

MAPLE GROVE TOWNSHIP
MANISTEE COUNTY, MICHIGAN

#8-2008

MAPLE GROVE TOWNSHIP NOISE ORDINANCE

AN ORDINANCE TO PROHIBIT EXCESSIVE OR UNUSUALLY LOUD NOISES WHICH DISTURB THE PEACE AND WELFARE OF THE PUBLIC; TO ESTABLISH CRITERIA AND PROCEDURES FOR REGULATION OF NOISE DISTURBANCES; TO PRESCRIBE PENALTIES FOR VIOLATIONS AND PROCEDURES FOR ENFORCEMENT OF THE ORDINANCE; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

THE TOWNSHIP OF MAPLE GROVE ORDAINS:

Section 1. Title, Purpose and Legal Basis.

101. Title:

This Ordinance shall be known as the Maple Grove Township Noise Ordinance.

102. Purpose:

Pursuant to its statutory power to enact ordinances for the purposes of preserving and protecting the general health, safety and welfare of the Township and its residents, the Township Board of Maple Grove Township hereby enacts the following Noise Ordinance, the purpose of which is to prohibit excessive, unnecessary, unnatural, or unusually loud noises, or which are prolonged, unusual, and unnatural in their time, place, and use, and which disturb the peace and comfort of the public, or are detrimental to the public health, comfort, convenience, safety, welfare and peace of the general public and to provided penalties for the violation of this Ordinance.

103. Legal Basis:

This Ordinance was enacted pursuant to Public Act 246 of 1945, as amended (being the Township Ordinance Act, M.C.L. 41.181 et seq.).

Section 2. Definitions.

201. Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Ambient Sound Level:

The total sound pressure level in the area of interest including the noise source of interest.

Background Sound Level:

The total sound pressure level in the area of interest excluding the noise source of interest.

Construction:

Is any site preparation, assembly, erection, repair, alteration or similar action, or

demolition of buildings or structures.

dBA:

Is the A-weighted unit of sound pressure level.

dBC:

Is the C-weighted unit of sound pressure level.

Decibel (dB):

Is the unit of measurement for sound pressure level at a specified location.

Emergency Work:

Is any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

Impulsive Sound:

A sound having a duration of less than 1 s with an abrupt onset and rapid decay.

Measuring Instrument:

An instrument such as a sound level meter, integrating sound level meter or dosimeter used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the latest version of ANSI Standard S1.4-1983.

Noise:

Any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the Township or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

Noise Disturbance:

Any sound that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property.

Plainly Audible:

A sound which can be heard at a distance of fifty (50) feet from the source where the sound emanates.

Pure Tone

Any sound that can be judged as a single pitch or set of single pitches.

Real Property Line:

Either (a) the imaginary line, including its vertical extension, that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling unit building.

Sound Level:

The instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.

Section 3. Regulation of Noise Disturbances.

301. General Prohibition. No person, corporation or other legal entity shall cause or create any

unreasonable or unnecessarily loud noise or noise disturbance, injurious to the health, peace or quiet of the residents and property owners of the Township.

302. Exceptions. The following circumstances shall not be treated as violations of the prohibition against noise disturbances under this Ordinance:

- A. Noise from any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities;
- B. Noise from any warning devices emitting sound for warning purposes as authorized by law;
- C. Noise from the excavation or repair of streets or highways (including bridges) or other property by or on behalf of the State of Michigan, Maple Grove Township or Manistee County, between sundown and 7 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours;
- D. Noises emanating from the discharge of firearms, provided the discharge of the firearms was authorized under Michigan law and other local ordinances.
- F. Noise from Construction activities between the hours of 8:00 a.m. and 8:00 p.m. on weekdays and 9:00 a.m. and 8:00 p.m. on weekends, so long as valid building permit has been issued and is currently in effect.
- G. Fireworks displays for which a permit has been issued by the Township Board.
- H. Sounds created by church bells or church chimes.
- I. Sounds created by lawn mowers, manual and power tools and household appliances in use between the hours of 8:00 a.m. and 8:00 p.m. on weekdays and 9:00 a.m. and 8:00 p.m. on weekends.
- J. Sounds from sporting events of any public or private school, or authorized fair, carnival or other sporting events subject to any sound limits contained in any permit issued by the Township Board.

303. Specific Noise Disturbances Prohibited. The following noises and noise disturbances are hereby declared to be a violation of this Ordinance; provided, however, that the specification of these specific violations is not to be construed as excluding other violations of this Ordinance not specifically enumerated:

- A. The playing of any radio, television, or other electronic or mechanical sound-producing device, including any musical instrument in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of other persons.
- B. Yelling, shouting, hooting or singing on the public streets between the hours of 10 p.m. and 7 a.m., or at any time or place so as to unreasonably upset or disturb the quiet, comfort and repose of any persons in the vicinity.
- C. The emission or creation of any excessive noise which unreasonably interferes with the operation of any school or church.
- D. The sounding of a horn or signaling device on any automobile, truck or other vehicle, except as a danger warning; the sounding of such device for an unnecessary and unreasonable period of time, or at an unreasonable time of the day or night.
- E. The keeping or harboring of a barking dog (as defined below) or any animal

which howls, barks or emits clearly audible sounds that are unreasonably loud or disturbing and which are of a character, intensity and duration so as to disturb the peace and quiet of adjoining properties. For purposes of this section, "barking dog" shall mean a dog that barks, cries, or howls continuously and/or incessantly for a period of five (5) or more minutes or barks intermittently for ten minutes or more to the disturbance of any other person at any time of day or night.

F. The creation of loud and excessive noise in connection with loading, unloading, or handling of boxes, crates, containers, refuse, garbage receptacles, motor vehicles or similar objects between the hours of 8 p.m and 7 a.m. the following day.

G. The discharge into the open air of exhaust of any steam engine, stationary internal combustion engine, or other form of engine, which in a boat, motor vehicle, off-road vehicle, or tractor except through a muffler or other device which effectively prevents or reduces loud or explosive noises.

304. Anti-Noise Regulations Based Upon dB(A) Criteria. In order to regulate and prove violations occurring under Section 303 of this ordinance, any noise in excess of the maximum decibel limits according to the regulations stated below is deemed to be in violation of this ordinance.

A. Regulations for decibel measurement of noise originating from private properties. Noise radiating from all properties or buildings, as measured at the boundaries of the property, which is in excess of the dB(A) established for the following districts and times shall constitute prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area and is therefore in violation of this ordinance:

Residential Zoning Districts (R-I, R-II, and R-III) (and in Rural Districts located within 500 feet of any dwelling under separate ownership):

Limitations: 7 a.m. - 10 p.m. : 55db(A) and 10 p.m. - 7 a.m. : 50 db(A)

Rural Zoning Districts (FR-I and AG-I), the Commercial-Residential District (CR-I) and any Industrial District (IR-I) from any dwelling under separate ownership and commercial:

Limitations: 7 a.m. - 10 p.m. : 65db(A) and 10 p.m. - 7 a.m. : 55 db(A)

B. Harmonic or pure tones, and periodic or repetitive impulse sound shall be in violation when such sounds are at a sound level of 5 dB(A) less than those listed above.

C. Violations shall exist when the source or sources of noise are identifiable and the levels emanating from the source or sources exceed the limitations listed above. As an example, such noise shall include that emitting from the production, processing, cleaning, servicing, testing, repairing and manufacturing of materials, goods or products, including vehicles.

D. Where property is partly in two zoning districts or adjoins the boundary of a

zoning district, the dB(A) levels of the zoning district of the property where the noise is emanating shall control.

E. Regulations for decibel measurement of motor driven vehicles on public roads. All noise emitted from motor driven vehicles upon public roads shall be measured whenever possible at a distance of a least 50 feet (or 15 meters) from a noise source located within the public right-of-way. If measurement at 50 feet (15 meters) is not feasible, measurement may be made at 25 feet (7 1/2 meters) and if this is done, 6 dB(A) shall be added to the limits provided below. All such noises in excess of the dB(A) as provided herein shall be prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area and is therefore in violation of this ordinance.

F. Measurement of noise. All measurements of dB(A) according to subparagraphs A and B of this section shall be made by using a sound level meter of standard design and operated on the dB(A) weight scale, with "slow" meter response.

305. Factors for Determining Violations. The factors which shall be considered in determining whether any violation of this Ordinance exists, whether enumerated or not, shall include, but not be limited to, the following:

- A. The decibel level (dB(A)) of the subject noise.
- B. The levels of ambient noise.
- C. The proximity of the subject to noise to residential dwellings.
- D. The nature and zoning and permissible land use(s) of the area in which the noise originates and where the noise is audible.
- E. The number of persons affected by the noise.
- F. The duration and/or spectral content of the noise.
- G. Whether the noise is continuous, recurrent or intermittent.

306. Variance Procedures. Any person who owns or operates any stationary noise source may apply to the Township Board for a variance from one or more of the provisions of this ordinance. Applications for a permit of variance shall supply information including, but not limited to:

- A. The nature and location of the noise source for which such application is made;
- B. The reason for which the permit of variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of variance is not granted;
- C. The level of noise that will occur during the period of the variance;
- D. The section or sections of this ordinance for which the permit of variance shall apply;
- E. A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
- F. A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this ordinance within a reasonable time.
- G. Failure to supply the information required above shall be cause for rejection of the

application.

H. A copy of the permit of variance must be kept on file by the Township Clerk for public inspection.

I. The Township may charge the applicant a fee established by Resolution of the Township Board to cover expenses resulting from the processing of the permit of variance application.

J. The Township Board may, at its discretion, limit the duration of the permit of variance, which shall be no longer than 1 year. Any person holding a permit of variance and requesting an extension of time shall apply for a new permit of variance under the provisions of this section.

K. No variance shall be approved unless the applicant presents adequate proof that:

1. Noise levels occurring during the period of the variance will not constitute a danger to public health; and

2. Compliance with the ordinance would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

L. In making the determination of granting a variance, the Township Board shall consider:

1. The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;

2. The social and economic value of the activity for which the variance is sought; and

3. The ability of the applicant to apply the best practical noise control measures.

4. The permit of variance may be revoked by the Township Supervisor if the terms of the permit of variance are violated.

M. A variance may be revoked by the Township Supervisor if there is:

1. Violation of one or more conditions of the variance;

2. Material misrepresentation of fact in the variance application; or

3. Material change in any of the circumstances relied on by the Township Board in granting the variance.

Section 4. Enforcement.

401. The provisions of this ordinance shall be enforced by the Township Supervisor, or other enforcement officers designated by the Township Board. Manistee County Sheriff's Department officers shall be authorized to issue citations for civil infraction for violations of this Ordinance.

402. The Township Supervisor, or other Township official charged with enforcing this Ordinance, shall have the power to:

A. Coordinate the noise control activities of all Township departments and cooperate with all other public bodies and agencies to the extent practicable;

B. Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this ordinance;

- C. Receive and investigate complaints of property owners and residents of the Township alleging violations of this Ordinance; and
- D. Grant permits for variances according to the provisions of Article 9.

403. Enforcement.

A. Violations; Civil Infractions. Any person, including, but not limited to, an individual, partnership, corporation, limited liability company, or other incorporated or unincorporated voluntary association who violates any provision of this Ordinance shall be guilty of a civil infraction. Violation of this Ordinance and its penalties shall be judicially enforced through the 85th Judicial District Court. Enforcement for violations of this Ordinance shall be as follows:

1. Unless immediate action is necessary upon the determination by the Township Zoning Administrator that there is a danger to the public health, safety, or welfare, the person violating this Ordinance shall be served personally or through first class mail with a notice of violation requiring that the violation be immediately corrected following receipt of the notice;
2. Upon failure to correct the violation or in cases when immediate action is necessary, a person violating this Ordinance shall be issued a citation requiring their appearance in the 85th Judicial District Court. A person who violates this Ordinance shall be guilty of a civil infraction and shall be fined not less than \$150.00 nor more than \$500.00 plus costs.
3. A person who violates this Ordinance shall be guilty of a civil infraction and when having been previously found responsible or admitted responsibility for a violation of this Ordinance in a civil infraction proceeding within one (1) year immediately preceding the issuance of the second citation, shall be fined not less than \$250.00 nor more than \$500.00 plus costs.
4. A person who violates this Ordinance shall be guilty of a civil infraction and when having been found responsible or admitted responsibility for violation of this Ordinance in a civil infraction proceeding on at least two prior occasions within two (2) years immediately preceding the issuance of the third or later citation, shall be fined \$500.00 plus costs.

B. Violations; Civil Action. The Township Board, the Township Zoning Administrator, or the Attorney for the Township may institute a nuisance, injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings, to prevent, enjoin, abate, or remove any building or structure or use, which has been erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance.

C. Cumulative Remedies. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law. The issuance of a municipal civil infraction citation and a finding or admission of responsibility for violation of this Ordinance in a civil infraction proceeding shall not bar a civil action seeking equitable relief beyond the jurisdiction of the 85th Judicial District Court under subsection D, hereof, arising from the same violation.

Section 5. Separability, conflicting provisions and effective date.

1001. Separability:

If any clause, sentence, sub-sentence, paragraph, section, or part of this Ordinance be adjudged by any Court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub-sentence, paragraph, section, or part thereof directly involved in the controversy in which said judgment shall have been rendered.

1002. Conflicting Provisions:

All Ordinances, or parts thereof, conflicting with the Provisions of this Ordinance are hereby repealed insofar as same affect this Ordinance.

1003. Effective Date:

This Ordinance shall take effect thirty (30) days after final approval and publication as required by law.

THOSE VOTING IN FAVOR: Beldo, Larsen, Hill, Jezowski, Kuuttila
THOSE VOTING AGAINST: None
THOSE ABSTAINING: None

ORDINANCE DECLARED PASSED/DEFEATED.

Catherine Larsen
Catherine Larsen, Clerk

CERTIFICATION

I, Catherine Larsen, Clerk of the Township of Maple Grove, Manistee County, Michigan, do hereby certify that the above is a true and correct copy of the Maple Grove Township Noise Ordinance as adopted by the Maple Grove Township Board at a meeting held on September 8, 2008.

Catherine Larsen
Catherine Larsen