

**BOROUGH OF CLARKS SUMMIT
COUNTY OF LACKAWANNA
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 2020- 06**

**AN ORDINANCE OF THE BOROUGH OF CLARKS SUMMIT
PROHIBITING NOISE WHICH DISRUPTS THE ENJOYMENT OF PROPERTY
AND QUALITY OF LIFE IN THE BOROUGH OF CLARKS SUMMIT AND
PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF.**

WHEREAS, the Borough of Clarks Summit (the “Borough”) is a duly organized and existing municipality and political subdivision located in the County of Lackawanna, Commonwealth of Pennsylvania with offices located at 304 South State Street, Clarks Summit, Pennsylvania 18411; and

WHEREAS, the Borough is subject to the Pennsylvania Borough Code, as found at 8 Pa.C.S.A. §101, *et seq.* (the “Borough Code”); and

WHEREAS, pursuant to Section 1202(5) of the Borough Code, the Borough has the authority to make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough. *See* 8 Pa. C.S.A. §1202(5); and

WHEREAS, excessive noise can pose impair and frustrate the ability of Borough residents to use and enjoy their properties; and

WHEREAS, the Council of the Borough wishes to prohibit any unnecessary or excessive noise which is of such character, intensity or duration which is detrimental to the health or life of any individual or in the disturbance of the public peace and welfare; and

WHEREAS, the Council of the Borough desires to discourage conduct which disrupts or harms the enjoyment of day-to-day life for Borough residents.

THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Clarks Summit, County of Lackawanna and Commonwealth of Pennsylvania, as follows:

SECTION 1 – TITLE. This Part may be cited as the “Clarks Summit Comprehensive Noise Control Ordinance”

SECTION 2 – PURPOSE. To provide for effective control of noise within the Borough in order to protect the health, safety and welfare of residents and visitors and to enhance the pursuits of life, recreation and commerce within the Borough.

SECTION 3 – DEFINITIONS. The following words, terms, and phrases when used in this Part shall have the meanings herein given, except where the context clearly indicates a different meaning:

BOROUGH – Borough of Clarks Summit, Lackawanna County, Pennsylvania.

CONSTRUCTION OPERATIONS – The erection, repair, renovation, demolition or removal of any building, facility, street, road, bridge or other structures using equipment, tools, machinery and/or the excavation, filling, grading and regulation of lots, streets and other structures in connection therewith.

EMERGENCY – Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

EMERGENCY WORK – Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

ENGINE BRAKE RETARDER – An engine-retarding device, or any retarding device or system that brakes on the engine rather than on the wheels as a means of slowing or stopping a gasoline-powered or diesel-powered motor vehicle.

MOTORCYCLE – A motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

MOTOR VEHICLE – A vehicle that is self-propelled except an electric personal assistive mobility device or a vehicle that is propelled solely by human power.

MUFFLER or SOUND-DISSIPATIVE DEVICE – A device designed or used for decreasing or abating the level of sound escaping from an engine or machinery system.

NOISE – Any sound emitted by a person, animal, or noise-creating device.

NOISE-CREATING DEVICE – Any electrical, mechanical, or chemical device or instrument, or combination thereof, that creates noise during its operation by a person.

NOISE DISTURBANCE – In addition to the specific noise disturbances set forth herein, any sound that is:

- (1) Unpleasant, annoying, offensive, loud, or obnoxious to a reasonable person of normal sensibilities; or
- (2) Unusual for the time of day or location where it is produced or heard; or
- (3) Detrimental to or injurious to the health, comfort, or safety of persons or animals or to the reasonable enjoyment of property or the lawful conduct of business because of the loudness, duration, or character of the noise; or
- (4) Endangers or injures personal or real property; or
- (5) Is in violation of any other section of this or other Ordinance, statute, or applicable regulation.

NON-RESIDENTIAL AREA – All areas of the Borough identified in the Borough's Zoning Ordinance or Zoning Map as: (1) Town Downtown Mixed Use; (2) Suburban Center; and (3) Commercial-Industrial.

OPERATION – Actual control by a person.

PERSON – Any individual, partnership, limited partnership, limited liability partnership, limited liability company, association, firm, corporation, or any other legally recognized entity. Whenever used in any provision prescribing and imposing a penalty, "person" includes the individual members, partners, officers and managers of any legally recognized entity.

POLICE – The Police Department employed by the Borough, or any properly authorized member or officer thereof in any other law enforcement agency having jurisdiction within the Borough.

POWERED MODEL VEHICLE – Any self-propelled airborne, waterborne or land borne plane, vessel or vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

PROPERTY LINE (BOUNDARY) – An imaginary line drawn through the points of contact of adjoining lands, apartments, condominiums, townhouses and duplexes owned, rented or leased by different persons; a demarcation or a line of separate properties; and also, for any two or more buildings sharing common grounds, the line drawn midway between any two such buildings. All areas devoted to public rights-of-way shall be deemed to be across the property line. As used herein, the property line includes all points on a plane formed by projecting the property line in a manner deemed appropriate by the enforcing police.

PUBLIC – Affecting, or likely to affect, persons in a place to which the public or a substantial group has access.

PUBLIC STREET – Property to which the public has a legal right of access, including but not limited to streets, alley, public sidewalks, public parks, or similar place which is either owned or controlled by the Borough or the Commonwealth of Pennsylvania for the benefit and use of the public, but not including buildings.

PUBLIC SPACE – Any real property or structures thereon which are either owned or controlled by the Borough for the benefit and use of the public.

REAL PROPERTY – All land, whether publicly or privately owned, whether improved or not improved, with or without structures, exclusive of any areas devoted to public rights-of-way.

REDUCED NOISE FACILITY – Any place of worship, nursing home, in-patient medical facility, school or child day-care facility located within the Borough.

RESIDENTIAL AREA – All areas of the Borough identified in the Borough's Zoning Ordinance or Zoning Map as: (1) Town A Single Family Residential; (2) Town B Single Family Residential; (3) Town Mixed Residential; and (4) Town-City Single Family Residential.

SOUND – An auditory sensation evoked by the oscillation of air pressure.

TAMPERING – The removal or rendering inoperative by any person other than for purposes of maintenance, repair or replacement of any muffler or sound-dissipative device or element of design of any motor vehicle or motorcycle.

TRUCK – A motor vehicle designed primarily for the transportation of property.

VEHICLE – Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks. The term does not include a self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.

VEHICLE CODE – The Vehicle Code of the Commonwealth of Pennsylvania (75 Pa. C.S.A. § 101, *et seq.*) as is hereafter amended, supplemented, modified, or reenacted by the General Assembly of the Commonwealth of Pennsylvania.

SECTION 5 – PROHIBITED ACTS.

A. Noise disturbance.

No person shall make, continue or cause to be made, or cause to be continued, any noise disturbance by any means, nor shall any person 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, that is subject to such person's right to control.

B. Specific prohibitions. The following acts and the causing thereof are declared to be noise disturbances and are, therefore, in violation of this Part:

(1) Radios, televisions, musical instruments, digital music players, stereo and similar devices. Operating, playing or permitting the operation or playing of musical instrument, radio or audio equipment (including when the noise-creating device is operated in or on a vehicle, or hand carried, on a public right-of-way or public space), sound amplifier, loudspeaker, television, or similar device designed or used in a manner that intends to produce, reproduce or amplify sound in the following manner:

(a) At any time and in such a manner as to cause a noise disturbance in a Residential Area and to be plainly audible across a property line (boundary) and at a distance of fifty (50') feet from the source, shall be *prima facie* evidence of a violation of this Ordinance not otherwise exempted herein.

(b) At any time and in such manner as to create a noise disturbance with louder volume than is necessary for convenient hearing by the person that is operating such device and for those that are voluntary listeners thereto, in Non-Residential Areas.

(2) The use of any drum, musical instrument, loudspeaker, or other instrument or device for the purpose of attracting attention to the sale or display of merchandise of a commercial character.

(a) At any time and in such a manner as to cause a noise disturbance across a property line (boundary) as to be plainly audible and at a distance of fifty (50') feet from the source, shall be *prima facie* evidence of a violation of this Ordinance.

(b) In such a manner as to cause a noise disturbance across a property line (boundary) and at fifty (50') feet from the source of such noise-creating device, when the noise-creating device is operated in or on a vehicle, or hand carried, or fixed at a location at or near a public right-of-way or public space.

(3) Yelling or shouting. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing:

- (a) On public rights-of-way or public spaces between the hours of 10:00 p.m. and 7:00 a.m.; or
- (b) At any time or place in such a manner as to cause a noise disturbance across a property line (boundary).
- (4) Construction. Except for emergency work, operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work between the hours of 10:00 p.m. and 7:00 a.m., such that the sound therefrom creates a noise disturbance across a property line (boundary). The provisions of this section do not apply to any person who performs any construction, repair, or excavation pursuant to the express written permission of the Borough.
- (5) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, leaf blowers, lawn mowers or other powered landscape maintenance equipment or similar device used outdoors between the hours of 10:00 p.m. and 7:00 a.m., so as to cause a noise disturbance across a property line (boundary).
- (6) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m., and 7:00 a.m., in such a manner as to cause a noise disturbance across a property line (boundary). This provision shall not apply to municipal or utility services or their designees in or about a public street, public right-of-way or public space.
- (7) Powered model vehicles. Operating or permitting the operation of powered model vehicles so as to cause a noise disturbance across a property line (boundary) between the hours of 10:00 p.m. and 7:00 a.m.
- (8) Vehicle, motor vehicle, motorcycle, motorboat or aircraft repairs and testing. Repairing, rebuilding or testing any vehicle, motor vehicle, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a property line (boundary) between the hours of 10:00 p.m. and 7:00 a.m.

C. Other prohibited acts.

Tampering. The use within the Borough of a motor vehicle or motorcycle, which has had a muffler or sound-dissipative device or element of design removed or rendered inoperative.

D. Specific prohibitions on public rights-of-way. Prohibition of certain noises upon public rights-of-way by the use of motor vehicles and noise-creating devices.

(1) Motor vehicles and motorcycles on public rights-of-way. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle, or any equipment attached to such a vehicle, on a public street or public right-of-way at any time in such a manner that the operation of the same violates the Vehicle Code. Consistent with Section 4523 of the Vehicle Code. All motor vehicles and motorcycles shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation and no muffler or exhaust system shall be equipped with a cutout, bypass or similar device.

(2) Standing vehicles. No person shall operate or permit the operation of any vehicle or any auxiliary equipment attached to such vehicle for a period in excess of fifteen (15) minutes in any hour while the vehicle is parked, stopped or standing within one hundred fifty (150') feet of a residence, whether on public or private property, in such a manner as to cause a noise disturbance across a residential property line (boundary).

(a) This provision shall not apply to vehicles performing emergency services or to vehicles forced to remain stopped or standing because of traffic conditions.

(b) Notwithstanding the foregoing, diesel-powered vehicles with a gross weight of 10,001 pounds or more are subject to the restrictions contained in Act 124 of 2008, 35 P.S. §§ 4601-4610, the Diesel-Powered Motor Vehicle Idling Act.

(3) Engine brake retarders. No person shall use an engine brake retarder device in the Borough.

(4) Squealing tires. No person shall cause or allow the tires of a motor vehicle, which the person is operating, to squeal except when necessary in order to avoid a collision with another person, vehicle or other property.

(5) Racing engine/rapid throttle advance. No person, while occupying any public right-of-way shall operate any noise-creating device in such a manner that the public's attention is drawn to the source of the noise. The prohibition of this section shall include racing the engine or rapid throttle advance and/or revving of an internal combustion engine resulting in increase of noise from the engine.

(6) Animals. No person shall permit any animal, bird or fowl in one's possession or under one's control to make any frequent or long continued noise of such character or intensity as to disturb the comfort or repose of any person.

(7) Reduced Noise Facility. No person shall create or cause to create a noise disturbance on any public street, public right-of-way or public space adjacent to a Reduced Noise Facility while the same are in session which unreasonably interferes with the workings of sessions thereof and the making of any other noise so as to annoy the users and/or occupants.

E. Prima facie violation. The noise from any of the aforesaid prohibited acts that is heard by an officer of the Borough's police department shall be *prima facie* evidence of a noise disturbance.

SECTION 6 – EXEMPTIONS.

The provisions of this Part shall not apply to the following:

A. Blasting. Sounds resulting from blasting activities that have been authorized by the Borough, which blasting may occur only between the hours of 7:00 a.m., and 5:00 p.m., Monday through Friday, unless specifically authorized otherwise.

B. Events. Events such as, but not limited to block parties, carnivals, festivals, fireworks, or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, provided that such activities do not occur between the hours of 10:00 p.m. and 7:00 a.m., unless specific permission by the Borough has been obtained.

C. Emergency work. Sounds resulting from the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.

D. Municipal and utility services. Sounds resulting from the repair, maintenance or replacement of any municipal or utility installation in or about a public street, public right-of-way or any public space.

E. Snow Removal. Sounds resulting from the use of snowplows, tractors or snow blowers used in connection with snow removal from private or public property.

F. School and public activities. Sounds resulting from organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events that serve the public interest, provided such programs, activities or events do not occur between the hours of 10:00 p.m. and 7:00 a.m.

G. Warning devices. Sounds or sirens, alarms, public address system or other communication device or equipment made by warning devices operating continuously for no more than three (3) minutes, except that in the event of an emergency, the time limitation shall not apply. A warning device or siren used in connection with the operation of a police car, fire truck or apparatus, train, ambulance or any other emergency or other vehicle in the event of an emergency or as part of a warning. Such to include but not be limited to

generators used during an emergency for law enforcement purposes. Whether such is for an actual emergency, practice or for drill purposes.

H. Bells and Chimes. Routine and customary ringing of bells and chimes in the performance of a religious, institutional or commercial function in Non-Residential Areas, whether such bells and chimes are through a recording or other amplified process.

I. Official duty. Any noise created by a governmental entity, official or employee in the performance of an official governmental duty or activity, whether such is for an actual emergency, practice or drill purposes.

J. Helicopter. Any sound created by the arrival or departure of a helicopter at a hospital or medical facility or during an emergency.

K. Maintenance and Waste Collection. Any sound related to the Borough or its designee's operation or repair of municipal waste collection, landscaping, brush removal or lawn care equipment which is not in violation of Section 4.B. of this Ordinance.

L. Public Amplification. A public amplification or address system used at an athletic or other public event including those held at public parks.

M. Authorized activity. Any noise for an event or activity for which approval is necessary and has been issued by the Borough's Council or its designee, including expression or communication protected by the United States Constitution, may be obtained as long as any approval conditions relative to noise have not been violated. Such authorization shall be requested through the Borough and shall be approved by Borough Council or other appointed representative of the Borough.

SECTION 7 – INTENT.

The provisions of this chapter are intended to supplement all other provisions of these Codified Ordinances and shall not be deemed to preempt or preclude application of any of the other provisions of the Codified Ordinances except existing conflicting provisions of this chapter, which are repealed by this chapter.

SECTION 8 – PENALTIES.

A. Whoever violates any provision of this Part shall, upon conviction thereof in a summary proceeding, be fined for a first offense not less than one hundred fifty (\$150.00) dollars and not more than one thousand (\$1,000.00) dollars; for a second offense not less than three hundred (\$300.00) dollars and not more than one thousand (\$1,000.00) dollars; for a third offense nor less than five hundred (\$500.00) dollars and not more than one thousand (\$1,000.00) dollars. Whoever violates any provision of this Part for a fourth or subsequent offense shall, upon conviction thereof in a summary proceeding, be fined one thousand (\$1,000.00) dollars. Each occurrence of a violation of any provision of this Part shall

constitute a separate and distinct offense. However, for a violation of the Vehicle Code, upon conviction thereof in a summary proceeding, the fine shall be twenty-five (\$25.00) dollars.

B. In addition to the above penalties, the Borough may seek such equitable, injunctive or other remedies as may otherwise be available which are deemed to supplement the other enforcement provisions including civil process to obtain a restraining order, preliminary or permanent injunction or any matter provided by the law for abatement of a nuisance.

SECTION 9 – ADMINISTRATION AND ENFORCEMENT

The power and authority to enforce the provisions of this Part shall be vested in Borough's police department.

SECTION 10 – SEVERABILITY.

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such holding shall not affect the other provisions or applications of this Part which can be given effect without the invalid provision or application and, to this end, the provisions of this Part are declared severable.

SECTION 11 – REPEALER.

All ordinances or parts of ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 12 – EFFECTIVE DATE.

This Ordinance shall be effective immediately upon passage and approved in the manner prescribed by law.

ORDAINED AND ENACTED into an Ordinance this 4th day of November, 2020

Borough Council of the Borough of Clarks Summit

GERMAINE CAREY
Council President

APPROVED:

Approved this 4th day of November, 2020

HERMAN JOHNSON
Mayor; Borough of Clarks Summit

ATTEST: Adopted by the Clarks Summit Borough Council this 4th day of November 2020

VIRGINIA KEHOE
Borough Manager/Secretary

SEAL

DRAFT

[HISTORY: Adopted by the City Council of the City of Lancaster as Article 734 of the Codified Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 96.

Zoning Hearing Board — See Ch. 300, Art. XI.

§ 198-1 Purpose.

The Council, finding that excessive levels of sound are detrimental to the physical, mental and social well-being of the residents as well as to their comfort, living conditions, general welfare and safety, and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of excessive sound and the sources of excessive sound within the City.

§ 198-2 Title.

This chapter shall also be known as the "Lancaster Noise Control Ordinance."

§ 198-3 Definitions.

[Amended 10-13-1998 by Ord. No. 8-1998]

The following words, terms and phrases, when used in this chapter, shall have the meanings herein given, except where the context clearly indicates a different meaning. All terminology used in this chapter, not defined below, shall be in conformance with the applicable publications of the American National Standards Institute [ANSI S1.1 - 1960 (R1971) and its revisions] or its successor body.

BRAKE RETARDER^[1]

A motor/engine retarding device, or any retarding device or system that brakes on the motor or engine rather than on the wheels as a means of slowing or stopping a truck, truck tractor, motor carrier vehicle, motor vehicle or vehicle.

[Amended 3-23-2004 by Ord. No. 2-2004]

CONSTRUCTION OPERATION

The erection, repair, renovation, demolition or removal of any building or structure and the excavation, filling, grading and regulation of lots in connection therewith.^[2]

EMERGENCY

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

EMERGENCY WORK

Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

IMPULSIVE SOUND

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

MOTOR CARRIER VEHICLE

A truck, truck tractor or combination having a gross weight or registered gross weight in excess of 17,000 pounds.

MOTORCYCLE

An unclosed motor vehicle, having a saddle for the use of the operator, with two or three wheels in contact with the ground, including, but not limited to, motor scooters and mini bikes.

[Added 7-24-2007 by Ord. No. 11-2007]

MOTOR VEHICLE

A vehicle which is self-propelled, except one which is propelled solely by human power or by electric power obtained from overhead trolley wires, but not operated upon rails.

MUFFLER or SOUND-DISSIPATIVE DEVICE

A device designed or used for decreasing or abating the level of sound escaping from an engine or machinery system.

NOISE

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

NOISE-CREATING DEVICE

Any electrical, mechanical or chemical device or instrument, or combination thereof, that creates noise during its operation by a person.

[Added 7-24-2007 by Ord. No. 11-2007]

NOISE DISTURBANCE

In addition to the sounds specified in §198-4B hereof, any sound which:

[Amended 7-24-2007 by Ord. No. 11-2007]

- A. Endangers or injures the safety or health of humans or animals;
- B. Annoys or disturbs a reasonable person of normal sensitivities; or
- C. Endangers or injures personal or real property.

OPERATION

Actual control by a person.

[Added 7-24-2007 by Ord. No. 11-2007]

PERSON

Any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state. Whenever used in any clause prescribing and imposing a penalty, "person" includes the individual members, partners, officers and managers or any of them of partnerships and associations and, as for corporations, the officers and managers thereof or any of them.

POWERED MODEL VEHICLE

Any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

PROPERTY LINE (BOUNDARY)

An imaginary line drawn through the points of contact of adjoining lands, apartments, condominiums, townhouses and duplexes owned, rented or leased by different persons, a demarcation or a line of separate of properties, and also, for any two or more buildings sharing common grounds, the line drawn midway between any two such buildings. All areas devoted to public rights-of-way shall be deemed to be across the property line. For the purpose of this definition, the property line includes all points on a plane formed by projecting the property line in a manner deemed appropriate by the enforcing police officer.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

PUBLIC SPACE

Any real property or structures thereon which are owned or controlled by a governmental entity.^[3]

REAL PROPERTY

All land, whether publicly or privately owned, whether improved or not improved, with or without structures, exclusive of any areas devoted to public rights-of-way.

SOUND

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, or the superposition of such propagated oscillation which

evokes an auditory sensation. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.^[4]

TRUCK

A motor vehicle designed, used or maintained primarily for the transportation of property.

TRUCK TRACTOR

A motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks.^[5]

- [1] *Editor's Note: The former definitions of "ambient noise" and "A-weighted sound level," which definitions immediately preceded this definition, were repealed 7-24-2007 by Ord. No. 11-2007.*
- [2] *Editor's Note: The former definition of "decibel; dB," which definition immediately followed this definition, was repealed 7-24-2007 by Ord. No. 11-2007.*
- [3] *Editor's Note: The former definition of "pure tone," which definition immediately followed this definition, was repealed 7-24-2007 by Ord. No. 11-2007.*
- [4] *Editor's Note: The former definitions of "sound level" and "sound level meter," which definitions immediately followed this definition, were repealed 7-24-2007 by Ord. No. 11-2007.*
- [5] *Editor's Note: The former definition of "zoning districts," which definition immediately followed this definition, was repealed 7-24-2007 by Ord. No. 11-2007.*

§ 198-4 Prohibited acts; violations.

- A. Noise disturbance prohibited. No person shall make, continue or cause to be made or cause to be continued any noise disturbance by any means, nor shall any person 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, that is subject to such person's right to control.
[Amended 3-23-2004 by Ord. No. 2-2004]
- B. Specific prohibitions. The following acts and the causing thereof are declared to be noise disturbances and therefore in violation of this chapter:
 - (1) Radios, television sets, musical instruments and similar devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo, high-fidelity equipment or similar device which produces, reproduces or amplifies sound:
 - (a) At any time in such a manner as to cause a noise disturbance across a property line (boundary), or between the hours of 9:00 p.m. and 8:00 a.m. so as to be plainly audible across a property line (boundary);
 - (b) In such a manner as to create a noise disturbance across a property line (boundary), or at 50 feet from such device, whichever is less, when the device is operated in or on a motor vehicle, or hand carried, on a public right-of-way or public space; or
 - (c) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger or a common carrier.
 - (2) Yelling and shouting, etc. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing:
 - (a) On the public streets between the hours of 9:00 p.m. and 8:00 a.m.; or
 - (b) At any time or place in such a manner as to create a noise disturbance.
 - (3) Construction.
 - (a) Operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work between the hours of 9:00 p.m. and 7:00 a.m. the following day on weekdays and Saturdays or

any time on Sundays or legal holidays, such that the sound therefrom creates a noise disturbance across the residential real property line (boundary), except for emergency work.

[Amended 7-24-2007 by Ord. No. 11-2007]

(b) This section shall not apply to the use of domestic power tools subject to Subsection B(4) hereof.

- (4) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device used outdoors in residential areas (see § 198-5A, Table I) between the hours of 9:00 p.m. and 8:00 a.m. so as to cause a noise disturbance across a residential property line (boundary).
- (5) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 9:00 p.m. and 8:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential property line (boundary). This section shall not apply to municipal or utility services in or about the public right-of-way.
- (6) Animals and birds. Owning, possessing, harboring or controlling 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 legitimate cause which teased or provoked the animal or bird.
- (7) Powered model vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential property line (boundary) between the hours of 9:00 p.m. and 8:00 a.m.
- (8) Street sales. Offering for sale or selling by shouting or outcry or by any other amplified or unamplified sound within any residential or commercial area (see § 198-5A, Table I) except between the hours of 8:00 a.m. and 9:00 p.m. and at no time in such a manner as to violate § 198-5A.
- (9) Tampering. The following acts or the causing thereof are prohibited:
 - (a) The removal or rendering inoperative by any person other than for purposes of maintenance, repair or replacement of any muffler or sound dissipative device or element of design or noise label of any product;
 - (b) (Reserved)^[1]

[1] *Editor's Note: Former Subsection B(9)(b), regarding sound-monitoring devices, was repealed 7-24-2007 by Ord. No. 11-2007.*
 - (c) The use of a product which has had a muffler or sound dissipative device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.
- (10) Vehicle, motorboat or aircraft repairs and testing. Repairing, rebuilding or testing any motor vehicle, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a residential real property line (boundary).

C. Prohibition of certain noises upon public rights-of-way and/or by the use of motor vehicles and noise-creating devices.

[Amended 10-13-1998 by Ord. No. 8-1998; 3-23-2004 by Ord. No. 2-2004; 7-24-2007 by Ord. No. 11-2007]

- (1) Motor vehicle and motorcycles on public rights-of-way. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle, or any equipment attached to such a vehicle, on a public right-of-way at any time in such a manner that the noise or sound level emitted by the motor vehicle or motorcycle, or any equipment attached to such a vehicle, violates or exceeds the levels set forth in Pennsylvania Department of Transportation Regulations Title 67, Chapter 157, Subchapter B, 67 Pa. Code § 157.11. With respect to motorcycles, all motorcycles shall be equipped with a muffler or other noise-suppressing system in good working order at all times. No motorcycle with an exhaust system that has been altered or modified in any way to enable the exhaust system to amplify or increase the sound level in excess of the established sound levels set forth in the Pennsylvania Department of Transportation Regulations Title 67 Pa. Code §157.11(a), shall be operated on any public rights-of-way.
- (2) Standing motor vehicles. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period longer than 15 minutes in any hour while the vehicle is stationary,

for reasons other than traffic congestion, anywhere within 150 feet of any residence in such a manner as to cause a noise disturbance across a residential property line (boundary).

- (3) Unnecessary horn blowing. No person shall at any time sound the horn or other warning device of a vehicle except when absolutely necessary as a warning while actually driving such vehicle.
 - (4) Sound trucks. No person shall operate sound amplifying equipment mounted on or attached to any motor vehicle at any time in such a manner as to exceed the maximum permissible motor vehicle noise emissions as set forth in Subsection C(1) hereof.
 - (5) Motor/engine retarder devices. No person shall use a brake retarder or other motor/engine retarding device while operating a truck, truck tractor, motor carrier vehicle, motor vehicle or any other vehicle within the City of Lancaster. The prohibition against use of a brake retarder or other motor/engine retarding device shall not apply to an "emergency vehicle" as defined in Pennsylvania Title 75 when said emergency vehicle is actually responding to an emergency call.
 - (6) No person shall cause or allow the tires of a motor vehicle, which the person is operating, to squeal except when necessary in order to avoid a collision with another person, vehicle or other property.
 - (7) No person, while occupying any public right-of-way in the City, shall operate any noise-creating device in such a manner that the public's attention is drawn to the source of the noise. The prohibition of this section shall include rapid throttle advance and/or revving of an internal combustion engine resulting in increase of noise from the engine.
- D. Prima facie violation. The noise from any of the aforesaid prohibited acts 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, shall be prima facie evidence of a noise disturbance.

§ 198-5 (Reserved) ^[1]

[1] Editor's Note: Former § 198-5, Sound level by zoning districts, as amended, was repealed 7-24-2007 by Ord. No. 11-2007.

§ 198-6 Exemptions.

The following sounds are exempted from the provisions of this chapter:

- A. Amplified announcements. Electronically amplified announcements at athletic events.
- B. Blasting. Blasting under permit by the Bureau of Fire, which blasting may occur only between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, unless specifically authorized by such permit.
- C. (Reserved)^[1]

[1] Editor's Note: Former Subsection C, relating to concerts and similar activities, as amended 7-24-2007 by Ord. No. 11-2007, was repealed 6-28-2011 by Ord. No. 6-2011.
- D. Emergency work. Sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.
- E. Municipal and utility services. Sounds resulting from the repair or replacement of any municipal or utility installation in or about the public right-of-way.
- F. School and public activities. Sounds not electronically amplified, created by organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events, other than fireworks or fireworks displays and motor vehicle racing events.
 - (1) Any person responsible for any activity or event involving fireworks or fireworks displays shall apply with the Bureau of Police for an application for a special variance from noise control, in accordance with § 198-7B, prior to applying for a Fire Bureau fireworks permit.
 - (2) Any person involved in any motor vehicle racing event shall apply for a special variance from noise control with the Bureau of Police.

- G. Warning devices. Sounds made by warning devices operating continuously for three minutes or less, except that in the event of an actual emergency, the time limitation shall not apply.
- H. Expression or communication protected by the United States Constitution, including the First Amendment, or the Pennsylvania Constitution.
[Added 7-24-2007 by Ord. No. 11-2007]
- I. Any activity or contact the regulation of which has been preempted by Pennsylvania statute.
[Added 7-24-2007 by Ord. No. 11-2007]
- J. Any noise created by a governmental entity in the performance of an official duty.
[Added 7-24-2007 by Ord. No. 11-2007]
- K. Any noise for which a permit has been issued by an authority having jurisdiction to issue the permit.
[Added 7-24-2007 by Ord. No. 11-2007]

§ 198-7 Variances and Noise Control Board; application and fee.

A. Variances.

- (1) Authority. The Noise Control Board shall have the authority to grant variances, consistent with the provisions of this section, after public hearing, upon application of any person who owns, controls or operates any sound source which does not comply with the provisions or standards of this chapter.
- (2) Application. The application shall state the standard, provision or section from which the variance is being sought and the period of time and reasons for which the variance is sought. It shall contain information which demonstrates that bringing the sources of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, and it shall contain any other supporting information which may reasonably be required.
- (3) Public notification. Public notice of an application and the date, time and place of the public hearing to be held thereon for a variance shall be given by publishing notice thereof in a newspaper of general circulation in the City at least once, not less than three days prior to the scheduled public hearing, and by, if practicable, conspicuously posting the premises that is the source of the sound for which the variance is sought.
- (4) Hearing. The Board shall hold a public hearing to decide variance applications presented to it. Any person who claims to be affected by allowance of the variance may become a party to the hearing.
- (5) Review standards. In determining whether to grant or deny the application, the Board shall balance the hardship to the applicant versus the adverse impact to the public health, safety and welfare and shall consider at a minimum the following conditions:
 - (a) The physical characteristics of the emitted sound;
 - (b) The times and duration of the emitted sound;
 - (c) The geography, zone and population density of the affected area;
 - (d) Whether the public health and safety is endangered;
 - (e) Whether the sound source predates the receivers; and
 - (f) Whether compliance with the standards from which the variance is sought would produce hardship without equal or greater benefit to the public.
- (6) Decision. The Board shall render a written decision in granting or denying the application for variance and, if denied, shall state the reasons therefor. The Board's decision shall be made available to the applicant and any other person who requests it in writing. In granting a variance, the Board may attach reasonable conditions, including but not limited to placing a time limit on the permitted activity and/or establishing a time schedule within which the source of sound or activity for which the variance was sought must be brought into compliance with this chapter. Where the grant of a variance is conditioned, the variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate it and subject the person holding it to

those provisions of this chapter regulating the source of sound or activity for which the variance was granted. Variances may be granted for a period of up to one year. The person obtaining the variance may reapply for additional variance periods under terms set forth by the applicant and the Board.

(7) Appeals. Appeal from an adverse decision of the Board shall be made to the Court of Common Pleas of Lancaster County.

B. Special variances. The City's Zoning Officer may, upon application and guided by the standards for use as set forth in Subsection A(5) hereof, grant special variances for infrequent events or activities, including but not limited to band concerts, block parties, church carnivals or other performances or similar activities, publicly or privately sponsored and presented at any public or private space outdoors. Special variances are not renewable except by action of the Board pursuant to Subsection A hereof. The Board shall herein decide all appeals from the denial of a special variance, the practice and procedure thereon to be in accordance with Subsection A hereof.

[Amended 6-28-2011 by Ord. No. 6-2011; 1-26-2021 by Ord. No. 02-2021]

C. Noise Control Board. The Noise Control Board, for the purposes of this chapter, shall be the Noise Control Board which is hereby created in the City, consisting of five members who shall serve without compensation, and which shall have full authority to carry out the duties of the Noise Control Board, as set forth in this chapter. The following provisions relate to the creation, appointment, powers and meetings of such Noise Control Board:

[Amended 12-20-2011 by Ord. No. 19-2011]

(1) A Noise Control Board is hereby created in the City, which Board shall consist of five members who shall be appointed by the Mayor with the advice and consent of City Council.

(2) One member of the Noise Control Board, in the first instance, shall be appointed to serve for one year, one member for two years, one member for three years, one member for four years, and one member for five years; and thereafter, one member of the Noise Control Board shall be appointed annually to serve for the term of five years.

(3) The Noise Control Board shall have all of the powers and rights as set forth in this chapter.

(4) The Noise Control Board shall meet at such times and places as it deems proper and shall keep regular minutes of its proceedings. It shall have the power, but not the requirement, to adopt rules and bylaws to govern its proceedings.

(5) All applications to the Noise Control Board shall be filed through the Director of Community Planning and Economic Development or his/her designee and shall be accompanied by an application fee as set from time to time by resolution of City Council. In the instance City Council fails to establish the fee, the fee shall be \$35. All hearings shall be held not more than 30 days following the filing of the application and the decision thereon rendered within 45 days of the last hearing in the case before the Noise Control Board.

[Amended 1-26-2021 by Ord. No. 02-2021]

D. Conditions of variances. All variances and special variances shall be issued with the following condition: Should any neighbors complain of excessive noise, a City of Lancaster Police Officer will be dispatched to investigate the same and upon confirmation request that the noise level be lowered. Noncompliance may result in termination of the affair or event by the Lancaster Police Officer and/or denial of any future variance.

[Added 1-26-2021 by Ord. No. 02-2021]

§ 198-8 Enforcement.

[Amended 11-28-2006 by Ord. No. 13-2006]

This chapter shall be enforced by the Bureau of Police. In addition, the Animal Law Enforcement Officer shall be authorized to enforce § 198-4B(6) and in so doing shall have the powers of a police officer except the power of arrest.

§ 198-9 Repealer.

All ordinances or part of ordinances conflicting with the provisions of this chapter are hereby repealed. It is hereby declared that the provisions of the Dog Law Ordinance codified as Chapter 96, Article I, are not in conflict with this chapter and shall remain in full force and effect.

§ 198-10 Violations and penalties.

- A. Whoever violates any provisions of this chapter shall, upon conviction thereof in a summary proceeding, be fined for a first offense, not less than \$150 and not more than \$1,000; for a second offense be fined not less than \$300 and not more than \$1,000; for a third offense be fined not less than \$500 and not more than \$1,000, to be collected as other fines and costs are by law collectible, or imprisoned for not more than 90 days, or both. Whoever violates any provision in this chapter for a fourth offense and for any subsequent conviction shall, upon conviction thereof in a summary proceeding, be fined \$1,000, to be collected as other fines and costs are by law collectible, and be sentenced to a term of imprisonment of not less than five nor more than 90 days. Each day during which a violation occurs shall constitute a separate offense.
[Amended 10-22-2002 by Ord. No. 11-2002; 7-24-2007 by Ord. No. 11-2007]
- B. This chapter and the foregoing penalties shall not be construed to limit or deny the right of the City or any person to such equitable or other remedies as may otherwise be available with or without process of law.

§ 198-11 Performance review.

[Added 10-22-2002 by Ord. No. 11-2002]

City Council shall be provided quarterly reports regarding the enforcement of this chapter.