

**BOROUGH OF LUZERNE
NOISE CONTROL ORDINANCE**

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Council of the Borough of Luzerne, Luzerne County, Pennsylvania, that the above ordinance is hereby enacted as follows:

SECTION 1: INTENT AND PURPOSE

The Council of the Borough of Luzerne, finding that excessive levels of sound are detrimental to the physical, mental and social well being of the people 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 Borough of Luzerne.

SECTION 2: DEFINITIONS

The following words, terms and phrases when used in this Part shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning. All terminology used in this Part, 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.

- A. **WEIGHTED SOUND LEVEL** – the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB (A).
- B. **AMBIENT NOISE** – the all encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.
- C. **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.
- D. **DECIBEL dB** – a unit for measuring the sound pressure level, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measure to the reference pressure, which is twenty micropascals (20 micronewtons per square meter).
- E. **EMERGENCY** – any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.
- F. **EMERGENCY WORK** – any work performed for the purposes of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

- G. IMPULSIVE SOUND – sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of impulsive sound include explosions, drop forge impacts and the discharge of firearms.
- H. 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.
- I. NOISE – any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- J. NOISE DISTURBANCE – any sound which is in excess of the sound levels by zoning districts established in Section 4.
- K. 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 to corporations, the officers and managers thereof or any of them.
- L. 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.
- M. PUBLIC RIGHT-OF-WAY – any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.
- N. PUBLIC SPACE – any real property or structures thereon which are owned or controlled by a governmental entity, church or civic organization.
- O. PURE TONE – any sound which can be heard as a single pitch or a set of single pitches. For the purpose of this section, a pure tone shall exist if the one-third (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 (2) contiguous octave bands by 5dB for center frequencies of 500 Hz and above and by 8dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.
- P. 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 separation of properties, and also, for any two (2) or more buildings sharing common grounds, the line drawn midway between any two (2) said buildings. All areas devoted to public right of way shall be deemed to be across the property line. For the purpose of this regulation, 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.

Q. 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 right-of-way.

R. 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 characteristics of such sound, including duration, intensity and frequency.

S. 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 (ANSA S1.4-1974, or the latest version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

T. SOUND LEVEL METER – an instrument which includes a microphone, amplifier, RMA detector, integrator or time average, output meter and any applicable weighting network used to measure sound pressure levels which meets or exceeds the requirement for a Type I or Type II sound level meter as specified in ANSI Specification S1.4-1974. The manufacturer's published indication of compliance with such specifications shall be prima facie evidence of such compliance.

U. ZONING DISTRICTS – means the land use districts established by the Zoning Ordinance of the County of Luzerne, and all subsequent amendments.

SECTION 3: PROHIBITED ACTS

A. NOISE DISTURBANCE PROHIBITED. No person shall make, continue, or cause to be made or continued, any noise disturbance.

B. SPECIFIC PROHIBITIONS. In addition to noise disturbances prohibited under §3(A) above, the following acts, and the causing thereof, are declared to be noise disturbances and therefore in violation of this Section:

1. 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 or 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 10:00 PM and 6:00 AM 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 fifty (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.

(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 yelling, shouting, hooting, whistling or singing:

(a) At any time in such a manner as to cause a noise disturbance across a property line (boundary).

(b) Between the hours of 10:00 PM and 6:00 AM so as to be plainly audible across a property line (boundary).

(c) On the public streets between the hours of 10:00 PM and 6:00 AM.

3. Construction.

Operating or permitting of any tools or equipment used in construction operations, drilling or demolition work:

(a) Between the hours of 9:00 PM and 7:00 AM the following day on weekends and Saturdays or at any time on Sunday or legal holidays, such that the sound therefrom creates a noise disturbance across a residential real property line (boundary), except for emergency work.

(b) At any other time such that the sound level at or across a real property line (boundary) exceeds 85 dB(a) for a period of one (1) hour.

(c) This section shall not apply to the use of domestic power tools subject to Section 3 (B) (4).

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 Table 1, Section 4) between the hours of 10:00 PM and 6:00 AM 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 10:00 PM and 6:00 AM 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 or to licensed refuse haulers.

6. Animals and Birds.

A. 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 ten (10) minutes or makes such noise intermittently for one-half (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 on for any other legitimate cause which teased or provoked the animal or bird.

B. This subsection only applies when two (2) or more persons file complaints about the animal or bird. However, prior to filing the complaint, the complainants must first request the person owning, possessing, harboring or controlling the animal or bird take action to prevent the animal or bird from creating a noise disturbance. If after making the request to the person owning, possessing, harboring or controlling the animal or bird, the noise disturbance continues, a complaint may be filed.

7. Power 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 PM and 8:00 AM.

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 Table 1, Section 4) of the Borough of Luzerne except between the hours of 8:00 AM and 9:00 PM and at no time in such a manner as to violate Section 4 (1) of this Part.

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; and (b) 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. MOTOR VEHICLE PROHIBITIONS.

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 sound level emitted by the motor vehicle or motorcycle, or any equipment attached to such a vehicle, exceeds the level set forth in Title 67, Chapter 450, of the Pennsylvania Department of Transportation Regulations (Established Sound Levels).

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 fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, anywhere within one hundred fifty (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 this Section.

D. PRIMA FACIA VIOLATION.

The noise from any of the aforesaid prohibited acts that disturbs two (2) 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 property line (boundary) from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance.

SECTION 4. SOUND LEVEL BY ZONING DISTRICTS.

A. MAXIMUM PERMISSIBLE SOUND LEVELS.

No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth in the zoning designations category in Table 1 when measured at or across the property line (boundary) from the noise source. Any sound source that produces sound in excess of those levels shall constitute a noise disturbance.

Table 1 – Sound Levels by Zoning Districts

Zoning District of the Property on which the source of the noise is located	<u>Sound Level Limit, dB(A)</u>	
	8:00 AM – 9:00 PM	9:00 AM – 8:00 PM
Residential Zoning District	57	52
Commercial Zoning District	60	55

B. WHEN EXCEEDED.

The sound level limits set forth in Table 1 shall be exceeded when any one (1) or more of the following occur:

1. The sound at any one (1) point in time exceeds any of the established zone limits in Table 1 by a measured sound level of fifteen (15) dB(A).
2. The sound exceeds any of the established zone limits in Table 1 by a measured sound level of ten (10) dB(A) for a cumulative total on one (1) minute= or more out of any ten (10) minutes period.
3. The sound exceeds any of the established zone limits in Table 1 by a measured sound level of three (3) dB(A) continuously for a period of five (5) minutes or a total of five (5) minutes out of any ten (10) minute period.

C. AMBIENT SOUND.

In the event the background ambient sound levels in an area of suspected noise disturbance exceed the levels set forth in Table 1, the sound level of the intrusive sound source shall be measured with the ambient background sound level being substituted as the Table 1 sound level limit.

D. WHERE MEASURED.

For the purpose of this Section, sound shall be measured at or beyond the property line (boundary) of the property on which the noise source is located.

E. PURE TONE AND IMPULSIVE SOUND.

For any source of sound which emits a pure tone or impulsive sound, the limits set forth in Table 1 shall be reduced by five (5) dB(A).

F. ADJUSTMENT OF NONCONFORMING USES.

Any noise which occurs on property which, according to the Luzerne County Zoning Code, is being used in a legally nonconforming manner, and which noise related to said use, shall be judged as if the property bore a zoning designation under which the use would be conforming.

SECTION 5. EXEMPTIONS FROM SOUND LEVEL LIMITS.

The provisions of this Section shall not apply to:

(A) AMPLIFIED ANNOUNCEMENT.

Electronically amplified announcements at athletic events.

(B) BLASTING.

Blasting, under permit by the Police Department. Such blasting may occur only between the hours of 9:00 AM and 4:00 PM, Monday through Friday, unless specifically authorized by permit.

(C) CONCERTS, ETC.

Band concerts, block parties, church carnivals, festivals or other performances or similar activities publicly or privately sponsored and presented in any public space outdoors shall be exempt from the provisions of this Section, provided:

1. Such activities do not produce sound 15 dB(A) in excess of the sound levels set forth in Table 1.
2. Such activities do not occur between the hours of 11:00 PM and 8:00 AM.

(D) EMERGENCY WORK.

Sounds caused by the performance of emergency work, or by the ordinary 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 motor vehicle racing events.

(G) WARNING DEVICES.

Sounds made by warning devices operating continuously for three (3) minutes or less, except in the event of an actual emergency, the time limitation shall not apply.

SECTION 6. SPECIAL VARIANCES.

The Borough Council may, upon application, grant special variances for infrequent noise events or activities which do not exceed twenty-four (24) hours in duration. Such special variances are not renewable except by action of the Council.

SECTION 7. ENFORCEMENT.

(A) AUTHORITY FOR ENFORCEMENT.

This Ordinance shall be enforced by the Police Department of the Borough of Luzerne, or its designee.

(B) PENALTIES.

Any person, firm or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than Five Hundred (\$500.00) Dollars plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.

(C) EQUITABLE REMEDY.

This Ordinance and the foregoing penalties shall not be construed to limit or deny the right of the Borough or any person to such equitable or other remedies as may otherwise be available with or without process of law.

(D) CONFLICT WITH OTHER REGULATIONS.

In any case where the provisions of this Ordinance impose a higher standard than that set forth in any other Ordinance or law, then the standards as set forth herein shall prevail, but if the provisions of this Ordinance impose a lower standard than any other Ordinance or law, then the higher standard contained in such other Ordinance or law shall prevail.

SECTION 8: REMEDIES NOT MUTUALLY EXCLUSIVE

The remedies provided herein for the enforcement of this Ordinance or any remedy provided by law shall not be deemed mutually exclusive. Rather, they may be employed simultaneously or consecutively at the option of the Council for the Borough.

SECTION 9: SEVERABILITY AND AMENDMENT

If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance, so long as it remains workable minus the invalid portion.

SECTION 10: REPEAL OF CONFLICTING ORDINANCES

The within Ordinance supercedes and repeals all former and/or provisions of this Ordinance and, to the extent that any prior or existing Ordinances of the Borough of Luzerne are inconsistent with the terms of the within Ordinance, said inconsistent Ordinances, or portions thereof, are hereby expressly repealed.

ADOPTED AND ENACTED this 11th day of May, 2005, at a regular meeting of the Borough Council of Luzerne held this 11th day of May, 2005.

ATTEST:

BOROUGH OF LUZERNE

Bonnie Arnone
BONNIE ARNONE, SECRETARY

Rosemary A. Sigmond
ROSEMARY A. SIGMOND
CHAIRMAN OF COUNCIL

APPROVED:

James Keller
JAMES KELLER, MAYOR