

ORDINANCE NO. 831

AN ORDINANCE OF THE BOROUGH OF MOHNTON,
PROVIDING FOR THE GREATER CONTROL AND MORE
EFFECTIVE REGULATION OF EXCESSIVES SOUND
AND THE SOURCES OF EXCESSIVE SOUND WITH THE
BOROUGH

BE IT ENACTED AND ORDAINED by the Borough Council of the
Borough of Mohnton, Berks County, Pennsylvania, and it is hereby ordained by authority
of the same

SECTION I. Intent and purpose.

Council 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, 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.

SECTION II. Definitions.

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

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.

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.

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 DISTURBANCE — — Any sound 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 a personal or real property.
- D. Is audible on a public street for a distance of 50 feet from the place or origin of such sound or noise.

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 corporation, 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 separation 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 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.

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.

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.

SECTION III.

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.

SECTION IV.

Specified 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, 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, disc or tape player, loudspeaker or other similar device, not in connection with the lawful operation of an emergency vehicle such as an ambulance, police or fire vehicle nor in connection with a lawfully permitted parade, public assembly, or other activity for which a permit is issued by the duly constituted legal authority, or similar device which produces, reproduces or amplifies sound:
- (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 which is audible on a public street for a distance of 50 feet from the place or origin of such sound or noise.
 - (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.
 - (3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by a passenger on a common carrier.
- B. Yelling or shouting. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing:
- (1) On the public streets between the hours of 10:00 p.m. and 7:00 a.m.
 - (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 of 10:00 p.m. and 7:00 a.m. the following day on weekdays and Saturdays or at any time on Sundays or legal holidays, such that the sound therefore creates a noise disturbance across a residential real property line (boundary), except for emergency work.
 - (2) 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 in residential areas between the hours of 10:00 p.m. and 7:00 a.m. so as to cause a noise disturbance across a residential property line (boundary) except in an emergency.
- 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). This Subsection E shall not apply to municipal or utility services in or about the public right-of-way.

- 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 residential property line (boundary) between the hours of 10:00 p.m. and 7:00 a.m.
- H. 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 of the Borough of Mohnton.
- 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 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, or aircraft in such a manner as to cause a noise disturbance across a residential real property line (boundary).

SECTION V.

Motor vehicle prohibitions.

- A. Motor vehicles 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 Pennsylvania Code, Title 67, 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 residence 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.

- D. 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 A hereof.
- E. The sensory mechanism used in connection with an automatic motor vehicle protection device shall be adjusted to suppress false indications of burglary or intrusion so that the device will not be activated by impulse or vibration caused by any force not related to the alarms. All components comprising such a device shall be maintained by the owner or lessee in good repair to assure maximum reliability of operation.

SECTION VI.

Prima facie violation.

Prima facie evidence of a noise disturbance shall exist if the noise from any of the acts prohibited in Section III through V.

- A. 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.
- B. One resident located across a property line (boundary) from the property on which the source of the noise is generated, and corroborated by a police officer.
- C. Solely witnessed/observed by a police officer when citing any section hereunder.

SECTION VII.

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 outdoors provided that such activities do not occur between the hours of 10:00 p.m. and 7:00 a.m. and all necessary permits.
- 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 motor vehicle racing events.

- G. Warning devices. Sounds made by warning devices operating continuously for three minutes or less except in the event of an actual emergency the time limitation shall not apply.
- H. Special permits. The Mayor of Mohnton, or his designee, may, upon application, grant special permits for infrequent events or activities.

SECTION VIII.

Enforcement.

This Ordinance shall be enforced by the Police Department of the Borough of Mohnton.

SECTION IX.

Violations and penalties.

- A. Whoever violates any provision of this ordinance shall be, upon conviction thereof, sentenced to pay a fine not less than \$25 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day during which any person violates any provision of this ordinance shall constitute a separate offense.
- B. This section 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.

SECTION X.

Any Ordinance or parts of Ordinance inconsistent herewith, shall be and the same are hereby repealed.

DULY ENACTED AND ORDAINED by the Council of the Borough of Mohnton, Berks county, Pennsylvania, this 12th day of August, 2015.

BOROUGH OF MOHNTON:

By: Michael J. Fe

Attest:

J. H. B.
Secretary

APPROVED this 12th day of August, 2015.

Li. Oly
Mayor