

CASCO TOWNSHIP

ORDINANCE NO. 041717

NOISE CONTROL ORDINANCE

An Ordinance to establish noise control regulations in Casco Township, Allegan County, Michigan.

THE TOWNSHIP OF CASCO, COUNTY OF ALLEGAN, STATE OF MICHIGAN,
ORDAINS:

Section 1. Scope

The provisions of this Ordinance shall apply to the control of noise originating within the Township.

Section 2. Definitions

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

1. "Agricultural Area" means any property used for agricultural purposes, which are considered to be any purposes allowed in the Township's Agricultural District. The Township's Agricultural District is defined in, designated by, and regulated by the Township Zoning Ordinance, as amended from time to time.
2. "A-Weighted Sound Level" means the Sound Pressure Level in Decibels as measured on a Sound Level Meter using the A-Weighted Network. The Sound Pressure Level so read is designated dB(A) or dBA.
3. "Commercial Area" means property used for commercial or business purposes, which are considered to be any purposes allowed in the Township's Commercial or Business Districts. The Township's Commercial or Business Districts are defined in, designated by, and regulated by the Township Zoning Ordinance, as amended from time to time.
4. "Decibel" means a unit of Sound Pressure Level on a logarithmic scale measured relative to the threshold of audible sound by the human ear, in compliance with the American National Standards Institute, or the successor thereto.
5. "Decibels on the A-Weighted Network" or "dBA" means Decibels measured on the A-Weighted Network of a Sound Level Meter as specified by the American National Standards Institute, or the successor thereto.

6. "Industrial Area" means property used for industrial purposes, which are considered to be any purposes allowed in the Township's Industrial District. The Township's Industrial District is defined in, designated by, and regulated by the Township Zoning Ordinance, as amended from time to time.
7. "Person" means any owner, lessee, or occupant of property, including any individual, corporation, business, or other entity; Person also means any individual in any public place or any private place open to the general public.
8. "Property Line" means the imaginary line which represents the legal limits of property, including an apartment, condominium, room, or other dwelling unit, that is owned, leased, or otherwise occupied by a Person. In cases involving sound from an activity on a Public Right-of-Way, the Property Line shall be the nearest boundary of the Public Right-of-Way.
9. "Public Right-of-Way" means the entire easement width of any publicly dedicated street, avenue, boulevard, highway, sidewalk, alley, or similar place.
10. "Residential Area" means property used for temporary or permanent dwelling purposes in compliance with the Township Zoning Ordinance, as amended from time to time.
11. "Sound Level Meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighted networks used to measure Sound Pressure Levels. This instrument shall comply with the standards for Type 1 and Type 2 Sound Level Meters as specified by the American National Standards Institute, or the successor thereto.
12. "Sound Pressure Level" means 20 times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals. This Sound Pressure Level is expressed in Decibels.

Section 3. Interference with sound monitoring equipment

It shall be unlawful for any Person to remove or render inaccurate or inoperative any Sound Level Meter or any similar monitoring instrument or device positioned for the purpose of enforcing the provisions of this Ordinance.

Section 4. General prohibition

It shall be unlawful for any Person to create, assist in creating, permit, or permit the continuation of any loud noise which disturbs the peace of others within the limits of the Township.

Section 5. Specific prohibitions

1. Unlawful noise nuisances. The following activities are prohibited if they produce audible noise beyond the Property Line of the property on which they are conducted:

- a. *Insect traps.* Between 10:00 p.m. and 7:00 a.m., the operation of any device for killing, trapping, attracting, or repelling insects or other pests;
- b. *Bells, etc.* Between 10:00 p.m. and 7:00 a.m., the sounding of any bell, chime, siren, whistle, or similar device, except to alert Persons to the existence of an emergency, an imminent danger, or an attempted crime;
- c. *Stereos, etc.* Between 10:00 p.m. and 7:00 a.m., the operation or playing of any radio, stereo, television, phonograph, cassette player, compact disc player, drum or musical instrument, or any other device or appliance producing a similar sound;
- d. *Excavation, construction, etc.* Between 8:00 p.m. and 7:00 a.m., construction, repair, remodeling, demolition, drilling, or excavation work, except in case of an emergency;
- e. *Loudspeakers, etc.* Between 10:00 p.m. and 7:00 a.m., the operation or use of any loudspeaker, sound amplifier, public address system, or similar device used to amplify noise; and
- f. *Musical devices.* The use of any drums, loudspeakers, musical devices, or other instruments or devices for the purpose of attracting attention by the creation of noise to any performance, show, sale, or display of merchandise.

2. **Applicability.** The prohibitions of this Section apply even if the Sound Pressure Level produced by a prohibited activity does not exceed the applicable Sound Pressure Level specified in Section 6.

Section 6. Maximum permissible sound levels

No Person shall conduct or permit any activity that produces a dBA beyond the Person's Property Line exceeding the Sound Pressure Levels specified in the Table in this Section. Where property is included within more than one area, the lower Sound Pressure Levels shall be used only for measurements made on the portion of the property used solely for the area with lower Sound Pressure Levels. Limits in the following Table are expressed in dBA.

Area of Property Receiving the Sound	dBA From 7:00 a.m. to 10:00 p.m.	dBA From 10:00 p.m. to 7:00 a.m.
Residential Area	60	53
Commercial Area	65	58
Industrial Area	70	70

Section 7. General exemptions

The following activities are exempted from the Sound Pressure Level limitations of Section 6:

1. Emergency work necessary to restore property to a safe condition following a fire, accident, or natural disaster; to restore public utilities; or to protect Persons or property from imminent danger;
2. Sounds made to alert Persons to the existence of an emergency, an imminent danger, or an attempted crime;
3. Parades, concerts, festivals, fairs, or similar activities, if approved by the Township Board, subject to any Sound Pressure Limits specified in the Township Board's approval;
4. Athletic, musical, or cultural activities or events, including practices and rehearsals, conducted by or under the auspices of public or private schools;
5. Construction, repair, remodeling, demolition, drilling, or excavation work; and
6. Sounds made in the Agricultural Area, which Agricultural Area directly abuts the Residential Area, Commercial Area, or Industrial Area, to the extent the sounds pertain to land uses permitted in the Agricultural Area including sound emanating from the discharge of firearms.

Section 8. Temporary exemptions

1. The Township Supervisor is authorized to grant a temporary exemption from the maximum permissible Sound Pressure Levels established by this Ordinance, if such temporary exemption would be in the public interest, and if there is no feasible and prudent alternative to the activity or the method of conducting the activity for which the temporary exemption is sought.
2. The following factors shall be considered by the Township Supervisor in determining whether to grant a temporary exemption:
 - a. The hardship to the applicant, the community, and other Persons if the exemption is not granted, balanced against the adverse impact on the comfort, repose, health, peace, or safety of Persons if the exemption is granted;
 - b. The nearness of any residence or any other land use which would be adversely affected by sound in excess of the Sound Pressure Levels prescribed by this Ordinance;
 - c. The Sound Pressure Level to be generated by the activity for which the temporary exemption is sought;

- d. Whether the type of sound to be produced by the activity is usual or unusual for the location or area for which the exemption is requested;
 - e. The density of population in the area where the activity is to take place; and
 - f. The time of day or night during which the activity will take place.
3. A temporary exemption must be in writing and signed by the Township Supervisor or the Township Supervisor's designee. The writing must set forth the name of the Person granted the exemption, the location of the property for which it is authorized, the dates and times for which it is effective, and the Sound Pressure Levels authorized.
 4. A temporary exemption may be granted only for the period of time that is reasonably necessary to conduct the activity, which in no case may exceed 30 days.

Section 9. Variances

Persons wishing to continue activities which commenced prior to the effective date of this Ordinance and which create noise in excess of what is allowed by this Ordinance may seek a variance from the Township Board. Such a variance may be granted if the Township Board finds that strict application of this Ordinance would cause an unreasonable hardship and that there is no reasonable and prudent alternative method of engaging in the activity.

Section 10. Liability of owner, lessee, or occupant

If the Person responsible for an activity which violates this Ordinance cannot be determined, the owner, lessee, or occupant of the property on which the activity is located shall be deemed responsible for the violation.

Section 11. Penalty

A violation of this Ordinance is a misdemeanor. Further, each violation is a separate offense, a nuisance per se immediately enjoined in the circuit court, and punishable by imprisonment for not more than 90 days or by a fine of not more than \$500.00, or by both such fine and imprisonment.

Section 12. Severability

This Ordinance and its various parts, sections, subsections, sentences, phrases, and clauses are severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall not be affected.

Section 13. Administrative liability

No officer, agent, or employee of the Township, or member of the Township Board, shall be personally liable for any damage that may accrue to any Person as a result of any act,

decision, or other consequence or occurrence arising out of the discharge of duties and responsibilities pursuant to this Ordinance.

Section 14. Repeal

All ordinances or their parts which are in conflict in whole or in part with any of the provisions of this Ordinance as of the effective date of this Ordinance are repealed to the extent of such conflict, except that terms defined in this Ordinance for purposes of interpretation, administration, and enforcement of this Ordinance only, will in no manner repeal, modify, or otherwise change the definition of any such terms as used in other Township ordinances. Specifically, this Ordinance repeals and replaces in its entirety the Anti-Noise and Public Nuisance Ordinance adopted by the Township in 1993.

Section 15. Effective date

This Ordinance was approved and adopted by the Township Board of Casco Township, Allegan County, Michigan, at a regular meeting held on April 17, 2017, and it is ordered to take effect 30 days after publication in the South Haven Tribune newspaper with general circulation in the Township.

x Allan W. Overhiser
Allan W. Overhiser, Supervisor

Cheryl Brenner
Cheryl Brenner, Clerk

CERTIFICATE

I, Cheryl Brenner, the Clerk for the Township of Casco, Allegan County, Michigan, certify that the foregoing Casco Township Noise Control Ordinance was adopted at a regular meeting of the Casco Township Board of Trustees held on April 17, 2017. The following members of the Township Board were present at that meeting: Allan Overhiser,

Lu Winfrey, Paul Macyanski, Judy Graff, and the following members of the Township Board were absent: None. The Ordinance was adopted

by the Township Board with members of the Township Board Overhiser, Graff,
Winfrey, Macyanski, Brenner voting in favor and members of the Township Board
None voting in opposition. The full text or a

summary of the Ordinance was published in the South Haven Tribune on
April 30, 2017. A certified copy of the Ordinance was sent to the Allegan County
Clerk, by first-class mail with postage pre-paid on May 11, 2017.

Cheryl Brenner
Cheryl Brenner, Clerk