

PUBLIC NUISANCE ORDINANCE #35

FIREWORKS AND NOISE

PREAMBLE

The purpose of this ordinance is to protect the public health, safety and general welfare of the inhabitants of the Township, the land and resources lying within the township, to prescribe penalties for the violation thereof and to repeal all ordinances or parts of ordinances therewith. This Ordinance shall include, but not limited to, restrain and prevent vice and immorality, gambling and noise and disturbance. To prevent and quell riots; to preserve peace and good order; and to protect the property of this township and persons within said township. This Ordinance replaces Noise Ordinance #22 as amended.

SECTION A: FIREWORKS PROHIBITED ACTS:

1a. In accordance with the State of Michigan (MCL 28.457) defined as a populations of less than 50,000 located in a count with a population of less than 750,000, Butman Township enacts this Ordinance regulating and including prohibiting the ignition, discharge and use of consumer fireworks, including, but not limited to, an Ordinance prescribing the hours of the night as follows:

Between the hours of 1 a.m. and 8 a.m. on the day preceding, the day of, or the day after a national holiday as follows:

“National Holidays” are those defined in 5USC6103

- New Year’s day, January 1
- Martin Luther King, Jr Day, the third Monday in January
- Washington’s Birthday, the third Monday in February
- Memorial Day, the last Monday in May
- Independence Day, July 4
- Labor Day, the first Monday in September
- Columbus Day, the second Monday in October
- Veterans Day, November 11
- Thanksgiving Day, the fourth Thursday in November
- Christmas Day, December 25

The Township of Butman prohibits any discharge of fireworks, or any sort and at any time on Butman Township Properties.

This Exclusion and/or Exception will be subject to and governed by any/all changes to the State of Michigan (MCL 28.457), as amended.

2A Violation and Penalties

Upon receipt of a Formal Complaint filed (form available at the Township Offices of by mail), the following procedure will be followed:

1aa. The Ordinance enforcement Officer will notify the violator in writing of a Complaint filed and request immediate action to correct and/or cease violations to this Ordinance.

2aa. If a 2nd formal complaint of a similar action, The Township Ordinance Officer (and/or a Butman Township Board of Trustees), will notify the Gladwin county Sheriff's department to immediately investigate and correct the incident for the repeated violation. Said Sheriff's Department investigation will be at the expense of the Township. Therefore, a resident must file a formal complaint with the township for action, and not directly with the Sheriff's department.

3aa. If **1aa** and/or **2aa** does not resolve the Violation of this Ordinance and a **3rd Complaint** of a similar action is filed, the incident will be considered a **Misdemeanor** and upon conviction, shall be subject to a fine not exceed Ninety (90) days in jail plus court costs.

Following the notification to the offender, each day a violation continues to exist shall constitute a separate violation of this Ordinance and proceed to each step outlined above.

A Township Ordinance Officer or Butman Township Board of Trustee will notify the Gladwin County Sheriffs Department to immediately investigate and correct the incident. The incident will be considered a Misdemeanor and upon conviction shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) and/or by imprisonment in the County Jail for not more than Ninety (90) Days.

Following the notification to the offender, each day a violation continues to exist shall constitute a separate violation of this Ordinance.

SECTION B: NOISE (OTHER) PROHIBITED ACT:

1B It shall be unlawful between the hours of 11:00 p.m. and 8:00 a.m. for any person to create, maintain or permit any loud, unnecessary, unnatural or unusual noise of such character, intensity, or duration, either steadily or intermittently at any place which annoys, disturbs endangers or impairs the comfort, health convenience, safety, welfare, enjoyment and peace and quiet of other persons in the vicinity.

2B It shall be unlawful at any time of the day or night, for any person to play a radio, CD, audio tape, television, computer or musical instrument in such a manner or at such a volume as to disturb the quiet, comfort and repose of neighboring inhabitants of at a volume which is plainly audible to persons other than those who are occupants of the home, room or vehicle in which device or instruments played and who are voluntary listeners thereto.

3B It shall be unlawful at any time of the day or night to keep any animal, dog or bird which by causing frequent or long-continuing noise, or barking, causes a disturbance as defined in paragraph 2B above.

4B Exemptions:

4-1bb Any activity that is a "farm operation" with the Michigan Right to Farm Act, 1980 P.A., no 93,

MCL 286.471 et seq, shall be exempt from the application of this Noise (other) Section of the Ordinance.

4-2bb This ordinance shall not apply to any activity which generates noise or sound of that activity is specifically regulated or controlled, in whole or in part, as to allowable noise or sound levels, or allowed during certain hours of operation or use, by State Law or regulation, city, village or township ordinance. To this extent that there is partial regulation of noise of sound generation, then this ordinance may be applied to that activity but not in conflict with State

law, regulation or ordinance of the local jurisdiction in which the activity occurs, such as Fire, Police, or Siren Safety Warnings.

5B VIOLATIONS AND PENALTIES:

Upon receipt of a Formal complaint is filed (form available at the Township Offices or by mail), the following procedure will be followed:

5-1bb. The Ordinance Enforcement Officer will notify the violator in writing of a Complaint filed and request immediate action to correct and/or cease violations to this Ordinance.

5-2bb If corrective action is not taken following 1bb, the Township Ordinance Enforcement request, and upon presentation to the Board of Trustees, legal action for a proceeding to **Misdemeanor** and upon conviction, shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00) and/or by imprisonment in the County Jail not more than Ninety (90) Day.

5-3bb Each day a violation continues to exist shall constitute of separate violation of this Ordinance.

ORDINANCE SAVINGS/SEVERABILITY CLAUSE:

The provisions of this ordinance are hereby declared to be severable and if at any cost, sentence, word section, or provision is declared null and void or unenforceable, for any reason, by a court of competent jurisdiction, the remaining portions of said ordinance shall remain in force. In addition, sections of this Ordinance are severable, providing any section, sentence, paragraph, phase of clause if declared unconstitutional, unlawful or unenforceable by law enforcement, courts, or other legal jurisdiction, but will not affect all other sections sentences paragraphs, phases or clauses within this Ordinance.

ORDINANCE EFFECTIVE DATE:

This ordinance will take effect 30 (thirty) days following publication hereof in the Gladwin County Record on October 21, 2015.

We, Shirley Kyle, Supervisor and Sharon Hobin, Clerk for the Township of Butman, Gladwin County, Michigan hereby declared Ordinance #35 as Amended and Adopted as of October 14, 2015, and effective 30 days from the date of adoption.

Shirley Kyle, Supervisor Township of Butman

Sharon Hobin, Clerk Township of Butman

Ayes 3

Nays 0

Absent 2