

**ROSE TOWNSHIP
PROPOSED ORDINANCE NUMBER 156
AN ORDINANCE TO ADD CHAPTER 5, NUISANCE REGULATIONS
TO THE ROSE TOWNSHIP CODE OF ORDINANCES**

Chapter 5, Article 1, is hereby added to the Rose Township Code of Ordinances, to read as follows:

Chapter 5. Nuisance Regulations

Article 1. Noise and Disturbing the Peace

Section 1-1. Purpose

The purpose of this Article is to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of Rose Township through reduction, control and prevention of loud and raucous noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensibilities.

Section 1-2. Definitions.

"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.

"Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

"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.

"Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

"Off-Road Recreational Vehicle" means any motor driven off-road recreation vehicle capable of cross-country travel without 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 multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind.

"Person" means any individual, firm, association, partnership, joint venture, or corporation.

"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-confirming, for residential use.

"Township" means the Township of Rose, Oakland County, Michigan.

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Section 1-3. General Prohibition

No person shall make, continue, or cause to be made or continued:

- (1) Any unreasonably 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 the Township; or
- (3) Any noise which is so 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 businesses, or as to detrimentally or adversely affect such residents or places of business.

Factors for determining whether a violation of this Section exists shall include, but not be limited to, the following:

- (a) The proximity of the noise to sleeping facilities, whether residential or commercial;
- (b) The time of day or night the noise occurs;
- (c) The duration of the noise
- (d) The volume and intensity of the noise;
- (e) Whether the noise is recurrent, intermittent, or constant
- (f) Whether the origin of the noise is natural or unnatural; and
- (g) Whether the origin of the noise is usual or unusual.

Section 1-4. Per Se Violations

By way of example, but in no respect by way of limitation, the following specific activities occurring on public or private property and clearly audible beyond the property line shall be deemed a per se violation of this Article:

- (1) *Unreasonable Noises:* The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration at any boarding facility, dwelling, place of business or other structure, or upon any public street, park or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standard of 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 Device, 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 the township, for more than ten (10) consecutive seconds. The sounding of

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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 the sounding of any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the Township for traffic control purposes are exempted from this provision.
- (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 7:00 AM and 7:00 PM. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
 - (b) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen (15) minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this Article.
- (5) *Construction Noises:* The creation of noise which is clearly audible beyond the property from which it is emanating, resulting from the erection (including excavation), demolition, alteration or repair of any building, and the excavation of streets and highways, at any of the following times: Prior to 7:00 AM and after 10:00 PM. A deviation from such limitation shall be authorized if a permit is obtained in advance from the Township Supervisor, or the Supervisor's designee, upon a showing that the noise will not result in an unreasonable disturbance of one (1) or more residential occupants. In cases of emergency work, construction or repair noises are exempt from this provision.
- (6) *Unloading of Materials:* The creation of noise in connection with the delivery, loading and/or unloading of materials, goods or other merchandise by the use of motorized equipment, metal-tired hand trucks, racks, conveyors, or other types of equipment at any of the following times: prior to 7:00 AM and after 10:00 PM, Monday – Friday; prior to 10:00 AM and after 10:00 PM on Saturdays and Sundays, where the noise from such loading and/or unloading is clearly audible more than one hundred (100) feet from the property from which the noise is emanating.
- (7) *Off-Road Recreational Vehicles:* The use or operation of an off-road recreational vehicle in such a manner to cause private or public nuisance. For purposes of this section, a public or private nuisance shall be deemed to have occurred when the operation of the off-road recreational vehicle is conducted in such a manner as to unreasonably intrude on the privacy or peaceful enjoyment of residential property owners, including, but not limited to the following conduct:

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- (a) Operating or permitting the operation of an off-road recreational vehicle in a manner causing unreasonably loud noise as defined in Section 1-2 of this Article;
 - (b) Operating or permitting the operation of an off-road recreational vehicle in a careless or negligent manner likely to endanger persons or property;
 - (c) Operating or permitting the operation of an off-road recreational vehicle at a rate of speed greater than is reasonable and proper, having due regard for conditions then existing;
 - (d) Operating or permitting the operation of an off-road recreational vehicle without a muffler properly attached and in constant operation to prevent excessive or unusual noise and annoying smoke. The muffler must be in good working order and in constant operation.
- (8) *Radios, Televisions, Boom boxes, Phonographs, Stereos, Musical Instruments and similar devices:* The use or operation of a radio, television, boom box, stereo, musical instrument or similar device 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 of the following times: prior to 7:00 AM and after 10:00 PM.
- (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 any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.

Section 1-5 Exemption

The activities of government entities being provided for the public health, safety and/or welfare shall be exempt from this Article.

Section 1-6 Nuisance

Any violation of any provision of this Article is hereby declared to be a nuisance per se and is enjoined by appropriate legal action.

Section 1-7 Violation Penalties

- (1) A violation of this Article shall be deemed a municipal civil infraction subject to penalties set forth in the municipal civil infraction provisions of the Rose Township Code of Ordinances.
- (2) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punishable separately.
- (3) The Township reserves the right to seek injunctive relief from the circuit court to enforce compliance with this Article and to permit the Township to petition the court for an order impounding and allowing the sale of the blighting factors where appropriate.

