ORDINANCE

Ordinance No. O05-2017-94

A NOISE ORDINANCE FOR ASHLAND COUNTY
AMENDING O11-2016-87

WHEREAS, the Board of Supervisors of Ashland County recognizes that excessive noise degrades the environment and:

1. Adversely affects the health, welfare and happiness of the inhabitants of the County, and
2. Reduces the quality of life, and
3. Impairs the ability to peaceably use and enjoy property, and
4. Interferes with the tranquility and privacy of the home, and

WHEREAS, by this Ordinance, the Board of Supervisors of Ashland County seeks to reasonably regulate noise, including but not limited to, noise that is increased by sound-amplifying equipment, in a content neutral manner, consistent with the rights and privileges afforded by the Constitutions of the State of Wisconsin and the United States of America,

NOW, THEREFORE, the Board of Supervisors of the County of Ashland ordains as follows:

Section 1: No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of such noise cannot be prevented and is necessary for the protection or preservation of property or of the health, safety or life of some person.

Section 2: No person owning, occupying or having charge of any building or premises, or any part thereof, shall cause, suffer or allow any loud, excessive or unusual noise that tends to unreasonably disturb the comfort, quiet or repose of persons therein or in the vicinity.

Section 3: No person shall make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. The standards which shall be considered in determining whether a violation of the provisions of this subsection exists shall include, but not be limited to, the following:

a) The volume of the noise;
b) The intensity of the noise;
c) Whether the nature of the noise is usual or unusual;
d) The volume and intensity of the background noise, if any;
e) The proximity of the noise to residential sleeping facilities;
f) The nature and zoning of the area within which the noise emanates;
g) The time of the day or night the noise occurs;
h) The duration of the noise;
i) Whether the noise is recurrent, intermittent or constant; and
j) Whether noise abatement measures or methods are reasonably possible and whether they are being used or implements.

Section 4: Schools, Hospitals and Churches. It shall be unlawful for any person to create any noise on private property or on any street, sidewalk or public place adjacent to any school, institution of learning or church while the same is in use or adjacent to any hospital, which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, provided signs are displayed in the area indicating the present of a school, church or hospital.

Section 5: Animals. No person shall keep or maintain or permit the keeping of, on any premises owned, occupied or controlled by such person, any animal or bird otherwise permitted to be kept, which by frequent or habitual howling, barking, meowing, squawking or other noise unreasonably disturbs the peace and quiet of any neighborhood or causes discomfort or annoyance to any reasonable person.

Section 6: Machines, Equipment, Fans and Air-Conditioning. It shall be unlawful for any person to operate any machinery, equipment, pump, fan, air-conditioning apparatus or other mechanical device in a manner so as to create any noise which would cause the noise level at the property line of any property to exceed the ambient noise level by more than five decibels based on a reference sound pressure of 0.0002 microbars as measured in any octave band center frequency, in cycles per second, as follows: 63, 125, 250, 500, 1,000, 2,000, 4,000 and 8,000 for the combined frequency bands, "A" band.

Section 7: Continuous Sources of Sound. The maximum permissible sound pressure levels of any continuous source of sound shall be as stated in Section 9 of this Ordinance. This includes , but it not limited to, sound from such activities as production, processing, cleaning, servicing, testing, operating or repairing either vehicles, materials, goods, products, or devices. Sound pressure levels in excess of those stated in Section 9 of this Ordinance shall constitute prima facie evidence that such sound is an unnecessary noise. Sound pressure level shall be measured at the approximate location of the property line or the boundary of the public way, at a height of at least four feet above the immediate surrounding surface on a sound level meter of standard design and operated on the "A" weighting network.

Section 8: Construction. Except as otherwise provided in this Ordinance, no person shall engage in, cause or permit any person to be engaged in construction activities between the hours of 10:00 p.m. of one day and 6:00 a.m. of the following day. This section of the Ordinance shall be applied in a manner that recognizes that a short-term easing of noise restrictions for construction may be reasonably necessary to allow for construction and maintenance of structures and/or infrastructure and other elements for the physical, commercial and economic viability of the County. Construction activities directly connected with the abatement of an emergency or the effects thereof are excluded from the provisions of this section.

Section 9: Prime Facie Evidence of Violation. Proof of the following shall constitute prime facie evidence of a violation of this Ordinance:

a) Any activity which generates sound that exceeds 80 dB(A) at the property line of another during the following hours:
    i. Friday, Saturday and the day preceding a Federal legal holiday 2:00 a.m. to 8:00 a.m.
    ii. Other days of the week 12:01 a.m. to 8:00 a.m.
b) Any activity which generates sound that exceeds 85 dB(A) at the property line of another during any hours other than those specified in sub. (a).

Section 10: Exemptions. The following are exempt from the provisions of this Ordinance:

a) Motor vehicles on traffic ways of the County.
b) Aircraft in flight or at an airport.
c) Lawful and properly permitted organized athletic activities on school grounds, at officially designated playgrounds, parks and places wherein athletic contests take place between the hours of 7:00 a.m. and 10:00 p.m.
d) Persons engaged in the removal of snow from public or private property used for routes of vehicular travel, parking or pedestrian travel.
e) Any bell, chime or device used for the production or reproduction of sound of bells or chimes from any church, clock or school.
f) The loading or unloading of any truck.
g) Any trucks or other commercial vehicles, machinery or equipment granted a conditional use permit when operated pursuant to the terms thereof.
h) Sanctioned races held at permanent racetrack facility licensed by a racing association.

Section 11: Definitions. When used in this Ordinance, unless the context otherwise clearly indicates, the following words and phrases, when used in this Ordinance, are defined as follows:

a) "A" Band Level. "A" band level shall mean the total sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit is the dbA.
b) Band-pressure Level. Band-pressure level of a sound for a specified frequency band shall mean the sound-pressure level for the sound contained within the restricted band.
c) Cycle. Cycle shall mean the complete sequence of values of a periodic quantity which occurs during a period.
d) Decibel. Decibel (db) shall mean a unit of level which denotes the ratio between two quantities which are proportional to power; the number of decibels corresponding to the ration of two amounts of power is ten times the logarithm to the base ten of this ratio.
e) Emergency Work. Emergency work shall mean 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.
f) Frequency. Frequency of a function periodic in time shall mean the reciprocal of the primitive period. The unit is the cycle per unit time and shall be specified.
g) Microbar. Microbar shall mean a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.
h) Period. Period of a periodic quantity shall mean the smallest increment of time for which the function repeats itself.
i) Periodic Quantity. Periodic quantity shall mean oscillating quantity, the values of which recur for equal increments of time.
j) Person. Person shall mean an individual person, partnership, an association, corporation, limited liability company or any other entity or identifiable group.
k) Sound Analyzer. Sound analyzer shall mean a device for measuring the band pressure level or pressure spectrum level of a sound as a function of frequency.
l) Sound-level Meter. Sound-level meter shall mean an instrument including a microphone, an amplifier, an output meter and frequency weighting networks for the measurement of noise and sound levels in a specified manner.
m) Sound-pressure Level. Sound-pressure level in decibels of a sound shall mean twenty times the logarithm to the base ten of the ratio of the pressure of this sound to the reference pressure, which reference pressure shall be explicitly stated.
n) Motor Vehicle. Motor vehicle shall mean a vehicle such as, but not limited to, a passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power, and shall include motorcycles, snowmobiles, minibikes, go-carts, all terrain vehicles, boats, and any other vehicle which is self-propelled.
o) Sound-amplifying Equipment. Sound-amplifying equipment shall mean any machine or device for the amplification of the human voice, music or any other sound. Sound amplifying equipment shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. Sound-amplifying equipment, as used in this Ordinance, shall not include warning devices or authorized emergency vehicles or horns or other warning devices on any vehicle used for traffic safety purposes.

Section 12: Sound Level; Decibel Measurement Criteria. Sound levels may be determined by the use of a sound level meter or the appropriate equivalent. Any decibel measurement made pursuant to the provisions of this Ordinance shall be based on a reference sound pressure of 0.02 microbars as measured in any octave band with center frequency, in cycles per second, as follows: 63, 125, 250, 500, 1,000, 2,000, 4,000 and 8,000 or as measured with a sound level meter using the "A" weighting.

Section 13: Unincorporated Areas. This Ordinance shall be effective in all unincorporated areas of Ashland County, Wisconsin. This Ordinance shall not be effective in any incorporated municipality within Ashland County.

Section 14: Incorporated Municipalities. This Ordinance shall not apply within any incorporated municipality in Ashland County unless the governing body of that incorporated municipality enacts an ordinance which provides that this Ordinance shall apply in that municipality and forwards a copy of such ordinance to the County Clerk of Ashland County.

Section 15: Severable. If a court of competent jurisdiction determines that any section or provision of this Ordinance is unconstitutional or is invalid for any other reason, such unconstitutional or invalid section or provision shall be declared invalid and severed from the balance of this Ordinance and shall not affect the validity of the remainder of this Ordinance.

Section 16: Enforcement. The Ashland County Sheriff's Department is authorized, directed and empowered to administer and enforce this Ordinance.

Section 17: Violations.

a) A person who violates this Ordinance is subject to a forfeiture not to exceed $1,000 per day plus costs of prosecution and in default of payment thereof, may be incarcerated in the County Jail for not more than 30 days. Each day a violation occurs constitutes a separate violation.
b) This Ordinance may be enforced by injunction in ay court of competent jurisdiction.

Dated at the City of Ashland, Wisconsin this 18th day of May, 2017.

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Kathy S. Schutte	Richard Pufall
[illegible]	Joyce Kabasor
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