

MARKEY TOWNSHIP
NOISE ORDINANCE NO. 48

An Ordinance to secure the public health, safety and general welfare of the residents and property owners of Markey Township, Roscommon County, Michigan, by the regulation of noise within said Township; to prescribe penalties for the violation thereof and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP OF MARKEY TOWNSHIP, ROSCOMMON COUNTY,
MICHIGAN, ORDAINS:

Section 1. TITLE

This Ordinance shall be known and cited as the Markey Township Anti-Noise Ordinance.

Section 2. ANTI-NOISE REGULATIONS

A. UNLAWFUL NOISE PROHIBITED. It shall be unlawful for any person to make, continue, or cause to be made or continue any excessive, unnecessary, or unusually loud noise, or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the Township. The following acts, among others, are declared to be loud, disturbing, injurious and unnecessary and unlawful noises in violation of this Section, but this enumeration shall not be deemed to be exclusive. Each such act which either continues or is repeated more than one-half (1/2) hour beyond its inception shall be considered and may be prosecuted as a separate violation of this Ordinance.

1) HORNS AND SIGNAL DEVICES. The sounding of any horn or signal device on any automobile, motorcycle, bus, train, or other vehicle while not in motion, except as a danger signal or to give warning of intent to get into motion, or, if in motion, only as a danger signal after or as brakes are being applied and decelerating of the vehicle has begun; the creation by means of such signal devices of any unreasonably loud or harsh sounds; and the sounding of any signal device for any unreasonable or unnecessary period of time.

2) RADIO, PHONOGRAPH, MUSICAL INSTRUMENTS. The playing of any radio, phonograph, television set, amplified or unamplified musical instruments, loudspeaker, tape recorder, or other electronic sound producing devices, in such a manner or with volume at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel, hospital, or other type of residence; or of any persons in the vicinity, excluding persons in a single family dwelling in which the sound is produced. The operation of any such set, instrument, phonograph, machine, or device in such a manner as to be plainly audible on a property or in a dwelling unit other than that in which it is located, shall be prima facie evidence of a violation of this section.

3) SHOUTING AND WHISTLING. Yelling, shouting, hooting, whistling, singing, or the making of any other loud noises on the public streets, between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, hospital, or other type of residence or in any office or of any person in the vicinity.

4) HAWKING. The hawking of goods, merchandise, or newspapers in a loud or boisterous manner.

5) ANIMAL AND BIRD NOISES. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person.

6) WHISTLE OR SIREN. The blowing of any whistles or sirens, except as a warning of fire or danger.

7) ENGINE EXHAUST. The discharge into the open air of the exhaust of any steam engine, or stationary internal combustion engine, except through a muffler or other device which effectively prevents loud or explosive noises there from.

8) CONSTRUCTION NOISES. The mining of sand, gravel or other earthen material, erection (including excavation therefore), demolition, alteration, or repair of any building, and the excavation of streets and highways on Sundays, and other days, except between the hours of 7:00 a.m. and 8:00 p.m., unless a permit therefore be first obtained from the Markey Township Board.

9) HANDLING MERCHANDISE. The creation of a loud and excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates and containers, except between the hours of 7:00 a.m. and 8:00 p.m.

10) DEVICES TO ATTRACT ATTENTION. The use of any drum, loud speaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose.

11) INTERNAL COMBUSTION ENGINES. The use outdoors of any internal combustion engine on power equipment, including but not limited to chain saws, lawn mowers, leaf and grass shredders, chippers and leaf blowers except during the hours of 7:00 a.m. to 8:00 p.m.

B. EXCEPTIONS. None of the terms or prohibitions of the previous section shall apply or be enforced against:

1) EMERGENCY VEHICLES. Any police, fire, or emergency medical vehicle, including the private vehicles of fire and medical volunteers while engaged upon necessary emergency business.

2) HIGHWAY AND UTILITY MAINTENANCE AND CONSTRUCTION. Necessary excavations in or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the Township of Markey or Roscommon County Road Commission, or any public utility or any agent of the State of Michigan, during the night or on Sunday, when the public safety, welfare, and convenience necessitates the performance of the work at such time.

3) PUBLIC ADDRESS. The reasonable use of stationary amplifiers or loud speakers for public addresses which are non-commercial in character and for which a permit has been obtained from the Markey Township Board.

4) SACRED MUSIC. The use of sound amplifiers or other such devices by churches or other organizations approved by the Markey Township Board.

5) SNOW REMOVAL. The operation of snow removal equipment necessary for the removal of snow or ice from public or private streets, alleys, drives, sidewalks, and parking areas, provided that any motor vehicle used for snow removal which is required

to be licensed shall be equipped with an exhaust system in good working order to prevent excessive or unusual noise and shall be equipped to prevent engine noise in excess of the limits established by Section 701 (C) of Article 300 P.A. 1949, and any motor driven vehicle of a type not subject to registration for road use or domestic snow removal equipment shall be equipped with an exhaust system or mufflers in good working order to prevent excessive or unusual noise.

Section 3. VALIDITY.

The several provisions of this Ordinance are declared to be separate and the holding of any court that any section or provision thereof is invalid shall not affect or impair the validity of any other section or portions.

Section 4. RETALIATION.

If there be any evidence of retaliation by any offender against any complainant or witnesses, such evidence shall be communicated to the District Court. In sentencing any violator, the District Court or Magistrate shall first examine the evidence of retaliation, and if such be shown, shall consider such acts, including the amount of and property damage, and sentence the violator accordingly, which sentence may include restitution for any damage.

Section 5. MINIMUM PENALTY.

The penalty for any violation of Section 2 of this Ordinance which is not deemed a municipal civil infraction shall be as provided in Section 6 of this Ordinance, except that the minimum penalty for a first conviction shall be One hundred and 00/100 dollars (\$100.00); the minimum penalty for a second conviction within one year shall be Two hundred fifty and 00/100 dollars (\$250.00), and the minimum penalty for a third conviction in one year shall be Five hundred and 00/100 dollars (\$500.00).

Section 6. PENALTIES FOR VIOLATION.

Any person, firm, or corporation found violating any of the provisions of this Ordinance shall, upon conviction be punished by a fine not to exceed Five hundred and 00/100 dollars (\$500.00) or by imprisonment not to exceed 90 days, or by both such fine, or imprisonment at the discretion of the court, plus costs of prosecution. Each day that a violation shall continue shall constitute a separate offense and each such act which either continues or is repeated more than one-half (1/2) hour beyond its inception shall be considered and may be prosecuted as a separate violation of this Ordinance. The provisions of this Ordinance may also be enforced by suit for injunctions, damages, or other appropriate legal action, as against a nuisance.

Section 7. ALTERNATIVE PENALTY – CIVIL INFRACTION.

A. If a person is found responsible for an attempt to violate Section 2 of this Ordinance, such person shall be responsible for a civil infraction.

B. If the person responsible for an activity which violates Section 2 cannot be determined, the owner, lessee or occupant of the property on which the activity is located shall be deemed responsible for the violation.

C. The owner of property or a person in charge, possession or control of property, shall not allow, authorized, or knowingly permit the making of any unlawful noise prohibited in Section 2 (A) of this Ordinance.

D. Any person who violates any provision of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00, plus applicable costs and other sanctions for each violation as authorized by Section 21 of Act No. 359 of the Public Acts of 1947, as amended, and the Markey Township Municipal Ordinance Violations Bureau Ordinance.

E. Repeat offenses under this Ordinance shall be subject to increased fines as provided by this Section. As used in this Section, 'repeat offense' means a second (or any subsequent) violation of the same requirement or provision of this Ordinance within any three (3) year period for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

- i. The fine for any offense which is a first repeat offense shall be not less than \$125.00, plus costs.
- ii. The fine for any offense which is a second repeat offense shall be not less than \$250.00, plus costs.
- iii. The fine for any offense which is a third repeat, or any subsequent repeat offense, shall be not less than \$400.00 each, plus costs.

Each day on which any violation of this Ordinance occurs or continues, constitutes a separate offense subject to separate sanctions.

Section 8: EFFECTIVE DATE

This Ordinance shall take effect on August 25, 2010. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 9: PRIMA FACIE EVIDENCE

It shall be prima facie evidence of the owner's knowledge that the unlawful noise has occurred if he/she/they have been notified by Township personnel or the Sheriff Department or State Police in writing at the last known address on record at the Township of the existence of a violation within the preceding twelve (12) month period.

This Ordinance was adopted by the Township Board of the Township of Markey, Roscommon County, Michigan at a regular meeting held on August 9, 2010, on a roll call vote, five aye votes were recorded. Zero nay votes.

I certify that this is a true and correct copy of Markey Township Noise Ordinance # 48.

Esther Rons
Markey Township Clerk

Approved: _____
Amended: _____