

EXETER TOWNSHIP
BERKS COUNTY, PENNSYLVANIA
ORDINANCE NO. 692 of 2009

AN ORDINANCE OF EXETER TOWNSHIP, BERKS COUNTY, PENNSYLVANIA,
AMENDING THE CODE OF ORDINANCES, CHAPTER 257, NOISE

PURSUANT TO THE AUTHORITY CONTAINED IN THE SECOND CLASS TOWNSHIP CODE, AS AMENDED, THE BOARD OF SUPERVISORS OF EXETER TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, DOES HEREBY ENACT AND ORDAIN AS FOLLOWS:

SECTION I. The Exeter Township Noise Ordinance, Chapter 257 of the Township Code, is hereby amended as follows:

§ 257-1. Intent and purpose.

The Board of Supervisors finds 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, the Board of Supervisors 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 Township of Exeter.

To achieve the intent and purpose of the Board of Supervisors, this Ordinance regulates Noise in three manners: (1) through an objective, reasonable person standard of annoyance (as set forth in Section 257-3); (2) through per se prohibitions on certain types of Noise known to cause annoyance (as set forth in Sections 257-4 through 257-5; and (3) through maximum Sound Levels (as set forth in Section 257-7). Noncompliance with any one of these three methods of Noise control constitutes a violation of this Ordinance subject to the penalties provided herein.

§ 257-2. Definitions.

The following words, terms and phrases when used in this chapter shall have the meaning ascribed to them in this section, except when 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 and its revisions) or its successor body.

AMBIENT SOUND — The all-encompassing Noise associated with a given environment, being usually a composite of sounds from many sources near and far.

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.

DECIBEL ("dB") — A unit for measuring the Sound pressure level.

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.

MUFFLER or SOUND DISSIPATIVE DEVICE — A device designed 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, excepting any law enforcement activity including, but not limited to, training sessions.

NOISE DISTURBANCE — Any Sound, excepting any law enforcement activity including, but not limited to, training sessions, which:

- A. Endangers or injures the safety or health of humans or animals.
- B. Annoys or disturbs a reasonable person of normal sensitivities.
- C. Endangers or injures personal or Real Property.
- D. Endangers or injures personal or Real Property in excess of the Sound Levels established in this chapter.
- E. A violation of Sections 253-4 or 253-7 of this Ordinance.

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, the term Person shall include 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.

POWERED MODEL VEHICLE — Any self-propelled airborne, waterborne or land borne plane, vessel or vehicle which is not designed to caddy persons including, but not limited to, any model airplane, boat, car or rocket. This definition shall also include dirt bikes, four-wheelers, and all-terrain vehicles ("ATV") being used to carry persons, but which are not being operated on a street, avenue, boulevard, highway, or alley. To the extent that dirt bikes, four-wheelers or ATV's are being operated on a Public Right-of-Way, the restrictions in this Ordinance for such shall be governed by the Motor Vehicle Prohibitions set forth in Section 257-5, below.

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 is owned or controlled by a governmental entity.

PURE TONE — Any Sound which can be heard as a single pitch or a set of single pitches. For the purpose of this chapter, a pure tone shall exist if the 1/3 octave band Sound pressure level in the band which the tone exceeds the arithmetic average of the Sound pressure levels of the two contiguous octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less or equal to 125 Hz.

PROPERTY LINE (BOUNDARY) — An imaginary line or “party wall” that separates adjoining lands or the dwelling units of apartments, condominiums (as defined by the Uniform Condominium Act, 68 Pa. C.S.A. § 3101, *et seq.*), townhomes or duplexes, drawn through the points of contact of adjoining lands, or, in the case of apartments, condominiums, townhouses and duplexes owned, rented or leased by different persons, a demarcation or a line of separation between dwelling units (or “unit” as defined by the Uniform Condominium Act) of properties. In the circumstances of any two or more buildings sharing common grounds, the line drawn midway between any two such buildings. All areas devoted to Public Right-of-Way or a common or shared area shall be deemed to be across the property line.

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.

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, 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.

SOUND LEVEL — The weighted Sound pressure level obtained by the use of a Sound Level Meter and frequency weighting network, such as A, B or C, as specified in American National Standards Institute specifications for Sound Level Meters (ANSI or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER — An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and any applicable weighting network used to measure Sound pressure levels which meets as specified in ANSI. The manufacturer's published indication of compliance with such specifications shall be prima-facie evidence of such compliance.

ZONING DISTRICTS — The land use districts established by Chapter 390, Zoning, of the Code of the Township of Exeter, and all subsequent amendments.

§ 257-3. Noise Disturbance prohibited.

No Person shall make, continue or cause to be made or continued any Noise Disturbance, nor shall any Person suffer, allow or permit any Noise Disturbance to be made or continued from or at any property, whether real or personal, that is subject to such Person's right to control.

§ 257-4. Specific prohibited acts.

The following acts, and the causing thereof, are declared to be Noise Disturbances and therefore in violation of this chapter:

- A. Radios, television sets, musical instruments and similar devices. Operating, using 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 to the extent that such use creates a Noise Disturbance:
- (1) 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 p.m. and 7:00 a.m. so as to be plainly audible across a Property Line (Boundary); or
 - (2) 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
 - (3) 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 on a common carrier.
- B. Yelling and shouting. Engaging in loud or raucous yelling, hooting, whistling or singing:
- (1) On the public streets between the hours of 10:00 p.m. and 7:00 a.m.; or
 - (2) At any time or place in such a manner as to create a Noise Disturbance.
- C. Construction tools or equipment. Operating or permitting the operation of any tools or equipment used in Construction Operations, drilling or demolition work:
- (1) Between the hours or 10:00 p.m. and 7:00 a.m. on Monday through Saturday, or at any time on Sundays or holidays recognized by Berks County, such that the Sound therefrom creates a Noise Disturbance across a residential Property Line (Boundary), except for Emergency Work.

- (2) Any other time such that the Sound Level at or across a Property Line (Boundary), exceeds 85 dB(A) for a period of one (1) hour.
 - (3) This Subsection C shall not apply to the use of domestic power tools as hereinafter provided in Subsection D hereof.
- D. 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 for non-commercial, non-proprietary use on one's own property in residential areas between the hours of 10:00 p.m. and 7:00 a.m. on any day so as to cause a Noise Disturbance across a residential Property Line (Boundary), except in an Emergency. Residential areas shall be defined for the purposes of this Ordinance as any area within the Agricultural Preservation, Rural Conservation, Rural, Suburban Residential - 0, Suburban Residential - 1, Suburban Residential - 2, Suburban Residential - 3, and Urban Residential Zoning Districts, as well as any property that shares a Property Line (Boundary) with an adjacent property on which a residential dwelling unit is situated.
- E. 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. the following day in such a manner as to cause a Noise Disturbance across a residential Property Line (Boundary). Such restrictions shall also apply to truck idling and truck refrigerants.
- F. 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.
- G. Powered Model Vehicles. Operating or permitting the operation of Powered Model Vehicles so as to create a Noise Disturbance across a Property Line (Boundary).
- H. Street sales. Offering for sale or selling by shouting or outcry, or by any other amplified or unamplified Sound.
- I. Tampering. The following acts or the causing thereof are prohibited:
- (1) The removal or rendering inoperative by any Person, other than for the purposes of maintenance, repair or replacement, of any Muffler or Sound Dissipative Device or element of design or Noise label of any product.

- (2) The intentional moving or rendering inaccurate or inoperative of any Sound monitoring instrument or device positioned by or for the Police Department; provided, such device or the immediate area is clearly labeled in accordance with Noise control regulations, to warn of the potential illegality.
 - (3) The use of a product which has had a Muffler or Sound Dissipative Device or element of design or Noise labeled removed or rendered inoperative, with knowledge that such action has occurred.
- J. 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 Property Line (Boundary).

§ 257-5. Motor vehicle prohibitions.

- A. Motor vehicle and motorcycles on Public Right-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 67 Pa. Code, Chapter 157, "Established Sound Levels."
- B. 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 residential Property Line (Boundary) in such a manner as to cause a Noise Disturbance across a residential Property Line (Boundary).
- C. 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 or unless necessary in the testing of such for state inspection purposes.
- D. Sound trucks. No Person shall operate 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 A hereof.

§ 257-6. Prima facie violation.

The Noise prohibited in §§ 257-3 to 257-5 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 within the same building, 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. This is not the exclusive example of a prima facie violation.

§ 257-7. Sound Level by Zoning Use. [Amended 10-25-1993 by Ord. No. 347]

- A. Maximum permissible Sound Levels by Zoning Use. 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 I 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. All uses shall fall into that Zoning Use designation in Table I that reflects the actual use consistent with the then-existing Zoning Ordinance.

Table I

Zoning Use of the Property on Which the Source of the Noise is Located	Sound Level Limit dB(A)	
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
Residential	60	57
Commercial	76	73
Industrial	77	77

- B. When exceeded. The Sound Level limits set forth in Table I shall be exceeded when any one or more of the following occur:
- (1) The Sound at any one point in time exceeds the established zone limits in Table I by a measured sound level of 15 dB(A); or
 - (2) The Sound exceeds any of the established zone limits in Table I by a measured Sound Level of 10 dB(A) for a cumulative total of one (1) minute or more out of any ten-minute period; or
 - (3) The Sound exceeds, except for Industrial Uses, any of the established zone limits in Table I by a measured Sound Level of 3 dB(A) continually for a period of five (5) minutes, or total of five (5) minutes out of any ten (10) minute period.

- C. Ambient Sound. If background Ambient Sound Levels in an area of suspected Noise Disturbance exceed the levels set forth in Table I, then the Sound Level of the intrusive Sound source shall be measured with the Ambient Sound Level being substituted as the Table I Sound Level Limit set forth in Table I above.
- D. Where measured. For the purposes 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 level set forth in Table I shall be reduced by 5 dB(A).
- F. Measuring instruments. All Sound measurements shall be made on a Sound Level Meter calibrated in the manner required by the manufacturer's specification.
- G. Exemptions from Sound Level limits. The provisions of this section shall not apply to:
 - (1) Any emergency signaling device used because of an emergency.
 - (2) Interstate railway locomotives and cars.
 - (3) The use of motor vehicles, which shall be governed exclusively by Section 257-5 above.
 - (4) Church bells, chimes or carillons.
 - (5) Activities conducted by police, fire or other emergency service providers, including, but not limited to, training activities.

§ 257-8. Exemptions.

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

- A. Amplified announcements. Stationary electronically amplified announcements at athletic events, political events and civic events.
- B. Blasting. Blasting, under proper permit. Such blasting may occur only between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, unless specifically authorized by permit.
- C. Concerts, etc. Band concerts, block parties, church carnivals, or other performances or similar activities publicly or privately sponsored and presented in any public or private space provided:

- (1) Such activities do not produce Sound 15 dB(A) in excess of Sound Levels set forth in Table I of § 257-7.
 - (2) Such activities do not occur between the hours of 10:00 p.m. and 8:00 a.m.
 - (3) All necessary permits as defined by Township ordinances have been procured, i.e., special event permit.
- D. Emergency Work. Sounds caused by the performance of Emergency Work, or by the ordinary and accepted use of emergency apparatus and equipment, or any other activities conducted by police, fire or other emergency service providers.
- 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 minutes or less. In the event of an actual Emergency, the time limitation shall not apply.

§ 257-9. Enforcement.

This chapter shall be enforced by the Exeter Township Police Department.

§ 257-10. Violations and penalties.

Any Person who shall violate any provision of this chapter, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this chapter continues or each section of this chapter which shall be found to have been violated shall constitute a separate offense.

SEVERANCE CLAUSE

Should any section, paragraph, clause or phrase of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, the remainder of said Ordinance shall not be affected thereby, and shall remain in full force and effect.

REPEALER CLAUSE

All Ordinances or parts of Ordinances or Resolutions conflicting with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

ENACTED AND ORDAINED into an Ordinance this 22nd day of February 2010.

EXETER TOWNSHIP
BOARD OF SUPERVISORS

By: Donald K. Wilson
Chairperson

Attest: [Signature]
Secretary