

Hamburg Township
Ordinance 94-D
Breach of Peace Ordinance

An ordinance to maintain and preserve the peace and good order of the Township of Hamburg; to prescribe the conduct which constitutes a breach of said peace and order; and to provide for the penalties for the violation hereof.

Section 1.0. Title

This Ordinance shall be known and cited as the Hamburg Township Breach of Peace Ordinance.

Section 2.0. Purpose

The purpose of this Ordinance is to promote the public health, safety, comfort and general welfare of the community through the proper regulation of noise and conduct which unreasonably interferes with another person's use and enjoyment of private real property, interferes with another person's use or enjoyment of public facilities or disturbs the peace, tranquility and good order of the Township of Hamburg.

Section 3.0. Definitions

APA standard 87-1 means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.

Cemetery means any property owned, operated, or maintained by Hamburg Township used for the burial or internment of deceased persons.

Consumer firework means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.

Low-impact firework means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

Plainly Audible means any sound that can be clearly detected by a person using his or her unaided hearing faculties.

Property line means either (a) the boundary line that separates one parcel of real property from another; (b) the boundary line that separates one parcel of real property from a body of water; or (c) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building;

Public facilities mean public parks, cemeteries and Township buildings as defined herein.

Public park means any property owned, leased or operated by Hamburg Township or the State of Michigan which is used by the public for recreational purposes.

Residential disturbance means a gathering of more than one (1) person at a residential property between the hours of 10:00 p.m. and 7:00 a.m., at which noise associated with the gathering, including human voices, is frequent, repetitive or continuous for a period of fifteen minutes (15) or more and is plainly audible at a distance of one-hundred (100) feet or more beyond the property line or plainly audible within another person's residential dwelling.

Residential dwelling means any building or structure or part of a structure used by one or more persons for habitation and includes, but not limited to, houses, condominiums, apartments, boarding rooms, and mobile homes.

Residential Street means any street or roadway, whether public or private, which is located within any of the Hamburg Township Zoning Districts, as established by the Hamburg Township Zoning Ordinance, where the property adjoining the street or roadway is authorized to be used for dwelling purposes.

Sports Official means any person authorized to act in a sporting or other competitive event as a judge, referee or umpire of such event.

Township means Hamburg Township, Livingston County, Michigan.

Township Building means any building, structure or other facility owned or operated by Hamburg Township and used for a public purpose.

Township employee means any full-time employee, part-time employee, temporary employee, seasonal employee or on-call employee of Hamburg Township. It also shall mean any unpaid volunteer or intern performing work for Hamburg Township as authorized by the Township Board.

Section 4.0. General Prohibition

Any person who shall create or assist in creating or maintaining any unnecessary or unreasonable noise, disturbance, trouble or improper diversion or engages in conduct which unreasonably interferes with another person's use and enjoyment of private real property, interferes with another person's use or enjoyment of public facilities, causing a reasonable person to feel intimidated, threatened or harassed in a place open to the general public by means of yelling, screaming or using voice amplification devices, or disturbs the peace, tranquility and good order of the Township of Hamburg shall be in violation of this Ordinance.

Section 5.0. Specific Prohibitions

The following specific acts and noises are hereby declared to be an unnecessary or unreasonable interference with the peace and good order of the Township of Hamburg and/or its residents and are hereby deemed a Breach of the Peace in violation of this Ordinance:

- a. No person shall operate any power lawn equipment including, but not limited to, lawn mowers, leaf blowers, power edgers, power sheers/trimmers or power saws within five hundred (500) feet of a residential dwelling between the hours of 10:00 p.m. and 7:00 a.m.
- b. No person shall engage in any type of construction, repair, remodeling, drilling, woodcutting or excavating within five-hundred (500) feet of a residential dwelling between the hours of 10:00 p.m. and 7:00 a.m.
- c. No person shall use or operate or permit to be used or operated any radio, television, phonograph, musical instrument, speaker, amplifier or other machine or device for the producing, reproducing or amplification of sound with louder volume than is necessary for convenient hearing for the person or persons who are voluntary listeners thereto. It shall be prima facie evidence of a violation of this Ordinance if sound emanating from such machine or device is:
 1. Plainly audible beyond the property line of the location where the machine or device is being used between the hours of 10:00 p.m. and 7:00 a.m.
 2. Plainly audible at a distance of one-hundred (100) feet beyond the property line of where the machine or device is being used or is plainly audible within a residential dwelling between the hours of 7:00 a.m. and 10:00 p.m.
 3. Plainly Audible at a distance of one-hundred (100) feet from such machine or device if operated from a motor vehicle on a public street or parking lot open to the public.
 4. Plainly Audible at a distance of one-hundred (100) feet from such machine or device when operated in a public park or other place open to the public.
- d. Pursuant to Public Act 256 of 2011, as amended, (specifically, MCL 28.457), a/k/a the Michigan Fireworks Safety Act, no person shall ignite, discharge, or use any consumer fireworks anywhere in the Township:
 1. Before 11:00 a.m. or after 11:45 p.m. June 29th through July 5th, inclusive, excepting July 5th, if that date is a Friday or Saturday, until 11:45 p.m.;
 2. Before 11:00 a.m. or after 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day and Memorial Day;
 3. Before 11:00 a.m. on December 31st or after 1:00 a.m. on January 1st;
 4. Before 11:00 a.m. or after 10:00 p.m. on any other day of the year not specifically cited in this Ordinance.
- e. No person shall yell, shout, whistle, sing or otherwise communicate in a manner or at a volume:

1. Where such communication is plainly audible at a distance of one-hundred (100) feet from the person on a residential street between the hours of 10:00 p.m. and 7:00 a.m.
 2. In a Township building if it interferes with the public's use of said building or interferes with the ability of a Township employee to effectively carry out the business of the Township.
 3. In a public facility if would cause a reasonable person to feel intimidated, threatened or harassed.
 4. In or near any commercial, retail or other place of business open to the general public if it interferes with or disrupts the operation of said business.
 5. In or near any commercial, retail or other place of business open to the general public if it would cause an employee or patron of such business to reasonably feel intimidated, threatened or harassed.
- f. No person shall engage or participate in a residential disturbance, as that term is defined herein. The person exercising dominion or control over the residential property where said disturbance is occurring shall be held responsible for violation of this section.
- g. A person shall not operate a motor vehicle with unnecessary noise and shall not start, move or turn a motor vehicle or apply the brakes or the power on a motor vehicle or in any manner operate the vehicle so as to cause the tires to squeal or the tires or vehicle to make any noise not usually connected with the operation of the motor vehicle, except in case of an emergency.
- h. No person shall sound any horn or signaling device on any vehicle, motorcycle or vessel anywhere in the Township, except as a danger warning or in compliance with state law.
- i. No person shall unnecessarily jostle, shove, push or crowd another person in a place open to the general public.
- j. No person shall be in a state of intoxication, either by the consumption of alcohol, drugs or combination of both, in a public place and either:
1. Endanger the safety of another person or of property; or
 2. Act in a manner that causes a public disturbance or alarm. The summoning of the police by a member of the public due to the actions of the intoxicated person is deemed prima facie evidence that a public disturbance or alarm was created by the intoxicated person.
- k. No person shall engage in any fight or other physical altercation with any other person in a place open to the public. A law enforcement officer having jurisdiction to enforce this Ordinance may initiate prosecution under this Ordinance whether or not any person

involved in the fight or physical altercation pursues a criminal complaint against the other person(s) involved.

- l. No person shall engage in any conduct which shall interfere with or interrupt an organized athletic or recreational event being held at any Township athletic field or park which has been authorized by the Township Board; nor shall any person act in a manner which would cause a participant, coach, sports official or spectator of such event to reasonably feel intimidated, threatened or harassed.
- m. No person, except authorized Township employees and officials and persons given express permission by a Township employee or official, shall enter into or upon, loiter outside of, or remain within any publicly owned or leased area or building within the Township that is posted with one or more signs stating "public entry prohibited," "public access prohibited," "authorized personnel only," "restricted area," "no public access allowed," "Township personnel only," "employees only," or similar statements prohibiting or restricting entry or access.
- n. Nothing in this section shall be construed as to prevent a law enforcement officer from taking enforcement action against any person engaged in conduct not specifically prohibited by this section if such conduct is in violation of section 4 of this Ordinance.

Section 6.0. Exemptions

The following activities are exempted from the prohibitions and limitations of this Ordinance:

- a. Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster.
- b. Emergency work necessary to restore public utilities or to protect persons or property from imminent danger.
- c. Sound made to alert persons to the existence of an emergency, danger or attempted crime.
- d. Activities of police, fire or emergency medical service personnel engaged in the lawful performance of their duties.
- e. Activities or operations of Township personnel or of other governmental units or agencies engaged in official government business.
- f. Parades, concerts, festivals or other similar activities approved by the Township Board, subject to any limitations on sound or conduct contained in the Township Board's approval.
- g. The use of speakers, amplifiers or other machines or devices for the producing, reproducing or amplification of sound in connection with any otherwise lawful

religious or political activity held in any public place within the Township between the hours of 7:00 a.m. and 10:00 p.m.

- h. The use of sound producing instruments or equipment, musical instruments, speakers, amplifiers or other machines or devices for the producing, reproducing or amplification of sound in connection with an organized athletic or recreational event on any Township athletic field or park which has been authorized by the Township Board.

Section 7.0. Enforcement

- a. A law enforcement officer having jurisdiction to enforce this Ordinance is hereby authorized to the extent permitted by state and federal law to stop, detain, pursue and obtain identification from any person for which the officer has probable cause is in violation of this Ordinance.
- b. Any person notified, warned or cited for a violation of this Ordinance by a law enforcement officer having jurisdiction to enforce this Ordinance shall immediately cease the noise or conduct which resulted in the warning or citation.
- c. Any person who fails to immediately cease the noise or conduct in violation of this Ordinance upon receiving a warning, order or citation from a law enforcement officer shall be subject to custodial arrest in accordance with appropriate state statutes.

Section 8.0 Penalties

- a. Any person who shall violate any of the provisions of this Ordinance shall be responsible for a municipal civil infraction. The fines and penalties as set forth in Section 6.0 entitled "Sanctions for Violations" of the Hamburg Township Municipal Civil Infraction Ordinance, as it may be amended from time to time, are incorporated herein by reference.
- b. For purposes of assessing fines and penalties only, a violation under this Ordinance shall be classified as a Class C municipal civil infraction.

Section 9.0. Severability

The sections of this Ordinance shall be deemed to be severable and should any section, clause or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same will not affect the validity of this Ordinance as a whole or any part thereof, other than the part declared to be invalid.

Section 10.0. Repeal

This Ordinance shall, upon its effective date, specifically repeal all provisions contained within Hamburg Township Code of Ordinances – Breach of Peace (historically referenced as No. 94-A and 94-B) which can currently be found in Chapter 22, Article 2. All other ordinances and parts of ordinances in conflict or inconsistent with the provisions of this ordinance are also hereby repealed.

Section 11.0. Effective Date

Pursuant to MCL 41.184 sec 4(1), this ordinance will take effect 30 days after its publication.

Certification

I, Michael Dolan, duly appointed Clerk of Hamburg Township, Livingston County, Michigan; do hereby certify that the foregoing Hamburg Township Ordinance No. 94-C was adopted at a regular meeting of the Hamburg Township Board held on March 1, 2022 at which the following members were present: Hohl, Dolan, Hughes, Michniewicz (3 absent: Negri, Hahn, Menzies)

Michael Dolan
Hamburg Township Clerk

Approved: March 1, 2022

Published: March 8, 2022

Effective: April 7, 2022