

**Gerrish Township
COMMERCIAL NOISE AND AMPLIFIED SOUND ORDINANCE
Ord. No. XXXXVI (46)**

An ordinance to regulate noise and the outdoor use of amplified sound devices in commercial districts in the Gerrish Township, Roscommon County, MI.

GERRISH TOWNSHIP, COUNTY OF ROSCOMMON, MICHIGAN ORDAINS:

SECTION 1. Purpose

The purpose of this Ordinance is to secure the public health, safety and general welfare of the residents and property owners of Gerrish Township by providing standards for acceptable noise levels emanating from businesses or commercial type operations through the regulation of noise and outdoor amplified sound systems, to amend any Ordinance of Gerrish Township which conflicts with the provisions hereof; and to provide an effective date for said Ordinance.

SECTION 2. Definitions

Commercial means a use of property for purposes other than residential.

Decibel means a unit of sound level on a logarithmic scale relative to the threshold of audible sound to the human ear, in compliance with American National Standards Institute, Standard 2 1.1-1960.

Decibel on the A-weighted network of DBA means decibels measured on a calibrated sound level meter utilizing the weighting scale and fast meter response, as specified in American National Standards Institute, Standard S 1.4-1971

Fast meter response means the meter ballistics of meter dynamic characteristics as specified by American National Standards Institute Standard 1.4-1971.

Noise Control Officer means the Chief of Police and his or her agents or designees who have lead responsibility for the enforcement of this Ordinance.

Noise disturbance means any sound which either exceeds the maximum permissible sound levels of this chapter or which endangers or injures the safety or health of humans or animals, annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

Property line 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 "property line" shall be the nearest boundary of the public right-of-way.

Residential means a legal use of property for temporary or permanent dwelling purposes.

Sound amplification device - Equipment designed to increase the volume of sound created by a separate source such as a musical instrument or a human voice. The term does not include a standard radio, DVD player or similar device, but does include "stand alone" amplified microphone systems.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels and that meets the standards of ANSI S-14 1983 or its successor.

Weighted sound level means the sound pressure level in decibels as measured on a sound level meter. The level so read is designated dB(A) or dBA.

SECTION 3. PROHIBITIONS

(a) General Prohibitions. No person shall create, assist in creating, permit, continue or permit the continuance of any noise upon property which is commercially zoned, which exceeds the limitations set forth in this Ordinance. All noises which violate the restrictions of this Ordinance are hereby declared to be public nuisances. 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, **without a permit as provided herein**, in such a manner or at a volume which exceeds the decibel levels provided in SECTION 3(b) so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel, or other type of residence or in any office or of any person in the vicinity.

3) **SHOUTING AND WHISTLING.** Yelling, shouting, hooting, whistling, singing, or the making of any other loud noises, 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, 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 presents 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 Gerrish 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) Decibel Level Prohibitions. Unless an Amplified Sound permit has been issued, no person shall conduct or permit any activity upon property which is located in a commercially zoned district that produces a continuous sound at or beyond the property line of the property on which it is conducted which exceeds the dBA levels specified in Table I. "Continuous sound" means any sound having a duration of one second or more. Such noise levels shall be measured on the property line or on the adjacent property which is receiving the noise, shall be deemed prima-facie to be a noise disturbance. Where property is used for both residential and commercial purposes, the limitations set forth below for commercial property shall apply.

TABLE 1

<u>Use of Property Producing the Sound</u>	<u>Use of Property Receiving the Sound</u>	7:00 am to 10:00 pm A-weighted sound <u>Limit in Dba</u>	10:00 p.m. to 7:00 a.m. A-weighted sound <u>Limit in Dba</u>
Commercial	Residential	80 Dba	60 Dba
Commercial	Commercial	90 Dba	75 Dba

(c) Exceptions. None of the terms or prohibitions of this Ordinance 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 or to restore property to a safe condition following a fire, accident or natural disaster; or to restore public utilities or to protect persons or property from imminent danger.

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 Gerrish 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.

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

5) **SCHOOL ACTIVITIES.** Sound made at a school function or at school related activities.

6) **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 4. Permit Process

(a) The Noise Control Officer may, consistent with this section, grant an Amplified Sound Permit for Outdoor Entertainment to a business or for special events.

(b) Prior to using a sound amplification device in conjunction with an outdoor event, including a party, wedding, auction, outdoor sale, or outdoor entertainment, the owner or occupant or operator of a commercial business shall apply to the Noise Control Officer for an Amplified Sound Permit.

(c) The application shall contain the name and address of the applicant, the location of the place or places where such sound amplification device or system is proposed to be used, a description of sound amplification device and its purpose, the nature of the sound (music, PA announcements, etc.), the length of time for which such permit is desired and sufficient information which demonstrates that bringing the source of sound or activity for which the permit is sought into compliance with this Ordinance would constitute an unreasonable hardship on the applicant, on the community or on other persons.

(d) The permit application shall be submitted at least 3 days prior to the beginning of the event to be covered by the permit. The application for a business or special event shall include the fee established by the Township Board, which may be revised by the Board from time to time as they determine necessary.

SECTION 5. Standards for Approval of Permits

(a) The applicant or property owner shall not have been previously cited for a violation related to this Ordinance or the Township Noise Ordinance.

(b) The Noise Control Officer may issue a permit for any business, or commercial vehicle licensed to sell food products, which permit may continue indefinitely until or unless revoked; otherwise, each special event requires a separate permit. The Amplified Sound Permit may allow volumes of the amplified sound equipment to be broadcast to levels which exceed those set forth in TABLE 1 described in SECTION 3(b), as well as the direction of broadcast, location and hours of operation but only from the hours of 12:00 p.m. to NO LATER THAN 11:00 p.m. The Noise Control Officer may also impose any additional conditions determined to be appropriate, if any.

(c) In determining whether to grant or deny an application, the Noise Control Officer shall balance the hardships of the applicant, the community and other persons of not granting the permit against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impacts of granting the permit. Issuance of the permit shall be based on the standards for approval listed WITHIN THIS ORDINANCE.

(d) Any individual who claims to be adversely affected by the granting of an Amplified Sound Permit may file a statement to that effect with the Noise Control Officer containing any information to support his or her claim. If the Noise Control Officer finds that a sufficient controversy exists regarding an application or permit, the Township Board may hold a public hearing.

(e) Except as otherwise provided in a permit, compliance with these requirements does not exempt the permittee from complying with regulations in this Ordinance.

SECTION 6. Inspection

(a) The Noise Control Officer is authorized to conduct site visits to verify compliance with the provisions of this Ordinance and any amplified sound permit.

(b) The Noise Control Officer shall order an immediate halt to any sound which violates the terms and conditions of any permit issued or which exposes any person, except those excluded pursuant to subsection (c) hereof, to continuous sound levels which endanger or injures a person's health or safety. Following the issuance of such an order, the Noise Control Officer may revoke any permit and/or remove or modify the source of the noise.

(c) No order pursuant to subsection (b) hereof shall be issued if the only person exposed to dangerous sound levels is exposed as a result of trespass, invitation upon private property by persons causing or permitting the sound or employment met by the person or by a contractor of a person causing or permitting the sound.

(d) Any person subject to an order issued pursuant to subsection (b) hereof shall comply with such order until the sound is brought into compliance with the order, as determined by the Noise Control Officer, until the Township Board has had a public hearing on any appeal taken, or until a judicial order has suspended the Noise Control Officer's order. No person shall violate an order issued pursuant to this section.

SECTION 7. Enforcement. The administration and enforcement of the provisions of this Ordinance shall be controlled by the following standards.

(a) The primary means of detection of a noise disturbance shall be by means of the Noise Control Officer's and other properly delegated officials' ordinary auditory senses of hearing not enhanced by any mechanical device, such as a microphone or hearing aid.

(b) An enforcing officer or other witness need not determine the particular words or phrases being produced or the name of any song or artist producing the sound.

(c) The detection of any rhythmic base or reverberating type of sound is sufficient to constitute a plainly audible sound which may constitute a noise disturbance.

(d) The detection of sounds by a sound level meter.

SECTION 8. Other Ordinances.

(a) Any use for which an Amplified Sound Permit is issued under this Ordinance is exempt from the noise regulations of Section 7.22 of the Township Zoning Ordinance for the term of the permit

(b) A facility authorized to operate a restaurant with live entertainment and/or outdoor seating permitted by special use permit under Section 3.5 of the Township Zoning Ordinance may apply for an amplified sound permit only if the permit is not prohibited under the terms of the Special Use Permit approved for that particular use.

SECTION 9. Appeals.

(a) The decision by the Noise Control Officer to approve or deny an application for a permit may be appealed in writing to the Township Board by the applicant. Any appeal must be filed with the Clerk within 21 days of the date of the decision by the Noise Control Officer. A permit may be granted by the Township Board only upon a finding that the issuance of a permit will not violate the spirit or intent of this Ordinance.

(b) The decision by the Noise Control Officer to revoke or suspend a permit for violations of the terms and conditions of the permit or excessive levels of noise may be appealed in writing to the Township Board by the permittee. Any appeal must be filed with the Clerk within 21 days of the date of the action by the Noise Control Officer.

SECTION 10. Penalties

(a) Violation of this Ordinance shall constitute a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00) together with the cost of prosecution and/or imprisonment for a period of time not to exceed ninety (90) days.

(b) The provisions of this Ordinance shall be enforceable through the bringing of appropriate action for injunction, mandamus or otherwise in Roscommon County Circuit Court. Any violation of this Ordinance is deemed to be a nuisance per se.

SECTION 11. Civil Actions.

Any person aggrieved by a violation of this Ordinance may commence a civil action on his or her own behalf against any person, business or organization who is alleged to be in violation of Section 3, or any permit issued hereunder. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this Ordinance or from other law.

Section 12. 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 13. Severability

The several provisions of this Ordinance are declared to be separate; if any Court shall hold that any section or provision hereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this

Ordinance.

SECTION 14. Effective Date.

This Ordinance shall be published as required by law and shall take immediate effect.

Enacted at a regular meeting of the Board of Trustees of Gerrish Township, held on the 13 day of February 2018.

Published: March 1, 2018

Effective: March 1, 2018


Kathleen Patchin, Township Clerk

GERRISH TOWNSHIP
CERTIFICATE OF ADOPTION

I, Kathleen Patchin, Township Clerk of Gerrish Township, Roscommon County, Michigan, do hereby certify that, at a regular meeting of the Gerrish Township Board held on February 13, 2018, the Board adopted Commercial Noise and Amplified Sound Ordinance No. XXXXVI (46) to become effective on March 1, 2018 and that members of said Board present at said meeting voted on the adoption of said Ordinance as follows:

Ayes: Udy, Lippert, Tulgetske, Patchin, Link
Nays: None

I do further certify that a Notice of Adoption with a summary of the proposed Ordinance was published on March 1 2018 in the Houghton Lake Resorter, Roscommon County, a Newspaper circulated within the Township.


DATED : Feb 21 , 2018

GERRISH TOWNSHIP



Kathleen Patchin, Clerk

Attest:



David Udy, Supervisor

Gerrish Township
Notice of Ordinance Adoption Summary

COMMERCIAL NOISE AND AMPLIFIED SOUND ORDINANCE
Ord. No. XXXXVI

Section 1. Purpose: The purpose of this Ordinance is to secure the public health, safety and general welfare of the residents and property owners of Gerrish Township by providing standards for acceptable noise levels emanating from businesses or commercial type operations through the regulation of noise and outdoor amplified sound systems, to amend any Ordinance of Gerrish Township which conflicts with the provisions hereof; and to provide an effective date for said Ordinance.

Section 2. Definitions: Defines terms applicable to this Ordinance.

Section 3. Prohibitions:

(a) General Prohibitions: Outlines some but not all acts that are declared to be in violation with this section along with the duration of time of such acts.

(b) Decibel Level Prohibitions: Outlines the Decibel levels and times

(c) Exceptions: Outlines the exceptions to this Ordinance

Section 4. Permit Process: Outlines the process to obtain an Amplified Sound Permit

Section 5. Standards for Approval of Permits: Outlines the standards used in the permit process

Section 6. Inspection: Outlines the authority of the Noise Control Officer

Section 7. Enforcement: Outlines the standard by which the sound enforcement shall be used in this Ordinance.

Section 8. Other Ordinance: Provides clarification for this Ordinance with the Zoning Ordinance

Section 9. Appeals: Outlines the process to file an appeal for not receiving or getting an Amplified Sound Permit revoked.

Section 10. Penalties: Sets Municipal civil infraction fine and lists other applicable fines and sanctions as related to violation of this Ordinance.

Section 11. Civil Actions: Outlines civil action rights

Section 12. Retaliation: Outlines process to prevent retaliation against complainant or witnesses.

Section 13. Severability: Shall any portion of this Ordinance be declared invalid by court action the Ordinance as a whole and all remaining portions shall remain valid and in full force and effect.

Section 14. Effective Date: This Ordinance shall be effective immediately upon publication after adoption this date of February 13, 2018 at the regular meeting of the Gerrish Township Board.

Please take further notice that the full text of the original Gerrish Township COMMERCIAL NOISE AND AMPLIFIED SOUND ORDINANCE Ord. No. XXXXVI may be inspected and a copy of the same may be purchased by contacting the Gerrish Township Clerk as indicated below:

Kathleen Patchin
Gerrish Township
2997 E. Higgins Lake Dr.
Roscommon, MI 48653
989-821-9313 ext 227