

NEW SCANDIA TOWNSHIP

ORDINANCE NO. 65

AN ORDINANCE RELATING TO NOISE, PROVIDING FOR THE ELIMINATION AND PREVENTION OF PROHIBITED NOISE, AND IMPOSING PENALTIES FOR VIOLATIONS

The Town Board of New Scandia Township does ordain as follows:

SECTION 1. Noise.

Subd. 1. Definitions.

- (a) **General.** Words and phrases defined in this section have, when used in this section, the meanings given below. Any other word or phrase used in this section, and defined in regulations of the Minnesota Pollution Control Agency Noise Pollution Control Rules Chapter 7030, has the meaning given in those regulations.
- (b) **L10** means the sound level, expressed in decibels (dBA) which is exceeded 10 percent of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute and using test procedures approved by the Washington County Sheriff's Department.
- (c) **L50** means the sound level, expressed in decibels (dBA) which is exceeded 50 percent of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute and using test procedures approved by the Washington County Sheriff's Department.
- (d) **Person** means an individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, "person" shall include employees and licensees.

Subd. 2. Noises Prohibited.

- (a) **General prohibition.** No person shall make or cause to be made nor shall any property owner on premises in the owner's possession or control permit any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any persons or precludes their enjoyment of property or affects their property's value. This

general prohibition is not limited by the specific restrictions of the following subdivisions.

- (b) **Motor vehicles.** No person shall operate a motor vehicle in the Township in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency.
- (c) **Horns, audible signaling devices, etc.** No person shall sound any signaling device on any vehicle except as a warning of danger, as required by Minn. Stat. 169.68.
- (d) **Exhaust.** No person shall discharge the exhaust, or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.
- (e) **Defective vehicles or loads.** No person shall use any vehicle so out of repair or so loaded as to create loud unnecessary grating, grinding, rattling, or other noise.
- (f) **Radios, phonographs, paging systems, etc.** No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.
- (g) **Participation in noisy parties or gatherings.** No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.
- (h) **Schools, churches, etc.** No person shall create any excessive noise on a street, alley, or public grounds adjacent to any schools, institution of learning or church when the noise unreasonably interferes with the working of the institution or

disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

Subd. 3. Receiving Land Use Standards. No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in Table 1 for the receiving land use category specified when measured at a point of normal human activity of the receiving land use.

Table 1. Sound Levels by Receiving Land Use Districts

Land Use Districts	Day (7:00 a.m. - 10:00 p.m.)		Night (10:00 p.m. - 7:00 a.m.)	
	L10	L50	L10	L50
Residential	65	60	55	50
Commercial	70	65	70	65
Industrial	80	75	80	75

Subd. 4. Exemption for Emergency Work. Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this section for a period not to exceed 24 hours after the work is commenced. Persons responsible for such work shall inform the Town Clerk of the need to initiate such work or, if the work is commenced during nonbusiness hours of the city, at the beginning of business hours of the first business day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise.

Subd. 5. Exemption for Community Celebrations or Functions. Noise created by a community celebration or community function having a valid permit issued by the Town Clerk shall be exempt from the provisions of this section.

Subd. 6. Exemption for Agricultural Activities. Noise created by the operation of agricultural equipment or machinery or by other agricultural activities shall be exempt from the provisions of this section.

Subd. 7. Variances.

(a) **Authority.** The Town Board shall have authority, consistent with this section, to grant variances from the requirements of this section.

- (b) **Application.** Any person seeking a variance shall file an application with the Town Clerk on a form prescribed by the Town Clerk which shall state the dates during which the variance is proposed, the location of the noise source and times of operation, the nature of the noise source, reasons why the variance is sought, steps taken to minimize the noise level, and such other information as is required by the Town Clerk. If the application is for a variance for more than three days, the Town Clerk shall give mailed notice of the requested variance to all property owners within 500 feet of the property on which the noise source is located. Any person claiming to be adversely affected by the variance applied for may, within 10 days of mailing of the notice, file a statement with the Town Clerk in support of the person's claim.
- (c) **Action on application.** If the Town Clerk finds that sufficient controversy exists regarding the proposed variance, she may refer the proposal to the Town Board which shall hold a public hearing on the proposal at which all persons affected shall be given an opportunity to be heard.

Subd. 8. Enforcement.

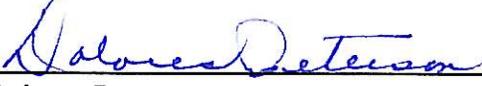
- (a) **Notice of certain violations.** When it is determined that a noise exceeds the maximum sound level permitted under Subd. 3, the Town Clerk shall give written notice of the violation to the owner or occupant of the premises where the noise originates and order such person to correct or remove each specified violation within such reasonable time as is described in the notice. The failure to remove or correct any such violation within the time so prescribed constitutes a violation of this section.
- (b) **Civil remedies.** This section may be enforced by injunction, action for abatement, or other appropriate civil remedy.
- (c) **Criminal penalties.** Any violation of this ordinance involving the operation of a motor vehicle is a petty misdemeanor and, upon conviction, the violator shall be punished according to law. Every person who violates any other provision of this ordinance is guilty of a misdemeanor and shall, upon conviction, be punished according to law. In all cases the Township shall be entitled to collect the costs of prosecution to the extent outlined by law, Rules of Criminal Procedure, and the Rules of Court. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

Subd. 9. Severability. If any provision of this section or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of this section and the application of this section to any other situation shall not be invalidated.

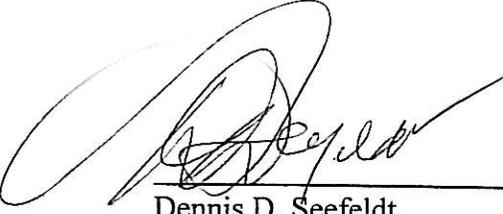
Subd. 10. Effective Date. This ordinance becomes effective upon passage and publication as provided by law.

Adopted by the Town Board of New Scandia Township this 5th day of October, 1999.

ATTEST:



Dolores Peterson,
Town Clerk



Dennis D. Seefeldt,
Chairman