

SECTION 1. The Smithfield Township Code of Ordinances, Chapter 10, Part 2 – Noise Nuisances is hereby established as follows:

§ 10-303 Definitions.

For the purposes of this chapter the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words in plural include the singular; and words in the singular include the plural. Any personal pronoun shall be construed so as to mean either the masculine, feminine, or neuter gender, as the context may require; and the word "shall" is always mandatory and not merely precatory.

BACKGROUND SOUND LEVEL

The measured sound level in an area, exclusive of extraneous sounds and the sound contributing of the specific source in question.

BOARD OF SUPERVISORS

The Board of Supervisors of Smithfield Township, Monroe County, Pennsylvania.

CONSTRUCTION

Any site preparation, assembly, erection, demolition, substantial repair, maintenance, alteration, or similar action for or of public or private rights-of-way, structures, utilities, or similar property.

DURATION

The length of time noise continues or exists.

EMERGENCY VEHICLE

A vehicle defined in Pennsylvania 75 Pa.C.S. § 102.

IMPULSE SOUND

Includes sudden and sharp sounds or repetitive sounds that have tendency to startle, disrupt, or annoy, and which may include the elements of both sound and vibration. Non-exhaustive examples of impulse sounds include explosions, air horns, nail guns, fireworks and firecrackers, and hammering.

NOISE

Any unwanted sound or vibration that encroaches upon the real property of another at any time-of-day. Noise may consist of multiple factors. Noise factors may include, but are not limited to, time- of-day or time-of-week; structure of the sound, e.g., impulse sound and sounds defined in ISO 12001 standards; frequency of the sound occurrence (how often); duration; relative sound level compared to background sound level, e.g., "loudness"; the waveform frequency of the sound, e.g., "high" or "low" pitch; and nature of the sound, e.g., screaming or screeching.

NOISE DISTURBANCE

- A. In addition to the specific criteria in this chapter that constitute noise disturbance, a prohibited noise disturbance includes any noise that may:
- (1) Endanger or injure the safety or health of humans or animals;
 - (2) Annoy or disturb another person or premises;
 - (3) Impair or degrade the rights of another person or property;
 - (4) Disrupt, limit, or interfere with the peace of premises or with activities of another person; or
 - (5) Endanger or injure personal or real property.
- B. Noise that is plainly audible according to the distance standards contained herein or sound that may annoy, disturb, or interfere with basic living tasks with two or more persons constitutes a prima facie noise disturbance (See § **10-202.B**).

NUISANCE

The unreasonable, unwarrantable or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person in the legitimate enjoyment of his reasonable rights of person or property.

OWNER

A person owning, leasing, occupying or having charge of any premises within the Township.

PERMIT

To suffer, allow, consent, or let; to give, leave or license; to acquiesce by failure to prevent; or to expressly accept or agree, to the doing of an act.

PERSON

Includes individual natural persons, firms, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, corporations, companies or organizations of any kind; or any officers, agents, employees, factors or any kind of personal representative of any kind of the above, in any capacity, acting either for her/himself, or for any other person, under either personal appointment or pursuant to law.

PLAINLY AUDIBLE

Any noise that can be heard by a person of normal hearing. Words, phrases, or specific noise signatures need not be discernible or identifiable. Plainly audible does not implicate issues of subjective "loudness" – the plainly audible standard simply determines whether any noise can be heard regardless of the perceived "loudness." Plainly audible observation alone is sufficient to support and prove a noise disturbance.

PREMISES

Any building, structure, land, including yards, lots, courts, owned or controlled by a person.

PROPERTY LINE

The real or imaginary line and its vertical extension which separates real property owned or controlled by a person from contiguous real property owned or controlled by another person and separates real property from the public premises. Property lines may sometimes be ambiguous or difficult to determine even by professionals. Thus, the use of property line for purposes of this chapter refers to the relative or apparent property delineations and survey-quality precision is not required, intended, or desired.

SOUND

An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium.

TOWNSHIP

The Township of Smithfield, Monroe County, Pennsylvania.

§ 10-301 Noise disturbance; exemptions.

- A. Noise disturbance generally prohibited. No person shall make, continue, cause to be made, or cause to be continued, any noise disturbance by any means **within any residential zoning district of the Township at any time of day**. No person shall suffer, allow, or permit any noise disturbance, by any means, to be made or continued from or at any property, whether public or private, real or personal, which leaves the premises from which it originates, and enters any premises, that is plainly audible at any property line of the originating source. Any such activity shall be considered unreasonable and a public nuisance.
- B. Prima facie violations: two or more witnesses. Prima facie evidence of violation of this chapter includes noise that disturbs two or more residents who are in general agreement as to the times and durations of the noise and who reside in separate residences, including apartments and condominiums, located across a property line (boundary) from the property on which the source of the noise is generated.
- C. Violations determined by the Codes Enforcement Officer of the Township. Evidence of violation of this chapter includes noise that is plainly audible from a property line (boundary) of the property on which the source of the noise is generated.
- D. Exemptions. The following activities shall be exempt from the provisions of this chapter:
1. Noise as safety signals, warning devices, emergency pressure relief valves or other sound needed to alert people about an emergency or warn of an imminent hazardous situation.
 2. Noise resulting from emergency work and noise emanating from an authorized emergency vehicle or a vehicle operated by a gas, electric, communications, or water utility when responding to an imminent emergency.
 3. Noise resulting from emergency generator usage during power failures.

4. Noise resulting from public festivals, celebrations, or other lawfully authorized public gatherings.
 5. Noise resulting from an athletic, recreational, or other such outdoor activity on fields and/or sites specifically designed for that use.
 6. The provision, repair and maintenance of municipal services or public utilities.
 7. The sounding of bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or public holidays.
 8. The operation of lawn care, snow removal equipment, and other household maintenance equipment and tools.
 9. The operation of air conditioners, fans, heating units, and similar comfort devices.
 10. The operation of airplanes, helicopters and normal activities of properly licensed airports; trains operating on railroads.
 11. The operation of all motor vehicles being operated on public or state roads.
 12. Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver.
 13. All farm-related operations and activities.
 14. Any lawfully existing or licensed business, commercial, or industrial operation.
 15. Any reasonable noise created by a government entity in performance of an official and necessary duty.
 16. Any activity the regulation of which has been expressly preempted by Pennsylvania statute or regulation.
- E. Noise disturbances; Exemptions with Limitations. The following activities shall be exempt from the provisions of this chapter only between the hours of 7:00AM and 7:00PM Monday through Saturday. The following activities shall not be exempt from the provisions of this chapter on Sundays:
1. Music, speech, or noise from any business.
 2. The operation of heavy construction equipment and other construction noise when generated as part of a specific short-term project properly permitted by the Township, if the Township requires permits (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).
 3. Noise resulting from public festivals, celebrations, or other lawfully authorized public gatherings.

4. Noise resulting from an athletic, recreational, or other such outdoor activity on fields and/or sites specifically designed for that use.

5. Any lawfully existing or licensed business, commercial or industrial operation.

F. Presumptions. It shall be necessary to establish that any single noise disturbance occurrence has lasted more than 10 minutes, or repetitive noise disturbances total 20 minutes within a one-hour time period, in order to find a violation of this section. If the offending noise emanates from private property, it shall be conclusively presumed that the occupant of the property authorized and/or permitted and participated in the violation.

§ 10-303 Notice Required.

A. Prior to the filing of a fine by the Township's Codes Enforcement Officer or a private criminal complaint for violation of § 10-202, it shall be necessary to serve written notice upon the occupant of the property in one of the following ways:

1. By mailing a copy of the notice to the occupant by any form of mail requiring a receipt signed by the occupant.
2. By personal delivery of notice to the occupant.

B. Form to be provided. Notice required under this section must be given on a form prescribed and provided by the Township. Said required notice may be executed and served as required by the aggrieved party or by a Township official.

C. Contents of notice. A notice shall set forth the name and address of the property and the occupant of the property, the nature and extent of the violation or offense, the identity of the person giving notice, the date of the sending or posting of notice, and a statement to the effect that a fine or complaint may be filed if the nuisance is not abated or if it is repeated.

D. Duration of notice. Any notice given pursuant to this section shall be valid for a period of six months. Within six months, no additional notice needs to be given prior to the filing of a fine or private complaint.

§ 10-304 Temporary waivers.

Upon written application for a Special Event Permit to the Township not less than 30 days in advance, a temporary waiver from strict compliance with the noise standards specified herein may be granted to persons for reasonable cause, as determined by the Board of Supervisors.

§ 10-305 Violations and Penalties.

Any person found guilty of a violation of this chapter by a Codes Enforcement Officer of the Township shall pay a fine set by Resolution of the Board of Supervisors not to exceed \$1,000 per violation per the Second Class Township Code § 1601(c.1)(2). Each day a violation continues, after notice, shall constitute a separate offense.

Any person found guilty of a violation of this chapter who fails to comply with this chapter in a

summary proceeding before a District Magistrate shall pay a fine not to exceed \$1,000 per violation per the Second Class Township Code § 1601(c.1)(2), together with the cost of prosecution, and, in default of payment of said fine and costs of prosecution, shall be imprisoned for not more than 90 days. 18 Pa.C.S.A. § 106. Each day a violation continues, after notice, shall constitute a separate offense.

§ 10-306 Enforcement.

Provisions of this chapter may be enforced by any Codes Enforcement Officer of the Township. Enforcement may also be by any person who, after prior notice is given as required, shall, as an affiant, institute a private criminal proceeding by filing a complaint with the District Magistrate as provided by law.