

CHAPTER 13

130.00 PUBLIC NUISANCES

130.01 **Public Nuisances Defined.** A nuisance is a thing, act, occupation or use of property which:

- 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;
- 2) Interferes with, obstructs or renders dangerous for passage, any public highway or right-of-way or waters used by the public;
- 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 specifically provided.

130.02 **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 and 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 people having contagious disease;
- 11) Any offensive trade or business as defined by statute not operating under local license;
- 12) Keeping, harboring or permitting of cattle, horses, sheep, goats, fowl, swine, pigs or other animals, unless temporarily in a stock yard awaiting transportation or slaughter.
- 13) Accumulation of unlicensed or inoperable motor vehicles, trailers, boats, motorcycles, snowmobiles, lawn mowers, tillers or other recreational or yard vehicles or machinery, unless entirely enclosed within a building.
- 14) Accumulation of discarded or unused tires, engines, vehicle bodies, batteries, seats, fenders, hoods, engine parts, transmissions, axles, wheels, frames, bumpers, tires, exhaust systems,

drive shafts or any other vehicle or machinery parts, unless entirely enclosed within a building.

- 15) Accumulation of brush, tree branches, limbs, grass clippings, dead or cut weeds, leaves, tree stumps, vegetative matter, paper, clothing, cloth, pallets, plastic, scrap lumber, window frames, cardboard, doors, construction materials, pieces of cement, cement blocks, bricks, stones, metal, scrap metal, barrels, cans, piles of earth, wire, pipe, sinks, toilets, stoves, furnaces, junk, inoperable equipment or appliances, any waste materials or rubbish accumulated in a manner creating or conducive to rodent harborage of rats, mice, snakes or other vermin, any material which in any other way creates a fire, safety or health hazard, or the rank growth of vegetation among the items so accumulated.

130.03 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 twenty-four (24) hours after the snow or other precipitation causing the condition has ceased to fall;
- 2) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- 3) All wires 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 or annoying vibrations;
- 5) Obstructions or excavating affecting the ordinary public use 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 use of the street or sidewalk;
- 8) All hanging signs, awnings and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- 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) Wastewater cast upon or permitted to flow upon streets or other public properties;
- 13) Accumulation 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 the rank growth of vegetation among the items so accumulated or in a manner creating fire, health or safety hazards from such accumulations;

- 14) Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person 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) All other conditions or things which are likely to cause injury to the person or property of anyone;
- 19) All limbs of trees which are less than eight (8) feet above the surface of the sidewalks or nine (9) feet above the surface of any street.

DERIVATION: July 24, 1969
Amended February 24, 1981
Amended August 19, 1999

130.04 **Noise Violations.**

- (A) Prohibited Noises. The following are declared to be nuisances affecting public health, safety, peace or welfare ~~if audible within 50 feet:~~ (amended September 23, 2013)
- (1) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person, or precludes their enjoyment of property, or affects their property's value (this general prohibition is not limited by any specific restrictions provided in this Ordinance);
 - (2) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. R. Ch. 7030, as they may be amended from time to time, are hereby incorporated into this Ordinance by reference;
 - (3) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise;
 - (4) The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle (ATV), snowmobile or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;
 - (5) Any loud or excessive noise in the loading, unloading or unpacking of any vehicle.

(B) Hourly Restriction of Certain Operations.

- (1) *Domestic power equipment.* The operation of a power lawn mower, power hedge clipper, chainsaw, mulcher, garden tiller, edger, drill or other similar domestic power equipment, may be used between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.
- (2) *Construction activities.* You may engage in or permit construction activities involving the use of any kind of electric, diesel or gas-powered machine or other power equipment, between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.
- (3) *Radio Receiving Set, Musical Instrument, Music Device, Paging System, Machine or other device for producing or reproduction of sound.* The operation of any of these devices between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

- (C) Noise impact statements. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. The Council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.

130.05 Nuisance Parking and Storage.

- (A) Declaration of Nuisance. The outside parking and storage on residentially zoned property of large number s of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: (1) obstructs views on streets and private property, (2) creates cluttered and otherwise unsightly areas, (3) prevents the full use of residential streets for residential parking, (4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (5) decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, and (6) otherwise adversely affects property values and neighborhood patterns.

(B) Unlawful Parking and Storage.

- (1) A person must not place, store or allow the placement or storage of ice fishing houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than twenty-four (24) hours in the front yard area of residential property unless more than one hundred (100) feet back from the front property line.
- (2) A person must not place, store or allow the placement or storage of pipe, lumber, forms, steel, machinery or similar materials, including all materials used in conjunction with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

- (3) A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:
- (a) No more than four (4) vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the City because of nonresidential characteristics of the property. The maximum number does not include vehicles of occasional guests who do not reside on the property.
 - (b) No motor vehicle, regardless of condition, shall be parked on front, back or side lawns in residential areas. Vehicles that are parked or stored outside must be on a paved or graveled parking surface or driveway area.
 - (c) Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away from school for periods of time, but still claim the property as their legal residence will be considered residents on the property.
 - (d) No recreational vehicles, motor homes, trailers or other non-motorized vehicles may be parked on city streets for more than 24 hours.

130.06 Duties of City Officers. The City law enforcement officers shall enforce the provisions of the ordinance relating to nuisances affecting public safety. The police department shall enforce provisions relating to other nuisances and shall assist the other designated officer(s) in the enforcement of provisions relating to nuisances affecting public safety. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

130.07 Enforcement. Whenever in the judgment of the City law enforcement officers, they find upon investigation that a public nuisance is being maintained or exists within the City of Kerkhoven, they shall notify the owner of record or occupant in writing, who are maintaining said public nuisances and require them to terminate such nuisance and to remove said conditions or remedy such defect. If the owner of record is unknown, premises are not occupied, or the owner of record or occupant refuses to accept notice, the notice shall be served by posting it on the premises. Said written notice shall provide for removal of said nuisances within fifteen (15) days from the date of service. Any person aggrieved by the foregoing written order may demand a hearing relative to said nuisance before the City Council. Nothing in this section of this Ordinance shall prevent the City, without notice of process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

130.08 Abatement. The City Council shall have the right when an order to abate a nuisance has not been complied with to take such legal proceedings as may be necessary in the name of the City of Kerkhoven to abate and enjoin the further continuation of said public nuisance, or if the City removes or eliminates public health or safety hazards from private property under city ordinance, a record of the cost of such removal shall be determined, and the City Clerk shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

- (1) Assessment. The owner of premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges against

each separate lot or parcel to which the charges are attributable under Minn. Stat. 429.101. The Council may then spread the charges against such property under that statute or other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the Council may determine in each case.

130.09 Penalty. Any person, firm or corporation convicted of violating any provision of this Ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000.00 and/or up to 90 days in jail.

The Ordinance shall be effective after its adoption and second publication.

This Ordinance introduced by Council Member Jerry Goblirsch on July 13, 2009

This Ordinance published on July 22, 2009

Hearing held August 10, 2009

Ordinance adopted August 10, 2009

Ordinance published August 19, 2009

/s/ Brian Thompson, Mayor

/s/ Kim Harkema, Clerk-Treasurer