

CHAPTER VI

PUBLIC HEALTH

SECTION 600 - NOISE CONTROL

600.01. Noises Prohibited. Subdivision 1. General rule. It is unlawful to make or cause to be made an audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of a person, or precludes that person's enjoyment of property or affects that person's property value. This prohibition is not limited by the specific restrictions of this subdivision.

Subd. 2. Measurement of noise. Any activity not expressly exempted by this section which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property by more than six decibels above the ambient noise levels as designated in the following table at the time and place and for the duration then mentioned, is a violation of this code, but any enumeration herein is not be deemed to be exclusive.

Duration of Sound	COLUMN I	COLUMN II	COLUMN III
	7:00 am – 6:00 pm (all districts)	6:00 PM – 9:00 PM (residential districts) and 6:00 pm – 7:00 am (nonresidential districts)	9:00 pm – 7:00 am (residential districts)
Less than 10 minutes	70db	75db	55db
Between 10 minutes and 2 hours	60db	55db	45db
In excess of 2 hours	50 db	45db	40db

In determining whether a particular sound exceeds the maximum permissible sound level in the above table: i) sounds in excess of the residential district limitations as measured in a residential district are violative of this section whether the sound originates in a residential district or any other district; ii) during all hours of Sundays and state and federal holidays, the maximum allowable decibel levels for residential districts are as set forth in column III of the table.

Subd. 3. Exemptions. Sounds emanating from the operation of: i) motor vehicles on a public highway; ii) aircraft; iii) outdoor implements such as power lawn mowers, snow blowers, power hedge clippers, and power saws; and iv) pile drivers or jackhammers and other construction equipment are exempt from the provisions of this section except during the hours of 9:00 p.m. to 7:00 a.m. Sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places wherein athletic contests take place are exempt from the provisions of this section.

600.03. Horns, Audible Signaling Devices. It is unlawful to sound an audible signaling device on a vehicle except as a warning of danger.

600.05. Exhaust. It is unlawful to discharge the exhaust or permit the discharge of the exhaust of a steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with applicable state laws and regulations.

600.07. Defective Vehicles or Loads. It is unlawful to use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noises.

600.09. Loading, Unloading, Unpacking. It is unlawful to create loud or excessive noise in loading, unloading, or unpacking any vehicle.

600.11. Stereos, Musical Instruments, Paging Systems. It is unlawful to use or operate or permit the use or operation of a stereo, musical instrument, paging system, machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet and comfort of a person nearby. Operation of such a stereo, instrument, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, or at a distance of 25 feet if the source is located within, on, or as a component of a motor vehicle, whether moving or stationary, is prima facie evidence of a violation of this section.

600.13. Participation in Noisy Parties or Gatherings. It is unlawful to participate in a party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. It is unlawful to refuse to leave the premises after being ordered by a police officer to do so. The owner or tenant of such premises who has knowledge of the disturbance must make every reasonable effort to see that the disturbance is stopped.

600.15. Loudspeakers, Amplifiers for Advertising, etc. It is unlawful to operate or permit the use or operation of any loudspeaker, sound amplifier or other device for the production or reproduction of sound, on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to a commercial establishment or vehicle.

600.17. Animal Noise. It is unlawful to keep any animal that unreasonably disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise. For purposes of this section, the phrase "disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise" means any one of the following:

- a) The animal noise occurs at a time between 10:00 p.m. and 7:00 a.m. and can be heard from a location outside the building and premises where the animal is being

kept, and the animal has made such noises intermittently for more than three minutes with one minute or less lapse of time between each animal noise during the three-minute period;

- b) The animal noise can be heard from a one-block distance from the location of the building and premises where the animal is being kept, and the animal has made such noises intermittently for more than three minutes with one minute or less lapse of time between each animal noise during the three-minute period; or
- c) The animal noise can be heard from a location outside the building and premises where the animal is being kept, and the animal has made such noises intermittently for a period of at least five minutes with one minute or less lapse of time between each animal noise during the five-minute period.

600.19. Hourly Restrictions on Certain Operations. Subdivision 1. Recreational vehicles. It is unlawful to, between the hours of 10:00 p.m. and 7:00 a.m., drive or operate an all terrain vehicle/four wheeler, snowmobile or other recreational vehicle not licensed for travel on public highways.

Subd. 2. Domestic power equipment. It is unlawful to operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 9:00 p.m. on any weekday, between the hours of 7:00 a.m. and 10:00 p.m. on Saturday, or between the hours of 7:00 a.m. and 10:00 p.m. on Sunday or any holiday. Snow removal equipment is exempt from this provision.

Subd. 3. Refuse hauling. It is unlawful to collect or remove garbage or refuse in a residential zoning district except between the hours of 6:00 a.m. and 9:00 p.m. on a weekday or between the hours of 9:00 a.m. and 10:00 p.m. on a weekend or holiday.

Subd. 4. Construction activities. It is unlawful to engage in or permit construction activities involving the use of electric, diesel or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 9:00 p.m. on a weekday or between the hours of 7:00 a.m. and 10:00 p.m. on a weekend or holiday.

600.21. Criminal Penalties. A violation of this section involving the operation of a motor vehicle is a petty misdemeanor and, upon conviction, the violator may be punished by a fine not to exceed \$300. Every person who violates any other provision of this section is guilty of a misdemeanor and may, upon conviction, be subject to a fine of not more than \$1000 or imprisonment for a term not to exceed 90 days, or both. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

SECTION 605 - PREMISES CONDUCTIVE TO HIGH-RISK SEXUAL CONDUCT

605.01. Findings and Purpose. The city council of the city of Nerstrand makes the following findings regarding the need to regulate commercial premises, buildings, and structures that are conducive to the spread of communicable disease of danger to persons in order to further the substantial interest of public health:

Subd. 1. The experience of other cities establishes that certain commercial premises, buildings, and structures, or parts thereof, by reason of the design and use of such premises, buildings, or structures are conducive to the spread of communicable disease of danger to persons frequenting such premises, buildings, or structures, as well as to the general public, and that the risk of spreading infectious and contagious diseases can be minimized by regulating such commercial premises, buildings, and structures.

Subd. 2. The experience of other cities where such commercial premises, buildings, and structures are present indicates that the risk of spreading the sexually transmittable disease of Acquired Immune Deficiency Syndrome ("AIDS") is increased by the presence of such premises, buildings, and structures, because the design or use of such premises, buildings, and structures, or parts thereof can facilitate high-risk sexual conduct.

Subd. 3. Medical publications of the Center for Disease Control of the United States Department of Health and Human Services indicate that the sexually transmittable disease of AIDS is currently irreversible and uniformly fatal. Medical research has further established that the risk factors for obtaining or spreading AIDS are associated with high-risk sexual conduct.

Subd. 4. Certain commercial premises, buildings, and structures, or parts thereof, by reason of their design and use, are conducive to high-risk sexual conduct and hence the spread of communicable disease, and that the risk of spreading infectious and contagious diseases can be minimized by regulating these commercial premises, buildings, and structures.

Subd. 5. The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing commercial premises, buildings, and structures conducive to high-risk sexual conduct.

Subd. 6. The purpose of these regulations is to prescribe regulations governing commercial premises, buildings, and structures that are conducive, by virtue of design and use, to high-risk sexual conduct which can result in the spread of sexually transmitted diseases to persons frequenting such premises, buildings and structures.

605.03. Definitions. For purposes of this section, the following terms have the meanings given them:

Subd. 1. "Booths, stalls, or partitioned portions of a room or individual room" means: (i) enclosures specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct; or (ii) enclosures which are part of a business operated on the premises which offers

movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee, but does not include enclosures that are private offices used by the owners, managers or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

Subd. 2. "Doors, curtains or portal partitions" means full, complete, non-transparent closure devices through which one cannot see or view activity taking place within the enclosure.

Subd. 3. "Hazardous site" means any commercial premises, building or structure, or any part thereof, which is a site of high-risk sexual conduct as defined herein.

Subd. 4. "High-risk sexual conduct" means: (i) fellatio; (ii) anal intercourse; or (iii) vaginal intercourse with persons who engage in sexual acts in exchange for money.

Subd. 5. "Open to an adjacent public room so that the area inside is visible to persons in the adjacent public room" means either the absence of any entire "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, Plexiglas or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure.

Subd. 6. "Public health official" means an agent or employee of the city, county, or state charged with the enforcement of the state or local health laws.

605.05. Public Health Regulations. Subdivision 1. A commercial building, structure, premises or part thereof, or facilities therein may not be constructed, used, designed or operated in the city for the purpose of engaging in, or permitting persons to engage in, sexual activities which include high-risk sexual conduct.

Subd. 2. It is unlawful to own, operate, manage, rent, lease, or exercise control of a commercial building, structure, premises, or portion or part thereof in the city, that contains:

- a) Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity, including but not limited to vaginal intercourse, anal intercourse, or fellatio, between persons on either side of the partition.
- b) Booths, stalls, or partitioned portions of a room or individual room as defined herein which have doors, curtains or portal partitions as defined herein unless the booths, stalls or partitioned portions of a room or individual room have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room as defined herein. Booths, stalls or partitioned portions of a room or individual room that are so open to an adjacent public room must be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting need

not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

605.07. Exceptions. The regulations set forth in this section do not apply to premises, buildings, or structures that are lawfully operating and licensed as hotels, motels, apartment complexes, condominiums, townhomes, or boarding houses which are subject to other general health and sanitation requirements under state and local law.

605.09. Health Enforcement Powers. Subdivision 1. In exercising powers conferred by this or any other chapter of this code relating to communicable diseases, the public health official is to be guided by the most recent instructions, opinions and guidelines of the Center for Disease Control of the United States Department of Health and Human Services that relate to the spread of infectious diseases.

Subd. 2. In order to ascertain the source of infection and reduce its spread, the public health official, and persons under the public health official's direction and control, may inspect or cause to be inspected, and to issue orders regarding any commercial building, structure or premises, or any part thereof, that may be a site of high-risk sexual conduct. If the public health official determines that a hazardous site as defined herein exists, the public health official will declare it to be a public health hazard and public health nuisance and will:

- a) Notify the manager, owner, or tenant of the hazardous site that the public health official has reasonable belief that the premises, building or structure is a hazardous site as defined herein;
- b) Issue two written warnings at least 10 days apart to the manager, owner, or tenant of the premises stating the specific reasons for the public health official's opinion that the premises, building, or structure is a hazardous site as defined herein;
- c) Once such notices and warnings have been issued, the public health official must proceed as follows:
 - 1) After the manager, owner or tenant of the premises has been notified in writing as to the basis of the public health official's determination, the manager, owner or tenant will have 10 days from the date of the last warning to request a hearing before the public health official or the public health official's appointee for the determination as to the existence of such hazardous site. If the manager, owner or tenant of the premises does not request a hearing within 10 days of the date of the last warning notice, the public health official will then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site and the public health official will cause orders to be issued to the manager, owner or tenant of the premises constituting the hazardous site to take specified corrective measures to prevent high-risk sexual conduct from taking place within the premises.

- 2) If the manager, owner, or tenant of the premises requests a hearing, the hearing will be held before the public health official or the public health official's appointee at a date not more than 30 days after demand for a hearing. After considering all evidence, the public health official or the public health official's appointee will make a determination as to whether the premises constitute a hazardous site, as defined herein and issue a decision based upon all hearing evidence presented. If the public health official or the public health official's appointee makes a determination that the premises constitute a hazardous site, the public health official will then issue orders to the manager, owner, or tenant of the premises to take corrective measures to prevent high-risk sexual conduct from taking place within the premises and cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site.
- 3) If, within 30 days after issuance of the orders to the manager, owner, or tenant of the hazardous site, the public health official determines that such corrective measures have not been undertaken, the public health official: may order the abatement of the hazardous site as a public nuisance, which may be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction; or, may secure a court order for the closure of the premises constituting the hazardous site until the premises, building, or structure is in compliance with all provisions of this code.

605.11. Criminal Penalties. A person violating any provision of this article or any person who removes, destroys or defaces warnings posted on premises by the public health official pursuant to section shall be guilty of a misdemeanor.