

ORDINANCE NO. 03-2008

**AN ORDINANCE TO AMEND THE ORDINANCE CODE
OF THE CITY OF VILLAGE OF DOUGLAS, MICHIGAN.**

THE CITY OF VILLAGE OF DOUGLAS ORDAINS:

That the Ordinance Code of the City of Village of Douglas, Michigan, is hereby amended by replacing Section 95.01 of Title IX and repealing Sections 95.02, 95.03, 95.04, 95.05, 95.06, 95.07, and 95.08 in their entirety of Title IX to read as follows:

NOISE

§ 95.01.1. Findings; Application of Title.

Excessive sound and vibration are a serious hazard to the public health, welfare, safety, and quality of life, and a substantial body of science and technology exists by which excessive sound and vibration may be substantially abated. The people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, welfare, or safety or degrade the quality of life. The damage and discomfort caused to the people arises both from stationary and non-stationary sound and vibration and this division shall apply to both.

§ 95.01.2. Definitions.

The following terms used in this ordinance are defined as:

- (1) *Decibel ("dBA")* means 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.
- (2) *District* means the land use zone to which the provisions of this chapter are applied. For the purposes of this chapter:
 - (A) *Residential district* includes all R classified zones and the Public Lands classification.
 - (B) *Commercial district* include all C and L classified zones.
- (3) *Motor vehicle* means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways. Aircraft, watercraft, and vehicles used exclusively on stationary rails or track are not motor vehicles as that term is used herein. It includes motorcycles unless distinction is made in the context of use.
- (4) *Noise Control Officer* means the Chief of Police and his or her agents who have the responsibility for the enforcement of this Division.
- (5) *Person* means any individual, firm, association, partnership, limited liability corporation or any other entity, public or private.

- (6) *Real property boundary* means the imaginary line which represents the legal limits of property (including an apartment, condominium, room, or other dwelling unit) owned, leased, or otherwise occupied by a person, business, corporation, or institution. In cases involving sound from an activity on a public street or other public right-of-way, the "real property boundary" shall be the nearest boundary of the public right-of-way.
- (7) *Receiving land* means the real property within which sound originating from outside the property is received.

§ 95.01.3. Anti-Noise Regulations - Generally.

- (a) No person shall cause or create any unreasonable or unnecessarily loud noise or disturbance, injurious to the health, peace, or quiet of the residents and property owners of the City.
- (b) The following noises and disturbances are hereby declared to be a violation of this ordinance; provided, however, that the specification of the same is not thereby to be construed to exclude other violations of this ordinance not specifically enumerated:
 - (1) The playing of any radio, phonograph, television, or other electronic or mechanical sound-producing device, including any musical instrument in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of other persons.
 - (2) Yelling, shouting, hooting or singing on the public streets between the hours of 10 p.m. and 7 a.m., or at any time or place so as to unreasonably upset or disturb the quiet, comfort or repose of any persons in the vicinity.
 - (3) The emission or creation of any excessive noise which unreasonably interferes with the operation of any school, church, or hospital.
 - (4) The keeping of any animal, bird or fowl, which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.
 - (5) The operation of any motorcycle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably disturbing to the quiet, comfort or repose of other persons.
 - (6) The sounding of any horn or other device on any motor vehicle unless necessary to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.
 - (7) The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle, or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises.
 - (8) The erection, excavation, demolition, alteration or repair of any building or premises in any part of the City, and including the streets and highways, in such a manner as to

emanate noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 a.m. and 9:00 p.m. on any day, except in cases of urgent necessity in the interest of public health and safety.

- (9) The creation of a loud or excessive noise unreasonably disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer, railroad car, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.
- (10) 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 persons in the vicinity.
- (11) 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.

(c) Violations of this section are independent of the maximum decibel limitations provided for under §95.01.5.

§ 95.01.4. Exceptions.

None of the prohibitions hereinbefore enumerated shall apply to the following:

- (1) Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
- (2) Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, the City, or Allegan County (including, but not limited to private contractors of these governmental entities), between 9:00 p.m. and 7:00 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours.
- (3) Warning devices emitting sound for warning purposes as authorized by law.
- (4) Any organized public events sponsored or endorsed by the City of the Village of Douglas.
- (5) Any bells, chimes, or other musical devices used by religious institutions or churches.
- (6) Any bands for celebrations, events, or activities sponsored or endorsed by the City of the Village of Douglas.
- (7) Any ordinary and customary activities conducted at schools or other educational institutions involving playground activities which are conducted during normal school hours.

§ 95.01.5. Anti-Noise Regulations Based Upon dB(A) Criteria.

(a) Maximum permissible sound levels by receiving land use. No person on private property shall create a continuous sound which exceeds the limits set forth for the receiving land category in the following table when measured at or within the property boundary of the receiving land which source of sound shall be deemed prima facie to be a noise disturbance. "Continuous Sound" means any sound having a duration of one second or more. The maximum sound levels are as follows:

MAXIMUM SOUND LEVELS TABLE

Receiving
Land Category:
Sound Limit dBA

- (1) Residential Zoning Districts: 10:00 p.m. - 7 a.m.: 65 dBA and 7:00 a.m. – 10:00 p.m.: 70 dBA
- (2) Commercial Zoning Districts: 10:00 p.m. - 7 a.m.: 65 dBA and 7 a.m. – 10:00 p.m.: 70 dBA

(b) Impulse Sounds: Impulse sounds may exceed the permissible limits in the above Table by 10 decibels if they occur less than ten (10) times in any hour between 7:00 a.m. and 10:00 p.m. or less than four (4) times in any hour between 10:00 p.m. and 7:00 a.m. If any impulse sound exceeds these frequencies, then the permissible limits in the Table apply. "Impulse Sound" means any sound having a duration of less than one (1) second.

(c) All noise emitted from motor vehicles upon public roads shall be measured whenever possible at a distance of a 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 1/2 meters) and if this is done, 6 dBA shall be added to the limits provided below. All such noises in excess of the dBA 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.

- (1) Trucks & buses - Weight: Over 10,000 lbs. gross weight, dBA: 82 dBA
- (2) Trucks & buses - Weight: Under 10,000 lbs. gross weight, dBA: 74 dBA
- (3) Passenger cars - Any weight, dBA: 74 dBA
- (4) Motorcycles, snowmobiles & mini-bikes - Any weight, dBA: 82 dBA
- (5) All other self-propelled motor vehicles - Any weight, dBA: 74 dBA

§ 95.01.6. Validity.

The several provisions of this ordinance are declared to be separate; if any court of law shall hold that any section or provision thereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this ordinance.

§ 95.01.7. Penalties for violation.

(a) Upon a reasonable cause determination that a violation has occurred, the Noise Control Officer shall require reduction or modification of the source of the noise. If a violation continues, the Noise Control Officer shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to § 95.01.4 hereof, to continuous sound levels or to impulse sound levels which endangers or injures a person's health or safety based upon the criteria set forth in § 95.01.5. In requiring an immediate halt to the noise, the Noise Control Officer may remove or require the owner or agent of the owner to cease and desist the source of the noise. For purposes of this section, a violation shall be calculated for a business day between the hours of 7:00 a.m. of the day prior to the offense and ending at 7:00 a.m. of the day subsequent to the offense.

(b) Any person failing to comply with the provisions of this Article shall constitute a municipal civil infraction under Chapter 34 of the Code and be subject to a fine under these provisions. Provisions of this Article may also be enforced by suit for injunction, damages or other appropriate legal action. If the City takes action to enforce the provisions of this Article, it shall be entitled to recover its costs (including the cost of administrative time) and reasonable attorney fees incurred to investigate and abate a violation of this Article, whether incurred before or after the commencement of litigation.

(c) The City of the Village of Douglas determines that continuous and impulse sounds which disturb the quiet peace and enjoyment of its citizens are subject to enforcement. The City will prosecute and enforce complaints for violating the provisions of this Article if they are made by residents or property owners of the City.

§ 95.01.8. Repeal.

Ordinances or parts of Ordinances in conflict with this Article are, to the extent of such conflict, hereby cancelled.

§ 95.02 - 95.08 Sections 95.02 - 95.08 are deleted in their entirety and such sections are reserved for future codification and use.

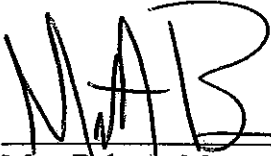
Ordinance Offered by: Hoexter

Ordinance Supported by: Bailey

Ayes: Bailey, Balmer, Harvath, Hoexter, Moore, Waddell

Nays: None

Absent: Mayer



Matt Balmer, Mayor

5/6/08

Date



Jean E. Neve, Clerk

5-6-08

Date

Ordinance Adoption Date: 5-5-08

Ordinance Effective Date: 6-5-08 (20 days after adoption and publication).