

ORDINANCE NO. 9-2010

**TOWN OF ERIN PRAIRIE
ST. CROIX COUNTY, WISCONSIN**

ORDINANCE ADOPTING NOISE REGULATIONS

THE TOWN BOARD OF THE TOWN OF ERIN PRAIRIE DOES HEREBY ORDAIN AS FOLLOWS:

1.1 PURPOSE

The purpose of this chapter is to preserve the public health, peace, comfort, repose, welfare, safety and good order by suppressing the making, creation, or maintenance of excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual or unnatural in their time, place, and use or which are detrimental to the environment.

1.2 APPLICABILITY

This chapter shall apply to all areas within the boundaries of the Town of Erin Prairie.

1.3 DEFINITIONS

Unless the context otherwise clearly indicates, the words and phrases used in this chapter are defined as follows:

IMPULSIVE SOUND — A sound of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.

MOTOR VEHICLES — Includes, but is not limited to, automobiles, trucks, buses, mopeds, mini-bikes, all terrain vehicles, motorcycles, dirt-bikes, go-carts, off-road vehicles and any other vehicle as defined in Section 340.01(35) Wis Stats.

PERSON — Includes the singular and plural and also any individual, any property owner and/or lessee and/or renter, any firm, corporation, political subdivision, government agency, association or organization, including but not limited to officers, directors, employees, agents and/or independent contractors thereof, or any legal entity whatsoever.

TOWN — All of the areas within the boundaries of the Town of Erin Prairie.

UNREASONABLE NOISE — Any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities, or which causes injury to animal life or damages to property or business.

1.4 UNREASONABLE NOISE PROHIBITED

- A. No person shall intentionally cause public inconvenience, annoyance, or alarm, or recklessly create a risk thereof, by making unreasonable noise or by causing unreasonable noise to be made.
- B. For the purpose of implementing and enforcing the standard set forth in this section, factors to be considered in determining whether unreasonable noise exists in a given situation include, but are not limited to, any or all of the following:
 - (1) The intensity of the noise.
 - (2) The duration of the noise.
 - (3) The intensity of the background noise, if any.
 - (4) The time of the day or night the noise occurs.
 - (5) The proximity of the noise to sleeping facilities.
 - (6) Whether the noise is continuous or impulsive.
 - (7) The existence of complaints concerning the noise from one or more persons who are affected by the noise.
 - (8) Whether the nature of the noise is usual or unusual.

- (9) Whether the noise is due to a natural or a human-made activity.

1.5 UNLAWFUL NOISE SOURCES

The provisions of this ordinance shall not apply to lawful farm operations on lands where the principal use of which is as a farm and which are located within the Town of Erin Prairie. This stipulation is consistent with the Town's Comprehensive Plan. These regulations apply to both stationary equipment and those traveling across the land or roads.

1.6 EXEMPTIONS

The following noises are exempt from the regulations:

- (1) Noises not directly under the control of the property owner.
- (2) Noises from temporary construction or maintenance activities during daylight hours.
- (3) Noises from emergency, safety or warning devices including emergency pressure relief valves and emergency electric generators.
- (4) Chain saws, lawn mowers, and snow blowers in private use (not commercial repair services).
- (5) The sounds of cattle, fowl, horses, or other sounds of reasonably cared for agricultural or domestic animals, and the sound of necessary farming equipment for a bona fide agricultural operation.
- (6) Noises from moving sources such as automobiles and trucks on public right-of-way, railroad equipment on railroad rights-of-way and railroad spurs on private property, and airplanes.
- (7) The use of any organ, bell, chimes or any other similar instrument or device by any church, synagogue or school on or within its own premises, in connection with religious rites or ceremonies of such church or synagogue or in connection with a school education program.
- (8) Sounds created by snowmobiles while using county or state snowmobile trails are exempted from the limitations of this chapter.
- (9) The lawful taking of wild animals or fowl by means of firearms is exempted from the limitations of this chapter.

1.7 AUTHORIZATION FOR VARIANCE

Where the enforcement of this chapter would create an unnecessary hardship, the Town Board, in its discretion, is authorized to grant a variance for a specific requirement of this chapter. Such variance shall be granted only in those circumstances where the applicant demonstrates that the variance is necessary for a valid purpose, that the proposed variance is the minimal intrusion needed, that the need for and benefits of the variance outweigh the needs and rights of the surrounding neighbors to a peaceable and quiet environment.

1.8 VARIANCE PROCEDURE

- A. An application for such a variance shall be filed with the Town Clerk no less than 45 days before the anticipated need and shall provide the following information:

- (1) The name of the applicant.
- (2) The adult person responsible for compliance with the variance, if different from the applicant, which adult person shall also sign the application and agree to be responsible for compliance with the variance terms and any conditions attached to the variance.
- (3) The reasons for such usage.
- (4) Plans and specifications of the use.
- (5) Noise abatement and control methods to be used.
- (6) Time schedule.
- (7) Demonstration why the applicant cannot conform to this chapter.
- (8) Such other information as the Town Clerk and/or Town Board may reasonably require to consider adequately the variance request.
- (9) For events that are not community-wide or public events, proof must be provided that notification of the application for the variance has been given to

each person reasonably expected to be affected by the noise, the content of such notification and the manner in which such notification has been given. The notification shall state that any person objecting to the granting of such variance may contact the Town Board or attend a meeting to express his/her opposition to the granting of the variance.

- B. The Town Board shall vote on the approval of the application at a regular monthly meeting or special meeting be held in connection with the application no less than five days after publication of notice of such hearing in the Town's official newspaper. The issuance of a variance shall be discretionary. The Town Board may impose any conditions deemed necessary by such Board to minimize the intrusion of sound that might occur by the exercise of the privileges granted by the variance. If a variance is issued, a copy of the variance stipulating any and all conditions imposed by the Town Board shall be furnished to the St. Croix County Sheriff's Department by the Town Clerk, within due time upon the issuance of the permit to the applicant.

1.9 ENFORCEMENT OF VIOLATIONS

Enforcement may be facilitated by, but shall not be dependent upon, complaint by a resident of the Town to a county or other law enforcement officer. Any police officer or peace officer or any person who may be lawfully designated by the Town Board shall have the authority to issue appearance tickets in connection with any violation of this chapter.

1.10 PENALTIES FOR VIOLATIONS

Any person who violates any provision of this chapter and is found guilty of an offense shall pay a forfeiture not exceeding \$250 to the Town of Erin Prairie. Each day that a violation shall continue will constitute a separate offense. For conviction of a third offense, which was committed within a period of five years from the commission of the prior offense, a violator shall be subject to a fine of up to \$500. Each day that a violation shall continue will constitute a separate offense.

1.11 LIABILITY OF OWNER

The owner of any real property (except public highways, and other publicly owned facilities) from which sounds prohibited by this chapter emanate shall be guilty of a violation of this chapter, whether or not such owner was on the premises or occupied the premises when the proscribed sounds emanated from same.

1.12 EFFECTIVE DATE

This ordinance shall be effective upon passage and publication as provided by law.

Adopted this 14th day of July, 2010.

Yes 2 No 0 Abstain 0 Absent 0

TOWN OF ERIN PRAIRIE

By: John Van Dyk Attest: Jackie Mitchell
John Van Dyk, Town Chairman Jackie Mitchell, Town Clerk

Dennis Mitchell Supervisor
Dennis Mitchell, Supervisor