

**VILLAGE OF SUTTONS BAY
NUISANCE ORDINANCE
Ordinance No. 5 of 2004
AS AMENDED BY ORDINANCE 1 OF 2016**

AN ORDINANCE TO PROHIBIT NUISANCES WITHIN THE VILLAGE OF SUTTONS BAY TO INSURE THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

THE VILLAGE OF SUTTONS BAY ORDAINS:

Section 1. Definitions. As used in this Ordinance,

- (a) "Amplified sound system" means a device which produces or amplifies sound either electronically or mechanically and includes but is not limited to radios, phonographs, compact disc players, tape players, televisions, musical instruments, drums, and sound amplifiers.
- (b) "Building materials" includes but is not limited to lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in construction of any structure.
- (c) "Exotic animal" means and includes any wild mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property.
- (d) "Garbage" means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables. "Garbage" does not include one (1) compost pile consisting of decaying organic substances intended for fertilizing land; provided, however, that the compost pile is no larger than five feet (5') square and is located on the property so that it cannot be seen from any public highway or street, or seen from any adjoining land owned by another person.
- (e) "Harass" means the use of any personally abusive epithets, words, language, or conduct of an offensive nature, which when addressed to or directed at a reasonable person, are likely to provoke a reaction of fear, anger, or apprehension.
- (f) "Harbor or harboring" means providing food and/or shelter to any animal for any period of time in excess of twelve (12) hours or being in charge or control of any animal under any written or verbal agreement with the animal's owner.
- (g) "Highway or Street" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and includes public alley ways.

- (h) "Junk" means any used or salvaged metals and their compounds or combination, used or salvaged rope, rubber, tires, car parts, or other discarded items.
- (i) "Liquid industrial wastes" means any liquid brine, by-product, industrial wastewater, leachate, off-specification commercial product, sludge, grease-trap clean-out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity except any liquid brine normally used or stored in regard to oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.
- (j) "Motor vehicle" means every vehicle which is designed to be self-propelled
- (k) "Owner of a cat or dog" means any person or persons owning or harboring a cat or dog. Any person who harbors a cat or dog on or about property owned or occupied by that person for a period of five (5) days shall be deemed the owner of such animal.
- (l) "Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.
- (m) "Rubbish" means nonperishable solid wastes including ashes, paper, cardboard, metal containers, glass, bedding, crockery, bags, rags, and demolished materials.
- (n) "Sealed container" means a covered, closable container which is rodent-proof, fly-proof and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twisted shut.
- (o) "Sidewalk" means that portion of a highway or street between the curb lines, or lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.
- (p) "Totally closed structure" means a building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.
- (q) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, and specifically includes bicycles and tricycles.

Section 2. Nuisances. The following are hereby declared to be nuisances:

- (a) The keeping or storage of building materials outside on private property six (6) months after an occupancy permit is issued by the Leelanau County Building Department. This subsection, however, shall not apply to building materials kept or stored outside on private property if the building material is kept or stored in an orderly fashion. As used in this subsection, the phrase "building material kept or stored in an orderly fashion" shall mean that all building material of the same type, including but not limited to lumber (both stick and sheet wood), cement blocks, bricks, roofing material, and siding shall be kept or stored together and not kept or

stored intermingled with building material of a different type and shall be stacked in an organized fashion customary for that type of building material. By way of example and not limitation, stick lumber shall be piled with all sticks substantially parallel to one another, sheet wood shall be piled one on top of another with the area of one sheet covering as much as possible the area of the sheet beneath it, cement blocks and bricks shall be stacked in the shape of a cube in such a manner that they will not fall off the stack, and siding shall be piled with each piece substantially parallel to one another.

- (b) The keeping or storage of ashes, junk, garbage or rubbish outside of a totally enclosed structure on private property except in a sealed container designed for the purpose of holding such ashes, junk, garbage, or rubbish.
- (c) The placing of ashes, junk, garbage or rubbish on private property without the owner's permission or on public property. This provision applies regardless of whether the ashes, junk, garbage or rubbish is in a sealed container.
- (d) The keeping or storage of junk, garbage or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source or habitation of insects, rodents or vermin.
- (e) Intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground.
- (f) The existence of any vacant building, garage, house or outbuilding unless such structure is kept secure from entry by the public.
- (g) The distributing, placing, posting, or affixing of posters, notices, or handbills on private property without consent of the owner or occupant except as authorized or required by law.
- (h) The outdoor burning of building materials, garbage, junk, or rubbish either on the ground or in a burn barrel.
- (i) Being the owner of a cat or dog, to permit or to allow another person to permit his or her cat or dog to do any of the following:
 - 1. To run at large within the Village.
 - 2. To trespass upon another person's real property or to in any manner injure or destroy any real or personal property belonging to another person, including but not limited to breaking or tearing open any garbage bag containing garbage or rubbish awaiting pickup or otherwise spreading garbage or rubbish on another person's property.
 - 3. To create malodorous or offensive waste conditions on the owner's property outside of a totally enclosed structure or anywhere on the property of another person; or

4. To whine, yelp, bark, howl or make other sounds common to its species such that said noise can be heard by any person from an adjoining lot line or from the right-of-way of any adjoining public street between the hours of 12:00 AM (midnight) and 5:00 AM or at any time in a habitual manner. For purposes of this subsection, "habitual" means whining, yelping, barking, howling, or making other sounds common to its species on three (3) or more occasions separated by at least one (1) hour within a one (1) week period.
- (j) Loitering on a public street, sidewalk, a public place, or any other place or business open to the general public in such a manner as to:
1. By words or conduct, harass, assault, molest or intimidate any other person of ordinary sensitivities, or
 2. Interfere with any person's reasonable use of a public street, sidewalk, a public place, or any other place or business open to the general public.
- (k) Except as provided in subsection 4 below, operating, or permitting another person to operate, an amplified sound system under any of the following circumstances:
(as amended by Ord.1 of 2016)
1. In a parked vehicle or operating motor or other vehicle on a street, road, alley, highway or other place open to the general public so that it is clearly audible from the vehicle or motor vehicle to an individual of ordinary hearing ability under either of the following circumstances:
 - A. At a distance of fifty (50) feet from the vehicle or motor vehicle between the hours of 7:00 a.m. and 10:00 p.m.
 - B. At a distance of twenty-five (25) feet from the vehicle or motor vehicle between the hours of 10:00 p.m. and 7:00 a.m. the following day.
 2. From any real property within the Village so that it is clearly audible to an individual of ordinary hearing ability under either of the following circumstances:
 - A. At a distance of fifty (50) feet from the boundaries of the real property on which the amplified sound system is being operated between the hours of 7:00 a.m. and 10:00 p.m.
 - B. At a distance of twenty-five (25) feet from the boundaries of the real property on which the amplified sound system is being operated between the hours of 10:00 p.m. and 7:00 a.m.
 3. On a highway or sidewalk so that it is clearly audible to an individual of ordinary hearing ability under either of the following circumstances:

- A. At a distance of fifty (50) feet from the device producing the sound between the hours of 7:00 a.m. and 10:00 p.m.
 - B. At a distance of twenty-five (25) feet from the device producing the sound between the hours of 10:00 p.m. and 7:00 a.m. the following day.
4. This subsection (k) shall not apply to the operation of amplified sound systems when used in connection with parades, musical productions or events authorized by the Village Council, the local school district, or other governmental organization with legal authority; to the operation of amplified sound systems by the Village or any police, fire or other public safety official when used in furtherance of official business; and to the operation of amplified sound systems used to give official warnings such as sirens, whistles, bells, or horns as authorized by the State of Michigan Vehicle Code or Uniform Traffic Code as adopted by the Village.

Section 3. Prohibition

No person shall commit, create, or maintain any nuisance. No person shall knowingly permit the existence of a nuisance on the property owned or possessed by such person.

Section 4. Industrial Usage

The storage or keeping of salvageable metal or wood shall not be prohibited on property on which is located a factory engaged in manufacturing, assembling or machining as long as the salvageable metal or wood is for resale or reuse by the occupant of the property.

Section 5. Violations and Penalties.

- (a) Except as provided in subsection (b) below, any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.
- (b) Following the issuance of a municipal civil infraction citation for a nuisance defined in Section 2(j), if a person fails to leave the premises after being requested to do so by a police officer, the owner of the property, or an authorized representative of the owner of the property, that person shall be guilty of a misdemeanor and shall be subject of a fine of up to Five Hundred and 00/100 (\$500.00) Dollars or imprisonment of not more than ninety (90) days, or by both.

Section 6 - Enforcement Officials.

The Zoning Administrator and Police Officers of the Village and Leelanau County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 7. Separate Court Action.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance or any other violation of this Ordinance.

Section 9. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 10. Effective Date.

This Ordinance shall become effective twenty (20) days after being published in a newspaper of general circulation within the Village.

VILLAGE COUNCIL
VILLAGE OF SUTTONS BAY
LEELANAU COUNTY, MICHIGAN

Council member Bahle, seconded by Council member Bumgardner, moved the adoption of the following ordinance:

ORDINANCE NO. 1 of 2016

AN ORDINANCE TO AMEND ORDINANCE NO. 5 OF 2004, ENTITLED
"VILLAGE OF SUTTONS BAY NUISANCE ORDINANCE"

The Village of Suttons Bay ordains:

Section 1. Amendment of Section 2.(k). Section 2.(k) of Ordinance No. 5 of 2004 is amended to read in full as follows:

Section 2. Nuisances. The following are hereby declared to be nuisances:

(k) Except as provided in subsection 4. below, operating, or permitting another person to operate, an amplified sound system under any of the following circumstances:

1. In a parked vehicle or operating motor or other vehicle on a street, road, alley, highway or other place open to the general public so that it is clearly audible from the vehicle or motor vehicle to an individual of ordinary hearing ability under either of the following circumstances:
 - A. At a distance of fifty (50) feet from the vehicle or motor vehicle between the hours of 7:00 a.m. and 10:00 p.m.
 - B. At a distance of twenty-five (25) feet from the vehicle or motor vehicle between the hours of 10:00 p.m. and 7:00 a.m. the following day.
2. From any real property within the Village so that it is clearly audible to an individual of ordinary hearing ability under either of the following circumstances:
 - A. At a distance of fifty (50) feet from the boundaries of the real property on which the amplified sound system is being operated between the hours of 7:00 a.m. and 10:00 p.m.
 - B. At a distance of twenty-five (25) feet from the boundaries of the real property on which the amplified sound system is being operated between the hours of 10:00 p.m. and 7:00 a.m. the following day.
3. On a highway or sidewalk so that it is clearly audible to an individual of ordinary hearing ability under either of the following circumstances:

- A. At a distance of fifty (50) feet from the device producing the sound between the hours of 7:00 a.m. and 10:00 p.m.
 - B. At a distance of twenty-five (25) feet from the device producing the sound between the hours of 10:00 p.m. and 7:00 a.m. the following day.
4. This subsection (k) shall not apply to the operation of amplified sound systems when used in connection with parades, musical productions or events authorized by the Village Council, the local school district, or other governmental organization with legal authority; to the operation of amplified sound systems by the Village or any police, fire or other public safety official when used in furtherance of official business; and to the operation of amplified sound systems used to give official warnings such as sirens, whistles, bells, or horns as authorized by the State of Michigan Vehicle Code or Uniform Traffic Code as adopted by the Village.

Section 2. Effective Date. This Ordinance shall become effective twenty days following its adoption or upon the publication of the Ordinance or a synopsis of the Ordinance, whichever occurs first.

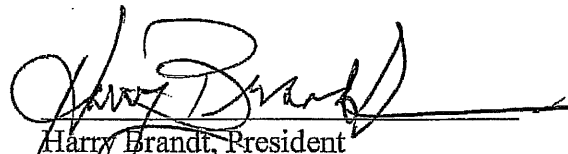
Section 3. Publication. This Ordinance shall be published pursuant to state law.

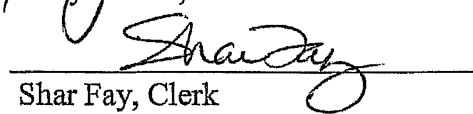
YEAS: Brandt, Hollander, Bumgardner, Hylwa, Christensen, Johnson, Bahle

NAYS: None

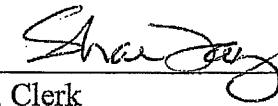
ABSENT: None

Ordinance No. 1 of 2016 Adopted


 Harry Brandt, President


 Shar Fay, Clerk

I, Shar Fay, the Clerk of the Village of Suttons Bay, attest that the foregoing is a true and accurate copy of an ordinance adopted by the Village of Suttons Bay Village Council at a regular meeting held on July 18, 2016, noticed in accordance with state law.


 Shar Fay, Clerk

Date of Council Approval: July 18, 2016
 Date of Publication: July 28, 2016
 Effective Date: July 28, 2016