

BURR OAK TOWNSHIP
ST. JOSEPH COUNTY, MICHIGAN

NOISE ORDINANCE

ORDINANCE NO. 2007-2

ADOPTED: February 5, 2007

EFFECTIVE: March 21, 2007

An ordinance to secure the public health, safety, and general welfare of the residents and property owners of the Township of Burr Oak, by regulating, and where necessary prohibiting noise within said Township and proscribing penalties for the violation thereof.

THE TOWNSHIP OF BURR OAK
ST. JOSEPH COUNTY

ORDAINS:

Section 1: Title.

This Ordinance shall be known and may be cited as the Noise Ordinance of the Township of Burr Oak.

Section 2: Purpose.

Pursuant to its statutorily authorized power to enact ordinances for the purpose of preserving and protecting the general health, safety, and welfare, the Township Board of Burr Oak hereby enacts the following Noise Ordinance, the purpose of which is to prohibit excessive, unnecessary, unnatural, or unusually loud noises, or which are prolonged, unusual, and unnatural in their time, place, and use, and which disturb the peace and comfort of the public or are a detriment to the public health, comfort, convenience, safety, welfare, peace and prosperity of the general public, and to provide penalties for the violation of this Ordinance.

Section 3: General Prohibited Noise.

- A. It shall be unlawful for any person or entity to make, maintain, or continue, or cause to be made or continued, any excessive, unnecessary, unnatural, repeated, prolonged or unusually loud noise, or any noise which annoys or disturbs or injures or irritates or unreasonably impairs the comfort, repose, health, or peace of others, within the limits of the Township of Burr Oak.
- B. It shall be unlawful for the owner of any premises within the Township of Burr Oak, and for the occupant or person in possession of any premises within the Township of Burr Oak, whether individual, corporate, or otherwise, to knowingly make, allow to be made, or to permit to be made upon the premises so owned, occupied, or possessed, any excessive, unnecessary, unnatural, repeated, prolonged or unusually loud noise, or any noise which annoys or disturbs or injures or irritates or unreasonably impairs the comfort, repose, health, or peace of others, within the limits of the Township of Burr Oak.

Section 4: Specific Noises Prohibited: Standards.

The following noises and acts are hereby declared to be excessive, unnecessary, unnatural, or unusually loud which annoy, disturb, injure, or unreasonably impair the comfort, repose, health, or peace of others in violation of this Ordinance, said specification is not to be construed to exclude other violations not enumerated:

- A. **HORNS AND OTHER SIGNALING DEVICES.** The sounding of any horn or signaling device on any automobile, motorcycle, boat, bus, truck, or other vehicle, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time, or at an unnecessary and unreasonable time of the day or night; and, the use of any hand held or hand operated signal device which emits a loud or harsh sound except as a danger warning.
- B. **RADIOS, TELEVISIONS, PHONOGRAPHS, AND MUSICAL INSTRUMENTS.** The using, operating, or permitting to be played, used, or operated, any radio receiving set, television receiving set, phonograph, or musical instrument, or other such device for the production or reproduction of sound, in such a manner as to unreasonably or unnecessarily, irritate, annoy, or disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time at a volume unnecessary for convenient listening of the person or persons in the room, vehicle, or chamber in which such machine or device is being operated, and who are voluntarily listeners thereto. The operation of any such radio, television, phonograph, musical instruments, or other such machine or device between the hours of ten o'clock (10:00) p.m. and seven o'clock (7.00) a.m. in such a manner as to be plainly audible at a distance of fifty (50') feet from the building , structure, or vehicle in which it is located, or which is plainly audible in a dwelling unit other than that in which it is located, shall be prima facie evidence of a violation of this Section.
- C. **YELLING, SHOUTING, AND VERBAL NOISE.** Yelling, shouting, hooting, whistling, singing, or other verbal noise upon any premises, or upon the public streets, between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m., or at any other time or place, in such a manner so as to unreasonably annoy or disturb peace, natural quietude, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity where such noise is plainly audible at a distance of fifty (50') feet from its point of origin shall be prima facie evidence of a violation of the Section.
- D. **ANIMALS, BIRDS, OR PETS.** The keeping of any animal, bird, or pet which, by causing frequent or continuous noise, plainly audible at a distance of fifty (50') feet from its point of origin, shall be a prima facie evidence of a violation of this Section.
- E. **EXHAUST NOISES.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or any other form of engine, whether in a boat, motor vehicle, motorcycle, off-road vehicle, or tractor, except through a muffler or other device which effectively prevents or reduces loud or explosive noises.
- F. **LOADING, UNLOADING, AND OPENING OF BOXES.** The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or trailer, or the opening or destruction of bales, boxes, crates, and containers.

- G. CONSTRUCTION OR REPAIRING OF BUILDINGS. The erection (including excavation), demolition, alteration or repair of any building or structure other than between the hours of seven o'clock (7:00) a.m. and nine o'clock (9:00) p.m. where such activity results in the creation of unusually loud noise or noise which annoys, disturbs, injures, or unreasonably impairs the comfort, repose, health, peace or safety of others except in case of urgent necessity in the interest of public health and safety, for the duration of such emergency.
- H. BUSINESS OPERATIONS AND OTHER PREMISES ACTIVITIES. The carrying on of any business operations, or any other activities upon any premises in such a manner so as to create any excessive, unnecessary, or unusually loud noise, which disturbs, injures, or unreasonably impairs the comfort, repose, health, peace or safety of others.
- I. PILE DRIVERS AND OTHER HEAVY EQUIPMENT. The operation between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other form of heavy equipment, the use of which is attended by loud, or repeated or continuous noise.
- J. The operation of any race track, proving ground, testing area, or obstacle course for vehicles, motorcycles, boats, racers, automobiles, snowmobiles, off-road vehicles, or vehicles of any kind or nature in a residential area of the Township, or adjacent to a residential area of the Township where such noise emanating from the identified vehicles would be unusually loud or continuous, or unreasonable disturbing, or upsetting to person that vicinity.

Section 5: Exceptions.

The noise prohibitions set forth above shall not apply to the following:

- A. Any police vehicle, ambulance, fire engine, or other emergency vehicle while engaged in necessary emergency activities.
- B. Excavation or repair of bridges, streets, or highways, or other property by or on behalf of the State of Michigan, Township of Burr Oak, or County of St. Joseph, between sundown and seven o'clock (7:00) a.m. when the public welfare, health, safety or convenience renders it impossible to perform such work during other hours.
- C. Noises emitted from warning devices for the purpose of notifying individuals or the public at large as authorized by law.
- D. All railroad operations meeting the maximum permissible noise levels allowed or permitted by law.
- E. Noise emanating from the discharge of firearms providing that such discharge is otherwise authorized under Michigan law or local ordinance.

Section 6: Severability

The several sections of this Ordinance shall be deemed severable, and should any section, clause, or provision thereof be declared unconstitutional or contrary to the law of the State of Michigan, and therefore voided by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part or section so declared to unconstitutional or invalid.

Section 7: Sanctions.

Any person who violates any of the provisions of this Ordinance shall be deemed to be responsible for a 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>
• 1 st Offense within 3-year period*	\$ 75.00	\$ 500.00
• 2 nd Offense within 3-year period*	\$150.00	\$ 500.00
• 3 rd Offense within 3-year period*	\$325.00	\$ 500.00
• 4 th 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, incurred by Burr Oak Township in connection with the municipal civil infraction. 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. A person violating this Ordinance shall also be responsible to reimburse the Township for its reasonable attorney fees incurred in enforcing this Ordinance. Each day that a violation exists shall constitute a separate offense.

Section 8: Repeal.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 9: Effective Date.

This ordinance shall take effect 30 days after publication as required by law.

The foregoing Ordinance was offered by Kent Lancaster, supported by Mary Gould, the vote being as follows:

- YEAS: Kent Lancaster, Mary Gould, Tina Cronkhite, Keith Leverence
- NAYS: None
- ABSENT: George Letts

Ordinance declared adopted.

Tina N. Cronkhite, Township Clerk

I hereby certify that this is a true copy of an ordinance adopted at a regular meeting of the Burr Oak Township Board held on February 5, 2007. I further certify that a summary of this ordinance was published in the Sturgis Journal, Sturgis, Michigan on February 21, 2007, and a certified copy was filed with the St. Joseph County Clerk's office on March 21, 2007