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STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

December 23, 2004

via personal delivery

PC# 11

Ms. Dorothy Gunn  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, IL 60601

**PUBLIC COMMENT LETTER**

**R03-9 - IN THE MATTER OF: PROPOSED NEW AND UPDATED RULES FOR  
MEASUREMENT AND NUMERICAL SOUND EMISSIONS STANDARD AMENDMENTS TO  
35 ILL. ADM. CODE 901 AND 910**

Dear Ms. Gunn,

On behalf of the Office of the Attorney General, I hereby submit the following public comment.

At the hearing in this matter held on May 15, 2003 in Chicago, I testified and suggested that the Board adopt a statewide regulation to limit the hours of operation for lawn care equipment and set limits on the sound levels for that equipment.

Although the Board turned down my request in its First Notice Opinion and Order in this matter dated October 16, 2003, I ask that that the Board consider the enclosed Ordinance and Chapter from the Village of Morton Grove's municipal code. Morton Grove limits the hours of operation for yard and lawn maintenance equipment and sets a decibel limit for the operation of such equipment.

In light of the attached Morton Grove municipal code provisions, I ask that the Board reconsider my testimony regarding a statewide regulation to limit the hours of operation for lawn care equipment and suggested limits on the sound levels for that equipment.

Sincerely,

**Mr. Howard Chinn, P.E.**  
Environmental Bureau  
188 W. Randolph St, 20<sup>th</sup> Floor  
Chicago IL 60601  
(312) 814-5393

cc: Service List (attached) via US Mail

**SERVICE LIST**

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## ORDINANCE 04-18

### AN ORDINANCE AMENDING TITLE 6, ENTITLED POLICE REGULATIONS OF THE MUNICIPAL CODE TO AMEND PROVISIONS OF CHAPTER 5 RELATED TO NOISE AND SOUND CONTROL WITHIN THE VILLAGE

WHEREAS, the Village of Morton Grove (VILLAGE), located in Cook County, Illinois, is a home rule unit of government under the provisions of Article 7 of the 1970 Constitution of the State of Illinois, can exercise any power and perform any function pertaining to its government affairs, including but not limited to the power to tax and incur debt; and

WHEREAS, the Village has a policy of regularly reviewing and revising the Municipal Code as necessary to insure that all provisions of the document remain compliant with contemporary statutes and relevant to current operations; and

WHEREAS, a detailed study of Title 6, Chapter 5 of the Municipal Code was undertaken; and

WHEREAS, in addition to normal wording updates some substantive changes were made for the abatement and control of noise within the Village.

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MORTON GROVE, COOK COUNTY, ILLINOIS AS FOLLOWS:

SECTION 1: The Corporate Authorities do hereby incorporate the foregoing WHEREAS clauses into this Ordinance as though fully set forth therein thereby making the findings as hereinabove set forth.

SECTION 2: Title 6, Chapter 5, entitled **Sound Amplifiers** is hereby revised by repealing Chapter 5 in its entirety to be replaced with a new Chapter 5 to now be entitled **Noise Control** to read as follows:

CHAPTER FIVE  
NOISE CONTROL

## SECTION:

- 6-5-1: Purpose and Intent
- 6-5-2: Applicability
- 6-5-3: Definitions
- 6-5-4: Prohibited Noise
- 6-5-5: Prohibited Acts Enumerated.
- 6-5-6: Exempt Sounds.
- 6-5-7: Affirmative Defense
- 6-5-8: Complaints of Noise.
- 6-5-9: Measurement of Noise.
- 6-5-10: Violation and Penalty.

6-5-1: **PURPOSE AND INTENT:** It is the policy of the Village that excessive or unwanted sound is a serious hazard to the public health, safety, welfare, and quality of life, and that the inhabitants of the Village should be free from and have a right to an environment of excessive or unwanted sound. Therefore, it is the policy of the Village and the purpose and intent of this Chapter to prohibit such excessive or unwanted sound as provided herein.

6-5-2: **APPLICABILITY:** This Chapter shall apply to sounds emitted within the Village, regardless of whether the complainant or the receiving property is within or outside the Village. This Chapter shall be in addition to any sound or noise regulations set forth in the Municipal Code. Nothing in this ordinance shall preclude enforcement by another jurisdiction of other applicable regulations.

6-5-3: **DEFINITIONS:** The following definitions shall apply to this Chapter. The definitions of any sound-related terms not defined herein shall be obtained from the American Standard Acoustical Terminology if defined therein.

**AMBIENT SOUND** The term "ambient sound" means the sound derived from all sound associated with a given environment, being usually a composite of sounds from many sources.

**DAYTIME HOURS** The term "daytime hours" means that period of a day between 7:00 a.m. and 10:00 p.m., on Monday through Fridays which are not legal holidays, 8:00 am and 10:00 p.m. on Saturdays, and 9:00 am and 10:00 p.m. on Sundays, and legal holidays

- dB(A) or dBA** The term "dB(A)" or "dBA" is an expression of the measurement of sound level based on the sound pressure level in decibels as measured on a sound level meter using the A-weighting network.
- DECIBEL** The term "decibel" means a unit for measuring the volume of a sound equal to twenty times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.
- EMERGENCY OPERATION** The term "emergency operation" means any emergency service provided by any police, fire and rescue departments, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.
- MOTORCYCLE** The term "motorcycle" means any motorized vehicle, whether registered as a motor vehicle or not, designed to travel on not more than three (3) wheels in contact with the ground and any four (4)-wheeled vehicle weighing less than five hundred (500) pounds, excepting riding mowers, farm and lawn tractors.
- MOTOR VEHICLE** The term "motor vehicle" means any self-propelled device or device designed for self-propulsion, upon or by which any person or property is or may be drawn or transported upon a road, except devices moved by human power or used exclusively upon stationary wheels or tracks.
- NIGHTTIME** The term "nighttime" or "nighttime hours" means that period of a day that is not daytime as described previously
- PERSON** The term "person" means any natural person, association, partnership, corporation or other legal entity.
- PROHIBITED NOISE** The term "prohibited noise" means any sound which annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures the safety or health of humans, or animals, or endangers or injures personal or real property, but does not include any sound which is exempt pursuant to section 6-5-6.
- PROPERTY LINE** The term "property line" means an imaginary line along the ground surface which separates the real property owned by one person from another.
- PUBLIC FACILITY** The term "public facility" means a structure or use generally open to the public, and includes but is not limited to schools, libraries, parks, hospitals municipal buildings and uses of a similar character.
- ROAD** The term "road" means a public or private thoroughfare which affords access to abutting property.

**6-5-4: PROHIBITED NOISE - GENERAL PROVISION:** Notwithstanding any other provision of this chapter, it shall be unlawful for any person to make, continue, or cause to be made or continued, any unnecessary or unusually loud sound which unreasonably annoys

or disturbs a reasonable person of normal sensitivities, or endangers or injures the safety, comfort, repose, health, or peace of others, or endangers or injures personal or real property within the limits of the village regardless of the time of day or night.

**6-5-5: EXAMPLES OF PROHIBITED NOISE:** The following acts shall be presumed to cause prohibited noise, but this enumeration shall not be deemed to be an exclusive list of acts of prohibited noise within the Village:

- A. **MOTOR VEHICLE OR MOTORCYCLE OPERATION.** Motor vehicle or motorcycle operation. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other prohibited noise, including without limitation (i) the removal, alteration or failure to properly maintain its muffler-exhaust or other noise-control equipment; or (ii) jackrabbit starts, spinning tires, racing engines, or other operations.
- B. **RADIOS, STEREOS, ETC.** The using, operating or permitting to be played, used or operated of any radio, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of others at any time. The operation of any such set, instrument, phonograph, machine or device during nighttime hours in such a manner as to be plainly audible on a property or in a dwelling unit other than that in which it is located, or at a distance of 25 feet from the building, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this section.
- C. **PLACES OF PUBLIC ENTERTAINMENT.** The operation, or permitting the operation, of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces or amplifies sound in any place of public entertainment in such a manner as to annoy or disturb the quiet, comfort or repose of any person not within the place of public entertainment.
- D. **HORNS, SIGNALING DEVICES, ALARMS, ETC.** The sounding of any horn, alarm or signaling device on any automobile, motorcycle, or other vehicle, except as a danger warning; the creation by means of any such signaling device of any loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time. The use of any horn, whistle, or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- E. **LOUDSPEAKERS, AMPLIFIERS FOR ADVERTISING.** The using, operating, or permitting to be played, used or operated any radio, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- F. **YELLING, SHOUTING, ETC.** Yelling, shouting, hooting, or whistling, particularly during nighttime hours, or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, or of any persons in the vicinity.

- G. **ANIMALS, BIRDS, ETC.** The keeping of any animal or bird which by causing frequent or long continued noise, so as to unreasonably disturb the comfort or repose of persons in the vicinity.
- H. **EXHAUSTS.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises.
- I. **CONSTRUCTION NOISE.** Loud noises from construction or repairing of buildings, the erection (including excavation), demolition, alteration or repair of any building on other than public improvement other than during 7:00 am to 6:00 pm Monday through Friday; 8:00 am to 6:00 pm Saturday; or anytime on Sunday except in cases of emergency or necessity in the interest of public health and/or safety, and then only with a permit granted by the Building Commissioner or his or her designee. Noise from do-it-yourself projects performed by the homeowner will be allowed for two additional hours until 8:00 pm.
- J. **LIVE BAND.** The play, practice or conduct of live band activities with or without using sound amplifying equipment in such a manner as to annoy or disturb the quiet, comfort or repose of any person not within the place where the activity is conducted (or if a condominium or apartment house, within any adjoining apartment) or when such activity is conducted during nighttime hours so as to be plainly audible at an abutting residential property line or within any dwelling unit which is not the source of sound.
- K. **YARD AND LAWN MAINTENANCE EQUIPMENT.** The operation of yard and lawn maintenance equipment or other power tools or appliance during nighttime hours so as to be plainly audible at an abutting residential property line.
- L. **GARBAGE TRUCKS, SCAVENGER SERVICES.** All garbage, and dumpster pickup other than between the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday.
- M. **SOUND LEVEL EXCEEDING AMBIENT SOUND LEVEL BY 15 DECIBELS.** There shall be a rebuttable presumption that a person who creates, causes to be created or permits sound which causes a fifteen (15) dBA increase in the sound level above the ambient sound level, as measured at an abutting property line has caused prohibited noise in violation of this chapter.

6-5-6: **EXEMPT SOUNDS:** The following sounds shall not be prohibited by this Chapter:

- A. **EMERGENCY OPERATIONS.** Sound generated in the performance of emergency operations.
- B. **CONSTRUCTION, DEMOLITION AND/OR MAINTENANCE ACTIVITIES.** Sounds generated from duly permitted construction, demolition and/or maintenance activities as allowed and pursuant to Municipal Code Section 10-1-3: **CONSTRUCTION ACTIVITY RESTRICTIONS.**
- C. **TRANSIENT SOUNDS FROM TRANSPORTATION.** Transient sounds from public roadways generated by transportation including, but not limited to, lawfully operated public

and private motor vehicles, aircraft, railroads and other means of public transit (except as otherwise regulated).

- D. **SCHOOL AND OTHER ATHLETIC CONTESTS OR PRACTICES AND OTHER SCHOOL ACTIVITIES.** Sounds generated from school and other athletic contests or practices, and other school activities.
- E. **COMMUNITY SANCTIONED EVENTS.** Sounds generated from parades, public gatherings, fireworks or other officially sanctioned community events.
- F. **YARD MAINTENANCE ACTIVITIES.** Sounds generated from routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, and leaf blowing during daytime hours and snow removal activities during daytime hours and within twelve hours after a snowfall.
- G. **WARNING DEVICES.** Sounds generated by a horn or warning device of a vehicle when reasonably used as a warning device, including back-up alarms for trucks and other equipment.
- H. **BELLS, CHIME OR CARILLONS.** Sounds generated by bells, chimes, or carillons or like devices, while being used for religious purposes, or in conjunction with religious services, or for national celebrations or public holidays.
- I. **GOVERNMENT SERVICE.** Sounds generated from the provision of authorized services of the United States, the State of Illinois, or a local unit of government.
- J. **PROTECTED EXPRESSION.** Any other lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression.

6-5-7: **AFFIRMATIVE DEFENSE:** It shall be an affirmative defense to any violation in this chapter that compliance with this chapter will result in an arbitrary and unreasonable taking of property, or will impose an undue economic burden upon any lawful business, occupation or activity, and that the otherwise prohibited noise will not result in a condition injurious to health or safety.

6-5-8: **COMPLAINTS OF NOISE:** No person shall be charged with a violation of the provisions of this Chapter unless the complainant requests a citation be issued, except, if a violation of prohibited noise is committed in the presence of a Morton Grove Code Enforcement Officer or any Police Officer, he or she shall have the authority to issue any appropriate citation or initiate any proceedings necessary to protect the safety or health of the public.

6-5-9: **MEASUREMENT OF NOISE – CONFORMANCE TO ANSI STANDARDS:** The Village shall use procedures for the measurement of sound that conform to the standards and recommended practices established by the American National Standards Institute, Inc.



6-5-10: **VIOLATION AND PENALTY:** Any person violating any of the provisions of this Article shall be fined not less than seventy-five dollars (\$75.00) nor more than seven hundred and fifty dollars (\$750.00) for each offense, and every day that such violation is permitted to continue shall constitute a distinct and separate offense. As an additional remedy the operation or maintenance of any device, instrument, vehicle, or machinery or the continuation of prohibited noise in violation of any provision of this chapter may be subject to abatement summarily by a restraining order or injunction issued by a court or administrative hearing proceeding of competent jurisdiction.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form according to law.

PASSED this 26<sup>th</sup> day of July 2004.

Trustee Blonz

Ayes

Trustee DiMaria

Ayes

Trustee Gomborg

Ayes

Trustee Karp

Ayes

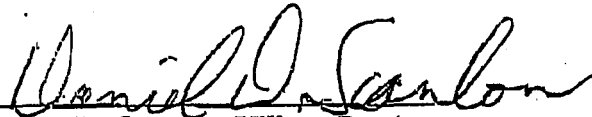
Trustee Krier

Absent

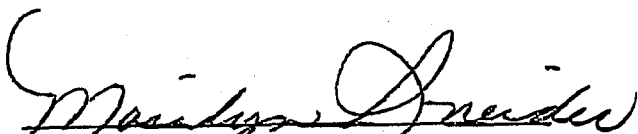
Trustee Staackmann

Ayes

APPROVED by me this 26<sup>th</sup> day of July 2004.

  
Daniel D. Scanlon, Village President  
Village of Morton Grove  
Cook County, Illinois

APPROVED and FILED in my office this  
27<sup>th</sup> day of July 2004.

  
Marilyn Sneider, Village Clerk  
Village of Morton Grove  
Cook County, Illinois

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# VILLAGE OF MORTON GROVE FAX COVER SHEET

Richard T. Flickinger Municipal Center  
6101 Capulina Avenue, Morton Grove, IL 60053-2902  
Tel: (847) 965-4100 • Fax: (847) 965-4162

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Of: \_\_\_\_\_

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