

TOWNSHIP OF HEATH

HEATH TOWNSHIP ORDINANCE NO. 51

PUBLIC NUISANCE AND ANTI-NOISE ORDINANCE

Adopted: November 13, 2001

Effective: December 29, 2001

An Ordinance to define and prohibit nuisances in Heath Township; providing for their abatement; prescribing penalties for violations hereof; provide for the severability of sections; to repeal any ordinances or parts of ordinances in conflict herewith and set an effective date of this Ordinance.

**HEATH TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

TITLE

This Ordinance shall be known as "The Public Nuisance and Anti-Noise Ordinance."

SECTION II

DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Decibel: A unit used to express the magnitude of sound pressure and sound intensity. The difference in decibels between two sound pressures is 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 that sound pressure to a reference pressure of 2×10^{-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 20 fold increase or decrease to 1/10th the former intensity.

dB(A): 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.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind.

Public nuisance: Whatever annoys, injures, or endangers the safety, health, comfort, or repose of the public decency, interferes with or obstructs or renders dangerous any street, alley, highway, or river or stream, or in any way renders the public insecure in life or property, is hereby declared to be a public nuisance. Public nuisance shall include, but not be limited to, whatever is forbidden by any provision of this Ordinance.

Township: Shall mean Heath Township, Allegan County, Michigan.

SECTION III

CREATING; MAINTAINING; AND/OR PERMITTING A PUBLIC NUISANCE

No person shall create, maintain, or permit to be maintained a public nuisance in the Township.

SECTION IV

NOISE-CREATING ACTIVITIES

No person shall engage in the following noise-creating activities:

- A. The sounding of any horn or signal device on any automobile, motorcycle, train or other vehicle while not in motion, except as a danger signal or to give warning of intent to get in motion, or, if in motion, only as a danger signal; the creating by means of such signal devices of any unreasonable loud or harsh sound; and the sounding of any signal device for any unreasonable or unnecessary period of time.
- B. The driving of any automobile, motorcycle or motorbike, with the muffler cut out or the racing of motor so as to cause it to backfire.
- C. The playing of any radio, phonograph, television set or musical instrument in such manner, or in such volume, during the hours between 1:00 a.m. and 6:00 a.m., or at any other time so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office, or of any person in the vicinity; and except as provided in Section VI, the playing at any time of any radio, phonograph, or television on any premises outside of a building or the playing of any radio or phonograph installed in a building or automobile, or a public address system or other similar device so that it annoys people in the area.
- D. Yelling, shouting, hooting, whistling, singing, or the making of any other loud vocal noise in the public streets between the hours of 1:00 a.m. and 6:00 a.m. or the making of any such noise at any time so as to annoy or disturb

the quiet, comfort, or repose of persons in any official dwelling, hotel, hospital, or other type of residence, or of any persons in the vicinity.

- E. The hawking of goods, merchandise, or newspapers in a loud or boisterous manner.
- F. The owning, keeping, harboring or having charge of any animal or bird, either licensed or unlicensed, which by causing loud or frequent noise becomes a nuisance in the neighborhood in which such animal or bird is kept.
- G. The creating of loud and excessive noise by the blowing of any whistles or sirens, except to give notice of the time to begin work or stop work, or as a warning of fire or other danger.
- H. The discharging into the open air the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through an efficient muffler or other device which effectively prevents loud or explosive noises therefrom.
- I. The erection (including excavation therefore), demolition, alteration or repair of any building, and the excavation of streets and highways on Sundays, and on other days except between the hours of 7:00 a.m. and 10:00 p.m. Exceptions to this provision may be made by the Township Board in the case of residential building or alterations to a residence by the owner.
- J. 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 person in the vicinity.
- K. 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 equipment emits loud and raucous noises easily heard from nearby adjoining residential property.
- L. 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.
- M. 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 therefrom 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 p.m. on any evening.

SECTION V

ANTI-NOISE REGULATIONS BASED UPON dB (A) CRITERIA

In order to regulate and prove violations occurring under Section IV 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. However, violations under Section IV above but which have no decibel determination available shall nevertheless be deemed violations of this Ordinance.

A. Regulations for Decibel Measurement of Noise Originating From Private Properties.

Noise radiating from all properties or buildings, as measured at the boundaries of that portion of the property under separate occupancy, which is in excess of the dB(A) established for the districts and times herewith 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 of noise are identifiable and the levels emanating from 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 material, goods or products, including vehicles.

ZONING DISTRICTS	LIMITATIONS 7:00 a.m. to 10:00 p.m.	LIMITATIONS 10:00 p.m. to 7:00 a.m.
Residential (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).	55 dB(A)	50 dB(A)
Agricultural, where at least 500 feet from any dwelling under separate ownership and Commercial.	65 dB(A)	55 dB(A)
Industrial	80 dB(A)	75 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.

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 (7.2 meters) and if this is done, 6 dB(A) shall be added to the limits provided below. All such noises in excess of the 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 violation of this Ordinance.

VEHICLE	WEIGHT	dB(a) MAXIMUM
Trucks and buses	Over 10,000 lbs. gross weight	82 dB(A)
Trucks and buses	Under 10,000 lbs. gross weight	74 dB(A)
Passenger cars	Any weight	74 dB(A)
Motorcycles, snowmobiles, and minibikes	Any weight	82 dB(A)
All other self-propelled motor vehicles	Any weight	74 dB(A)

C. Measurement of Noise

All measurements 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 VI

EXCEPTIONS

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

- A. Any police or fire vehicle or any ambulance, while engaged upon necessary emergency business.
- B. Necessary excavations in or repairs of bridges, streets, highways, or any public utility or any agency of the State of Michigan during the night or on Sunday, when public safety, welfare, and convenience necessitates the performance of the work at such time.

- C. The reasonable use of stationary amplifiers or loud speakers for public address which are non-commercial in character.
- D. The use of sound amplifiers or other such devices by churches, or other organizations approved by the Township Board to broadcast Christmas or Easter music for a period not to exceed fifteen days prior to Christmas Day and seven days prior to Easter Sunday and the ringing of church bells and chimes and the giving of chime concerts between the hours of 7:00 a.m. and 10:00 p.m.
- E. The use of public address systems and other sound amplifiers outside of buildings or upon sound trucks or cars ,between the hours of 7:00 a.m. and 10:00 p.m. for religious, educational and recreational purposes: Provided, that no such sound amplifiers shall be used unless permission to do so has been approved by the Township board and a permit issued by it upon the following conditions: That no such permit shall be issued on Sunday or Christmas Day; that such sound trucks shall not operate within 300 feet of any hospital or convalescent home, or any school during school hours; that the sound from such equipment shall be so regulated as to be audible to people in the street without creating a nuisance.
- F. The Township Board shall have authority to grant permits for short term outdoor recreational or holiday activities generating noise in excess of the limits set forth in this Ordinance. In determining whether or not to grant any such permit, the Township Board shall consider the duration of the proposed activity, the level of noise, likely to be generated by it, the times of day during which such noise is likely to be generated, and the nature of the area surrounding the site of the propose activity. In granting any permit hereunder, the Township Board shall have the right to impose reasonable terms and conditions designed to minimize any adverse impact of the proposed activity on the surrounding area.

SECTION VII

VIOLATION AND PENALTIES

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this Ordinance is a municipal shall be deemed responsible for the municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
1st Offense within 3-year period*	\$ 75.00	\$ 500.00
2nd Offense within 3-year period*	\$ 150.00	\$ 500.00
3rd Offense within 3-year period*	\$ 325.00	\$ 500.00
4 th or More Offense within 3-year period*	\$ 500.00	\$ 500.00

*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case, however, shall the costs of less than \$9.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that the violation exists shall constitute a separate offense.

SECTION VIII

SEVERABILITY

This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Ordinance shall not be affected thereby.

SECTION IX

REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE

All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance, as of the effective date of this Ordinance, are hereby repealed to the extent of such conflict, except that terms defined herein for purposes of interpretation, administration and enforcement of this Ordinance only, will in no way, manner or form, repeal, modify or otherwise change the definition of any such terms as used in other ordinances of the Township of Heath. Ordinance is effective 30 days after publication following adoption.

HEATH TOWNSHIP
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