

ORDINANCE 17-01

AN ORDINANCE TO AMEND SECTION 95.2 ENTITLED "NOISE" OF THE CITY OF WEST BRANCH CODE OF ORDINANCES.

THE CITY OF WEST BRANCH ORDAINS:

SECTION 1: Section 95.2 of the City of West Branch, Michigan Code of Ordinances is hereby amended to read as follows:

§ 95.2 PROHIBITED NOISES.

(a) Generally. It is unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. Any violation of the enumerated acts below constitutes a civil infraction subject to the fines and penalties enumerated in § 10.99 of this Code, or as otherwise established by Council resolution. An exception to prosecution under this ordinance may be granted for cause via resolution of Council.

(b) Enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this article, but this enumeration is not exclusive:

(1) Homs, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place, except as a danger warning, the creation by means of any such signaling device of any unreasonably loud or harsh sound, the sounding of any such device for an unnecessary and unreasonable period of time, the use of any horn, whistle or other device operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up;

(2) Radios, stereos, etc. Except as otherwise permitted by the City Council or the City Manager, as hereinafter prescribed, the use, operation or permitting the use or operation of any radio or receiving set, musical instrument, stereo, or other machine or device designed for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of others in the vicinity, or with a volume louder than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the device is operated and who are voluntary listeners. The operation of any of the above-named devices between the hours of 11:00 p.m. and 7:00 a.m. on Friday and Saturday and between the hours of 10:00 p.m. and 7:00 am Sunday through Thursday in such a manner that the noise is plainly audible at a distance of 50 feet from the source of the noise will be prima facie evidence of a violation of this subsection;

(3) Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or to attract attention of the public to any building or structure;

(4) Yelling, shouting. Except as otherwise permitted by the City Council or the City Manager, as hereinafter provided, yelling, shouting, hooting, whistling, or singing on the public streets or any other public place, between the hours of 11:00 p.m. and 7:00 a.m. on Friday and Saturday and between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity;

(5) Engine exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or other motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises;

(6) Defect in vehicle or load. The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or annoyance;

(7) Loading or unloading; opening boxes. Creation of a loud and excessive noise in connection with loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and containers;

(8) Construction or repair of buildings. The erection (including excavation, demolition, alteration or repair) of any building other than between the hours of 7:00 a.m. and 8:00 *p.m.* on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the City Council or the City manager, which may be granted for a period not to exceed three days or less while the emergency continues and which may be renewed for periods of three days or less while the emergency continues. If the City manager determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets or highways between the hours of 8:00 p.m. and 7:00 a.m., and if he further determines that loss or inconvenience will result to any party in interest, he may grant permission for the work to be done during the hours of 8:00 p.m. and 7:00 a.m. upon application. If the City Council or the City Manager shall determine that such work does actually impair the public health and safety, then such permit may be revoked by the City Council or the City manager;

(9) Schools, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, hospital, or court while the same is in session, which interferes with the work of the institutions or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such streets indicating that the same is a street upon which a school, hospital or church or court is located;

(10) Hawkers and peddlers. Shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood;

(11) Drums for commercial purposes. The use of any drum or other instrument or device for the purpose of attracting attention to any performance, show or sale by creation of noise;

(12) Transportation of materials. The transportation of any material over the streets and other public places so as to cause loud noises or so as to disturb the peace and quiet of such streets;

(13) Pile drivers, hammers, etc. The operation between the hours of 8:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoists or other appliances, the use of which is attended by loud or unusual noise;

(14) Blowers, fans, engines. The operation of any noise created by any blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from the blower is muffled and the engine is equipped with a muffler device sufficient to deaden the noise.

(15) Compression release engine braking; "Jake braking." Noise created by semis or other vehicles due to compression release engine braking, or "Jake braking."

(c) Approval from City Council or City Manager.

(1) Any person, firm, or entity proposing to conduct any activity or operate any sound producing device which is reasonably expected to produce a sound or occur at a time in violation of this section shall apply to the City Manager for a permit to allow such conduct or the use of such device. In determining whether to issue such permit, the City Council or the City Manager shall consider:

a. The date and time of the proposed conduct;

- b. The location of the proposed conduct;
- c. The nature and proximity of other dwellings and/or uses;
- d. The type of proposed conduct and/or the type of device proposed to be used; and
- e. The purpose for such conduct or the use of such device.

(2) The foregoing permit process shall apply only to those noises prohibited under subsections (b) (2) and (b) (4) above. Any permit issued by the City Manager shall specify the date, time, location, and duration of the permitted activity. The City Council or the City Manager may impose such other restrictions or conditions upon the issuance of such permit as it may deem appropriate and/or necessary in the interests of the public health and welfare.

(16) Animal Noises. The keeping of any animal, which by causing frequent or long, continued noise, shall disturb the comfort or repose of ordinary sensibility.

(Ord 15-04, passed 09-01-2015; Am. Ord 17-01, passed 9-5-17) Penalty, see § 10.99

SECTION 2: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

(AM. Ord 17-01, passed 9-5-17)

SECTION 3: REPEALER

All former Ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

(AM. Ord 17-01, passed 9-5-17)

§ 95.99 EFFECTIVE DATE; PUBLICATION

This ordinance shall become effective upon publication of a notice in a newspaper circulated in the City, stating the date of the enactment and the effective date of the Ordinance, a brief notice as to the subject matter of this ordinance, and such other facts as the City Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection both on the City website and at City Hall.

INTRODUCED 8/21/17

PUBLISHED 8/30/17

ENACTED 9/5/17

EFFECTIVE DATE 9/21/17

MOTION BENNETT

SUPPORT SCHAIBERGER