

**AN ORDINANCE AMENDING ORDINANCE NO. 16 OF THE TOWN OF WHITE BEAR, RAMSEY COUNTY, MINNESOTA, BEING AN ORDINANCE DEFINING NUISANCES, PROHIBITING THEIR CREATION OR MAINTENANCE AND PROVIDING FOR ABATEMENT AND PENALTIES FOR VIOLATION THEREOF**

**THE TOWN BOARD OF THE TOWN OF WHITE BEAR HEREBY ORDAINS:**

**SECTION 1. AMENDMENT AND REPEAL OF CONFLICTING ORDINANCES.** The Ordinance defining nuisances, prohibiting their creation or maintenance and providing for abatement and penalties for violation thereof passed and approved November 23, 1964, as amended, is hereby amended to read as follows, and all other ordinances or parts of Ordinances inconsistent herewith are hereby repealed. In all other respects all other Ordinances shall remain in full force and effect.

**SECTION 2. DECLARATION OF POLICY.** The purpose of this chapter is to protect the public health, safety and welfare by enactment of provisions which:

- 2-1. Define public nuisances and nuisance conditions.
- 2-2. Determine the responsibilities of owners and operators of dwellings and property for correction of nuisance conditions.
- 2-3. Provide remedies to eliminate public nuisances.
- 2-4. Provide for administration, enforcement and penalties.
- 2-5. Promote the stabilization and maintenance of neighborhoods.

**SECTION 3. DEFINITIONS.** The following definitions shall apply to this chapter:

**3-1. ATTRACTIVE NUISANCE:** A condition such as a dangerous structure, an unsecured vacant or condemned building, or other condition which in the opinion of the Code Enforcement Officer may attract nonowner(s) or other unauthorized person(s) and which would expose them to risk, peril or danger.

**3-2. DANGEROUS STRUCTURE.** A structure which is potentially hazardous to persons or property including, but not limited to:

- 3-2.1. A structure which is in danger of partial or complete collapse; or
- 3-2.2. A structure with any exterior parts which are loose or in danger of falling; or
- 3-2.3. A structure with any parts such as floors, porches, railings, stairs, ramps, balconies or roofs which are accessible and which are either collapsed, in danger of collapsing, or unable to support the weight of normally imposed loads.

**3-3. CODE ENFORCEMENT OFFICER.** The person or party responsible for enforcement of this Ordinance or their duly authorized representative.

**3-4. EXTERMINATION.** The control and/or the elimination of insects, rodents and other pests by integrated pest management which promotes sanitation, harborage control and other nonlethal control methods before the use of legal approved pesticides, trapping and other pest elimination methods.

**3-5. HAZARDOUS WASTE.** Any waste material so defined by Minnesota Statutes 116.06, subdivision 13 or described or listed as hazardous waste in Minnesota Rules Chapter 7045, known as Minnesota Pollution Control and Hazardous Waste Division Hazardous Waste Rules.

**3-6. INTERESTED PARTY.** Any owner of record, occupying tenant or lien holder of record.

**3-7. LAST KNOWN ADDRESS.** The address shown on the records of the Ramsey County Department of Property Taxation or a more recent address known to the Township. In the case of parties not listed in these records, the last known address shall be that address obtained by the Township after a reasonable search.

**3-8. MAIL.** Service by mail shall mean by depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage prepaid thereon.

**3-9. MATERIAL ENDANGERMENT.** Whenever, in the opinion of the Code Enforcement Officer, any condition exists which is so dangerous to the safety or health of the occupants or the public as to justify condemnation of the structure as unfit for human occupancy. Such structure shall be deemed an unlawful structure and the Code Enforcement Officer may cause such structure or dwelling unit to be vacated.

**3-10. NOXIOUS SUBSTANCES.** Substances, solid or fluid, gaseous or odorous, which are detrimental to health, hurtful or dangerous. Noxious substances shall include, but not be limited to, any dead animal or portion thereof, putrid carcass, decayed animal matter, green hides, or any putrid, spoiled, foul or stinking beef, pork, fish, offal, hides, skins, fat, grease, liquors, human or animal excrement or manure.

**3-11. NUISANCE BUILDING.** A vacant building or portion of a vacant building which has multiple housing code or building code violations or has been ordered vacated by the Town and which has conditions constituting material endangerment, or which has a documented and confirmed history as a blighting influence on the community.

**3-12. OWNER.** Those shown to be owner or owners on the records of the Ramsey County Department of Property Taxation.

**3-13. PERSONAL SERVICE.** Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

**3-14. PESTS.** Pests shall include, but not be limited to, pigeons, grackles, starlings, snakes, bats, skunks, raccoons and squirrels.

**3-15. PRIVY.** Any type of nonflush fixture for the receipt and storage of human waste including fixed units with vaults as well as portable units.

**3-16. PROPERTY.** Any parcel of land whether vacant or not, whether any structure thereon is occupied or not, or whether submerged or not.

**3-17. REFUSE.** Putrescible and nonputrescible and combustible and noncombustible waste, including paper, garbage, material resulting from the handling, processing, storage, preparation, serving and consumption of food, vegetable or animal matter, offal, rubbish, plant wastes such as tree trimmings or grass cuttings, ashes, incinerator residue, street cleanings, construction debris, detached vehicle parts, and solid industrial and market wastes.

**3-18. RESPONSIBLE PARTY.** Shall be any one (1) or more of the following:

**3-18.1.** Agent;

**3-18.2.** Assignee or collector of rents;

**3-18.3.** Holder of a contract for deed;

**3-18.4.** A mortgagee or vendee in possession;

**3-18.5.** Receiver or executor or trustee;

**3-18.6.** Lessee;

**3-18.7.** Those known to the Code Enforcement Officer as having an ownership interest; or

**3-18.8.** Other person, firm or corporation exercising apparent control over a property.

**3-19. TOWN.** Means the Town of White Bear, Ramsey County, Minnesota.

**3-20. VACANT BUILDING.** A building or portion of a building which is:

**3-20.1.** Unoccupied and unsecured;

**3-20.2.** Unoccupied and secured by other than normal means;

**3-20.3.** Unoccupied and a dangerous structure;

**3-20.4.** Unoccupied and condemned;

**3-20.5.** Unoccupied and has multiple housing or building code violations;

**3-20.6.** Condemned and illegally occupied; or

**3-20.7.** Unoccupied for a period of time over three hundred sixty-five (365) days and during which time the Code Enforcement Officer has issued an order to correct nuisance conditions.

**3-21. WEEDS.** Shall mean and include not only such noxious weeds as are enumerated in Agriculture Rule 1505.0730 of the State of Minnesota Rules, but also such useless and troublesome plants as are commonly known as weeds to the general public that are over eight (8) inches in height.

**SECTION 4. NUISANCE.** A nuisance shall mean any substance, matter, emission or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety or sanitary condition of the Town or which is offensive or has a blighting influence on the community and which is found upon, in, being discharged or flowing from any street, alley, highway, railroad right-of-way, vehicle, railroad car, water, excavation, building, erection, lot, grounds or other property located within the Town. Nuisances shall include, but not be limited to, those set forth in this section.

**4-1. PUBLIC NUISANCE.** Any thing or condition on property which is known to the common law of the land, the Statutes of Minnesota, or the White Bear Township Ordinances as a nuisance, including, but not limited to a thing, act, or use of property which shall:

**4-1.1.** Annoy, injure or endanger the health, safety, comfort, quietude or repose of the public;

**4-1.2.** Offend public decency;

**4-1.3.** Unlawfully interfere with the use of or obstruct, or tend to obstruct or render dangerous for passage, a public water, park, square, street, alley or highway;

**4-1.4.** Depreciate the value of the property of the inhabitants of the Town of White Bear or of a considerable number thereof;

**4-1.5.** In any way render the inhabitants of the Town of White Bear, or a considerable number thereof, insecure in life or in the use of property; or

**4-1.6.** Pollute, impair or destroy natural resources.

**4-2. PUBLIC NUISANCES AFFECTING HEALTH, SAFETY, COMFORT, OR REPOSE.** Shall include, but not be limited to:

**4-2.1.** All decayed or unwholesome food offered for sale to the public;

**4-2.2.** All diseased animals running at large;

**4-2.3.** Milk which is produced by cows which have not been tested and found free of tuberculosis within the year previous to the offering of such milk for sale to the public;

**4-2.4.** Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;

**4-2.5.** Conditions which are conducive to the presence, harborage, or breeding of insects, rodents, vermin, or other pests.

**4-2.6.** Accumulations of manure or rubbish;

**4-2.7.** Privy vaults and garbage cans which are not fly-tight;

**4-2.8.** Any broken sewer line or defective connection to an underground sewer system which is open, broken, disconnected or which has not been properly sealed and which could allow the egress of rodents from the sewer;

**4-2.9.** Dumping the contents of any cesspool, privy vault or garbage can except at places authorized by law; or allowing any cesspool or individual sewage disposal system to overflow in any manner;

**4-2.9(a).** Structures for sanitation such as privies, vaults, sewers, private drains, septic tanks, cesspools, or drain fields which have failed or do not function properly or which are overflowing, leaking or emanating odors, including septic tanks, cesspools or cisterns which are abandoned or no longer in use unless they are emptied and filled with clean fill.

**4-2.10.** All noxious weeds, tall grasses, brush, and other rank growths as defined in Ordinance No. 41, Section 1.

**4-2.11.** An accumulation of tin cans, bottles or trash or debris of any nature or description; and the throwing, dumping, or depositing of any dead animals, manure, garbage, waste, decaying matter, ground, sand, stones, ashes, rubbish, tin cans, or other material or debris of any kind on private property.

**4-2.12.** Dense smoke or noxious fumes that are detectable beyond the limits of the property or cinders in unreasonable quantities.

**4-2.13.** Stagnant water standing on any property. Any property, container or material kept in such a condition that water can accumulate and stagnate.

**4-2.14.** Offensive trades and businesses as defined by statute or Ordinance not licensed as provided by law;

**4-2.15.** All public exposure of persons having a contagious disease;

**4-2.16.** The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person by someone properly licensed;

**4-2.17.** All other acts, omission of acts, occupations and uses of property which are deemed by the Board of Health to be a menace to the health of the inhabitants of the Town or a considerable number thereof; or

**4-2.18.** The operation of recreational motor vehicles in a manner which pollutes, impairs or destroys natural resources.

**4-3. PUBLIC NUISANCES AFFECTING PUBLIC MORALS AND DECENCY:**

Shall include, but not be limited to:

**4-3.1.** All illegal gambling devices, including slot machines, punch boards, betting, and bookmaking.

**4-3.2.** Betting, bookmaking, and all apparatuses used in such occupations;

**4-3.3.** All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

**4-3.4.** All places where intoxicating liquors are manufactured, sold, bartered or given away in violation of law, or where persons are permitted to resort for the purpose of drinking intoxicating liquors as a beverage contrary to law, or where intoxicating liquors are kept for sale, barter or distribution in violation of the law, and all liquors, bottles, kegs, pumps, bars and other property kept at and used for maintaining such a place;

**4-3.5.** Any vehicle used for the illegal transportation of intoxicating liquor or any immoral purpose;

**4-3.6.** All indecent or obscene pictures, books, pamphlets, magazines and newspapers and billboards;

**4-3.7.** The public use of profane or obscene language;

**4-3.8.** The looking into or peeping through doors, windows, or opening of private homes by methods of stealth and without proper authority and by surreptitious methods, or what is commonly known as "window peeping"; or

**4-3.9.** All other things, acts, omissions, or occupations that may be considered detrimental to the moral well being of the inhabitants of the Town or a considerable number thereof.

**4-4. NUISANCES AFFECTING PUBLIC PEACE AND SAFETY.** Shall include, but not be limited to:

**4-4.1.** All snow and ice not removed from public sidewalks twelve (12) hours after the snow and ice has ceased to be deposited thereon;

**4-4.2.** All wires which are strung less than fifteen (15) feet above the surface of any public street or alley;

**4-4.3.** All shrubs, bushes, trees, vines or other uncontrolled vegetation which has grown over a public sidewalk and which obstructs, interferes, or renders dangerous for passage any public sidewalk;

**4-4.4.** All dangerous structures as defined by this ordinance;

**4-4.5.** Any building or portion of a building which is a nuisance building as defined by this ordinance;

**4-4.6.** Vacant buildings as defined by this ordinance;

**4-4.7.** All exterior surfaces of residential structures or accessory thereto having a surface covering material that is blistered, cracked, flaked, scaled or chipped away, or has exposed wood that is not protected from the elements and decay by paint or other protective covering treatment, which creates a blighting influence on the community.

**4-4.8.** Any thing or condition, including explosive, inflammable liquids and other dangerous substances or materials stored or accumulated in any manner or in any amount other than that provided by law or Ordinance, or which, in the opinion of the Code Enforcement Officer, creates a fire hazard or which is a violation of the Fire Ordinance.

**4-4.9.** Piles of wood cut for fuel which are detrimental to the health, safety and welfare of the public because of conditions including, but not limited to, improper or unsafe storage, unelevated piles of wood, excessive quantities, conducive to vermin harborage, and more than five (5) feet in height or closer than ten (10) feet to a habitable building.

**4-4.10.** All use of display or fireworks except as provided by law or Ordinance;

**4-4.11.** All unnecessary noises and annoying vibrations;

**4-4.12.** All buildings and all alterations to buildings made or erected in violation of Fire Ordinance concerning manner and materials and construction;

**4-4.13.** Obstructions and excavations affecting the ordinary use of the public of streets, alleys, sidewalks or public grounds, except under such conditions as are provided by Ordinance, and any other excavation left unprotected or uncovered indefinitely or allowed to exist in such manner as to attract minor children;

**4-4.14.** Radio aerials strung or erected in any manner except that provided by law or Ordinance.

**4-4.15.** The piling, storing, or keeping of old machinery, wrecked or junked vehicles, and other junk or debris;

**4-4.16.** The 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 use of public streets or sidewalks;

**4-4.17.** All hanging signs, awnings, and other similar structures over public streets and sidewalks, or so situated as to endanger public safety, not constructed and maintained as provided by law or Ordinance, or without proper permit.

**4-4.18.** The allowing of rain, water, ice or snow to fall from any building on any public street or sidewalk or to flow across any public sidewalk;

**4-4.19.** All dangerous, unguarded machinery, equipment, or other property in any public place, or so situated or operated on private property as to attract minor children;

**4-4.20.** Throwing, dropping, or releasing printed matter, paper, or any other materials or objects over and upon the Town from an airplane, balloon or other aircraft, or in such a manner as to cause such materials to fall on land in the Town;

**4-4.21.** Any initials, marks, symbols, designs, inscriptions or other drawings, scratched, painted, inscribed or otherwise affixed upon any structure without the permission of the owner.

**4-4.22.** Placing entrance culverts, or doing any act which may alter or affect the drainage of public streets or alleys or the surface or grade of public streets, alleys or sidewalks without proper permit;

**4-4.23.** Making repair to motor vehicles, or tires in public streets or alleys, excepting only emergency repairs when it will not unduly impede or interfere with traffic;

**4-4.24.** Throwing, placing, depositing, or burning leaves, trash, lawn clippings, weeds, grass, or other materials in the streets, alleys or gutters;

**4-4.25.** Erecting, painting or placing of unauthorized traffic signs or advertising signs in streets, or alleys or on sidewalks;

**4-4.26.** All unnecessary interference's and disturbance of radios or TV sets caused by defective electrical appliances and equipment or improper operation thereof; or

**4-4.27.** All other conditions, acts, or things, including, but not limited to, open holes, open foundations, open wells, dangerous trees or limbs, abandoned

refrigerators or trapping devices, which may contribute to injury to the person or property of anyone.

## **SECTION 5. VIOLATIONS.**

**5-1.** No person shall, directly or indirectly or by omission, create a nuisance.

**5-1.1.** No owner or responsible party shall allow a nuisance to remain upon or in any property or structure under his or her control.

**5-1.2.** No owner of any truck, trailer, railroad car or flat, or other vehicle shall leave the vehicle standing on or along any street, highway, freeway or railroad track, or other property within the Town, carrying or containing any refuse, noxious substance or hazardous waste, except as otherwise permitted by law or ordinance.

**5-2.** Upon the request of the Code Enforcement Officer, a responsible party or owner shall disclose the name of any other responsible party or owner known to him. This shall include, but not be limited to, the person for whom he/she is acting, from whom he/she is leasing the property, to whom he/she is leasing the property, with whom he/she shares joint ownership, or with whom he/she has any contract pertaining to the real property.

## **SECTION 6. ENFORCEMENT**

**6-1. ORDER TO CEASE.** In the event that the Code Enforcement Officer observes a person creating a nuisance, the Code Enforcement Officer may, after presenting proper identification, order that the person cease and desist creating a nuisance.

**6-2. CODE ENFORCEMENT OFFICER AUTHORIZED TO ENTER.** The Code Enforcement Officer shall be authorized to enter any property or structure in the Town for the purpose of enforcing and assuring compliance with the provisions of this Section. An owner or responsible party shall, upon the request of the Code Enforcement Officer, provide access to all interior portions of a building in order to permit the Code Enforcement Officer to make a complete inspection.

## **SECTION 7. AUTHORITY TO ABATE NUISANCE.**

**7-1.** The Town is authorized to abate nuisances in accordance with the procedures set forth in Sections 9, 10, and 11. All abatement costs incurred by the Town shall be charged against the property as a special assessment to be collected in the manner provided for in Section 12. The Town shall use Hearing Officers to provide landowners with an initial opportunity to be heard on proposed nuisance abatements. The Hearing Officer shall be a neutral third party retained by the Town to conduct administrative hearings, either for the purposes of nuisance abatement, or in connection with other administrative enforcement programs authorized by the Town Board.

**7-2.** Abatement work may include, but shall not be limited to, removal, cleaning, painting of exterior surfaces, extermination, cutting, mowing, grading, sewer repairs,

draining, securing, boarding unoccupied structures, barricading or fencing, removing dangerous portions of structures and demolition of dangerous structures or abandoned buildings.

**7-3.** Abatement costs shall include specifically, but not exclusively, the cost of the abatement; the cost of investigation, including title searches, inspections and testing; the cost of notification including service costs; filing costs; attorney fees, witness fees and appraisers' fees;

**7-4.** The Town shall also impose and collect an administrative charge in an amount equal to twenty-five percent (25%) of the expenditures authorized for assessment under Section 7-3. Upon application made to the Town prior to certification of abatement costs to the County Auditor for assessment with taxes, the Town Board may elect to waive all or part of the administrative charge upon demonstrated hardship. In making an assessment of hardship, the Town Board may consider evidence of changed circumstances, including but not limited to: loss or reduction of employment, disability, serious illness or medical care of the property owner or the owner's family member, death of a family member. The Town Board may also consider any criteria that would qualify an owner for deferral of assessments under Minn. Stat. § 435.193. In deciding whether to grant a waiver, the Town Board shall only consider the applicant's ability to pay the administrative charge, and not the underlying abatement work or costs for same.

## **SECTION 8. SERVICE.**

**8-1.** When service of an order or notice is required, any one (1) or more of the following methods of service shall be adequate:

**8-1.1.** By personal service;

**8-1.2.** By certified mail, through the U.S. Postal Service;

**8-1.3.** By U.S. mail, unless it is a written order which gives three (3) days or less for the completion of any act it requires; or

**8-1.4.** If the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the order in a conspicuous place on the property.

**8-2.** If a mailed order or notice is returned by the United States Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed.

**SECTION 9. ABATEMENT PROCEDURE.** Except as provided for in Sections 10 or 11, the Town may abate the nuisance by the procedure described below:

**9-1. ORDER.** The Code Enforcement Officer shall serve a written order upon the owner. The written order shall also be served upon any responsible party known to the Township and may be served upon any party known to have caused the nuisance. The written order shall contain the following:

**9-1.1.** A description of the real estate sufficient for identification;

**9-1.2.** A description and location of the nuisance and the remedial action required to abate the nuisance;

**9-1.3.** The abatement deadline, to be determined by the Code Enforcement Officer, allowing a reasonable time for the performance of any act required;

**9-1.4.** A statement that the order may be appealed and a hearing before a Hearing Officer obtained by filing a written request with the Town Clerk before the appeal deadline, which shall be the abatement deadline designated in the order or seven (7) calendar days after the date of the order, whichever comes first; and

**9-1.5.** A statement that, if the remedial action is not taken nor a request for an appeal hearing filed with the Town Clerk within the time specified, the Town will abate the nuisance and charge all costs incurred therein against the real estate as a special assessment to be collected in the same manner as property taxes along with an administrative charge as defined in Section 7-4.

**9-2. SETTING HEARING DATE.** In the event that an appeal is filed with the Town Clerk, the Town Board shall within two (2) weeks fix a date for an appeal hearing.

**9-3. NOTICE OF HEARING DATE.** In the event that an appeal is filed, the Town Clerk shall mail a notice of the date, time, place and subject of the hearing to the owner and known responsible parties. The Town Clerk shall also mail the notice to the surrounding property owners and occupants within 350 feet. The Town Clerk shall also notify the Code Enforcement Officer.

**9-4. HEARING OFFICER.** A Hearing Officer appointed by the Town Board shall convene an appeal hearing at which time the appellant shall have an opportunity to present evidence and testimony to support the appeal of the abatement order. The Hearing Officer may receive evidence and testimony from the Code Enforcement Officer and other parties who wish to be heard. Upon receiving the evidence and testimony, the Hearing Officer shall make a written recommendation to the Town Board which may confirm, modify, revoke, alter or cancel the order of the Code Enforcement Officer.

**9-5. HEARING.** The Town Board shall review the recommendations of the Hearing Officer and may confirm, modify or approve the order of the Code Enforcement Officer. If the Town Board determination requires abatement, the Town Board shall, in the resolution, fix a time within which the nuisance must be abated and shall provide

that, if the nuisance is not eliminated within the time specified, the Town may abate the nuisance and assess the costs of the abatement to the subject real estate as a special assessment.

**9-6. ABATEMENT.** If the remedial action is not taken nor an appeal filed within the time specified, the Town may abate the nuisance.

**SECTION 10. SUBSTANTIAL ABATEMENT PROCEDURE.** When the Code Enforcement Officer determines that a nuisance exists on a property and the cost of abatement of the nuisance is estimated to exceed five thousand dollars (\$5,000.00), or the abatement involves demolition of a building other than a structure accessory to a residential building, or the abatement substantially diminishes the value of the property, and except in the case of an emergency as provided for in Section 11, the Town shall abate the nuisance by the procedure described below. A good faith estimate of the abatement costs, not the actual cost calculated after the abatement is completed, shall be the basis which determines whether this abatement procedure shall be used.

**10-1. ORDERS.** The Code Enforcement Officer shall serve a written order upon the owner, all interested parties and any responsible party known to the officer. The order shall contain the following:

**10-1.1.** A description of the real estate which is sufficient for identification and which shall include the legal description;

**10-1.2.** The location of the nuisance on the property;

**10-1.3.** A description of the nuisance and the basis upon which it is declared to be a nuisance;

**10-1.4.** The remedial action required to abate the nuisance;

**10-1.5.** The abatement deadline, to be determined by the Code Enforcement Officer, allowing a reasonable time for the completion of any act required;

**10-1.6.** A statement that if the remedial action is not taken before the abatement deadline, the matter will be referred to the Town Board, who, after a public hearing, may order the Town to abate the nuisance and charge all costs incurred against the real estate as a special assessment to be collected in the same manner as taxes.

**10-2. NOTICE TO PUBLIC.** When an order requires, exclusively or as an option, the demolition of a building, the public shall be put on notice as follows:

**10-2.1.** The owner or any responsible party is required to provide full disclosure of the order to abate to all interested parties, all present or subsequent renters, and any subsequent owners.

**10-2.2.** The Code Enforcement Officer shall post a placard in a conspicuous place which declares the property a “nuisance building” which shall include the following:

- 10-2.2(a).** Name of the Town;
- 10-2.2(b).** The name of the authorized department having jurisdiction;
- 10-2.2(c).** The chapter and section of the ordinance under which it is issued;
- 10-2.2(d).** A statement declaring the property to be a nuisance condition and subject to demolition;
- 10-2.2(e).** The date that the placard of nuisance condition is posted;
- 10-2.2(f).** A statement of the penalty for defacing or removal of the placard.

**10-2.3.** The Code Enforcement Officer shall forward the Order to Abate to the Town Board for receipt and review.

**10-3. SETTING HEARING DATE.** If the remedial action is not taken within the time specified in the written order, the Code Enforcement Officer will notify the Town Board that substantial abatement is necessary and appropriate. Upon being notified by the Code Enforcement Officer, the Town Clerk shall, within two (2) weeks, fix a date for an abatement hearing for the Town Board.

**10-4. NOTICE.** Written notice of the time, date, place and subject of the hearing shall be given as set forth in this subdivision.

**10-4.1.** The Town Clerk shall immediately notify the Code Enforcement Officer.

**10-4.2.** At least ten (10) calendar days prior to the hearing, the Code Enforcement Officer shall notify the owner or his duly authorized representative by personal service of the notice of hearing and all interested parties or their duly authorized representative by certified mail. If, after reasonable effort, service cannot be made, either of the following methods of notice shall be considered adequate.

**10-4.2(a).** Confirmed mail service which is either certified mail with signed receipt returned or first class mail confirmed by written response.

**10-4.2(b).** Mailing the notice to the last-known address and publishing the notice once a week for two (2) weeks in a newspaper of general circulation in the Town and posting the notice in a conspicuous place on the building or property.

**10-4.3.** The Town Clerk shall notify the Town Board and cause the notice of public hearing to be published on the Board's agenda.

**10-5. HEARING OFFICER.** Prior to the Town Board hearing, a Hearing Officer will be assigned to the matter and shall provide the appellant with an opportunity to meet and informally discuss the matter. The Hearing Officer may submit to the Town Board a recommendation based on the information obtained at such a meeting.

**10-6. HEARING.** At the time of the public hearing, the Town Board shall hear from the Code Enforcement Officer and any other parties who wish to be heard. After the hearing, the Town Board shall adopt a resolution describing what abatement action, if any, the Board deems appropriate. If the resolution calls for abatement action, the Board shall fix a time in which the nuisance must be abated, and provide that if corrective action is not taken within the specified time, the Town shall abate the nuisance and assess the costs of the abatement to the subject real estate as a special assessment.

**10-7. NOTICE OF TOWN BOARD ACTION.** The Town Clerk shall give a copy of this resolution to the Code Enforcement Officer, who shall serve copies to any of the parties required to be notified in Section 10-4.

**SECTION 11. EMERGENCY ABATEMENT PROCEDURE.** When the Code Enforcement Officer determines that an attractive nuisance, a nuisance condition or a dangerous structure exists on a property which constitutes an immediate danger or hazard which if not immediately abated will endanger the health or safety of the public and there does not exist sufficient time to follow the procedures of Sections 9 and 10, the Town may abate the nuisance by the procedure described below:

**11-1. ORDER.** The Town shall order emergency abatement by an administrative order to be signed by the Town Clerk or their officially designated representative.

**11-2. NOTICE OF ABATEMENT.** Following an emergency abatement, the Board shall schedule a hearing following notice thereof given in accordance with the requirements set forth in Minnesota Statutes. The notice shall contain:

- 11-2.1.** A description of the nuisance;
- 11-2.2.** The action taken by the Town;
- 11-2.3.** The reasons for immediate action;
- 11-2.4.** The costs incurred in abating the nuisance; and
- 11-2.5.** The date, time and place of the public hearing.

**11-3. HEARING OFFICER.** Prior to the hearing, a Hearing Officer appointed by the Town Board shall provide the owner with an opportunity to meet and informally discuss the matter. The Hearing Officer may submit to the Board a recommendation based on the information obtained at such a meeting.

**11-4. HEARING.** At the time of the hearing, the Town Board shall hear from the Code Enforcement Officer and any other parties who wish to be heard. After the hearing, the Town Board may adopt a resolution levying an assessment for all or a portion of the costs incurred by the Town in abating the nuisance payable in a single installment, or by up to ten (10) equal annual installments as the Board may provide.

**SECTION 12. COLLECTION OF ABATEMENT COSTS.** In the event the Town abates the nuisance pursuant to a Town Board order, all costs incurred by the Town shall be calculated and reported to the Board. If not already required, the Board shall schedule a hearing to adopt the final statement of charges and certify the same for assessment against property taxes. Notice of the hearing shall be given by mail and by publication in the same manner as local-improvement assessments of the Town. An owner of property to be assessed for abatement costs has the procedural rights afforded to an owner assessed for other purposes, including the ability to appeal to District Court if written objection to the assessment is made at or before the Town Board's hearing on the assessment. If the Town Board, following the hearing, shall approve some or all of the abatement charges, it shall adopt a resolution adopting the same as a special assessment against the property. The Town Board may elect to make the assessment payable in a single installment or by up to ten (10) equal annual installments, at the Board's discretion.

**SECTION 13. ADOPTION BY REFERENCE.** Minnesota Noise Pollution Control Rules, Minnesota Rules Chapter 7030 of the Minnesota Pollution Control Agency, Air Quality Division, Noise Pollution Control, as amended, are hereby incorporated by reference and made a part hereof, as if fully set out herein.

**SECTION 14. CLANDESTINE DRUG LAB SITE - PURPOSE AND INTENT.** The purpose of this Section is to protect the public health, safety and welfare and to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab or chemical dump site may exist. These conditions present health and safety risks to occupants and visitors of such structures and land through fire, explosion and skin and respiratory exposure to chemicals. The Town Board finds that such sites may contain hazardous chemicals, substances, or residues that place people, particularly children or adults of child-bearing age, at risk of exposure through inhabiting the property, visiting the property or using or being exposed to contaminated personal property.

**14-1. DEFINITIONS.**

**14-1.1. CHILD** means any person less than 18 years of age.

**14-1.2. CHEMICAL DUMP SITE** means any place or area where chemicals or other waste materials have been located.

**14-1.3. CLANDESTINE DRUG LAB** means the unlawful manufacture or attempt to manufacture controlled substances.

**14-1.4. CLANDESTINE DRUG LAB SITE** means any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site includes any dwellings, accessory structures, buildings, a chemical dump site, a vehicle, boat, trailer or other similar appliance or any other area, land or location.

**14-1.5. CLEANUP** means proper removal and/or containment of substances hazardous to humans and/or the environment at a clandestine drug lab site or chemical dump site.

**14-1.6. CONTROLLED SUBSTANCE** means any drug, substance or immediate precursor in Schedules I through V of Minnesota Statutes, § 152.02. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

**14-1.7. OWNER** means any person, firm, corporation, or other entity who owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a clandestine drug lab site or chemical dump site.

**14-1.8. PUBLIC HEALTH NUISANCE** means a nuisance as defined above or under Minnesota Statutes, § 145A.02, subdivision 17.

**14-1.9. REMEDIATION** means methods such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of contaminated materials from a clandestine drug lab site or chemical dump site.

#### **14-2. DECLARATION OF PROPERTY AS A PUBLIC HEALTH NUISANCE.**

**14-2.1.** Any property containing a clandestine drug lab or chemical dump site will be declared a public health nuisance.

**14-2.2.** No person may occupy, enter or allow occupancy or entrance to property declared a public health nuisance under this Section until such declaration is vacated or modified to allow occupancy.

**14-3. LAW ENFORCEMENT NOTICE TO OTHER AUTHORITIES.** Upon identification of a clandestine drug lab site or chemical dump site deemed to place neighbors, visiting public, or present and future occupants of the affected property at risk for exposure to harmful contaminants and other associated conditions, law

enforcement officials shall notify the Town Building Official and other appropriate municipal, child protection, and public health authorities of the property location, the property owner if known, and conditions found.

#### **14-4. SEIZURE OF PROPERTY.**

**14-4.1.** If a clandestine drug lab or chemical dump site is located inside a vehicle, boat, trailer, or other form of moveable personal property, law enforcement authorities may immediately seize such property and transport it to a more secure location.

**14-4.2.** Personal property may not be removed from a clandestine drug lab site or a chemical dump site without the prior consent from the Town Building Official.

#### **14-5. ACTION BY TOWN BUILDING OFFICIAL.**

**14-5.1.** Upon notification by law enforcement authorities, the Town Building Official or other appropriate municipal or public health authority will issue a Declaration of Public Health Nuisance for the affected property and post a copy of the Declaration at all probable entrances to the dwelling or property.

**14-5.2.** Removal of the posted Declaration of Public Health Nuisance by anyone other than the Town Building Official, law enforcement authorities, or their designees, is prohibited.

**14-5.3.** The Town Building Official shall also attempt to notify the following parties of the Declaration of Public Health Nuisance:

**14-5.3(a).** Owner of the property;

**14-5.3(b).** Occupants of the property;

**14-5.4(c).** Neighbors within close proximity that can be reasonably affected by the conditions found;

**14-5.5(d).** The Ramsey County Sheriff's Department; and

**14-5.6(e).** Other state and local authorities, such as the Minnesota Pollution Control Agency and the Minnesota Department of Public Health, which are known to have public and environmental protection responsibilities applicable to the situation.

**14-5.4.** Any rental license issued by the Town for the property is immediately suspended upon issuance of the Declaration of Public Health Nuisance. Such license will be reinstated only after full compliance with an abatement order.

**14-5.5.** After issuance of the Declaration of Public Health Nuisance, the Town Building Official will issue an order to the property owner to abate the public health nuisance. The abatement order will include the following:

- 14-5.5(a).** A copy of the Declaration of Public Health Nuisance;
- 14-5.5(b).** An order to immediately vacate those portions of the property, including building or structure interiors, which may place the occupants or visitors at risk;
- 14-5.6(c).** Notification of suspension of the rental license, if applicable;
- 14-5.7(d).** A summary of the owner's and occupant's responsibilities;
- 14-5.8(e).** Information on locating professional services necessary to remove and abate the public health nuisance status as provided in this Ordinance and Minnesota Statute Section 145A.04; and
- 14-5.9(f).** Information about the potentially hazardous condition of the clandestine drug lab site or chemical dump site.

#### **14-6. RESPONSIBILITIES OF OWNER.**

**14-6.1.** Upon receipt of an abatement order by the Town Building Official, the property owner must, at the owner's expense:

- 14-6.1(a).** Immediately vacate those portions of the property, including building or structure interiors, that may place the occupants or visitors at risk. This includes dwellings, buildings, motor vehicles, trailers, boats, appliances or any other affected area or location. No person shall occupy, enter or allow occupancy or entrance to a building or structure declared a Public Health Nuisance until such declaration is vacated or modified to allow occupancy;

- 14-6.2(b).** Properly secure and post warning signs on the perimeter of any contaminated areas on the property in an effort to avoid exposure to unsuspecting parties;
- 14-6.2(c).** Promptly contract with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided assurance of appropriate equipment, procedures, and personnel, as determined by the Minnesota Department of Health) to accomplish the following:
- 14-6.2(c).1.** A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
  - 14-6.2(c).2.** Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;
  - 14-6.2(c).3.** A complete cleanup of all property and soil at the site and in proximity to the site that is found to be affected by conditions found at the site (including but not limited to, the cleanup or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete cleanup of the demolished site;
  - 14-6.2(c).4.** Remediation testing and follow-up testing to determine all health risks are sufficiently reduced, according to the Minnesota Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein.
- 14-6.2(d).** Regularly notify the Town of actions taken and reach agreement with the Town on the cleanup schedule. The Town shall consider practical limitations and the availability of contractors in approving the schedule for cleanup; and
- 14-6.2(e).** Provide written documentation to the Town of the cleanup process, including a signed, written statement that the property is safe for human

occupancy and that the cleanup was conducted in accordance with Minnesota Department of Health guidelines.

- 14-6.2(f).** The property may not be re-occupied or used in any manner until the Town has obtained the written statement in Section 13-6.2(f) and has confirmed that the property has been cleaned in accordance with the guidelines established by the Minnesota Department of Health.

**14-7. OWNER'S RESPONSIBILITY FOR COSTS.** The owner is responsible for all costs associated with nuisance abatement and cleanup of the clandestine drug lab site or chemical dump site, including, but not limited to, costs for:

- 14-7.1.** Emergency Response;
- 14-7.2.** Posting and physical security of the site;
- 14-7.3.** Notification of affected parties;
- 14-7.4.** Expenses related to the recovery of costs, including the assessment process;
- 14-7.5.** Laboratory Fees;
- 14-7.6.** Cleanup services;
- 14-7.7.** Administrative fees; and
- 14-7.8.** Other associated costs

**14-8. TOWN AUTHORITY TO INITIATE CLEANUP AND RECOVERY OF COSTS.**

**14-8.1.** If, within ten (10) days after service of notice of the Declaration of Public Health Nuisance, the Town is unable to locate the property owner or if the Town Building Official determines that the owner refuses to, or cannot pay the costs, or arrange timely assessment and cleanup that is acceptable to the Town, the Town Building Official is authorized to proceed in a prompt manner to initiate the on-site assessment and cleanup.

**14-8.2.** The abatement procedure and recovery of Town costs shall proceed in the manner provided by Sections 7 through 12 above.

**14-9. TOWN AUTHORITY TO MODIFY OR REMOVE DECLARATION OF PUBLIC HEALTH NUISANCE.**

**14-9.1.** The Town Building Official is authorized to modify the Declaration conditions or remove the Declaration of Public Health Nuisance.

**14-9.2.** Such modifications or removal of the Declaration shall only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks, including those to neighbors and potential dwelling occupants, are sufficiently abated or corrected to allow safe occupancy of the dwelling.

**SECTION 15. OUTDOOR WOOD STORAGE – PURPOSE AND INTENT.** The purpose of this Section is to protect public health, safety and welfare by ensuring the proper outdoor storage of wood on residential properties in the Town of White Bear.

**15-1. DEFINITIONS.**

**15-1.1. CORD OF FIREWOOD** means unit of cut fuel wood, equal to 128 cubic feet in a stack.

**15-1.2. FIREWOOD** means wood or wood products used or intended for heating fuel in a residential structure, or for a recreational fire. Painted or treated wood shall not be considered firewood.

**15-1.3. NEAT SECURE STACK** means a stack of firewood that is piled in a regular, orderly arrangement that is stable and reasonably resistant to collapse.

**15-2. REGULATIONS.**

**15-2.1.** Except for firewood and construction materials necessary for on-site work, no wood or wood products shall be kept or stored outside of a residential premises.

**15-2.2.** Firewood may be stored upon a residential premises solely for use on the premises and not for resale.

**15-2.3.** All firewood located outside of a residential premises shall be stored as follows:

**15-2.3(a).** The firewood shall be cut/split to a uniform shape, thirty inches in length or less, stored in neat secure stacks and prepared for use.

**15-2.3(b).** Firewood shall not be in a deteriorating state.

**15-2.3(c).** No firewood shall be stored within 5 feet of any side or rear property line, unless screened from adjacent properties by a 100% opaque fence or wall.

**15-2.3(d).** No firewood shall be stored in a public right-of-way or the public right-of-way side (front yard) of a property.

**15-2.3(e).** Firewood shall be stored no higher than 6 feet.

**15-2.3(f).** Firewood shall be elevated at least 4" above grade, unless stored on an impervious surface.

**15-2.3(g).** Firewood shall not be infested with rats, rodents, vermin, or insects.

**15-2.3(h).** No more than two (2) cords of firewood shall be stored outside per property.

**15-3. EXEMPTIONS.** Wood storage under the following circumstances shall be exempt from the requirements outlined above:

**15-3.1.** Wood stored or kept in a covered structure.

**15-3.2.** Temporary storage of logs up to 30 days is allowed for the purpose of cutting and splitting logs to a size usable in the property's wood burning device.

**15-4. ABATEMENT OF NUISANCE.** Whenever it is determined by the Town's Code Enforcement Officer that a public nuisance exists on a property due to firewood storage, the Town shall follow the abatement procedure stated in Sections 7 through 12 of this Ordinance.

## **SECTION 16. PORTABLE STORAGE / DISPOSAL CONTAINER UNIT.**

**16-1. DEFINITION.** The following definition shall apply to this Ordinance:

**16-1.1. PORTABLE STORAGE / DISPOSAL CONTAINER UNIT.** Shall mean any enclosed or open container constructed of any material used for temporary or long term storage of personal property or any container used to dispose of solid waste, construction debris, or any other refuse.

**16-2.** No property owner or person shall store on a residential property a portable storage / disposal container unit more than thirty (30) days in any 12-month period starting with the day / date the container unit is first moved on-site. All portable storage / disposal container units must be stored on an impervious surface on the property. The Township may grant a time extension of an additional sixty (60) days provided the property owner gets a tracking permit for the container from the Township.

In no case shall a portable storage / disposal container unit be stored on a property more than ninety (90) days in any 12-month period. This provision applies to all residential properties including single family homes, townhouses, condominiums, and multi-family complexes.

**16-3.** Portable storage / disposal container units stored on residential properties in conjunction with a building permit or home improvement project are exempt from these provisions, except for the requirement to keep the container unit on an impervious surface. In such a case, the property owner shall make every effort to adhere to the 120 day maximum time limit.

**16-4.** Portable storage / disposal container units meeting the definition set forth in Section 16-1.1. which are used for regular refuse and recycling pick-up on commercial or industrial properties shall be exempt.

**SECTION 17. PENALTY.** Any person who violates any provision of this chapter, or fails to comply with a lawful order issued pursuant to Section 6-1, shall be guilty of a misdemeanor. Each day during which any noncompliance or violation continues shall constitute separate misdemeanor offenses.

**SECTION 18. OTHER REMEDIES.**

**18-1.** The time limits specified in any order issued under Section 10 is the applicable time period for completion of the rehabilitation and shall supersede all other time limits.

**18-2.** Nothing in this Ordinance shall be construed as pertaining to snow removal or to abandoned vehicles.

**18-3.** Nothing in this Ordinance shall preclude the Town from prosecuting any alleged violations of related Minnesota Statutes, including Minnesota Statutes, § 609.74 and § 609.745.

**SECTION 19. SEVERABILITY.** Should any section, subdivision, clause or other provisions of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid.

**SECTION 20. EFFECTIVE DATE.** This Ordinance shall take effect and be in force from and after its passage and publication.

Passed by the Town Board of the Town of White Bear, this 1<sup>st</sup> day of February, 2010.

APPROVED:



RICHARD SAND, Chairman

ATTEST:



WILLIAM F. SHORT, Clerk-Treasurer

Board of Supervisors:  
RICHARD A. SAND, Chair  
WILLIAM R. MAMPLE, Supervisor  
ROBERT J. KERMES, Supervisor

Synopsis Published in the White Bear Press February 10, 2010.

Historical Notes

2010

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 passed February 1, 2010, and effective February 10, 2010 by Sand (Chair), Mample and Kermes; Short (Clerk-Treasurer).

2008

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 passed June 16, 2008, and effective June 25, 2008 by Weisenburger (Chair), Sand and Mample; Short (Clerk-Treasurer).

Section 12, 13, 14 passed April 21, 2008, and effective May 14, 2008 by Weisenburger (Chair), Sand and Mample; Short (Clerk-Treasurer).

2005

Section 11, 12, and 13 passed January 3, 2005, and effective February 2, 2005 by Weisenburger (Chair), Sand and Mample; Short (Clerk-Treasurer).

2004

Section 3.j passed August 2, 2004, and effective August 11, 2004 by Weisenburger (Chair), Sand and Mample; Short (Clerk-Treasurer).

1995

Section 1, 2, 3, 10, 11, and 12 passed December 18, 1995, and effective December 27, 1995 by Weisenburger (Chair), Sand and Ford; Short (Clerk-Treasurer).

1991

Section 4, 6, and 9 passed November 18, 1991, and effective December 4, 1991 by Weisenburger (Chair), Sand and Ford; Short (Clerk-Treasurer).

1964

Ordinance, Title and Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 originally passed November 23, 1964 by Kumm (Chair), and effective December 3, 1964, Rooney and Johnson; Pope (Clerk-Treasurer).

**CHAPTER 7030**  
**MINNESOTA POLLUTION CONTROL AGENCY**  
**NOISE POLLUTION CONTROL**

**GENERALLY**

- 7030.0010 INCORPORATION BY REFERENCE.
- 7030.0020 DEFINITIONS.
- 7030.0030 NOISE CONTROL REQUIREMENT.
- 7030.0040 NOISE STANDARDS.
- 7030.0050 NOISE AREA CLASSIFICATION.
- 7030.0060 MEASUREMENT METHODOLOGY.
- 7030.0070 SOUND ATTENUATION MEASUREMENT METHODOLOGY.
- 7030.0080 VARIANCE.

**MOTOR VEHICLE NOISE LIMITS**

- 7030.1000 DEFINITION.
- 7030.1010 PROHIBITIONS.
- 7030.1020 SCOPE.
- 7030.1030 EXCEPTIONS.
- 7030.1040 NOISE LIMIT FOR VEHICLES OVER 10,000 POUNDS.
- 7030.1050 MOTOR VEHICLE NOISE LIMITS FOR MOTORCYCLES.
- 7030.1060 NOISE LIMITS FOR OTHER VEHICLES.

**GENERALLY**

**7030.0010 INCORPORATION BY REFERENCE.**

For the purpose of chapter 7030, American National Standards Institute, Specification for Sound Level Meters, S1.4-1983 is incorporated by reference. This publication is available from the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018 and can be found at: the offices of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113; the Government Documents Section, Room 409, Wilson Library, University of Minnesota, 309 19th Avenue South, Minneapolis, Minnesota 55454; and the State of Minnesota Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155. This document is not subject to frequent change.

The Federal Highway Administration publication, Sound Procedures for Measuring Highway Noise: Final Report, FHWA-DP-45-1R (August 1981) is incorporated by reference. This publication is available from the United States Department of Transportation, Federal Highway Administration, 1000 North Globe Road, Arlington, Virginia 22201 and can be found at: the offices of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113; the Government Documents Section, Room 409, Wilson Library, University of Minnesota, 309 19th Avenue South, Minneapolis, Minnesota 55454; and the State of Minnesota Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155. This document is not subject to frequent change.

**Statutory Authority:** *MS s 116.07*

**History:** *11 SR 43; 18 SR 614*

**Posted:** *December 12, 2003*

**7030.0020 DEFINITIONS.**

Subpart 1. **Application.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **A-weighted.** "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.

Subp. 3. **Daytime.** "Daytime" means those hours from 7:00 a.m. to 10:00 p.m.

Subp. 4. **dB(A).** "dB(A)" means a unit of sound level expressed in decibels (dB) and A-weighted.

Subp. 5. **Decibel.** "Decibel" means a unit of sound pressure level, abbreviated as dB.

Subp. 6. **Impulsive noise.** "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.

Subp. 7. **L<sub>10</sub>.** "L<sub>10</sub>" means the sound level, expressed in dB(A), which is exceeded ten percent of the time for a one hour survey, as measured by test procedures approved by the commissioner.

Subp. 8. **L<sub>50</sub>.** "L<sub>50</sub>" means the sound level, expressed in dB(A), which is exceeded 50 percent of the time for a one hour survey, as measured by test procedures approved by the commissioner.

Subp. 9. **Municipality.** "Municipality" means a county; a city; a town; a regional planning and development commission established under Minnesota Statutes, chapter 473; the metropolitan council; or other governmental subdivision of the state responsible by law for controlling or restricting land use within its jurisdiction.

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

Subp. 11. **Person.** "Person" means any human being, any municipality or other governmental or political subdivision or other public department or agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agency, legal entity, other than a court of law, or any legal representative of any of the foregoing, but does not include the agency.

Subp. 12. **Sound pressure level.** "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.

**Statutory Authority:** *MS s 116.07*

**History:** *11 SR 43; L 1987 c 186 s 15; 18 SR 614*

**Posted:** *December 12, 2003*

**7030.0030 NOISE CONTROL REQUIREMENT.**

No person may violate the standards established in part 7030.0040, unless exempted by Minnesota Statutes, section 116.07, subdivision 2a. Any municipality having authority to regulate land use shall take all reasonable measures within its jurisdiction to prevent the establishment of land use activities listed in noise area classification (NAC) 1, 2, or 3 in any location where the standards established in part 7030.0040 will be violated immediately upon establishment of the land use.

**Statutory Authority:** *MS s 116.07*

**History:** *11 SR 43; 18 SR 614*

**Posted:** *December 12, 2003*

**7030.0040 NOISE STANDARDS.**

Subpart 1. **Scope.** These standards describe the limiting levels of sound established on the basis of present knowledge for the preservation of public health and welfare. These standards are consistent with speech, sleep, annoyance, and hearing conservation requirements for receivers within areas grouped according to land activities by the noise area classification (NAC) system established in part 7030.0050. However, these standards do not, by themselves, identify the limiting levels of impulsive noise needed for the preservation of public health and welfare. Noise standards in subpart 2 apply to all sources.

Subp. 2. **Noise standards.**

Noise Area Classification	Daytime		Nighttime	
	L <sub>50</sub>	L <sub>10</sub>	L <sub>50</sub>	L <sub>10</sub>
1	60	65	50	55
2	65	70	65	70
3	75	80	75	80

**Statutory Authority:** *MS s 116.07*

**History:** *11 SR 43; 18 SR 614*

**Posted:** *December 12, 2003*

**7030.0050 NOISE AREA CLASSIFICATION.**

Subpart 1. **Applicability.** The noise area classification is based on the land use activity at the location of the receiver and determines the noise standards applicable to that land use activity unless an exception is applied under subpart 3.

Subp. 2. **Noise area classifications.** The noise area classifications and the activities included in each classification are listed below:

Noise Area Classification	Land Use Activities
1	Household Units (includes farm houses) Group quarters Residential hotels

- Mobile home parks or courts
- Transient lodging
- Other residential
- Motion picture production
- Medical and other health services
- Correctional institutions
- Educational services
- Religious activities
- Cultural activities and nature exhibitions
- Entertainment assembly
- Camping and picnicking areas (designated)
- Resorts and group camps
- Other cultural, entertainment, and recreational activities.
- 2 Railroad terminals (passenger)
- Railroad terminals (passenger and freight)
- Rapid rail transit and street railway passenger terminals
- Bus passenger terminals (intercity)
- Bus passenger terminals (local)
- Bus passenger terminals (intercity and local)
- Other motor vehicle transportation
- Airport and flying field terminals (passenger)
- Airport and flying field terminals (passenger and freight)
- Marine terminals (passenger)
- Marine terminals (passenger and freight)
- Automobile parking
- Telegraph message centers
- Transportation services and arrangements
- Wholesale trade
- Retail trade – building materials, hardware, and farm equipment
- Retail trade – general merchandise
- Retail trade – food
- Retail trade – automotive, marine craft, aircraft, and accessories
- Retail trade – apparel and accessories
- Retail trade – furniture, home furnishings, and equipment

Retail trade – eating and drinking  
 Other retail trade  
 Finance, insurance, and real estate services  
 Personal services  
 Business services  
 Repair services  
 Legal services  
 Other professional services  
 Contract construction services  
 Governmental services (except correctional institutions)  
 Miscellaneous services (except religious activities)  
 Public assembly (except entertainment assembly and race tracks)  
 Amusements (except fairgrounds and amusement parks)  
 Recreational activities (except designated camping and picnicking areas)  
 Parks.

3 Food and kindred products – manufacturing  
 Textile mill products – manufacturing  
 Apparel and other finished products made from fabrics, leather, and similar materials  
 – manufacturing  
 Lumber and wood products (except furniture) – manufacturing  
 Furniture and fixtures – manufacturing  
 Paper and allied products – manufacturing  
 Printing, publishing, and allied industries  
 Chemicals and allied products – manufacturing  
 Petroleum refining and related industries  
 Rubber and miscellaneous plastic products – manufacturing  
 Stone, clay, and glass products – manufacturing  
 Primary metal industries  
 Fabricated metal products – manufacturing  
 Professional, scientific, and controlling instruments; photographic and optical goods;  
 watches and clocks – manufacturing  
 Miscellaneous manufacturing (except motion picture production)  
 Railroad, rapid transit, and street railway transportation (except passenger terminals)  
 Motor vehicle transportation (except passenger terminals)

- Aircraft transportation (except passenger terminals)
- Marine craft transportation (except passenger and freight terminals)
- Highway and street right-of-way
- Communication (except telegraph message centers)
- Utilities
- Other transportation, communication, and utilities (except transportation services and arrangements)
- Race tracks
- Fairgrounds and amusement parks
- Agricultural
- Agricultural and related activities
- Forestry activities and related services (including commercial forest land, timber production, and other related activities)
- Fishing activities and related services
- Mining activities and related services
- Other resource production and extraction
- All other activities not otherwise listed.
- 4 Undeveloped and unused land area (excluding noncommercial forest development)
- Noncommercial forest development
- Water areas
- Vacant floor area
- Under construction
- Other undeveloped land and water areas.

Subp. 3. **Exceptions.** The noise area classification for a land use may be changed in the following ways if the applicable conditions are met.

A. The daytime standards for noise area classification 1 shall be applied to noise area classification 1 during the nighttime if the land use activity does not include overnight lodging.

B. The standards for a building in a noise area classification 2 shall be applied to a building in a noise area classification 1 if the following conditions are met:

(1) the building is constructed in such a way that the exterior to interior sound level attenuation is at least 30 dB(A);

(2) the building has year-round climate control; and

(3) the building has no areas or accommodations that are intended for outdoor activities.

C. The standards for a building in a noise area classification 3 shall be applied to a building in a noise area classification 1 if the following conditions are met:

- (1) the building is constructed in such a way that the exterior to interior sound level attenuation is at least 40 dB(A);
- (2) the building has year-round climate control; and
- (3) the building has no areas or accommodations that are intended for outdoor activities.

D. The standards for a building in a noise area classification 3 shall be applied to a building in a noise area classification 2 if the following conditions are met:

- (1) the building is constructed in such a way that the exterior to interior sound level attenuation is at least 30 dB(A);
- (2) the building has year-round climate control; and
- (3) the building has no areas or accommodations that are intended for outdoor activities.

**Statutory Authority:** *MS s 116.07*

**History:** *11 SR 43; 18 SR 614*

**Posted:** *December 12, 2003*

#### **7030.0060 MEASUREMENT METHODOLOGY.**

Subpart 1. **Measurement location.** Measurement of sound must be made at or within the applicable NAC at the point of human activity which is nearest to the noise source. All measurements shall be made outdoors.

Subp. 2. **Equipment specifications.** All sound level measuring devices must meet Type O, I, II, or S specifications under American National Standards Institute S1.4-1983.

Subp. 3. **Calibration.** All sound level measuring devices must, at a minimum, be externally field calibrated before and after monitoring using a calibration device of known frequency and sound pressure level.

Subp. 4. **Measurement procedures.** The following procedures must be used to obtain representative sound level measurements:

A. 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.

B. Measurements must be made using the A-weighting and fast response characteristics of the sound measuring device as specified in American National Standards Institute S1.4-1983.

C. 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.

D. Measurements must be made using a microphone which is protected from ambient conditions which would prevent an accurate measurement.

Subp. 5. **Data documentation.** A summary sheet for all sound level measurements shall be completed and signed by the person making the measurements. At a minimum, the summary sheet shall include:

- A. date;

- B. time;
- C. location;
- D. noise source;
- E. wind speed and direction;
- F. temperature;
- G. humidity;
- H. make, model, and serial number of measuring equipment;
- I. field calibration results;
- J. monitored levels; and
- K. site sketch indicating noise source, measurement location, directions, distances, and obstructions.

**Statutory Authority:** *MS s 116.07*

**History:** *11 SR 43; 17 SR 1279; 18 SR 614*

**Posted:** *December 12, 2003*

#### 7030.0070 SOUND ATTENUATION MEASUREMENT METHODOLOGY.

Subpart 1. **Purpose.** Sound level measurements made for assessing sound attenuation as specified in part 7030.0050, subpart 3, item B, C, or D, shall be made according to the requirements of this part.

Subp. 2. **Equipment.** The equipment shall meet the requirements specified in part 7030.0060, subpart 2.

Subp. 3. **Calibration.** The equipment must meet the calibration requirements specified in part 7030.0060, subpart 3.

Subp. 4. **Measurement procedure.** The measurement procedure described in FHWA-DP-45-1R, section 8 must be used for determination of the sound attenuation.

Subp. 5. **Equivalent methods.** Methods equivalent to those described in subpart 4 may be used provided they are approved by the commissioner of the Minnesota Pollution Control Agency. The commissioner shall approve an alternative method if the commissioner finds that the method will produce representative data and results which are as reliable as the methods specified in subpart 4.

**Statutory Authority:** *MS s 116.07*

**History:** *11 SR 43; L 1987 c 186 s 15; 18 SR 614*

**Posted:** *December 12, 2003*

#### 7030.0080 VARIANCE.

If, upon written application of the responsible person, the agency finds that by reason of exceptional circumstances strict conformity with any provisions of any noise rule would cause undue hardship, would be unreasonable, impractical, or not feasible under the circumstances, the agency may permit a variance upon

the conditions and within the time limitations as it may prescribe for the prevention, control, or abatement of noise pollution in harmony with the intent of the state and any applicable federal laws.

**Statutory Authority:** *MS s 116.07*

**History:** *11 SR 43; 18 SR 614*

**Posted:** *December 12, 2003*

### MOTOR VEHICLE NOISE LIMITS

#### 7030.1000 DEFINITION.

"Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles.

**Statutory Authority:** *MS s 116.07*

**History:** *18 SR 614*

**Posted:** *December 12, 2003*

#### 7030.1010 PROHIBITIONS.

Subpart 1. **Operation of vehicle.** No person shall operate either a motor vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 at any time or under any condition of grade, load, acceleration, or deceleration in such a manner as to exceed the noise limits contained herein for the category of motor vehicle and speed limits specified, when tested with a measurement procedure approved by the commissioner.

Subp. 2. **Sale of vehicle.** No person shall sell or offer for sale a new motor vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 which when maintained according to the manufacturer's specifications would exceed the noise limits contained herein for the category of motor vehicle and speed limits specified, when tested with a measurement procedure approved by the commissioner.

Subp. 3. **Modification of vehicle.** No person shall modify a motor vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 in a manner which will amplify or increase the noise emitted by the vehicle, above the noise limits contained herein for the category of motor vehicle and speed limits specified, when tested with a measurement procedure approved by the commissioner. No person shall operate a motor vehicle so modified.

Subp. 4. **Sale of parts.** No person shall sell or offer for sale replacement or additional parts for a motor vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 which when installed in the vehicle will amplify or increase the noise emitted by the vehicle, above the noise limits contained herein for the category of motor vehicle and speed limits specified, when tested with a measurement procedure approved by the commissioner. No person shall operate a motor vehicle incorporating such parts.

**Statutory Authority:** *MS s 116.07*

**History:** *L 1987 c 186 s 15; 18 SR 614*

**Posted:** *December 12, 2003*

#### 7030.1020 SCOPE.

This chapter applies to the total noise from a vehicle or combination of vehicles of a type subject to registration pursuant to Minnesota Statutes, chapter 168 and shall not be construed as limiting or precluding the enforcement of any other provision of law relating to motor vehicle exhaust noise.

**Statutory Authority:** *MS s 116.07*

**History:** *18 SR 614*

**Posted:** *December 12, 2003*

#### 7030.1030 EXCEPTIONS.

Vehicles under parts 7030.1050 and 7030.1060 are allowed to exceed the noise limits contained herein when performing acceleration maneuvers for safety purposes.

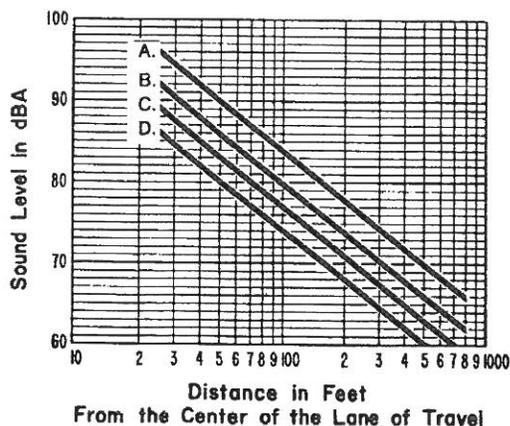
**Statutory Authority:** *MS s 116.07*

**History:** *18 SR 614*

**Posted:** *December 12, 2003*

#### 7030.1040 NOISE LIMIT FOR VEHICLES OVER 10,000 POUNDS.

Motor vehicle noise limits for vehicles with a manufacturer's gross vehicle weight rating of more than 10,000 pounds and any combination of vehicles towed by such motor vehicle.



A. Speed limits greater than 35 mph.

B. Speed limits equal to or less than 35 mph and stationary run-up tests (for vehicles with governed engines). For stationary run-up tests on all-paved surfaces, add 2 dBA.

C. Speed limits equal to or less than 35 mph and stationary run-up tests (for vehicles with governed engines), for vehicles manufactured on or after January 1, 1978. For stationary run-up tests on all-paved surfaces, add 2 dBA.

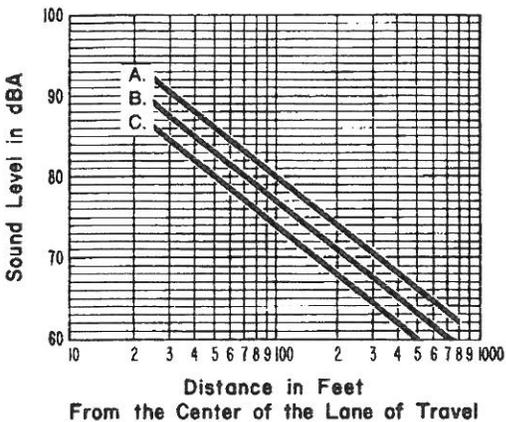
D. Speed limits equal to or less than 35 mph and stationary run-up tests (for vehicles with governed engines), for vehicles manufactured on or after January 1, 1982. For stationary run-up tests on all-paved surfaces, add 2 dBA.

**Statutory Authority:** *MS s 116.07*

**History:** *18 SR 614*

**Posted:** *December 12, 2003*

#### 7030.1050 MOTOR VEHICLE NOISE LIMITS FOR MOTORCYCLES.



- A. For vehicles manufactured before January 1, 1975.
- B. Speed limits greater than 35 mph for vehicles manufactured on or after January 1, 1975.
- C. Speed limits equal to or less than 35 mph for vehicles manufactured on or after January 1, 1975.

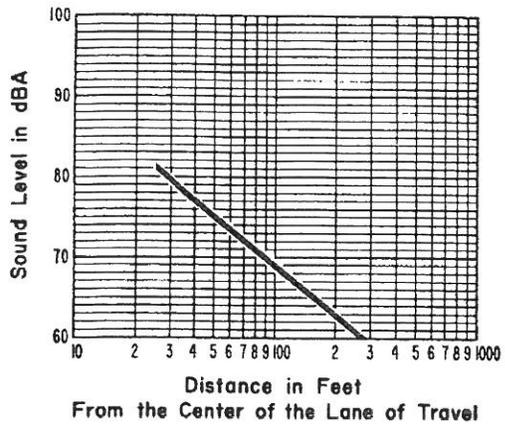
**Statutory Authority:** *MS s 116.07*

**History:** *18 SR 614*

**Posted:** *December 12, 2003*

#### 7030.1060 NOISE LIMITS FOR OTHER VEHICLES.

Motor vehicle noise limits for any other motor vehicle not included under parts 7030.1040 and 7030.1050 and any combination of vehicles towed by such motor vehicle.



**Statutory Authority:** *MS s 116.07*

**History:** *18 SR 614*

**Posted:** *December 12, 2003*