

\$50/Day

**Permit Application To Exceed Noise Limits
In Detroit Lakes City Code Section 505**

NAME OF APPLICANT: _____

NAME OF ESTABLISHMENT: _____

MAILING ADDRESS: _____

PHONE NUMBER: _____

DESCRIPTION OF PREMISE: _____

DAYS AND TIMES APPLICANT PROPOSES TO EXCEED
NOISE LIMIT: _____

HAS APPLICANT PREVIOUSLY BEEN IN VIOLATION OF
ANY CITY CODES?

____ NO

____ YES If yes what was the violation? _____

APPROXIMATE DISTANCE FROM THE PREMISES WHICH
THE NOISE WILL BE HEARD: _____

DATE: _____ SIGNATURE: _____

504. Curfew

504.01 Curfew Imposed.

Subdivision 1. Age and Time. No person under the age of sixteen years, except as provided in Subd. 2, shall be on any public street or alley or in any park or other public grounds or building, place of amusement, entertainment or refreshment, vacant lot, or any other unsupervised place between the hours of 9:30 P.M. and 6:00 A.M. during the months of September through May, inclusive; and 10:00 P.M. and 6:00 A.M. during the months of June, July and August.

Subd. 2. Exceptions. The restrictions of Subdivision 1 do not apply when the minor:

- (1) Is accompanied by the minor's parents, guardian, or other person having the minor's lawful care, custody or control; or
- (2) Is returning home by a direct route from and within thirty minutes after a school activity or an activity of a religious or other voluntary association when prior notice of the activity and its place and probable time of termination has been given to the police department by an adult person authorized by the school or religious or voluntary association to do so; or
- (3) Is carrying a certified card of employment and is on his way to or from his place of employment; or
- (4) Is upon an emergency errand or other legitimate business directed by the minor's parent, guardian, or other adult having the lawful custody of the minor.

504.02 Responsibility of Parent. No parent, guardian, or other adult having custody and control of a minor under sixteen years of age shall knowingly permit the minor to violate the provisions of 504.01.

504.03 Enforcement. Any person under sixteen years of age on a street or other place in violation of 504.01 shall be ordered to go home immediately. After investigation, if the responsible city authorities determine that court action should be initiated, the minor shall be dealt with in accordance with juvenile court law and procedure. Any such minor who is convicted of a violation of this chapter after the case has been referred for prosecution in the trial court under M. S. 260.15 shall be punished in accordance with this code.

505. Noise

505.01 Definition. "Noise Disturbance" means noise or sound of any nature that unreasonably disturbs the peace, quiet or repose of any person.

505.02 Violations.

Subdivision 1. Causing Noise Disturbance. No person or entity shall participate in any action, event, party, or gathering which creates a noise disturbance. No person or entity shall cause a noise disturbance.

Subd. 2. **Attending A Noise Disturbance.** No person shall remain at, in, or upon any premises, structure, or other location at which any event, party or gathering creates a noise disturbance.

Subd. 3. **Noise Disturbance Violation by Property Owner or Lessor.** If three violations of this ordinance occur at or in the same property or structure within a six-month period, the City Administrator's Office or Police Department may provide written notice of such violations to the property's owner, or to a lessor of rental property. During the 12 months after sending such notice, any subsequent violation of this ordinance at, in or on that property shall also be a violation by the owner, or by the lessor. Notice under this section is sufficient if sent by certified mail to an owner, or to a lessor or the lessor's local property manager defined in City Code Chapter 612, at their respective address shown in the records of the City. Notice is effective upon mailing.

Subd. 4. **Motor Vehicles.** No person shall operate, or permit operation of, a sound system in or on a vehicle so that the sound system is audible within 20 feet of the vehicle. This does not include the vehicle horn when used as a warning device.

Subd. 5. **Sound Systems on Public Property.** No person shall operate, or permit operation of, a radio, sound system, public address system, loudspeaker or other noise amplifier on public property if the sound produced by the same is audible within 50 feet of the speakers producing the sound.

505.03 Community Event Exception. A noise disturbance occurring due to a festival or community event conducted pursuant to a Permit granted by the City, or under a Contract with the City, is not a violation of this Ordinance so long as such activity or event complies with the terms and conditions of the Permit or Contract. Amended: 3/7/06 Ord. 284

505.031 Liquor Business Exception. A business licensed to sell liquor at on-sale may exceed noise limits of this chapter as provided in this section after first obtaining the Noise Permit provided in this section.

Subd. 1. **Definitions.** The following terms have the following definitions for the purpose of this section.

- (a) **Noise,** means sound exceeding the limits of the City Code.
- (b) **Noise Permit,** means a Liquor Business Noise Permit issued by the City Council that authorizes a business licensed to sell liquor at on-sale to exceed the sound limits of this chapter.
- (c) **Permit Holder,** means a person or entity to whom a Noise Permit is issued.
- (d) **Premises,** means the specific described location to which a Noise Permit applies.

Subd. 1. **Application for Noise Permit.** Each applicant for a Noise Permit shall file a written application with the City Administrator on a form prescribed by the Administrator for submission to the City Council for approval or denial. The application shall describe the Premises where, the day or days when, and the hour or hours during which the applicant proposes to exceed the noise limits provided by this chapter. The application shall include such further pertinent information as the Council may deem appropriate to

enable it to carry out the provisions of this chapter. The application must be accompanied by payment of the Noise Permit fee established by Council resolution.

Subd. 2. Issuance of Noise Permit: The Council shall not deny a Noise Permit for any specific time, location or use, to an applicant who complies with the provisions of this chapter except for one or more of the reasons specified below or unless the applicant or premises has previously been in violation of the City Code. A civil or criminal conviction is not required to establish the occurrence a prior City Code violation.

Subd. 3. Terms. Each Noise Permit issued pursuant to this section shall describe the Premises at which Noise may be produced, the period of time during which the Noise may be produced, the maximum distance at which the Noise from the Premises can be heard, and such other terms and conditions as may be necessary for the proper enforcement of this chapter.

Subd. 4. Days and Times. A Noise Permit under this section shall apply only from 10:00 a.m. to 12:00 a.m. on the following days:

- (a) Fridays and Saturdays of the weekends between Memorial Day and Labor Day;
- (b) Two days preceding the 4th of July, the 4th of July and the two days after the 4th of July; and
- (c) the Friday, Saturday and Sunday immediately preceding the Memorial Day and Labor Day holidays.

Amended: 01/12/10; Ord. No. 340, Sec 505.031 Subd. 4 (b)

Subd. 5. Special Restrictions. No person shall receive a Noise Permit or otherwise exercise rights purportedly granted by such Permit:

- (a) At any Premises within 500 feet of a school, courthouse or place of worship during the hours of school, court or worship, respectively;
- (b) At any Premises where the Council upon investigation determines that the conditions of vehicular or pedestrian traffic or both are such that production of Noise will constitute a threat to the safety of pedestrians or vehicular operators;
- (c) In any Premises location where the Council upon investigation determines that conditions are such that the production of Noise will deprive the public of the right to the safe, comfortable, convenient and peaceful enjoyment of any public street, park or place for street, park or other public purposes, or will constitute a threat to the safety of pedestrians or vehicle operators;
- (d) For production of Noise between the hours of 12:00 a.m. and 10:00 a.m.; or,
- (e) Where the volume of sound proposed to be produced will be clearly audible for a distance in excess of 500 feet from the location at which the Noise is produced.

Subd. 6. Waiver. The Council may waive the restrictions provided in this section on a case by case basis if the Council determines that:

- (a) the applicant's proposed Noise is in conjunction with a City celebration, festival, or other neighborhood or community event; and
- (b) the applicant's proposed Noise will promote the public's use and enjoyment of any public street, park, or any other public place where the public will gather to observe or participate in the City celebration, festival, or other neighborhood or community event.

Subd. 7. Possession and Display of Noise Permit. The Permit Holder shall keep the Permit on display at all times at the location where Noise is being produced under the authority of the Noise Permit, and shall produce and present the Permit upon request of a law enforcement officer.

Subd. 8. Violations and Enforcement

- (a) Criminal Penalties: Violation of any provision of this chapter is a misdemeanor. In all cases, the City shall be entitled to collect the costs of prosecution to the extent permitted by law, rules of criminal procedure, and rules of court.
- (b) Separate Offense: Each act of violation and each day a violation occurs or continues constitutes a separate offense.
- (c) Civil Remedies: This chapter may also be enforced by injunction, action for abatement, or other appropriate civil remedy.

Subd. 9. No Property Right. A Noise Permit is not transferable and a Permit Holder shall have no property right in a Noise Permit. Each Noise Permit issued by the City is issued on the specific condition that the City Council retains the right to revise, or add restrictions to, any Noise Permit for cause any time during the term of the Permit. The Council further retains the right to make future changes to the City Code that immediately apply to existing Noise Permits. Any modification to an existing Noise Permit shall occur only after the Council conducts a hearing to consider the modification. Written notice of the modification hearing shall be sent to the Permit Holder by first class mail not less than seven days prior to the hearing.

Subd. 10. Variances.

- (a) The City Council may grant a variance from the strict application of any section of this article where such variances do not deter from the basic intent and purpose of this article. Any person seeking a variance shall file an application with the City Administrator on a form prescribed by the City. Information to be supplied in the application shall include, but not be limited to, the following information:
 - (1) Statement of the dates and times during which the noise is proposed.
 - (2) The location of the noise source.
 - (3) The nature of the noise source.
 - (4) Reasons why the variance is sought and identified hardship.
 - (5) Steps taken to minimize the noise level.
 - (6) Other information as required by the City Administrator.

- (b) **Criteria for Granting Variance.** A variance shall be permitted only if it is established that:
- (1) By reason of exceptional circumstances, strict conformity with any of the provisions of this article would cause the applicant undue hardship, or would be unreasonable, impractical, or not feasible under the circumstances.
 - (2) Owners and occupants of property within 500 feet of the location of the noise source will not suffer undue hardship or unreasonable disruption or annoyance if the variance is granted to the applicant.
 - (3) The applicant has notified the owners and occupants of all property within 500 feet of the location of the noise source about the applicant's request for a variance from this article.
 - (4) The notice provided by this section shall be in writing, shall describe the nature and proposed hours of operation of the activity that will generate the noise for which the variance is sought, and shall explain why the variance is needed. The notice shall specify that any person wishing to comment on the variance application should promptly contact the City Administrator about the variance application.
 - (5) The failure to comply with this section shall be grounds for denial or revocation of the variance. The making of any false or misleading statements by the applicant or his agents in connection with providing the notice required under this section shall be grounds for denial or revocation of the variance, and shall also constitute a violation of this article.

Subd. 11. Revocation.

- (a) Violation of any provision of the City Code shall be cause for revocation of the Noise Permit.
- (b) The Council, upon report of the violation, may schedule a hearing to consider such revocation.
- (c) Written notice of a hearing to revoke the Permit shall be sent to the Permit Holder by first class mail not less than seven days prior to the hearing.
- (d) Violation of this section is cause for revocation of any other City License or Permit held by the Permit Holder or the Premises.

Added: 03/07/06 Ord. 284

505.04 Duty to Disperse. After determining that an individual, activity, gathering, party or event is creating a noise disturbance, a peace officer may order that all persons present, other than the owner, resident or tenant of the location involved, disperse immediately and leave such location. No person, after being so ordered, shall refuse to leave such location.

505.05 Duty of Owner or Tenant. Every owner, tenant or occupier of premises who has knowledge of a noise disturbance, shall cooperate with peace officers and shall make reasonable efforts to stop a noise disturbance upon request of a peace officer.

505.06 Evidence of Noise Disturbance.

Subdivision 1. For noises occurring between 6:00 A.M. and 10:00 P.M., an investigating peace officer shall consider these factors relating to this ordinance:

- 1) the volume of the noise;
- 2) the intensity of the noise;
- 3) whether the nature of the noise is usual or unusual,
- 4) the nature and zoning of the areas within which the noise emanates;
- 5) the time of day or night the noise occurs;
- 6) the duration of the noise; and
- 7) whether the noise is produced by a commercial or non-commercial activity.

Subd. 2. For noises occurring between 10:00 P.M. and 6:00 A.M., the following facts shall be prima facie evidence of a violation of this ordinance:

- 1) As to all locations, when the investigation of a peace officer reveals noise of such volume as to be clearly audible at a distance of 50 feet from source of the noise,
- 2) As to apartment buildings or other residential rental property, when the investigation of a peace officer reveals noise of such volume to be clearly audible in a hallway or apartment unit other than the source of the noise.

505.07 Penalty. A violation of this ordinance is a petty misdemeanor punishable as provided in Section 101.06, Subdivision 1.

Revised: Ord. No. 190, 9/07/99; Revised: Ord. No. 284, 3/07/06
Amended: 01/12/10; Ord. No. 340, Sec 505.031 Subd. 4 (b)