

ORDINANCE NO. 160-A

AN ORDINANCE TO AMEND ORDINANCE NO. 160, TO REGULATE AND PROHIBIT CERTAIN NOISES AND TO PROVIDE A PENALTY FOR THE VIOLATION THEREOF WITHIN THE TOWNSHIP OF KIMBALL.

THE TOWNSHIP OF KIMBALL ORDAINS:

SECTION 1. Purpose

The purpose of this Ordinance is to regulate or prohibit noise which either annoys, injures, or endangers the comfort, repose, health, or safety of others unless the making and continuing of the noise is necessary for the protection or preservation of property or the health, safety, life or limb of a person.

SECTION 2. Definitions

- .01 Construction: Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or on public or private right-of-way, structures, utilities, or similar property.
- .02 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.
- .03 Decibel: A unit used to express the magnitude of sound pressure and sound intensity. The difference in decibels between two (2) sound pressures is twenty (20) times the common logarithm of the ratio of that sound pressure to a reference pressure of a 2×10^{-5} N/m (Newtons per meter squared). As an example of the sound pressure level corresponds to a doubling or halving of the sound intensity, and a ten (10) decibel change in the ten-fold increase or decrease to 1/10 the former intensity.
- .04 Emergency Work: Any work performed for the purpose of preventing or alleviating the physical trauma of property damage threatened or caused by an emergency.
- .05 Motor Vehicle: Every vehicle defined as a motorcycle in the traffic ordinance.
- .06 Motorcycle: Every vehicle defined as a motorcycle in the traffic ordinance.
- .07 Motor-driven cycle: Every vehicle defined as a motor-driven cycle in the traffic ordinance.
- .08 Noise: Any sound which annoys or disturbs or which causes or tends to cause an adverse psychological or physiological effect on humans.

- .09 Noise disturbance: Any sound which:
(a). Endangers or injures the safety or health of human or animals;
(b). Annoys or disturbs a reasonable person of normal sensitivities, and;
(c). Endangers or injures personal or real property.
- .10 Person: Any individual, association, partnership, or corporation and includes any officer, employee, department, agency, or instrumentality of a state or any political subdivision of a state.
- .11 Public right-of-way: Any street, avenue, boulevard, highway, sidewalk or alley.
- .12 Real property boundary: The property line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another.

SECTION 3. General Provisions

In addition to the specific prohibitions outlined in this Ordinance, no person shall unreasonably make, continue, or cause to be made, continued or permitted, any noise disturbance. The restriction in this Ordinance does not prohibit speech of any kind. This Ordinance shall not apply to noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way for which permission has been obtained.

SECTION 4. Specific Prohibitions

The following acts, and the causing or permitting thereof, are hereby declared to be in violation of this Ordinance:

- .01 Construction: The operating of any tools or equipment used in construction, drilling, or demolition work between the hours of 10:00 p.m. and 6:00 a.m. such that the sound therefrom creates a noise disturbance across a residential real property boundary except for emergency work of public service utilities or operation of road maintenance equipment.
- .02 Explosives, firearms, and similar devices: The use or firing of any explosives, firearms, or similar devices which creates impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way without first obtaining a permit.
- .03 Loudspeakers/public address systems: The use or operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound therefrom on a public right-of-way or public space for any commercial purpose which creates a noise disturbance without first obtaining a permit.

- .04 Instruments/devices creating sound. Time and use restrictions: Any radio or instrument creating sound, television, or other machine or device for the producing or reproducing of sound including any sound equipment in a vehicle between the hours of 10:00 p.m. and 6:00 a.m. on any private or public right-of-way loudly enough to be clearly heard fifty (50) feet from the source of the sound.
- .05 Horns, Signaling devices, etc: The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the Township, except as a danger warning. The use of any horn, whistle or other device operated by engine exhaust; and the unreasonable use of any such signaling device when traffic is for any reason held up.
- .06 Yelling, shouting, etc: Yelling, shouting, hooting, whistling, or singing on the public streets between the hours of 10:00 p.m. and 6:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of any persons in the vicinity.
- .07 Animals, birds, etc: The keeping of any animal or bird which creates frequent or long continued noise unreasonably disturbing the comfort or repose of any persons in the vicinity. For purposes of enforcement the violation of this section may be permitted by the Right to Farm Act.
- .08 Motor vehicles, motorcycles, motorized vehicles, motor-driven cycles: The operation of any motor vehicle, motorcycle, motorized vehicle or motor-driven cycle on private property or public right-of-way so as to cause loud and unreasonable noise, including noise from exhaust, which is clearly audible from nearby property and unreasonably disturbs the comfort or repose of any persons in the vicinity. The modification of any motorized vehicle, motorcycle or motor-driven cycle, or the failure to maintain any said vehicle which results in an increase in emitted noise above that as emitted by such vehicle when manufactured is a violation of this section.

SECTION 5. Anti-Noise Regulations based upon a dB(A) Criteria

In order to regulate and prove violations occurring under Section 4 of this Ordinance, any noise in excess of the maximum decibel limits according to the regulations stated below is deemed to be a per se violation of this Ordinance. Nothing in this section shall be construed to limit the meaning of the foregoing section.

- .01 Regulations for Decibel Measurement of Noise Originating from Private Properties: Noise radiating from all properties or buildings, as measured at the boundaries of the property, 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 identified 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 remanufacturing of materials, goods or products, including vehicles.

<u>ZONING DISTRICTS</u>	<u>Limitations</u>	<u>Limitations</u>
Residential (and any area within 500 feet of a Hospital regardless of zoning district and agricultural Districts located with 600 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)

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 (2) 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.

The following exceptions shall apply to these regulations under this SECTION 5.1:

- (a) Construction projects shall be subject to the maximum permissible noise levels specified for industrial districts as long as a valid building permit has been issued by the Township and is currently in effect.
- (b) All railroad operations shall be subject to the maximum permissible noise levels allowed in Industrial districts, regardless of the zone where they are located.
- (c) Noises occurring between 6:00 a.m. and 10:00 p.m. caused by home or building repairs or from maintenance of grounds are excluded, provided such noise does not exceed the limitations specified in SECTION 5.1 by more than twenty (20) dB(A).
- (d) Noises emanating from the discharge of firearms are excluded, providing the discharge of firearms was authorized under Michigan law and all local ordinances.

(e). Any commercial, agricultural, or industrial use of property which exists now or in the future as a legal nonconforming use (as defined in the Township Zoning Ordinance) in a higher zoning classification shall be allowed to emit noise in excess of these limitations for the particular zoning classification where such use is located, providing such noise does not exceed either of the following limitations:

1. The noise level emitted by such use at a time it became a legal nonconforming use as a result of the enactment of an amendment of the Township Zoning Ordinance, if available.
2. The limitations contained herein based upon such a use being located in the highest zoning district (either commercial and agricultural or industrial) where such use is specifically allowed as a permissible use.

.02 Regulations for Decibel Measurement of Motor Driven Vehicles or Public Roads: All noise emitted from motor driven vehicles upon public roads shall be measured whenever possible at a distance of at least fifty (50) feet (15 meters) from the noise source located within the public right-of-way. If measurement at fifty (50) feet (15 meters) is not feasible, measurement may be made at twenty-five (25) feet (7 ½ meters) and if this is done, dB(A) shall be added to the limits provided below. All such noise 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.

<u>TRUCKS</u>	<u>WEIGHT</u>	<u>dB(A) MAXIMUM LIMITATION</u>
Trucks and Buses	Over 10,500 lbs. Gross Weight	88 dB(A)
Trucks and Buses	Under 10,000 lbs. Gross Weight	74 dB(A)

SECTION 6. Exceptions

This Ordinance shall not apply to any police vehicles, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities or activities exempted by the Right to Farm Act or township permit.

SECTION 7. Severability:

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence or sub-section is declared void or inoperable for any reason, it shall not affect any other part or section hereof.

SECTION 8. Effective Date

This Ordinance shall be effective 30 days after publication.

The foregoing Ordinance was offered by Member Shaffer and supported by Member Wrubel.

Vote on this Ordinance, 7 members being present was as follows:

AYES: Shaffer, Wrubel, Halifax, Anglebrandt, Kilroy, Portis

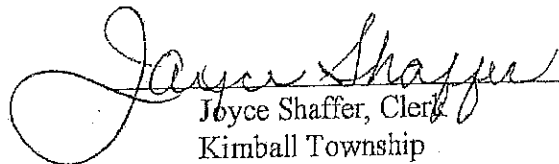
NAYS: Cooley

ABSENT: None

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I, Joyce Shaffer, Clerk of the Township of Kimball, County of St. Clair, State of Michigan, do hereby certify that Ordinance No. 160-A was adopted by the Kimball Township Board at a regular meeting of the Township Board held on the 16th day of September, 2008. I further certify that said Ordinance No. 160-A adopted by the Kimball Township Board was published as provided by law, once in the Times Herald, a paper published in the County of St. Clair and circulated in the Township of Kimball, on the 25th day of September, 2008, this being the first and final day of publication of this ordinance.


Joyce Shaffer, Clerk
Kimball Township