

# NOISE VIOLATIONS IN EAST LANSING

## What is noise?

*Merriam Webster's Collegiate Dictionary* defines noise as “loud, confused, or senseless shouting or outcry,” and “any sound that is undesired or interferes with one’s hearing of something.” East Lansing City ordinances prohibit certain types of noise. East Lansing’s noise ordinances are classified as either civil infractions or misdemeanors. The distinctions are important to know. Fines range from \$250 to a mandatory minimum of \$1,000—and a noisemaker might even be sentenced to a minimum of 3 days in jail.

## What is a municipal civil infraction?

Any act or omission that is prohibited by ordinance—but is not a crime under the ordinance—and for which civil sanctions may be ordered. Michigan Statute 600.113 and EL Ord. §1.6(5).

## Civil Infraction Overview:

- The legal proceedings are not criminal, but rather civil—the accused must testify at trial, must pay for a jury or an attorney (if he or she wants a jury or an attorney), and can only confront witnesses who are called to the stand to testify by cross-examination.
- The City’s burden of proving its case is by a preponderance of the evidence—approximately 51 percent: 49 percent.
- The accused will not be found guilty, but rather responsible.
- If the accused is found responsible, the finding is not reported on their criminal history background.

## Civil Sanctions:

### • *Civil sanctions for the Civil Infraction Noise Violation:*

- Every person found responsible for a violation of this Code designated as a municipal civil infraction shall pay a civil fine of not more than \$1,000, plus costs, damages, and expenses. EL Ord. §1.11a.
- Costs of not less than \$9 or more than \$500 shall be ordered. EL Ord. §1.11a(1).
- Civil sanctions may not include incarceration.

### • *Civil sanctions for the Civil Infraction Party Noise:*

- Civil sanctions may not include incarceration.
- Minimum fine of \$1,000 if the noise violation occurred in a residential neighborhood, AND two or more of the following conditions were present on the property at the time of the offense:
  - Common source of alcohol used to serve the guests (e.g., keg);
  - Live entertainment (e.g., live band, disc jockey, other);
  - Charge to gain entrance or to consume alcohol;
  - More than 1 person present on the property for every 20 square feet of habitable living space
  - Amplified sound emanating from speakers placed or directed outside the building.

EL Ord. §9.14b.

*Note:* If a defendant fails to answer a citation or notice to appear in court for a municipal city infraction is guilty of a misdemeanor and shall be punished as such. EL Ord. §1.11a(3).

## What types of actions may result in civil infraction noise violations?

Under EL Ord. §9.14, it shall be unlawful for any person to create, assist in creating, permit, continue; or as owner, lessee or occupant of the property on the activity is located; permit the continuance of any of the following acts:

- (1) **Horns and Signal Devices**—sounding while not in motion, except as a danger signal, or as a warning of intent to get into motion.
- (2) **Radio, Phonograph, Musical Instruments, Other Electronic Sound-Producing Devices**—playing the sound-producing device:
  - From a residence—plainly audible:
    - (a) beyond the property line of a single-family dwelling unit from which it is generated, or (b) outside of a duplex or multiple-family dwelling.
  - From a vehicle—plainly audible 50 feet from the vehicle in which it is located.
  - From public or private property open to the general public—plainly audible 50 feet from its location on the property.
- (3) **Yelling, Shouting, Loud Whistling, and Loud Singing**—continuous or repeated, on public streets or sidewalks, continuous or repeated, in excess of 5 minutes.
- (4) **Animal and Bird Noises**—keeping an animal or bird causing frequent or long continued noise that disturbs the comfort or repose of any person.
- (5) **Whistle, Air Horns, and Siren**—blowing amplified or electronic devices, except to give notice of the time to begin or stop work or as a warning of fire or danger.

- (6) **Engine Exhaust**—discharge into open air, steam-engine exhaust or stationary-internal-combustion-engine exhaust, except through a muffler or other device that effectively prevents loud or explosive noises.
- (7) **Construction Noises**—excavation, erection, demolition, alteration, or repair of any building, and excavation of streets and highways on Sundays and other days, except between the hours of 7 a.m. and 8 p.m., unless a permit is obtained from the City Manager.
- (8) **Devises to Attract Attention: Drums, Loud Speakers, Amplifiers, or Other Instruments**—continuous or repeated use for the purpose of attracting attention in excess of 5 minutes.

## What is a municipal misdemeanor?

Any act or omission that is prohibited by ordinance, designated as a crime, and for which criminal sanctions may be ordered.

## Misdemeanor Overview:

- The legal proceeding is criminal—the accused has the right to remain silent, a right to a trial by jury, a right to an attorney, and a right to confront witnesses.
- The City’s burden of proving its case is beyond a reasonable doubt—approximately 99.9 percent : .1 percent.
- If the accused is found guilty, the conviction will be reported on their criminal history background.

## Criminal Sanctions:

- **Criminal sanctions for the Misdemeanor Noise Violation:**
  - 1<sup>st</sup> conviction—\$250
  - 2nd conviction within 1 year—\$350
  - 3rd conviction within 1 year—\$500
  - Imprisonment—up to 90 days
  - PLUS costs of prosecution

- **Criminal sanctions for the Misdemeanor Party Noise:**
  - Minimum fine of \$500, AND a minimum 3 days in jail (maximum 90 days);
  - Costs of prosecution

### What types of actions may result in misdemeanor noise violations?

Under EL Ord. §9.10, “Unlawful Noise—Misdemeanor,” it shall be unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any of the following acts.

- Any §9.14 noise violation (civil infractions listed below) in a residential neighborhood between the hours of 11 p.m. and 7 a.m.
- Another violation within 4 hours of receiving a citation for a §9.10 (misdemeanor) or §9.14 (civil infraction) violation, OR within 4 hours of another person receiving a citation from the same dwelling unit.
- Creation of any other excessive or unreasonably loud noise which disturbs the comfort, repose, health, peace, or safety of others with the City of East Lansing by being plainly audible to persons within any dwelling, hotel, hospital, office, or other type of residence other than that from which it originates.

### Exceptions to Noise:

1. **Emergency vehicles**—police, fire, or other, engaged in necessary emergency business.
2. **Highway, utility maintenance, and construction**—excavation and repair.
3. **Public address**—noncommercial.
4. **Sacred music**—use of sound amplifiers by religious organizations or other approved organizations.

5. **Snow removal equipment**—licensed motor vehicles, equipped with good working exhaust system or mufflers to prevent excessive or unusual noise.
6. **Snow removal schedule**—mutually agreed to and followed.
7. **Parades, festivals, fairs, events, or music**—East Lansing approved or sponsored. EL Ord. §9.11(1-7).

### How will a landlord/owner know whether a rental property has received a noise violation?

A landlord/owner will receive written notice from the East Lansing Code Enforcement and Neighborhood Conservation department officials.

*Note:* Who on the rental property actually receives a ticket for a noise violation is up to the discretion of the police officer. Many times this is determined by how the police officer was treated or whether noise is a reoccurring problem at a specific residence.

### What happens after multiple noise violations are received on an East Lansing rental property—during a one-year period?

After the 3<sup>rd</sup> finding of responsibility for a 3<sup>rd</sup> civil infraction noise violation, or after the 2<sup>nd</sup> guilty verdict on a 2<sup>nd</sup> misdemeanor noise violation—within a one-year period (August to August for Class I – IV licenses; any one-year period for other licenses)—a landlord/owner is required to go before the East Lansing Housing Commission for a findings/sanctions hearing.

*Note:* If three or more tenants reside at an East Lansing rental property and the first noise violation is issued to tenant A (who is found responsible), the second to tenant B (who is found responsible), and the third to tenant C (who is also found responsible), then the 3<sup>rd</sup> noise violation has occurred on the rental property. It does not matter whether the three noise violations were issued to three different people; the number received on the rental property, not the number of people receiving citations, is what counts.

### What authority does the East Lansing Housing Commission have to impose sanctions?

Under EL Ord. §ES-1008.1, the following sanction may be imposed on a Rental Unit License:

- **The Housing Commission has authority to put certain terms and conditions on the rental property.** Terms and conditions may be imposed and enforced to prevent noise violations from reoccurring. Fines and sanctions may be imposed, e.g., the number of occupants allowed may be reduced for the remainder of the current lease, the number of guests allowed onto the rental property for a social event may be restricted, the use of alcohol may be restricted, and the like. The landlord/owner and the tenants are advised to work with the Housing staff.

Further violations of terms and conditions may result in more severe sanctions:

- The Housing Commission has authority to *suspend* the rental license.
- The Housing Commission has authority to *summarily suspend* the rental license.
- The Housing Commission has authority to *revoke* the rental license.

The landlord/owner will be provided notice of a findings hearing and a sanctions hearing before the Housing Commission. EL Ord. §ES-1008.6. This occurs after the 3<sup>rd</sup> finding of responsibility for a 3<sup>rd</sup> civil infraction noise violation, or after the 2<sup>nd</sup> guilty verdict on a 2<sup>nd</sup> misdemeanor noise violation—within a one-year period (August to August for Class I – IV licenses; any one-year period for other licenses).

After receiving notice of a hearing, the landlord/owner should provide the East Lansing Housing Commission with information about any remedial action taken, e.g., whether written or oral communications have occurred with the tenants, whether eviction proceedings have begun, whether the tenants moved out, or any other change in circumstances.

The Housing Commission may decide not to count a noise violation that had been issued on a rental property. A noise violation may not be counted when a landlord/owner offers evidence that a tenant had called the police for help because of a disturbance on the property, or when the disturbance actually occurred on the street and not at the rental property.



### RENTAL HOUSING CLINIC

(working in partnership with the City of East Lansing)  
541 East Grand River Avenue  
East Lansing, MI 48823  
(517) 336-8088, ext. 20—phone  
(517) 336-8089—fax

**Legal Notice and Disclaimer:** *The information contained in this brochure is specific only as to the East Lansing City Ordinance. Providing this information is not intended to create any legal relationship. Determining whether you need legal services and deciding on your choice of lawyer are important matters. Do not use the information provided to disregard any legal advice, or to delay seeking legal advice or representation.*

REVISED 12/2009