

ORDINANCE NO. 02-25

AN ORDINANCE AMENDING SECTION 9.07 OF THE GERMANTOWN MUNICIPAL CODE RELATED TO NOISE DISTURBANCES WITHIN THE VILLAGE AND CREATING SECTION 12.03 OF THE GERMANTOWN MUNICIPAL CODE RELATED TO PERMITTING OUTDOOR ENTERTAINMENT WITHIN THE VILLAGE

---

WHEREAS, the Village Board previously created section 9.07 of the Germantown Municipal Code which regulates noise disturbances within the Village; and

WHEREAS, the Village Board recognizes that noise is threat to the public health and welfare, public safety, quality of life and property values; and

WHEREAS, the Village Board similarly recognizes that amenities within the Village, including outdoor entertainment during the warmer months, also improves the quality of life for residents; and

WHEREAS, the Village Board desires to amend the Municipal Code to better regulate various noise sources within the Village; and

WHEREAS, the Village Board has determined that proper regulation of noise within the Village furthers the public health, safety and welfare of the community;

NOW, THEREFORE, the Village Board of the Village of Germantown, Wisconsin, do ordain as follows:

SECTION I

Section 9.07 of the Germantown Municipal Code is amended to read as follows (NOTE: Added text is double underlined; Deleted text is ~~struck through~~):

**9.07 NOISE DISTURBANCES PROHIBITED.**

(1) **GENERAL.** Except as may be otherwise provided for in this section, ~~no~~ ~~no~~ person shall make, continue or cause to be made any loud, disturbing, discordant or unnecessary sounds, ~~or~~ ~~noises~~ or vibrations such as may tend to annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park or any private residence.

(2) **TYPES OF LOUD AND UNNECESSARY NOISES.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

(a) Horns, Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village for longer than 3 seconds in any period of one minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust; and the use of any signaling device when traffic is for any reason held up.

(b) Radios, Televisions, Instruments, Loudspeakers, Public Address Systems, and Similar Devices. Except for Village celebrations, parades, and community events authorized and regulated by the Village Board, and except where the person is operating in compliance with an outdoor entertainment permit issued by the Village Board, the operation, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, loudspeaker, pubic address system or similar device which produces, reproduces or amplifies sound:

1. In such a manner as to create a noise disturbance across a residential real property boundary. ~~Except for those licensed premises holding and operating in accordance with an outdoor premises extension under section 12.02(7)(q).~~ The operation of any radio, television, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 6:00 a.m. in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

2. In such a manner as to create a noise disturbance at 50 feet (15 meters) from such device, when operated in or on a public right-of-way or public space.

3. In such a manner as to unreasonably disturb the occupant(s) of an adjacent unit in a multi-family residential structure.

~~(c) — Loudspeakers, Amplifiers, Public Address Systems or Other Similar Devices . Except for Village celebrations authorized and~~

~~regulated by the Village Board, using, operating or permitting the use or operation of any loudspeaker, sound amplifier, public address system or other machine or device for the producing or reproducing of sound which increases the volume of voice, music or other sounds:~~

~~1. — In such a manner as to create a noise disturbance across a residential real property boundary. Except for those licensed premises holding and operating in accordance with an outdoor premises extension under section 12.02(7)(q), the operation of any loudspeaker, sound amplifier, public address system or other machine or device between the hours of 10:00 p.m. and 6:00 a.m. in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.~~

~~2. — In such a manner as to create a noise disturbance at 50 feet (15 meters) from such device, when operated in or on a public right of way or public space.~~

(c) Outdoor Power Equipment. The operation of any gas-powered outdoor power equipment such as lawn mowers, saws, hedge clippers, leaf blowers, snow removal equipment, and the like between the hours of 10:00 p.m. and 6 a.m., except that snow removal equipment may be operated at any time during the pendency of an official snow emergency and at any time within 24 hours following a snowfall of two inches or greater.

(d) Exhausts. The discharge into the open air of the exhaust or any internal combustion engine or motor boat, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(e) Construction and Use of Tools and Equipment. Between 10:00 p.m. and 6:00 a.m. the following day, any of the following activities such that sound therefrom creates a noise disturbance:

~~1. — The erection (including excavation), demolition, alteration or repair of any building as well as the operation of any pile driver, excavating equipment, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise. The Building Inspector shall have the authority, upon determining that the loss or inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special~~

~~consideration, to grant permission for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. and 6:00 a.m.~~

~~2. — Operating or permitting the operation of any tools or equipment including, but not limited to, lawn mowers, chain saws, powered garden and lawn equipment, and other nonconstruction maintenance equipment.~~

1. *Commercial Operations.* The outdoor use by any commercial contractor of any construction tools and equipment between the hours of 9:00 p.m. and 7:00 a.m. on weekdays, and 5:00 p.m. and 8:00 a.m. on weekends and public holidays.

2. *Residential Homeowner Activities.* The outdoor use by any residential homeowner or tenant of any construction tools and equipment between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 9:00 p.m. and 8:00 a.m. on weekends and public holidays.

3. Hours of operation may be extended, except on Sundays, for operations or work under public contracts where the Village's Director of Public Works deems such extension reasonably necessary under the circumstances. The Director may revoke such permission upon 24-hour notice to the general contractor of such work. The Building Inspector shall have the authority, upon determining that the loss or inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant permission to extend the hours of operation.

4. This section does not apply to emergency work of public service utilities.

(f) Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed on those streets indicating a school, hospital or court street.

(g) Animals and Birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks or makes other sounds which ~~create a noise disturbance~~ materially interferes with or affects the health, comfort, peace and quiet of the public, or the reasonable use and enjoyment of the neighboring residential properties where the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of fifteen (15) minutes, or repeated episodes of intermittent noise lasting for a minimum period of thirty (30) minutes. It shall be an affirmative defense under this division that the animal was intentionally provoked by a party other than the owner to make such noise.

(h) Explosives, Firearms and Similar Devices. Impulsive sound from explosives, firearms and similar devices shall be regulated solely by the provisions of § SPS 307.44, Wis. Adm. Code, as amended from time to time, hereby adopted by reference, exclusive of provisions relating to penalties. Any act required to be performed or prohibited by § SPS 307.44 is required or prohibited by this section.

(i) Emergency Signaling Devices.

1. The sounding or permitting the sounding outdoors of any fire, burglar or emergency government alarm, siren, whistle or similar signaling device such that the sound therefrom creates a noise disturbance, except for actual emergency purposes.

2. Testing a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 7:00 a.m. or after 7:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 60 seconds.

(3) **EXEMPTIONS.** The provisions of this section shall not apply to:

(a) Any vehicle of the Village, County or State while engaged in necessary public business.

(b) Excavations or repairs of streets or other public construction by or on behalf of the Village, County or State at night when public welfare and convenience renders it impossible to perform such work during the day.

(c) Operation of emergency equipment. Emergency equipment shall include ambulance, police, fire, snow removal, civil defense, disaster, etc., necessary for the health, safety and protection of the citizens of the Village.

(d) ~~Snowblowers, snow plows and other snow removal equipment shall also be exempt from this section.~~ Noises ordinarily associated with an approved use of property, or those noises which are expressly authorized by a permit, authorization or approval from a duly authorized governmental entity.

(e) Implements of husbandry being operated for agricultural purposes.

(4) DETERMINING VIOLATIONS. In determining whether a noise constitutes a violation under this section, the following characteristics and conditions should be considered when assessing whether the noise would tend to annoy or disturb a person of ordinary sensibilities:

(a) The time of day when the noise occurs.

(b) The duration of the noise.

(c) The frequency or pitch of the noise.

(d) The proximity of the noise to a structure in which sleeping may occur.

(e) The use, nature, and zoning of the property from which a noise emanates and the property where it is perceived.

(f) The number of people and their activities that are affected or are likely to be affected by the noise.

(g) The level of the noise in comparison to the level of ambient noise.

## SECTION II

Section 12.03 of the Germantown Municipal Code is created to read as follows:

### **12.03 OUTDOOR ENTERTAINMENT PERMIT.**

(1) **PURPOSE.** The Village recognizes that noise is threat to the public health and welfare, public safety, quality of life and property values. The Village similarly recognizes that amenities within the Village, including outdoor entertainment during the warmer months, also improves the quality of life for residents. It is the policy of the Village to regulate outdoor entertainment within the Village in order to balance these competing interests.

(2) **PERMIT REQUIRED.** No person may provide any of the following types of entertainment that is, wholly or in any part, including fixtures, attendees, and sound systems, outside of a fully enclosed permanent structure without a permit:

(a) Amplified or non-amplified music, including live singers, musicians, bands, or orchestras, recorded music, karaoke, juke boxes, live DJ's, background music, radios, and the like.

(b) Audio-visual broadcasts, including the presentation of live televised events such as a sporting event, television shows, movies and the like.

(3) **PERMIT TYPES.** There shall be two types of outdoor entertainment permits:

(a) Annual Permit: Allows the permittee to provide outdoor entertainment outside an enclosed structure during specified hours. The permit period is July 1 through June 30, with each year requiring a new permit.

(b) Temporary permit: Allows the permittee to provide activities outside an enclosed structure during a specified period or periods for special, limited occurrences.

(4) **APPLICATION PROCESS.**

(a) Application Filing Dates.

1. Applications for annual permits must be submitted to the Village Clerk no later than close of business on the last Friday in April. Any application for an annual permit received after the deadline will be processed on a non-prorated basis subject to the regular meeting schedule of the reviewing bodies.

2. Applications for temporary permits must be submitted to the Village Clerk no less than 60 days before the desired date to

provide music or other activity, in order for the permit to be processed.

(b) Permit fees shall be set from time to time by resolution of the Village Board.

(c) Permit applications must be accompanied by a scaled drawing or map showing the location of all speakers, televisions, performance locations, and the like, a site plan, and a plan of operation setting forth the dates, hours, location, type and scope of the operation for all outdoor activities.

(d) The Village Clerk will mail notice of the Public Safety Committee meeting at which the application will be reviewed to the owners of all properties located within 500 feet of the applicant's property lines at least 15 days prior to the meeting.

(e) The Village Board, after review and recommendation by the Public Safety Committee, shall approve, approve with conditions, change or deny any permit application. The Village Board, in granting any permit under this section, may impose conditions and restrictions on the permit found to be necessary to minimize the impact of the outdoor entertainment upon surrounding properties including limiting the dates and times of activities and requiring technologically reasonable steps to minimize noise and other impacts.

(5) **EXCEPTIONS.** No permit under this section shall be required for outdoor entertainment activities which occur as part of an authorized parade or on property owned by the Village, the Germantown School District, Washington County, and the State of Wisconsin.

(6) **VIOLATIONS.** Any person providing outdoor entertainment without a permit or in violation of the terms of the permit issued under this section is guilty of violating this section and is subject to the penalties found section 12.04.

### SECTION III

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

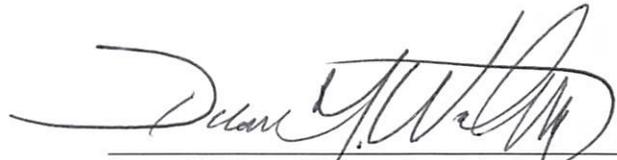
### SECTION IV

All ordinances or parts of ordinances contravening the terms of this ordinance are hereby to that extent repealed.

SECTION V

This ordinance shall take effect and be in full force upon its passage and the day after its publication.

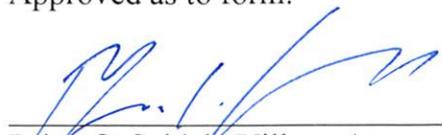
Adopted: January 6, 2025

  
\_\_\_\_\_  
Dean Wolter, Village President

ATTEST:

  
\_\_\_\_\_  
Donna Ott, Village Clerk

Approved as to form:

  
\_\_\_\_\_  
Brian C. Sajdak, Village Attorney

Published: