

ORDINANCE TO SET FORTH THE REGULATION OF NOISE IN THE TOWN OF LANSING

(rewritten 4-24-2018/amended 10-09-2018)

BE IT ORDAINED by the Board of Alderman for the Town of Lansing that:

- A. The making and creation of excessive, unnecessary, or unusually loud noises within the town limits is a condition which has existed for some time and the extent and volume of such noises are increasing.
- B. The making and creation of excessive or unusually loud noises and sounds interfere with and pose a threat to the health of the sick, the young, and the elderly.
- C. The making, creation, or maintenance of such excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual, and unnatural in their time, place and use are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the town.
- D. The making of excessive or unusually loud sounds and noises constitute a nuisance which threatens the peace and dignity of the town.
- E. The necessity and the public interest for the provisions and prohibitions hereinafter contained and enacted are declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the town and its inhabitants.

1.01 AUTHORITY AND NEED FOR REGULATION

Subject to the provision of this ordinance, it shall be unlawful for any person or persons to make, permit, continue, or cause to be made or to create any unreasonably loud and disturbing noise in the town. The authority for a town to regulate noise is G.S. 160A-184. A town may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens. For the purposes of this ordinance, the following definitions shall apply:

- (1) Unreasonably loud: Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace and good order.

- (2) Disturbing: Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area. In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such a noise are to be considered: time of day; proximity to residential structures; whether the noise is recurrent, intermittent, or constant; the volume and intensity; whether the noise is has been enhanced in volume or range by any type of electronic or mechanical means; the character and zoning (if applicable) of the area; whether the noise is related to the normal operation of a business, emergency service, or other labor activity and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

1.02 PROHIBITION OF UNREASONABLE NOISE

Making such unreasonably loud, excessive or unnecessary noise or sound between the hours of 9:00 p.m. and 7:00 a.m. ~~Monday through Friday; and 10:00 p.m. until 7:00 a.m. Saturday and Sunday~~ **Sunday through Thursday, and 10:00 p.m. to 7:00 a.m. Friday and Saturday** or continuing to make, create, or knowingly assist in creating any unreasonably loud, excessive or unnecessary noise or sound after receiving actual knowledge that such noises or sounds are disturbing to persons in the vicinity shall be prima facie evidence of a violation of this chapter.

The following acts, among others, are declared to be unreasonably loud and disturbing noises in violation of this ordinance but the enumeration shall not be deemed to be exclusive; namely:

- (1) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except to alert a person or vehicle of danger; the creation by means of any such signal device of any unreasonably loud or harsh sound, and the sounding of such device for an unnecessary and unreasonable period of time.
- (2) The playing of any radio, phonograph, or any musical instrument in such a manner of with such volume, particularly during the hours between 9:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, or other type of residence.
- (3) The discharge into the open air of the exhaust of a motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (4) Excessive, loud, unusual, or explosive use of engine and compressed air-braking devices in town including the use or operation of any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, unless it is necessary to avoid imminent danger.

- (5) The creation of any excessive noise on any street adjacent to any church during services, which unreasonably interferes with the working of the institution.
- (6) The shouting and crying of peddlers, hawkers, vendors, or others seeking to attract attention to a cause which disturbs the quiet and peace of the neighborhood.
- (7) The use of any drum, loudspeaker, or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale, display, or advertisement of merchandise.

1.03 EXEMPTIONS

In addition to the violations established by Sections 1.01 and 1.02, above, within the town no person shall cause, produce, or allow any mechanically or electronically produced or amplified sound unless per mandated exemptions, below; however, the list is not inclusive, or as approved and permitted by the board of alderman.

- (1) Applications for permission to engage in activities regulated and allowed by this section between the hours 9:00 p.m. and 7:00 a.m. only with the issuance of a permit shall be made to the Lansing Town Hall or their designee on forms supplied by the town. The permit shall not be unreasonably withheld and may contain appropriate conditions.
- (2) Permits issued under this section shall specify the expiration date and shall provide that such permits may be revoked after actual notice.
- (3) In case an application is denied, a permit is approved with conditions unacceptable to the applicant, or a permit is revoked, the applicant or permit holder shall be entitled to a prompt informal hearing with the Mayor upon submission of a written request. Any person aggrieved by a matter regulated by this section may submit to the Mayor or other Board Member written comments including request for appropriate relief.
- (4) Any person still aggrieved after the Mayor has heard the person's plea appeal to the Town Board of Aldermen by requesting the Clerk to the Board to place him/her on the next agenda for a regularly scheduled Board of Aldermen's meeting. Any person still aggrieved may then appeal to the court of competent jurisdiction.
 - A. Athletic events and contests such as football games, baseball games and other outdoor sporting events shall be exempt from regulation hereunder so long as such events are sponsored under the authority of the town or the town public schools or any other governmental authority. The use of any loud speaker or electronic sound amplification equipment in connection with any other athletic event which results in the creation of unreasonably loud disturbing noises and sound levels which a reasonably prudent person would

recognize as likely to unreasonably disturb persons in the vicinity shall not be allowed.

- B. Town sponsored events and events related to traditional holidays where unreasonable noise levels are generated by any means prior to 7:00 a.m. or after 11:00 p.m. regardless of day.

1.04 PENALTY

- A. Any person violating any of the provisions of this ordinance shall be subject to criminal prosecution pursuant to G.S. 14-4, and any such person found guilty of such violation shall be guilty of misdemeanor and subject to a fine of not more than \$500 or imprisonment for not more than 30 days pursuant to the same statute.
- B. Any person violating any of the provisions of this chapter shall also be subject to the imposition by citation of civil penalty for each such violation in the amount of \$500 which shall be paid in full within 72 hours of the service of the citation in accordance with G.S. 160A-175
- C. Any person violating any of the provisions of this chapter shall further be subject to the county enforcing the provisions of this chapter by applying to a court jurisdiction in the general court of justice for equitable relief including, but not limited to, mandatory or prohibitory injunctions and/or orders of abatement in accordance with G.S. 160A-175.
- D. Each day a violation shall be considered a separate and distinct offence for the purpose of enforcement of this section.
- E. Failure to make payment and correct the violation within the 72-hour period will result in an additional fine of \$100 per day for a total of 15 days.

Penalties for violations of this ordinance may be assessed against all persons responsible for the premises or the device producing or causing the noise disturbance. An owner of any premises subject to this ordinance who is not also an occupant of the premises shall be responsible for any actions by his or her tenants, guests, or other licensees that constitute second or subsequent violations of this article; provided, that no absentee owner shall be liable unless notified of first or previous violations of this article, and further provided that such first or previous violation shall have occurred within the previous twelve (12) month period, not meant to imply a calendar year. Notice of any first or previous violations pursuant to this paragraph shall be effected by registered or certified mail. No absentee owner may be subjected to

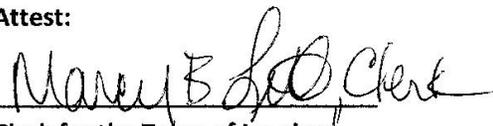
criminal liability but shall be subject to civil penalties and equitable relief as provided for herein. The person responsible for any premises shall be responsible and liable for any violations of this article by tenants, guests, or licensees on the premises if the person responsible is actively or constructively present at the time of the violation.

1.05 This ordinance shall be in full force and effect upon its adoption on this 24th day of April, 2018.



Mayor

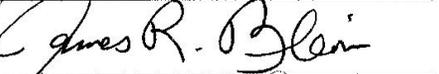
Attest:



Clerk for the Town of Lansing

After discussion, the foregoing ordinance was adopted.

The following Aldermen voted in the affirmative:

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The following Aldermen voted in the negative:

_____	_____
_____	_____

