

KINROSS CHARTER TOWNSHIP ORDINANCE NO. 1.109

Public Nuisance

An ordinance to secure the public health, safety and general welfare of the residents and property owners of the Charter Township of Kinross, Chippewa County, by the regulation of noise, noxious weeds and unkempt yards within said township: to prescribe the penalties for the violation thereof.

THE CHARTER TOWNSHIP OF KINROSS, CHIPPEWA COUNTY, MICHIGAN HEREBY ORDAINS:

SECTION 1. TITLE

This Ordinance shall be known and cited as the Kinross Charter Township Public Nuisance Ordinance.

SECTION 2. DEFINITIONS

The following terms used in this Ordinance are defined as follows:

A. Decibel is a unit used to express the magnitude of sound pressure and sound intensity. The difference in decibels between two sound pressures is twenty (20) times the common logarithm of their ratio. In sound pressure measurements, the sound pressure level of a given sound is defined to be twenty (20) times the common logarithm of the ratio of that sound pressure to a reference pressure of 2×10^{-5} N/m² (Newton's per meter squared). As an example of the effect of this formula, a three (3) decibel change in the sound pressure level corresponds to a doubling or halving of the sound intensity, and a ten (10) decibel change corresponds to a 10-fold increase or decrease to 1/10th of the former intensity.

B. db (A) means 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 sl.4-1971.

C. Noxious Weeds include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior* L), poison ivy (*Rhus toxicodendron*), poison sumac (*Toxicodendron vernix*) Noxious Weeds Act, Public Act 359 of 1941, as amended (MCL 247.61, et seq.), is regarded as a common nuisance.

D. Unkempt Yard means any yard area (front, back or side) located within the Special Assessment District of Kinross Charter Township and seventy (70%) percent of ground cover is allowed to grow to a height not to exceed ten (10") inches, or that in the opinion of the Township Board is regarded as a common nuisance.

SECTION 3: ANTI NOISE REGULATIONS

A. General Regulations. No person, firm or corporation shall cause or create any unreasonable or unnecessarily loud noise or disturbance, injurious to the health, peace, or quiet of the residents and property owners of the township.

B. Specific Violations. The following noises and disturbances are hereby declared to be a violation of this Ordinance; provided, however, that the specification of the same is not thereby to be construed to exclude other violations of this Ordinance not specifically enumerated:

1. The playing of any radio, phonograph, television, or other electronic or mechanical sound producing device, including any musical instrument in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of other persons.
2. Yelling, shouting, hooting or singing on the public streets between the hours of 10:00 PM and 7:00 AM, or at any time or place so as to unreasonably upset or disturb the quiet, comfort or repose of any persons in the vicinity.
3. The emission or creation of any excessive noise which unreasonably interferes with the operation of any school, church, hospital or court.
4. The keeping of any animal, bird, or fowl, which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.
5. The operation of any automobile, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably disturbing to the quiet, comfort or repose of other persons. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this section.
6. The sounding of any horn or other device on any motor vehicle unless necessary to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.
7. The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle, or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this section.
8. The erection, excavation, demolition, alteration or repair of any building or premises in any part of the Township, and including the streets and highways, in such a manner as to emanate noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 AM and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. In such case, a permit shall be obtained from the Building Inspector or Ordinance Enforcement Officer of the Township, which permit shall limit the periods that the activity may continue.
9. The creation of a loud or excessive noise unreasonably disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer,

railroad car, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.

10. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose which, by the creation of such noise, shall be unreasonably disturbing to other persons in the vicinity.

11. The operation of any loudspeaker or other sound amplifying device upon any vehicle on the streets of the Township with the purpose of advertising, where such vehicle, speaker or sound amplifying device emits loud and raucous noises easily heard from nearby adjoining residential property.

12. The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort or repose of any person.

13. The operation of any race track, proving ground, testing area or obstacle course for motor vehicles, motorcycles, boats, racers, automobiles or vehicles of any kind or nature in any area of the Township where the noise emanating therefrom would be unreasonably disturbing and upsetting to other persons in the vicinity.

C. Anti-Noise Exceptions. None of the prohibitions here in before enumerated shall apply to the following:

1. Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
2. Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, the Charter Township of Kinross, or the County of Chippewa, between sundown and 7:00 AM when the public welfare, safety and convenience render it impossible to perform such work during other hours.
3. Warning devices emitting sound for warning purposes as authorized by law.
4. Sanctioned activities at the Fairgrounds.

D. Anti-Noise Regulations Based Upon dB (A) Criteria.

In order to regulate and prove violations occurring under Section 3 of this Ordinance, any noise in excess of the maximum decibel limits according to the regulations stated below is deemed to be in violation of this Ordinance.

1) 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 identifiable 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 manufacturing of materials, goods or products, including vehicles.

ZONING DISTRICT	LIMITATION	LIMITATION
Residential; Any area within 500 feet of a hospital regardless of zoning district; and Agricultural districts within 500 feet of any dwelling under separate ownership	7:00 AM – 10:00 PM 55 dB (A)	10:00 PM – 7:00 AM 50 dB (A)
Agricultural, where at least 500 feet any dwelling under separate ownership and commercial	7:00 AM – 10:00 PM 65 dB (A)	10:00 PM – 7:00 AM 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 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 3, subsection D 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 7:00 AM and sundown caused by home or building repairs or from maintenance of grounds are excluded, provided, such noise does not exceed the limitation specified in Section 3 subsection D 1) by more than 20 dB (A).
- d) Noises emanating from the discharge of firearms are excluded, providing the discharge of the 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 that such noise does not exceed either of the following limitations:
 - e1) The noise level emitted by such use at the time it became a legal nonconforming use as a result of the enactment of an amendment of the Township Zoning Ordinance if available.
 - e2) The limitations contained herein based upon such use being located in the highest zoning district (either commercial, agricultural or industrial) where such a use is specifically allowed as a permissible use.

2) Regulations for Decibel Measurement of Motor Driven Vehicles on Public Roads

All noise emitted from motor driven vehicles upon public roads shall be measured whenever possible at a distance of at least 50 feet (or 15 meters) from a noise source located within the public right-of-way. If measurement at 50 feet (or 15 meters) is not feasible, measurement

may be made at 25 feet (7 ½ meters) and if this is done, 6 dB (A) shall be added to the limits provided below. All such noises 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>VEHICLE</u>	<u>WEIGHT</u>	<u>dB (A) MAXIMUM LIMITATION</u>
Trucks & Buses	Over 10,000 lbs Gross weight	82 dB (A)
Trucks & Buses	Under 10,000 lbs Gross weight	74 dB (A)
Passenger Cars	Any weight	74 dB (A)
Motorcycles, Snowmobiles & Mini-bikes	Any weight	82 dB (A)
All other self-propelled motor vehicles	Any weight	74 dB (A)

3) Measurement of Noise

All measurements of dB (A) according to Section 3, subsection D, subparagraphs 1) and 2) above shall be made by using a sound level meter of standard design and operated on the “A” weight scale, with “slow” meter response.

SECTION 4: NOXIOUS WEEDS AND UNKEMPT YARD REGULATIONS

Regulations to secure the public health, safety and welfare of resident and property owners, by the control and regulation of certain weeds and grass growth in subdivided lands and upon lands along improved streets located within the Special Assessment District of Kinross Charter Township and to repeal all ordinances or parts of ordinance in conflict therewith. Said Notice shall be considered sufficient for the Township to cut/mow as many times as necessary throughout the year at Owner's expense.

A. These regulations shall be contained in and made a part of Kinross Charter Township's Public Nuisance Ordinance.

B. Regulations – It shall be the duty of all owners of land upon which weeds, as defined in this ordinance, or grass is growing, within platted subdivisions and on land parcels along improved streets in common usage within the Township, to:

To destroy said weeds before they reach a seed-bearing stage, and to mow grass before it reaches a height not to exceed Ten (10”) Inches, over Seventy (70%) percent of the yard area (front, back & side yard) to prevent becoming a detriment to public health and public enjoyment.

C. Enforcement – As a means of enforcing this Ordinance the Township will publish in a newspaper of general circulation and on the Township's website annually a NOTICE establishing the first cutting/ mowing date. This Notice shall appear weekly for two weeks

prior to the first cutting/mowing date. Thereafter, any yards wherein growth exceeds the limits set forth paragraph B above, will be cut/mowed by the Township at Owner's expense of ONE HUNDRED (\$100.00) DOLLARS per cutting/ mowing.

D. Tax Lien – All cutting and/or mowing expenses which are not paid when due shall become a lien against the property, and are enforced as a tax lien.

E. Exemption – An exemption to this Ordinance shall be made for decorative grasses which are a part of a landscaping theme.

SECTION 5: FIREWORKS REGULATIONS

For purposes of this Ordinance Section, the following definitions shall apply:

1. Articles pyrotechnic: pyrotechnic devices for professional use that are similar to consumer fireworks in the chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.
2. APA: American Pyrotechnics Association
3. Consumer fireworks: fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3 or 3.5 Consumer fireworks does not include low-impact fireworks.
4. Department: Department of Licensing and Regulatory Affairs (LARA), State of Michigan.
5. Display fireworks: large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effect by combustion, deflagration, or detonation as provided in 27 CFR 555.11, 49 CFR 162 and APA standard 87-1, 4.1.
6. Firework or fireworks: any composition or device, except for a starting pistol, a flare gun or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks and special effects.
7. Low-impact fireworks means ground and handheld sparkling devices at that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5.
8. Minor: individual who is less than 18 years old.
9. National holiday:
 - a. 11:00 a.m. on December 31 - 1:00 a.m. on January 1
 - b. 11:00 a.m. -11 :45 p.m. on the Saturday and Sunday immediately preceding Memorial Day
 - c. 11:00 a.m. -11:45 p.m. on June 29 and 30 and July 1, 2, 3, and 4
 - d. 11:00 a.m. - 11:45 p.m. on July 5, if that date is a Friday or Saturday
 - e. 11:00 a.m. - 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day
10. NFPA: National Fire Protection Association.
11. Novelties: as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4 and 3.2.5. and all of the following:
 - a. Toy plastic or paper caps for toy pistols in sheets, strips, rolls or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cup.
 - b. Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in the above paragraph are use, that are constructed so that the firing mechanism cannot come in contact with the cap when in place for the

explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

- c. Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
- 12. Person: individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.
- 13. Special effects: a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as in integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

SECTION 5.1 - CONSUMER FIREWORKS

Consumer fireworks may be used in Kinross Charter Township subject to the following requirements and restrictions:

- a. Subject to the days and times listed in Section 5, 9.
- b. Any discharge must be contained within the user's property boundaries.
- c. Consumer fireworks shall not be used if a burn ban is in effect.
- d. A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property or the property of another person, without that person or organization's express permission to use the consumer fireworks on those premises.
- e. A person shall not use consumer fireworks or low impact fireworks while under the influence of alcoholic liquor, a controlled substance or a combination of alcoholic liquor and a controlled substance.
- f. Consumer fireworks shall only be used in accordance with all applicable local, state and federal laws.

SECTION 5.2 - ARTICLES PYROTECHNIC AND DISPLAY FIREWORKS

The Township Board may permit articles pyrotechnic, display fireworks and special effect fireworks in Kinross Charter Township, pursuant to the provisions of MCL 28.451, *et seq*, approval of the Fire Chief, proof of liability insurance, and this Ordinance.

SECTION 6: PUBLIC NUISANCE REGULATIONS

No person, firm or corporation shall create, cause or maintain any public nuisance within the Township by the unreasonable emission of dust, smoke, fly ash or noxious odors which are offensive or disturbing to adjacent property owners and residents or persons in the area.

SECTION 7: VALIDITY

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

SECTION 8: PENALTIES

Any person, firm or corporation found violating the provisions of this Ordinance, shall upon conviction, be subject to penalty as prescribed in the Civil Infractions Ordinance #1.132. Each day that a violation shall continue is to constitute a separate offense. Provisions of this Ordinance may also be enforced by suit for injunction, damages or other appropriate legal action.

SECTION 9: EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following publication.

ADOPTED BY THE TOWNSHIP BOARD:

James R. Moore
Kinross Charter Township Supervisor

STATE OF MICHIGAN)
) ss
COUNTY OF CHIPPEWA)

I, the undersigned, the duly qualified and acting Clerk of the Charter Township of Kinross, Chippewa County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of an ordinance adopted a regular meeting of the Township Board on the _____ day of _____, and that such ordinance was duly published in the Sault News on the _____ day of _____.

Sheila M. Gaines
Kinross Charter Township Clerk