

Ordinance # 10-02

Pinconning Township Noise and Public Nuisance

An Ordinance is to secure the public health, safety and general welfare of the residents and property owners of Pinconning Township, Bay County Michigan, by the regulation of noise within said Township; to prescribe the penalties for the violation thereof.

THE TOWNSHIP OF PINCONNING, BAY COUNTY MICHIGAN, ORDAINS:

Section 1: Title

This Ordinance shall be known and cited as the Pinconning Township Noise and Public Nuisance Ordinance.

Section 2: Definitions

The following terms used in this Ordinance are defined as follows:

- A. "Decibal" 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 press measurements, the sound pressure level of a given sound is defined to be 20 times the common logarithm of the ratio of that sound pressure to a reference pressure of $2 \times 10^{-5} \text{N/m}^2$ (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 $1/10^{\text{th}}$ 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 s1.4-1971.

Section 3: 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 or 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 thereby to be construed to exclude other violations of this 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 10:00PM and 7:00AM, 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 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 or repose of other persons. 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 as originally manufactured shall be in 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 the noise emitted by such 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 Township 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 AM 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 Township, 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 a vehicle, speaker or sound amplifying device emits loud raucous noises easily heard from nearby adjoining residential property.
 12. The operation 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 Township where the noise emanating there from 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 PM 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 or other property by or on behalf of the State of Michigan, Pinconning Township, County of Bay, between Sundown and 7:00 AM when the public welfare, safety and convenience render it impossible to perform such work during other hours.
 3. Warning devices emitting sound for warning purposes as authorized by law.

Section 4: Noise Regulation Based Upon dB(A) Criteria

In order 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 radiating from all properties of buildings, as measured at the boundaries of the property, which is in excess of the dB(A) established for the following districts and times 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:
- *Residential Zoning Districts (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):
- Limitations: 7:00AM – 10:00PM :55db(A) and 10:00PM – 7:00AM :50db(A)

*Agricultural Zoning Districts, where at least 500 feet 65 dB(A) 55 dB(A) from any dwelling under separate ownership and commercial:

Limitations: 7:00AM –10:00PM :65db(A) and 10:00PM – 7:00AM :55db(A)

Harmonic or pure tones and periodic or repetitive impulse sound shall be in violation when such sounds are at a sound level of 5dB(A) less than those listed above.

Violations shall exist when the source or sources of noise are identifiable and the levels emanating from the source or sources exceed the limitations listed above. 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.

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 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 Township and is currently in effect.
2. All railroad operations shall be subject to the maximum permissible noise levels allowed in industrial districts, regardless of the zone where they are located.
3. Noises occurring between 7:00AM and 5undown 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 20 dB(A).
4. Noises emanating from the discharge of a firearms are excluded, providing discharge of the firearms was authorized under Michigan law and all local ordinance.
5. 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) in higher zoning classification shall be allowed to emit noise in excess of these limitations for the particular zoning classification where such use is located, providing that such noise does not exceed either of the following limitations:
 - a. 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 if available.
 - b. The limitations contained herein based upon such a use being located in the highest zoning district (either commercial and agricultural or industrial) where such a use is specifically allowed as permissible use.
- B. Regulations for decibel 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 or (15 meters) from a noise source located within the public right-of-way. If measurement at 50 feet (15 meters) is not feasible, measurement may be made at 25 feet (7 ½ meters) and if this is done, 6 dB(A) shall be added to the limits

provided below. All such noises in excess of dB(A) as provided herein shall be prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area and is therefore in violations of this ordinance.

Trucks & Buses –Weight: Over 10,000lbs. gross weight, dB(A) Maximum Limitation 82 dB(A)

Trucks & Buses –Weight: Under 10,000lbs. gross weight, dB(A) Maximum Limitation 74 dB(A)

Passenger Cars- Any Weight, dB(A) Maximum Limitation: 74dB(A)

Motorcycles, Snowmobiles & Mini-Bikes – Any Weight dB(A) Maximum Limitation: 82 dB(A)

All other self-propelled motor vehicles –Any Weight, dB(A) Maximum Limitation: 74 dB(A)

- C. Measurement of Noise. All measurement of dB(A) according to subparagraphs A and B 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.

Section 5: 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 6: Validity

The several provisions of this ordinance are declared to be separate; if any court of law shall hold that any section of provision thereof is invalid, such holding shall not affect or impair the validity of any other sections or provision of this ordinance.

Section 7: Penalties

Any person, firm or corporation found violating the provisions of this Ordinance, shall upon conviction, be punished by a fine of not to exceed \$500 or by imprisonment no to exceed 90 days or both such fine and imprisonment at the discretion of the court. Each day that a violation shall continue is to constitute a separate offense. Provisions of this ordinance may also be enforced by suit for injunction, damages or other appropriate legal action.

Section 8: Effective Date

This Ordinance shall take effect on September 19, 2010. This Ordinance shall become effective thirty (30) days after legal publications with the provisions of the Act governing same. Published on August 18, 2010 in the Pinconning Journal

Section 9 : Repeals

This Ordinance repeals all Ordinances or parts of Ordinances in conflict therewith. Sections of this Ordinance shall be deemed to be severable and should any section, paragraph or provision hereof be

deemed by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part so declared to be unconstitutional or invalid.



This Ordinance duly adopted August 10, 2010 at a regular meeting of the Pinconning Township Board of Trustees.

Motion made by Morin Support Holbrook

Yeas: Trudo, Holbrook, Stalsberg, Morin – Yes

Nays:

I the undersigned, duly qualified and acting Township Clerk, Pinconning Township, Bay County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board at regularly scheduled meeting of the Township Board of Trustees held on the 10th day of August 2010.


JoAnna Morin, Pinconning Township Clerk
Sharon Stalsberg, Pinconning Township Supervisor