

## 128.000 - ANTI-NOISE AND PUBLIC NUISANCE Ord. No. 324 Effective: July 1, 1985

An Ordinance to secure the public health, safety, and general welfare of the residents and property owners of Kalamazoo Charter Township, Kalamazoo County, Michigan, by the regulation of noise within said Township; to prescribe the penalties for the violation thereof and to repeal all ordinances or parts of ordinances inconsistent with or less restrictive than said ordinance.

## THE CHARTER TOWNSHIP OF KALAMAZOO, KALAMAZOO COUNTY, MICHIGAN ORDAINS:

## 128.001 - Title.

Sec. I. This Ordinance shall be known and cited as the Township Anti-Noise and Public Nuisance Ordinance.

## 128.002 - Definitions.

Sec. II. The following terms used in this Ordinance are defined as follows:

*Decibel* is a unit to express the magnitude of sound pressure and sound intensity. The difference in decibels between two sound pressures is 20 times the common logarithm of their ratio. In sound pressure measurements, the sound pressure level of a given sound is defined to be 20 times the common logarithm of the ratio of that sound pressure to a reference pressure of  $2 \times 10^{-5} \text{N/m}^2$  (Newtons per meter squared). As an example of the effect of this formula, a three decibel change in the sound pressure level corresponds to a doubling or halving of the sound intensity, and a ten decibel change corresponds to a ten fold increase or decrease to 1/10th the former intensity.

*dB(A)* means the sound pressure level in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI S1.4-1971.

## 128.003 - Anti-noise regulations.

## Sec. III.

A. *General regulation.* No person, firm or corporation shall cause or maintain any unreasonably loud noise or disturbance, injurious to the health, peace or quiet of the residents and property owners of the Township.

B. *Specific violations.* The following noises and disturbances are hereby declared to be a violation of this Ordinance; provided, however, that the specification of the same is not thereby to be construed to exclude other violations of this Ordinance not specifically enumerated:

1. The playing of any radio, phonograph, 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.
2. Yelling, shouting, hooting or singing on the public streets between the hours of 10:00 P.M. and 7:00 A.M., or at any time or place so as to unreasonably upset or disturb the quiet, comfort or repose of any persons in the vicinity.
3. The emission or creation of any excessive noise which unreasonably interferes with the operation of any school, church, hospital or court.

4. The keeping of any animal, bird or fowl, which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.
5. The operation of any automobile, motorcycle or other vehicle so out of repair or loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably disturbing to the quiet, comfort or repose of other persons. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this section.
6. The sounding of any horn or other device on any motor vehicle unless necessary to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.
7. The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle, or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this section.
8. The erection, excavation, demolition, alteration or repair of any building or premises in any part of the Township, and including the streets and highways, in such a manner as to emanate noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 A.M. and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. In such case, a permit shall be obtained from the building inspector or ordinance enforcement officer of the Township, which permit shall limit the periods that the activity may continue.
9. The creation of a loud or excessive noise unreasonably disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer, railroad car, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.
10. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose which, by the creation of such noise, shall be unreasonably disturbing to other persons in the vicinity.
11. The operation of any loudspeaker or other sound amplifying device upon any vehicle on the streets of the Township with the purpose of advertising, where such vehicle, speaker or sound amplifying equipment emits loud and raucous noises easily heard from nearby adjoining residential property.
12. The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort or repose of any person.
13. The operation of any race track, proving ground, testing area or obstacle course for motor vehicles, motorcycles, boats, racers, automobiles or vehicles of any kind or nature in any area of the Township where the noise emanating therefrom would be unreasonably

disturbing and upsetting to other persons in the vicinity. Under no circumstances shall any race track, proving ground, testing area or obstacle course operate after 11:00 P.M. on any evening.

128.004 - Anti-noise regulations based upon dB(A) criteria.

Sec. IV. In order to regulate and prove violations occurring under Section III [128.003] 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. However, violations under Section III [128.003] above but which have no decibel determination available shall nevertheless be deemed violations 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 that portion of the property under separate occupancy, which is in excess of the dB(A) established for the districts and times herewith listed 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. Violations shall exist when the source or sources of noise are identifiable and the levels emanating from the source or sources exceed the following limitations. 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.

Zoning Districts	Limitations 7 AM to 10 PM	Limitations 10 PM to 7 AM
Residential (and any area within 500 feet of a hospital regardless of zoning district and agricultural districts located within 500 feet of any dwelling under separate ownership)	55 dB(A)	50 dB(A)
Agricultural, where at least 500 feet from any dwelling under separate ownership and Commercial	65 dB(A)	55 dB(A)
Industrial	80 dB(A)	75 dB(A)

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

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.

The following exceptions shall apply to these regulations under this Section IV, [128.004], subsection A:

- 1.

Construction projects shall be subject to the maximum permissible noise levels specified for industrial districts as long as a valid building permit has been issued by the Township and is currently in effect.

2. All railroad operations shall be subject to the maximum permissible noise levels allowed in industrial districts, regardless of the zone where they are located.
3. Noises occurring between 7:00 A.M. and sundown caused by home or building repairs or from maintenance of grounds are excluded, provided, such noise does not exceed the limitations specified in Section IV [128.004](A) by more than 20 dB(A).
4. Any commercial, agricultural or industrial use of property which exists now or in the future as a legal non-conforming use (as defined in the Township Zoning Ordinance) in a higher zoning classification shall be allowed to emit noises in excess of these limitations for the particular zoning classification where such use is located, providing that such noise does not exceed either of the following limitations:
  - a. The noise level emitted by such use at the time it became a legal nonconforming use as a result of the enactment of the Township Zoning Ordinance or amendment thereto, if available.
  - b. The limitations contained herein based upon such a use being located in the highest zoning district (either commercial and agricultural or industrial) where such a use is specifically allowed as a permissible use.

**B. 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 at 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 (7½ meters) and if this is done, six 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.

Vehicle	Weight	dB(A) Maximum Limitation
Trucks & Buses .....	Over 10,000 lbs. Gross Weight	82dB(A)
Trucks & Buses .....	Under 10,000 lbs. Gross Weight	74 dB(A)
Passenger Cars .....	Any Weight	74 dB(A)
Motorcycles, Snowmobiles & Minibikes .....	Any Weight	82 dB(A)

All other self-propelled motor vehicles ....	Any Weight	74 dB(A)
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**C. *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 "A" weight scale, with "slow" meter response.**

128.005 - General exceptions.

Sec. V. The prohibitions hereinbefore enumerated shall not apply to the following general exceptions:

- A. Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
- B. Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, County of Kalamazoo, or any municipal governmental body, between sundown and 7:00 A.M. when the public welfare, safety, and convenience render it impossible to perform such work during other hours.
- C. Warning devices emitting sound for warning purposes as authorized by law.
- D. Noises emanating from the discharge of firearms are excluded, providing the discharge of the firearms was authorized under Michigan law and all local ordinances.

**E. The Township Board shall have authority to grant permits for short-term outdoor recreational or holiday activities generating noise in excess of the limits set forth in this Ordinance.**

In determining whether or not to grant any such permit, the Township Board shall consider the duration of the proposed activity, the level of noise likely to be generated by it, the times of day during which such noise is likely to be generated, and the nature of the area surrounding the site of the proposed activity. In granting any permit hereunder, the Township Board shall have the right to impose reasonable terms and conditions designed to minimize any adverse impact of the proposed activity on the surrounding area.

128.006 - Public nuisance regulations.

Sec. VI. **No person, firm or corporation shall create, cause or maintain any public nuisance within the Township by the unreasonable emission of dust, smoke, fly ash or noxious odors which are offensive or disturbing to adjacent property owners and residents or persons in the area.**

128.007 - Validity.

Sec. VII. The several provisions of this Ordinance are declared to be separate; if any Court of Law shall hold that any section or provision hereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this Ordinance.

128.008 - Penalties.

Sec. VIII. Any person, firm, association, partnership, corporation, or governmental entity that violates any of the provisions of the Kalamazoo Township Anti-Noise and Public Nuisance Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of up to \$500.00 or imprisonment in the County jail up to ninety (90) days, or both such fine and imprisonment. Each day

that a violation continues to exist shall constitute a separate offense. The fines and penalties herein provided shall be in addition to any injunctive or other relief which might be available or appropriate under the circumstances.

*(Ord. No. 427, 10-24-94; Ord. No. 444, 3-11-96)*

128.009 - Effective date.

Sec. IX. This Ordinance shall take effect on July 1, 1985. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted: June 24, 1985