

**TITLE VI  
HEALTH REGULATIONS**

**Chapter 60**

**NUISANCES**

**ARTICLE 1  
PUBLIC NUISANCES**

**60.100 Nuisances Defined.**

(1) Whatever annoys, injures, or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway or navigable stream; or in any way renders the public insecure in life or property, is hereby declared to be a public nuisance.

(2) Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this Article.

**60.101 Nuisances, in General, Prohibited.** No person shall commit, create or maintain any nuisance, or permit any nuisance to be committed, created or maintained on any property owned, occupied or possessed by him. Each day a nuisance shall remain unabated shall be construed as a separate violation.

**60.102 Burning Prohibited.** [Except as otherwise provided in this Section, no person shall burn or cause to be burned within the City, any garbage, rubbish, grass, leaves, wood or wood products, animal refuse, hides, feathers or other organic or animal matter. Notwithstanding such prohibition, one campfire is permitted per residential building within the City, subject to the following restrictions:

(1) The campfire must be located in the rear yard of the residential building.

(2) The campfire must be located at or below ground level.

(3) The campfire must be surrounded by a fire break.

(4) The campfire cannot exceed three (3) feet in diameter, and/or seven (7) square feet.

(5) The only material that can be burned in a campfire is firewood, being defined as natural wood products less than two (2) feet in length.

(6) A campfire must be extinguished after use, and shall not be left unattended.

A bonfire is any campfire which exceeds three (3) feet in diameter, or seven (7) square feet. A bonfire is permitted only after obtaining a license as provided in Section 90.101(28) of this Code.]<sup>43</sup>

**60.103 Rat and Insect Control.** No person shall permit, upon premises for which he is responsible as owner or occupant, any accumulation of garbage, rubbish, or offal which will attract or furnish a haven for rats, flies or mosquitoes, and no such person shall permit rats to remain upon any such premises.

**60.104 Littering of Streets.** No person shall place, deposit, scatter, throw or leave in any street, highway, land, alley, public square or space, or on any private property of another, any refuse, waste, offal, garbage, dead animals, or wash water or liquid, or any other such material, or transport such materials in such a manner as to cause the littering of any street, alley or public place or of any private property not his own, or to cause the obstruction of any ditch, drain or gutter.

**60.105 Refuse Storage.**

Every person shall keep, within the lot line of his premises, a suitable receptacle for depositing any ashes, glass (broken or unbroken), or any metal, stone, earthenware, cans or other refuse and waste of a like nature.

Every person shall keep, within the lot line of his premises, a receptacle for garbage, and animal and vegetable matter, which receptacle shall have a cover, and shall be at all times left

in a convenient place so that proper collection of garbage may be made at any time.

**60.106 Handbills, Stickers, Dodgers, etc.**

(1) No person shall distribute, throw, drop or scatter in any street, alley or public place, or in or upon any vehicle located in any street, alley or public place, any poster, handbill, card, sample, or other matter used for the purpose of advertising in such a manner as to result in the littering of any street, alley or public place.

(2) No person shall distribute handbills, cards, samples or other advertising matter on any private property so as to cause a littering of any street, alley or public place or of any private property not his own.

**60.107 Posting.** No person shall attach, place, paint, write, stamp or paste any sign, advertisement, or any other matter upon any lamp post, electric light or telephone pole, shade tree, fire hydrant or any box covering them; or on any pavement, sidewalk or crosswalk, public building or any property or thing belonging to the City, or on any article or thing within any park; provided that this subsection shall not be construed to prevent any public officer from so doing when his act is required in the performance of his duties under the law.

**60.108 Grass and Weeds.** No person who is the owner, possessor or occupant of land within the City shall fail to cut down all grass or weeds growing thereon at least once between the 15th and 29th day of each of the months of May, June, July, August and September, or at any time that said grass or weeds shall exceed twelve (12) inches in average height above ground level. If the owner or occupant of such property shall not, after three (3) days' written notice from the City Manager, cut the grass and/or weeds on said premises, the City may, without further notice, proceed to cut said grass and/or weeds, and bill the cost thereof to the owner of said premises. If not paid by the owner within forty five (45) days of billing, the City may direct the City Assessor to spread the amount of the bill against the description of property chargeable therewith on

the next general tax roll for the collection of taxes in the City.

**60.109 Blight.** No person shall permit the open storage or accumulation of junk, trash, rubbish or refuse of any kind on any property within the City. The term "junk" shall include used lumber, wood, metal, plastic, masonry products, concrete, parts of machinery or motor vehicles, used stoves or other appliances stored in the open, or other used or cast off material of any kind, whether or not the same could be put to any reasonable use. Further, no person shall permit the open storage of unused construction materials, including rock aggregate, dirt or topsoil, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, shingles, mortar, concrete or cement, tile, linoleum, fasteners or construction devices, including ladders, sawhorses, roof trusses or other fabricated construction products, except for such property where the owner can produce a valid building permit issued for a construction project on such property, issued no more than twelve (12) months prior to the date of inspection of such property, and further provided such unused construction materials or construction devices must be reasonably necessary for the purposes of the building project for which the permit was issued. The open storage of any such unused construction materials or devices which exceed the purposes of the construction project for which the building permit was issued, or any open storage of such unused construction materials or construction devices beyond the twelve month period after a building permit for a specific construction project was initially issued, without the express written approval of the Zoning Administrator, shall be a violation of this Section.]<sup>23</sup>

**60.110 Animals.**

(1) Any animal or fowl, domestic or otherwise (an "animal"), including a dog, cat or other domestic pet, located within the City, which is not under the direct control (as hereinafter defined) of the person owning, keeping or harboring such animal (the "owner"),

is hereby declared a public nuisance and the owner shall be subject to the penalties provided for violation of the other provisions of this Code. An animal shall be under the owner's "direct control", only under the following circumstances:

(a) When confined within a house, pen or cage located on the owner's premises;

(b) When enclosed or contained within a yard by fencing or other physical means of restraint adequate to confine the animal to the owner's premises; or,

(c) When under the manual control of a person capable of controlling such animal, by leash, cord or chain.

(d) In the case of a dog or cat only (a "pet"), when there is direct visual and audible contact between the pet and the owner, and the pet is so obedient to the owner's command that the pet does not run from the owner, trespass on others' property, or annoy or disturb persons in the proximity of the owner and the pet.

(2) No person shall own or harbor any animal or fowl, including a dog or cat, in the City of Harbor Springs which by loud or frequent barking, howling, yelping, growling or any other noise, causes serious annoyance, or becomes a nuisance in the neighborhood in which said animal or fowl is kept.

(3) No person shall own or harbor an animal or fowl, including a dog or cat, that has been bitten by any animal or fowl known to have been afflicted with rabies, nor shall any person own or harbor an animal or fowl, including a dog or cat, which has contracted rabies or is suspected of contracting rabies, or which has bitten any person, without first having notified the Harbor Springs Police Department that such person has such an animal or fowl in his possession.

(4) No person shall keep any animal or fowl, including a dog or cat, in such a manner that odors are created and can be detected upon premises adjacent to the premises where such animal or fowl are kept.

(5) No person shall own, keep, harbor or possess within the City any dog or other animal

which has a vicious propensity, which shall include any dog or other animal which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal.

(6) No person shall permit an animal owned, harbored, kept or in the possession or control of that person, to defecate at a location which is not that person's property; provided, it shall not be a violation of this subsection if the feces is immediately cleaned up and placed in a trash receptacle or taken to a location where the person has permission to dispose of the feces.

#### **60.111 Abandoned Automobiles.**

(1) No person owning or occupying any lot or premises in this City shall allow abandoned, dismantled, or partially dismantled, or wrecked, automobile(s) to stand, accumulate or remain upon said lot or premises.

For the purpose of this Section, an "abandoned, dismantled, partially dismantled, or wrecked automobile" shall be defined as one which is incapable of being driven away either under its own power, or because it lacks necessary equipment.

(2) This Section shall not apply to lands used for the above purposes by licensed junk dealers, automobile dealers, or automobile parts dealers, if the said dealers are operating from premises zoned for the purposes of their operation.

**60.112 Awnings and Canopies.** Any new construction of, or new use of, an awning or canopy that emits any measurable illumination is hereby declared a nuisance, and no person shall hereafter create or construct or commence any new use of any such awning or canopy on any property owned, occupied or possessed by him.

**60.113 Boarding Up Buildings or Windows.** No person shall, without first obtaining a permit therefor from the City Manager of the City of Harbor Springs, cover the front of a commercial building, or the windows of a commercial building, with external boards, metal screens,

grates, or other material in such a way that the building appears to be unoccupied, or that the occupant of said building has ceased business activity. Permits shall be issued by the City Manager, upon a demonstration of need by the applicant, giving consideration to the following criteria:

- (1) Whether the applicant can demonstrate a hazard to the security of the building unless an external material covers the front of the building or windows thereof.
- (2) Whether alternative, more creative solutions are available to provide the same type of protection, without the attendant effect of creating the appearance of a boarded up building.
- (3) Whether the applicant proposes to cover the window for an extended period of time.
- (4) Whether the owner created the hazard by the type of construction used on the building.
- (5) Whether the front of the building or the windows to be covered are proximate to and visible from a primary street within the City. If so, the City Manager shall balance the risk of the possible hazard against the public welfare in having the appearance of a viable commercial district.

Any person aggrieved by a decision of the City Manager may appeal the decision to the Zoning Board of Appeals who shall hear and decide the appeal de novo.

**60.114 Helicopter Take Offs and Landings.**

No person shall, except in the event of a rescue or ambulance mission, and then only with the consent of the Chief of Police of the City of Harbor Springs or the City Manager of the City of Harbor Springs, land or take off a helicopter within the city limits of the City of Harbor Springs.

**60.115 Enforcement of Article.**

(1) The City Manager may at his option elect to enforce the provisions of this Article by one of the following methods or by any combination thereof:

(a) He may prosecute the person committing, creating or maintaining the nuisance for a violation of the provisions of this Code; or

(b) He may cause the nuisance to be immediately abated provided the nuisance involves the public health or safety or injury to property, and assess the reasonable cost thereof to the owner of said property.

(c) He may give notice in the manner provided in Section 1.109 of this Code ordering said nuisance to be abated.

**60.116 Notice.** Notice regarding sidewalk repairs, sewer or water connection, abating nuisances, or any other act, performed by the City, the expense of which may be assessed against the premises under the provisions of this Code shall be served as provided in Section 1.109 of this Code.

**60.117 Abatement Procedure.**

(1) When any lot, building or structure within the City because of an accumulation of refuse, or debris, the uncontrolled growing of grass and noxious weeds or because of any other condition or happening becomes in the opinion of the City Council a public hazard or nuisance, which is dangerous to the health, safety or welfare of the inhabitants of the City or those residing or habitually going near such lot, building or structure, the City Council may, by resolution, after investigation, determine that a hazard or nuisance exists, prescribe a form of notice and direct the Clerk to give such notice by first class mail, addressed to the last known address of the owner of the land upon which such nuisance exists or to the owner of the building or structure itself, to abate such nuisance or remove such hazard, except that no notice shall be required for the removal of weeds, snow or ice.

(2) The notice to abate or remove the hazard or nuisance shall specify the nature of the hazard

or nuisance and describe the property on which the same is located and require the owner to abate or remove the hazard or nuisance promptly and shall designate a time within which the same shall be abated or removed which shall be commensurate with the nature of the hazard or nuisance.

(3) If at the expiration of the time limit specified in the notice to remove or to abate a hazard or nuisance, the owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known, the City Council may, by resolution, order such hazard removed or nuisance abated under the direction of the City Manager by the proper department or agency of the City, or may do the work by contract or by hire. In the case of weeds, snow or ice, the City Council may order the immediate removal of the same.

(4) The City Manager shall take all steps necessary to carry out the directions of the City Council in removing a hazard or abating a nuisance, shall keep or cause to be kept an accurate record of all expense in connection therewith, and upon completion of the work to be performed, shall submit a report of the work done and all expense in connection therewith, to the City Council.

(5) The City Council shall assess the costs against the person and property responsible as provided in Section 4.115 of this Code.

#### **60.118 Dumping on Bluff Property.**

(1) No persons shall place, deposit, scatter, throw, dump, or store any refuse, waste, leaves, brush, grass cuttings, garden waste, dirt or any other such material on any premises, whether publicly owned or privately owned by himself or by another, on the premises described in the following subsection and hereafter referred to as the "Bluff" property.

The property to which the prohibition in the previous subsection refers is described as that property having a one (1) to ten (10) or greater

slope bounded by a line beginning at the intersection of West Bluff Drive and Fourth Street in the City of Harbor Springs; thence easterly along West Bluff Drive to East Bluff Drive; thence easterly along East Bluff Drive to the end; thence continuing easterly along the line of East Bluff Drive if East Bluff Drive were extended to the Westerly boundary of Shay Park; thence northerly to Pine Street; thence easterly along the centerline of Pine Street to the intersection of Hoyt Street; thence southerly along the centerline of Hoyt Street to the intersection of East Main Street; thence easterly along East Main Street to the City limits; thence southerly along the City limits to Pennsylvania Avenue; thence westerly along the centerline of Pennsylvania Avenue to the intersection of Zoll Street; thence northerly along Zoll Street to the intersection of East Main Street; thence westerly along East Main Street to the intersection of Nelson Street; thence northerly along the centerline of Nelson Street to the intersection of Third Street; thence westerly along Third Street to a point which would be the southerly extension of Ann Street if Ann Street were extended southerly; thence North along the southerly extension of Ann Street to Fourth Street; thence westerly along Fourth Street to the point of beginning. The line above described shall be the centerline of the said streets or extensions of streets.

The purpose of this Section is to prevent the accumulation of large amounts of grass cuttings, leaves and other dumping material which tends to accelerate the erosion of the Bluff and cause problems of flooding, siltage, wasting away of grass and other materials onto the properties below the Bluff, and the streets and other public grounds of the City. Nothing in this Section shall be construed to prohibit, prevent or interfere with the natural accumulation of leaves and grass from the plants growing within the described area, but only to prevent the placing of additional rubble, grass cuttings, etc., in such area.

(2) Soil Stabilization. When, pursuant to the stabilization of the slope described in subsection (2), the City Manager deems it

necessary or advisable to fill along said slope or to permit a portion of said slope to be filled, nothing in this Section shall be construed as to prevent such action, provided that any such stabilization project be through permit issued by the City Manager.

**60.119 [Bluff Restrictions.**

(1) [No Building, Excavation or Disturbance. No person shall excavate, improve or otherwise disturb the Restricted Bluff Zone, as defined in Section 50.302(5)(a)(ii) of the City Zoning Code, and no property owner shall authorize or permit such excavation, improvement or disturbance and no property owner or occupant shall permit, and no person shall construct any building or other structure that will cantilever over the Restricted Bluff Zone or overhang same, provided, if a retaining wall already existed with the Restricted Bluff Zone on January 20, 2005, and in the opinion of the City Manager, repairs to or maintenance of said retaining wall are necessary to protect property, such repairs or maintenance may be approved by the City Manager.

(a) Each person who violates any provision of this Section 60.119, or authorizes its violation, and/or is the owner or occupant of property where such violation occurs, is responsible for a municipal civil infraction, punishable by a civil fine of a minimum of \$500, and a maximum of \$2,500, plus costs and all other remedies as provided by law.

(b) Each subsequent occurrence of a violation of this Section by the same person shall constitute a separate offense, punishable by a civil fine of \$3,500, plus costs and all other remedies as provided by law.

(c) Violations of this Section are considered to be a nuisance per se with such violations and correction of any conditions resulting from violations shall be subject to abatement by injunctive or other appropriate order by a court of competent jurisdiction.]<sup>61</sup>

(2) Exemption for City. The restrictions and regulations of Section 1 of this Section

60.119 shall not apply to the City of Harbor Springs in the exercise of its governmental activities, including, but not limited to, street construction or maintenance, or to installation or maintenance of other infrastructure.]<sup>46</sup>

**ARTICLE 2  
DANGEROUS STRUCTURES**

**60.200 Maintenance.** It is unlawful for any owner or agent thereof to keep or maintain any structure or part thereof which is a dangerous building as defined in Section 60.201.

**60.201 Definition.** As used in this Article, "dangerous building" means any building or structure which has any of the following defects or is in any of the following conditions:

(1) Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of the State Construction Code for a new building or similar structure, purpose or location.

(2) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(3) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the State Construction Code.

(4) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or some other reason, is likely to partially or completely collapse.

(5) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

(6) Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.

(7) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the enforcing officer, or is likely to work injury to the health, safety or general welfare of those living within.

(8) Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

**60.202 Notice; Contents; Hearing.**

(1) When the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the City Council or the City Manager may issue a notice of the dangerous and unsafe condition.

(2) Such notice shall be directed to each owner of the building, in whose name the property appears on the City tax assessment records, any known mortgagee, and the occupant of the building, if any.

(3) The notice shall specify the time and place of a hearing before the City Council on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not

be ordered to be demolished or otherwise made safe.

(4) All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records, at least ten (10) days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure.

**60.203 Hearing; Order; Costs.**

(1) The City Council shall take testimony of the enforcing officers, the owner of the property and any interested party, and shall render its decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.

(2) If it is determined by the Council that the building or structure should be demolished or otherwise made safe, it shall so order, fixing a time in the order for the owner, agent or lessee to comply therewith.

(3) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order, the City Council may direct the City Manager to take the necessary action to demolish or otherwise make safe the building or structure. A copy of the findings and order of the City Council shall be served on the owner, agent or lessee in the manner prescribed in Section 60.202(4).

(4) The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the City Assessor who shall assess the cost against the property on which the building or structure is located.

(5) The owner or party in interest in whose name the property appears upon the last local tax

assessment records shall be notified of the amount of such cost in the manner prescribed in Section 60.202(4). If he fails to pay the same within thirty (30) days after mailing by the Assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the City and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the City.

**60.204 Judicial Review.** An owner aggrieved by any final decision or order of the City Council may appeal the decision or order to the Circuit Court by filing a petition for an order of superintending control within twenty (20) days from the date of the decision.

### **ARTICLE 3 ABANDONED REFRIGERATORS**

#### **60.300 Abandoned Containers Hazardous to Children.**

(1) It shall be unlawful for any person to leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of said icebox, refrigerator or container.

(2) It shall be unlawful for any person to leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, or any other container of any kind which has an airtight snap lock or other device thereon without first removing said door from said icebox, refrigerator or container.

### **ARTICLE 4 NOISE CONTROL**

**60.400 Declaration of Policy.** It is hereby declared that the peace, health, safety and welfare of the citizens of Harbor Springs require protection from excessive, unnecessary and unreasonable noises from any and all sources in the community. It is the intention of the City

Council to control the adverse effect of such noise sources under any conditions of use.

**60.401 Vehicular Traffic Limits.** It shall be unlawful for any person to operate a motor-driven vehicle, including an automobile, motorcycle, snowmobile or any other motor-driven vehicle, except a truck or other vehicle with a manufacturer's gross weight rating of ten thousand (10,000) pounds and above within the City limits of the City of Harbor Springs, under any condition of grade, load or acceleration in such a manner as to make or create a noise, which exceeds 76 decibels measured at a distance of not less than twenty-five (25) feet from the vehicle. For motor vehicles with the manufacturer's GVW rating of ten thousand (10,000) pounds or more, the maximum permissible noise level is 80 decibels.

(1) It shall be an offense for any person who is the owner or person with custody and control of an automobile or other motor-driven vehicle to permit another person to use said vehicle in violation of the provisions of this Article, and the owner as well as the person who uses the motor vehicle shall be equally in violation of this Article.

(2) Any motor-driven vehicle operated on private property shall not make or create any noise in excess of the levels permitted in this Section, measured at the boundary of said private lot or parcel.

**60.402 Residential District Limits.** In any residential district as such districts are defined in Chapter 51 of the Code of Ordinances of the City of Harbor Springs, the noise level from any activity being conducted on any parcel of land or in any building located in such residential district shall not exceed 70 decibels measured on the boundary of the lot on which such activities take place.

**60.403 Business District Limits.** In any B-1, B-2, C, P or M-1 District, as such districts are defined in Chapter 51 of the Code of Ordinances of the City of Harbor Springs, the noise level from any activity conducted on any premises

within any of said districts shall not exceed 76 decibels measured at the boundary of the lot or parcel on which such activities take place.

Where the boundary of any B-1, B-2, C, P or M-1 District adjoins any residential district, the sound pressure level from the activities conducted on the non-residential district shall not exceed 70 decibels measured at the boundary of the residential district or property.

**60.404 Stationary Noise.** In order for any noise originating in a zoning district, and not coming from a motor-driven vehicle, to be a violation of this Article, said noise must not be what might be termed an occasional noise, like a slamming door. It must have a duration of at least one (1) minute, or be repeated at least ten (10) times over a period of ten (10) minutes.

**60.405 Public Amusements.** At any public amusement, including, but not restricted to dances, concerts, etc., no sound shall be produced which is in excess of 90 decibels measured at a distance of ten (10) feet from the source of the sound or any speaker or other device used to amplify said sound.

**60.406 Public Ways.** No person shall make, or cause to be made upon a public way, street or park, or in such close proximity to a public way, street or park as to be distinctly and loudly audible upon such public way, street or park, any noise of any kind by crying, calling or shouting or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, tape recorder, sound amplifying or other similar electronic device, that exceeds the allowable decibel limits set forth in Sections 60.402 and 60.403. The sound shall be measured at the boundary of the public right-of-way in the case of a street or twenty-five (25) feet from the source in the case of a park.

**60.407 Harbor.** On the controlled waters or ice of Little Traverse Bay as defined in Chapter 31 of the Code of Ordinances of the City of Harbor

Springs, no watercraft, snowmobile or other object shall be operated so as to make or create sound level pressure exceeding 80 decibels, as measured from a distance of at least twenty five (25) feet from said watercraft, snowmobile or other object.

**60.408 Exceptions.** The maximum sound level pressures established in this Article shall not apply to the following:

- (1) Fireworks, when permitted by City and State law.
- (2) Bands, when in a lawful parade or concert.
- (3) Parades.
- (4) Emergency vehicles.
- (5) Snow plowing vehicles and equipment.
- (6) Church and school bells.
- (7) Lawn and garden machines, chain saws and similar lawn and garden machines when operated between the hours of 8:00 a.m. and 9:30 p.m. Monday through Saturday, and between the hours of 10:00 a.m. and 6:00 p.m. on Sundays and holidays.
- (8) Construction machinery and tools during the construction or repair of any structures and buildings, between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. There is no exception on Sundays or holidays. "Construction machinery" includes a pile driver, derrick, hoist, tractor, bulldozer, electric saw, power nailer and similar equipment.
- (9) Residents who are personally working on construction or repair of their own residence or property shall be exempted from the maximum noise level pressures pertaining to construction machinery and tools between the hours of 7:00 a.m. to 9:00 p.m., daily.

(10) Work by or authorized by or approved by the City of Harbor Springs on public utilities, streets or parks are exempted from the noise level pressure limitations.]<sup>37</sup>

**60.409 Noise Level Measuring Equipment.**

The noise shall be measured on a decibel or sound level meter of standard design and quality operated on the "A" weighing scale and conforming to ANSI S1.4 1961 type 2 or type 3 meters. All references to decibels in this Article refer to decibels measured on the "A" weighing scale.

**60.410 Application for Relief.** Applications for a permit or for relief from a noise level designated in this Article on the basis of undue hardship may be made to the City Manager or his duly authorized representative. Any permit granted by the City Manager hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time the permit shall be effective. The City Manager or his duly authorized representative may grant the relief as applied for if he finds:

- (1) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this Article; or
- (2) The activity, operation or noise source will be of temporary duration and cannot be done in a manner that would otherwise comply with this Article; and
- (3) No other reasonable alternative is available to the applicant; and
- (4) The City Manager may prescribe any conditions or requirements he deems necessary to minimize the adverse effects upon the community or the surrounding neighborhood.
- (5) In addition, the City Manager may grant permits for activities of a temporary duration permitted by law, such as parades, firework displays, and similar activities.

**60.411 Offenses.**

(1) Whenever in this Article certain noise levels are prohibited on any premises, it shall be an offense for the owner, tenant, person in charge of the premises, or any person on the premises with the permission of the owner, tenant, lessee or person in charge of the premises, to make, cause to be made, or permit to be made the sound or noise which violates the provisions of this Article. It shall likewise be an offense for any person on the premises without the permission of the owner, tenant, or person in charge of said premises, for said person on the premises without permission to make or cause to be made the sound or noise which violates this Article.

With regard to watercraft, boats, hovercrafts, snowmobiles or other objects being operated on or over the waters or ice subject to the provisions of this Article, it shall be an offense for any person who is the owner, or person with custody and control of said watercraft, boat, hovercraft, snowmobile or other object to use or permit other persons to use said watercraft, boat, hovercraft, snowmobile or other object in violation of the provisions of this Article, and the owner as well as the person who uses said watercraft, boat, hovercraft, snowmobile or other object shall be equally in violation of the Article.

- (2) Nothing in this Article shall be construed to set aside, reduce, or diminish other provisions of the Code of Ordinances relating to excessive sound or noise.
- (3) Nothing in this Article shall be construed to impair any cause of action, or legal remedy of any person or the public for injury or damage arising from noise or nuisance.