

**CLEARWATER TOWNSHIP
Ordinance No. 29**

AN ORDINANCE PURSUANT TO ACT 246 OF THE PUBLIC ACTS OF 1945,
AS AMENDED, TO PROHIBIT ANY LOUD NOISE OR SOUND THAT
ENDANGERS OR INJURES THE PUBLIC HEALTH, SAFETY, AND WELFARE
OF THE RESIDENTS AND VISITORS TO CLEARWATER TOWNSHIP AND TO
PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE.

THE TOWNSHIP OF CLEARWATER ORDAINS:

Section 1. Title.

This Ordinance shall be known as the Clearwater Township Noise Ordinance.

Section 2. Purpose.

Based on the findings which have been made by the Clearwater Township Board, the purposes of this Ordinance are to protect and promote the public health, safety, and welfare of the residents and visitors of the Township by prohibiting any loud noise or sound that disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.

Section 3. Definitions. As used in this Ordinance,

“Boat” means every description of water craft used or capable of being used as a means of transportation on water, including personal water craft and non-motorized boats such as a canoes, kayaks, rowboats, and rafts. Boat, however, does not include an air mattress, paddle board, paddle boat, boogie board, or similar device used by one (1) or two (2) persons for floating or paddling.

"Motor vehicle" means any wheeled vehicle in, upon, or by which any person or property is or may be transported or drawn upon a highway and which is designed to be self-propelled.

“Person” means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

Section 4. Prohibited Activities.

No person shall cause or create and no person shall knowingly allow another person to cause or create on property that is owned or legally occupied by that person any loud noise or sound that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities, including but not limited to:

- (a). Playing or using a radio, phonograph, compact disc player, tape player, television, musical instrument, sound amplifier, or other electronic or mechanical sound-producing device in such a manner or with such volume that it unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities.
- (b). Yelling, shouting, hooting, singing, or sounding or using any horn, siren, whistle or bell, or making other noise that because of its volume, frequency, or shrillness unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities or unreasonably annoys or disturbs the wellbeing of any animal.
- (c). Allowing animals under the control of the property owner, property owner's tenant, or others occupying the property to bark, howl, crow or make other noises that are common to their species which due to its volume, frequency, or shrillness unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities or unreasonably annoys or disturbs the wellbeing of any other animal not making such noises. This provision does not apply to animals kept in a manner that is subject to Michigan's Right To Farm Act, as amended, and which is operating under Generally Accepted Agricultural Management Practices (GAAMPS).
- (d). Sounding or using any horn, siren, whistle, bell or other warning device on a boat or motor vehicle in a manner that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities, unless the sounding or use of such horn, siren, whistle, bell or other warning device and the manner of such sounding or use is authorized by the state motor vehicle code or other state law.
- (e). Revving up the engine of motorized vehicles or engines which power other equipment, including but not limited to automobiles, trucks, motorcycles, snowmobiles, recreational vehicles, all-terrain vehicles, and other engines of any type in such a manner or with such volume or frequency or at such time of the day that it unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities.

Section 5. Exempt Activities.

- (a) Section 4 shall not apply to any loud noise or sound generated in connection with the operation of motor vehicles or motorized equipment used in the lawful engagement of mining or mining related activities, logging, manufacturing, construction, landscaping and farming under Michigan's Right to Farm Act by a commercial farm following Generally Accepted Agricultural and Management Practices (GAAMPS), provided that these activities do not occur between the hours of 10:00 PM and 7:00 AM Sunday through Thursday and between the hours of 12:00 AM (Midnight) and 7:00 AM Friday through Saturday.

- (b) Section 4 shall not apply to any loud noises or sound generated in connection with parades, musical productions or events authorized by Clearwater Township, the local school district, or a civic or community organization, provided that these activities do not occur between the hours of 10:00 PM and 7:00 AM Sunday through Thursday and between the hours of 12:00 AM (Midnight) and 7:00 AM Friday through Saturday.
- (c) Section 4 shall not apply to loud noise or sound, including the operation of amplified sound systems, generated by the fire department under contract to provide fire prevention services with Clearwater Township or any police or fire official when used to disseminate official information or to provide official warnings.
- (d) Section 4 shall not apply to Holiday celebrations as regulated by State law. This includes the use of fireworks. Fireworks in Clearwater Township will not be allowed except as specified in Michigan's Fireworks Safety Act of 2011 (Public Act 256) as amended in December 2018.
Fireworks are allowed on the following days after 11AM:
 - December 31 until 1AM on January 1
 - The Saturday and Sunday before Memorial Day, until 11:45PM
 - June 29 to July 4 until 11:45PM
 - July 5, if it falls on a Friday or Saturday, until 11:45 PM
 - The Saturday and Sunday before Labor Day, until 11:45PM

Section 6. Violations and Penalties.

- (a). Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to the following fines:
 - (1). For a first offense, the offender shall pay a fine of One Hundred and 00/100 (\$100.00) Dollars.
 - (2). For a second offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Two Hundred Fifty and 00/100 (\$250.00) Dollars.
 - (3). For a third or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Five Hundred and 00/100 (\$500.00) Dollars.
- (b). Each day this Ordinance is violated shall be considered a separate violation.

Section 7. Enforcement Officials.

The Township Supervisor, Zoning Administrator, and deputies of the Kalkaska County Sheriff are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 8. Nuisance Per Se.

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 9. Separate Court Action.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding or a criminal prosecution, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 10. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

Section 11. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Township.

Ordinance No. 29 was adopted on the 18th day of July, 2019, by the Clearwater Township Board as follows:

Motion by: Kathy Eldridge

Seconded by: Greg Bradley

Yeas: Morrison, Eldridge, Bradley, Gaylord

Nays: None

Absent: Barb Crambell

Kathy Eldridge, Clerk
Michael R. Gaylord, Supervisor