

**MOTION OFFERED BY: PENZIEN
SECOND BY: SHERMAN**

**ORDINANCE NO. 265
CITY OF EAST JORDAN**

An Ordinance to secure the public health, safety and general welfare of the residents, property owners of the City of East Jordan, Charlevoix County, Michigan, by the regulation of noise within said city; to prescribe the penalties for the violation thereof.

THE CITY OF EAST JORDAN HEREBY ORDAINS:

An Ordinance to Amend Chapter 24 Offenses, Article VI Offenses Against Public Peace of the Code of Ordinances of the City of East Jordan

Section 1. TITLE

This Ordinance shall be known and cited as the City 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 level of a given sound is defined to be 20 times the common logarithm of the ratio of the sound pressure to a reference pressure of $\times 10^{-5}$ N/m² (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 1110th 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 sl.4-1971.
- C. "Engine Brakes" mean an exhaust or an exhaust manifold powered auxiliary braking system installed on motor vehicles, including on "trucks" and "truck tractors," as those terms are used in the Michigan Motor Vehicle Code. "Engine Brakes" are commonly referred to as "jake brakes," and the two terms shall be deemed equivalent for purposes of this ordinance.
- D. "Motor vehicle" means every vehicle which is self-propelled whether or not licensed or intended for use upon public roads or streets.

Section 3. ANTI-NOISE REGULATIONS

General Regulation.

- A 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 City.
- B. Specific Violations.

The following noises and disturbances are hereby declared to be a violation of the Ordinance; provided, however, that the specification of the same is not thereby to be construed to exclude other violations of the 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 11:00 p.m. and 7:00 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.
 - a) A motor vehicle, including a motorcycle or moped, shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. A person shall not remove, destroy, or damage any of the baffles contained in the muffler, nor shall a person use a muffler cutout, bypass, or similar device upon a motorcycle or moped on a highway or street.
 - b) The engine and power mechanism of a motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.
 - c) A motor vehicle shall at all times be equipped with a properly operating exhaust system which shall include a tailpipe and resonator on a vehicle where the original design included a tailpipe and resonator.
 - d) A motor vehicle, while being operated on a highway or street, 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 act.

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 the 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 City, 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 7:00 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 City, 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 City where the noise emanating from there 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 11:00 on any evening.
14. The use and application of engine brakes on any public road, street or on any public property or right-of-way within the City of East Jordan.

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. Warning devices emitting sound for warning purposes as authorized by law.

SECTION 4. ANTI-NOISE REGULATION 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 emanating from the following uses, as measured at the boundaries of the property, which is in excess of the dB(A) established for the districts and times herein 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 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.

<u>Uses</u>	Limitations 7 am- 11 pm	Limitations 11pm-7am
Residential	55 dB(A)	50 dB(A)
Any use within 500 feet of a hospital	55 dB(A)	50 dB(A)
Agricultural or commercial uses within 500 feet of a residence	55 dB(A)	50 dB(A)
Agricultural or commercial uses more than 500 feet from a residence	65 dB(A)	55 dB(A)
Industrial uses	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 pressure 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 City and is currently in effect.
2. All railroad operations shall be subject to the maximum permissible noise levels specified for industrial districts, regardless of the zone where they are located.
3. Noises occurring between 7:00 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 20dB(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.

B. Regulations for Decibel Measurement of Motor Driven Vehicles on Public Roads.

1. After April 1, 1978, a motor vehicle shall not be operated or driven on a highway or street, if the motor vehicle produces total noise exceeding 1 of the following limits at a distance of 50 feet except as provided in subdivisions 2(c) and 3(c):
 - a. A motor vehicle with a gross weight or gross vehicle weight rating of 8,500 pounds or more, combination vehicle with gross weight or gross vehicle weight ratings of 8,500 pounds or more.

- i) Ninety dB(A), if the maximum lawful speed on the highway or street is greater than 35 miles per hour.
 - ii) Eighty-six dB(A), if the maximum lawful speed on the highway or street is not more than 35 miles per hour.
 - iii) Eighty-eight dB(A), under stationary run-up test.
- b. A motorcycle or a moped:
 - i) Eighty-six dB(A), if the maximum lawful speed on the highway or street is not more than 35 miles per hour.
 - ii) Eighty-two dB(A), if the maximum lawful speed on the highway or street is not more than 35 miles per hour.
 - iii) Ninety-five dB(A), under stationary run-up test at 75 inches.
- c. A motor vehicle or a combination of vehicles towed by a motor vehicle not covered in subdivision (1) or (2):
 - i) Eighty-two dB(A), if the maximum lawful speed on the highway or street is greater than 35 miles per hour.
 - ii) Seventy-six dB(A), if the maximum lawful speed on the highway or street is not more than 35 miles per hour.

- iii) Ninety-five dB(A), under stationary run-up test 20 inches from the end of the tailpipe.
- 2. A dealer shall not sell or offer for sale for use upon a street or highway in this city, a new motor vehicle manufactured after April 1, 1978, which produces a maximum noise exceeding the following limits:
 - a. A motor vehicle with a gross vehicle rating of 8,500 pounds or more -83 dB(A).
 - b. A motorcycle or a moped - 83 dB(A).
 - c. A motor vehicle not covered in subdivision a. orb. - 80 dB(A).
- 3. A person shall not operate a vehicle on a highway or street 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.
- 4. A person, either acting for themselves 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 act, or a rule promulgated under this act.
- 5. 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 act, or operate a motor vehicle so altered on a street or highway.
- 6. A dealer shall not sell a used or secondhand motor vehicle for use upon a street or highway which is not in compliance with this act.

C. Measurement of Noise

All measurements of dB(A) pursuant to subparagraph A 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. All measurements of dB(A) pursuant to subparagraph B of this section shall substantially conform to the requirements of Section 707e of the Michigan Vehicle Code.

Section 5. PUBLIC NUISANCE REGULATIONS

No person, firm or corporation shall create, cause or maintain any public nuisance within the City by the unreasonable emission of dust, smoke or noxious odors which are offensive or disturbing to adjacent property owners and residents or persons in the area.

Section 6. 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 7. PENALTIES

- A. A violation of Section 3.B.5(d) or 3.B.14, or Section 4.B.1, 4.B.3 or 4.B.5 is a municipal civil infraction, for which the fine shall be not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for the first offense and not less than Five Hundred Dollars (\$500.00), nor more than One Thousand Dollars (\$1,000.00) for a subsequent offense, in the discretion of the court, and in addition to all other costs, damages, expenses and actual **attorney's** fees incurred by the City in enforcing the ordinance. For purposes of this section, a "subsequent offense" means a violation of this ordinance committed with respect to a separat incident by the same person within twelve (12) months after a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day that a violation occurs shall constitute a separate offense.

- B. A violation of any other provision of this ordinance is a misdemeanor, punishable by a fine of One Hundred Dollars (\$100.00) or ninety (90) days in jail or both.
- C. If it is shown that the noise level of a motor vehicle is in excess of the dB(A) levels established in this ordinance, that evidence shall be deemed prima facie evidence that the motor vehicle was producing excessive noise in violation of this ordinance.

Section 8. EFFECTIVE DATE

This Ordinance was approved and adopted by the City Commission on 11-02-2021, and shall be effective seven (7) days after publication.

DATE: _____

City of East Jordan

By: _____
Cheltzi M. Wilson, MMC/MiPMC
City Clerk

ROLL CALL VOTE:

AYES: SHERMAN, PENZIEN, TIMMONS, JOHNSON, REID JR., AND SWEET-HOCK

NAYS: NONE

ABSTAIN: NONE

ABSENT: HOFWEBER

ADOPTED: NOVEMBER 2, 2021

PUBLISHED: NOVEMBER 11, 2021

EFFECTIVE: NOVEMBER 18, 2021