

Section I

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. All terminology used in this Ordinance, not defined as follows, shall be in conformance with applicable publications of the American National Standard Institute (ANSI) or its successor body.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Decibel (db) means a unit of measuring the volume of sound.

Noise disturbance means any sound which endangers or injures the safety or health of humans or animals, or exceeds the maximum permissible sound levels of this Ordinance.

Sound level meter means an instrument which includes a microphone amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

Violation of Ordinance; penalties.

Any violation of this Ordinance is a civil infraction, and any person convicted of a violation by a court of competent jurisdiction, as a first offense, shall forfeit an amount not to exceed \$100.00 plus court costs. Any person convicted of a violation of this Ordinance by a court of competent jurisdiction, as a second offense within a one-year period of time, shall forfeit an amount not to exceed \$150.00 plus court costs, and if convicted of a third offense within a one-year period, shall forfeit an amount not to exceed \$200.00 plus court costs. Failure to pay forfeiture within 60-days may result in imprisonment in the county jail for not more than 10-days. Further, no forfeiture shall be imposed for any violation based upon defective vehicular equipment upon receipt of certification by a law enforcement agency that repair was made within 15 days of the date of is-

Prohibited acts; exception.

No person or business establishment shall unreasonably make, continue or cause to be made or continued any noise disturbance. Noncommercial public speaking and public assembly activities conducted on any private space or public right-of-way shall be exempt from the operation of this ordinance.

Maximum permissible sound levels.

No person or business establishment shall create, operate or cause to be operated on private property any source of sound in such a manner as to create a sound level as measured on the property of another the limits set forth in Table I of this section. The exceeding of the limits as set forth in Table I, when measured at or within the property of another, shall be deemed prima facie to be a noise disturbance.

Table I

Receiving Land Use Category	Time	A-weighted Sound Level Limit (in dBA)
RS-20, R-M	9:00 p.m. to 8:00 a.m.	70
RS-20, R-M	8:00 a.m. to 9:00 p.m.	75
C-C, M-G,	9:00 p.m. to 8:00 a.m.	72
C-C, M-G	8:00 a.m. to 9:00 p.m.	77
G-M	9:00 p.m. to 8:00 a.m.	76
G-M	8:00 a.m. to 9:00 p.m.	81

There shall be no prohibitive sound levels on lands that are designated "open forest", "forest", or "agriculture".

The land use categories shall be as defined in the zoning ordinances for the County of Florence. *(See land use designation at the end of this Ordinance.)

Motor vehicle noise limits.

A motor vehicle shall not be operated or driven on a highway or street if the motor vehicle produces total noise exceeding one of the following limits at a distance of 50 feet, except as provided in subsection (4) of this section:

A motor vehicle with a gross weight or gross vehicle weight rating of 8,500 pounds or more, combination vehicle with gross vehicle weight ratings of 8,500 pounds or more:

- a. Ninety dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour;
- b. Eighty-six dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour; and
- c. Eighty-eight dB(A) under stationery runup test.

A motorcycle or moped:

- a. Eighty-six dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour;
- b. Eighty-two dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour; and
- c. Ninety-five dB(A) under stationary runup test at 75 inches

A motor vehicle or combination or vehicles towed by a motor vehicle not covered in subsections (1) an (2) of this section:

- a. Eighty-two dB(A) if the maximum lawful speed on the highway or street is greater than 35 miles per hour;
- b. Seventy-six dB(A) if the maximum lawful speed on the highway or street is not more than 35 miles per hour; and
- c. Ninety-five dB(A) under stationary runup test 20 inches from the end of the tailpipe.

This article shall not apply to police, fire, ambulance or other emergency vehicles while in public use.

at standards and text instrumentation; sound level

(a) A sound level meter shall be used which has the capacity to give measurement of sound using the A-weighted network and measurements recorded in terms of dB(A). The sound level meter shall meet or exceed the requirements for a type 2 sound level meter as specified in American National Standard Specifications for Sound Level Meters (ANSI S 1.1 1971), approved April 27, 1971, issued by the American National Standards Institute.

(b) Test instrumentation and procedures used for implementation and enforcement of this article shall substantially conform with applicable standards and recommended practices established by the Society of Automotive Engineers and the American National Standards Institute for the measurement at other than the distance specified in this article, provided that the decibel limits applied at the other distances are adjusted accordingly.

Section II

Motor Vehicles-Limitation on audible range of electronically amplified sound systems.

Notwithstanding any other provision of the Code of Ordinances for the town, no person operating or in control of a parked or moving vehicle (including motorcycles and mopeds), shall operate or permit the operation of an electronically amplified sound system in or on the vehicle so as to produce sound that is clearly audible more than 50 feet from the vehicle between the hours of 7:00 a.m. and 11:00 p.m. or clearly audible at a distance of 25 feet from the vehicle from the hours of 11:00 p.m. and 7:00 a.m.

(1) ***Municipal civil infraction.*** A person who violates any provisions of this section and found guilty of the same, by clear and convincing evidence, shall be subject to a payment of a civil forfeiture not less than \$50.00 plus court costs for the first offense, \$100.00 plus court costs for the second offense if committed within one-year of the first offense, and \$250.00 plus court costs for a third offense, if committed within a period of one-year from the first offense. Failure to pay the forfeiture within 60-days from the date of conviction, may result in imprisonment in the county jail for not more than 10 days.

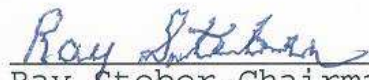
(2) ***Public Nuisance.*** A violation of any provision of this section shall be deemed a public nuisance.

This Ordinance shall take effect after being approved by the Town Board of the Town of Florence and upon publication of the same.

*Land Use Designation:

- 1) RS-20.....Residential
- 2) CC.....Community Commercial
- 3) M-G.....Manufacturing
- 4) G-M.....General Manufacturing
- 5) R-M.....Residential/Multi-Family

Dated this 28th of August, 2000



Ray Steber-Chairman, Town of Florence



Judith Gehlhoff-Clerk/Treasurer, Town of Florence

June 19, 2000

Ms. Judy Gehlhoff, Clerk/Treasurer
Town of Florence
P O Box 247
Florence, WI 54121

Re: Noise Ordinance

Dear Ms. Gehlhoff:

Please find enclosed my final "rough draft" of the proposed Noise Ordinance for the Town of Florence, Florence County, Wisconsin.

I reviewed the Noise Ordinance which Mr. Drexler drafted in 1996 and updated that particular draft, plus other drafts from other municipalities, and included changes in language based upon current case law as concerns constitutionality and enforceability of these types of ordinances.

It would appear to me that the most difficult portion of enforcing this type of ordinance would be to actually "catch" an offender while engaged in this particular activity.

The enclosed Ordinance should comply with all constitutional questions, as well as enforceability questions based upon the most recent case law in Wisconsin.

I did talk to Sheriff Rickaby some time ago, and he informed me that his office would in fact enforce this particular Ordinance if the same was passed by the Town.

Also, violations of this Ordinance would have to be tried before the Circuit Court of Florence County, and the burden of proof would either have to be the great weight of the evidence or "clear and convincing" evidence in order to get a conviction.

I am sending a copy of this letter to Sheriff Rickaby, together with a copy of the proposed Ordinance, and I am asking both the Town and the Sheriff to give me any input that either party feels is necessary concerning this Ordinance. This would include correction, deletions, or additions to the proposed Ordinance

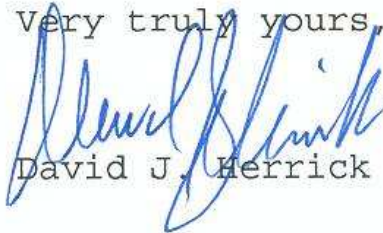
Ms. Judy Gehlhoff, Clerk/Treasurer
Town of Florence
June 19, 2000

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herewith enclosed.

Thank you.

Very truly yours,



David J. Herrick

DJH/jo
Encs.

1 TOWN OF FLORENCE

P.O. BOX 247
FLORENCE, WI 54121
(715) 528-3595

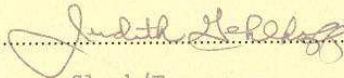
Memo

TO: Atty. David Herrick DATE: 6-2-00
P.O. Box 137 SUBJECT:
Niagara, WI 54121

Per our phone conversation please find enclosed a noise ordinance drafted by Atty Drexler and a letter from Sheriff Rickaby.

Please review the ordinance and consult with the sheriff to verify that it is enforceable by his department. Make any changes you deem necessary and return it to the town for the boards consideration. Thanks.

Judith Gehlhoff



Clerk/Treasurer

Florence County Sheriff's Department

"A Community Resource"

P.O. Box 410
501 Lake Avenue
Florence, Wisconsin 54121

☆ Sheriff
Jeff Rickaby

7-17-96

TOWN OF FLORENCE
C/O MS. JUDY GEHLHOFF
PO BOX 247
FLORENCE, WI. 54121

RE: PROPOSED NOISE ORDINANCE

DEAR TOWN BOARD,

I HAVE REVIEWED YOUR PROPOSED TOWN ORDINANCE AND FIND FOR THE MOST PART THAT IT IS WELL WRITTEN. I DO HAVE A FEW COMMENTS ON SOME AREAS OF THE PROPOSAL.

SECTION 2; THE \$100.00 FINE PLUS COSTS OF PROSECUTION. TOTAL FINE WITH COSTS WOULD BE \$148.00.

"COSTS OF PROSECUTION" USUALLY IS "COURT COSTS" UNLESS YOU ARE INTENDING ON INCLUDING THE COST OF A TOWN PROSECUTOR IN THE FINE. I DON'T KNOW IF YOU CAN DO THAT.

YOU MAY WANT TO CONSIDER 1ST, 2ND, 3RD, OFFENSE INCREASES FOR EXAMPLE IN A ONE YEAR PERIOD. COMMONLY IT GOES \$50.00, \$100.00 AND THEN \$200.00 PLUS COSTS.

THE ORDINANCE DOES NOT ADDRESS NON - PAYMENT OF YOUR FINE.

SECTION 4; I HAVE NEVER MEASURED SOUND BEFORE, SO I DON'T KNOW HOW LOUD THESE LEVELS REALLY ARE. YOU MAY WANT TO AGREE TO PASS THIS AFTER YOU DETERMINE WHETHER OR NOT THESE LEVELS ARE ACCEPTABLE.

I HAVE FINALLY FOUND SOME INFORMATION ON DB METERS. RADIO SHACK DOES CARRY THEM, HOWEVER, THEY DO NOT MEET THE STANDARDS SET FORTH IN THE ORDINANCE. SAFETY SUPPLY HOUSES DO HAVE THEM RANGING FROM SEVERAL HUNDRED DOLLARS TO NEARLY \$2000.00. PORTABLE UNITS ARE ON THE LOW END OF THE PRICE RANGE.

A CALIBRATION KIT WOULD BE A REQUIREMENT TO INSURE THAT THE MEASUREMENTS BEING TAKEN ARE ACCURATE AND WILL STAND UP IN COURT.

SECTION 5 (1) A MINOR TYPOGRAPHICAL ERROR

SINCERELY,

JEFF RICKABY, SHERIFF