

VILLAGE OF ELBERTA
Benzie County, Michigan
Gilmore Township

Ordinance No. 33

NOISE ORDINANCE

THE VILLAGE OF ELBERTA HEREBY ORDAINS:

Section 1. Purpose.

The purpose of this Ordinance is to regulate sound producing activities to ensure the continued health, safety and welfare of the public, including residents, their guests and area visitors of the Village of Elberta.

Section 2. Definitions. As used in this Ordinance:

- (a) "Emergency" means any occurrence involving or threatening personal injury or serious property damage.
- (b) "Emergency work" means any work performed to prevent or alleviate personal injury or serious property damage threatened or caused by an emergency, as well as work necessary to restore property to a safe condition following an emergency.
- (c) "Noise disturbance" means any sound, intentional or unintentional, which endangers or injures humans or animals, or annoys or disturbs the quiet, comfort, repose, health, peace or safety of a reasonable person of normal sensitivities.
- (d) "Motor Vehicle" means any motorized vehicle including, but not limited to: cars, trucks, bikes, motorcycles, ATV's, etc.
- (e) "Elberta Beach Public Areas" means the Village of Elberta public beach and public recreational areas on Lake Michigan, and includes the scenic overlook and any other designated beach or recreational area.

Section 3. Regulations. No Person shall make a noise disturbance within the Village limits and the Elberta Beach Public Areas between 11:00pm and 7:00am. The following acts shall be considered noise disturbances and are *prima facie* violations of this section. This list is not exclusive.

- (a) Sound Production and Reproduction Systems. Playing, using, or operating any system which produces or reproduces any types of sound in such a manner as to create a noise disturbance, or at a volume louder than is necessary for convenient listening by the person(s) in the room, chamber, vehicle or other place in which the system/device is operated. Operating such system/device in such a manner as to be plainly audible at a distance of fifty feet from person, building, structure, vehicle or other place in which system/device is located.

- (b) Loudspeakers; Public Address Systems. Using or operating any loudspeaker, public address system, or similar device so as to create a noise disturbance
- (c) Musical Device/Instrument. Playing any musical device or instrument in such a manner so as to create a noise disturbance.
- (d) Yelling and Shouting. Yelling, shouting, singing, hooting or using any horn, siren, whistle or bell so as to create a noise disturbance.
- (e) Motor Vehicle Repairs and Testing. Repairing, rebuilding, modifying or testing any motorized vehicle so as to create a noise disturbance.
- (f) Domestic Power Tools. Operating a power saw, drills, sander, grinder, lawn or garden tool or similar device so as to create a noise disturbance.
- (g) Construction. Operating any tools or equipment used in construction, drilling or demolition work so as to create a noise disturbance.
- (h) Animals and Birds. Owning, or keeping any bird or other animal which creates a noise disturbance any time.
- (i) Building Use. Any person owning a building, or in possession or control or rental of any building or premises, permitting the use of said building to be used for any operation which creates a noise disturbance in the neighborhood in which such building or premise is situated or in a noise sensitive area. Operating a radio, sound production system, sound reproduction system, loud speakers, or musical instrument in such a manner or with such volume that same shall be audible at the property line of the building or premises from which the sound emanates.

Section 4. Exceptions. The following activities and uses shall be exempt from the noise level regulations established in this Ordinance and shall not be considered a noise disturbance:

- (a) Emission of sound for the purpose of alerting persons to the existence of an emergency or emission of sound in the performance of emergency work.
- (b) Police, fire, ambulance or other emergency vehicles.
- (c) Noises of public or governmental safety signals, warning devices and emergency relief valves when used as warnings in case of emergency or danger or when tested.
- (d) Church bells or chimes.
- (e) Any aircraft operated in conformity with federal law, federal air regulations and air traffic control instruction.
- (f) Noise from the operation of snow removal equipment when being used for snow removal.
- (g) Noise from Village sponsored or approved community activities open to the public.
- (h) Elberta Life Saving Station: Thursday, Friday, Saturday, Sunday, until 1:00 a.m.
- (i) Commercial Establishments: Thursday, Friday, Saturday, Sunday, until 1:00 a.m.
- (j) Exceptions (h) & (i) can request a waiver, in writing, to the Village Clerk for a special event on the days not listed above (Monday through Wednesday) 60 days prior to the event.

Section 5. Penalties

Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 126 of 1994, amending Public Act 236 of 1962, being Sections 600.101 – 600.9939 of the Michigan Compiled Laws and shall be punished as follows:

- (a) For a first offense, depending on the infraction, the person shall be fined not less than \$100.00, nor more than \$500.00, plus the costs of prosecution and other sanctions provided by law.
- (b) For a second or subsequent offense occurring within two (2) years of the date the person was found responsible for the first or immediately preceding offense, the person shall be fined not less than \$200.00 nor more than \$1,000.00, plus the costs of prosecution and other sanctions provided by law.

Each day this Ordinance is violated shall be considered a separate "reoccurring" violation (refer to 5. (a) and (b)).

Section 6. Enforcement Officers.

Elberta Village officials designated by resolution of the Village Council and Officers of the Benzie County Sheriff's Department are hereby designated as the officials authorized to issue municipal civil infractions under this Ordinance directing offenders to appear in court.

Section 7. Nuisance Per Se.

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

Section 8. Separate Court Action.

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

Section 9. Severability.

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

Section 10. Effective Date.

This Ordinance was adopted by the Trustees of the Village of Elberta on December 21, 2017 and shall become effective on 2/4/18.



Holly Odwyer, Village President

Rebecca Addis
Rebecca Addis, Village Clerk

ORDINANCE CERTIFICATION

I, the undersigned Clerk of the Village of Elberta, Benzie County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of said County at its regular meeting held on December 21, 2017, that said meeting was conducted and public notice of said meeting was given pursuant to and in Full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be made available as required by said Act, this Ordinance was published in the Benzie Record Patriot on 1/3/18.

Rebecca Addis
Rebecca Addis, Village Clerk

12/21/17
Date