

By Zerby

**Amending Title 15, Chapter 389 of the Minneapolis Code of Ordinances relating to Offenses--Miscellaneous: Noise.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 389.30, definitions, be amended by amending the definition of *Noisy Assembly* and adding *Reasonable and necessary actions* to read as follows:

**389.30. Definitions.** The following terms whenever used in this article shall have the following respective meanings:

*Noisy or unruly assembly:* For the purposes of sections 389.65 (c)(1) and 389.65 (c)(2), the term "noisy or unruly assembly" shall mean a gathering of more than one person in a residentially zoned or used area or building between the hours of 10:00 p.m. and 6:00 a.m. whose noisy or illegal conduct that would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area considering the time of day and the residential character of the area. Noisy or unruly assemblies may include, but are not limited to, those involving excessive noise, obstruction of public ways by crowds or vehicles, consumption of alcohol by minors, provision of alcohol to minors, fighting, disturbing the peace, disorderly conduct, littering, and public urination or defecation.

*Reasonable and necessary actions:* Those actions that would firmly convince a reasonable person that the frequency and severity of future noisy or unruly assemblies, as defined in this section and applied in section 389.65 of this Code, would be substantially reduced.

Section 2. That Section 389.65 (c) of the above-entitled ordinance be amended to read as follows:

**389.65. Public nuisance noise.**

(c) Activities which constitute a public nuisance. The following acts are violations of this section, subject to enforcement through criminal, civil and administrative means, without reference to the standards of paragraphs (a) and (b) of this section, with the exception of section 389.65 (b) (13), namely:

- (1) *Noisy or unruly assembly*. Participating in, conducting, visiting, or remaining at a gathering knowing or having reason to know that the gathering is a noisy or unruly assembly, as defined in section 389.30, except person(s) who have come to the gathering for the sole purpose of abating the disturbance.
- a. The premises at which a noisy or unruly assembly occurs shall additionally be subject to a notice of noisy or unruly assembly and to the potential imposition of administrative special security costs as further described in this section.
  - b. A notice of noisy or unruly assembly shall be sent within ten business days via first class mail to the owner and/or rental license holder of record of any premises at which a noisy or unruly assembly is determined to have taken place by the Minneapolis Police Department. The Minneapolis Police Department may, upon determining that the issuance of a notice would be contrary to public policy, refrain from such issuance when the noisy or unruly assembly was created primarily by the occurrence of an incident of domestic abuse, as that term is defined in Minnesota Statute Section 518B.01, or wholly through the actions of uninvited guests or trespassers.
    1. Each notice of noisy or unruly assembly shall state that a noisy or unruly assembly has occurred on the premises; the date, time and nature of the noisy or unruly assembly; and that the owner, rental license holder or landlord may be issued an administrative citation and held directly and vicariously liable for any special security costs expended during subsequent responses to the premises for additional noisy or unruly assemblies within 180 days of the date of the noisy or unruly assembly which triggered the notice. Each notice shall further state the date of expiration for the notice, which shall be 180 days from the date of the noisy or unruly assembly which triggered the notice. The notice shall direct the owner, rental license holder or landlord to take steps to ensure that the premises are not used for additional noisy or unruly assemblies.
    2. Right to contest issuance of notice. An owner, rental license holder or landlord who receives a notice may contest its issuance by requesting an administrative hearing pursuant to Chapter 2 of this Code. The hearing shall proceed pursuant to and be governed by the administrative hearing procedures of Chapter 2. At the hearing, the city shall bear the burden of proving by a preponderance of the

evidence that a noisy or unruly assembly occurred and that the issuance of the notice was justified pursuant to the provisions of this chapter. Should the owner, rental license holder or landlord of the property affirmatively demonstrate that the issuance was based wholly upon the actions of uninvited guests or trespassers, the notice shall be deemed invalid and rescinded. An owner, rental license holder or landlord who receives a notice, may at any time petition the designated agent of the Minneapolis Police Department for a written order rescinding the notice on the grounds that he or she has taken reasonable and necessary actions, as defined in section 389.30, to prevent the occurrence of subsequent noisy or unruly assemblies. The designated agent of the Minneapolis Police Department may grant or deny the request for good cause. A denial of such a request may be contested by requesting an administrative hearing pursuant to Chapter 2 of this Code. At the hearing, the petitioner shall bear the burden of proving by a preponderance of the evidence that the petitioner has taken reasonable and necessary actions to prevent subsequent noisy or unruly assemblies at the premises. Each notice of noisy or unruly assembly shall contain a recitation of these appeal rights. In any event, the notice shall be rescinded upon the presentation of adequate verification to the Minneapolis Police Department of the final departure from the unit that triggered the notice of every resident living in that unit at the time of the incident that formed the basis for the notice.

3. The criminal, civil or administrative enforcement of this section shall not preclude any additional enforcement or application of any other provisions of this Code, including but not limited to Section 244.2020, Conduct on licensed premises or Section 244.1940, Denial; non-renewal; revocation; suspension.

c. Special security costs. When the police department, fire department or other emergency response personnel respond to a noisy or unruly assembly at the same premises within 180 days of the date of any previous noisy or unruly assembly for which a notice of noisy or unruly assembly was served and remains valid, the owner, rental license holder or landlord of the premises shall be issued an administrative citation pursuant to Chapter 2 of this Code in an amount as specified in the schedule of civil fines as adopted by resolution of the city council, inclusive of the city's actual costs of providing special security service for the response to the noisy or unruly assembly plus any additionally prescribed civil fine amount. Special security service response costs

include all reasonably associated personnel and equipment expenditures. However, in no case shall any such citation be issued pursuant to this section for any noisy or unruly assembly occurring within 21 days of the mailing of the notice.

- (2) *Permitting noisy or unruly assembly.* Knowingly permitting real estate under one's care or control to be used for a noisy or unruly assembly, as defined in section 389.30.
- (3) *Horns and other signal devices.* The sounding of any horn or signal device on an automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal or traffic warning.
- (4) *Keeping animals or birds.* The keeping of any animal or bird which causes long, frequent, and/or continuous noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area.
- (5) *Operation of vehicles.* The use of any automobile, pickup truck, motorcycle, or other vehicle which is not reasonably maintained and which causes noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area.
- (6) *Amplified sound from vehicles.* Except as provided in section 389.105, the playing or operation, or permitting the playing, use or operation, of any radio, tape player, disc player, loud speaker, or other electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle being operated on a public street or alley, or in commercial or residential parking facilities, which is audible by any person from a distance of fifty (50) feet or more from the vehicle. When sound violating this section is produced or reproduced by any such device that is located in a motor vehicle, the motor vehicle's owner, if present when the violation occurs, is in violation of this section. If the motor vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is in violation of this section. In addition to an owner or a driver, any person who controls or assists with the production of sound violating this section is in violation of this section. Violation of this subsection is a misdemeanor. A first violation of this subsection is punishable by a fine not to exceed five hundred dollars (\$500.00), a second violation is punishable by a fine not to exceed seven hundred dollars (\$700.00), and a third violation is punishable by a fine to the maximum amount.

- (7) *Amplified sound.* The playing or operation, or permitting the playing, use or operation, of any radio tape player, loud speaker or other electronic device used for the amplification of sound (except as specifically permitted under section 389.105) located inside or outside, the sound of which carries to points of habitation on adjacent properties, and is audible above the level of conversational speech at a distance of fifty (50) feet or more from the point of origin of the amplified sound.