

# ORDINANCE NO. 2019-01

**AN ORDINANCE OF DISTRICT TOWNSHIP, BERKS COUNTY, PENNSYLVANIA ESTABLISHING REGULATIONS DEFINING THE MAXIMUM NOISE LEVELS ALLOWED; PROVIDING FOR CERTAIN EXEMPTIONS TO THE MAXIMUM NOISE LEVELS ALLOWED; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE PROVISIONS OF THIS ORDINANCE; AND PROVIDING PENALTIES FOR VIOLATIONS.**

## **Section 1. Title**

This ordinance shall be known as the “District Township Noise Ordinance.”

## **Section 2. Legislative Authority**

This ordinance is enacted pursuant to the Second Class Township Code.

## **Section 3. Purpose**

The purpose of this ordinance is to ensure that public health, safety and welfare shall not be abridged by the making or creating of noise pollution or of public nuisances from disturbing, excessive or offensive noises in the Township. The residents of the Township recognize that uncontrolled noise represents a danger to the health and welfare of their neighbors and that each person in the community is entitled to live in an environment in which the level of impulsive and amplified noise is minimized for the community good. It is the purpose and scope of this ordinance to provide regulations defining the maximum sound levels that shall be allowed. These regulations are intended to protect the health, safety and welfare of the residents of the Township of District.

## **Section 4. Background**

The Board of Supervisors finds that excessive levels of sound are detrimental to the health, safety and welfare of the residents of the Township of District and hereby declares it to be necessary to provide for effective regulation of excessive sound and the sources of excessive sound within the Township since excessive sound:

- A. Creates a nuisance in that residents are deprived of the enjoyment of their homes, disturbed in their sleep, and otherwise prevented from the quiet enjoyment of their residential premises;
- B. Affects the property values of residences in the Township;
- C. Affects the public welfare by reflecting negatively on the quality of life in residential areas of the Township;
- D. Disturbs the peace and good order of the Township; and
- E. Creates noise pollution.

## **Section 5. Terminology; Definitions**

The following words and phrases, when used in this Ordinance, shall have, unless the context clearly indicates otherwise, the meanings given to them in this section.

- A. All acoustical terminology shall be interpreted in accordance with that contained in ANSI S1.1, "Acoustical Terminology." All other words and terms not defined herein shall be used with a meaning of standard usage.
- B. Words and phrases:

### **ANSI**

American National Standards Institute, or its successors.

### **A-WEIGHTED DECIBEL (dBA)**

The A-weighted unit of sound pressure level.

### **CODE ENFORCEMENT OFFICER**

The individual or firm appointed by the Board of Supervisors having the responsibility of administering and enforcing the terms and provisions of this Ordinance and other Township ordinances as applicable.

### **DECIBEL (dB)**

A unit of sound level which is a division of a logarithmic scale used to express the ratio of sound pressure of the source to the pressure of an arbitrarily chosen reference pressure; the ratio is expressed on the decibel scale by multiplying its base 10 logarithm by 20.

### **EXCESSIVE NOISE**

Excessive noise is that sound which is:

- (1) Injurious or which unreasonably interferes with the comfortable enjoyment of life and property. Measured sound levels in excess of limits established in these regulations or those specified in valid permits are declared to be excessive noise;
- (2) Annoying to a person of ordinary sensibilities.

### **NOISE**

Any sound emitted by a person, animal, appliance, equipment, instrument, vehicle or other device that annoys or disturbs humans or that causes or tends to cause an adverse psychological or physiological effect on humans.

### **NOISE POLLUTION**

Noise of such loudness and character from a single source or from multiple sources, which is, or may be predicted with reasonable certainty to be, injurious to health or which unreasonably interferes with the enjoyment of property or with any lawful business or activity. Sound levels exceeding those permitted herein shall constitute noise pollution.

**PERSON**

Includes an individual, firm, association, organization, partnership, trust, company, corporation or any other similar entity.

**SOUND LEVEL**

Airborne sound levels expressed in dB and obtained by the use of specific frequency dependent weighting networks, as specified in the referenced standards and indicated by proper notation; if A-weighting is employed, the sound level is identified as dBA.

**SOUND LEVEL METER**

An instrument or combination of instruments which meets or exceeds the requirements for an ANSI Type S1A or Type S2A Sound Level Meter.

**TOWNSHIP**

The District Township Berks County Pennsylvania.

**VEHICLE**

Any device, or combination of devices, used for or capable of being used for transporting persons or property. Vehicles include, but are not limited to, the following: automobiles, trucks, buses, motorcycles, motorized bicycles, snowmobiles, scooters, all terrain vehicles, go-carts, racers, and life devices, farm machinery, industrial machinery, highway graders, trailers, graders and semitrailers.

**ZONING OFFICER**

The individual or firm appointed by the Board of Supervisors as the Township Zoning Officer.

**Section 6. Noise Limit**

No person shall create or allow the creation of any sound or operate or cause to be operated any source of sound on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level, when measured at or beyond the boundaries of the lot, parcel, tract or property, on which such activities take place, to exceed the sound levels specified below.

- A. Seventy decibels (dBA) between the hours of 7:00 a.m. and 9:00 p.m., prevailing time.
- B. Sixty decibels (dBA) between the hours of 9:00 p.m. and 7:00 a.m., prevailing time.

**Section 7. Exemptions**

Noise emitted from the following sources shall be exempt from the noise limits specified herein:

- A. All safety signals and warning devices (e.g., intrusion alarms) unmodified and in proper working condition;
- B. Police, fire, ambulance sirens (or any other device used to alert persons to an emergency or used during the conduct of emergency work) when responding to emergencies.

- C. Back-up alarms on trucks between the hours of 7:00 a.m. and 7:00 p.m., prevailing time.
- D. The provision, repair and maintenance of municipal services or public utilities.
- E. Bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or public holidays.
- F. Appliances, lawn and garden equipment, chain saws, snow removal equipment and power tools in use between the hours of 7:00 A.M. and 9:00 P.M., prevailing time, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified, and in proper operating condition.
- G. Heavy construction equipment when being used on a specific short-term project (such as, constructing a building; constructing, repairing or cleaning a road; drilling a well; and other similar short-term, specific construction, demolition, or repair projects) in use between the hours of 7:00 A.M. and 7:00 P.M., prevailing time, for the duration of such short-term, specific project, provided such heavy construction equipment is operated within the manufacturer specifications and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.
- H. Air conditioners, fans, heating units, similar comfort devices, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified, and in proper operating condition. Generators are included only for short-term use and not as long-term or permanent power supply.
- I. Musical, recreational and athletic events conducted by or permitted by schools, local government, community or community association or village festivals, or events sponsored by nonprofit organizations.
- J. All motor vehicles being operated on the public roads in the Township of District, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified, and in proper working condition.
- K. Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver.
- L. All farm-related operations and activities.
- M. Any existing legitimate or licensed business, commercial or industrial operation between the hours of 7:00 A.M. and 9:00 P.M., prevailing time, provided any appliances, equipment, machinery or devices used in such operation are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.

### **Section 8. Special Waiver**

Upon written request to the Board of Supervisors, a temporary waiver from strict compliance with the noise limits specified herein may be granted to persons during emergency circumstances with a reasonable time to alleviate said circumstances, all as determined by the Board of Supervisors.

## **Section 9. Enforcement Officers**

This Ordinance may be enforced by the appointed Township Zoning Officer, Township Code Enforcement Officer, any police officer or by any other individual as designated by the Board of Supervisors by resolution.

## **Section 10. Enforcement Procedures**

The following procedures and penalties are prescribed for enforcement of this Ordinance.

- A. **Offenses.** The Township shall, upon written complaint by an affected person who resides in District Township, request an Enforcement Officer per Section 9, to conduct a sound level meter reading. If it is determined by a sound level meter reading that a sound level in excess of the levels permitted by this Ordinance shall have been caused or permitted by any person, such person causing or permitting said sound level may be prosecuted before the Magisterial District Judge.
- B. **Responsible Persons.** To enforce the terms and provisions of this Ordinance, the Township may look to any one or all persons who share responsibility for creating or allowing the creation of sound or operating or causing to operate any source of sound on the property owned, leased, occupied or otherwise controlled by such persons.
- C. **Injunctions.** In addition, any person affected thereby, may file legal or equitable actions in court to abate or enjoin violations of this Ordinance. Nothing in this ordinance prevents equitable relief in the Court of Common Pleas.
- D. **Public nuisance.** Any emission of sound from any source in excess of the limitations established herein is hereby declared to be a public nuisance and may be abated by administrative or judicial proceedings, fines and penalties herein provided.
- E. **Other remedies.** Nothing in this Ordinance shall be construed to impair any cause of action or legal remedy thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise on such place or manner, or at such levels which may give rise to such cause of action.

## **Section 11. Conflict With Other Restrictions.**

The provisions of this Ordinance are not intended to interfere with, abrogate or annul other rules, regulations or ordinances, including Title 18 (Crimes Code) and Title 75 (Vehicle Code), Pennsylvania Consolidated Statutes. If more stringent requirements concerning noise abatement are contained in other statutes, rules, regulations or ordinances, the more stringent regulation shall apply.

## **Section 12. Violations and Penalties**

Any person, firm or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, in action before the Magisterial District Judge in the manner provided for enforcement of a summary offense, be sentenced to pay a fine of not more than \$1,000 plus court cost. Every day that a violation of this ordinance continues shall constitute a separate offense.

**Section 13. Severability**

The provisions of this Ordinance are severable. If any section, sentence, clause, or part of provision thereof shall be held to be invalid or unconstitutional in any respect by any Court of competent jurisdiction, such decision shall not affect the remaining sections, sentences, clauses, or part or provisions thereof in this Ordinance and the same shall remain in full force and effect. It is hereby declared to be the intent of District Township that such Ordinance would have been enacted as if such invalid or unconstitutional section, sentence, clause, part or provision thereof had not been included.

**Section 14. Effective Date**

This Ordinance shall be effective five (5) days after enactment.

**ORDAINED AND ENACTED** as an Ordinance by the Board of Supervisors of District Township, County of Berks, Pennsylvania, in lawful session duly assembled, this 21<sup>st</sup> day of February, 2019.

DISTRICT TOWNSHIP  
BOARD OF SUPERVISORS

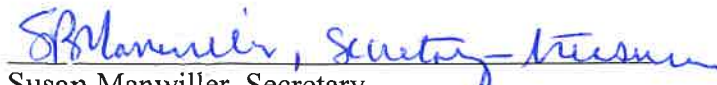
BY:

  
Edward Overberger, Chairman

  
John Burger, Member

  
Leonard Robb, Member

Attest:

  
Susan Manwiller, Secretary 2-21-19