

**TOWNSHIP OF BUSHKILL
NORTHAMPTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2009-01

AN ORDINANCE DEFINING AND REGULATING NOISE IN BUSHKILL TOWNSHIP, NORTHAMPTON COUNTY, PENNSYLVANIA, SETTING FORTH PURPOSE, LEGISLATIVE FINDINGS, ESTABLISHING NOISE LIMITS, EXEMPTIONS, ENFORCEMENT PROCEDURES AND PENALTIES FOR VIOLATION THEREOF.

BE IT ENACTED AND ORDAINED, and it hereby is enacted and ordained, by the Board of Supervisors of Bushkill Township, Northampton County, Pennsylvania.

SECTION 1. TITLE

This Ordinance shall be known as the Bushkill Township Noise Ordinance.

SECTION 2. AUTHORITY

This Ordinance is enacted pursuant to the Second Class Township Code.

SECTION 3. PURPOSE

The purpose of this Ordinance is to ensure that public health, safety and welfare shall not be abridged by the making and creating of noise pollution or of public nuisances from disturbing, excessive or offensive noises in the Township. The residents of the Township recognize that uncontrolled noise represents a danger to the health and welfare of their neighbors and that each person in the community is entitled to live in an environment in which the level of impulsive and amplified noise is minimized for the community good. It is the purpose and scope of this Ordinance to provide regulations prohibiting offensive noise that vehicles, appliances and equipment, or to provide for the prohibition of other kinds of offensive noises. These regulations and prohibitions are intended to protect the physical, mental and social well-being of the residents of Bushkill Township.

SECTION 4. LEGISLATIVE FINDINGS

The Board of Supervisors finds that failure of individuals, businesses, industries, persons maintaining animals, social gatherings and other activities to regulate the noise emanating from their premises constitutes a violation of the peace and enjoyment of the residents of the Township and a public nuisance. Specifically, such noise emanating from home occupations, businesses, industries, sound amplification equipment, radios, electronic sound recording equipment, vehicles, persons maintaining animals, social gatherings, and other activities which:

- A. Creates a nuisance in that residents are deprived of the enjoyment of their homes, disturbed in their sleep and otherwise prevented from the quiet enjoyment of their residential premises;
 - B. Affects the property values of residences in the Township;
 - C. Affects the public welfare by reflecting negatively on the quality of life in residential areas of the Township;
 - D. Disturbs the peace and good order of the Township; and
- B. Creates noise pollution.

SECTION 5. DEFINITIONS

The following words and phrases, when used in this Ordinance, shall have, unless the context clearly indicates otherwise, the meanings given to them in this Section.

- a) **IMPUSLIVE SOUND** – Sound of short duration, usually less than one second, with an abrupt onset of rapid decay. Examples of impulsive sound include ; explosions, drop forge impacts, and the discharge of firearms.
- b) **NOISE** – Any sound emitted by a person, animal, appliance, equipment, instrument, or other device which annoys or disturbs humans or which causes or tends to cause an adverse psychological effect on humans.
- c) **EXCESSIVE NOISE** – Excessive noise is that sound which is (1) injurious or which unreasonably interferes with the comfortable enjoyment of life and property. (2) annoying to a person of ordinary sensibilities.

- d) **NOISE CREATING DEVICE** – Any electrical, mechanical, or chemical device or instrument or combination thereof, that creates noise during its operation by a person.
- e) **NOISE POLLUTION** - Noise of such loudness and character from a single source or from multiple sources, which is, or may be predicted with reasonable certainty to be, injurious to health or which unreasonably interferes with the enjoyment of property or with any lawful business or activity.
- f) **NOISE DISTURBANCE** – Any sound which:
1. Endangers, would endanger or is likely to endanger, or injures would injure or is likely to injure, the safety or health of humans or animals;
 2. Annoys, would annoy or is likely to annoy, or disturb a reasonable person of normal sensitivities;
 3. Endangers, would endanger or is likely to injure, personal or real property;
 4. Disturbs, or is likely to disturb, the peace; or
 5. Creates, would create or is likely to create a nuisance.
- g) **NIGHT TIME** – 10:00 p.m. to 07:00 a.m., prevailing time, conversely, Day Time – 07:00 a.m. to 10:00 p.m., prevailing time.
- h) **PERSON** – includes an individual, firm, association, organization, partnership, trust, company, corporation or any other similar entity.
- i) **PROPERTY LINE BOUNDARY** – An imaginary line drawn through the points of contact of adjoining lands, apartments, condominiums, townhouses, and dupelexs 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 area 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 plan formed by projecting the property line in a manner deemed appropriate by the enforcing police officer.
- j) **PUBLIC RIGHT-OF-WAY** – Any street, avenue, boulevard, highway, sidewalk, alley, or similar place which is owned or controlled by a government entity.

- k) **PUBLIC SPACE** – Any real property or structures thereon which are owned or controlled by a governmental entity.

- l) **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.

- m) **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 including duration, intensity and frequency.

- n) Vehicle - Any device, or combination of devices, used for or capable of being used for transporting persons or property. Vehicles include, but are not limited to the following: automobiles, trucks, buses, motorcycles, motorized bicycles, snowmobiles, scooters, all-terrain vehicles, go-carts, racers, and— life devices, farm machinery, industrial machinery, highway graders, trailers, graders and semi-trailers.

- o) Township - Township of Bushkill, Northampton County, Pennsylvania.

PROHIBITED ACTS; VIOLATIONS

A. General prohibition. It shall be unlawful for any person to make or cause to be made a noise disturbance within the jurisdictional boundaries of the Township of Bushkill, except as otherwise permitted in this ordinance.

B. Specific prohibitions. The following are specifically prohibited, except otherwise permitted in or exempted from this ordinance:

1. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, cassette player, sound amplifier or similar device which produces, reproduces or amplifies sound:

a. In such a manner as to cause a noise disturbance.

b. In such a manner, which is plainly audible at a distance of 50 feet from such source, when the source is operated in, from or on a motor vehicle or hand carried on a public right-of-way or public space.

C. NOISE DISTURBANCES 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 of control.

D. Animals. The following is declared to be a noise disturbance and therefore a violation of this chapter: Owning, keeping, possessing, harboring, or controlling any animal which howls, barks, or makes other sounds continuously and/or incessantly for a period of 10 minutes or makes such noise intermittently for ½ hour or more to the disturbance of any person at any time of the day or night regardless of whether the animal is situated in or upon private property; provided, however, that at the time the animal is making such noise, no person or animal is trespassing or threatening to trespass upon private property in or upon which the animal is situated.

E. Prima Facie violation. Prima facie evidence of a noise disturbance shall exist if the noise from any of the acts prohibited:

1. Disturbs two or more residents (regardless of jurisdiction boundaries) 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 within the same building, located across a property line (boundary) from the property which the source of the noise is generated.

2. One resident located across a property line (boundary) (regardless of jurisdictional boundaries) from the property on which the source of the noise is generated and corroborated by a police officer.

Except for emergency purposes, or testing

SECTION 6. NOISE LIMIT

- a) No person shall create or allow the creation of any noise or operate or cause to be operated any source of sound on property owned, leased, occupied or otherwise controlled by such person, which causes a reasonable person of normal sensitivities which:

1. Endangers, would endanger or is likely to endanger, or injures would injure or is likely to injure, the safety or health of humans or animals;
2. Annoys, would annoy or is likely to annoy, or disturb a reasonable person of normal sensitivities;
3. Endangers, would endanger or is likely to injure, personal or real property;
4. Disturbs, or is likely to disturb, the peace; or
5. Creates, would create or is likely to create a nuisance. the sound level, when measured at the boundaries of the lot, parcel, tract or property, on which such activities take place, to exceed the noise levels specified below:

Between the hours of 10:00 o'clock p.m. and 07:00 o'clock a.m., prevailing time.

SECTION 7. EXEMPTIONS

Noise emitted from the following sources shall be exempt from the noise standards specified herein:

A. All safety signals and warning devices (e.g. intrusion alarms, back-up alarms on trucks); authorized vehicles when responding to emergencies (e.g. police, fire, ambulance sirens or any other device used to alert persons to an emergency or used during the conduct of emergency work).

B. The provision, repair and maintenance of municipal services or public utilities.

C, Bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or public holidays,

D, Appliances, lawn and garden equipment, chain saws, snow removal equipment and power tools in use between the hours of 7:00 a.m. (prevailing time) and 10:00 p.m. (prevailing time) provided such are operated within the manufacturers specifications and with all standard noise-reducing equipment in unmodified, and in proper operating condition.

E. Heavy construction equipment when being used on a specific short term project (such as constructing a building; constructing, repairing or cleaning a road; drilling a well; and other similar short term, specific construction, demolition, or repair projects) in use between the hours of 7:00 a.m, and 10:00 p.m., prevailing time, for the duration of such short term, specific project; PROVIDED, such heavy

construction equipment is operated within the manufacture's specifications and with all standard noise-reducing equipment in use, unmodified, and in proper operating condition.

F. Air-conditioners—fans,-hearing-units-and-similar-comfort devices, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified, and in proper operating condition.

G. Airplanes, helicopters, normal activities of properly licensed airports, and trains operating on railroads.

H. Musical, recreational and athletic events conducted by or permitted by schools, local government, community or community association or festivals, or events sponsored by non-profit organizations.

I. Existing weapons firing ranges during the day time as defined herein.

J. All motor vehicles being operated on the public roads in Bushkill Township, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified, and in proper working condition.

K. Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver.

L. All farm related operations and activities.

M. Any existing legitimate or licensed business, commercial or industrial operation between the hours of 7:00 a.m. and 10:00 p.m., prevailing time; provided any appliances, equipment, machinery or devices used in such operation are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified, and in property operating condition.

N. Unamplified human voices.

SECTION 8. SPECIAL WAIVER

A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons during emergency circumstances, as determined by the Board of Super-visors, to permit reasonable time to effect repairs.

SECTION 9. POLICY

It is the policy of the Board of Supervisors in adopting this Ordinance not to force any industrial or commercial enterprise out of business, but rather to work with any industrial or commercial enterprise to find ways to reduce noise levels to the level permitted by this Ordinance.

SECTION 10. ENFORCEMENT OFFICERS

This Ordinance may be enforced by any police officer or by any person affected by noise as defined herein.

SECTION 11. ENFORCEMENT PROCEDURES

The following procedures and penalties are prescribed for enforcement of this Ordinance:

A. Any person making a complaint pursuant to this Ordinance shall file a written complaint with the Bushkill Township Police Department on a form provided by the Bushkill Township Police Department.

B. Warnings. if it is determined that there is a noise disturbance, the Township of Bushkill, shall upon written complaint by the affected person, who resides in the Township, confirmed and signed by a second complainant, or cooborated by a Bushkill Township Police Officer, issue a written warning to the person responsible. Any such warning shall be in effect for six (6) months.

C. Offenses. if it is determined that a noise is in excess of that permitted by this ordinance and shall have been caused or permitted by any person within six (6) months after the issuance of a warning, any person affected thereby, who resides in Bushkill Township, may prosecute such person causing or permitting said noise disturbance before the Magisterial District Judge.

D. Injunctions. In addition, any person affected thereby may file legal or equitable actions in Court to abate or enjoin violations of this ordinance.

E. Public Nuisance. Any emission of noise from any source in excess of the limitations established herein is hereby declared to be a public nuisance and may be abated by administrative or judicial proceedings, fines and penalties herein provided.

F. Other Remedies. Nothing in this Ordinance shall be construed to impair any cause of action, or legal remedy thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatsoever of noise at such place or manner, or at such levels which may give rise to such cause of action.

SECTION 12. RELATIONSHIP WITH OTHER RESTRICTIONS

The provisions of this Ordinance are not intended to interfere with, abrogate or annul other rules, regulations or Ordinances, including Title 18 (Crimes Code) and Title 75 (Vehicle Code), Pennsylvania Consolidated Statutes. If more stringent requirements concerning noise abatement are contained in other statutes, rules, regulations or Ordinances, the more stringent regulation shall apply.

SECTION 13. PENALTIES

Any person, firm or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, as a summary offense, be sentenced to pay a fine of not more than One Thousand (\$ 1,000. 00) Dollars; and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Ordinance continues shall constitute a separate offense.

SECTION 14. SEVERABILITY

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had the unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

SECTION 15. REPEALER


All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

SECTION 16. EFFECTIVE DATE

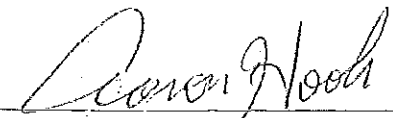
This Ordinance shall take effect five (5) days from the date of adoption.

ENACTED AND ORDAINED by the Board of Supervisors of Bushkill Township, Northampton County, Pennsylvania, this 4th day of JUNE, 2009.

BUSHKILL TOWNSHIP

BY: 
BRIEN KOCHER, Chairman

ATTEST:



AARON HOOK, Secretary