

**TOWN OF EUREKA, DAKOTA COUNTY, MINNESOTA**

**Ordinance No. 2011-05**

**AN ORDINANCE REGULATING NOISE AND NUISANCE WITHIN THE TOWNSHIP,**

1. **PURPOSE AND INTENT.** The Town wishes to protect the public health and the values of property within the Township by adopting standards and methods for addressing impulse noise and similar noise complaints that are not directly addressed by State sound-emission regulations. In doing so, the Town intends to use the Minnesota Pollution Control Agency's standards for sound emissions as a guideline, and adopt complimentary standards that can be economically and objectively employed by law enforcement in response to noise complaints.

2. **INCORPORATION OF STATE ENVIRONMENTAL NOISE AND VEHICLE NOISE STANDARDS.** The Town of Eureka hereby incorporates by reference the following sections of Minnesota Rules, as they may be amended or restated from time to time, as standards enforceable under this Ordinance:

7030.0010 to 7030.0080 relating to noise pollution control;  
7030.1000 to 7030.1060 relating to motor vehicle noise limits; and  
6100.5700, subpart 5, relating to snowmobiles.

3. **NIGHT NOISE NUISANCES.** The following are declared to be nuisances affecting public health, safety, and welfare:

(A) **Domestic power equipment.** No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, power saw, drill, or other similar domestic power equipment between the hours of 10:00 p.m. and 7:00 a.m. Snow removal equipment is exempt from this provision.

(B) **Construction activities.** No person shall 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 10:00 p.m. and 7:00 a.m.

(C) **Radios, music devices, and similar items.** No person shall engage in or permit the operation of any radio, television, musical instrument, music device, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the person's property line or at a distance of 50 feet, whichever is greater.

(D) **Gatherings.** No person shall, between the hours of 10:00 p.m. and 7:00 a.m., conduct, permit, congregate at, participate in or be present at any party or gathering of people from which produces noise plainly audible at the property line of the property where the gathering is taking place, or at a distance of 50 feet,

whichever is greater. A peace officer may order all persons present in any such group or gathering from which such noise emanates, other than the owners or tenants of a dwelling unit on the property, to immediately disperse from said party in lieu of being charged under this Ordinance. Refusal to disperse after such an order is a violation of this Ordinance.

#### 4. OTHER NOISE NUISANCES.

(A) FINDINGS. The MPCA noise standards "do not, by themselves, identify the limiting levels of impulsive noise needed for the preservation of public health and welfare." Minn. R. 7030.0040. Along with the categories of activities declared to be public nuisances in Section 3 of this Ordinance, the Town Board establishes a guideline, based on the MPCA's sound pressure standard, for determination of public nuisance noise from sources not listed in this Ordinance. The MPCA's standard for acceptable sound-pressure levels from non-vehicular sources, as measured on a residential property is:

	<u>L-50</u>	<u>L-10</u>
Day	60 dB(A)	65 dB(A)
Night	50 dB(A)	55 dB(A)

The Town Board also finds that there is a general scientific consensus that the human voice, in conversation with another person 1 meter away, is approximately 60 dB(A). The Town Board finds that the sound-pressure level of a "normal" conversation is a sufficiently efficient measurement guide to allow law enforcement to make *a, prima facie* determination of whether noise sources audible on a neighboring residential property constitutes a public nuisance.

#### (B) DEFINITIONS.

*Normal Conversation.* Speech at a volume normally used to communicate with another person standing nearby (at 1 yard or less) without a conscious raising of voice.

*Residential Property.* Property with a primary use listed in the NAC-1 category in Minn. R. 7030.0050.

#### (C) STANDARD.

1. No person shall make, cause to be made, or allow to be made sound that can be heard on a residential property:

i) which renders normal conversation inaudible at 1 yard between the hours of 7 AM and 10 PM; or

ii) at the same level as, or louder than normal conversation at 1 yard, between the hours of 10 PM and 7 AM.

2. The officer or enforcing official investigating a noise complaint must listen for the sound on a residential property and compare it to normal conversation at a distance of at least 100 feet from the suspected source of the sound.

3. In addition to the standard above, all persons using domestic power equipment, vehicles not licensed for travel on the roads, or other machinery or equipment with an engine shall use a muffler or other commercially available silencing device at all times while operating.

## 5. PERMITS FOR EXCEPTION

A. Applications for a permit for relief from the noise restrictions designated in this article on the basis of undue hardship may be made to the Township Clerk. A letter of request containing the basis for the request and standard permit application fee must accompany each application. The application shall follow the same process used for general zoning permits. The relief requested may be granted upon a good and sufficient showing that:

(1). additional time is necessary for the applicant to alter or modify his activity or operation to comply with the provisions of this article;

(2). the activity, operation, noise or vibration source will be of temporary duration and cannot reasonably be done in a manner that would comply with this article; or

(3). no reasonable alternative is available to the applicant.

B. If granted, the permit shall be in writing and contain all conditions upon which such permit is granted, including, but not limited to, the effective dates, any time-of-day, location, sound-pressure-level, or equipment limitations. The Township may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding area.

C. In the event the Township denies an application for a permit for relief from the noise restrictions designated in this article, or grants relief under conditions the applicant finds unacceptable, the affected party may appeal the decision to the Board of Adjustments and Appeals by filing a written letter with the Township Clerk within ten (10) calendar days after receiving notice of the Township's decision. The appeal letter must specifically state each and every point of contention with the Township's determination. The appeal process shall follow that required by the Board of Adjustments and Appeals.

6. ENFORCEMENT. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof, and which is declared to be a public nuisance, may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

7. ADOPTION AND ENACTMENT. This Ordinance shall become effective upon its passage and publication.

Attest:

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Nanett Sandstrom, Town Clerk

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Brian Budenski,  
Town Board Chair

Passed by the Eureka Town Board this 11<sup>th</sup> day of October, 2011.

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