

**VILLAGE OF PENTWATER
ORDINANCE NO. 2026-02
NOISE CONTROL ORDINANCE**

AN ORDINANCE TO PRESERVE, PROTECT, AND PROMOTE THE PUBLIC HEALTH, SAFETY, WELFARE, PEACE, COMFORT, AND QUIET BY DEFINING AND CONTROLLING NOISE DISTURBANCE AND NOISE POLLUTION WHICH OTHERWISE WOULD INTRUDE UPON OR DESTROY THE STATE OF PEACE, TRANQUILITY, AND CALM WHICH EXISTS IN THE VILLAGE, AND TO PROVIDE PENALTIES AND SANCTIONS FOR VIOLATIONS OF THIS ORDINANCE.

WHEREAS, the Village Council of the Village of Pentwater is authorized under the General Law Village Act, MCL 61.1 *et seq.*, to pass ordinances to preserve the public peace, order, health, safety, and welfare of the Village of Pentwater;

WHEREAS, the Village Council finds that excessive noise is detrimental to the health, safety, welfare, comfort, and quality of life of the residents and visitors of the Village of Pentwater;

WHEREAS, the Village Council further finds that noise is a valid concern in promoting the public welfare and that excessive noise interferes with citizens' health, safety, and welfare (*Rochester v. Superior Plastics, Inc.*, 192 Mich. App. 273, 480 N.W.2d 620 (1991));

WHEREAS, the purpose of this ordinance is to regulate and control noise within the Village in a manner that balances the interests of all residents and visitors while respecting constitutional protections for speech and expression; and

WHEREAS, this ordinance is intended to be content-neutral and to regulate noise based on time, place, and manner, not based on the content or message of any protected speech (*Ward v. Rock Against Racism*, 491 U.S. 781, 109 S. Ct. 2746 (1989); *Harbourside Place, Ltd. Liab. Co. v. Town of Jupiter*, 958 F.3d 1308 (11th Cir. 2020)).

THE VILLAGE OF PENTWATER ORDAINS:

SECTION 1. CODE AMENDMENT.

The Village of Pentwater Code of Ordinances is hereby amended to add Chapter 135, which shall read as follows:

CHAPTER 135: NOISE CONTROL

135.01 DEFINITIONS.

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- **A) "A-Weighted Sound Level"** means the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The sound pressure level so read is designated dB(A) or dBA.
- **B) "Authorized Village Official"** means any Pentwater Police Officer, the Village Manager, the Village Zoning Administrator, or any other official designated by Village ordinance, each of whom is authorized to investigate complaints and issue municipal civil infraction citations for violations of this Ordinance.

- **C) "Commercial Area"** means property zoned or lawfully used for purposes other than residential or industrial as a principal use, regardless of whether the property has a commercial zoning designation under the Village Zoning Ordinance.
- **D) "Decibel"** means a unit of sound pressure level on a logarithmic scale measured relative to the threshold of audible sound by the human ear, in compliance with American National Standards Institute (ANSI) Standard S1.1-1960, or its successor.
- **E) "Decibels on the A-Weighted Network or dBA"** means decibels measured on the A-weighted network of a sound level meter as specified in ANSI Standard S1.4-1971, or its successor.
- **F) "Immediate Vicinity"** means any distance within 100 feet from a noise or disturbance source, or within the parcel or lot boundaries upon which the source of noise or disturbance is emanating.
- **G) "Industrial Area"** means property zoned or lawfully used for industrial purposes as a principal use, defined, designated, and regulated under the Village of Pentwater Zoning Ordinance.
- **H) "Motor Vehicle"** means every vehicle that is self-propelled, whether or not licensed or intended for use on public roads.
- **I) "Person"** means any owner, lessee, occupant, or user of property, including any individual, trust, corporation, limited liability company, partnership, joint venture, association, business, or other entity. "Person" also means any individual in any public place or private place open to the general public.
- **J) "Property Line"** means the line representing the legal limits of property (including an apartment, condominium, dwelling unit, or public property) owned, leased, rented, or occupied by a person. In cases involving sound from an activity on a public right-of-way, the property line shall be the nearest boundary of the public right-of-way.
- **K) "Public Property"** means any area available to the general public including, but not limited to, parks, public rights-of-way, and public buildings.
- **L) "Public Right-Of-Way"** means the entire width of any publicly dedicated street, avenue, boulevard, highway, sidewalk, alley, or similar place.
- **M) "Residential Area"** means property zoned or lawfully used for temporary or permanent dwelling purposes as a principal use.
- **N) "Sound Level Meter"** means an instrument including a microphone, amplifier, RMS detector, integrator, output meter, and weighted networks used to measure sound pressure levels, complying with standards for Type 1 or Type 2 meters specified in ANSI S1.4-1971, or its successor.
- **O) "Sound Pressure Level"** means 20 times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals, expressed in decibels.

All technical terminology used in this Ordinance not defined herein shall be interpreted in accordance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

135.02 PROHIBITED ACTS, GENERALLY.

No Person shall create, allow, assist in creating, continue, or permit the continuation of any excessive, unreasonable, or unnecessarily loud disturbance or noise of high volume or intensity that disturbs, annoys, or endangers the calm, comfort, quiet, repose, health, peace, or safety of others beyond the immediate vicinity of the source or across property lines. A violation of this

section may be established either by plain audibility or by exceeding the sound pressure levels set forth in Section 135.04.

135.03 PROHIBITED ACTS, SPECIFICALLY.

The following acts are declared to be excessive, disturbing, and unlawful noises in violation of this Ordinance:

- **A) Audio & Sound Amplifying Devices:** The playing or operation of any battery- or electrically-powered sound-producing or amplifying device, speaker, or musical instrument in a manner or volume that disturbs the comfort, repose, or peace of persons beyond the immediate vicinity or across a property line.
- **B) Animals:** Frequent, continued, or habitual noise created by any animal kept or maintained by any person that is clearly audible beyond the immediate vicinity or across a property line during nighttime hours (11:00 p.m. to 6:00 a.m.).
- **C) Motor Vehicles:** Operating or modifying a motor vehicle so as to create loud, unnecessary noise, or operating a motor vehicle not equipped with a functional muffler in good working order. The use of cut-outs, by-passes, or similar devices is strictly prohibited.
- **D) Construction Activities:** Engaging in construction, repair, remodeling, demolition, drilling, or excavation work outside the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday, or anytime on Sunday, except in emergencies as provided in Section 135.05.
- **E) Compression Release Brakes ("Jake-Brakes"):** The operation of compression release engine brakes by any motor vehicle approaching, traveling through, or stopping within the Village, except in bona fide emergency situations.
- **F) Firearms:** The discharge of a firearm within Village boundaries, except as authorized by state law or law enforcement personnel in the performance of duty.

135.04 MAXIMUM PERMISSIBLE SOUND LEVELS.

No person shall conduct, allow, or permit any activity that produces a dBA level beyond the receiving property line exceeding the levels specified in Table I.

TABLE I: MAXIMUM PERMISSIBLE SOUND LEVELS

Area of Property Receiving Sound	Daytime (6:00 a.m. to 11:00 p.m.)	Nighttime (11:00 p.m. to 6:00 a.m.)
Residential Area	55 dBA	45 dBA
Commercial Area	65 dBA	50 dBA
Industrial Area	70 dBA	50 dBA

135.05 GENERAL EXEMPTIONS.

The following activities are exempt from the provisions and sound level limits of Sections 135.03 and 135.04:

- **A)** Emergency work necessary to restore property to a safe condition following a fire, accident, or natural disaster; to restore public utilities; or to protect persons or property from imminent danger.
- **B)** Sound signals produced by emergency vehicles or warning devices alerting the public to an emergency or crime.
- **C)** Parades, concerts, festivals, fairs, or public events formally approved by the Village Council, subject to any conditions or sound limits established in said approval.
- **D)** Athletic, musical, or cultural events (including practices and rehearsals) conducted under the auspices of accredited public or private K-12 educational institutions.
- **E)** Animal or agricultural sounds on agriculturally zoned parcels produced in accordance with Generally Accepted Agricultural and Management Practices (GAAMPs) recognized by the State of Michigan.
- **F)** Domestic yard work and lawn maintenance (e.g., lawnmowers, leaf blowers, chainsaws) conducted between the hours of 7:00 a.m. and 8:00 p.m.
- **G)** Authorized construction and remodeling activities conducted in accordance with Section 135.03(D) and applicable state building codes.
- **H)** Snow removal operations on public or private driveways, streets, and sidewalks necessary for safety and access.

135.06 TEMPORARY EXEMPTIONS.

The Village Manager is authorized to grant a temporary variance or exemption from the sound level limits of this Chapter upon application:

- **A) Application:** An applicant must submit a written request at least three (3) business days prior to the event, specifying applicant details, activity location, proposed dates/times, and noise mitigation measures.
- **B) Review Criteria:** The Village Manager shall evaluate the request based on hardship to the applicant, proximity to residential structures, anticipated dBA levels, neighborhood population density, and time of day.
- **C) Conditions & Duration:** Temporary exemptions must be issued in writing, specify allowed maximum dBA levels and hours, and shall not exceed thirty (30) days in duration. Exemption decisions remain subject to review upon formal written objection by adjoining property owners.

135.07 PENALTIES & REMEDIES.

- **A) Municipal Civil Infraction:** A violation of this Chapter is a municipal civil infraction, subject to the following fine schedule:
 - **First Offense:** \$150.00
 - **Second Offense (within 3 years):** \$300.00
 - **Third or Subsequent Offense (within 3 years):** \$500.00
- **B) Continuing Violation:** Each day that a violation continues shall constitute a separate offense.
- **C) Costs and Fees:** Violators responsible for a municipal civil infraction shall reimburse the Village for all direct costs, attorney fees, and expenses incurred in enforcement.
- **D) Nuisance Per Se & Injunctive Relief:** Any violation of this Chapter is hereby declared a nuisance per se. The Village may pursue injunctive relief in circuit court to abate the nuisance, in addition to or in lieu of civil infraction citations.

135.08 RESPONSIBILITY FOR VIOLATIONS.

The owner of the property on which the prohibited noise originates shall be held responsible for the violation. If the property is leased, rented, or occupied by persons other than the owner, the tenant or occupant shall be held responsible. However, repeated violations occurring on a leased or rented property may subject the property owner to joint liability after receiving written notification of prior offenses from the Village.

SECTION 2. REPEAL OF CONFLICTING PROVISIONS.

All former ordinances, resolutions, or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 3. SUPPLEMENTARY TO OTHER ORDINANCES.

This Ordinance is supplemental to all other Village ordinances, including the Village Zoning Ordinance. Where a conflict exists between this Ordinance and another regulation, the more restrictive standard shall govern.

SECTION 4. SEVERABILITY.

If any section, clause, or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. PUBLICATION AND EFFECTIVE DATE.

This Ordinance, or a summary thereof, shall be published in a newspaper of general circulation within fifteen (15) days of adoption. This Ordinance shall take effect immediately upon publication pursuant to MCL 66.1.

ADOPTED this 10 day of August, 2026.

VILLAGE OF PENTWATER

By: Mary Marshall
Village President

By: Michelle Bieri
Village Clerk