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Chapter 72

Noise Control

[HISTORY: Adopted by the Board of Supervisors of the Township of Birmingham 1-17-2005 by Ord. No. 05-01. Amendments noted where applicable.]

§ 72-1 **Short title.**

The Board of Supervisors of Birmingham Township hereby ordains and enacts the following chapter which shall be referred to as the "Noise Control Ordinance."

§ 72-2 **Scope.**

This chapter shall apply to the control of all sound originating within the limits of Birmingham Township.

§ 72-3 **Definitions.**

As used in this chapter, the following terms shall have the meanings indicated herein. All terminology used in this chapter and not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

AGRICULTURAL OPERATIONS

An enterprise that is actively engaged in the production and preparation of crops, livestock and livestock products and in the production, harvesting, and preparation of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities.

ALL-TERRAIN VEHICLE (ATV)

Any motor vehicle designed for off-highway use by one operator with no passengers, having a seat or saddle designed to be straddled by the operator and handlebars for steering control.

AMBIENT NOISE LEVEL

The composite or normal or existing sound from all sources measured at a given location for a specific time of the day or night.

A-WEIGHTED SOUND PRESSURE LEVEL

The sound pressure level as measured on a sound level meter using the A-weighting network. The level so read shall be designated dB(A) or dBA.

CONSTRUCTION

Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

CONTIGUOUS LAND USE

Any land use bordering or abutting, whether divided by real property boundary or by real property boundary and public street.

CONTINUOUS NOISE

A steady, fluctuating or impact noise which exists essentially without interruption for a period of one hour or more.

CYCLICALLY VARYING NOISE

Steady, fluctuating or impulsive noise which may or may not contain a pure tone and which varies in sound pressure level such that the same level is obtained repetitively at reasonably uniform intervals of time.

DECIBEL

A logarithmic (dimensionless) unit of measure often used in describing the amplitude of sound. Decibel is denoted dB.

DEMOLITION

Any dismantling, destruction, or removal of buildings, structures or roadways.

EMERGENCY

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

EQUIVALENT NOISE LEVEL (LEQ)

The level of a steady sound which in a stated time period and at a stated location has the same A-weighted sound energy as the time-varying sound.

FLUCTUATING NOISE

When the sound pressure level of a fluctuating noise varies more than six dBA during the period of observation when measured with the slow-meter characteristic of a sound level meter and does not equal the previously existing ambient noise level more than once during the period of observation.

IMPULSIVE SOUND

A noise characterized by brief excursions of sound pressure whose peak levels exceed the ambience by 10dB. The duration of a single impulse is usually less than one second and requires the use of a sound level meter specially adapted for its measurement. Examples of impulsive sound include but are not limited to gun shots, blasting and hammering.

LAND USE

The actual real use of land and buildings thereon situated regardless of the zoning or other classification attributed to such land and buildings.

MOTOR VEHICLE

A vehicle which is self-propelled except for one which is propelled solely by human power or by electric power obtained from overhead trolley wires.

NOISE

Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans or which endangers personal or real property.

NOISE DISTURBANCE

Any noise which:

- A. Endangers or injures the safety or health of humans or animals;
- B. Annoys or disturbs a reasonable person of ordinary sensibilities;
- C. Endangers or injures personal or real property;
- D. Disturbs the peace; or

E. Creates a public nuisance.

PLAINLY AUDIBLE NOISE

Any noise for which the information content of that noise is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech or comprehensible musical rhythms.

POWERED MODEL VEHICLES

Any powered vehicles, either airborne, waterborne, or landborne, which are designed not to carry persons or property and which can be propelled by mechanical means, such as but not limited to, model airplanes, boats, cars and rockets.

PROPERTY BOUNDARY

An imaginary line at the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

PURE TONE

Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this chapter, a pure tone shall exist if the 1/3 octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3 octave bands by five dB for center frequencies of 500 Hz and above, by eight dB for center frequencies between 160 Hz and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

RECEIVING LAND USE

The land use which is a contiguous use to the noise source.

RECREATIONAL OFF-ROAD VEHICLES

Motor vehicles which are used for the purpose of recreation off of the public right-of-way, such as, but not limited to, ATVs, motorized dirt bikes, go-carts and snowmobiles.

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. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND-DISSIPATIVE DEVICE

A noise-control device intended to abate or lessen the noise made by vehicles, equipment or machinery.

SOUND LEVEL

The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER

An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels. The sound level meter used for testing purposes in accordance with this chapter shall meet the current American National Standard Institute specifications.

STATIONARY NOISE SOURCE

Any device, fixed or movable, which is located or used on geographically defined real property other than a public right-of-way.

§ 72-4 Administration and enforcement.

The Board of Supervisors may delegate to the Birmingham Township Police Department and/or to the Township Codes Enforcement Officer the power to administer the terms of this chapter, to investigate complaints and prosecute violations of this chapter. When enforcing the terms of this chapter, the Police Department and Codes Enforcement Officer may engage consultants and engineers with experience in measuring sound levels with the use of sound level meters from a list approved by the Board of Supervisors. Such consultants shall have the powers and authority as delegated by the Police Department or Codes Enforcement Officer and shall act as the Township's agent for the administration and enforcement of this chapter.

§ 72-5 Noise standards.

- A. Specific prohibited acts. The following actions are specifically prohibited regardless of the sound level which is emitted, unless otherwise exempted in this chapter:
- (1) No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, cassette player, sound amplifier or similar device which produces, reproduces or amplifies sound between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day in such a manner as to be plainly audible across a property line.
 - (2) No person shall load or unload trucks or other motor vehicles or open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or other objects between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day in such a manner as to be plainly audible across a property line.
 - (3) No person shall own, possess, harbor or control any animal or bird which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly for a period of 10 minutes or makes such noise intermittently for 1/2 hour or more to the disturbance of any person at any time of the day or night, regardless of whether the animal or bird is situated in or upon private property; provided, however, that at the time the animal or bird is making such noise, no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other cause which teased or provoked the animal or bird.
 - (4) No person shall remove or render inoperative a sound-dissipative device from motor vehicles, equipment or machinery, other than for purposes of maintenance, repair or replacement, when such motor vehicle, equipment or machinery is not in use; intentionally move or render inaccurate or inoperative any sound-monitoring instrument or other device positioned by or for the Township or other governmental entity or agent thereof; or use any motor vehicle, equipment or machinery which has had a sound-dissipative device or any part thereof removed or rendered inoperative.
 - (5) No person shall repair, rebuild or test or otherwise work on any motorcycle, motor vehicle, motorboat or aircraft between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day in such a manner as to be plainly audible across a property line.
 - (6) Except for emergencies, no person shall intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm or any similar stationary emergency signaling device intended for public notification.
 - (7) No person shall operate a recreational off-road vehicle within 50 feet of a property line. Recreational off-road vehicles may only be used in an area that is more than 50 feet from the property line as long as the recreational off-road vehicle is equipped with manufacturer's specifications for sound-dissipative devices.
- B. General performance standards/noise levels.

- (1) It shall be unlawful for any person to operate or permit to be operated any stationary source of noise in such a manner as to create a sound pressure level which exceeds the limits set forth for the receiving land use in the following table when measured at the property boundary. When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between the different land use categories. All measurements shall be made with a sound level meter which is in conformance with American Standards Association specifications. The minimum time period for measuring the stationary source of noise shall be five minutes, and where practicable, the microphone of the sound level meter shall be positioned 5 1/2 feet above the ground level.
- (2) Continuous sound levels by receiving land use.

Receiving Land Use Category	Time	Maximum Leq in dBA
Residential, public space, open space, agricultural or institutional	7:00 a.m. - 10:00 p.m.	65
	10:00 p.m. - 7:00 a.m., plus Sundays and legal holidays	55
Commercial or business	7:00 a.m. - 10:00 p.m.	72
	10:00 p.m. - 7:00 a.m., plus Sundays and legal holidays	62
Industrial	At all times	72

- (3) Correction for character of sound. For any stationary source of sound which emits a pure tone, a cyclically varying noise or repetitive impulse noise, the maximum sound-level limits set forth in the above table shall be reduced by five dBA. For any source of sound which emits an impulsive sound, the excursions of sound pressure level shall not exceed 20 dBA over the ambient sound pressure level,

regardless of the time of day or night or receiving land use, using the fast meter characteristic of a Type II meter, meeting ANSI Specification SI.4-1971.

§ 72-6 Exceptions.

The following noises are exempted from the provisions set forth in § 72-5 of this chapter:

- A. Blasting, only if performed in accordance with a permit issued by the Pennsylvania Department of Environmental Protection, the Township Fire Marshal or any other governmental agency having jurisdiction. Such blasting may occur only between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, unless specifically authorized at different times by the DEP permit.
- B. Alarms or other devices used for the purpose of alerting people to the existence of an actual emergency or devices such as a horn or siren installed in a motor vehicle and used to warn persons of an imminent danger.
- C. Emergency work to provide electricity, water or other public utilities or restore essential public services, including construction activities directly related to the abatement of an emergency.
- D. Authorized emergency vehicles responding to an emergency.
- E. A snow plow in operation.
- F. Work or activities performed or sponsored by schools and governmental agencies or their contractors in the performance of public service.
- G. Noises made by bells, chimes, carillons used for religious purposes or in conjunction with national celebrations or public holidays; existing bells, chimes and carillons and clock strike mechanisms that are currently in use for any purpose.
- H. Motor vehicle operations shall not exceed the noise levels established in Chapter 157 of Title 67 of the Pennsylvania Code of Regulations, Subchapter B, Established Sound Levels.
- I. Construction and demolition shall be exempt from the sound level limits in § 72-5B; provided, however, that all construction and demolition activity, excluding emergency work, shall be performed between the hours of 7:00 a.m. until 8:00 p.m. on weekdays and 9:00 a.m. until 6:00 p.m. on Saturdays, unless such activities meet the sound level limits in § 72-5B.
- J. Construction and demolition activities performed by the property owner himself (without using paid employees), provided that such activity shall be performed between the hours of 7:00 a.m. until 8:00 p.m. on weekdays and 9:00 a.m. until 6:00 p.m. on Saturdays and Sundays, unless such activities meet the sound level limits in § 72-5B.
- K. Domestic power tools, including but not limited to lawn mowers, garden equipment, snow removal equipment, power saws, sanders and other equipment used for building repair or maintenance between the hours of 7:00 a.m. and 10:00 p.m.
- L. Agricultural operations.

§ 72-7 Permits.

- A. The Board of Supervisors, upon application from any person, shall have the authority to grant temporary permits permitting the operation or causation of sound in excess of the maximum permissible sound levels by receiving land use established in § 72-5B if the following conditions are met to the satisfaction of the Board:

- (1) The temporary operation or causation of such sound, under the circumstances, will not severely jeopardize the health, welfare or safety of the citizens of the Township.
 - (2) The denial of such a permit will impose excess hardship on the applicant, the community or other persons.
 - (3) The operation will not have an adverse effect on a contiguous land use.
 - (4) The operation will not exceed 30 days.
- B. The Board of Supervisors shall have the right and authority to impose reasonable conditions and restrictions upon any applicant for a temporary permit in order that the policy of this chapter be implemented.
- C. Any person seeking a permit pursuant to this section shall file an application with the Board of Supervisors at least 10 days prior to commencement of the noise source. Said applicant shall include the following information:
- (1) The name, address and telephone number of the applicant.
 - (2) The proposed location of the activity.
 - (3) The nature and purpose of the proposed activity which will generate sound.
 - (4) The proposed (estimated) levels of sound to be generated and the hours of generation.
 - (5) A statement demonstrating that bringing the source of sound or activity for which the permit is sought into compliance with the standards set forth in this chapter would impose an unreasonable hardship on the applicant, the community or other persons.
- D. Permits shall be granted, by written notice, to the applicant containing all necessary conditions, including a time limit on the permitted activity. The permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any conditions of the permit shall terminate the permit and subject the person holding it to the violation provisions of this chapter.
- E. The issuance of any permit by the Board of Supervisors does not hold Birmingham Township, the Birmingham Township Police or the Codes Enforcement Officer responsible in any way for death, injuries or damages resulting from the issuance of a permit.

§ 72-8 Violations and penalties.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.