

ORDINANCE 05-2020

CITY OF AFTON

WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING SECTION 14-1 OF CHAPTER 14, AND SECTIONS 12-77, 12-207 AND 12-208 OF CHAPTER 12 OF THE CITY CODE REGARDING THE DISCHARGE OF FIREARMS, GUN RANGES, NUISANCES and NOISE

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

The following sections of the Afton Code of Ordinances shall be amended by adding the **bold and underlined** language and deleting the ~~striketrough~~ language.

Sec. 14-1. Use, discharge of firearms.

- (a) NOTHING IN THIS SECTION SHALL REGULATE, CONTROL OR PREEMPT THE USE OF FIREARMS FOR SELF DEFENSE WHICH SHALL BE SOLELY REGULATED AND CONTROLLED BY APPLICABLE MN STATE STATUTES (609.06 and 609.65)
- (b) Firearm definition – A firearm is defined as any gun from which any projectile is discharged or propelled by means of an explosion, excluding devices used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial apparatus, instruments, or equipment used by construction personnel, licensed physicians or veterinarians in the course or scope of their professions.
- (c) Within the city, it shall be unlawful for any person to discharge out of doors upon the land of another, including all land owned by the City, any firearm, without having, in possession, written permission from the owner or tenant of such land to discharge such firearm thereon, which must include the full name, address, phone number, and signature of the landowner or lessee as well as the full name of the person given permission to hunt or shoot.
- (d) It is unlawful for any person to discharge any firearm in any place or manner so as to endanger any person or property.
- (e) It is unlawful for any person to discharge a firearm in a city park, on any school property, or in any property located in an area zoned commercial or industrial with the exception of police officers acting in the scope of their lawful authority.
- (f) It is unlawful to discharge a firearm across or within the right of way of any public road or highway.
- (g) Firearms may not be discharged:
 - 1. Except by the landowner and his/her immediate family in residence on the property or in the presence of the landowner or lessee of the land, or with the written permission of the landowner or lessee of the land. The person authorized to hunt/shoot must have in their possession the written permission which must include the full name, address, phone number, and signature of the landowner or lessee as well as the full name of the person given permission to hunt or shoot.
 - 2. Within 500 feet of any residence or accessory building on a parcel under separate ownership from the parcel on which the firearm is discharged, unless the person has written permission from the land owner as required in paragraph (g) 1 above.

3. Before 0900 hours or after one-half hour before sunset, except when hunting game or non-game animals in compliance with the requirements of Minnesota Hunting Restrictions and Requirements (MN State Statute 97B)
- (h) No firearm shall be discharged in a manner reasonably expected to cause a projectile to cross the boundary of a parcel not under common ownership with the parcel from which the projectile is fired, unless the person has written permission from the land owner as required in paragraph (g) 1 above.
- (i) It is unlawful to discharge a firearm while under the influence of a controlled substance or under the influence of alcohol.
- (j) Individuals discharging firearms must be adults or must be under the supervision of a responsible adult, with the exception of juveniles 16 and over during the hunting season who meet the legal requirements to hunt according to Minnesota's hunting regulations. Nothing in this paragraph shall prohibit juveniles from hunting in compliance with the requirements of Minnesota Hunting Restrictions and Requirements (MN State Statute 97B)

(k) Other than for allowed hunting, it is unlawful for a person to discharge more than 20 rounds from any firearm within a 24 hour period and on more than one day per calendar month in Afton; with the exception that clay pigeon shooting with shotguns is allowed once per month up to a maximum of 100 rounds and over a maximum time period of two hours, if there is a minimum distance of 1,320 feet from the shooting area to the nearest property line on any adjacent parcel.

Sec. 12-77 Definitions

Gun Range means a commercial or private parcel, or multiple parcels under the same ownership, or facility where skeet and trap shooting or other similar shooting sports and the shooting of rifles, shotguns and pistols takes place whereby firearms discharge occurs more than one day per calendar month, and whereby more than 20 rounds are discharged over any 24 hour period; with the exception that clay pigeon shooting with shotguns once per month up to a maximum of 100 rounds and over a maximum time period of two hours, if there is a minimum distance of 1,320 feet from the shooting area to the nearest property line on any adjacent parcel, is not considered a gun range.

Sec. 12-207. Miscellaneous nuisances.

- 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:
 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, **including interfering unreasonably with the enjoyment of life or property.**
 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.

3. Public Nuisance Noises.

It is unlawful for any person to cause or allow to be emitted a Public Nuisance Noise. A Public Nuisance Noise is any noise which unreasonably annoys, injures, interferes with, or endangers the comfort, repose, health or safety of persons residing within separate residences in the same community or neighborhood.

a. Examples of public nuisance noises include, but are not limited to, the following:

1). The discharge of more than 20 rounds from a firearm in a 24 hour period and on more than one day per calendar month in Afton, other than for allowed hunting; with the exception that clay pigeon shooting with shotguns is allowed once per month up to a maximum of 100 rounds and over a maximum time period of two hours, if there is a minimum distance of 1,320 feet from the shooting area to the nearest property line on any adjacent parcel.

2). Those noises listed as prohibited in paragraph D of Sec. 12-208

3). Those noises generated by the operations with hourly restrictions listed in paragraph E of Sec. 12-208 when generated beyond the allowed hours.

b. Exemptions to Public Nuisance Noise Prohibition.

1). Between the hours of 7 a.m. and 8 p.m., the following shall be exempt from this Chapter; except if other state and local restrictions apply:

a). Sounds originating from residential property as a result of temporary projects for the construction, maintenance, or repair of homes, grounds, and appurtenances;

b). Sounds created by the discharge of firearms in the course of legally hunting during any state defined hunting season, and otherwise meeting all other firearm discharge guidelines found in city ordinances.

c). Sounds created by the installation or repair of essential utility services;

d). Sounds originating from temporary, residential construction sites as a result of construction activity

e). Sounds originating from forestry activities

f). Sounds originating from farming activities

Sec. 12-208. Noise.

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. **Noise pollution includes public nuisance noises, as defined in Sec. 12-207.**

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.

(Paragraphs B and C are not proposed to be amended, so were purposely excluded)

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.

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, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall cooperate with police officers and shall make every reasonable effort to see that the disturbance is abated.

5. 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 for any purpose whatsoever.

6. Schools, churches, etc. No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or other place of worship.

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.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 21ST DAY OF JULY, 2020.

SIGNED:

Bill Palmquist, Mayor

ATTEST:

Ronald J. Moorse, City Administrator

Motion by:

Second by:

Perkins:

Wroblewski:

Ross:

Nelson:

Palmquist: