

Chapter 30 - NUISANCES

FOOTNOTE(S):

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State Law reference— Nuisances generally, Minn. Stats. ch. 561; authority to define and abate nuisances, Minn. Stats. §§ 410.33, 412.221, subd. 23; public nuisances prohibited, Minn. Stats. § 609.74 et seq.

Sec. 30-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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 5.01.

Abandoned vehicle means any motor vehicle which is determined by the zoning administrator, chief of police, or their assigns, to be an inoperable vehicle as herein defined or to which the last registered owner of record has relinquished dominion or control.

Acceptable prairie restoration means an area of semi or continuous ground cover consisting of native grasses and forbs, with an identified plant species matrix that does not include identified, state-listed noxious weeds or invasive non-native plants. With respect to any undesirable plants, the establishment and long-term maintenance plan shall address the eradication measures to be employed.

Agricultural land means the areas in the state lying south and west of a line along the following highway right-of-way: starting at the North Dakota border, the line goes east along State Highway 10 to State Highway 23, then follows Highway 23 east to State Highway 95, which it follows to the Wisconsin border. The agricultural zone referred to in this guide applies only to ATV use.

All-terrain vehicle (ATV) means a motorized, flotation-tired vehicle with at least three but no more than six low-pressure tires.

Daytime means those hours from 7:00 a.m. to 10:00 p.m.

dBA means unit of sound level expressed in decibels (dB) and A-weighted (A).

Decibel means a unit of sound pressure level, abbreviated as "dB."

Dwelling unit means a residential building or portion thereof intended for occupancy including but not limited to single-unit or multiunit homes, apartments, hotels, motels, nursing homes, seasonal cabins, boardinghouses or roominghouses, tourist homes or trailers.

Impulsive noise means either a single sound pressure peak (with either a rise time less than 200 milliseconds or total duration less than 200 milliseconds) or multiple sound pressure peaks (with either rise times less than 200 milliseconds or total duration less than 200 milliseconds) spaced at least by 200 millisecond pauses.

Inoperable vehicle means any motor vehicle which cannot meet all of the following criteria:

- (1) The vehicle must be able to be driven or propelled under its own power upon demand in its existing condition; and
- (2) The vehicle must be able to be driven or propelled under its own power in a safe manner and not be wrecked, junked, or dismantled at the time of inspection and/or abatement; and
- (3) The vehicle must have current license plates and tabs; and

(4) The vehicle must have current proof of liability insurance, as required by state law.

L10 means a sound level, expressed in decibels (dBA) which exceeded ten percent of the time for a one-hour time period, as measured by test procedures approved by the commissioner.

L50 means a sound level, expressed in decibels (dBA) which exceeded 50 percent of the time for a one-hour time period, as measured by test procedures approved by the commissioner.

Motor vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power. The term "motor vehicle" includes, but is not limited to, automobiles, motorcycles, snowmobiles, motor bikes, scooters, all terrain vehicles, and go-carts.

Nighttime means those hours from 10:00 p.m. to 7:00 a.m.

Outdoor or outside means a location within a yard or lot that not within an approved structure. Such a structure can include a shed, garage, or other accessory structure with four constructed walls. Lean-tos, tarps, carports, and fencing are not considered an approved structure.

Person means an individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, the term "person" shall include employees and licensees.

Public nuisance means any action, situation, land use, or existence of any activity that unreasonably annoys, injures, or endangers the general health, safety, welfare, or public peace such that the comfortable enjoyment of life or property is disrupted, or which is offensive or has a blighting influence on the community.

Public road right-of-way means the entire right-of-way of a roadway that is not privately owned, including the traveled portions, banks, ditches, shoulders, and medians.

Recreational vehicle describes all-terrain vehicles, off-highway vehicles, and off-road vehicles.

Sound measuring device means a decibel meter that meets standards set by the Specifications for Sound Level Meters published by the American National Standards Institute as referenced in Minn. Rules ch. 7030.

Sound pressure level, in decibels, means 20 times the logarithm to the base 10 of the ratio of the pressure to the reference pressure. The reference pressure shall be 20 micronewtons per square meter.

Track or trail means a course built or created by a repetitive or continued use of a motor vehicle.

(Code 1978, § 5.08.02; Ord. No. 07-14, § 3, 9-11-2007; Ord. No. 08-20, § 2, 7-22-2008)

Sec. 30-2. - Purpose.

The purpose of this chapter is to take all reasonable measures within the city's jurisdiction to prevent the establishment of activities that maintain or permit a condition which unreasonably annoys, injures or endangers the health, morals, decency, safety, or public peace so that such activities do not affect the comfortable enjoyment of life or property.

(Code 1978, § 5.08.01; Ord. No. 07-14, § 3, 9-11-2007)

Sec. 30-3. - Property conditions constituting a public nuisance.

The following are declared to be nuisances affecting public peace, health, welfare, and/or safety of the community:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter.
- (2) All diseased animals running at large.

- (3) Carcasses of animals not buried at least three feet deep or destroyed within 24 hours after death.
- (4) Accumulations of manure, refuse or other debris, except that any manure maintained in conformance with chapter 10 shall not be declared a public nuisance.
- (5) Privy vaults and garbage cans which are not rodent-free or flytight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors.
- (6) The storage or accumulation of waste, refuse, or garbage that is not contained in a closed container designed or reasonably adapted for such purpose, except for 30 days preceding pick-up by a hauler. This includes any accumulation of appliances, plumbing fixtures, furniture, equipment, remnants of wood (decayed or weathered) unused construction materials, stockpiles of rocks or dirt, or any items that could not be put to use in the manner that they are intended.
- (7) The depositing of garbage or refuse on a public right-of-way or adjacent private property.
- (8) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over such surface.
- (9) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances.
- (10) All grass, weeds, or noxious growths of vegetation upon public or private property exceeding eight inches in height, or whatever height specified in the appropriate zoning district, excluding acceptable prairie restoration plant materials.
- (11) Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities.
- (12) Snow, ice, or other precipitation not removed from sidewalks or the allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- (13) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.
- (14) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Code or other applicable law.
- (15) Radio aerials or television antennas erected or maintained in a dangerous manner.
- (16) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks.
- (17) All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by code.
- (18) Any barbed-wire fence less than six feet above the ground and within three feet of a public sidewalk or way unless a permit is granted by the city.
- (19) Wastewater cast or permitted to flow, upon streets or other public property.
- (20) Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child coming on the premises where it is located.
- (21) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials.

- (22) The existence of any structure or part of any structure which, because of fire, wind, or other natural disaster or physical deterioration, is no longer habitable as a dwelling nor useful for any other purpose for which it may have been intended.
- (23) The existence of any vacant dwelling, garage or other outbuilding, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.
- (24) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- (25) The outdoor or outside storage of any abandoned or inoperable vehicles, as defined by this chapter.
- (26) The outdoor or outside storage of any part of a motor vehicle or piece of machinery that is deteriorating or unusable or intended to be used as salvageable parts.
- (27) Any violation of section 117-355, relating to off-street parking regulations.
- (28) Any violation of chapter 10, relating to the keeping of animals.
- (29) Any violation of chapter 34, article III, division 3, relating to clandestine drug labs.
- (30) Any other act or omission declared to be a public nuisance and for which no sentence is specifically provided.
- (31) The use or operation of a radio, musical instrument, amplified music or sound, or other machine or device used for production of reproduction or sound at a volume in the excess of that reasonably necessary for the convenient hearing of the person or in the room, vehicle, or chamber in which the same is being operated, as defined by this chapter. The operation between the hours of 10:00 p.m. and 7:00 a.m. of any radio, musical instrument, amplified music or sound, or other machine or device for the reproducing or producing of sound if the sound therefrom is audible from:
 - a. An apartment or hallway of a multifamily building adjacent to a unit where the device is operating.
 - b. The property line of the real property on which the device is being operated.
 - c. A distance of 50 feet from any motor vehicle in which the device is operating.
- (32) To operate or to cause to be operated, but not limited to, the use of any noise creating blower or power fan, internal combustion engine, air compressor or steam engine, automobile, motorcycle, snowmobile, motor boat, motor bike, scooter, recreational vehicle, all terrain vehicle, off-highway motorcycle, off-road vehicle, go-cart, or remote controlled airplane, boat, or other vehicle powered by an engine or motor, the operation of which causes noise, unless the noise from the blower or fan is muffled and such engine or compressor is equipped with a muffler device sufficient to deaden and effectively prevent such noise so that the noise shall not annoy, disturb or affect the comfortable enjoyment of life or property.
 - a. Sound levels. 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 exceeding the limit set in Table 1.

TABLE 1

	7:00 A.M. — 10:00 P.M.		10:00 P.M. — 7:00 A.M.	
Land Use	L50	L10	L50	L10

Residential	60	65	50	55
Commercial	65	70	65	70
Industrial	75	80	75	80

b. Measurement procedure. The following procedures must be used to obtain a representative sound level measurement by the use of a sound measuring device:

1. A decibel meter will be used to obtain readings and be used as evidence.
2. The operator of the device has sufficient training to properly operate the equipment and can testify as to the manner in which the device was set up and operated.
3. The device is operated with minimal distortion or interference from outside sources; and has been certified as being accurate and reliable.
4. Measurements must be made at least three feet off the ground or surface and away from natural or artificial structures which would prevent an accurate measurement.
5. Measurements must be made using an A-weighting and fast response characteristics of the sound measuring device as specified in American National Standards Institute S1.4-1983.
6. Measurements must not be made in sustained winds or in precipitation which results in a difference of less than ten decibels between the background noise level and the noise source being measured.
7. Measurements must be made using a microphone which is protected from ambient conditions which would prevent an accurate measurement.
8. Measurement must be made from the property of the person making the complaint, when applicable.

(33) Tracks and trails for riding motor vehicles are not allowed in a residential area unless said track or trail is:

- a. 1,000 feet from any residence except that of the owner; and
- b. At least 50 feet from property lines, public streets, utilities, or easements.

(Code 1978, § 5.08.04; Ord. No. 04-34, 9-27-2004; Ord. No. 07-14, §§ 2, 3, 9-11-2007; Ord. No. 07-21, § 2, 10-23-2007; Ord. No. 11-06, § 2, 7-24-2012; Ord. No. 12-10, § 2, 7-24-2012)

Sec. 30-4. - Nuisances affecting public safety.

The following are declared to be nuisances affecting public safety:

- (1) All snow and ice not removed from public sidewalks 12 hours after snow or other precipitation causing the condition has ceased to fall;
- (2) All trees, hedges, billboards or other obstructions that prevent persons from having a clear view of all traffic approaching an intersection;
- (3) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

- (4) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Code or other applicable law;
- (5) Radio aeriels or television antennas erected or maintained in a dangerous manner;
- (6) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks;
- (7) All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by code;
- (8) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (9) Any barbed-wire fence less than six feet above the ground and within three feet of a public sidewalk or way unless a permit is granted by the city;
- (10) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (11) Wastewater cast or permitted to flow, upon streets or other public property;
- (12) Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child coming on the premises where it is located;
- (13) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- (14) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over such surface;
- (15) The depositing of garbage or refuse on a public right-of-way or adjacent private property.

(Code 1978, § 5.08.06; Ord. No. 04-34, § 9-27-2004)

Sec. 30-5. - Nuisances affecting public peace.

(a) Specific acts. The following are declared to be nuisances affecting public peace:

- (1) The use or operation of a radio, musical instrument, phonograph, tape recorder or other machine or device used for production of reproduction of sound at a volume in the excess of that reasonably necessary for the convenient hearing of the person or in the room, vehicle, or chamber in which the same is being operated.
- (2) The operation between the hours of 10:00 p.m. and 7:00 a.m. of any radio, musical instrument, phonograph, tape recorder or other machine or device for the reproducing or producing of sound if the sound therefrom is audible from:
 - a. An apartment or hallway of a multifamily building adjacent to a unit where the device is operating.
 - b. The property line of the real property on which the device is being operated.
 - c. A distance of 50 feet from any motor vehicle in which the device is operating.
- (3) To operate or to cause to be operated, but not limited to, the use of any noise creating blower or power fan, internal combustion engine, air compressor or steam engine, automobile, motorcycle, snowmobile, motor boat, motor bike, scooter, recreational vehicle, all-terrain vehicle, off-highway motorcycle, off-road vehicle, go-cart, or remote-controlled airplane, boat, or

other vehicle powered by an engine or motor, the operation of which causes noise, unless the noise from the blower or fan is muffled and such engine or compressor is equipped with a muffler device sufficient to deaden and effectively prevent such noise so that the noise shall not annoy, disturb or affect the comfortable enjoyment of life or property.

- (4) Tracks and trails for riding motor vehicles are not allowed in a residential area unless said track or trail is:
 - a. 1,000 feet from any residence except that of the owner; and
 - b. At least 50 feet from property lines, public streets, utilities or easements.
- (5) All other conditions or things, which are likely to cause injury to the person or property of anyone and to interfere with the comfortable enjoyment of life or property.
- (b) Sound levels. 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 exceeding the limit set in Table 1.

TABLE 1

Land Use	7:00 A.M. - 10:00 P.M.		10:00 P.M. - 7:00 A.M.	
	L50	L10	L50	L10
Residential	65	60	55	50
Commercial	70	65	70	65
Industrial	80	75	80	75

- (c) Measurement procedure. The following procedures must be used to obtain a representative sound level measurement by the use of a sound measuring device:
 - (1) A decibel meter will be used to obtain readings and be used as evidence.
 - (2) The operator of the device has sufficient training to properly operate the equipment and can testify as to the manner in which the device was set up and operated.
 - (3) The device is operated with minimal distortion or interference from outside sources; and has been certified as being accurate and reliable.
 - (4) Measurements must be made at least three feet off the ground or surface and away from natural or artificial structures that would prevent an accurate measurement.
 - (5) Measurements must be made using an A-weighting and fast response characteristics of the sound measuring device as specified in American National Standards Institute S1.4-1983.
 - (6) Measurements must not be made in sustained winds or in precipitation that results in a difference of less than ten decibels between the background noise level and the noise source being measured.
 - (7) Measurements must be made using a microphone that is protected from ambient conditions that would prevent an accurate measurement.
 - (8) Measurement must be made from the property of the person making the complaint, when applicable.

(Code 1978, § 5.08.07; Ord. No. 04-34, § 9-27-2004)

Sec. 30-6. - Powers of city officials.

Whenever in the judgment of the city's health authority, city engineer, or chief of police (or other such city official as may be determined by the city administrator), a finding is made upon investigation that a public nuisance is being maintained or exists within the city, the city may at the direction of the city administrator, issue written notice to the owner or occupant of the premises where the public nuisance is maintained requiring him to terminate and abate said nuisance. Service of said notice shall be in person or by U.S. mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. If the nuisance is not abated within ten days of the date of issuance of the notice, the city may issue a code violation citation to the notified owner or occupant. As an alternative, the city may elect to prosecute the matter in district court without first issuing the ten-day notice described in this section.

(Code 1978, § 5.08.08; Ord. No. 04-34, § 9-27-2004)

Sec. 30-7. - Abatement of nuisances by council.

If, after such service of notice, the party fails to abate the nuisance or make the necessary repairs, alterations, or changes in accordance with the direction of the council, said council may cause such nuisance to be abated at the expense of the city and recover such expenditure, plus an additional 25 percent, either by civil action against the person served; or if such service has been had upon the owner or occupant, by ordering the city administrator to extend such sum, plus 25 percent as a special tax against the property upon which the nuisance existed and to certify the same to the county auditor for collection in the manner as taxes and special assessments are certified and collected.

(Code 1978, § 5.08.09; Ord. No. 04-34, § 9-27-2004)

State Law reference— Collection of charges as a special assessment, Minn. Stats. § 439.101.