

STATE OF MICHIGAN  
COUNTY OF HURON  
TOWNSHIP OF PORT AUSTIN

ANTI-NOISE AND PUBLIC NUISANCE ORDINANCE

ZONING ORDINANCE  
ORDINANCE NO. 06-135

An ordinance to secure the public health, safety and general welfare of the residents and property owners of Port Austin Township, Huron County, Michigan, by the regulation of noise within said Township; to prescribe the penalties for the violation thereof.

THE TOWNSHIP OF PORT AUSTIN, HURON COUNTY, MICHIGAN, ORDAINS:

**Section 1: Title**

This ordinance shall be known and cited as the Port Austin Township Anti-Noise and Public Nuisance Ordinance.

**Section 2: Definitions**

The following terms used in this ordinance are defined as follows:

- A. "Decibel" is a unit used to express the magnitude of sound pressure and sound intensity. The difference in decibels between two sound pressures is twenty (20) times the common logarithm of their ratio. In sound pressure measurements, the sound pressure 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 3 decibel change in the sound pressure level corresponds to a doubling or halving of the sound intensity, and a 10 decibel change corresponds to a 10-fold increase or decrease to 1/10th the former intensity.
- B. "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.

**Section 3: Anti-Noise Regulations**

- A. General regulation. No person, firm or corporation shall cause or create any unreasonable or unnecessarily 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 p.m. and 6 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 so 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 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 6:00 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 device 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 p.m. on any evening.

C. Exceptions. None of the prohibitions hereinbefore enumerated shall apply to the following:

1. Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
2. Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, Port Austin Township, or the County of Huron, between sundown and 6 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours.
3. Warning devices emitting sound for warning purposes as authorized by law

**Section 3: Public Nuisance Regulations**

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.

#### Section 4: Anti-Noise Regulations Based Upon dB(A) Criteria

In order to regulate and prove violations occurring under Section 3 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 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.

	<b>Limitations</b>	<b>Limitations</b>
Zoning Districts	6 a.m. - 10 p.m.	10 p.m. - 6 a.m.
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, Commercial and Industrial where at least 500 feet from any dwelling under separate ownership and commercial.	65 dB(A)	55 dB(A)

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.

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 4, 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 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 4A by more than 20 dB(A).
4. Noises emanating from the discharge of firearms are excluded, providing the discharge of the firearms was authorized under Michigan law and all local ordinances.
5. Any commercial, agricultural or industrial use of property which exists now or in the future as a legal nonconforming use (as defined in the Township zoning ordinance) in a higher zoning classification shall be allowed to emit noise 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 non-conforming use as a result of the enactment of an amendment of the Township zoning ordinance 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 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.

Vehicle	Weight	dB(A) Maximum Limitations
Trucks & buses	Over 10,000 lbs. gross weight	82 dB(A)
Trucks & buses	Under 10,000 lbs. gross weight	74 dB(A)
Passenger cars	Any weight	74 dB(A)
Motorcycles, snowmobiles & mini-bikes	Any weight	82 dB(A)
All other self-propelled motor vehicles	Any weight	74 dB(A)

- 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.

### **Section 5: Validity**

The several provisions of this ordinance are declared to be separate; if any court of law shall hold that any section or provision thereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this ordinance.

### **Section 6: Municipal Civil Infraction**

A person who violates this ordinance is responsible for a municipal civil infraction subject to payment of a civil fee of not less than \$50.00 nor more than \$250.00, reimbursement to the township for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction. Repeat offenses under this article shall be subject to increased fines as provided by Section 6 of this ordinance.

### **Section 7: Increased Civil Fines**

Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this article. As used in this article, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any 18-month period and (ii) for which the person admits responsibility or is determined to be responsible.

The increased fine for a repeat offense shall be as follows:

- A. The fine for any offense which is a first repeat offense shall be no less than \$250.00 plus reimbursement to the township for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.
- B. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no more than \$500.00 plus reimbursement to the township for charges assessed for the expense of the abatement, plus costs and other sanctions for each infraction.

All ordinances of the township heretofore or hereafter adopted shall be considered to be supplemented by the terms of this ordinance.

This ordinance shall take effect upon publication as required by Michigan law following adoption of the township board.

Made and passed at a meeting thereof this 19th day of June 2006, 2005.

Cheryl Gray  
CHERYL GRAY, Township Clerk

Marvin Goretski  
MARVIN GORETSKI, Township Supervisor

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of Port Austin, County of Huron, State of Michigan, at a regular meeting held on the 19th day of June 2006, 2005, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting:

Goretski, Babcock, Andreski, Finan, Gray

and that the following Members were absent:

None

I further certify that Member Andreski moved adoption of said Ordinance, and that said motion was supported by Member Finan.

I further certify that the following Members voted for adoption of said Ordinance:

Goretski, Gray, Finan, Babcock, Andreski

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Supervisor and the Township Clerk.

Dated: 7-12-06

Cheryl Gray  
CHERYL GRAY, Township Clerk