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Bloomington, MN Code of Ordinances

ARTICLE IV. NOISE CODE*Added by Town Ord. No. 168, 1-8-52***SEC. 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 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 ten percent 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.

(Code, 1958 S 166.01; Added by Ord. No. 75-49, 9-22-75; Ord. No. 2005-29, 7-18-2005)

SEC. 10.29.01. reserved.

(Code, 1958 S 166.02; Added by Ord. No. 75-49, 9-22-75; Deleted by Ord. No. 2009-2, 2-2-2009)

SEC. 10.29.015. MOTOR VEHICLE NOISE LIMITS.

Minnesota Rules 7030.1000-.1060 and any subsequent amendments, are hereby adopted by reference and incorporated herein except to the extent specifically inconsistent with this Article. The provisions thereof shall be supplemental to the provisions of this Article and shall not preempt this City Code unless such preemption is required by law.

(Code, 1975, Added by Ord. No. 76-8, 3-22-76; Ord. No. 2005-29, 7-18-2005; Ord. No. 2009-2, 2- 2-2009)

SEC. 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 centers, 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 L10 noise level of 60 dBA in the daytime (7:00 A.M. to 10:00 P.M.) and an L10 noise 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 L10 noise level of 85 dBA at a distance of 50 feet. See Section 10.29.07(c) of this Chapter for hours of operation.

(Code, 1958 S 166.03; Added by Ord. No. 75-49, 9-22-75; Amended by Ord. No. 2006-49, 11-20-2006; Ord. No. 2009-2, 2-2-2009; Ord. No. 2009-36, 11-16-2009; Ord. No. 2012-2, 1-23-2012)

SEC. 10.29.03. GENERAL TESTING AND MEASUREMENT PROCEDURES.

Noise measurement methodology used must be consistent with Minnesota Rules 7030.0060-.0070 and any subsequent amendments, except for the measurement location of source noise in Section 10.29.02, which must be measured on the property line of the source.

(Code, 1958 S 166.04; Added by Ord. No. 75-49, 9-22-75; Amended by Ord. No. 2009-2, 2-2-2009)

SEC. 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.

(Code, 1958 S 166.05; Added by Ord. No. 75-49, 9-22-75; Amended by Ord. No. 2009-2, 2-2-2009)

SEC. 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 Section 10.29.02 of this Chapter.

(Code, 1958 S 166.06; Added by Ord. No. 75-49, 9-22-75)

SEC. 10.29.06. SNOWMOBILE REQUIREMENTS.

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

(Code, 1958 S 166.07; Added by Ord. No. 75-49, 9-22-75; Amended by Ord. No. 2009-2, 2-2-2009)

SEC. 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 Section 10.29.2 are exempt from the operating limits of this paragraph 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 Section 10.29.2 are exempt from the operation limits of this paragraph.

(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 Section 10.29.02 (a) and (b) are exempt from the operating limits of this paragraph.

(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 Section 12.01 of this Code.

(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.

(Code, 1958 S 166.08; Added by Ord. No. 75-49, 9-22-75; Amended by Ord. No. 2005-29, 7-18-2005; Ord. No. 2009-2, 2-2-2009; Ord. No. 2010-1, 1-4-2010; Ord. No. 2013-9, 4-1-2013)

SEC. 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;

(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, etc. 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, etc. 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 fifty (50) feet or a distance of five (5) 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. If the owner is not present, the driver or person in control of the vehicle is responsible for any violation of this subsection. 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 is an additional responsible party.

(4) Loud speakers, amplifiers for advertising, etc. 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, etc. Yelling, shouting, hooting, whistling, or loud singing on the public streets within fifty (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.

(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, etc. 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.

(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.

(Code, 1958 SS 166.02, 166.03; Ord. No. 71-59, 8-2-71; Ord. No. 74-67, 8-19-74; Ord. No. 75-49, 9-22-75, renumbered to S 166.09; Ord. No. 96-58, 10-21-96; Ord. No. 2005-29, 7-18-2005; Ord. No. 2010-28, 11-1-2010)

SEC. 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; Added by Ord. No. 77-79, 10-24-77)

SEC. 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 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 Section 10.29.02 or Section 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 Section 10.30(a), as well as the evidence of hardship and mailed to the responsible persons within 20 days of receipt.

(Ord. No. 86-17, 3-24-86; Ord. No. 2005-29, 7-18-2005)

SEC. 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.

(Amended by Ord. No. 2005-29, 7-18-2005)