

CHARTER TOWNSHIP OF MUNDY

ORDINANCE NO. 192-20

AN ORDINANCE ENACTED TO REGULATE NOISE AND EMISSION OF NOXIOUS FUMES AND MATERIALS WITHIN THE CHARTER TOWNSHIP OF MUNDY, GENESEE COUNTY, MICHIGAN, TO SECURE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE RESIDENTS AND PROPERTY OWNERS OF THE TOWNSHIP, AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION THEREOF.

THE CHARTER TOWNSHIP OF MUNDY HEREBY ORDAINS:

SECTION I. TITLE:

This Ordinance shall be known and cited as "The Charter Township of Mundy Anti-Noise and Public Nuisance Ordinance."

SECTION II. PRIOR REGULATION SUPERCEDED:

This Ordinance, upon being adopted hereto, replaces and supercedes Article XII of Ordinance 142-A, as amended, and as such amends Ordinance 142-A by deleting Article XII therefrom, as well as replacing Ordinance No. 192 and 192.05.

SECTION III. DEFINITIONS:

The following words, terms and phrases, when used in this Article, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning.

- A. "ANSI Type 1 or Type 2" means the accuracy of a sound measuring instrument or device in accordance with the latest version (or replacement standard) of the American National Standards Institute (ANSI), standard S1.4.
- B. "Commercial Property Maintenance" means the maintaining of property by any person or entity for profit, or as a business or commercial operation of another's property. This would include, by way of example and not be way of limitation, lawn cutting; shrub trimming; lawn sprinkler installation or

maintenance; tending, planting or otherwise caring for vegetation on or about the property; the maintaining of parking or walking areas, including snow plowing, surface repair or maintenance; trash removal including recycling collections.

- C. "Day" means the hours between 7:00 A.M. and 10:00 P.M. local time.
- D. "Decibel" (dB) means a unit of sound level on a logarithmic scale measured relative to the threshold of audible sound by the human ear, in compliance with the American National Standards Institute Standard 1.1-1960, as subsequently amended.
- E. "Impulsive Noise" means a sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of impulsive sound sources include explosions, drop forge impacts, and the discharge of firearms.
- F. "Night" means the hours between 10:00 P.M. and 7:00 A.M. local time.
- G. "Overall, A-weighted sound level", denoted "dB(A)" means the sound pressure level in decibels as measured on the "A" scale of a standard sound level meter having characteristics as defined by the latest version of the American National Standards Institute, Publication ANSI S1.4.
- H. "Sound Measuring Instruments" shall be calibrated using an acoustical calibrator before and after each noise measurement period, and no greater than four (4) hours between calibration checks
- I. "Sound" and "Noise" shall be used interchangeably for the purposes of this Ordinance.

SECTION IV. 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 and 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 to be construed as excluding other violations of this Ordinance not specifically enumerated, but which nevertheless violate its intent and protections, and are in addition to the provisions of Section V herein.

1. The playing of any radio, phonograph, television , or other electric or mechanical sound producing device, including any musical instrument, in such a manner or with such volume so as to unreasonably upset or disturb the quiet, comfort or repose of other persons.

2. Yelling, shouting, hooting or singing 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 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 and repose of other persons. The modification of any noise abatement device on any motor vehicle of engine, or the failure to maintain the same so that the noise emitted by such vehicle or engine is increased above that as emitted by the vehicle or engine as originally manufactured shall be a 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 or engine 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 streets and highways, in such a manner so 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 the 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 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 for any commercial purpose, whether for advertising or not, which, by the creation of said 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, whether for the purpose of advertising or not, which such vehicle, speaker or sound amplifying device emits loud and raucous noises easily heard from nearby adjoining residential properties.

12. The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort and 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 before 9:00 A.M. or after 11:00 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, public utilities or other property by or on behalf of the State of Michigan, the County of Genesee, or the Charter Township of Mundy, between Sundown and 7:00 A.M., where the public health, safety, welfare and convenience render it impossible or undesirable to perform such work during other hours.
3. Warning devices emitting sound for warning purposes as authorized by law.
4. The use of any drum, loudspeaker or other instrument or device used at the premises at which goods are sold in commemoration or celebration of or in connection with a public holiday or occasion, where said use is not interspaced with advertising, and, the display or sale of goods or merchandise is not being promoted by the use of said devices.
5. The use of loudspeaker, musical instrument or other sound amplifying device in connection with any athletic, competitive, or recreational event or parade held on public playgrounds, athletic fields, streets or public parks, where the event or parade is held with the consent of Township authorities or the authority of any school board.

**SECTION V. ANTI-NOISE REGULATIONS BASED UPON
SOUND LEVEL CRITERIA**

In addition to those specified violations of this Ordinance as contained in Section IV hereinabove, any noise in excess of the maximum decibel limits according to the regulations stated below is also deemed to be a violation of this Ordinance.

- A. Regulations for decibel measurement of noise originating

from private properties:

1. Noise radiating from all properties or buildings, as measured at or beyond the boundaries of the property, which exceeds the sound level limits established for the zoning district and times herewith listed shall constitute prima facia 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 exceed any of the following as set forth in Table 1 setting forth sound level limitations:

TABLE 1

Overall A-weighted Noise Limits for Receiving Land Use Zoning

| ZONING DISTRICTS | Day Limits | Night Limits |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|--------------|
| 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, commercial and industrial | 65 dB(A) | 55 dB(A) |
| Commercial | 65 dB(A) | 60 dB(A) |
| Industrial | 70 dB(A) | 65 dB(A) |

2. Noise Limits in Table 1 above are subject to adjustment according to the background sound level as set forth in Section C. Measurement of Noise.

3. Sounds containing pronounced puretones, multiple tones (harmonically related or not), and periodic or repetitive impulse sounds shall be in violation of the sound level limitations above when such sounds produce a sound pressure level of 5 dB(A) less than the limits listed above.

4. Where a parcel is partly in two (2) zoning districts or adjoins the

boundary of a zoning district, the sound level limits of the zoning district of the parcel receiving the noise shall control.

5. The following exceptions shall apply to these regulations under this Section V, Subsection A:

a. 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.

b. All railroad operations shall be subject to the maximum permissible noise levels allowed in industrial districts, regardless of the zone where they are located.

c. Noises occurring during Day hours on Monday through Saturday, and between 9:00 A.M. and 9:00 P.M. on any Sunday caused by home or building repairs, or from commercial property maintenance of grounds are excluded, provided said noise does not exceed the limitations specified in Section V, sub-section A by more than 20 dB(A).

d. Noises emanating from the discharge of firearms are excluded, providing the discharge was authorized under Michigan law and all local Ordinances.

e. 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) shall be allowed to emit noise in excess of these limitations for the particular zoning classification where the use is located, provided that such noise does not exceed either of the following limitations:

(1) 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.

(2) The limitations contained herein based upon such a use being located in the highest zoning district (either commercial, industrial or agricultural) where such a use is specifically allowed as a permissible use.

B. Regulations for sound level 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 from a noise source located within the public right-of-way. If measurement of 50 feet is not feasible, measurement may be made at 25 feet and if this is done, 6 dB(A) shall be added to the limits. All such noise in excess of the dB(A) as provided herein shall be prima facia evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area and is therefore in violation of this Ordinance.

C. Measurement of Noise.

1. All measurements of sound levels made pursuant to the provisions of this Ordinance shall be made by using an ANSI Type 1 or Type 2 sound level meter and operated on the "A" weighting scale, and set to "fast" meter response.

2. Sound measurements shall be made as follows:

- a. Between four (4) and six (6) feet from ground level;
- b. No closer to the sound source than the boundary line of the property where the sound originates from;
- c. No closer than six (6) feet to any dwelling or man-made structure;
- d. No closer to a roadway than the right-of-way of that roadway;

3. Should the background noise level that exists in the absence of the suspect noise source be determined to be within 5 dB of the sound level limits, sound levels attributable to the suspect noise source shall be corrected according to Table 3. In the event that the background noise level equals the sound level limits, the noise limits shall be increased by 3 dB. Should the background sound level exceed the limits, the sound level limits shall be 3 dB greater than the background sound level, but no more than 3 dB greater than the limit. Should background sound levels exceed the noise limit value by more than 3 dB, the suspect noise source may not produce a noise level which exceeds the background sound level.

TABLE 2

Adjustment of Table 1 Noise Limits in the Presence of Background Sound

Levels that range from within 5dB below to above the noise limit;

| Background Sound Level compared To Noise Limit: | Adjustment to the Noise Limit |
|----------------------------------------------------|--------------------------------------------------------|
| - 5 dB | + 1 dB |
| - 4 dB | + 1 dB |
| - 3 dB | + 2 dB |
| - 2 dB | + 2 dB |
| - 1 dB | + 3 dB |
| 0 dB | + 3 dB |
| +1 dB | + 3 dB |
| + 2 dB | + 3 dB |
| + 3 dB | + 3 dB |
| More than 3 dB above Noise Limit | Limit Increased to Equal the Background Sound Level |

SECTION VI. 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 VII. PENALTIES

Any person, firm or corporation found violating the provisions of this Ordinance, shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), or by imprisonment not to exceed ninety (90) days, or by both fine and imprisonment, at the discretion of the Court. Upon conviction there shall also be assessed actual cost of prosecution against the convicted party. Each day that a violation shall continue under this Ordinance is to constitute a separate offense, as well as separate violations, on the same date, shall constitute separate offenses. Provisions of this Ordinance may also be enforced by suit for injunction, damages or other appropriate legal action allowed by law.

SECTION VIII. SEVERABILITY:

Each and every article, section and subsection, of this Ordinance, and each provision of each article, section and subsection, is declared to be separable and severable, and a judicial determination that any article, section, subsection or provision of this ordinance is invalid or unenforceable, shall not affect the validity or enforceability of any other article, section, subsection or provision.

SECTION IX. EFFECTIVE DATE:

This ordinance shall become effective thirty (30) days after passage and publication thereof.

We the undersigned Supervisor and Clerk of the Charter Township of Mundy, Genesee County, Michigan, do hereby certify that the above ordinance was passed by the Charter Township of Mundy Board on the 22nd day of June, A.D., 2020.

JOE OSKEY, Supervisor

TONYA KETZLER, Clerk