

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

§ 10-301 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.

ANTIQUÉ MOTOR VEHICLE

A motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year, which has been maintained in or restored to a condition which is substantially in conformance with manufacturer specifications.

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.

dB_A

The sound level in decibels, reported as measured by a sound level measuring instrument having an "A" weighting network which discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear. The level so read is designated dB(A) or dBA.

dB_C

The sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

DECIBEL (dB)

The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

DURATION

The length of time noise continues or exists.

EMERGENCY VEHICLE

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

EMERGENCY WORK

Any work or action necessary at the site of an emergency to restore or deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

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.

MOTOR VEHICLE

Any vehicle that is propelled other than by human or animal power on land.

MUFFLER

A properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

MULTI-DWELLING UNIT BUILDING

Any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

MIXED-USE PROPERTY

Any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

- A. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- B. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

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; rate of occurrence of the sound (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 noise disturbance is any noise that exceeds acceptable decibels as demonstrated within §305.

NOISE CONTROL OFFICER

Noise Control Officer (NCO) means employees or consultants of the Township which is certified to perform noise enforcement activities specified within this noise control ordinance. All NCOs must receive noise enforcement training and be currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

NORMAL AGRICULTURAL OPERATION

The activities, practices, equipment and procedures that farmers adopt, use or engage in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is:

(1) not less than ten contiguous acres in area; or

(2) less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000. The term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the act of December 12, 1994 (P.L. 944, No. 134) , known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

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 their 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.

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.

REAL PROPERTY LINE

A real property line is either:

- A. the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property;
- B. the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or
- C. on a mixed-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the mixed-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit).

Note - this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

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.

SOUND PRODUCTION DEVICE

Any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

SOUND REDUCTION DEVICE

Any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

TOWNSHIP

The Township of Smithfield, Monroe County, Pennsylvania.

WEEKDAY

Any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

WEEKENDS

Begin on Friday at 6:00 p.m. and end on the following Monday at 7:00 a.m.

§ 10-302 Applicability

- A. This noise ordinance applies to all properties located within (or partially within) Smithfield Township.

§ 10-303 Enforcement Officers

- A. Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance and pursue enforcement activities.
- B. Noise Control Officers may cooperate with adjacent municipalities in enforcing one another's municipal noise ordinances.

§ 10-304 Measurement Protocols

- A. Sound measurements made by a Noise Control Officer shall conform to the procedures set forth, except that interior sound level measurements shall also conform with the procedures set forth in **§304.B** of this ordinance and with the definition of "real property line" as contained herein.
- B. When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound

sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

§ 10-305 Maximum Permissible Sound Levels

- A. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in §302.A in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I or II when measured at or within the real property line of any of the receiving properties listed in Tables I or II except as specified in §304.B.
- B. Impulsive Sound. Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

**TABLE I
MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
WHEN MEASURED OUTDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, non-residential portion of a multi-use property, or community service facility
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	65	50	65

**TABLE II
MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
WHEN MEASURED INDOORS**

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RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility or non-residential portion of a multi-use property
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 Hours
Maximum A-Weighted sound level standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

§ 10-306 **Restricted Uses and Activities**

The following standards shall apply to the activities or sources of sound set forth below:

- A. Any noise measured at 120 dB or higher at any property line shall be considered a violation of this ordinance, even if permitted elsewhere in the ordinance unless:
 1. The noise is generated by emergency equipment responding to/in an emergency situation, or
 2. The noise generated is one whose regulation has been expressly preempted by Pennsylvania or federal statute or regulation.
- B. Power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I or II. At all other times the limits set forth in Tables I or II do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- C. Power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 8:00 p.m. and 8:00 a.m. unless such activities can meet the limits set forth in Tables I or II. At all other times, the limits set forth in Tables I or II do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.

- D. All construction and demolition activity shall not be performed between the hours of 8:00 p.m. and 8:00 a.m. unless such activities can meet the limits set forth in Tables I or II. At all other times, the limits set forth in Tables I or II do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.
- E. All establishments with liquor licenses that have music are required to follow regulations set by the Pennsylvania Liquor Control Board (PLCB).
- F. All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. The limits set forth in Tables I or II do not apply.
- G. Self-contained, portable, non-vehicular music, vehicular music, or sound production devices shall not be operated on a public space or public right-of-way between the hours of 8:00 p.m. and 8:00 a.m.
- H. It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer. Prima facie evidence of a violation of this section shall include but not be limited to:
1. Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
 2. Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the animal was intentionally provoked to bark or make any other noise. This Section shall not apply to dogs; for regulations regarding dogs, please reference Chapter 2: Animals of the Zoning Code.

§ 10-307 **Exemptions.**

The following activities shall be exempt from the provisions of this chapter:

- A. 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.
- B. Noise resulting from emergency work, including emergency home repairs, construction, demolition, or landscaping.
- C. 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.
- D. Noise resulting from public festivals, celebrations, or other lawfully authorized and permitted

public gatherings.

- E. Noise resulting from an athletic or recreational event hosted on property owned by the East Stroudsburg Area School District.
- F. Noise from snowmaking operations at any regularly authorized, approved and operated ski area.
- G. The provision, repair and maintenance of municipal services or public utilities.
- H. The sounding of bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or public holidays.
- I. The operation of snow removal equipment.
- J. The operation of airplanes, helicopters and normal activities of properly licensed airports; trains operating on railroads.
- K. Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver.
- L. Any reasonable noise created by a government entity in performance of an official and necessary duty.
- M. Any activity the regulation of which has been expressly preempted by Pennsylvania or federal statute or regulation.
- N. Any normal agricultural operation conducted in accordance with normal agricultural operations so long as the agricultural operation does not have a direct adverse effect on public health and safety.
- O. Any properly licensed antique motor vehicle with a valid antique registration plate.

§ 10-308 **Motor Vehicles**

Violations of each paragraph of this section shall be considered purposeful and therefore non-minor violations.

- A. No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of-way.
- B. No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.

§ 10-309 Enforcement.

Provisions of this chapter may be enforced by any 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.

§ 10-310 Notice Required.

- A. Violations determined by the Enforcement Officer of the Township. Violation of any provision of this ordinance shall be cause for a violation notice to be issued to the violator by the Enforcement Officer.
- B. Prior to the filing of a fine by the Township's Enforcement Officer for violation of this ordinance, it shall be necessary to serve written notice upon the owner of the property in one of the following ways:
 1. By mailing a copy of the notice to the owner by any form of mail requiring a receipt signed by the owner.
 2. By personal delivery of notice to the owner.
 3. By personal deliver of notice to the violator.
- C. 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.
- D. Contents of notice. A notice shall set forth the name and address of the property and the owner 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.
- E. 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.

§ 10-311 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.

§ 10-312 Violations and Penalties.

Any person found guilty of a violation of this chapter by an 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.

NOTES:

Highlights in blue are place marker notes to ensure references to other sections in the ordinance are checked through edits.