owner or driver, any person who controls or assists with the amplification, production or reproduction of the sound in violation of this subsection (b)(3) is an additional responsible party;

(4) *Loud speakers, amplifiers for advertising and the like.* The use, operation or permitting the playing, use or operation of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure, except as may be licensed by the city pursuant to Article V of this chapter;

(5) *Yelling, shouting and the like.* Yelling, shouting, hooting, whistling or loud singing on the public streets within 50 feet of a residential dwelling unit or sleeping facility, between the hours of 10:00 p.m. and 7:00 a.m.;

(6) *Noise made by animals.* Noise made by dogs and other animals shall be governed by the provisions of the Animal Code, Article IV of Chapter 12 of this code;

(7) *Whistles.* The blowing of any locomotive whistle or whistle attached to any stationary boiler except:

(A) To give notice of the time to begin or stop work;

(B) To give warning of fire or danger; or

(C) Upon request of proper city authorities.

(8) *Exhaust.*

(A) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a properly working muffler or other device that is in constant operation and effectively prevents loud or explosive engine noises, blends exhaust noise into the overall vehicle noise to prevent excessive or unusual noise, such as sharp popping or crackling sounds, or other sounds likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities in its vicinity; and

(B) Mufflers of the type commonly known as "Hollywood mufflers" or a muffler cutout, bypass or similar device shall not be permitted on vehicles operated within the city.

(9) *Defective vehicle, loads or noisy vehicle operation.* The non-emergency use or operation of any automobile, motorcycle, scooter, recreational vehicle or other type of motor vehicle, which by its out-of-repair condition, manner of loading or operation at such speeds or in such manner as to create loud and unnecessary grating, grinding, squealing of tires, rattling or other noise so as to be likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities in its vicinity;

(10) *Loading, unloading, unpacking and the like.* The creation of a loud and excessive noise in connection with loading, unloading or unpacking of any vehicle so as to be likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities in its vicinity; and

(11) *Engine-braking.* The use of a compression engine brake device in non-emergency situations to slow the speed of an internal combustion engine powered motor vehicle on city streets or highways without an exhaust muffler in good working order or other device that is effective in preventing loud engine roaring, staccato popping or growling resulting from the use of the compression engine brake.

(1958 Code, §§ 166.02, 166.03) (Ord. 168, passed 1-8-1952; Ord. 71-59, passed 8-2-1971; Ord. 74-67, passed 8-19-1974; Ord. 75-49, passed 9-22-1975, renumbered to § 166.09; Ord. 96-58, passed 10-21-1996; Ord. 2005-29, passed 7-18-2005; Ord. 2010-28, passed 11-1-2010)

#### **§ 10.30.05 LIMITATION OF HOURS FOR CERTAIN RESTAURANTS.**

In any residential zone of the city or within 100 feet of any single-family residential use within the city, no restaurant, public eating place or other store dispensing food and drink to the public for consumption on the premises, other than industrial or institutional cafeterias, shall remain open for business during the five-hour period between 1:00 a.m. and 6:00 a.m. inclusive. Distances shall be measured from the nearest point of the business use on the business lot to the nearest point of the residential lot. However, in the case of restaurants in shopping centers, the distance shall be measured from the residential lot line to the main entrance of the restaurant.

(Code, 1975) (Ord. 168, passed 1-8-1952; Ord. 77-79, passed 10-24-1977)

#### **§ 10.31 EXCEPTIONS.**

(a) *Public safety exceptions.* The operation of authorized emergency vehicles, including without limitation police vehicles, fire vehicles, ambulances and city, county or state snowplowing vehicles, the use of sirens, warning devices, sound amplification devices or other equipment by public safety personnel in emergency situations, and the performance of any emergency work such as utility maintenance, and snow removal necessary to restore public service or eliminate a hazard are exempt from the requirements of this Article IV of city code.

(b) *Private exceptions.* It is recognized that under certain circumstances it would be a hardship for a noise source to comply with the provisions of §§ 10.29.02 or 10.29.07 of this chapter due to economic or technological reasons. In cases such as this, application for an exception may be made in writing to the City Director of Community Development. The application shall contain the following pertinent information:

- (A) Dates for exception requested;
- (B) Location of particular noise source and times of operation;
- (C) Equipment involved;
- (D) Necessity for request of exception;

- (E) Steps taken to minimize noise level from source; and
- (F) Names of responsible persons.

The city shall notify by mail all property owners within 500 feet of the source in question of the requested exception. Applications will be reviewed by the City Director of Community Development and a decision to approve or deny the exception will be made in writing setting forth the factors set forth in § 10.30(a), as well as the evidence of hardship and mailed to the responsible persons within 20 days of receipt.

(Ord. 168, passed 1-8-1952; Ord. 86-17, passed 3-24-1986; Ord. 2005-29, passed 7-18-2005)

### **§ 10.32 APPEAL OF EXCEPTION PROCESS.**

The decision made by the City Director of Community Development concerning the exception request may be appealed to the City Council within ten days after receiving the City Director of Community Development written decision. The appeal shall be filed in writing with the City Clerk who shall schedule a hearing before the City Council as soon as possible. A written report shall accompany the request for appeal. The report shall contain pertinent information which would adequately justify the request for an exception.

(Ord. 168, passed 1-8-1952; Ord. 2005-29, passed 7-18-2005)

## **ARTICLE V: SOUND TRUCKS**

### **§ 10.33 DEFINITIONS.**

The following words and terms, when used in this Article V, shall have the following meanings, unless the context clearly indicates otherwise.

***SOUND AMPLIFYING EQUIPMENT.*** Any machine or device for the amplification of the human voice, music or any other sound. ***SOUND AMPLIFYING EQUIPMENT*** as used herein shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.

***SOUND TRUCK.*** Any motor vehicle, or horse-drawn vehicle, having mounted thereon, or attached thereto, any sound amplifying equipment.

(1958 Code, § 95.01) (Ord. 63-14, passed 6-24-1963)

### **§ 10.34 NONCOMMERCIAL USE OF SOUND TRUCKS.**

(a) *Registration required.* No person shall use, or cause to be used, a sound truck with its sound amplifying equipment in operation for noncommercial purposes in the city unless he or she has first filed a registration statement with the City Clerk in writing. The registration statement shall be filed in duplicate and shall state the following:

- (1) Name and home address of the applicant;
- (2) Address of place of business of applicant;

- (3) License number of the sound truck;
- (4) Name, address and telephone number of person who owns the sound truck;
- (5) Name, address and telephone number of person having direct charge of sound truck;
- (6) Names and addresses of all persons who will use or operate the sound truck;
- (7) The purpose for which the sound truck will be used;
- (8) A general statement as to the section or sections of the city in which the sound truck will be used;
- (9) Proposed hours of operation of the sound truck;
- (10) The number of days of proposed operation of the sound truck;
- (11) A general description of the sound amplifying equipment which is to be used; and
- (12) The maximum sound producing power of the sound amplifying equipment to be used in or on the sound truck, including a statement of:
  - (A) The wattage to be used;
  - (B) The volume in decibels of the sound which will be produced; and
  - (C) The approximate maximum distance for which sound will be thrown from the sound truck.

(b) *Registration statement amendment.* All persons using or causing to be used, sound trucks for noncommercial purposes shall amend any registration statement filed pursuant to this section within 48 hours after any change in the information herein furnished.

(c) *Registration and identification.* The City Clerk shall return to each applicant one copy of the registration statement duly certified by the City Clerk as a correct copy of said application. The certified copy of the application shall be in the possession of any person operating the sound truck at all times while the sound truck's sound amplifying equipment is in operation and the copy shall be promptly displayed and shown to any police officer of the city upon request.

(d) *Regulations for use.* Noncommercial use of sound trucks in the city with sound amplifying equipment in operation shall be subject to the following regulations.

- (1) The only sounds permitted are music or human speech.
- (2) Operations are permitted for four hours each day except on Sundays and legal holidays when no operation shall be authorized. The permitted four hours of operation shall be between the hours of 11:30 a.m. and 1:30 p.m. and between the hours of 4:30 p.m. and 6:30 p.m.
- (3) Sound amplifying equipment shall not be operated on the public streets unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten mph except when said truck is stopped or impeded by traffic. Where stopped on the public streets the sound amplifying equipment shall not be operated for longer than one minute.
- (4) Sound shall not be issued within 100 yards of schools or churches.
- (5) The human speech and music amplified shall not be profane, lewd, indecent or slanderous.
- (6) The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound truck and so that the sound is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
- (7) No sound amplifying equipment shall be operated with an excess of 15 watts of power in the last stage of amplification.

(1958 Code, § 95.02) (Ord. 63-14, passed 6-24-1963)

### **§ 10.35 COMMERCIAL ADVERTISING BY SOUND TRUCK.**

(a) *License required.* No person shall operate, or cause to be operated, any sound truck in the city for commercial advertising purposes with sound amplifying equipment in operation unless a license has been obtained from the City Clerk. The fee for the license shall be as detailed in § 14.03 of this code.

(b) *Application for license.* Persons applying for the license shall file with the City Clerk an application in writing giving in said application the information required in the registration statement under § 10.34 of this Article V.

(c) *Issuance of license.* The City Clerk shall issue a license upon payment of the required license fee if the application shows that the licensee complies with the regulations and requirements of § 10.34 of this Article V and other provisions of the city code.

(d) *Possession and display of license.* A licensee shall keep such license in his or her possession in the sound truck during the time the sound truck's sound amplifying equipment is in operation. The license shall be promptly displayed and shown to any police officer of the city upon request.

(e) *Regulations for use.* No person shall operate, or cause to be operated, any sound truck for commercial sound advertising purposes in violation of the regulations set forth in § 10.34(d) of this Article V.

(1958 Code, § 95.03) (Ord. 63-14, passed 6-24-1963; Ord. 99-5, passed 3-15-1999)

### **§ 10.36 PENALTY.**

Violation of any provision of this Article V shall be a misdemeanor.

(1958 Code, § 95.04) (Ord. 63-14, passed 6-24-1963; Ord. 77-68, passed 10-3-1977)