

ORDINANCE NO. 5-2008

AN ORDINANCE AMENDING THE MANOR TOWNSHIP CODE OF ORDINANCES, CHAPTER 10, HEALTH AND SAFETY, BY ADDING PART 5, NOISE CONTROL ORDINANCE.

BE IT ORDAINED AND ENACTED by Supervisors of Township of Manor, County of Lancaster, and Commonwealth of Pennsylvania, and it is hereby ordained by the authority of the same as follows:

WHEREAS, the Board of Supervisors of the Township of Manor find that excessive of sounds are detrimental to the physical, mental, and social well-being of the residents as well as 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 Township.

SECTION 1. Title.

This chapter shall be known as the "Manor Township Noise Control 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 the public health, safety, 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 of Manor. The residents of the Township of Manor 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 noises. These regulations

and prohibitions are intended to protect the physical, mental, and social well-being of the residents of the Township of Manor.

SECTION 4. Legislative Findings.

The Board of Supervisors of the Township of Manor finds that failure of 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 of Manor and a public nuisance. Specifically, such noise emanating from sound amplification equipment, radios, electronic sound recording equipment, vehicles, persons maintaining animals, social gatherings, and other activities which:

- A. Create 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. Affect the property values of residences in the Township of Manor.
- C. Affect the public welfare by reflecting negatively on the quality of life in residential areas of the Township of Manor.
- D. Disturb the peace and good order of the Township of Manor; and
- E. Create noise pollution.

SECTION 5. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings herein given, except where the context clearly indicates a different meaning.

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 discharge of firearms.

NOISE – Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE – CREATING DEVICE – Any electrical, mechanical, or chemical device or instrument or combination thereof, that creates noise during its operation by a person.

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; or
- C. Endangers or injures personal or real property.

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 for corporations, the officers and managers thereof or any of them.

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 separate 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 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.

PUBLIC RIGHT-OF-WAY – Any street, avenue, boulevard, highway, sidewalk, alley, or similar place which is owned or controlled by a government 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 rights-of-way.

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 may include any characteristics of such sound including duration, intensity, and frequency.

TOWNSHIP – The Township of Manor, located in Lancaster County, Pennsylvania.

SECTION 6. Prohibited Acts; Violations.

A. Noise disturbance 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 to control.

B. Animals. The following is declared to be a noise disturbance and therefore in violation of this chapter: Owning, 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 1/2 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 is trespassing or threatening to trespass upon private property in or upon which the animal is situated.

C. 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 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 in which the source of the noise is generated.

2. 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.

SECTION 7. Special Waiver. A temporary waiver from strict compliance with the noise standard herein may be granted to persons during emergency circumstances as determined by the Board of Supervisors to permit reasonable time to effect repairs.

SECTION 8. Exemptions.

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

A. Amplified announcements. Electronically amplified announcements at athletic events, political events, and civic events.

B. Blasting. Blasting may occur only between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, unless specifically authorized by such 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.

D. Emergency work. Sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.

E. All farm-related operations and activities.

F. 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.

G. School and public activities conducted by organized school-related programs, activities, athletic and entertainment events, or other public programs, activities, or events. Musical recreational and athletic events conducted by or permitted

by schools, local government, community or community association, or village festivals or events sponsored by a nonprofit organization.

H. Warning devices. Sounds made by warning devices operating continuously for three minutes or less, except that in the event of any actual emergency, the time limitation shall not apply.

I. Expression or communication protected by the United States Constitution including the First Amendment or the Pennsylvania Constitution.

J. Any activity or contact the regulation of which has been pre-empted by Pennsylvania Statute.

K. Any noise created by a governmental entity in the performance of an official duty.

L. Any noise for which a permit has been issued by an authority having jurisdiction to issue the permit.

M. Activities permitted by Special Waiver as provided herein.

SECTION 9. Enforcement.

This chapter shall be enforced by Manor Township Police.

SECTION 10. 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 Manor Township Police Department on a form provided by the Manor Township Police Department.

B. Warning. If it is determined that there is a noise disturbance, the Township of Manor, shall upon written complaint by the affected person, who resides in the Township of Manor, confirmed by a second resident who resides in Manor

Township, or corroborated by a Manor 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, the Township Police may prosecute such person causing or permitting said noise level before the District Magistrate.

D. Public Nuisance. Any noise disturbance which is hereby declared as a public nuisance may be abated by administrative or judicial proceedings, fines, and penalties provided herein.

SECTION 11. Violations and penalties.

A. Whoever violates any provisions of this chapter shall, upon conviction thereof in a summary proceeding, be fined for a first offense, not less than \$150.00 and not more than \$1,000.00; for a second offense be fined not less than \$300.00 and not more than \$1,000.00; for a third offense be fined not less than \$500.00 and not more than \$1,000.00, to be collected as other fines and costs are by law collectible, or imprisoned for not more than thirty (30) days or both. Whoever violates any provision in this chapter for a fourth offense and for any subsequent conviction shall, upon conviction thereof in a summary proceeding, be fined \$1,000.00 to be collected as other fines and costs are by law collectible, and be sentenced to a term of imprisonment of not less than five nor more than thirty (30) days. Each day during which a violation occurs shall constitute a separate offense.

B. This chapter and the foregoing penalties shall not be construed to limit or deny the right of the Township or any person to such equitable or other remedies as may otherwise be available with or without process of law.

SECTION 12. Repealer.


All ordinances or part of ordinances conflicting with the provisions of this chapter are hereby repealed.

SECTION 13. This Ordinance shall become effective five (5) days after enactment.

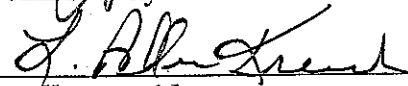
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ENACTED AND ORDAINED this 14th day of August.

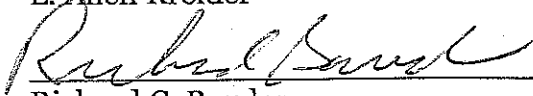
MANOR TOWNSHIP



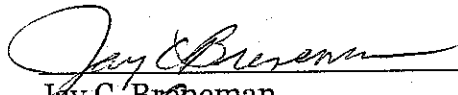
John S. May



L. Allen Kreider



Richard C. Bauder



Jay C. Breneman



Allan R. Herr