

# **SUPPLEMENTAL PACKET**

Sec. 12-206. Environmental nuisances.<sup>179 180</sup>

No odors, vibration, noise, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other such sensory irritations

or health hazards shall be permitted in any zoning district in excess of the minimum standards as set forth in this section. Any violation of such standards is hereby declared a nuisance. The minimum standards shall be as follows:

- A. *Odors.* Any use shall be so operated as to prevent the emission of odorous or solid matter of such quality or quantity as to be reasonably objectionable at any point beyond the lot line of the site on which the use is located, except as regulated by sections 12-139 and 12-140 regulating agricultural operations.
- B. *Vibrations.* The following vibrations are prohibited:
  - 1. Any vibration discernible beyond the property line to the human sense of feeling for three minutes or more duration in any one hour; and
  - 2. Any vibration resulting in any combination of amplitudes and frequencies beyond the safe range of the most current standards of the United States Bureau of Mines on any structure.
- C. *Toxic and noxious matter.* Any use shall be so operated as not to discharge across the boundaries of the lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.
- D. *Air pollution.* Any use shall be so operated as to control emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort or general welfare.
- E. *Animals.* Any building in which domestic farm animals are kept shall be a minimum distance of 100 feet from all lot lines.<sup>181</sup>

Notwithstanding anything contained herein to the contrary, the minimum standards of the pollution control agency for noise, air and water pollution and glare, these shall be the minimum standards for the purposes of this section.<sup>182</sup>

Sec. 12-207. Miscellaneous nuisances.<sup>183</sup>

- A. It shall be a nuisance for any person to store or keep any vehicle of a type requiring a license to operate on the public highway, but without a current license attached thereto, whether such vehicle is dismantled or not, outside of an enclosed building in any zoning district.
- B. Creating or maintaining a junkyard or vehicle dismantling yard shall be a nuisance and shall be prohibited.
- C. The following are declared to be nuisances endangering public health:

<sup>179</sup> Cross reference(s)--Environment, Ch. 10; Code 1982, §

<sup>180</sup> Cross reference(s)--Environment, Ch. 10.

<sup>181</sup> See Section 12-187(n)(1).

<sup>182</sup> Code 1982, § 301.723

<sup>183</sup> Cross reference(s)--Environment, Ch. 10; Code 1982, § 301.724

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1. Causing or suffering the effluent from any cesspool, septic tank, drainfield or human sewage disposal system to discharge upon the surface of the ground, or dumping the contents thereof at any place except as authorized by the state pollution control agency.
  2. Causing or suffering the pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
  3. Causing or suffering carcasses of animals to not be buried or destroyed or otherwise disposed of within 24 hours after death.
- D. The following are declared to be nuisances affecting the public peace and safety:
1. The placing or throwing on any street, alley, road, highway, sidewalk or other public property of any glass, tacks, nails, bottles or other nuisances that may injure any person or animal or may cause damage to any pneumatic tire when passing over the same.
  2. The ownership, possession or control of any unused refrigerator or other container, with doors that fasten automatically when closed, of sufficient size to retain any person and that is exposed and accessible to the public without having the doors, lids, hinges or latches removed or having locks to prevent access by the public.
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A. *Definitions.* Except as provided in this section, words or phrases used in this section and defined in the rules of the state pollution control agency noise section, Mn Rules, § 7030, shall have the meanings given in those rules.

1. *A-weighted* means 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 American National Standards Institute S1.4-1983, section 5.1.
2. *Cut-out or bypass* means a mechanism which varies the exhaust system gas flow so as to discharge the exhaust gas and acoustic energy to the atmosphere without passing through the entire length of the system including all exhaust system sound attenuation components.
3. *dB(A)* means a unit of sound level expressed in decibels (dB) and A-weighted.
4. *Exhaust system* means a combination of components which provides an enclosed flow of exhaust gas from engine parts to the atmosphere.
5. *Holiday* means any day fixed by the United States or by state law for suspension of business in whole or in part.
6. *L10* means the sound level, expressed in dB(A) which is exceeded ten percent of the time for a one-hour period, as measured by test procedures approved by the director of the MPCA.
7. *L50* means the sound level, expressed in dB(A) which is exceeded 50 percent of the time for a one-hour period, as measured by test procedures approved by the director of the MPCA.
8. *MPCA* means the state pollution control agency.
9. *Noise* means any sound not occurring in the natural environment, including but not limited to, sounds emanating from airways, roadways, waterways, industrial, commercial, and residential sources.
10. *Noise control officer* means the City Zoning Administrator or other person appointed by the City Council.
11. *Noise pollution* means the presence of any noise or combination of noises in such quantity, at such levels, of such nature and duration, or under such conditions as could potentially be injurious to human health, safety, or welfare; or to animal life; or could interfere unreasonably with the enjoyment of life or property.
12. *Person* means any individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivision, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, person shall include employees and licensees.

B. *General noise standard.*

1. *Incorporation by reference.* The MPCA Noise Rule, Mn Rules, §§ 7030.0010 through 7030.0080, and all amendments thereof and supplements thereto are hereby referred to, adopted, incorporated by

<sup>184</sup> Cross reference(s)--Environment, Ch. 10.

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reference, and made a part of this article. A current copy shall be available for public inspection through the City Clerk's office.

2. *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 outdoors exceeding the dB

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 (RR, VHS-R)	65	60	55	50
Coimmercial (VHS-C)	70	65	70	65
Industrial	80	75	80	75

C. *Exemptions:*

1. The levels prescribed in the section above do not apply to noise originating on public streets and alleys but such noise shall be subject to other ordinances.
2. The levels prescribed above do not apply to farm machinery being operated by a person actively engaged in productive agricultural operations provided the machinery is not stationary.

D. *Noises prohibited.*

1. *Horns, audible signaling devices, etc.* No person shall sound any signaling device on any vehicle except as a warning of danger.<sup>185</sup>
2. *Engine exhausts.* 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, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws, regulations, and this article. No exhaust system on any engine shall be modified, altered, or repaired in any manner, including the use of a muffler cut-out or bypass, that shall amplify or otherwise increase noise above that emitted by the device as originally equipped.
3. *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 production or reproduction of sound in a distinctly and loudly audible manner so 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, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of violation of this section.
4. *Social gatherings.* No person shall participate in any party or other gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property. When a police officer determines that a gathering is creating such noise disturbance, the officer shall order all persons present, other than the owner or tenant of the premises where the disturbance is occurring,

<sup>185</sup> M.S.A. § 169.68

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### E. *Hourly restriction on certain operations.*

1. *Domestic power equipment.* No person shall operate a garden or lawn tractor, power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, power device for bug eradication, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. Snow removal equipment is exempt from this provision.
2. *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 6:00 p.m., Monday through Saturday.
3. *Construction activities.* No person shall engage in or permit construction activities involving the use of any electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a. m. and 10:00 p.m.

### F. *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 necessary to restore public service or eliminate a public hazard shall be exempt from the provisions of this article for a period not to exceed 48 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 and the duration thereof.

### G. *Powers and duties of noise control officer.*

1. *Administering officer.* The noise control program established by this chapter shall be administered by the noise control officer.
2. *Testing procedures.* The noise control officer shall adopt guidelines establishing the test procedures and instrumentation used in enforcing the provisions of this section. A copy of such guidelines shall be kept in the office of the City Clerk and shall be available to the public for reference during business hours.
3. *Investigation and inspection.* The noise control officer, with the assistance of other professional agencies or persons as may be necessary, shall conduct all research monitoring and other studies related to sound as are necessary in order to enforce this article and shall make all investigations and inspections in accordance with law as required in applying the provisions of this article.
4. *Noise impact statements.* The noise control officer may require any person applying to the City for a change in zoning classification, permit, 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. Each such statement shall be reviewed to ascertain whether the granting of such change in zoning classification, permit, or license would result in the violation of any provision of this article. Reviews of noise impact statements shall be made by the zoning committee, Planning Commission if appropriate, and recommendations shall be made to the City Council.
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 the provisions of this section.

### H. *Enforcement and penalties.*

1. When the noise control officer, after appropriate testing has been done, determines that a noise exceeds the maximum sound level permitted under Subsection (B) of this section, the noise control officer shall give written notice of the violation to the owner or occupant of the premises where the noise originates, and order such person to correct or remove each specified violation within such reasonable time as is prescribed in the notice