

Charter Township of Orion

Ordinance No. 135

Noise Ordinance

Adopted June 21, 2004

AN ORDINANCE FOR THE PURPOSE OF CONTROLLING OR ABATING EXCESSIVE AND ANNOYING, LOUD, UNNECESSARY, UNNATURAL AND/OR UNUSUAL NOISES AND ESTABLISHING LIMITATIONS ON THE CREATION OF NOISE IN ORION TOWNSHIP; TO PROVIDE FOR ENFORCEMENT OF THE PROVISIONS OF THE ORDINANCE; TO AMEND ORDINANCE 58, DISORDERLY PERSONS, BY DELETING SECTIONS III.L. AND III.O.; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

Section 1 - TITLE

This Ordinance shall be known and may be cited as the "Noise Ordinance" and it shall be deemed sufficient, in any actions for the enforcement of the provisions hereof, to refer to same by such title or by reference to the number hereof.

Section 2 - PURPOSE AND INTENT

It is found that the making and creation of excessive, unnecessary or unusually loud noise is a detriment to the peace of the community and to the public health, comfort, convenience, safety and welfare. The provisions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public peace and public health, comfort, convenience, safety and welfare of the citizens of Orion Township, by controlling or abating excessive, annoying, loud, unnecessary, unnatural and/or unusual noise; and, establishing limitations on the creation of noise. This division shall apply to the control of all stationary sound and vibration originating in Orion Township. This Ordinance is not designed to impede any person's First Amendment rights of freedom of speech, and is not designed to impede the growth or economic health of the commercial or industrial sectors of the Township. This Ordinance is designed to prohibit excessive sound that is a hazard to the public health, welfare, safety and quality of life only.

Section 3 - DEFINITIONS

The following words, terms and phrases, when used in this Ordinance shall have the following meanings where appropriate:

- A. **Combination Vehicle** means any combination of truck, truck tractor, trailer, semi-trailer or pole trailer operated on private property or used upon the highways or streets in the transportation of passengers or property.
- B. **Commercial** means the area defined in the Township's Zoning Ordinance.
- C. **Commercial Power Equipment** means and includes equipment of 20 horse power or less intended for occasional use on residential property including, but not limited to, power generators, power hand tools, chainsaws, jackhammers or other pavement breakers, or other similar equipment.
- D. **Construction** means the erection, excavation, demolition, alteration, or repair of any building or structure and/or of the excavation, alteration or repair of any streets or highways.
- E. **Construction Equipment** means and includes industrial machinery of greater than 20 horse power such as tractors, bulldozers, drills, augers, loaders, power shovels, cranes, derricks, paving machines, trenchers, compactors, pavement breakers, compressors and all other similar machinery.
- F. **Continuous Noise** means any noise whose level varies less than 3dB(A) during the course of a period of at least five (5) minutes.
- G. **Decibel or dB** means a logarithmic unit of sound intensity.
- H. **Decibel on the A-weighted Network or dBA** means decibels measured on the A-weighted network of a calibrated sound level meter utilizing the A-level weighting scale and the fast meter response.
- I. **Emergency Work** includes any work performed by or on behalf of public utilities, municipal departments, commissions, or any governmental agency in regard to essential facilities damaged as a result of an unforeseen occurrence such as a natural disaster, police or fire situation, or accident, for which work must be done for the purpose of preventing further damage and/or restoring property to a safe condition, and/or putting such facilities back in working order.

- J. **Exhaust System** means the system comprised of a combination of components which provides for enclosed flow of exhaust gases from engine parts to the atmosphere.
- K. **Gross Vehicle Weight Rating** means the value specified by the manufacturer as the loaded weight of a vehicle.
- L. **Impulsive Noise** means sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.
- M. **Industrial Area** means the area defined in the Township's Zoning Ordinance.
- N. **Instantaneous Noise** means a sudden noise of short duration, usually less than a minute, which fades and is not repeated for one (1) hour or more. Examples of instantaneous noise include an explosion.
- O. **Intermittent Noise** means any noise which goes on and off during a course of measurement of at least five (5) minutes, but which exceeds ten (10) seconds in duration each time it is on.
- P. **Muffler** means a device for abating the sound of escaping gases of an internal combustion engine.
- Q. **Perpetual Noise** means any noise whose level varies less than 3dB(A) during a period of at least thirty (30) minutes.
- R. **Residential Area** means the area defined in the Township's Zoning Ordinance.
- S. **Residential Power Equipment** means power equipment intended for frequent use in residential areas, including but not limited to lawn mowers, snow and/or leaf blowers, riding tractors and or other similar garden tools.
- T. **Repetitious Noise** means any noise which is not instantaneous or perpetual, which repeats in successive intervals. If cessation of sound is less than thirty (30) minutes, the noise shall be deemed to be uninterrupted and will be deemed perpetual. If the cessation between intervals of sound is greater than thirty (30) minutes, each successive period of sound may be deemed instantaneous noise if the period of sound is instantaneous in nature, as defined by this Ordinance.
- U. **Sound Amplification Equipment** means any device designed to increase the sound level of the human voice, music or any other sound. This does not include standard factory installed automobile radios when used to be heard by only the occupants of the vehicle. This also excludes warning devices on emergency and traffic safety vehicles.
- V. **Sound Level** or **Noise Level** means the sound level in decibels as measured on a sound level meter using the A-weighting network, and designated dB(A) or dBA.
- W. **Sound Level Meter** is an instrument, including microphones, amplifiers, output meters and frequency weighting networks for the measurement of noise and sound levels, which meets or exceeds the requirements pertinent for such meters set forth in the most recent version of the American National Standards Institute specifications for sound level meters.
- X. **Total Noise** means noises radiating from a vehicle but does not include noises emitted from a horn, siren, bell or other similar device of an authorized emergency vehicle.

Section 4 - PROHIBITED ACTS

It shall be unlawful for any person to willfully or negligently make or continue, or cause to be made or continued, any loud or unusual noise which disturbs the peace and quiet of any neighborhood or which causes any discomfort or annoyance to any reasonable person of normal sensitivities residing in the area. The factors used to make a determination that this Ordinance has been violated include the following:

- A. The sound level of the objectionable noise;
- B. The character and typical environmental noise of the surrounding area;
- C. The proximity of the noise to residential areas;
- D. The nature and zoning of the area where the noise originates;
- E. The number of persons affected by the noise;

- F. The time of day or night the noise occurs;
- G. The duration of the noise;
- H. Whether the noise is instantaneous, intermittent or perpetual; and
- I. Whether the noise is produced by commercial or non-commercial activity.

Section 5 - MAXIMUM PERMISSIBLE SOUND LEVELS

No person, business or institution shall conduct or permit any activity that produces a dB(A) beyond their property line exceeding the levels specified below. Where property is used for both residential and commercial purposes, the residential sound levels shall be used only for measurements made on the portion of the property used solely for residential purposes. Sound measurements shall be made at or inside the property line of the person complaining of excessive noise or vibrations. The measurement shall be taken from five (5) feet above the ground or floor level.

A. Impulsive Noise.

- 1. Residential area-60 dB(A) from 10:00 p.m. to 7:00 a.m. and 70 dB(A) from 7:00 a.m. to 10:00 p.m.
- 2. Commercial area-70 dB(A) from 10:00 p.m. to 7:00 a.m. and 80 dB(A) from 7:00 a.m. to 10:00 p.m.
- 3. Industrial area-80 dB(A) from 10:00 p.m. to 7:00 a.m. and 90 dB(A) from 7:00 a.m. to 10:00 p.m.

B. Intermittent Noise.

- 1. Residential area-55 dB(A) from 10:00 p.m. to 7:00 a.m. and 60 dB(A) from 7:00 a.m. to 10:00 p.m.
- 2. Commercial area-60 dB(A) from 10:00 p.m. to 7:00 a.m. and 65 dB(A) from 7:00 a.m. to 10:00 p.m.
- 3. Industrial area-70 dB(A) from 10:00 p.m. to 7:00 a.m. and 75 dB(A) from 7:00 a.m. to 10:00 p.m.

C. Continuous Noise.

- 1. Residential area-45 dB(A) from 10:00 p.m. to 7:00 a.m. and 50 dB(A) from 7:00 a.m. to 10:00 p.m.
- 2. Commercial area-50 dB(A) from 10:00 p.m. to 7:00 a.m. and 55 dB(A) from 7:00 a.m. to 10:00 p.m.
- 3. Industrial area-55 dB(A) from 10:00 p.m. to 7:00 a.m. and 60 dB(A) from 7:00 a.m. to 10:00 p.m.

D. Perpetual Noise.

- 1. Residential area-45 dB(A) from 10:00 p.m. to 7:00 a.m. and 50 dB(A) from 7:00 a.m. to 10:00 p.m.
- 2. Commercial area-50 dB(A) from 10:00 p.m. to 7:00 a.m. and 55 dB(A) from 7:00 a.m. to 10:00 p.m.
- 3. Industrial area-55 dB(A) from 10:00 p.m. to 7:00 a.m. and 60 dB(A) from 7:00 a.m. to 10:00 p.m.

Section 6 - VEHICULAR NOISE

A. Exhaust system required.

A motor vehicle, while being operated on private property or on a highway or street within the Township shall be equipped with an exhaust system in good working order to prevent excessive or unusual noise and shall be equipped to prevent noise in excess of the limits established in this section.

- B. After the adoption of this Ordinance, a motor vehicle shall not be operated or driven on private property or on a highway or street within the Township if the motor vehicle produces total noise exceeding one of the following limits at a distance of fifty (50) feet, except as provided in subdivisions (2)(c) and (3)(c):

1. A motor vehicle with a gross weight or gross vehicle weight rating of eight thousand five hundred (8,500) pounds or more, combination vehicle with gross weight or gross vehicle weight ratings of eight thousand five hundred (8,500) pounds or more:
 - a. Ninety (90) dBA if the maximum lawful speed on the highway or street is greater than thirty-five (35) miles per hour.
 - b. Eighty-six (86) dBA if the maximum lawful speed on the highway or street is not more than thirty-five miles per hour.
 - c. Eighty-eight (88) dBA under stationary run-up test.
 2. A motorcycle or moped:
 - a. Eighty-six (86) dBA if the maximum lawful speed on the highway or street is greater than thirty-five (35) miles per hour.
 - b. Eight-two (82) dBA if the maximum lawful speed on the highway or street is not more than thirty-five (35) miles per hour.
 - c. Ninety-five (95) dBA under stationary run-up test at seventy-five (75) inches.
 3. A motor vehicle or a combination of vehicles towed by a motor vehicle not covered in subsections 1 or 2:
 - a. Eighty-two (82) dBA if the maximum lawful speed on the highway or street is greater than thirty-five (35) miles per hour.
 - b. Seventy-six (76) dBA if the maximum lawful speed on the highway or street is not more than thirty-five (35) miles per hour.
 - c. Ninety-five (95) dBA under stationary run-up test at twenty (20) inches from the end of the tailpipe.
- C. A dealer shall not sell a used or secondhand motor vehicle for use upon private property or upon a street or highway in the Township which is not in compliance with this Ordinance.
- D. A person shall not modify, repair, replace or remove a part of an exhaust system causing the motor vehicle to which the system is attached to produce noise in excess of the levels established by this division or operate a motor vehicle so altered on private property or upon a street or highway in the Township.
- E. A person shall not operate a vehicle on private property or upon a highway or street in the Township if the vehicle has a defect in the exhaust system which affects sound reduction, is not equipped with a muffler or other noise dissipative device, or is equipped with a cutout, bypass, amplifier or a similar device.
- F. A person, either acting for himself or herself or as the agent or employee of another, shall not sell, install, or replace a muffler or exhaust part that causes the motor vehicle to which the muffler or exhaust part is attached to exceed the noise limits established by this section.

Section 7 - LIMITED EXEMPTIONS

A. Construction Noises.

1. No person shall use industrial machinery such as tractors, bulldozers, drills, augers, loaders, power shovels, cranes, derricks, paving machines, trenchers, compactors, pavement breakers, compressors, pile drivers, shovels, hammers, tractors, rollers or any other mechanical apparatus in excess of 20 horse power, on building or construction sites in, or adjacent to, residential areas in order to erect, excavate, demolish, alter, or repair any building and/or to excavate, alter or repair any streets or highways between the hours of 7:00 p.m. and 7:00 a.m. No such apparatus shall be operated on Sunday.

2. In all events, any and all noise resulting from activity involving the use of Construction Equipment in a residential area shall be measured from the property line on which the work is being conducted.
- B. Commercial Power Equipment. No person shall use equipment of 20 horse power or less including, but not limited to, power generators, power hand tools, chainsaws, jackhammers or other pavement breakers, or any other similar power equipment, in or adjacent to residential areas in order to erect, excavate, demolish, alter, or repair any building and/or to excavate, alter or repair any streets, highways, drives, entranceways or walkways and/or to build, repair or restore any motor vehicle between the hours of 7:00 p.m. and 7:00 a.m.
- C. Residential Power Equipment. Power equipment intended for frequent use in residential areas, including but not limited to lawn mowers, snow and/or leaf blowers, riding tractors and or other similar garden tools may be used at a reasonable time and in a reasonable manner so as not to offend the peace and quiet of persons of ordinary sensibilities. In all events, any and all residential power equipment used within, or adjacent to, a residential area shall be limited to use between the hours of 7:00 a.m. and 10:00 p.m.
- D. Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, or similar objects between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a residential real property line shall be prohibited.
- E. Non-Residential Areas. In all non-residential areas, any activity creating sound shall be limited in manner to maintain a noise level at or below 85 dB(A), except any source of sound within one hundred twenty-five (125) feet of the boundary of any residential area shall be limited, as set forth above.
- F. Sound Amplification from Vehicle. Operation or control of a parked or moving vehicle with any sound amplification equipment in or on such vehicle producing sound which is clearly audible more than fifty (50) feet from the vehicle is prohibited. This provision shall not be applicable to noise or sound emanating from publicly sponsored or publicly permitted concerts, sporting events, speeches, activities, events, or gatherings.
- G. Noise Permit. If a person demonstrates in advance to the Township Board that compliance with this provision would result in unreasonable hardship for the applicant, and there are no reasonable means of limiting the creation of such sound or noise, then the Township Board shall grant such person the right to emit noise.

Section 8 - GENERAL EXEMPTIONS

The following activities are exempted from the limitations of Section 5:

- A. Emergency work necessary to restore property to a safe condition following fire, accident or natural disaster; to restore public utilities; or to protect persons or property from an imminent danger.
- B. Sound to be made to alert persons to the existence of an emergency, danger or attempted crime.
- C. Activities or operations of governmental units or agencies.
- D. Parades, concerts, festivals, fairs or similar activities, subject to any sound limits in the approval by the Township.
- E. Athletic, musical, or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools.

Section 9 - VIOLATION AND PENALTIES

- A. Municipal Civil Infraction / Payment of Fine.

Any person, firm, or corporation violating a provision of this Ordinance, upon an admission or a finding of responsibility for such violation, shall be deemed responsible for a municipal civil infraction as that term is defined and used in MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended, and shall pay a civil fine as prescribed by ordinance or as determined by the district court, district court judge, or district court magistrate.

B. Costs.

A person, firm, or corporation ordered to pay a fine under Subsection A shall be ordered by the district court judge or magistrate to pay costs of not less than Nine Dollars (\$9) or more than Five Hundred Dollars (\$500), which costs may include all expenses, direct or indirect, to which the Township of Orion has been put in connection with the violation of the Ordinance up to the entry of the court's judgment or order to pay fines and costs.

C. Additional Writs and Orders.

A person who admits or is found responsible for violation of this Ordinance shall comply with any order, writ, or judgment issued by the district court to enforce this Ordinance pursuant to Chapter 83 and Chapter 87, of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

D. Default on Payment of Fines and Costs.

A default in payment of a civil fine, costs, or damages, or expenses ordered under Subsection A or B or an installment of the fine, costs, or damages or expenses as allowed by the court, may be collected by the Township of Orion by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

E. Failure to Comply with Judgment or Order.

If a defendant fails to comply with an order or judgement issued pursuant to this section within the time prescribed by the court, the court may proceed under Subsection G.

F. Failure to Appear in Court.

A defendant who fails to answer a citation or notice to appear in court for a violation of this Ordinance is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500) plus costs and/or imprisonment not to exceed ninety (90) days.

G. Civil Contempt.

1. If a defendant defaults in the payment of a civil fine, costs, or other damages or expenses, or installment as ordered by the district court, upon motion of the Township of Orion or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
2. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
4. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, or damages or expenses.
5. The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one (1) day for each Thirty Dollars (\$30) due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30) per day.

6. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:
 - a. Defendant is credited with an amount due pursuant to Subsection G(5).
 - b. The amount due is collected through execution of process or otherwise.
 - c. The amount due is satisfied pursuant to a combination of Subdivisions G(6)(a) and (b).

7. The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection G(6).

Section 10 - REPEALER

All ordinances or portions of an ordinance in conflict with or inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 11 - SAVINGS

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time of this Ordinance takes effect, are saved and may be consummated according to the law when they were commenced.

Section 12 - SEVERABILITY

The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

Section 13 - EFFECTIVE DATE

This Ordinance shall be published in full in a newspaper of general circulation in the Charter Township of Orion qualified under State Law to publish legal notices and shall become effective upon publication, as provided by law.