

AUGUSTA CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN

ORDINANCE NO. 17-05

Noise Ordinance

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE UNDER THE AUTHORITY OF PUBLIC ACT 359 OF 1947, AS AMENDED, AND FOR THE REGULATION, CONTROL AND PROHIBITION OF NUISANCES CAUSED BY LOUD NOISES THAT DISTURB OR ANNOY THE COMFORT, QUIET AND REPOSE OF OTHER PERSONS AND RESIDENTS IN THE TOWNSHIP, AND TO PROVIDE PENALTIES FOR VIOLATION THEREOF.

THE CHARTER TOWNSHIP OF AUGUSTA ORDAINS:

SECTION 1: TITLE. This Ordinance shall be known and may be cited as the Augusta Charter Township Noise Ordinance.

SECTION 2: PURPOSE. The intent of this ordinance is to provide the Township with an enforceable community noise nuisance ordinance that acknowledges Augusta Township residents are entitled to enjoy their property free from unreasonably loud, disturbing or unnecessary noise, and at the same time, respect the right of people in the Township to normal daily activities without unreasonable interference.

SECTION 3: DEFINITIONS.

- A. "Plainly audible" sound means any sound which can be easily heard at a distance of 50 feet or beyond. The 50 foot distance shall be measured as follows:
1. When the sound emanates from private real property, the measurement shall commence at the property line and continue from that point 50 lineal feet into the adjoining property. This includes motorized vehicles operated on the private real property.
 2. When the sound emanates from a motorized vehicle on a public or private roadway, the measurement shall be 50 lineal feet from the point of the sound's origin.
- B. "Motorized vehicle" means a self propelled device equipped with a motor used to transport or carry persons on roads or on off-road terrain.

SECTION 4: VIOLATIONS. It shall be unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any unreasonably loud, unusual, or unnecessary noise, or any noise that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of another person in the Township and that is plainly audible.

SECTION 5: SPECIFIC ACTS PROHIBITED.

A. The playing of any radio, phonograph, tape recorder, stereo, musical instrument, television or any sound amplification devise of any character in such a manner or with such volume that is plainly audible, at any time or place, and that annoys or disturbs the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any person in the vicinity.

B. The owner and person in possession or control of a domestic animal shall not allow the animal to create a nuisance by loud barking, yelping, whining, meowing or other sound that is plainly audible and annoys or disturbs the quiet comfort or repose of persons in any office, dwelling, hotel or any other type of residence or of any persons in the vicinity. .

C. The discharge into the open air of exhaust of any steam engine, compressed air machine, stationary internal combustion engine, motor vehicle, or any other machine, except through a muffler or other devise that will effectively prevent loud or explosive or disturbing noises.

D. The operation of any on or off road vehicle on private or public property in a manner that is plainly audible and creates a nuisance by annoying or disturbing the quiet comfort or repose of persons in any office, dwelling, hotel or any other type of residence or of any persons in the vicinity.

E. Yelling, shouting, whistling, loud talking or singing on the public streets or private property particularly between the hours of 10:00 p.m. and 7:00 a.m., or at any other time or place, that is plainly audible and otherwise annoys or disturbs the quiet comfort or repose of persons in any office, dwelling, hotel or any other type of residence or of any persons in the vicinity.

F. Construction, repair, erection, excavation, demolition, alteration or remodeling at any time on Sunday and between the hours of 8:00 p.m. and 7:00 a.m. Monday through Saturday, except in case of urgent necessity in the interest of public safety and then only upon permission having been first obtained from the Township.

G. The firing of firearms, air guns, or other combustible substances for the purpose of making a noise or disturbance.

H. The excessive sounding of any horn or signal devise, emanation from a motor vehicle, so as to create any loud or harsh sound plainly audible within any dwelling unit or residence, except as a warning of danger signal or an alert.

I. The creation of loud, unnecessary noise between the hours of 10:00 p.m. and 7:00 a.m. in connection with the loading or unloading of any vehicles, or the opening, closing, or destruction of any boxes, crates or containers.

SECTION 6. EXEMPTIONS. This ordinance shall not apply to the following:

- A. Sound which is generated incidental to a person's reasonable use and care of private property, including, but not limited to, lawn mowers, tractors, trimmers, and snow blowers where the equipment has been maintained in normal and usual operating condition to limit its noise generation;
- B. Sound which is generated by an activity specially authorized by another ordinance;
- C. Sound which is generated by a special event specially authorized by the Township Board of Trustees;
- D. Sound which is generated as a result of bona fide agricultural activities or by agricultural animals.

SECTION 5. REGISTERED OWNER OF MOTOR VEHICLE PRESUMED RESPONSIBLE.

In a prosecution for a violation of Section 4 or 5, proof that the particular motor vehicle described in the municipal civil infraction was used in the violation together with proof that the defendant named in the municipal civil infraction was the owner of the motor vehicle at the time of the violation constitutes in evidence a presumption that the registered owner of the motor vehicle was the person who operated or controlled the motor vehicle when the noise violation occurred. The person in whose name the motor vehicle is registered with the secretary of state is presumed to be the registered owner of the motor vehicle.

SECTION 6. PENALTY FOR VIOLATION.

Any person violating Section 4 or 5 shall be responsible for a municipal civil infraction and shall be subject to a fine as follows:

- 1. The fine for any first violation shall be \$100.00;
- 2. The fine for any violation which the violator has, within the past two years, been found in violation once before shall be \$250.00;
- 3. The fine for any violation which the violator has, within the past two years, been found in violation of twice before, shall be \$500.00;
- 4. The fine for any violation which the violator has, within the past two years, been found in violation of three or more times before, shall be \$1000.00.

In addition to the penalties provided for herein, any person who violates any provision of this Ordinance shall pay to the Township enforcement costs and attorney fees and is subject to other sanctions as provided for under Chapter 87 of the Revised Judicature Act, P.A. 236 of 1961, being MCL §600.8701 et. seq., as amended.

SECTION 7. SEVERABILITY. The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, section or subsection is declared void or inoperable for any reason by any court, it shall not affect any other part or portion hereof other than the part declared void or inoperable.

SECTION 8. REPEAL. Any other Augusta Township ordinance or provisions of such ordinances that are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, hereby repealed.

SECTION 9. SAVINGS CLAUSE. The repeal provided herein shall not abrogate or affect any offense committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation or prosecution occurring prior to the effective date hereof.

SECTION 10. PUBLICATION AND EFFECTIVE DATE. The Township Clerk shall cause this Ordinance to be published in the manner required by law. This Ordinance shall be effective as of the date of final publication of the Ordinance.

This Ordinance was duly adopted by the Augusta Charter Township Board at its regular meeting called and held on the ___ day of _____, 2017, and was ordered given publication in the manner required by law.

First Reading: May 22, 2017

Second Reading/Passage: _____

Publication Date: _____

Effective Date: _____

Belynda Domas, Clerk
Charter Township of Augusta

Brian Shelby, Supervisor
Charter Township of Augusta

CERTIFICATE

I, Belynda Domas, Clerk of the Charter Township of Augusta, Washtenaw County, Michigan, hereby certify that the foregoing constitutes a true and complete copy of Augusta Charter Township Ordinance No. 17-05, which was duly adopted by the Township Board of Augusta Charter Township at a Regular Meeting of said Board, held on _____, 2017, after said ordinance had previously been introduced at a Regular Meeting of the Board held May 22, 2017, and published in the form it was introduced in accordance with P.A. 359 of 1947, as amended.

I further certify that Member Shelby moved for the adoption of said Ordinance, and that Member Ortiz supported said motion.

I further certify that the following Members voted for adoption of said Ordinance _____ and that the following Members voted against adoption of said Ordinance _____ and that the following Members were absent or abstained from voting on the adoption of said Ordinance as indicated _____.

I further certify that after its passage the Ordinance was published in the _____ News on _____, 2017, in accordance with P.A. 359 of 1947, as amended.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township and that such recording has been authenticated by the signatures of the Supervisor and the Township Clerk.

Belynda Domas, Clerk
Charter Township of Augusta

Dated: _____, 2017