

ARTICLE 4 - NUISANCES AND OFFENSES

4-100 Public Nuisance Defined

4-200 Public Nuisances Affecting Health

4-300 Public Nuisances Affecting Morals and Decency

4-400 Public Nuisances Affecting Peace and Safety

4-500 Abatement of Nuisances

4-510 Abatement and Costs

4-511 Preliminary Report of Nuisance

4-512 Findings of Fact

4-513 Notice of Abatement Proceedings

4-514 Hearing

4-515 Abatement Methodology

4-516 Collection of Abatement Costs

4-520 Summary and Emergency Abatement

4-521 Emergency Situations

4-522 Initial Abatement

4-523 Post Initial Abatement Procedures

4-524 Vacation of Dwelling Unit

4-525 Special Provisions for Methamphetamine-related Sites

4-530 Abatement of nuisances on Abandoned Property

4-531 Definitions

4-532 Declaration of Nuisance

4-533 Abatement of Abandoned Property Nuisances

4-434 Special Assessment to Recover City Costs

4-535 Appeals

4-600 False Emergency Alarms

4-700 Noise

4-710 Definitions

4-720 Noise Nuisances

4-800 Storage of Motor Vehicle Tires

ARTICLE 4 - NUISANCES AND OFFENSES

4-100 Public Nuisance Defined

Whoever by his act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (1) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) Is guilty of any other act or omission declared by law or this ordinance to be a public nuisance and for which no sentence is specified.

4-200 Public Nuisances Affecting Health

The following are hereby declared to be nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed within 24 hours after death;
- (5) Accumulations of manure, refuse, or other debris;
- (6) Privy vaults or garbage cans which are not rodent free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (8) All noxious weeds and other rank growths of vegetation upon public or private property;
- (9) Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities;
- (10) All public exposure of persons having a contagious disease;
- (11) Any offensive trade or business as defined by statute not licensed by the County board of health as defined by law.

4-300 Public Nuisances Affecting Morals and Decency

The following are hereby declared to be nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines, and punch boards, excepting licensed (lawful) gaming activities.
- (2) Betting, bookmaking, and all apparatus used in such occupations;
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

- (4) All places where intoxicating liquor is manufactured or disposed of in violation of law or where in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place;
- (5) Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

4-400 Public Nuisances Affecting Peace and Safety

The following are declared to be nuisances affecting public peace and safety:

- (1) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall;
- (2) All trees, hedges, billboards or other obstructions which 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) All unnecessary noises and annoying vibration;
- (5) 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;
- (6) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (7) 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;
- (8) All hanging signs, awnings, and other similar structures over streets and sidewalks, situated so as to endanger public safety, or not constructed and maintained as provided by code;
- (9) 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.
- (10) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- (11) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (12) Waste water cast upon or permitted to flow upon streets or other public property;
- (13) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material, in a manner conducive to the harboring of rats, mice, snakes or vermin, or to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated;
- (14) 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;

- (15)** Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- (16)** 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 substance;
- (17)** The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (18)** The piling, storing and keeping of old machinery, wrecked or junked vehicles, or other junk or debris upon open space. For the purpose of this section, a junked vehicle is one which is not registered or which does not possess a current state auto license, but said auto license shall not be the sole factor determining the status of said vehicle. One unlicensed but operable vehicle may be permitted to be stored on a single parcel of record;
- (19)** All other conditions or things which are likely to cause injury to the person or property of anyone;
- (20)** The operation of any motorized hang-glider, ultralite aircraft or other motorized airborne device carrying one or more passengers within 200 feet of the roof of any building, or in such a manner as to cause fear or injury or property damage to persons upon the ground, or in such a manner resulting in noise levels at ground level in excess of 70 db.
- (21)** Shade tree disease as defined in Article 11-1400.2 (j) and nuisance conditions for trees as specified in Article 11-1400.6 of this code.
- (22)** The failure to attain Exterior Completion of any structure within one year of a building permit issuance, as required in Article 11-430 of the Ham Lake City Code.
- (23)** The intentional undue interference with any Funeral-Related Activity, including, without limitation, burial ceremonies, rituals, gatherings, processions of persons or motor vehicles, receptions, wakes, reviewals, services within or without a house of worship, graveside ceremonies, ceremonial meals or celebrations, or other activity related to the recognition of the cessation of a human life. The following acts shall be deemed to be "undue interference":
 - a)** The generation of noise, including spoken words, which impairs the ability of any person engaged in a Funeral-Related Activity to hear words, music or other sounds which are part of the Funeral-Related Activity.
 - b)** The impairment of freedom of movement by pedestrians or motorists engaged in the Funeral-Related Activity. Such impairment of movement includes the actual blocking of roads or walkways, but may also include activities which generate other traffic or crowds that result in the impairment of freedom of movement by those engaged in the Funeral-Related Activity.

- c) Picketing or other public gatherings or displays aimed at or taking advantage of the existence of the Funeral-Related Activity that occur at a distance closer than 300 feet from the Funeral-Related Activity;
- (24) The failure to maintain key elements of any structure, including, without limitation, roof, siding, brickwork, shakes or other exterior wall finishes, windows, doors, joists or load bearing walls.
- (25) The failure to maintain any portion of the area of any given parcel outside of structures on the parcel, including, without limitation, any steps, sidewalks, driveways, fences, patio, deck, swimming pool or pool area, slope, vegetation, pond or yard under conditions in which the failure to maintain creates a potential danger to invitees of the owner, tends to promote erosion that could affect adjoining parcels, including public roads, tends to promote flooding that could affect adjoining parcels, including public roads, or that constitutes an attractive nuisance to juvenile or adult trespassers.

4-500 Abatement of Nuisances

The record title owner of any parcel of land upon which is situate any public nuisance shall bear the responsibility to abate the nuisance, regardless of whether or not the nuisance has been caused by a tenant, trespasser or other third party. Nuisances which have not been voluntarily abated by the property owner or the agents of the property owner after efforts to obtain such abatement through negotiation and advisement with City staff and law enforcement personnel, may be abated by the City in the manner described below. Nuisances which present an imminent threat to public health, safety or welfare, may be initially abated in the manner provided in Article 4-520.

4-510 Abatement and Costs

4-511 Preliminary Report of Nuisance Upon being advised by City staff of the existence of a nuisance for which abatement under this Code appears to be appropriate, the City Council shall order the City Administrator to cause a written report to be prepared which addresses the following issues:

- a) The nature of the nuisance;
- b) The proposed method of abatement;
- c) The estimated costs of abatement, including disposal fees;
- d) The estimated costs of salvage, if any;

4-512 Findings of Fact The City Council, after review of the report required under Article 4-511, together with any other relevant information, shall determine if a nuisance exists, and if so, shall make written findings of fact in a resolution form setting forth the nature of the nuisance, the steps needed to cure the nuisance, and directing the abatement of the

nuisance after affording the responsible parties the opportunity to be heard and the opportunity to cure the nuisance.

4-513 Notice of Abatement Proceedings Following adoption of a resolution as required by Article 4-512, the City Administrator shall cause a written Notice of Abatement Proceedings, along with a certified copy of the resolution described in Article 4-512 to be forwarded to the record owners of the parcel of land upon which the nuisance is present. The Notice shall state essentially the following information:

To: (List names of record title owners from County Taxpayer Records, PIN of parcel)

Date:

- 1. You are hereby notified that the City of Ham Lake hereby institutes abatement proceedings relative to the above described parcel of land in order to abate the conditions of public nuisance as found in the hereto attached Resolution.*
- 2. "Abatement" of the nuisance means that the City will come upon the property, remove and/or correct the items which constitute the nuisance, and, if appropriate, dispose of the items in the manner provided by law. You will bear all costs of this correction, removal and disposal, either through a setoff against the salvage sale of any removed items, or through the imposition of a regulatory service fee to be certified and collected with your real estate taxes, or both.*
- 3. You have ten days from the date which appears on this notice to contest the abatement, by making a written request for a hearing before an independent hearing examiner to be selected by yourself from a list of hearing examiners maintained at City Hall, 15544 Central Avenue NE, Ham Lake, Minnesota 55304*
- 4. If you request a hearing, the hearing will be held as soon as the hearing examiner can be available. If the hearing examiner finds in favor of the City, meaning that if the hearing examiner finds that a public nuisance does in fact exist, then the costs of the hearing examiner will be added to your costs of abatement. In the hearing, you have the right to be heard, to present evidence and witnesses, to cross-examine the City's witnesses, and to be represented by legal counsel at your own expense, if you so choose.*

5. *If you fail to request the hearing, or if there is a hearing, and the hearing examiner finds in the City's favor, the City will proceed in the manner described in paragraph 2 above.*

4-514 Hearing If a property owner requests a hearing, the hearing shall be conducted as soon as practical. The City Administrator shall maintain a list of qualified hearing examiners, who shall be appointed to the list annually by the City Council after an initial screening process to be conducted by the City Council. Hearing examiners shall be learned in the law, and, as a condition to appointment to the list of approved hearing examiners, shall agree to follow any hearing rules set forth from time to time by resolution of the City Council. Regardless of whether or not the City Council establishes hearing rules, the following minimum procedures shall apply to each hearing:

a) Opportunity to be Heard The property owner shall be entitled to present evidence, cross-examine witnesses, and be represented by legal counsel;

b) Recording A court reporter shall be retained for each hearing to record the proceedings. Transcripts may be obtained by either party directly from the court reporter at the requesting party's expense;

c) Liberal Rules of Evidence The primary purpose of the hearing shall be to obtain a just result; accordingly, the examiner shall liberally allow evidence to be presented;

d) Decision The hearing examiner shall prepare written findings of fact which support a conclusion that a nuisance does or does not exist on the property in question, and shall describe the nature of the nuisance. The decision shall be rendered within seven days of the hearing.

e) Appeal The decision of the hearing examiner shall, for the purpose of appeals to the courts, be deemed to be a final decision of the City Council. Appeals to the courts shall be taken in the manner provided by law for appeals of decisions of a municipal governing body.

4-515 Abatement Methodology If the property owner fails to request a hearing on the abatement within the required time, or if upon hearing, a hearing examiner finds that a public nuisance does in fact exist, the City shall proceed as follows:

a) Notice of Entry City staff shall notify the property owner of the date and approximate time, to be not earlier than three business days from the date of notice, at which the City's agent will come upon the property. The notice shall be personally delivered to the residence address, and, if no one is present to receive the notice, then the notice shall be left in a conspicuous place on the property. The notice shall also be mailed by Certified Mail, return receipt requested, to the persons listed as taxpayers for the property.

b) Notice of Method of Abatement The notice shall briefly summarize what will be done on the property in order to abate the nuisance. If personalty is to be removed from the property, the notice shall indicate how the City intends to dispose of the personalty.

c) Abatement On the date specified in the notice, the City's agents shall come upon the property and abate the nuisance, documenting such abatement in a reasonable manner, such as through still photographs or videotape. All items removed shall be disposed of in the manner provided by law, or in a commercially reasonable manner if no method of disposition be otherwise prescribed by law.

4-516 Collection of Abatement Costs All of the costs incurred by the City in abating a nuisance shall be assessed against the property housing the nuisance, as a Regulatory Service Fee. The city's costs shall be reasonable and related to the regulatory expense, and shall include, without limitation, all attorneys' fees, engineering fees, hearing examiner fees, court reporter's fees, labor, trucking costs, tipping fees, other disposal fees, environmental remediation fees, consultants' fees, storage fees, transport costs, equipment rental, towing fees, storage fees, materials costs. Abatement costs shall be established by resolution of the City Council when known, and then invoiced to the property owner. If not paid by the time for certification of special assessments for collection with real estate taxes, the abatement assessment shall be certified to Anoka County for collection with real estate taxes in the May and October installments of the next succeeding year, together with interest at a rate to be established by the resolution setting the amount of the abatement costs. The invoice shall set the last date for payment, and shall advise the obligor that no interest will be charged if the assessment is paid prior to the date is it to be certified to the County. Otherwise, interest shall begin to accrue on the date the assessment is certified to the County.

4-520 Summary and Emergency Abatement

4-521 Emergency Situations An Emergency Situation shall be deemed to exist for any condition which presents an imminent danger to public health, welfare or safety, including, without limitation, the following conditions:

- a) Abandoned refrigerators;
- b) Improperly fenced swimming pools;
- c) Live or exposed electrical wires;
- d) Discharge of raw sewage above the ground or into bodies of water;
- e) Presence of dangerous or hazardous wastes in open containers, upon the ground, or otherwise in a condition susceptible to release or exposure;
- f) Neglected or abused animals;
- g) Accumulations of waste or putrescible items within an inhabited dwelling unit;
- h) Structurally unsound buildings or other devices;
- i) Unsecured and operable mechanical devices;
- j) Presence of highly flammable materials in open containers or in a condition susceptible to immediate ignition.
- k) Infected oak trees.
- l) Sites where methamphetamines or other controlled substances (as defined in Minnesota Statutes) involving hazardous materials or chemicals have been used in the manufacture, storage or production of such substances.

4-522 Initial Abatement Where an Emergency Situation is found to exist, in the judgment of any law enforcement officer, the Superintendent of Public Works, the City Administrator, a Fire Department Chief or Assistant Chief, or the Building Official, City Staff may take such steps as are necessary to immediately protect the public against the peril presented by the Emergency Situation. If practical, the initial action of the City Staff shall be limited to the erection of warning signs or devices, barricades, or other deterrents to prevent public contact with the condition. If entry upon private property, installation of remedial measures and/or removal of personal property is essential to the immediate safety of the public, or to prevent an imminent life-threatening situation from continuing to exist, then such entry, remediation and removal shall be authorized.

4-523 Post Initial Abatement Procedures As soon as is practical following the implementation of the abatement of a nuisance under an Emergency Situation, the property owner shall be notified in writing in a manner likely to reach the property owner, advising the property owner of the action taken and further advising the property owner of the need for any additional action to be taken by the property owner. Once the situation has ceased to be an Emergency Situation, the nuisance shall be dealt with as provided by this Code and as otherwise provided by law. If an assessment proceeding is commenced in connection with any permanent abatement as provided for in Article 4-510 of this code, the

costs of any emergency remediation or abatement shall, if allowed by law, be included in the amount of assessment.

4-524 Vacation of Dwelling Unit If an Emergency Situation is present in an occupied dwelling unit, or in any other structure or device in which human beings are dwelling, the City Administrator, after conferring with the City's legal counsel, may declare the dwelling unit unfit for human habitation, and may order the occupants thereof to immediately vacate the dwelling unit. The Order to vacate shall, if practical, be delivered in written form, but if written delivery of notice is not practical, oral notice given by a law enforcement officer shall be sufficient notice. It shall be a misdemeanor for any person to disobey such an order to vacate, and upon arrest for a violation of such an order, the City's legal staff shall endeavor to obtain the continued cessation of occupancy as a condition of release from custody. No person shall be taken into custody pursuant to such an arrest, however, unless the person shall have been given at least one hour's notice to vacate the premises.

4-525 Special Provisions for Methamphetamine-related Sites In addition to the remedies and procedures provided in Articles 4-522, 4-523 and 4-524 above, if any site is discovered to have been a manufacturing or storage site for methamphetamines or other hazardous materials or chemicals which have been used in the manufacture, storage or production of such substances, the following procedures may be followed:

a) Immediate Quarantine

The site may be immediately quarantined by law enforcement personnel, placing such warning tape or other devices as is necessary to prevent the accidental or deliberate entry into the premises by persons other than authorized by the City's law enforcement personnel. The City may also erect such informational signs as may be warranted.

b) Notifications to Governmental Agencies

The existence of the site shall be promptly provided to the Minnesota Pollution Control Agency, and the State Department of Health.

c) Notifications to Neighbors

Mailed notice of the existence of the site shall be given to the owners of all properties which abut the property lines of the site, or which are within a reasonable distance of any property line of the site. The notice shall inform the neighbors of the basic findings of law enforcement, insofar as such notice may be given without violation of the Data Privacy Act, and shall provide the name and

phone number of a contact person at City Hall for the purpose of answering further questions.

d) Environmental Study

The City may commission a Phase I Environmental Study on the property, to ascertain what, if any, environmental hazards may be present. If recommended by the Phase I Study, a Phase II Study shall also be commissioned.

e) Remedial Action

If the Environmental Studies noted in subparagraph d) above discover the presence of any environmental hazards on the property, the property shall be ineligible for any municipal permit or subdivision until and unless the conditions noted in the environmental studies have been remediated to the satisfaction of the City. If notification is required or made to the Minnesota Pollution Control Agency, completion of all remediation to the satisfaction of that agency shall be required prior to the issuance of any subsequent municipal permit or subdivision approval on the property.

f) Notice to Future Purchasers

If remedial action is required on the Property, the City shall cause an affidavit substantially in the form below, executed by the City Administrator, to be recorded with the Anoka County Recorder, for the purpose of notifying any future purchasers of the property of the potential environmental hazards, and the ineligibility of the property for municipal permitting or subdivision approval:

State of Minnesota)
) Affidavit
County of Anoka)

The following described property is the subject of certain remediation action required to correct certain environmental matters, and until and unless an affidavit executed by the City Administrator of the City of Ham Lake, Minnesota, attesting to the successful completion of such remediation, is recorded with the Anoka County Recorder, the following described property will be ineligible for any subdivision or permit issued by the City of Ham Lake, Minnesota, including any building permit.

(Insert Legal Description)

(Signature Block and Notarization)

g) Costs

The costs incurred by the City in implementing any of the matters set forth in Article 4-525 shall all assessed against the property as a Regulatory Service Fee in the same manner as described in Article 4-516, but with no requirement that any advance notice or hearing shall be given.

4-530 Abatement of Nuisances on Abandoned Property

4-531 Definitions

- a) **Abandoned Property** – means a parcel of real estate upon which there exists a formerly occupied structure, having no apparent sign of present occupancy, and in which the public records show that a Power of Attorney to foreclose a mortgage on the property has been filed with the Anoka County Recorder.
- b) **Debris** – means abandoned personal property located on Abandoned Property that would ordinarily not be found on lawn, porch or other exposed areas, or may also mean personal property ordinarily found on lawn, porch or other exposed areas that is in such apparent disrepair as to make the property functionally useless. Debris includes, without limitation, those items described in Article 4-200, 4-300, 4-400 and 4-521 that constitute personal property.
- c) **Unmowed Grass** - means common yard grass of any variety located on Abandoned Property that has grown to a height of more than six inches over more than ten percent of the yard area of any Abandoned Property.
- d) **Weeds** - means any vegetative growth, except for trees and common yard grass, located on Abandoned Property growing to a height of more than six inches over more than ten percent of the yard area of any Abandoned Property.
- e) **Unsecured Building** – means any structure located on Abandoned Property intended to be secure from the elements or from intruders which is susceptible to the elements or intrusion by virtue of holes in roofs or walls, open windows (including broken windows affording access to the interior) and open doors.

4-532 Declaration of Nuisance

Pursuant to the authority granted in Minnesota Statutes Chapter 412.221, Subd. 23, the City does hereby declare Abandoned Property, Debris, Unmowed Grass, Weeds and Unsecured Buildings as defined above to be public nuisances, to be known as Abandoned Property Nuisances.

4-533 Abatement of Abandoned Property Nuisances

Whenever the City's Building Official observes the existence of any Abandoned Property Nuisance, the Building Official shall notify the property owner of record by U.S. mail of the condition, and shall state a deadline to bring the property into compliance with City Codes. If the deadline is not met, the Building Official shall report same to the City Council at its next available meeting. If the City Council confirms that the condition constitutes an Abandoned Property Nuisance, the City Council shall approve such summary abatement measures as deemed appropriate to the situation, including, without limitation, the following:

- a. The mowing by City crews or contractors of any Weeds or Unmowed Grass;
- b. The covering of open holes in structures with tarps, plywood or other suitable material;
- c. The boarding up or nailing shut of any open or exposed doorways or windows to prevent access to the interior of any structure;
- d. The removal or relocating on or off the site of the Abandoned Property of any Debris.

Once any Abandoned Property Nuisance condition has been confirmed by the City Council and abated, but subsequently reappears, the City's Building Official may continue to cause the abatement of the nuisance without reconfirmation from the City Council. Abatement shall cease when it becomes apparent that the property is occupied, or when any entity having legal or equitable control of the property comes forward and confirms in writing an intention to properly maintain the Abandoned Property.

4-534 Special Assessment to Recover City Costs

The costs incurred by the City in implementing any of the matters set forth in Article 4-525 shall all assessed against the property as a Regulatory Service Fee in the same manner as described in Article 4-516, but with no requirement that any advance notice or hearing shall be given.

4-535 Appeals

Any aggrieved party may appeal any charge levied under this article to the District Court in the manner provided by Minnesota Statutes to challenge any municipal action.

4-600 False Emergency Alarms

It shall be the duty of the owner of any automatic alarm system to properly maintain such system to insure that false alarm signals do not occur with frequency, whether for fire, police or other emergency. If, within any twelve month period, a given alarm system produces three alarms which are not generated by a bona fide emergency, such as a fire, break-in or other causal factor which would generate a response from municipal or county emergency service system, the owner of the building shall be obligated to pay an inspection fee to be established from time to time by resolution of the City Council. If, in the ensuing twelve months, from the third false alarm, another false alarm occurs, the owner shall either disable or dismantle the system, or provide evidence satisfactory to the City's Building Official that the system has been repaired. Thereafter, if false alarms continue to occur, the inspection fee will be required every false alarm.

4-700 Noise

4-710 Definitions - The following definitions shall apply to this Article:

4-711 MPCA Definitions Adopted by Reference - The definitions of the following terms shall be as found in Minnesota Rules, Chapter 7030 (Minnesota Pollution Control Agency Noise Regulations), which are hereby adopted by reference as if fully set forth herein: "A-Weighted"; "dB(A)"; "Decibel"; "Impulsive Noise"; "L10"; "L50"; "Sound Pressure Level".

4-712 Additional Definitions

A) "Stationary Source" - noise which emanates from a source which remains stationary;

B) "**Mobile Source**" - noise which emanates from a source which is either in motion or capable of being in motion;

C) "**Circulating Mobile Source**" - noise which emanates from a Mobile Source, but which source remains in a close proximity to a single location;

D) "**Daytime**" - those hours between 7:01 a.m. and 10:00 p.m.;

E) "**Nighttime**" - those hours between 10:01 p.m. and 7:00 a.m.;

F) "**Personal Recreational Vehicle**" - motorized vehicles designed for usage by one person, sometimes including a passenger, including, without limitation, vehicles commonly known as snowmobiles, jet skis, motocross bikes, motorized dirt bikes,

motorcycles, motorbikes, go-carts, motorized gliders, three-wheelers, four wheelers and ATV's;

G) "Residential Area" - any parcel of land upon which is situate a residence;

H) "Excessive Noise" - noise received by a Residential Area which exceeds an L10 of 65dB(A) during daytime, an L10 of 55dB(A) during nighttime, an L50 of 60dB(A) during daytime, or an L50 of 50dB(A) during nighttime.

I) "Permitted Excessive Noise" - Excessive Noise which is generated by activities which are necessary to other residential uses, including, without limitation, lawn mowing, snow removal, non-commercial lot clearing, housing maintenance activities, hobby farming, gardening, residential construction (including landscaping, repair, remodeling), vegetation trimming or removal, sidewalk, patio or driveway construction.

J) "Abatable Excessive Noise" - Excessive Noise generated from any source which is reasonably capable of being reduced by muffling, creating barriers, or other means, so as to reduce the noise levels to levels which do not constitute Excessive Noise, or to levels which are significantly less than the noise produced without abatement of any kind;

K) "Chronologically Pre-Existing Noise Source" - a Stationary Source of Excessive Noise which existed prior to the establishment of Residential Areas which receive Excessive Noise from the Stationary Source;

L) "Temporary Excessive Noise" - Excessive Noise which is generated by construction projects which have been approved by the City, including subdivision construction, building construction, excavation, dredging, ditch cleaning, land clearing, street construction or utility construction/repair;

4-720 Noise Nuisances – No activity shall be permitted in any area zoned R-1, R-M, R-A, R-AH, PUD, RS-1, or RS-2 which constitutes a noise nuisance. Further, regardless of the level of noise levels generated, the use of Personal Recreational Vehicles in a manner which constitutes a Circulating Mobile Source of Noise, as defined in Article 4-712(C) of this Code, shall be prohibited in or within 1,000 feet of areas zoned R-1, R-M, R-A, R-AH, PUD, RS-1, or RS-2. In particular, activities commonly known as “motocross tracks”, “dirt bike courses”, motocross or dirt bike “jumps”, “ramps” or “trails” shall be prohibited in or within 1000 feet of areas zoned R-1, R-M, R-A, R-AH, PUD, RS-1, or RS-2.

4-721 Generators of Excessive Noise - Any activity which produces Excessive Noise, excepting those activities excepted under Article 4-722 below;

4-722 Personal Recreational Vehicle Noise - Noise generated by Personal Recreational Vehicles which is received by any Residential Area, either as a Stationary Source, a Mobile Source, or a Circulating Mobile Source, and which exceeds 60dB(A) for any period of five consecutive minutes.

4-723 Exceptions - The following activities shall be exempt from the provisions of Article 4-721 above:

- A) Permitted Excessive Noise;**
- B) Chronologically Pre-Existing Noise Sources**, to the extent that the activity does not constitute Abatable Excessive Noise. A Chronologically Pre-Existing Noise Source which produces Abatable Excessive Noise shall implement abatement techniques to reduce noise levels as much as is practical. In the absence of an agreement between the City and the entity producing the Excessive Noise as to what constitutes a reasonable reduction in the noise levels generated, the practical level to which noise shall be reduced shall be determined by the City Council, after reviewing the following:
 - i) recommendations of a qualified and competent noise consultant;**
 - ii) the financial consequences of requiring abatement;**
 - iii) the degree to which occupants of Residential Areas affected by the noise were or should have been aware of the noise prior to taking up occupancy;**
- C) Generators of Temporary Excessive Noise;**

4-800 Storage of Motor Vehicle Tires

It shall be unlawful to store any complete or partial motor vehicle tire other than within the confines of a fully enclosed and code-compliant building except under the following conditions.

A. Bona Fide Dealers

Business engaged in retail tire sales, motor vehicle repair, motor vehicle sales or other businesses that generate a frequent need to temporarily store tires may store tires in a covered but not enclosed structure, where:

- 1.** The structure prevents rainwater from collecting in the tire casings;
- 2.** During the period from April 1 through October 31 of each year the tires are removed from the site at least weekly;
- 3.** During the period from November 1 through March 31 of each year the tires are removed from the site at least every thirty days.
- 4.** Appropriate visual screening is made to prevent the viewing of the storage area from nearby properties.

5. The property owner has obtained a permit issued by the City Building Official, approving the structure, after verifying the need for the business to use such a structure. The Building Official may attach such additional conditions to the issuance of such permits as the Building Official deems appropriate, and may establish standards and criteria for the proper construction and maintenance of tire structures.

B. All Other Land Uses

Residences, institutions, farms, businesses and all other land uses not possessing a permit for outside tire storage may store not more than four tires out of doors for not more than seven days, under conditions in which the tires are awaiting pickup by a rubbish collector or other service, or are otherwise awaiting transport by the property owner for proper disposal.

C. Exceptions

This portion of the Code shall not apply to tires or parts thereof that have been incorporated into bona fide functional or recreational uses, such as a tire swing or boat dock bumper, provided that the usage is done in a manner so as to prevent the accumulation of water within the tire that could serve as mosquito breeding habitat.

Updated through Ordinance 13-11