

TOWNSHIP OF WEST COCALICO

Lancaster County, Pennsylvania

ORDINANCE NO. 142

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE TOWNSHIP OF WEST COCALICO, CHAPTER 6, CONDUCT, TO INSERT A NEW PART 2, NOISE, AND TO AMEND CHAPTER 15, MOTOR VEHICLES AND TRAFFIC, TO PROVIDE THAT NO PERSON SHALL MAKE A STREET UNSAFE FOR VEHICLE TRAFFIC.

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of West Cocalico, Lancaster County, Pennsylvania, as follows:

Section 1. The Code of Ordinances of the Township of West Cocalico, Chapter 6, Conduct, shall be amended by inserting a new Part 2, Noise, which shall provide as follows:

Part 2

Noise

§6-201. Short Title.

This Part shall be known and may be cited as the "West Cocalico Township Noise Ordinance."

§6-202. Authority.

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

§6-203. Purpose.

The purpose of this Part 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 Part to provide regulations defining a noise disturbance that vehicles, appliances and equipment shall be not allowed to produce within specified distances from their neighbors, and also to provide for the prohibition of other kinds of offensive noises. These regulations and prohibitions are in-

tended to protect the physical, mental and social well-being of the residents of West Cocalico Township.

§6-204. 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, between certain hours, sound amplification equipment, radios, electronic sound recording equipment, vehicles, persons maintaining non-farm animals, social gatherings, and other activities:

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 public welfare by reflecting negatively on the quality of life in residential areas of the Township;

C. Disturbs the peace and good order of the Township; and/or

D. Creates noise pollution.

§6-205. Definitions and Word Usage.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings:

Board of Supervisors – The governing body of the Township.

Emergency – Any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.

Emergency Work – Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Noise-creating Device -- Any electrical, mechanical or chemical device or instrument, or combination thereof, which creates noise during its operation by a person or during or after its activation or discharge by a person, including, but not limited to, fireworks.

Person – Any individual, association, partnership, corporation, or limited liability company 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, limited liability companies and associations and, as for corporations, the officers and managers thereof or any of them.

Police Department – The Ephrata Borough Police Department or any other municipal or regional police department which may be contracted to provide police protective services within the Township.

Police Officer – A sworn officer employed by the Police Department.

Township – The Township of West Cocalico, Lancaster County, Pennsylvania.

§6-206. Noise Limit.

A. 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.

B. Noise disturbance. A noise disturbance is noise of such loudness, character, duration or repetition 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 or annoying to a person of ordinary sensibilities.

C. Specific prohibitions. The following acts and the causing thereof are declared to be noise disturbances and therefore in violation of this Part. (All times listed are prevailing time.).

1. 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, high-fidelity equipment or similar device which produces, reproduces or amplifies sound:

(a) At any time in such a manner between the hours of 9:00 p.m. and 7:00 a.m. 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 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

(c) 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 or a common carrier.

2. Yelling and shouting, etc. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing between the hours of 9:00 p.m. and 7:00 a.m.

3. Operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work between the hours of 9:00 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 there from creates a noise disturbance across a residential real property line (boundary), except for emergency work.

4. Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 9:00 p.m. and 7:00 a.m. so as to cause a noise disturbance across a residential property line except as defined in §6-207.

5. Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, or similar objects between the hours of 9:00 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).

6. Animal and bird noises. 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.

7. 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 9:00 p.m. and 7:00 a.m.

8. Street sales. Offering for sale or selling by shouting or outcry or by any other amplified or unamplified sound except between the hours of 7:00 a.m. and 9:00 p.m.

9. 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) between the hours of 9:00 p.m. and 7:00 a.m.

10. ATVs, dirt and trail bikes snowmobiles. Operating or permitting the operation of dirt and trail bikes, snow mobiles and ATVs so as to create a noise disturbance across a residential property line (boundary) between the hours of 9:00 p.m. and 7:00 a.m.

11. Noise-creating devices. Operating, activating, and/or discharging or allowing the operating, activating, or discharging of any noise-creating device such that the sound creates a noise disturbance across a property line (boundary) continuously and/or incessantly for a period of five (5) minutes or more or intermittently for one half hour or more at any time of the day or night. Notwithstanding the foregoing, consumer fireworks may be discharged for a period of up to 30 minutes between 7:00 p.m. and 10:00 p.m. on July 4, the Saturday and Sunday preceding July 4, and the Saturday and Sunday following July 4 of each calendar year, and consumer fireworks may be discharged for a period of up to 15 minutes following midnight (12:00 a.m.) of January 1 of each calendar

year, provided the discharge of consumer fireworks shall comply with all applicable state laws. Use of consumer fireworks exceeding the restrictions set forth herein shall constitute a noise disturbance and violation of this Part unless a waiver is obtained in accordance with Section 6-208 of this Part. For the purposes of this section, "consumer fireworks" shall be those fireworks within the definition of "consumer fireworks" in Act 43 of 2017, 72 P.S. §9401.

§6-207. 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, backup 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, and power tools in use between the hours of 7:00 a.m. and 9:00 p.m. provided such are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified, and in proper operating condition. The use of chain saws and power tools are exempt from the time limitations if used in the case of an emergency (such as a weather event).

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 9:00 p.m., prevailing time, for the duration of such short term, specific project; provided, such heavy construction equipment is operated within the manufacturer specifications and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.

F. Air conditioners, fans, heating 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 and normal activities of properly licensed airports; trains operating on railroads.

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

I. Existing weapons firing ranges between 7:00 a.m. and 9:00 p.m. Any weapons firing ranges used for training or certifying law enforcement agencies shall be exempt from this Part.

J. All motor vehicles being operated on the public roads in the 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, 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 proper operating condition.

N. Snow removal equipment provided such are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified, and in proper operating condition.

O. Discharging of weapons when hunting in accordance with regulations of the Pennsylvania Game Commission.

§6-208. Special Waiver.

A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons, as determined by the Board of Supervisors, or its delegate, for a reasonable time period specified in the waiver. The Board of Supervisors may also give a temporary waiver for an event lasting not more than one hour for which the Legislature has required or authorized the Board of Supervisors to issue permits.

§6-209. Policy.

It is the policy of the Board of Supervisors in adopting this Part 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 Part.

§6-210. Enforcement.

This Part may be enforced by any police officer or code enforcement officer.

§6-211. Enforcement Procedures.

The following procedures and penalties are prescribed for enforcement of this chapter.

A. If it is determined by a police officer or code enforcement officer that noise disturbance as described by this Part has occurred, the police officer or code enforcement officer may issue a citation.

B. Injunctions. The Township may file legal or equitable actions in Court to abate or enjoin violations of this Part.

C. Public Nuisance. Any noise disturbance from any source as defined herein is hereby declared to be a public nuisance and may be abated by administrative or judicial proceedings, fines and penalties herein provided.

D. Other Remedies. Nothing in this Part 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 whatever of noise on such place or manner, or at such levels which may give rise to such cause of action.

§6-212. Relationship to Other Restrictions.

The provisions of this Part 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.

§6-213. Penalties.

Any person who shall violate any provision of this Part 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 chapter continues shall constitute a separate offense.

Section 2. The Code of Ordinances of the Township of West Cocalico, Chapter 15, Motor Vehicles and Traffic, Part 1, General Regulations, Section 15-101, Definitions, shall be amended to add a new Subsection 4 which shall provide as follows:

4. The term “police officer” or “police officer of the Township” shall mean an officer of the Ephrata Borough Police Department or any other municipal or regional police department which may be contracted to provide police protective services within the Township.

Section 3. The Code of Ordinances of the Township of West Cocalico, Chapter 15, Motor Vehicles and Traffic, Part 1, General Regulations, shall be amended by adding a new Section 15-110, Use of Streets Limited, which shall provide as follows:

§15-110. Use of Streets Limited.

No person shall conduct any activity on any public street which shall in any manner make or which has the potential to make the street unsafe for vehicles or pedestrians. This prohibition shall include, but not be limited to, the use or discharging of fireworks or any explosive item on any public street.

Section 4. All other sections, parts and provisions of the Code of Ordinances of the Township of West Cocalico shall remain in full force and effect as previously enacted and amended.

Section 5. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of the Board of Supervisors that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 6. This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of the Township of West Cocalico as provided by law.

DULY ORDAINED AND ENACTED this 3rd day of October, 2019, by the Board of Supervisors of the Township of West Cocalico, Lancaster County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF WEST COCALICO
Lancaster County, Pennsylvania

Attest: *Jeffrey L. Sauder*
(Assistant) Secretary

By: *James J. Shaver*
(Vice) Chairman
Board of Supervisors

[TOWNSHIP SEAL]