

ERIE TOWNSHIP ORDINANCE NO. 115-A
AMBIENT NOISE LEVEL

An Ordinance enacted pursuant to Act 246, Public Acts of 1945, as amended, to Repeal and Restate the Erie Township Ambient Noise Ordinance, Ordinance No. 115; and to reduce the ambient noise level in Erie Township so as to preserve, protect and promote the public health, safety, general welfare, and the peace and quiet of the inhabitants of the Township; to foster the convenience and comfort of said inhabitants, and facilitate the enjoyment of the natural attractions of the Township.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ERIE, MONROE COUNTY, MICHIGAN, HEREBY ORDAINS:

Section - 1 Definitions.

The following words and phrases used herein are defined as follows:

Ambient noise. The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

Emergency work. Work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or work by private or public utilities when restoring utility services or protecting them from imminent danger.

Impulsive vibration. Vibration resulting from an impact source, e.g. blasting, or pile driving.

Motor vehicle. Shall include, but not limited to automobiles, trucks, motorcycles, minibikes, go-carts, Atv's and snowmobiles.

Noise. Any undesired sound.

Noise level. For the purposes of this code, the terms "Noise Level" and "Sound Level" where used are synonymous.

Particle velocity. The time of change of displacement.

Person. Any person, person's firm, association, co-partnership, joint venture, corporation or any entity public or private in nature.

Sound. An oscillation in pressure in air.

Steady state vibration. Continuous earthborne oscillations.

Excessive, or offense noise. Shall mean any sound or noise which would disturb or cause actual physical discomfort to persons of ordinary sensibilities, taking into consideration all of the prevailing facts and circumstances.

Zoning districts. Those established by the Township Board of the Township of Erie, a Municipal Corporation of Monroe County, Michigan.

Section - 2 General regulation.

No person shall make or cause to be made any noise, whether measured or not, which either creates a disturbance of the public peace or is of such a character as to be of actual physical discomfort to persons of ordinary sensibilities, taking into consideration the following factors:

- (a) the volume of the sounds;
- (b) the intensity and frequency of the sound;
- (c) whether the nature of the sound is usual or unusual;
- (d) whether the origin of the sound is natural or unnatural;
- (e) the volume and intensity of the ambient sound, if any;
- (f) the proximity of the sound to residential sleeping facilities;
- (g) the nature and zoning of the area within which the sound emanates or is received;
- (h) the density of habitation of the area within which the sound emanates or is received;
- (i) the time of day or night the sound occurs;
- (j) the duration of the sound;
- (k) whether the sound is recurrent, intermittent, or constant;
- (l) whether the sound is produced by a non-commercial or commercial type of activity; and
- (m) other pertinent and applicable factors.

Section -2a Public nuisance regulations.

No person, firm or corporation shall create, cause or maintain any public nuisances within the Township by the emission of noise which is offensive or disturbing to adjacent property owners and residents or persons in the area.

Section -2b Noise Measurement

A. A person, industry, corporation, firm or business shall not emit, cause or allow to be emitted, sound from any source or combination of sources other than a motor vehicle registered for use on public highways, which when measured in accordance with the procedure described herein exceeds the sound level limits in Table 2b below. Measurement of sound level shall be made using a microphone set at a height of approximately four and one half (4 1/2) feet and at a horizontal distance of at least five (5) feet from a lot line or right-of-way line on any lot or right-of-way other than that on which the sound sources being measured is located. A violation shall not be deemed to exist unless the sound level measured with the sound source or sources of interest in operation is at least six (6) decibels higher than the sound level measured with the sound source or sources not in operation. Duration of sound shall be measured by observing the sound level meter and recording the sound level measured at intervals of time not to exceed five (5) minutes.

B. All measurements shall be made using a sound level meter which meets the requirements of the American National Standard S1.41984, "Type 2 or Type 1 Sound Level Meters," and which has been set for fast meter response and the A-weighting network.

C. This Section shall not apply to agricultural operations utilizing equipment with normal silencing devices, that meet their respective product requirements, the emission of sound

for the purposes of alerting persons of an emergency or emergency vehicle, and the emission of sound in the performance of emergency work.

Table 2b
A-Weighted Sound Level Limits (Decibels)

Duration, as a percentage of any one hour period.	Districts		Districts	
	Conservation and Residential		Commercial and Industrial	
	6:00 pm - 6:00 am	6:00 am - 6:00 pm	6:00 pm - 6:00 am	6:00 am - 6:00 pm
50% or greater:	45	50	55	65
More than 10% but less than 50%:	50	55	60	70
10% or less:	55	65	70	75
Maximum, any duration:	65	75	80	80

Section - 3 Musical instruments, radios, etc.

It shall be unlawful to operate or cause or permit to be operated any musical instrument, radio, phonograph, hi-fi sets, television set, or any instrument or device capable of producing noise, in such a manner or with such volume as to create excessive, or offensive noise which annoys or disturbs the peace, quiet, comfort or repose of the neighboring inhabitants, particularly between the hours of 10:30 P.M. and 7:00 A.M., on those nights of Sunday through Thursday, and from 12:00 A.M. to 7:00 A.M. on Fridays and Saturdays.

Section - 4 Pools.

It is unlawful to make, continue or cause to be made or continued at any swimming pool, excessive or offensive noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, particularly between the hours of 10:30 P.M. and 7:00 AM. on those nights of Sunday through Thursday, and from 12:00 AM. to 7:00 AM. on Fridays and Saturdays.

Section - 5 Yelling, shouting, hooting, or singing.

It shall be unlawful to create, continue or cause to be created any yelling, shouting, hooting or singing on the public streets between the hours of 10:30 P.M. and 7:00 AM., on those nights of Sunday through Thursday and from 12:00 A.M. to 7:00 A.M. on Fridays and Saturdays, or anytime or place so as to reasonably upset or disturb the quiet, comfort or repose of any person in the vicinity.

Section - 6 Animals.

No owner, keeper or harbinger of any animal shall allow said animal to bark, howl or emit other audible sounds which creates excessive or offensive noise and annoys other persons or which shall disturb the comfort or repose of any person in the vicinity.

Section – 7 Schools, hospitals, and churches.

It shall be unlawful for any person to create any excessive or offensive noise on any street, sidewalk, or property adjacent to any school, institution of learning, or church while any of the same is in use.

Section - 8 Loading and unloading.

It shall be unlawful to create loud and excessive noise in connection with loading or unloading any vehicle, or the opening and/or destruction of bales, boxes, crates and containers, between the hours of 10:30 P.M. and 7:00 A.M.

Section - 9 Homeowners outdoor equipment.

1. It shall be unlawful to operate engine or motor-powered lawn or maintenance tools intended for use in residential areas, typically capable of being used by homeowners (such as power mowers, garden tools, riding tractors, power saws, edgers, etc.) except between the hours of 7:00 A.M. and 10:30 P.M.
2. Homeowners outdoor equipment must have mufflers where applicable and in good working condition.
3. Snow blowers and snow plows are exempted from the time requirements of this section when removing snow and ice.

Section – 10 Vehicle and non-stationary source repairs.

It shall be unlawful for any person within any residential area to repair, rebuild, or test any motor vehicle or non-stationary source in such a manner as to cause excessive, or offensive noise.

Section – 11 Construction.

1. It shall be unlawful for any person to use any pile driver, shovel, hammer derrick, hoist tractor, roller or other mechanical apparatus operated by fuel or electric power in building or construction operations between the hours of 10:30 P.M. and 7:00 A.M. within a residential area or within 500 feet of a school or hospital, except for temporary conditions approved by the Township Board.
2. It shall be unlawful for any person to operate any construction equipment, including, but not muted to, a pile driver, shovel, hammer derrick, hoist tractor, roller or other mechanical apparatus operated by fuel or electrical power that is improperly muffled or in poor working order so as to create a noise disturbance,

Section – 12 Motor vehicles.

- A. No person shall operate a motor vehicle of a type subject to registration at any time or under any condition of load, acceleration or deceleration in such manner as to cause excessive or offensive noise.

Section – 13 Amplified sound.

It shall be unlawful for any person, other than personnel of law enforcement, governmental agencies or utilities services, or permittees duly authorized to install, use, or operate within the Township a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound truck for the purposes of giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons in or upon any public street, alley, sidewalk, park or place, or other public property except when installed, used or operated in compliance with the following provisions, and duly approved by authority of the Township Board or the Township of Erie, or by its duly authorized agent:

- A. Residential Zones and within 500 feet thereof:
 - 1. No fixed sound amplifying equipment shall be installed, operated or used for commercial purposes at any time.
 - 2. The operation or use of sound amplifying equipment for noncommercial purposes, except when used for regularly scheduled operative functions by any school or for the usual and customary purposes of any church, is prohibited between the hours of 11:00 P.M. and 8:00 A.M. of the following day.
- B. In all other zones, except such portions thereof, as may be included within 500 feet of any residential zone:
 - 1. The operation or use of sound amplifying equipment for commercial purposes is prohibited between the hours of 9:00 P.M. and 8:00 AM. of the following day.
 - 2. The operation or use of sound amplifying equipment for noncommercial purposes is prohibited between the hours of 11:00 P.M. and 8:00 AM. of the following day.
- C. The only sounds permitted shall be either music, human speech, or both.
- D. Sound emanating from sound amplifying equipment shall be limited in volume, tone and intensity so that the sound shall not be audible at a distance in excess of 200 feet from the sound equipment.
- E. Except as provided in (b) above, no sound amplifying equipment shall be operated upon any property adjacent to and within 20 feet of any hospital grounds or any school or church building while in use, unless said hospital, school or church requests such amplification.

Section - 14 Race track, proving ground, resting area, or obstacle course.

No person, firm or corporation shall operate any racetrack, 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 is 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 10:30 P.M. on any evening.

Section – 15 Waste disposal service.

It shall be unlawful for any person, firm or corporation, authorized disposal services or garbage disposal services or garbage collection services to provide such services so as to create an unnecessary amount of noise. For the purpose of this section, noise emitted by equipment shall not be deemed unnecessary or without justification if the person engaged in such services has to the extent reasonably feasible in the judgment of the Township Board, incorporated available sound-deadening devices into equipment used in rendering those services.

Section – 16 Vibration.

- A. Steady state vibration shall not exceed 0.20 inches per second peak particle velocity, or its equipment in displacement or acceleration, in any one of the three mutually perpendicular components of motion: vertical, longitudinal or transverse.
- B. Impulsive vibration shall not exceed 0.1 inches per second peak particle velocity, or its equivalent in displacement or acceleration, or any one of the three mutually perpendicular components of motion except blasting or pile driving, which shall not exceed 20 inches per second peak particle velocity.
- C. All vibration recordings shall be made on the ground adjacent to the closest structure neither contractor-owned nor leased.

Section – 17 Exemptions.

The following uses and activities shall be exempt from noise level regulations:

- 1. Noises of safety signals, warning devices, and emergency pressure relief valves.
- 2. Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.
- 3. Noises resulting from emergency work.
- 4. Noises resulting from authorized public activities such as parades, fireworks, sports events, musical productions and other activities which have the approval of the Township Board.
- 5. Noises resulting from sports events authorized by the Board of Education, private schools, colleges or universities.
- 6. Noises resulting from Construction projects, which, by this Ordinance shall be subject to the specified time limitations as long as a valid building permit has been issued by the Township and is currently in effect.
- 7. Noises emanating from the discharge of firearms, providing the discharge of the

firearms was authorized under Michigan Law and all local ordinances.

Section – 18 Variances.

- A. The Township Board may grant individual variances beyond the limitation prescribed by this ordinance, whenever it is found, upon presentation of adequate proof, that compliance with any section of this ordinance, or with any regulation or order of the Township Board in respect to this ordinance would impose a practical difficulty. In granting a variance, the Township Board may impose such conditions as the policies of this Code may require.
- B. Any variance granted pursuant to this section shall be granted for such period of time, not exceeding one year, as shall be specified by the Township Board at the time of the grant of such variance and upon the conditions that the person who receives such variance shall make such periodic progress reports as the Township Board shall specify. Such variance may be extended for periods up to six months by affirmative action of the Township Board, but only if satisfactory progress has been shown. The Township Board may, in the case of construction, grant a variance for the duration of the project and a contract letting Agency, public or private, may apply for this variance.
- C. If a variance is requested by the petitioner a public hearing shall be held prior to the issuance of any variance for the purpose of allowing any person to present evidence with respect to the requested variance. Notice of such hearing shall be promulgated by the Township Board in the form of a release at least ten days prior to the hearing.
- D. The petition shall be accompanied by a fee of \$250.00 for a regularly scheduled Township Board Meeting.
- E. Governmental agencies are exempted from the payment of fees.

Section – 19 Inspections.

- A. The Township Board or anyone designated by the Board, or the police, may enter into or upon any private or public property, for the purposes of inspection and investigation of any condition or equipment which the Township Board or Police Officer shall have reasonable cause to believe is causing noise in violation of the provisions of this Ordinance.
- B. The Township Board, anyone designated by the Board, or the police, may inspect at any reasonable time and in a reasonable manner, with reasonable notice, any record relating to the use of equipment which creates or may create unnecessary noise.
- C. No person shall refuse entry, nor obstruct, delay, prevent or in any way interfere with the Township Board, anyone designated by it, or the police while carrying out an inspection, or in the performance of their duties. Should such right of entry be denied, then a search warrant may be obtained from a Court of Competent Jurisdiction.

Section – 20 Penalty.

Any person, firm, corporation, partnership, or other organization or entity, or anyone acting on behalf of said person, firm, corporation, partnership, or other organization or entity, who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined by Michigan law, and subject to a civil fine determined in accordance with the following schedule:

First violation within a one two -year period*	Written Warning
Second violation within a one two -year period*	\$ 100.00
Third violation within a one two -year period*	\$ 200.00
Fourth or subsequent violation within a one two -year period*	\$ 300.00

(*Determined on a basis of the date of the violation(s).)

A violator of this Ordinance shall be subject to additional sanctions, remedies and judicial orders as authorized under Michigan law.

Section – 20b Appeal.

A. Purpose.

The purpose of this Section is to assure adequate means for the competent interpretation of this Ordinance, appeals of Written Warning decisions, and flexibility in the strict application of this Ordinance where such flexibility is considered appropriate, to assure that the spirit of the Ordinance be observed, public safety secured, and substantial justice done through the duties of the enforcement official.

B. Interpretation of the Ordinance: The Township Board shall hear and decide upon requests for appeal to Written Warnings to:

Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request the Township Board shall insure that its interpretation is consistent with the intent and purpose of the Ordinance, the Section in which the language in question is contained, and all other relevant provisions in the Ordinance.

C. Procedure.

An appeal to a Written Warning shall be submitted in writing and contain specific section(s) being appealed, including the reason(s) for such appeal. The Township Board shall schedule and hear such appeal at the next regularly scheduled Township Board Meeting.

Section – 21 Separability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason, held invalid, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section – 22 Conflict.

Erie Township Ordinance No. 115 is hereby repealed and replaced by this Ordinance and all other ordinances, resolutions or orders, or parts thereof, in conflict with the provisions

of this Ordinance are, to the extent of such conflict, hereby repealed.

Section – 23 Remedies.

In the event of violation of the provision of this Ordinance, then in that event an action may lie against the owner or operator or both, in law or in equity, to enforce the provisions hereof.

Section – 24 Effective date.

This Ordinance shall become effective thirty (30) days after it, or a summary of it, is published in a newspaper of general circulation in the Township of Erie. The Ordinance or summary of it, shall be published in a newspaper of general circulation in the Township of Erie within thirty (30) days after its adoption.

THE TOWNSHIP BOARD, ERIE
TOWNSHIP, COUNTY OF MONROE,
STATE OF MICHIGAN:

By: Jolene Upchurch
Jolene Upchurch,
Erie Township Clerk

AUTHENTICATED:

By: William Frey
William Frey,
Erie Township Supervisor

I, Jolene Upchurch, do hereby certify that I am the duly elected and acting Clerk of the Township of Erie, and I do hereby certify that this Ordinance was adopted by the Township Board of the Township of Erie, Monroe County, Michigan, at a regular meeting of the Township Board held at the Erie Township Hall, Erie, Michigan, on the 8th day of December, 2009.

The vote on said Ordinance, 5 members being present and 0 members absent, was as follows:

Member's Last Name

Voting in Favor:

Frey Upchurch

Baum Cousino

Grodi _____

Voting Against:

0 _____

Abstained:

0 _____

Absent:

0 _____

THE TOWNSHIP BOARD, ERIE
TOWNSHIP, COUNTY OF MONROE,
STATE OF MICHIGAN:

By: Jolene Upchurch
Jolene Upchurch,
Erie Township Clerk

AUTHENTICATED:

By: William Frey
William Frey,
Erie Township Supervisor

I, Jolene Upchurch, do hereby certify that I am the duly elected and acting Township Clerk of the Township of Erie, and I do hereby certify that this Ordinance or a summary thereof, was published on the 21st day of December, 2009, in the Bedford Press, Monroe County, Michigan, a newspaper of general circulation in the Township of Erie, within thirty (30) days after adoption of this Ordinance.

Dated: 12-11-09

By: Jolene Upchurch
Jolene Upchurch,
Erie Township Clerk

ATTEST:
By: William D. Frey
William Frey,
Erie Township Supervisor

ADOPTED: 12-8-09

PUBLISHED: 12-21-09

EFFECTIVE: 1-21-10

PDG/blc
ERIE\noise ordinance - amended