

East Bay Charter Township

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EAST BAY CHARTER TOWNSHIP

ORDINANCE NO. 28 OF 2008

NOISE ORDINANCE

An Ordinance to secure the public health, safety and general welfare of the citizens of the Charter Township of East Bay, Grand Traverse County, Michigan, through the regulation of excessive noise within East Bay Township which constitutes a hazard to the public health, welfare and quality of life within the Charter Township of East Bay; and to prescribe penalties for violation of the regulations under this ordinance.

THE CHARTER TOWNSHIP OF EAST BAY ORDAINS:

Section 1. Title

This ordinance shall be known and cited as the Charter Township of East Bay Noise Ordinance.

Section 2. Definitions

The following words, terms and phrases, when used in this Ordinance, shall have the meanings prescribed to them in this section:

AAirport@: An area of land that is lawfully used for the landing, take off and parking of aircraft, including activities related to the loading and unloading of such aircraft, as well as buildings and related facilities.

AEmergency vehicle, machinery or alarm@: Any machinery, vehicle or alarm used: to protect persons or property from imminent danger; to repair or remove an imminently dangerous condition in the community; or by private or public utilities when restoring utility service.

AEmergency work@: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency or work by private or public utilities when restoring utility services.

APerson@: Any individual, firm, association, partnership, joint venture, corporation, limited liability company or other entity recognized by law.

AProperty line@: The line which represents the legal limits of property, including an apartment, condominium, room or other dwelling unit, owned, leased, or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on the public street or other public right-of-way, the Aproperty line@ shall

be nearest boundary of the public right-of-way.

Section 3. Prohibited Noise

- A. PROHIBITIONS. Between the hours of 11:00 p.m. and 7:00 a.m., no person shall do any of the following activities if that activity produces a clearly audible sound beyond the property line of the property on which the activity is conducted:
1. Yell, scream, shout or engage in a loud or boisterous manner.
 2. Operate or play any radio, television, phonograph, MP3 player, compact disc, computer, audio equipment, or musical instrument.
 3. Operate any bell, chime, siren, whistle or similar device except as permitted under Section 4 of the Ordinance.
 4. Operate or use a loudspeaker, sound amplifier, public address system or similar device used which amplifies sound either indoors or outside the premises except as provided under Section 4 of this Ordinance.

Section 4. General exemptions

The following activities and noises are exempted from the requirements of Section 3:

- A. Lawful activities or operations of governmental units or agencies.
- B. The operation of an airport.
- C. Emergency work or emergency vehicles, machinery or alarms.
- D. Devices or activity creating sound made to alert persons to the existence of an emergency, danger or attempted crime.
- E. Any vehicle or equipment designed and used for the purpose of snow and/or ice removal, or garbage/trash removal, when in use for such purposes.
- F. All railroad operations when operating with the permissible noise levels as allowed by state or federal law.
- G. Any activity or noise that is not prohibited in Section 3.

Section 5. Severability

The several Sections of this Ordinance shall be deemed severable and should any Section, clause, or provision thereof be declared unconstitutional or contrary to the laws of the State of Michigan or contrary to any applicable federal law and therefore voided by any court of competent jurisdiction, the same shall not effect the validity of the Ordinance as a whole or any part thereof, other than the part or Section so declared to be unconstitutional, unlawful or invalid.

Section 6. Penalty, misdemeanor, civil infraction

- A. Any person or persons who violate the provisions of this Ordinance stated in Section 3.A (1) and (2) shall be responsible to a penalty of a misdemeanor punishable by a fine not exceed \$500 plus costs of prosecution or imprisonment of not more than ninety (90) days, or both.
- B. Any person or persons who violates Section 3.A (3) and (4) shall be responsible for a municipal civil infraction as defined in Public Act No. 12 of 1994, amending Public Act No. 236 of 1961, being sections 600.101 through 600.9939 of the Michigan Compiled Laws, and shall be subject to a fine of not more than \$500 for each offense. Each day this Ordinance is violated shall be considered as a separate violation.

Section 7. Enforcement

The Grand Traverse County Sheriff's Department, the Township Zoning Administrator and the Township Deputy Zoning Administrator are authorized to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 8. Separate court action

Nothing in this Ordinance shall prohibit the Township or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance. A violation of this Ordinance is deemed to be a nuisance per se.

Section 9. Effective adoption and date

- A. This Ordinance shall become effective thirty (30) days after its publication as required by law.
- B. This Ordinance was adopted by the Township Board of the Charter Township of East Bay, County of Grand Traverse, State of Michigan, at its regular meeting held on December 8, 2008.

Glen Lile, Township Supervisor

Susanne Courtade, Township Clerk

Bernard, Elizabeth and Kaitlyn Yantz

866 Pine Grove Avenue
Traverse City, MI 49686

Request to Alter Noise Ordinance No. 28 of 2008, Section 4 (E)

November 25, 2008

East Bay Charter Township Board
1965 Three Mile Road N.
Traverse City, MI 49686

Re: Please Alter Noise Ordinance No. 28 of 2008, Section 4 (E)

Dear East Bay Township Officials,

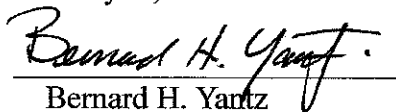
For over twelve (12) years our Family has lived at 866 Pine Grove Avenue, across the street from East Bay Medical parking lot. We had not had any noise issues until last Winter when an industrial sized front end loader started plowing the East Bay Medical Parking Lot. I contacted the police several times last Winter over the extremely loud “back up siren or beeper” vibrating the windows between 1 AM - 5 AM, disturbing the peace. The industrial “back up siren or beeper” sounds like an atomic alarm clock starting and stopping over and over again for 30 minutes or longer. This happens every time it snows 2 inches or more, resulting in consecutive nights of being awakened in the middle of the night. There is no sleeping while the small parking lot is cleared by this industrial equipment. Kaitlyn (11 years old) is in Sixth grade and needs her sleep.

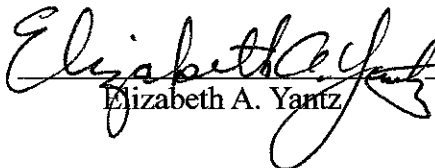
Again, the industrial sized front end loader just started last year. **Smaller equipment was used before without the “back up siren or beeper”. (pick-up truck with plow)**

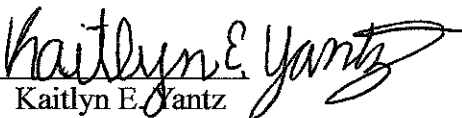
As we read the proposed Ordinance No. 28 of 2008, Section 4 (E), it allows any vehicle to remove snow, including Industrial sized front end loaders in and/or adjoining Residential zoned districts, in the middle of the night.

Hopefully, the proposed noise ordinance can be altered to protect residential zoned districts from Industrial equipment in the middle of the night.

Thank you,


Bernard H. Yantz


Elizabeth A. Yantz


Kaitlyn E. Yantz