

**ORDINANCE NO. \_\_\_\_\_**  
**OTSEGO COUNTY NOISE ORDINANCE**

AN ORDINANCE TO REGULATE NOISES DECLARED NUISANCE AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, Section 11(j) of the County Board of Commissioners Act, MCL 46.11(j), provides that a county board of commissioners, by majority vote of the members of the county board of commissioners, elected and serving, may pass ordinances that relate to county affairs and do not contravene the general laws of the State of Michigan or interfere with the local affairs of a township, city, or village within the limits of the county, and can further provide suitable sanctions for the violation of those ordinances.

NOW, THEREFORE, THE COUNTY OF OTSEGO, MICHIGAN, HEREBY ORDAINS:

**Section 1 Purpose and Intent**

The purpose of this Ordinance is to regulate noise nuisances for the public health, safety, and welfare of the county. It is the intent of this Ordinance to minimize problems associated with noise.

**Section 2 Title**

This Ordinance shall be known and may be cited and referred to as the “Otsego County Noise Ordinance” and shall hereinafter be referred to as the “Ordinance”.

**Section 3 Definitions**

All terminology used in this section, not defined in this section, shall be in conformance with the applicable publications of the American National Standards Institute (ANSI). The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**A-weighted sound level:** the sound pressure level in decibels as measured on a sound level meter using the A-weighted network as specified in the American National Standards Institute Standard S1.4-1983, or its successor provision. The sound pressure level so read is designated dB(A) or dBA.

**Ambient residual sound level:** that measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are a more steady state, although they may not be continuous.

**Authorized official:** all Law Enforcement Officers, Zoning Administrators, Code Enforcement Officers and Building Officials authorized to investigate all complaints of violation of this Ordinance and who are further authorized to issue municipal civil infractions.

**Commercial area:** property that is not principally used for residential, agricultural or forestry recreation.

**Continuous sound:** any sound with a duration of more than one (1) second, as measured with a sound level meter set to the ‘fast’ meter response.

**Decibel (dB):** a unit of sound pressure level on a logarithmic scale measured relative to the threshold of audible sound by the human ear, in compliance with the American National Standard Institute Standard S1.4-1983, or its successor provision.

**Extraneous sound:** a sound which is relatively intense, intermittent and of short duration and is neither part of the neighborhood residual sound, nor comes from the sound source under investigation. The sources of extraneous sound are noted, but excluded from all measurements (e.g. passing vehicle or distant train)

**Immediate vicinity:** any distance beyond the property line of the parcel or lot from which the source of noise or disturbance is emanating as determined by the authorized official during the course of investigating a complaint of noise disturbance.

**Motorcycle:** a motor vehicle that has a saddle or seat for the use of the rider and is designed to travel on not more than three (3) wheels in contact with the ground.

**Motor vehicle:** every vehicle including but not limited to ORV, ATV, and dirt bikes which is self-propelled whether or not licensed or intended for use on the public roads.

**Person:** any owner, lessee or occupant of property, including any individual, corporation, business or other entity; 'person' also means any individual in any public place or any private place open to the general-public.

**Property line/Shoreline:** the line which represents the legal limits of property owned, leased, or otherwise occupied by a person or business entity. In cases involving sound from an activity on a public right-of-way, the property line shall be the nearest boundary of the public right-of-way.

**Residential area:** property used for temporary or permanent dwelling purposes

**Snowmobile:** any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code.

**Sound level meter:** an instrument used to measure sound pressure levels. This instrument shall comply with the standards for type 1 or type 2 sound level meters as specified in the American National Standard Institute Standard ANSI S1.4-1983, or its successor provision.

**Sound pressure level:** twenty (20) times the logarithm to the base ten (10) of the ration of the RMS sound pressure to the reference pressure of twenty (20) micropascals. This sound pressure level is expressed in decibels (dB).

**Total sound level:** that measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

**Vessel (Watercraft):** every description of watercraft used or capable of being used as a means of transportation on water.

#### **Section 4      Applicability**

This Ordinance shall apply to the real property located within Otsego County, Michigan

#### **Section 5      Interference with sound monitoring equipment**

No person shall remove or render inaccurate or inoperative any sound level meter or any similar monitoring instrument or device positioned for the purpose of enforcing the provisions of this section.

#### **Section 6      Prohibited acts; purpose generally**

It is the purpose of this article that no person shall create, assist in creating, continue or permit the continuation of any excessive or unnecessarily loud disturbance of noise of a high volume or intensity which is clearly audible and disturbs, annoys or endangers the safety of others beyond the immediate vicinity of the disturbance ('noise disturbances'). Only those noise disturbances not in compliance with Section 7 or Section 8.

#### **Section 7      Prohibited acts; specifically**

No person shall commit or cause to be committed any of the following acts of noise disturbances which are deemed a violation of this section:

- 1) The sounding of any horn, car alarm or signaling device in any vehicle while not in motion except as a danger signal, or where the car alarm is properly used or to give warning of intent to enter a lane of traffic.
- 2) The playing or use of any battery or electrically powered or electronic sound-producing or amplifying device, speaker or instrument, including a musical instrument, in such a manner or in such a loud volume or intensity, at any time or place, that exceeds permissible sound levels in Section 8.
- 3) The sound created by any domesticated animal kept or maintained by any person, when such animal creates a noise disturbance that is frequent or continued and clearly audible at a distance within or beyond the immediate vicinity of the noise as determined by an authorized official
- 4) No person shall create a noise disturbance in or with a motor vehicle, motorcycle, watercraft, or other motorized equipment so as to disturb or destroy or endanger the peace, comfort or repose of a person within or beyond the immediate vicinity of the source of the noise disturbance as determined by an authorized official. No person shall operate a motor vehicle, motorcycle, or other motorized equipment without a properly functioning muffler.
- 5) Engaging in the erection, including excavating, demolition, alteration or repair of any building or structure, except between the hours of 7:00am to 9:00pm.

**Section 8 Maximum permissible sound levels for amplified sounds and mechanical devices**

Use of any loud speaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle for any purpose, shall be subject to the following:

- 1) **Continuous sound**
  - a) No person shall cause, suffer, allow, or permit the operation of any source of amplified sound on any property or in the public right-of-way in such a manner as to create a sound level that exceeds the sound level limits listed in Table I as measured at any location at or within the property line of another person's property or at or above the shoreline of any body of water. A sound source shall not continuously exceed the sound level listed in Table I for longer than the period of time defined in subsection (1)b. Sound pressure levels in excess of those established in Table I for the period of time in subsection (1)b, shall constitute prima facie evidence that such sound is in violation of this Ordinance.

**TABLE I  
MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS DB(A)**

Commercial and Parks-Recreation (all times):	70
Residential (all times):	70

- b) The limits defined in Table I may not be exceeded continuously for more than one minute.
  - c) Nothing in this section supersedes the requirements of employers to comply with the Occupational Noise Exposure Standard of the Occupational Safety and Health Administration (29 CFR Part 1910.95). Compliance will help conserve workers' hearing, and reduce potential liability for the source.
- 2) **Steady pure tones**

If the sound source under investigation is a mechanical device, and is in the authorized county official's opinion emitting a sound with a steady tonal quality, the maximum permissible sound level limits in Table I shall be reduced by 5dB. The sound emissions must be comprised of a single frequency and/or its harmonics, which may be referred to as a tone, whine, hum or buzz. Such sound sources include, but are not limited to: heating, ventilating or air conditioning units; refrigeration units; and transformers.

**Section 9 Procedures for the determination of sound levels**

The sound level may be measured with a field calibrated sound level meter or readily available application. The sound level meter shall conform with ANSI S1.13 of 1973, or its successor provision.

The DB(A) methodology will be used to measure sound levels, and the meter readings will be set for a fast response.

### **Section 10      General exemptions**

The following activities are exempted from specific prohibited acts and/or the sound pressure level limitations set forth in Section 8:

- 1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster; to restore public utilities; or to protect persons or property from imminent danger.
- 2) Sounds made to alert persons to such emergency, danger or attempted crime, which shall not exceed five (5) minutes in duration.
- 3) Parades, concerts, festivals, fairs or similar activities, if approved by the municipality, subject to any sound pressure limits specified in the municipal approval.
- 4) Athletic, musical or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools or a community organization.
- 5) Bells, chimes or carillons while being used in observation of a religious event.
- 6) Sounds created while conducting yard work or lawn maintenance between the hours of 7:00am to 9:00pm including, but not limited to, lawn mowing, leaf blowing, brush clearing, and the use of chainsaws.
- 7) Sounds created during new construction, remodeling or maintenance activities on a building or structure between the hours of 7:00am to 9:00pm.
- 8) Sounds created while removing snow or cleaning streets, roads, driveways, parking lots or sidewalks necessary to allow safe access and transport.
- 9) The use of fireworks in compliance with state law.
- 10) The excavation of streets and highways in conjunction with a government contract.
- 11) Specific exemptions may be approved by the County Administrator with notice to the Board of Commissioners.

### **Section 11      Temporary exemptions**

- 1) The Zoning Board of Appeals (ZBA) is authorized to grant a temporary exemption in writing for dates specified not exceeding 30 days, after a Finding of Fact under the provisions of this section if such temporary exemption would be in the public interest, and if there is no feasible and prudent alternative to the activity or the method of conducting the activity for which the temporary exemption is sought.
- 2) The following factors shall be considered by the county in determining whether to grant a temporary exemption:
  - a) The hardship to the applicant, the community and other persons if the exemption is not granted, balanced against the adverse impact on the comfort, repose, health, peace or safety of persons if the exemption is granted;
  - b) The nearness of any residence or residences, or any other land use which would be adversely affected;
  - c) The sound pressure level to be generated by the activity for which the temporary exceptions is sought;
  - d) Whether the type of sound to be produced by the activity is usual or unusual for the location or area for which the exemption is requested;
  - e) The density of population in the area where the activity is to take place; and
  - f) The time of day or night during which the activity will take place.
- 3) A temporary exemption may be granted only for the period of time that is reasonably necessary to conduct the activity, up to thirty (30) days, which may, if necessary be extended and approved by the Zoning Board of Appeals (ZBA) upon written request by the applicant.

**Section 12 Liability of owner, lessee or occupant**

If the person responsible for an activity which violates this section cannot be determined, the owner of the property upon which the activity is located shall be deemed responsible for the violation unless the property is leased or occupied by persons other than the owner, in which case the lessees or occupants in possession and/or control of the property shall be responsible for the violation.

**Section 13 Enforcement**

A violation of this Ordinance constitutes a municipal civil infraction. Any person, who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal infraction shall be not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00), in addition to all other costs, damages, expenses and remedies provided by law. Subsequent offenses shall be subject to an increased civil fine as follows:

- a) The fine for a first subsequent offense shall be not less than Two Hundred Fifty Dollars (\$250.00), in addition to all other costs, damages and expenses.
- b) The fine for additional subsequent offenses shall be not less than Five Hundred Dollars (\$500.00), in addition to all other costs, damages and expenses.

For purposes of this Section, ‘subsequent offense’ means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offence.

The following officials are authorized to issue municipal civil infraction tickets/citations pursuant to this Ordinance:

- Deputies of the Otsego County Sheriff’s Department
- Officers of the City of Gaylord Police Department
- Officers of the Michigan State Police
- Conservation Officers of the Michigan Department of Natural Resources
- Employees of the Otsego County Land Use Services Department

**Section 14 Severability**

In the event that any one or more sections, subsections, provisions, phrases, or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, subsections, provisions, phrases, or other words of this Ordinance.

**Section 15 Effective Date**

The Ordinance shall be effective on the day when notice of its adoption is published in a newspaper of general circulation in Otsego County.