

HAMILTON TOWNSHIP ANTI-NOISE AND PUBLIC NUISANCE ORDINANCE

An ordinance to provide for the regulation of noise and public nuisance in all Zoning Districts situated in the Township of Hamilton, Clare County, Michigan, pursuant to MCLA 41.181, et seq:

The Township of Hamilton
Clare County, Michigan

ORDAINS

SECTION 1 TITLE

This Ordinance shall be known and cited as the Hamilton Township Anti-Noise and Public Nuisance Ordinance.

SECTION 2 PURPOSE

The purpose of the Ordinance being to protect the Health, Safety, and General Welfare of persons and property in the Township of Hamilton; by the regulation of noise within Hamilton Township and to prevent or reduce excessive noises and nuisances within Hamilton Township.

SECTION 3 DEFINITIONS

1. The term “**construction**” means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.
2. The term “**demolition**” means any dismantling, intentional destruction or removal of structures, utilities, public or private rights-of-way surfaces or similar property.
3. The term “**emergency work**” means work made necessary to restore property to a safe condition following a public calamity or act of God, or work required to protect the health and safety of persons or property.
4. The term “**noise**” means any sound which annoys or disturbs humans or which causes or tends to cause substantial annoyance or an adverse psychological or physiological effect on humans.
5. The term “**off-road recreational vehicle**” means any motor driven off-road recreational vehicle capable of cross-country travel without the benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain, including, but not limited to, a multi-track or multi-wheeled drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a snowmobile,

a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind.

6. The term "*person*" shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this Ordinance, whether as owner, occupant, lessee, agent, servant, or employee shall, except as herein otherwise provided, be equally liable as principals.
7. The term "*residential area*" means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally non-conforming, for residential use.

SECTION 4 GENERAL PROHIBITIONS

- A. No person shall make, continue or cause to be made or continued:
 1. Any unreasonable loud or raucous noise; or
 2. Any noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of Hamilton Township; or;
 3. Any noise which is harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.
 4. Any noise and/or activity prohibited pursuant to Section 5 of this Ordinance.
- B. Factors for determining whether a violation of this Ordinance exists shall include, but are not limited to, the following:
 1. The proximity of the noise to sleeping facilities, whether residential or commercial;
 2. The time of day or night the noise occurs;
 3. The duration of the noise;
 4. The volume and intensity of the noise;
 5. Whether the noise is recurrent, intermittent or constant;
 6. Whether the origin of the noise is natural or unnatural; and
 7. Whether the origin of the noise is usual or unusual.

SECTION 5 VIOLATIONS

The following noises, disturbances and/or activities are declared to be a violation of this Ordinance and a nuisance; however, the enumeration of specific violations in this Ordinance is not be construed to exclude other violations not specifically enumerated:

1. **Unreasonable or excessive noises:** The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous, excessive or unusual noise, disturbance, commotion or vibration in any dwelling, place of business or other structure, or upon any public street, park or other place or building. The ordinary and unusual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standard practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.
2. **Vehicle horns, signaling devices, and similar devices:** The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of Hamilton Township, repetitively or for more than ten consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.
3. **Non-emergency signaling devices:** Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any location repetitively or for more than ten consecutive seconds in any hourly period.
4. **Emergency signaling devices:** The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in Subsections a and b, below;
 - a. Testing of an emergency signaling device shall occur between the hours of 7:00 am and 7:00 pm. Any testing shall use only the minimum cycle test time. In no case shall test time exceed five minutes.
 - b. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within 15 minutes of activation unless an emergency exists.
5. **Construction noises and operation of machinery on construction sites:** The operation of any machinery, equipment and mechanical devices or construction (including hammering, sawing, and other loud activities) so as to emit unreasonably loud repetitive noise which is disturbing to the quiet, comfort or repose of any person is only permitted between the hours of 7:00 am and 8:00 pm, Monday through

Saturday and from hours of 12:00 noon to 6:00 pm on Sunday. This provision shall apply to construction noises resulting from the erection (including excavation), demolition, alteration or repair of any building, bulldozing and other excavation work on property, and the excavation of streets and highways. A deviation from this limitation may be authorized by the Hamilton Township Zoning Administrator if a permit is obtained in advance, upon showing of good cause that the excessive noise is required in order to complete the work or upon showing that the noise will not result in unreasonable disturbance to residential neighbors. In the case of emergency work, construction or repair noises are exempt from this provision.

6. **Off-road recreational vehicles (ATVs, ORVs, dirt bikes, motorcycles, snowmobiles, four wheel drive vehicles or any other motorized vehicle operated off-road:** All off-road recreational vehicles operated in Hamilton Township must meet the requirements of the Michigan Statute pertaining to operation of off-road recreational vehicles (MCL 324.81101 through MCL 324.82160). Operation of any off-road recreational vehicle without a muffler is deemed to be a violation of this Hamilton Township Ordinance. Operation of any off-road vehicle at a decibel level prohibited by Michigan Statute is deemed a violation of this Hamilton Township Ordinance.
7. **Race tracks:** The operation of any race track, proving ground, testing area, obstacle course, or trail for motor vehicles, motorcycles, off-road vehicles or other motorized vehicles (whether for racing, individual motocrossing, or recreational activities) is only permitted Monday through Saturday from the hours of 9:00 am until 7:00 pm (or dusk, if dusk occurs earlier than 7:00 pm) and on Sundays from 12:00 noon until 6:00 pm (or dusk, if dusk occurs prior to 6:00 pm). Such activities are only permitted on property which has been approved for such use by Hamilton Township pursuant to the requirements of the Hamilton Township Zoning Ordinance.
8. **Radios, televisions, boom boxes, phonographs, stereos, musical instruments and similar devices:** The use or operation of a radio, television, boombox, stereo, musical instrument, or other similar device from any source, including a motor vehicle that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet and comfort of neighbors in residential areas, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area or public space at any time or place as to unreasonably disturb the quiet, comfort and repose of persons in the neighborhood.
9. **Yelling, shouting and similar activities:** Yelling, shouting, hooting, whistling, or singing in residential areas or in public places, prior to 7:00 am and after 10:00 pm or at a time or place so as to unreasonably disturb the quiet, comfort and repose of persons in the neighborhood.
10. **Animal noises:** The keeping of any animal, bird or fowl, which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any

person in the vicinity; such as keeping or harboring any dog which by loud, frequent or habitual barking, yelping, howling or other noise materially disturbs the peace and quiet of the neighborhood or public, or causes annoyance to persons in the neighborhood. Repetitive animal noises (i.e. barking) are also a violation of the Hamilton Township Nuisance Animal Ordinance and this Ordinance, except that a kennel that meets the requirements of the Hamilton Township Zoning Ordinance is exempt from the prohibition against repetitive noises.

11. **Vehicle repair:** The operation of any automobile, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably disturbing to the quiet, comfort or repose of other persons. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured, shall be in violation of this section. The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle, or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises. The creation of loud or excessive noise disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.
12. **Instruments for commercial purposes:** The use of a drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose which, by the creation of such noise, shall be disturbing to other persons in the vicinity.
13. **Loud speakers:** The operation of any loudspeaker or other sound amplifying device upon any vehicle on the streets of the Township with the purpose of advertising, where such vehicle, speaker or sound amplifying device emits loud and raucous noises easily heard from nearby adjoining residential properties.

SECTION 6 EXEMPTIONS

The following activities are hereby exempt from the provisions of this Ordinance.

- A. The activities of government entities being provided by or on behalf of the State of Michigan, Hamilton Township, or the County of Clare, for the public health, safety and welfare shall be exempt from this Ordinance.
- B. Normal sounds emanating from farm equipment in good working condition being operated lawfully and in a reasonable manner.
- C. Warning devices emitting sound for warning purposes as authorized by law.

- D. Noises permitted by the issuance of a noise permit by the Hamilton Township Zoning Administrator.

SECTION 7 NOISE PERMIT

The Hamilton Township Zoning Administrator may, at his/her reasonable discretion, upon request, issue a permit allowing otherwise prohibited noise under circumstances and for a time period as follows:

- A. A concert or special event, with the permit to specify hours of operation and to be for no more than three consecutive days. No more than three concert permits may be issued to any individual or property in any calendar year.
- B. Any other legal activity which, because of special circumstances, is not otherwise permitted by this Ordinance. In such cases, the Zoning Administrator must specify the special circumstances that justifies the granting of the permit and shall impose reasonable terms and conditions designed to minimize any adverse impact of the proposed activity on surrounding property owners. Each such permit shall be in writing and not for a time period longer than 72 hours.

SECTION 8 PENALTIES

- A. First Violation is a Municipal Civil Infraction.** A violation of this Ordinance, first offense, is a municipal civil infraction. Any property owner or legally responsible party who violates this Ordinance shall, as a first offense, be responsible for a civil infraction, for which the fine shall be \$250.00 plus fines, costs and restitution.
- B. Second Violation (within two years after municipal civil infraction).** A second or repeat violation (within two years after a municipal civil infraction) is a misdemeanor. Any property owner or legally responsible party who violates any provision of this Ordinance a second time within 24 months of the date a civil infraction ticket is issued (whether the violation of this Ordinance is for the same offense as a civil infraction or for some other offense under this Ordinance) shall upon conviction and in a court of competent jurisdiction be guilty of a misdemeanor and be subject to a fine of \$500.00, plus court costs and costs of prosecution that may be ordered by the court. For purposes of this Ordinance, each day that a violation occurs shall constitute a separate offense.
- C. Third Violation (within two years after municipal infraction)** Any property owner or legally responsible party who violates any provision of this Ordinance a third time within 24 months of the date of a civil infraction ticket is issued (whether the violation of this Ordinance is for

the same offense as a civil infraction or for some other offense under this Ordinance) shall upon conviction in a court of competent jurisdiction be guilty of a misdemeanor and be subject to a fine of \$500.00 and/or imprisonment for a period of not more than 93 days, plus court costs and costs of prosecution that may be ordered by the court. For purposes of this Ordinance, each day that a violation occurs shall constitute a separate offense.

- D. Enforcement.** Enforcement of the provisions of this Ordinance shall be the Hamilton Township Zoning Ordinance Enforcement Officer (or such other Hamilton Township Official as may be designated by the Hamilton Township Board), the Hamilton Township Zoning Administrator, the Hamilton Township Attorney, the Clare County Sheriff's Department and/or the Michigan State Police.
- E. Continuing Offense.** Each act of violation and each day upon which any such violation shall occur, shall constitute a separate offense.
- F. Remedies Not Exclusive.** In addition to any remedies provided for in this Ordinance, any equitable or other remedies available may be sought.
- G. Judge or Magistrate.** The Judge or Magistrate shall also be authorized to impose costs, damages, and expenses as provided by law.
- H. Civil Contempt.**
1. If a defendant defaults in the payment of a civil fine, costs, damages, expenses, or installment as ordered by the District Court, upon motion of Hamilton Township or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
 2. If a corporation or an association is ordered to pay a civil fine, costs, damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
 3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for a payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
 4. If it appears that the default in the payment of a civil fine, costs, damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, damages or expenses.

**SECTION 9
SEVERABILITY**

The provisions, sections, sentences and phrases of this Ordinance are declared to be severable and if any such portion is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such finding shall in no way affect or invalidate the remainder of this Ordinance.

**SECTION 10
EFFECTIVE DATE**

The Ordinance shall become effective immediately upon publication as required by law following adoption by the Hamilton Township Board.