

TOWNSHIP OF HENRIETTA

AN ORDINANCE RELATING TO CERTAIN CRIMES; TO DEFINE CERTAIN CONDUCT BEING SUBJECT TO PROSECUTION AS DISORDERLY CONDUCT; TO PRESCRIBE PENALTIES FOR VIOLATION THEREOF; TO ADOPT A SAVINGS PROVISION; TO REPEAL CONFLICTING ORDINANCES; TO ADOPT A SEVERABILITY CLAUSE; AND TO PROVIDE AN EFFECTIVE DATE THEREOF.

ORDINANCE # 40

At a regular meeting of the Township Board held on the 11th day of January, 2006 at 7:30 o'clock p.m. the following Ordinance was heard and passed:

THE TOWNSHIP OF HENRIETTA ORDAINS:

SECTION 1 UNLAWFUL ACT

It shall be unlawful and punishable as provided herein, for any person to be a disorderly person within Henrietta Township.

SECTION 2 DEFINITIONS

For the purpose of this Ordinance, the following terms shall have the following meanings respectively designated for each:

1. "Animals". Unless otherwise stated the word "animal" as used in this Ordinance shall include birds, fish, mammals and reptiles.
2. "Livestock" means horses, cattle, swine, sheep, goats, and fur-bearing animals, of either gender, being raised in captivity.
3. "Owner" The term "owner" and persons owning premises shall mean both the owner of record and those occupying or in possession of any property or premises. The term "owner" when applied to the proprietorship of any animal, means every person having a right of property in the animal, an authorized agent of the animal, and every person who keeps or harbors the animal or has it in his or her care, custody or control, and every person who permits the animal to remain on or about the premises occupied by himself or herself.
4. "Peace Officer" means any person *employed, elected or appointed by the people of Henrietta Township, the Henrietta Township Board* or by the State of Michigan or the County of Jackson, whose duty it is to enforce ordinances, preserve the peace or to make an arrest or to enforce the law, and includes game, fish or forest wardens, members of the Michigan State Police or Department of Environmental Quality.

5. "Person". The term "person" shall include state and local officers and employees, individuals, corporations, co-partnerships and associations.
6. "Poultry" means all domestic fowl, ornamental birds and game birds possessed or being reared under the authority of a breeder's license pursuant to Act 191 of the Public Acts of 1929, as amended. (MCL 317.71 et seq; MSA 13.1271 et seq.)
7. "Public Place" shall mean any street, alley, sidewalk, park, public building, any place of business open to or frequented by the public, and any other place which is visible or accessible to the public.
8. "Township" shall mean the Township of Henrietta.

SECTION 3 DISORDERLY PERSON

A person is a disorderly person if the person is any of the following, or the person aids or abets to do such an act or engage in any practice so as to be:

1. A person who is intoxicated in a public place;
2. A person who disturbs the public peace and quiet by engaging in a disturbance, fight, quarrel or altercation in a public place;
3. A person who obstructs, resists, impedes, hinders or opposes the designated township official or peace officer in the discharge of his or her duties.
4. A person who furnishes the designated township official or peace officer with false, forged, fictitious or misleading verbal or written information identifying the person as another person, if the person is detained for a violation of a Statute or Township Ordinance, or temporarily detained for the purpose of issuance of a civil infraction citation.
5. A person who makes or continues to make any loud noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the Township, including but not limited to;
 - a. Sounding any horn or signal devise from any automobile, motorcycle, bus or other vehicle for reason other than a signal in response to an imminent danger and implemented as an immediate safety measure, for an unnecessary and unreasonable duration, or unreasonably loudly or harshly;

- b. Playing or amplifying any radio, phonograph, tape or disc, *CD player DVD player*, musical instrument, *or any other device which produces sounds* in such a manner or with such volume so as to annoy or disturb the quiet, comfort or repose of persons in any place of business, or any dwelling, hotel or other type of residence, or of any persons in the immediate vicinity;
 - c. Yelling, shouting, hooting, whistling or singing on a public street or sidewalk at any time or place, including private property, so as to annoy or disturb the quiet, comfort or repose of any persons in any place of business, or any dwelling, hotel or other type of residence, or of any persons in the immediate vicinity;
 - d. Keeping of any animal or bird which causes frequent or loud continued noise that disturbs the comfort, repose *or peaceful enjoyment* of any person in the vicinity, *or otherwise so disrupts the peace, quiet and tranquility of persons within the limits of the township.*
 - e. Blowing any whistle or siren, except as a warning of danger, *signaling device at a lawful contest or upon request and authority of proper township officials;*
 - f. Discharging the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle into the open air, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom *except when being used in a parade or an exhibition or contest involving such use;*
 - g. Erecting, excavating, demolishing, altering or repairing any building, or excavating streets and highways other than between the hours of seven o'clock a.m. and ten o'clock p.m.;
 - h. The operation of all-terrain-vehicles, motor driven cycles, quad runners, snowmobiles, or other non-agricultural vehicles in such a manner and in relative proximity so as to disturb the quiet, comfort or repose of persons on neighboring properties.***
- 6. *A person who creates a sufficient amount of dust so as to inhibit vision or cause the settling of dust onto neighboring properties through the operation of all-terrain vehicles, motor driven cycles, quad runners, snowmobiles, or other non-agricultural motorized equipment or vehicles.***

7. A person who:
 - a. Owns, keeps, houses, tethers, or otherwise possesses or maintains any animal in such a way or manner or in such a location whereby noises emanating from said animal, including but not limited to loud and frequent barking, howling or yelping, shall cause a disturbance or otherwise disrupt the peace, quiet and tranquility of persons within the limits of the township, and/or is a nuisance in the neighborhood in which the animal is kept, possessed or harbored.
 - b. Owns any livestock or poultry which is kept, possessed or harbored within the boundaries of any nonagricultural area within the Township, *unless such is in compliance with all township ordinances.*
8. A person who:
 - a. Reports or summons any police or fire agency, or department or any public or private ambulance company or service, to go to an address other than that of the person who reports or summons such agency, where the service is not needed or no emergency exists. This may include, but is not limited to the reporting of open burning fires which were started for the purpose of burning leaves or other allowed materials when a permit has been issued or would have been issued had one been applied for, and which does not pose a danger to the property, or surrounding or abutting properties where the burning is taking place.

SECTION 4 VIOLATING PERSON

Any person(s) who shall act in any manner described in Section 3 above or Section 6 below, shall be deemed in violation of this ordinance and, upon conviction, shall be punished as set forth in Section 7 below, whether or not said person(s) had been warned by an ordinance officer, or peace officer that such conduct or violation cease, except as otherwise specifically provided herein.

SECTION 5 EXCEPTIONS

None of the terms or prohibitions hereof shall apply to or be enforced against:

1. The operation of any vehicle *owned, leased or operated by township officials or employees or with the permission of said township officials while engaged in public or township business.*

2. Excavation or repairs of bridges, streets, highways, water mains or sewer lines by or on behalf of the Township, County of Jackson or State of Michigan, or bona fide public utility during the night when the public welfare and convenience renders it impossible to perform such work during the day.

SECTION 6 PARENTAL RESPONSIBILITY

No parent, guardian, or other person having charge, guardianship, custody or control of any minor under the age of eighteen (18) years shall encourage, knowingly permit or by inefficient control allow the minor to violate any provision of this Ordinance. Proof that the minor was convicted of violating this Ordinance shall be prima facie evidence that the minor's parent or guardian allowed or encouraged the minor to violate such Section.

SECTION 7 PENALTIES AND REMEDIES FOR VIOLATIONS

Any person violating any provision of *this ordinance shall be deemed to be guilty of violating this Ordinance. Such violation shall be punishable, at the sole discretion/election of the enforcing peace officer as defined herein by either, but not both, of the following:*

1. *Misdemeanor Violation*
The penalties for this violation shall subject the violating party not to exceed ninety-three (93) days incarceration in the Jackson County Jail and/or fines up to Five Hundred (\$500.00) Dollars plus costs (including the Townships' cost of enforcement/prosecution.
2. *Civil Infraction*
The penalties for this violation may be as follows:

Pursuant to the adoption of Ordinance #37, effective February 28, 2002 any person, firm, corporation or other organization which violates, disobeys, omits, neglects, or refuses to comply with, any of the provisions of this Ordinance or amendments hereof, commits a municipal civil infraction punishable as follow:

1st offense – minimum of \$100.00 maximum of \$500.00 fine

2nd offense (within two years of the first offense) minimum of \$200.00 maximum of \$500.00 fine

3rd offense (within two years of second offense) minimum of \$300.00 maximum of \$500.00 fine

Each day that a violation occurs shall constitute a separate offense.

The court may order other relief relative to the infraction(s). This may include, but is not limited to, reimbursement of actual costs incurred by the Township to attain compliance of this ordinance.

In addition, any violation of this Ordinance shall be deemed a nuisance per se, permitting the Township Board, its officers, agents or any private citizen to take such action in any Court of competent jurisdiction to cause the abatement of such nuisance, including injunctive relief.

SECTION 8 SAVINGS CLAUSE

All proceedings pending and all rights and liabilities existing, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in effect when they are commenced. This Ordinance shall not be construed to affect any prosecution pending or initiated before the effective date of this Ordinance, or initiated after the effective date of this Ordinance for an offense committed before that effective date.

SECTION 9 CONFLICTING ORDINANCE REPEALED

Any Ordinance or parts of Ordinances in conflict or inconsistent with any of the provisions of this Ordinance are hereby repealed.

SECTION 10 SEVERABILITY

If any section, paragraph, clause, phrase or part of this Ordinance is held invalid by any Court of competent jurisdiction, or by any agency, department or commission empowered by Statute for such purpose, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstances shall not be affected thereby.

SECTION 11 EFFECTIVE DATE

This Ordinance shall take effect and be enforced from and after the earliest date allowed by law. This Ordinance shall be published in the manner provided by law.

Adopted: January 11, 2006

Effective: 30 days after publication

Lawrence Bamm, Supervisor

Sally Keene, Clerk