

JUL 16

LYON TOWNSHIP

ANTI-NOISE ORDINANCE NO. 48

An Ordinance to secure the public health, safety and general welfare of the residents and property owners of Lyon Township, Roscommon County, Michigan, by the regulation of noise within said township; to prescribe penalties for the violation thereof and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP BOARD OF LYON TOWNSHIP,
ROSCOMMON COUNTY, MICHIGAN, ORDAINS:

Section 1. TITLE

This Ordinance shall be known and cited as the Lyon Township Anti-Noise Ordinance.

Section 2. ANTI-NOISE REGULATIONS

A. UNLAWFUL NOISE PROHIBITED. It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary, or unusually loud noise, or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the Township. The following acts, among others, are declared to be loud, disturbing, injurious and unnecessary and unlawful noises in violation of this Section, but this enumeration shall not be deemed to be exclusive. Each such act which either continues or is repeated more than one-half (1/2) hour beyond its inception shall be considered and may be prosecuted as a separate violation of this Ordinance.

(1) HORNS AND SIGNAL DEVICES. The sounding of any horn or signal device on any automobile, motorcycle, bus, train, or other vehicle while not in motion, except as a danger signal or to give warning of intent to get into motion, or, if in motion, only as a danger signal after or as brakes are being applied and decelerating of the vehicle has begun; the creation by means of such signal devices of any unreasonably loud or harsh sounds; and the sounding of any signal device for any unreasonable or unnecessary period of time.

(2) RADIO, PHONOGRAPH, MUSICAL INSTRUMENTS. The playing of any radio, phonograph, television set, amplified or unamplified musical instruments, loudspeaker, tape recorder, or other electronic sound producing devices, in such a manner or with volume at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel, hospital, or other type of residence; or of any persons in the vicinity, excluding persons in a single family dwelling in which the sound is produced. The operation of any such set, instrument, phonograph, machine, or device in such a manner as to be plainly audible on a property or in a dwelling unit other than that in which it is located, shall be prima facie evidence of a violation of this section.

(3) SHOUTING AND WHISTLING. Yelling, shouting, hooting, whistling, singing, or the making of any other loud noises on the public streets, between the hours of 11:00 o'clock, p.m. and 7:00 o'clock a.m., or the making of any such noise at any time or place

so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, motel, rental unit, hospital, or other type of residence, or in any office or of any persons in the vicinity.

(4) **HAWKING.** The hawking of goods, merchandise, or newspapers in a loud or boisterous manner.

(5) **ANIMAL AND BIRD NOISES.** The keeping of any animal or bird which by causing frequent or long continued noise, shall disturb the comfort or repose of any person.

(6) **WHISTLE OR SIREN.** The blowing of any whistles or sirens, except as a warning of fire or danger.

(7) **ENGINE EXHAUST.** The discharge into the open air of the exhaust of any steam engine, or stationary internal combustion engine, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(8) **CONSTRUCTION NOISES.** The mining of sand, gravel and other earthen material, erection (including excavation therefor), demolition, alteration, or repair of any building, and the excavation of streets and highways on Sundays, and other days, except between the hours of 7:00 o'clock a.m. and 8:00 o'clock p.m., unless a permit therefor be first obtained from the Lyon Township Board.

(9) **HANDLING MERCHANDISE.** The creation of a loud and excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates and containers, except between the hours of 7:00 o'clock a.m. and 8:00 o'clock p.m.

(10) **DEVICES TO ATTRACT ATTENTION.** The use of any drum, loud speaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose.

(11) **INTERNAL COMBUSTION ENGINES.** The use outdoors of any internal combustion engine on power equipment, including but not limited to chain saws, lawn mowers, leaf & grass shredders, chippers and leaf blowers except during the hours of 7:00 o'clock a.m. to 8:00 o'clock p.m.

B. EXCEPTIONS. None of the terms or prohibitions of the previous section shall apply or be enforced against:

(1) **EMERGENCY VEHICLES.** Any police, fire, or emergency medical vehicle, including the private vehicles of fire and medical volunteers while engaged upon necessary emergency business.

(2) **HIGHWAY AND UTILITY MAINTENANCE AND CONSTRUCTION.** Necessary excavations in or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the Township of Lyon or Roscommon County Road Commission, or any public utility or any agent of the State of Michigan, during the night or on Sunday, when the public safety, welfare, and convenience necessitates the performance of the work at such time.

(3) **PUBLIC ADDRESS.** The reasonable use of stationary amplifiers or loud speakers for public addresses which are non-commercial in character and for which a permit has

been obtained from the Lyon Township Board.

(4) SACRED MUSIC. The use of sound amplifiers or other such devices by churches, or other organizations approved by the Lyon Township Board.

(5) SNOW REMOVAL. The operation of snow removal equipment necessary for the removal of snow or ice from public or private streets, alleys, drives, sidewalks, and parking areas, provided that any motor vehicle used for snow removal which is required to be licensed shall be equipped with an exhaust system in good working order to prevent excessive or unusual noise and shall be equipped to prevent engine noise in excess of the limits established by Section 701(C) of Article 300 P.A. 1949, and any motor driven vehicle of a type not subject to registration for road use or domestic snow removal equipment shall be equipped with an exhaust system or mufflers in good working order to prevent excessive or unusual noise.

Section 3. VALIDITY.

The several provisions of this Ordinance are declared to be separate and the holding of any court that any section or provision thereof is invalid shall not affect or impair the validity of any other section or portion.

Section 4. RETALIATION.

If there be any evidence of retaliation by any offender against any complainant or witnesses, such evidence shall be communicated to the District Court. In sentencing any violator, the District Court or Magistrate shall first examine the evidence of retaliation, and if such be shown, shall consider such acts, including the amount of and property damage, and sentence the violator accordingly, which sentence may include restitution for any damage.

Section 5. PENALTIES FOR VIOLATION

The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Ordinance or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

- (1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this Code or any ordinance, the civil fine for a violation shall be not less than \$ 50.00, plus costs and other sanctions.
- (2) Second violation within a 3-year period * \$125
- (3) Third violation within a 3-year period * \$250
- (4) Fourth or subsequent violation within a 3-year period \$400

(* determined on the basis of the date of the violation(s))

In addition to the above-prescribed civil fines, costs in the amount of \$10 shall be assessed by the bureau if the fine and costs are paid within 10 days of the date of service of the municipal ordinance violation notice. Otherwise, costs of \$20 shall be assessed by the bureau.

In addition any violation of this ordinance is hereby declared to be a public nuisance per se which may be abated in Circuit Court in lieu of or in addition to other civil sanctions.

Section 6: Penalties

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Section 6: Record and Accounting

The bureau clerk or other designated township official/employee shall retain a copy of all municipal ordinance violation notices and shall account to the township board once a month or at such other intervals as the township board may require concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the bureau and the amount of fines/costs collected with respect to such violations. The civil fines/costs collected shall be delivered to the township treasurer at such intervals as the treasurer shall require, and shall be deposited in the general fund of the township.

Section 7: Availability of Other Enforcement Options

Nothing in this ordinance shall be deemed to require the township to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction, the township may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.