

CHAPTER 30, ENVIRONMENT, ARTICLE II, NOISE
SECTION 30-26 DEFINITIONS; SECTION 30-27 VIOLATION OF ARTICLE A
MISDEMEANOR; PENALTIES; SECTION 30-28 PROHIBITED ACTS; EXCEPTION;
SECTION 30-29 MAXIMUM PERMISSIBLE SOUND LEVELS; SECTION 30-30
MOTOR VEHICLE NOISE LIMITS; SECTION 30-31 MEASUREMENT STANDARDS
AND TEXT INSTRUMENTATION; SOUND LEVEL METER; SECTION 30-32
LIMITATION ON SOUND AMPLIFICATION SYSTEM; EXCEPTIONS; PENALTIES;
AND SECTIONS 30-33-30-50 RESERVED

THE FOLLOWING IS AN AMENDMENT* TO CHAPTER 30,
ARTICLE II, SECTION 30-26, DEFINITIONS, SECTION 30-27
VIOLATION OF ARTICLE A MISDEMEANOR; PENALTIES,
SECTION 30-28 PROHIBITED ACTS; EXCEPTION, AND
SECTION 30-29 MAXIMUM PERMISSIBLE SOUND LEVELS
SECTION 30-30 MOTOR VEHICLE NOISE LIMITS; SECTION
30-31 MEASUREMENT STANDARDS AND TEXT
INSTRUMENTATION; SOUND LEVEL METER; SECTION 30-
32 LIMITATION ON SOUND AMPLIFICATION SYSTEM;
EXCEPTIONS; PENALTIES; AND SECTIONS 30-33-30-50
RESERVED

That Chapter 30, Environment, Article II, Noise of the Code of Ordinances of the City of Iron Mountain, Michigan is hereby amended to read as follows:

Sec. 30-26. Definitions.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terminology used in this article, not defined as follows, shall be in conformance with applicable publications of the American National Standard Institute (ANSI) or its successor body.~~

~~*A-weighted sound level* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.~~

~~*Decibel (dB)* means a unit of measuring the volume of sound.~~

~~*Noise disturbance* means any sound which endangers or injures the safety or health of humans or animals, or exceeds the maximum permissible sound levels of this article.~~

~~*Sound level meter* means an instrument which includes a microphone amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.~~

Sec. 30-27. Violation of article a misdemeanor; penalties.

~~Any violation of this article is a misdemeanor, and any person convicted of a violation by a court of competent jurisdiction shall be fined an amount not to exceed \$100.00 or imprisoned for not more than 90 days, or both, except as provided. A violation of section 30-30 shall be a civil infraction, punishable as provided by law. Further, no fine shall be imposed for any violation based upon defective vehicular equipment upon receipt of certification by a law enforcement agency that repair was made within 15 days of the date of issuance of a citation.~~

~~Sec. 30-28. Prohibited acts; exceptions.~~

~~No person or business establishment shall unreasonably make, continue or cause to be made or continued any noise disturbance. Noncommercial public speaking and public assembly activities conducted on any private space or public right of way shall be exempt from the operation of this article.~~

~~Sec. 30-29. Maximum permissible sound levels.~~

~~No person or business establishment shall create, operate or cause to be operated on private property any source of sound in such a manner as to create a sound level as measured on the property of another the limits set forth in Table I of this section. The exceeding of the limits as set forth in Table I, when measured at or within the property of another, shall be deemed prima facie to be a noise disturbance.~~

Table I

Receiving Land Use Category	Time	A-weighted Sound Level Limit (in dBA)
R-1, R-2, R-3	9:00 p.m. to 8:00 a.m.	70
R-1, R-2, R-3	8:00 a.m. to 9:00 p.m.	75
O-S, B-1, B-2	9:00 p.m. to 8:00 a.m.	72
O-S, B-1, B-2	8:00 a.m. to 9:00 p.m.	77
I-1, I-2	9:00 p.m. to 8:00 a.m.	76
I-1, I-2	8:00 a.m. to 9:00 p.m.	81

The land use categories shall be as defined in the zoning ordinances for the city.

~~Sec. 30-30. Motor vehicle noise limits.~~

~~A motor vehicle shall not be operated or driven on a highway or street if the motor vehicle produces total noise exceeding one of the following limits at a distance of 50 feet, except as provided in subsection (4) of this section:~~

~~(1) A motor vehicle with a gross weight or gross vehicle weight rating of 8,500 pounds or more, combination vehicle with gross vehicle weight ratings of 8,500 pounds or more:~~

~~a. Ninety dB(A) if the maximum lawful speed on the highway or street is greater~~

than 35 miles per hour;

b. Eighty six dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour; and

c. Eighty-eight dB(A) under stationary runup test.

~~(2) A motorcycle or moped:~~

~~a. Eighty six dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour;~~

~~b. Eighty two dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour; and~~

~~c. Ninety five dB(A) under stationary runup test at 75 inches.~~

~~(3) A motor vehicle or combination of vehicles towed by a motor vehicle not covered in subsections (1) and (2) of this section:~~

~~a. Eighty two dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour;~~

~~b. Seventy six dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour; and~~

~~c. Ninety five dB(A) under stationary runup test 20 inches from the end of the tailpipe.~~

~~(4) This article shall not apply to police, fire, ambulance or other emergency vehicles while in public use.~~

~~Sec. 30 31. Measurement standards and test instrumentation; sound level meter.~~

~~(a) A sound level meter shall be used which has the capacity to give measurement of sound using the A weighted network and measurements recorded in terms of dB(A). The sound level meter shall meet or exceed the requirements for a type 2 sound level meter as specified in American National Standard Specifications for Sound Level Meters (ANSI S 1.1 1971), approved April 27, 1971, issued by the American National Standards Institute.~~

~~(b) Test instrumentation and procedures used for implementation and enforcement of this article shall substantially conform with applicable standards and recommended practices established by the Society of Automotive Engineers and the American National Standards Institute for the measurement of the motor vehicle sound levels. The rules may provide for measurement at other than the distance specified in this article, provided that the decibel limits applied at the other distances are adjusted accordingly.~~

~~Sec. 30 32. Limitation on sound amplification system; exceptions; penalties.~~

~~(1) Sound amplification systems in vehicles; legislative findings; definitions.~~

~~(a) Uncontrolled sound amplification systems in vehicles disturb the peace and tranquility of persons and neighborhoods within the vicinity of the sound and creates a traffic safety hazard. Excessively loud sound amplification systems distract other drivers and interferes~~

~~with the sounds of police and emergency vehicles. Noise from sound amplification systems in vehicles cannot be practically regulated by imposing decibel measurements are difficult to obtain from moving vehicles. Noises prohibited by this section are in violation of this article notwithstanding the fact that there is no apparent violation of other sections of Article II of the Iron Mountain City Code.~~

~~(b) For the purpose of this section, "sound amplification system" means any device, instrument or system, whether electrical or mechanical or otherwise for amplifying sound or for producing or reproducing sound, including but not limited to any radio, stereo, musical instrument, compact disc, or sound or musical recorder or player.~~

~~(2) Sound amplification systems in vehicles; limitations on use.~~

~~(a) Except as authorized by law, no person shall operate or permit the operation of any sound amplification system in or on a vehicle in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of any person or neighborhood in the vicinity.~~

~~(b) Except as authorized by law, no person shall play any radio, music player or audio system in a motor vehicle at such volume as to disturb the quiet, comfort or repose of other persons or at a volume which is plainly audible to persons other than the occupants of said vehicle.~~

~~(c) For the purpose of this subsection, "plainly audible" means any sound which clearly can be heard, by unimpaired auditory senses based on a direct line of sight of 50 or more feet, however, words or phrases need not be discernible and said sound shall include bass reverberation.~~

~~(3) Exemptions, this prohibition shall not apply to:~~

~~(a) Amplification systems being operated to request assistance of an emergency nature or to warn of a hazardous situation;~~

~~(b) Authorized emergency vehicles;~~

~~(c) Vehicles used in parades, concerts, festivals, fairs, or similar activities subject to approval by the city;~~

~~(d) Amplification systems in vehicles which are operated on private property with the permission of the owner and which are not audible beyond the property line.~~

~~(4) *Permits; variances.* Any person desiring relief from the provisions of section 2(a) of this article shall apply for a special permit to cause or create noise which would otherwise be in violation of this article at least ten days prior to the date for which the relief is requested. Applications for a special permit shall be made in writing to the Iron Mountain Police Department on forms provided for that purpose. Payment of a fee of ten dollars shall accompany the application. The Chief of Police or his/her authorized representative shall grant a special permit upon a showing by the applicant of the following:~~

~~(a) Additional time is necessary for the applicant to alter or modify the activity in order to comply with the provisions of this article; or~~

~~(b) The activity, operation or noise source will be of a temporary duration and cannot be~~

done in a manner that would comply with the provisions of this article; and

(c) ~~No reasonable alternative is available to the applicant.~~

~~Any permit granted pursuant to this section shall contain thereon all conditions upon which the permit has been granted, including but not limited to effective date, time of day, location and equipment limitation. No special permit shall be issued for a period in excess of 15 consecutive days. Any special permit granted pursuant to this section may be renewed upon application to the Iron Mountain Chief of Police or his/her authorized representative upon a showing that the reasons for which the permit was granted still exist.~~

(5) ~~Penalty.~~ A person who violates any provision in this section is responsible to municipal civil infraction, subject to payment of civil fine not less than \$50.00 plus and other sanctions for first offense, \$100.00 for the first repeat offense, and \$250.00 for a second repeat offense.

~~Secs. 30 33 30 50. Reserved.~~

An ordinance to secure the public health, safety and general welfare of the residents and property owners of the City of Iron Mountain, by regulating, and where necessary prohibiting noise within said City and proscribing penalties for the violation thereof.

THE CITY OF IRON MOUNTAIN, COUNTY OF DICKINSON, STATE OF MICHIGAN,
ORDAINS:

Section 1: Repealer

Upon the effective date of this Ordinance, the prior Ordinance _____, known as the Anti-Noise and Public Nuisance Ordinance is, at the same time, repealed.

Section 2: Title

This Ordinance shall be known and may be cited as the Noise Ordinance of the City of Iron Mountain.

Section 3: Purpose

Pursuant to its statutorily authorized power to enact ordinances for the purpose of preserving and protecting the general health, safety, and welfare, the City Council of the City of Iron Mountain 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 a detriment to the public health, comfort, convenience, safety, welfare, peace and prosperity of the general public, and to provide penalties for the violation of this Ordinance.

Section 4: General Prohibited Noise

A. It shall be unlawful for any person or entity to make, maintain, or continue, or cause to be made or continued, any excessive, unnecessary, unnatural, repeated, prolonged or unusually loud noise, or any noise which annoys or disturbs or

injures or irritates or unreasonably impairs the comfort, repose, health, or peace of another, within the limits of the City of Iron Mountain.

- B. It shall be unlawful for the owner of any premises within the City of Iron Mountain, and for the occupant or person in possession of any premises within the City of Iron Mountain, whether individual, corporate, or otherwise, to knowingly make, allow to be made, or to permit to be made upon the premises so owned, occupied, or possessed, any excessive, unnecessary, unnatural, repeated, prolonged or unusually loud noise, or any noise which annoys or disturbs or injures or irritates or unreasonably impairs the comfort, repose, health or peace of other, within the limits of the City of Iron Mountain.

Section 5: Specific Noises Prohibited; Standards

The following noises and acts are hereby declared to be excessive, unnecessary, unnatural or unusually loud which annoy, disturb, injure, or unreasonably impair the comfort, repose, health, or peace of others in violation of this Ordinance, said specification is not to be construed to exclude other violations not enumerated:

- A. HORNS AND OTHER SIGNALING DEVICES. The sound of any horn or signaling device on any automobile, motorcycle, boat, bus, truck, or other vehicle, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time, or at an unnecessary or unreasonable time of the day or night; and, the use of any hand held or hand operated signal device which emits a loud or harsh sound except as a danger warning.
- B. RADIOS, TELEVISIONS, PHONOGRAPHS, AND MUSICAL INSTRUMENTS. The using, operating, or permitting to be played, used, or operated, any radio receiving set, television receiving set, phonograph, or musical instrument, or other such device for the production or reproduction of sound, in such a manner as to unreasonably or unnecessarily irritate, annoy, or disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time at a volume unnecessary for convenient listening of the person or persons in the room, vehicle, or chamber in which such machine or device is being operated, and who are voluntarily listeners thereto. The operation of any such radio, television, phonograph, musical instrument, or other such machine or device between the hours of eleven o'clock (11:00) p.m. and seven o'clock (7:00) a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located, or which is plainly audible in a dwelling unit other than that in which it is located, shall be prima facie evidence of a violation of this Section.
- C. YELLING, SHOUTING, AND VERBAL NOISE. Yelling, shouting, hooting, whistling, singing, or other verbal noise upon any premises, or upon the public streets, between the hours of eleven o'clock (11:00) p.m. and seven o'clock (7:00) a.m., or at any other time or place, in such a manner so as to unreasonably annoy or disturb peace, natural quietude, comfort, or repose of persons in any office, or

in any dwelling, hotel, or other type of residence, or of any person in the vicinity where such noise is plainly audible at a distance of fifty (50) feet from its point of origin shall be prima facie evidence of a violation of this Section.

- D. ANIMALS, BIRDS, OR PETS. The keeping of any animal, bird, or pet which, by causing frequent or continuous noise, plainly audible at a distance of fifty (50) feet from its point of origin shall be prima facie evidence of a violation of this Section.
- E. EXHAUST NOISES. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or any other form of engine, whether in a boat, motor vehicle, motorcycle, off-road vehicle, or tractor, except through a muffler or other device which effectively prevents or reduces loud or explosive noises.
- F. LOADING, UNLOADING, AND OPENING OF BOXES. The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or trailer, or the opening or destruction of bales, boxes, crates, and containers.
- G. CONSTRUCTION OR REPAIRING OF BUILDINGS. The erection (including excavation), demolition, alteration or repair of any building or structure other than between the hours of seven o'clock (7:00) a.m. and nine o'clock (9:00) p.m. where such activity results in the creation of unusually loud noise or noise which annoys, disturbs, injures, or unreasonably impairs the comfort, repose, health, peace or safety, for the duration of such emergency.
- H. BUSINESS OPERATIONS AND OTHER PREMISES ACTIVITIES. The carrying on of any business operations, or any other activities upon any premises in such a manner so as to create any excessive, unnecessary, or unusually loud noise, which disturbs, injures, or unreasonably impairs the comfort, repose, health, peace or safety of others.
- I. PILE DRIVERS AND OTHER HEAVY EQUIPMENT. The operation between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other form of heavy equipment, the use of which is attended by loud, or repeated or continuous noise.
- J. The operation of any race track, proving ground, testing area, or obstacle course for vehicles, motorcycles, boats, racers, automobiles, snowmobiles, off-road vehicles, or vehicles of any kind or nature in a residential area of the City, or adjacent to a residential area of the City where such noise emanating from the identified vehicles would be unusually loud or continuous, or unreasonably disturbing, or upsetting to persons in that vicinity.

Section 6: Exceptions

The noise prohibitions set out hereinbefore shall not apply to the following:

- A. Any police vehicle, ambulance, fire engine, or other 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, City of Iron Mountain, or County of Dickinson, between sundown and seven o'clock (7:00) a.m. when the public welfare, health, safety or convenience renders it impossible to perform such work during other hours.
- C. Devices or activity creating sound made to alert persons to the existence of an emergency, danger, or attempted crime.
- D. All railroad operations meeting the maximum permissible noise levels allowed or permitted by law.
- E. Noise emanating from the discharge of firearms providing that such discharge is otherwise authorized under Michigan law or local ordinance.
- F. Otherwise lawful regular or permitted activities or operations of governmental units or agencies.
- G. Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster or to restore utilities, or to protect persons or property from an imminent danger.
- H. Lawn maintenance equipment: Customary lawn maintenance equipment for residential use, such as lawn mowers, leaf blowers and chain saws, from 8:00 a.m. to 9:00 p.m., if in good working order and if used only as needed.
- I. Residential snow removal: snow blowers for residential use if in good working order and if used only as needed.
- J. Commercial snow removal: snow removal from commercial or industrial property by any internal combustion device is permitted at all times if the snow removal equipment has a properly functioning muffler.
- K. Municipal school district: This article shall not apply to sound made by municipal street and sidewalk maintenance equipment, or snow removal equipment used by the city, a school district, or their agents.
- L. Other activities as approved by the City as specified in Section 7.

Section 7: Application for Permit to Exceed Noise Limits

- A. An application for a permit to engage in any activity, noise or use which would otherwise violate any provisions of this ordinance must be made in writing and submitted to the City Clerk. Application shall be made at least thirty (30) days prior to the date of the proposed use or event. The application requesting the

permit must be the taxpayer of record for the property on which the use or event will take place. The application shall contain all of the following information:

1. Name and mailing address of the person making the application.
 2. A statement of the type of event to take place which will require the permit.
 3. The address and legal description of the property the event is to be held on.
 4. The date and hours during which the event will be conducted.
 5. An estimate of the maximum number of attendants expected at the event.
- B. Upon receipt of the application by the city clerk, copies of the application shall be forwarded to the Iron Mountain Police Department serving the subject area, and to such other appropriate agencies as the City Clerk shall deem necessary. Such officers and officials shall review matters relevant to the application and within ten (10) days of receipt thereof, shall report their findings and recommendations to the City Manager.
- C. In determining whether to grant or deny an application, the City Council shall balance the hardship of the applicant, the community and other persons of not granting the permit to exceed noise limits, against the impact on the health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impacts of granting the permit to exceed the noise limits.

Section 8: Administration and Enforcement

- A. Complaints. Complaints by a resident or property owner in the City regarding any violations of this article shall be filed with the Chief of Police, or his designee.
- B. Enforcement. The chief of police, or his designated representatives, is hereby authorized, empowered and directed to enforce all provisions of this ordinance and any subsequent amendments hereto (including issuing civil infraction appearance tickets).
- C. Penalties. Any person who violates any provision of this ordinance shall be deemed responsible for a municipal civil infraction, subject to payment of a civil fine of \$50.00 for the first offense.
1. Repeat Offenses. Repeat offenses under this ordinance shall be subject to increased fines as provided below. As used herein, "repeat offenses" means a second, or subsequent violation of this article committed on a specific parcel or property within any one-year period and for which the person admits responsibility or is determined to be responsible. The

minimum fine shall be no less than \$50 or no more than \$500 for subsequent offenses.

2. Persons Chargeable with a Violation. Persons chargeable with a violation of this ordinance and subject to being responsible for a municipal civil infraction may include the following:

- a. The owner, agent, lessee, tenant, contractor, or any other person using or having control or possession of the land, building or premises where such violation has been committed or shall exist;
- b. Any person who knowingly commits, aids, or abets, takes part or assists in any such violation; or
- c. Any person who owns or maintains any land, building or premise on which such violation shall exist.

D. Appearance Ticket. The chief of police, and the appointed officers of the police department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this ordinance. Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all legal requirements.

Section 9: Severability

The several sections of this Ordinance shall be deemed severable, and should any section, clause, or provision thereof be declared unconstitutional or contrary to the law of the State of Michigan, and therefore voided by any court or competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part or section so declared to be unconstitutional or invalid.

Section 10: Violations

A violation of this Ordinance shall be deemed to be a civil infraction, and any person, firm, or entity found responsible therefore shall be subject to a fine not to exceed \$500 for each offense. A violator of this Ordinance may be subject to additional sanctions, remedies, injunctions or judicial orders as authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

Section 11: Effective Adoption and Date

- A. This Ordinance shall become effective thirty (30) days after its publication, as required by law.

B. This Ordinance was adopted by the City of Iron Mountain, County of Dickinson, State of Michigan, at its regular meeting held on _____.

* The entire Chapter 30, Article II, is available for public inspection at City Hall during regular business hours.

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