

CHAPTER 98: NOISE

Section

98.01	General Prohibition
98.02	Definitions
98.03	Noises Specifically Prohibited
98.04	Sound and Noise Level Limitations
98.05	Allowing Noise
98.06	Exemptions
98.07	Enforcement
98.99	Penalty

§ 98.01 GENERAL PROHIBITION.

(A) It is the public policy of the city to allow for and facilitate comfort, peace, enjoyment, and safety of each of its citizens. Therefore, it shall be unlawful for any person in the city or marina, in a public or private place, to make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, health, peace, safety, or welfare of any reasonable person(s) of normal sensitivities, or precludes their enjoyment of property or affects their property's value.

(B) In the case of apartment buildings or multiple dwelling units, said noise audible in the common area of the adjacent hallway or apartment(s) shall be prima facie evidence of a violation of this chapter.

(C) In the case of the marina, said noise audible on the common dock area or watercraft in the neighboring slip(s) shall be prima facie evidence of a violation of this chapter. (Ord. 377, passed 7-26-2004)

§ 98.02 DEFINITIONS.

Words and phrases defined in this section have, when used in this chapter, the meanings below. Any other word or phrase used in this chapter, and defined in regulations of the Minnesota Pollution Control Agency (MPCA) Noise Pollution Control Rules Chapter 7030, has the meaning given in those regulations. (230A, 8/18/98):

AIR CIRCULATION DEVICE. A mechanism designed and used for the controlled flow of air used in ventilation, cooling, or conditioning, including, but not limited to, central and window air conditioning units.

AMBIENT SOUND LEVEL. The total noise or sound pressure level in the area of interest including the sound emitted from the source.

BACKGROUND SOUND LEVEL. The total sound pressure level in the area of interest, excluding the noise emitting from the source area of the interest.

CONSTRUCTION. The site or location of assembly, erection, repair, alteration or demolition of buildings or structures.

DAYTIME HOURS. The time from 7:00 a.m. to 10:00 p.m. DECIBEL (dB). The unit of measurement for sound pressure levels.

EMERGENCY WORK. Any work or action necessary to deliver essential services, including but not limited to water, gas, electric, telephone, sewer, or public transportation, removing interference or debris from public roadways, or actions taken to avoid or prevent life-threatening conditions.

EXHAUST SYSTEM. A combination of components that provide for enclosed flow of exhaust gas from engine parts into the atmosphere.

MOTOR VEHICLE or **VEHICLE.** Any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle.

MUFFLER. A devise or system to dissipate the sound of escaping gases from an internal combustion engine.

NIGHTTIME HOURS. The time from 10:00 p.m. to 7:00 a.m.

NOISE. Any sound not naturally occurring in the environment, including but not limited, to sounds emanating from aircraft and highways, industrial, commercial, and residential sources.

NOISE DISTURBANCE. Any sound that:

- (1) Endangers the safety, health, or welfare of any person or persons, personal or real property,
- (2) Unreasonably annoys, injures, or endangers the comfort, peace, or welfare of any reasonable person(s) of normal sensitivities,
- (3) Precludes a person of normal sensitivities of their enjoyment of property, or
- (4) Endangers affects said person's property value.

PUBLIC SPACE. Any real property, or structures thereon, that is owned, leased, otherwise controlled by a governmental entity.

WEEKDAY. Any day, Monday through Friday, that is not recognized as a legal holiday. (Ord. 377, passed 7-26-2004)

§ 98.03 NOISES SPECIFICALLY PROHIBITED.

The following acts set forth are declared to be generally prohibited, but said enumeration of violations shall not be deemed to be exclusively limited to the following:

(A) *Motor vehicles.* No person shall operate a motor vehicle in the city in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency. No person shall drive or operate any mini-bike, snowmobile, ATV, or other similar recreational vehicle not licensed for travel on public streets. No person shall operate any motor vehicle upon any public space that is knowingly not in compliance with any of the limits contained in any of the other sections or subdivisions of this chapter.

(B) *Whistles, horns, sirens, and audible signaling devices.* No person shall sound any signaling device on any vehicle except as a warning of danger, as required by M.S. § 169.68, as

it may be amended from time to time.

(C) *Exhaust.* No person shall discharge the exhaust, or permit the discharge of the exhaust of any steam engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises there from and complies with all applicable state laws and regulations.

(D) *Defective vehicles or loads.* No person shall use any transportation vehicle so out of repair or so loaded to create loud and unnecessary grating, grinding, rattling, or other noise.

(E) *Loading, unloading, unpacking.* No person shall create loud and excessive noise in loading, unloading, or unpacking any vehicle.

(F) *Radios, tape and disk players, paging system, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, audio cassette tape player, disk player, telephone or cellular phone, paging system, machine, or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby, or as to be plainly audible at the property line of the structure or building in which it is located, in the common hallway or apartment adjacent, or on the common dock or adjacent boat or leased slip shall be prima facie evidence of a violation of this section.

(G) *Sounds from vehicles.* No person, as owner of vehicle, shall allow said vehicle to produce or reproduce a sound that is in violation of this section. If the owner is not present at the time of the violation, then the person in charge or control of the vehicle is guilty of the violation.

(H) *Loudspeakers, amplifiers for advertising, and the like.* 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 to any commercial establishment or vehicle.

(I) *Participation in noisy parties or gatherings.* No person shall congregate at or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or enjoyment of another person. When a police officer determines that a gathering is creating an excessive noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall knowingly remain at such a noisy party or gathering nor 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 make every effort to see that the disturbance is stopped.

(J) *Offensive conduct or language.* No person shall use offensive, obscene or abusive language nor engage in offensive, boisterous, or noisy conduct that may reasonably arouse alarm, anger or resentment in others.

(K) *Yelling and shouting.* No person shall engage in yelling, shouting, hooting, whistling, or singing at any time or place that annoys or disturbs the peace, quiet, or enjoyment of another person.

(L) *Schools, churches, and hospitals.* No person shall create any excessive noise in any schoolroom, or in any building on the grounds adjacent to the same, on a street, alley or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

(M) *Construction Activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel or gas-powered machine or other equipment which creates noise that is audible at the property line, except between the hours of 7:00 a.m. and 10:00 p.m. (Ord. 377, passed 7-26-2004)

§ 98.04 SOUND AND NOISE LEVEL LIMITATIONS.

No person shall engage in or permit operation of any sound to emit from their real or personal property, or in a public space or right-of-way in an unreasonable or disturbing manner. These values are as measured at the property line of the common area running along the residential area. Such a sound source shall constitute a prima facie violation of this chapter. (Ord. 377, passed 7-26-2004)

§ 98.05 ALLOWING NOISE.

The prohibition of this chapter shall extend beyond the person making or causing said noise, to any person in control of real estate, owning or possessing any real estate within the city or marina, who allows the making of said noise on said real estate. By virtue of the noise from the premises of said real estate being deemed unlawful, the property owner shall also be deemed to be in violation of this chapter. (Ord. 377, passed 7-26-2004)

§ 98.06 EXEMPTIONS.

The following acts or noises created by the following are permitted and are deemed exempt:

(A) Vehicles of the city, county, state, or federal government engaged in necessary public business;

(B) 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 a public service or eliminate a public hazard;

(C) Any emergency or alarm devices, including but not limited to machines or devices for the production of sound produced by or from an emergency vehicle;

(D) Church bells, chimes or carillons, school bells, or emergency civil defense warning signals;

(E) Anti-theft devices;

(F) In furtherance of commerce in the industrial areas, including but not limited to whistles that signify shift-changes or are used to alert employees of specified times during the work shift. Persons responsible for such sounds associated with industry shall inform the Zoning Administrator or other city employee of the need to initiate such noise. Any person responsible shall take all reasonable actions to minimize the amount of noise.

(G) Equipment that is used in connection with special events or activities which are authorized, sponsored, permitted or approved in the city by the City Council or those events on school property as approved by the School Board of ISD 813, so long as the activity is conducted pursuant to the conditions of said approval for such activity. Examples include, but are not limited to practices or performances of a marching band, sporting events, parades, activities held during Water Ski Weekend, Johnny Appleseed Days, and fireworks displays such as on the Fourth of July, and any other such activity that is held, sponsored by, or authorized by the city. (Ord. 377, passed 7-26-2004)

§ 98.07 ENFORCEMENT.

(A) The Lake City Police Department or City Council shall enforce this chapter and shall have the power to waive any part or provision of this chapter if it so determines that strict enforcement of the provision would cause any undue hardship.

(B) The Lake City Police Department shall document complaints made by citizens, and shall be dispatched to the source or scene of the focus area from where the complaint arose. The police officer shall use all reasonable efforts to determine the source of the noise disturbance and formally request that the property owner or resident cease and desist from further continuation of the bothersome noise. Failure to comply with the request of a police officer will be considered a prima facie violation of the chapter.

(C) The language in this section is not intended to prohibit the officer from immediate citation or arrest where prima facie evidence of a violation of any section of this chapter is present. (Ord. 377, passed 7-26-2004)

§ 98.99 PENALTY.

(A) Any violation of this chapter involving the operation of a motor vehicle is a petty misdemeanor. Upon conviction, the violator shall be punished with a fine not to exceed \$200.

(B) Every person who violates any other provision of this chapter is guilty of a misdemeanor and shall, upon conviction, be subject to the current limits of the Minnesota sentencing guidelines. In all cases the city shall be entitled to collect the costs of prosecution to the fullest extent outlined by law, the Rules of Criminal Procedure, and the Rules of Court.

(C) Each act in violation, and each day a violation occurs or continues to occur, constitutes a separate offense.

(D) These penalties do not preclude or impair any additional common law or statutory causes of action for injuries and/or damages arising from violation of this chapter. (Ord. 377, passed 7-26-2004)