

NOISE ORDINANCE FOR VILLAGE OF EDWARDSBURG

NO. 105

AN ORDINANCE PROHIBITING LOUD, UNNECESSARY OR UNUSUAL NOISES WITHIN THE UNINCORPORATED PORTIONS OF THE VILLAGE OF EDWARDSBURG, COUNTY OF CASS, STATE OF MICHIGAN: AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF.

THE VILLAGE OF EDWARDSBURG ORDAINS:

ARTICLE I
DECLARATION OF POLICY

Section 1. Declaration of policy. It is hereby found and declared that:

A. The making and creation of loud, unnecessary and unusual noises is a condition which has existed for some time and the extent and volume of such noises are increasing; and

B. Such loud, unnecessary or unusual noises which are prolonged or which are unusual or unnatural as to time, place or use, affect and are a detriment to public health, and the comfort, convenience, safety, welfare and prosperity of the inhabitants of the Village of Edwardsburg.

C. The provisions and prohibitions hereinafter contained and enacted are necessary to the public interest are in pursuance of and for the purpose of securing and promoting the public health and comfort, rights of privacy, convenience, safety, welfare, and prosperity of the inhabitants of the Village of Edwardsburg and to secure the peaceful enjoyment by the people of their rights to use the public streets, public parks and public places and to secure the peace and quiet of the Village of Edwardsburg inhabitants.

ARTICLE II
LOUD, UNNECESSARY, UNUSUAL NOISES

Section 1. Unnecessary noises generally. No person shall make, continue, or cause to be made or continued any loud, unnecessary or unusual noise which unreasonably annoys, disturbs, injures or endangers the comfort, convenience, safety, health, welfare or repose of the persons in the vicinity thereof, unless the making, continuing, or causing to be made or continued of such noise cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb or some person.

Section 2. Loud, unnecessary and unusual noises specifically. The following acts, among others are declared to be loud, unnecessary or unusual noises in violation of this Ordinance, but this enumeration of acts shall not be deemed to be exclusive, namely:

A. Animals and Birds or Fowl. The keeping of any animal, bird or fowl which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity.

B. Automobiles and All Other Motor Vehicles. Automobiles, snowmobiles, power boats, motorcycles and other motor vehicles operated in a manner which creates unusual, unnecessary or unreasonable noise (i.e., un-muffled exhaust, screeching of tires, racing of a motor or motors, the inadequate or defective operation of any part thereof or in any similar manner), except where such noise is a necessary consequence of safe driving.

1) Exhausts. The discharge into the open air of the exhaust of any stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

2) Defect in Vehicle or Loads. The use of any automobile, motorcycle, or other vehicle so out of repair, or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.

3) Mufflers.

a. No person shall operate any motor or motor vehicle within the Village unless the motor is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke. If sound in excess of the sound limit (85 decibels) shall emanate from a motor, such evidence shall constitute and be admitted as prima facie evidence that it was producing excessive or unusual noises.

b. No person shall sell or give away for use upon, or install, or use on any motor vehicle any type of muffler or exhaust system that shall modify the exhaust system of a motor vehicle in any manner that will amplify or increase the noise emitted by the motor of such vehicle above the sound limit.

DEFINITIONS:

1. "Decibel" shall be employed as the unit for measurement of relative sound levels as indicated by a sound level meter having those properties essential for the purposes of administration and enforcement of this ordinance.

2. "Person" shall mean any person, firm or corporation.

3. "Sound Limit" shall mean all sound emanating from any motor vehicle in excess of 85 decibels as measured at any point within twenty (20) feet of the point of exhaust while the vehicle is parked with the motor running at its highest speed, or measured at a point not less than twenty (20) feet from a vehicle or motor in motion as said vehicle shall pass the sound level meter.

C. Construction or Repairing of Buildings. The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 10:00 p.m., except in

case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector.

D. Explosives, Fireworks, etc. The exploding of any fireworks, explosives, etc., except by application and approval of a special non-continuous permit to be issued by the appropriate local law enforcement body.

E. Hawkers, Peddlers, Vendors. Crying shouting, calling by peddlers, hawkers and vendors for the purpose of advertising.

F. Horns, Siren, Signaling Devices, etc. The sounding of any horn or signaling device except as an acceptable danger warning or to give notice of time. The creation, by means of any such signaling device, of any unreasonably loud or harsh sound; for any unnecessary and unreasonable period of time.

G. Machinery and Equipment. The operation of any noise-creating blower, power fan, internal combustion engine, air compressor, steam engine or equipment which creates noises sufficient to cause annoyance to the public or disturb the rest and quiet of persons residing or occupying property near enough thereto to be annoyed thereby.

H. Radios, Phonographs, etc. The playing, using or operating or permitting the playing, using or operating of any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing of the person or persons who are in the room, vehicle, chamber or in or on a porch, patio or similar improved area, in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. at a sound limit that exceeds 85 decibels measured at a point not less than twenty feet from any point of the exterior of the building, structure or place of origin of the sound or the amplification thereof, or in such a manner as to be audible for a distance in excess of three hundred feet from the place or places where such device or apparatus will be located, and so that said volume of sound is unreasonably loud, raucous, jarring disturbing, or a nuisance to persons within the area of audibility, shall be prima facie evidence of a violation of this section.

SOUND AMPLIFICATION DEVICES.

1) Registration Required. No person, firm or corporation shall use or operate any sound device, apparatus or sound amplification system for public or commercial purposes in the Village without first filing a written registration statement with the Edwardsburg Village Clerk. This registration certificate or statement shall be filed in duplicate at least five (5) days prior to the date on which such sound device or apparatus is to be used or operated and shall state the following:

- a. Name and address of the applicant.
- b. Address of place of business of applicant.

c. If sound device is to be used on motor vehicle, license number and motor number of said vehicle, name and address of the person who owns the vehicle, name and address of person having direct charge of said vehicle, names and addresses of all persons who will use or operate said vehicle.

d. The purpose for which the sound device or apparatus will be used.

e. A general statement as to the section or sections of the Village in which the sound device or apparatus will be used.

f. The proposed hours of operation of the sound device or apparatus.

g. The number of days of proposed operation of the sound device or apparatus.

h. A general description of the sound amplifying equipment which is to be used.

i. The maximum sound producing power of the sound amplifying equipment which is to be used.

2) The Registration Permit Must Also State the Following:

a. The wattage to be used.

b. The volume of sound which is proposed to be used, measured in decibels.

c. The approximate maximum distance for which sound will be thrown from the sound device or apparatus.

3) Registration Statement Amendment: All persons using or causing to be used sound equipment for commercial or non-commercial purposes shall amend any registration statement filed within forty-eight (48) hours after any change in the information therein furnished.

4) Registration and Identification: The Edwardsburg Village Clerk shall return to each applicant one (1) copy of said registration statement duly certified by the Village Clerk as a correct copy of said application. Said certified copy of the application shall be in the possession of any person operating the sound equipment at all times while the sound amplifying equipment is in operation and said copy shall be promptly displayed and shown to any law enforcement officer upon request.

5) Regulation for Use. Commercial or non-commercial use of any sound device, or apparatus in, on, near or adjacent to any public street, park or place shall be subject to the following regulations, a copy of which shall be delivered to the applicant at the time of delivery of the duly certified registration statement set forth above:

a. The only sounds permitted are for the general purpose of music or human speech.

b. Sound amplifying equipment shall not be operated on sound truck unless said truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour, except when said truck is stopped or impeded by traffic. Where stopped by traffic, said sound amplifying equipment shall not be operated for longer than one (1) minute at such said stop.

c. Sound shall not be issued within five hundred (500) feet of a school, courthouse, or church, during the hours of school, court, or worship respectively, or within five hundred (500) feet of any hospital or similar institution.

d. No amplifying device shall be operated on a sound truck or otherwise in any location where the local Police Department upon investigation, shall determine that the conditions of overcrowding or of street repair or other physical conditions are such that the use of such a sound device or apparatus will deprive the public of the right of the safe, comfortable, convenient and peaceful enjoyment of any public street, place, park or place for other public purposes, or will constitute a threat to the safety of pedestrians or vehicle operators.

e. The human speech and music amplified shall not be profane, lewd, indecent, or slanderous.

f. The volume of sound shall be controlled so that it will not exceed 85 decibels measured at a point not less than twenty (20) feet from any point of amplification and/or will not be audible for a distance in excess of three hundred (300) feet from the place or places where such device or apparatus will be located, and so that said volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility.

EXEMPTIONS:

The provisions of this section on sound amplification devices shall not apply to the use or operation of any sound device or apparatus by any church or synagogue on or within its own premises, in connection with the religious rites or ceremonies of such church or synagogue, or to sound amplification devices used by the Ambulance, Fire or Police or other departments of the Village of Edwardsburg in the performance of their official duties.

J. Yelling, Shouting, etc. Unnecessary, annoying or prolonged yelling, shouting, hooting, whistling, or singing particularly between the hours of 10:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in the vicinity.

ARTICLE IV

Procedure. The Village Council, and the duly authorized attorney for the Village of Edwardsburg, the Prosecuting Attorney for the County or any owner or owners of real estate within the Village in which such violation is located, may institute injunction, mandamus, abatement or other appropriate action or proceedings. The righy and remedies provided herein are cumulative and in a