

WILKES-BARRE TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

**AN ORDINANCE OF THE TOWNSHIP OF WILKES BARRE, COUNTY OF
LUZERNE, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING
REGULATIONS FOR OFFENSIVE AND ANNOYING NOISES,
ENFORCEMENTS AND PENALTIES.**

WHEREAS, the Wilkes Barre Township Council desires to secure and promote the public health, comfort, convenience, safety and welfare, and the peace and quiet of the Township and its inhabitants, by limiting and prohibiting certain offensive and annoying noises

WHEREAS, the Wilkes Barre Township Council has the authority granted to them under the First Class Township Code, as amended, and the Wilkes Barre Township Home Rule Charter, to make ordinances that promote the health, safety and general welfare of the constituents they represent;

NOW, THEREFORE, be it enacted and ordained by the Wilkes Barre Township Council, as follows:

SECTION I. Purpose and Scope

It is the purpose and scope of this Part to secure and promote the public health, comfort, convenience, safety and welfare, and the peace and quiet of the Township and its inhabitants, by limiting and prohibiting certain offensive and annoying noises.

SECTION II. Applicability

A. All types of vehicles, appliances, equipment, containers, machinery or other devices or objects creating noises, whether privately or publicly owned or leased, which disturb the public peace and quiet in the area.

B. Sounds or noises of any time duration, as hereinafter specified.

C. Both the owner or owners, operator or operators, lessee or lessees of vehicles, appliances, equipment, containers, machinery or other devices or objects creating noises and/or of the real estate where such noises are being created.

THIS IS A TRUE AND CORRECT
COPY OF AN ORDINANCE OF
WILKES-BARRE, TOWNSHIP PA.

Certified 28th day of September 2020
Attest [Signature]
Secretary

SECITON III. Exempt Devices

The following devices are exempt from the provisions of these regulations:

- A. Aircraft (except model aircraft).
- B. Police, fire, ambulance and other governmental emergency vehicles.
- C. Back up alarm devices on trucks and other equipment when installed and operated in accordance with Society of Engineers recommended practice.
- D. Governmental warning devices (i.e. civil defense or fire sirens, etc.)
- E. Snowblowers.
- F. Vehicles and equipment utilized as part of a business' customary operations.

SECTION IV. Definitions

APPLIANCE – Any device or combination of devices used, or capable of being used, as a means of accomplishing a desired end, such as, but not limited to, a window air conditioning unit, a radio, a stereo.

EQUIPMENT – Any device or combination of devices to accomplish a desired end such as, but not limited to, a chain saw, bulldozer, backhoe, hammer, power saw, lawn mower, radio, stereo equipment, CD player.

NOISE – Any sound emitted by a person, animal, vehicle, appliance, equipment, container, machinery or other devices or objects creating noises, and its environmental interaction.

ORDINANCE ENFORCEMENT OFFICER – Any person appointed by Wilkes-Barre Township with the responsibility of enforcing Township Ordinances including, but not limited to, the Police Department and Zoning/Code Enforcement Officer of Wilkes Barre Township.

PERSON – Individuals, partnerships, associations, corporations, businesses, churches, schools, nonprofit organizations including their lessees, assignees, employees, servants, trustees, receivers, executors,

administrators or other successors in interest, and including any owner or operator of vehicles, appliances, machinery, equipment, containers or devices, and the owners and lessees of real estate, where such vehicle, appliance, machinery, equipment, container or device is located.

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 like devices, farm graders and semitrailers and tractor trailers.

SECTION V. Loud or Unnecessary Noises Prohibited

It shall be unlawful for any person to make, continue to cause to be made or continue and loud, unnecessary, excessive or unusual noise which either annoys, disturbs, injures, interferes with or endangers the comfort, repose, health, peace or safety of others, within the limits of the Township, or is annoying to a person of ordinary sensibilities as hereinafter set forth.

SECTION VI. Enumeration of Prohibited Noises

The following acts, among others, are declared to be loud, excessive, disturbing and unnecessary noises in violation of this Part and are prohibited, but such enumeration shall not be deemed exclusive, namely:

A. Horns and Signaling Devices, etc. the sound of any horn or signaling device on any vehicle, within the limits of the Township, except as a danger warning; the creation, by means of horns or such signaling device, of any unreasonably loud, excessive, disturbing, unnecessary or harsh sound and the sounding of any such device for any unnecessary and unreasonable period of time; the use of any signaling device or horn except one operated by hand or by electricity; the use of any horn, whistle or other device operated by engine exhaust; and the unreasonable use of any horn or signaling device when traffic is, for any reason, held up.

B. Racing Motors. The unnecessary or excessive or unnatural acceleration, deceleration or racing of motors in vehicles, whether in motion or at rest, within the limits of the Township.

C. Exhausts. The discharge into the open air of the exhaust of any stationary internal combustion engine or vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

D. Defect in Vehicle or Load. The use of any vehicle or other piece or machinery, equipment, appliance, container or device so out of repair, or so loaded or in such manner as to create loud or unnecessary or excessive grating, rattling or other noise.

E. Sound Equipment. The using, operating or permitting to be played, used or operated, of any radio receiving sets, musical instruments, sound amplifiers, phonographs, radios, stereos, tape players, compact disc players, car or vehicle radios or stereos, or other machines or devices for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, comfort and repose of the neighboring inhabitants, or at any time with louder volume than necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereof. The operation of any such set, instrument, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prohibited and shall be prima facie evidence of a violation of this Section.

F. Loudspeakers and Amplifiers for Advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public street for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

G. Yelling or Shouting, etc. Yelling, shouting, hooting, whistling or singing on the public street or public property, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place, including private property, so as to annoy or disturb the quiet, comfort or repose of persons in any school, church or office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

H. Loading, Unloading and Opening Boxes, Dumpsters and Other Containers. The creating of noise in connection with loading or unloading any vehicle, dumpsters or other containers or the opening and destruction of bales, boxes, crates and containers from 11:00 p.m. to 6:00 a.m. is prohibited.

I. Animals and Birds, etc. The keeping of any animal or bird which by causing frequent or long-continued noise, shall disturb the comfort or repose of any persons in the vicinity.

J. Construction, Maintenance or Repairing of Buildings or Lands. The erection (including excavation), demolition, alteration, maintenance or repair of any streets, highways, sidewalks, lands, trees, lawns, landscaping and building between 11:00 p.m. and 7:00 a.m. on Monday through Friday, inclusive, and between 11:00 p.m. and 7:00 a.m. on Saturday and Sunday, except in the urgent necessity in the interest of public health and safety, and then only with a permit from the Township Zoning Officer, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues.

K. Hawkers and Peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

L. Noise from Premises or Property. No person owning, leasing, occupying or otherwise in possession or control of any building, land or premises shall use the same, or permit the use of same, or permit any equipment, machinery, appliance, container or other device to be used at said building, land or premises, if such use shall disturb or destroy, or annoy the peace of the neighborhood, or otherwise be dangerous or detrimental to health or quiet enjoyment.

M. Equipment Noise. It shall be unlawful for any person to use any construction equipment, tractor trailer, power saw, backhoe, lawn or landscaping equipment or other mechanical equipment operated by fuel or electric power between the hours of 11:00 p.m. and 7:00 a.m. on Monday through Friday, inclusive, and between 11:00 p.m. and 7:00 a.m. on Saturday and Sunday, except for emergency work on public improvements, Township services and/or except by special permit as issued by the Township Manager or for a duration of three days as provided for in subsection (J) of this Section, if such equipment produces noise prohibited by this Part.

SECTION VII. Penalties

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Civil 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 Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

SECTION VIII. Enforcement

1. Any emission of noise from any source in violation of this Part shall be deemed and is hereby declared to be a public nuisance and may be abated, in addition to the administrative proceeding, fines and penalties herein provided. Such abatement may be made by any policy officer or at his direction, or by his designee, or by the Zoning/Code Enforcement Officer, or by the Court of Common Pleas of Luzerne County on complaint, petition or action filed by, or on behalf of Wilkes Barre Township.

2. The Police Department of Wilkes Barre Township and/or the Zoning Officer shall have the authority to enforce this Part.

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

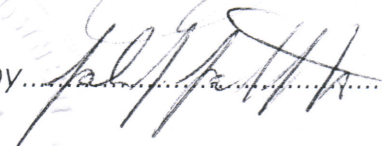
4. The Police Department and/or Zoning/Code Enforcement Officer, should circumstances require, are authorized, but not required to, issue a warning to persons considered in violation of this Part.

SECTION IX. Effective Date

This Ordinance shall become effective within five ~~15~~ days from the date of its enactment. This Ordinance is enacted this 15th day of September, 2020

PASSED on this 15th day of September, 2020, at the regularly scheduled meeting of the Township of Wilkes Barre.

Submitted by.....

Submitted by.....

Immediately

**ROLL CALL
COUNCIL**

YEAS

NAYS

✓
✓
✓
✓
✓

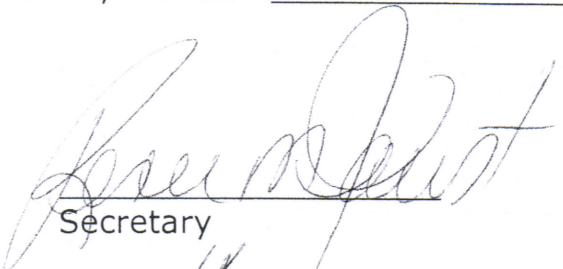
MARY WASKEVICH

JOHN JABLOWSKI, JR.

KATI ARNONE

MICHAEL SROMOVSKI

JERRY SHINAL, President


Secretary

15th day of September, 2020.

