

**MARION TOWNSHIP
BERKS COUNTY, PENNSYLVANIA
ORDINANCE NO. _____**

AN ORDINANCE OF MARION TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, ESTABLISHING REGULATIONS REGARDING NOISE WITHIN MARION TOWNSHIP, INCLUDING: SHORT TITLE, PURPOSE, DEFINITIONS, SOUND LEVEL LIMITATIONS, SPECIFIC ACTS CONSTITUTING A NOISE DISTURBANCE, PROMULGATION OF REGULATIONS BY TOWNSHIP SUPERVISORS, REQUIRING NOISE IMPACT STUDIES WITH CERTAIN PLAN SUBMISSIONS, COMPLIANCE MONITORING, VIOLATIONS AND PENALTIES FOR VIOLATIONS, ENFORCEMENT OF THE PROVISIONS OF THIS ORDINANCE, AND REPEALING PREVIOUS CONFLICTING ORDINANCES.

Section 1 - Short Title

This Ordinance shall be referred to as the “Noise Ordinance”.

Section 2 - Purpose

The purpose of this Ordinance is to regulate excessive Noise. Excessive Noise is a serious threat to the comfort, health, safety, welfare and overall quality of life of the residents of Marion Township, Berks County, Pennsylvania. This Ordinance aims to establish the requirements and criteria to prevent excessive noise that may jeopardize the health and welfare of Marion Township residents by regulating and prohibiting all excessive and unreasonable noise from all sources.

Section 3 - Definitions

As used in this Ordinance, the terms set forth below shall mean the following:

AMBIENT NOISE - The total noise level in a given acoustical environment. Ambient noise is usually a composite of sounds near and far.

AP AGRICULTURAL PRESERVATION DISTRICT - The AP Agricultural Preservation District as defined in the Joint Zoning Ordinance and set forth on the Zoning Map, including all properties contained therein.

BACKGROUND SOUND LEVEL - The typical total sound pressure level in a given acoustical environment, excluding the sound(s) of interest/concern.

CR CONSERVATION RESIDENTIAL DISTRICT - The CR Conservation Residential District as defined in the Joint Zoning Ordinance and set forth on the Zoning Map, including all properties contained therein.

dB(A) (A-WEIGHTED DECIBEL) - The standard unit of measurement of sound and symbol designation, using the A-weighted network of a sound meter as defined by the American National Standards Institute (ANSI.org), S1.4 specification for Sound Level Meters.

DECIBEL (dB)-A unit of measure of the sound pressure level at a specific location.

EMERGENCY SERVICES-Any work necessary to deliver essential services, including but not limited to fire suppression, medical care, emergency management, repairing gas, water, electric, telephone, sewer facilities or public transportation facilities, removing fallen trees from public rights-of-way or abating life-threatening conditions.

GI GENERAL INDUSTRIAL DISTRICT - The GI General Industrial District as defined in the Joint Zoning Ordinance and set forth on the Zoning Map, including all properties contained therein.

HC GENERAL COMMERCIAL DISTRICT - The HC General Commercial District as defined in the Joint Zoning Ordinance and set forth on the Zoning Map, including all properties contained therein.

IMPULSIVE SOUND - Any sound having of short duration (approximately one second or less) with an abrupt onset and rapid decay. Examples include explosions from mining operations, discharge of firearms, discharge of fireworks, test revving of engines or motors, or other sounds of a similar nature.

JOINT ZONING ORDINANCE - The Heidelberg-Marion-North Heidelberg-Robeson-Womelsdorf Joint Zoning Ordinance of 2004, as amended and restated from time to time.

LEQ(H) - The steady-state, equivalent noise level over a given one-hour period of time that would have the same acoustical energy as the actual varying noise level over that same time period.

LDR LOW DENSITY RESIDENTIAL DISTRICT - The LDR Low Density Residential District as defined in the Joint Zoning Ordinance and set forth on the Zoning Map, including all properties contained therein.

MDR MEDIUM DENSITY RESIDENTIAL DISTRICT - The MDR Medium Density Residential District as defined in the Joint Zoning Ordinance and set forth on the Zoning Map, including all properties contained therein.

MOTOR VEHICLE - Any vehicle propelled or drawn on land by an engine or motor used for power.

MUFFLER - A device for abating the sound of escaping gases of an internal combustion engine or motor.

NOISE - An unwanted sound; Any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE - Any sound at or exceeding any or all of the sound level limitation noise criteria identified in this section. Any sound that creates a nuisance that deprives the resident(s) of the enjoyment of their homes, disturbed in their sleep or otherwise prevented from the quiet enjoyment of their residential premises.

PERSON - Any individual, property owner, tenant, sole practitioner, corporation, partnership, limited liability company or other legal entity.

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, drone or rocket.

PROPERTY LINE - The real or imaginary line and its vertical extension which separates real property owned or controlled by one person from that which is owned or controlled by another person.

PROPOSED NOISE LEVEL - The future noise level associated with a proposed subdivision, land development, facility/land use, derived by noise monitoring, noise modeling, and/or other mathematical calculation.

PUBLIC RIGHT-OF-WAY - Any street, highway, road, sidewalk, avenue, alley or boulevard which is leased, owned or controlled by a governmental entity.

SOUND LEVEL - The instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on a slow response speed as per ANSI standards, unless otherwise noted.

SOUND LEVEL METER - An instrument including a microphone, amplifier, an output meter and frequency-weighted networks used for measurement of sound pressure levels conforming to Type 1 or Type 2 standards as specified in ANSI Standard S1.4, Specifications of Sound Level Meters, 1983 (R1990) or the latest version thereof.

TC TOWN CENTER AND TR TOWN RESIDENTIAL DISTRICT - The TC Town Center and TR Town Residential District as defined in the Joint Zoning Ordinance and set forth on the Zoning Map, including all properties contained therein.

TOWNSHIP - The Township of Marion, Berks County, Pennsylvania, USA.

ZONING MAP - The Zoning Map as defined in the Joint Zoning Ordinance.

Section 4 - Sound Level Limitations

The following are sound level criteria limitations to be followed when evaluating noise level within the Township:

- A. Maximum allowable noise increase: No person will allow, cause, transmit or propose the operation of any sound source on a particular property, zoning district, public right-of-way, or public space in any manner as to create a sound level that exceeds average hourly equivalent A-weighted $\{Leq(h)\}$ background sound levels by ten (10) dBA or greater during daytime hours (6:00 am until 10:00 pm) and by five (5) dBA or greater during nighttime hours (10:00 pm until 6:00 am), when measured at or within the property line of receiving property. Such a sound level increase would constitute a noise disturbance and a violation of this section.

- B. Maximum permissible noise level: No Person shall exceed the absolute Noise levels set forth below.

Maximum Permissible 1 Hour Leq(h)		
Zoning District	6:00 AM to 10:00 PM	10:00 PM to 6:00 AM
AP Agricultural Preservation	70 dBA	65 dBA
CR Conservation Residential	60 dBA	55 dBA
GI General Industrial	65 dBA	65 dBA
HC Highway Commercial	65 dBA	65 dBA
LDR Low Density Residential	60 dBA	55 dBA
MDR Medium Density Residential	60 dBA	55 dBA
TC Town Center and TR Town Residential	60 dBA	55 dBA

The application of this Section 4.B. shall not be abridged or voided by the issuance of any conditional use, special exception or variance by the Township Supervisors or Zoning Hearing Board.

1. Impulsive Sound: Impulsive Sounds shall not equal or exceed a maximum noise level of 80 dBA when measured at or within the property line of the receiving property.
2. Measurement, Estimations and Predictions: Measurements, estimates, and/or predictions of Noise shall be performed to represent worst case conditions or noise hour(s). It may be necessary to evaluate the fluctuations in noise over a typical twenty-four (24) hour period and identify those periods/hours that would have the greatest potential for noise levels or noise increases depending on existing or future conditions.
3. Presumptive Violation. Any noise made between the hours of 10:00 pm and 6:00 am, which can be heard at a distance of a one-mile radius or more from the source of the sound be a reasonable person of normal sensibilities shall be deemed to be at a level which violates this chapter without the necessity of performance of a measurement and is considered a per se violation of this section.

Section 5 - Specific Acts Constituting a Noise Disturbance

A. Any Noise created by the following actions during the period of 10:00 PM and 6:00 AM shall be a *de facto* violation of this Ordinance.

1. Operating, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound either indoors or outdoors at a place of public entertainment, on private property, public right-of-way, or public space;
2. The operation of any sound amplification or reproduction device in a vehicle;
3. The operation of a motor vehicle without an adequate muffler or exhaust system to prevent any unreasonable noise;
4. The use and operation of any lawn maintenance device, including lawn mowers, edgers, leaf blowers, trimmers, as well as other similar equipment such as snow blowers;
5. The use of any tools or equipment used in construction, drilling, earthmoving, excavating, or demolition work;

6. The repairing, rebuilding or testing of any motor vehicle, motorcycle, motorboat, or aircraft;
7. Discharge of firearms or fireworks;
8. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, trash dumpsters, garbage cans, or similar objects; and
9. Operating or permitting the operation of powered motor vehicles.

B. Any Noise created by the following actions during any time period shall be a *de facto* violation of this Ordinance.

1. Owning, possessing, harboring or controlling any animal or bird which howls, barks, meows, squawks or makes other sound continuously and/or incessantly for a period of ten (10) minutes or makes such noise intermittently for one-half (½) hour or more regardless of whether the animal or bird is situated in or on private property: provided 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.

2. Engaging in loud or raucous yelling, hooting or other disturbing noise producing conduct.

3. It is prima facie evidence of a noise disturbance if two or more residents 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.

4. Solely witnessed/observed by a police officer when citing any section within this ordinance.

Section 6 - Promulgation of Regulations By Township Supervisors

The Township may at any time promulgate regulations concerning this Ordinance and implement its provisions by resolution adopted at any public meeting.

Section 7 - Exemptions

The following actions shall not constitute a violation of this Ordinance:

A. Noise generated to warn of a hazardous situation, as part of providing emergency services or responding to natural emergencies.

B. Noise generated from an authorized warning alarm, siren or emergency vehicle or a vehicle operated by gas, electric, communications, water or other utility service.

C. Noise generated from a bell, chime or similar device used by a church, mosque, synagogue or school.

D. Noise generated from construction activities properly permitted by the Township between 6:00am and 10:00pm.

E. Noise generated from lawn care and other household maintenance equipment and tools used between 6:00am and 10:00pm.

F. Noise generated from the engine of a motor vehicle on a public highway that is subject to regulation exclusively by the Pennsylvania Department of Transportation.

G. Noise generated from community, school or municipality sponsored or approved celebrations or special events in accordance with a permit completed by the applicant prior to the special event and approved and issued by the Township.

H. Noise generated from emergency backup generators used during a power failure or other emergency situation.

I. Noise generated from agricultural production activities involving agricultural animals, equipment, and field machinery used and maintained in accordance with the manufacturer's specifications.

J. Noise generated from official Township approved activities/business.

K. A temporary waiver from strict compliance may be granted to persons as determined by the Board of Supervisors or its delegate for a reasonable time period specified in the waiver.

Section 8 - Plan Submission

A. For subdivision and land development application where change of existing use or intensification on the property are being proposed by the applicant, the Township may require that noise impact studies be submitted for review and approval with preliminary or final subdivision/land development plan application.

- B. Where public health, safety and welfare is at issue, the Township may require that noise impact studies be submitted with an application for amendment or change of the Zoning Ordinance or Official Zoning Map, building permit applications or conditional use applications. The Township may require that noise impact studies be submitted for consideration as part of any special exception, variance, or appeal applications.

Section 9 - Compliance Monitoring

- A. Any representative, agent, designee of the Township or technical advisor engaged by the Township Board of Supervisors shall be authorized to enter the originating and receiving properties to monitor and investigate compliance with this chapter. Such authority shall be enforced by any police officer or code enforcement officer as designated by the Board of Supervisors.
- B. In the event that a Person in violation cooperates with the respective Township representative, agent, designee and associated technical advisor and takes corrective action deemed to be necessary to comply with this Ordinance, the Township may elect to provide an initial informal notification of violation to the any Person in violation and provide information regarding appropriate remedial action in lieu of enforcing this Ordinance in accordance with Section 10 of this Ordinance.
- C. In the event that the Person in violation fails to cooperative, initiate corrective action, or where the nature of the violation does not allow for the initial informal notification, enforcement shall commence in accordance with Section 10.

Section 10 - Violations and Penalties; Enforcement

- A. This Ordinance shall be enforced by local and state police in accordance with this Ordinance. Any violation of this ordinance shall constitute a summary offense and shall be enforced in accordance with the Pennsylvania Rules of Criminal Procedure.
- B. Each violation of this Ordinance shall be subject to a fine of no less than Fifty Dollars (\$50.00) and no greater than Five Hundred Dollars (\$500.00) for each offense.
- C. Each violation of this Ordinance that occurs on any day after a notice of the violation has been issued to the Person in violation shall constitute a separate offense.
- D. The Township may also take any other appropriate action at law or equity, civil or criminal to enforce the provisions of this chapter and recover the fees, expenses and costs associated with enforcement. This chapter shall in no way restrict any other remedies,

including but not limited to injunctive relief and other remedies otherwise available and provided by law.

Section 11 - Repeal of Ordinances

Any previous ordinance or part of any ordinance that conflicts with the provision of this Ordinance are hereby repealed insofar as they are inconsistent with provisions of this Ordinance.

Section 12 - Severability

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is for any reason declared to be illegal, unconstitutional or invalid by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the Ordinance. The Township declares that it would have adopted the Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word irrespective of the limitation, restrictions, sentences, clauses, phrases or word that may be declared illegal, unconstitutional or invalid.

Section 13 - Effective Date

This Ordinance shall become effective on the earliest date permitted by law.

ORDAINED and **ENACTED** as an Ordinance by the Board of Supervisors of the Marion Township, Berks County, Pennsylvania, in lawful session, duly assembled, this 27th day of May, 2021.

**BOARD OF SUPERVISORS
MARION TOWNSHIP
BERKS COUNTY, PENNSYLVANIA**

Peter McCarthy, Chairman

Irene Sileski

James Brooks

Attest: _____
Susan Staaby, Secretary

MUNICIPAL CERTIFICATION

I, Susan M. Staaby, Secretary of Marion Township, Berks County, Pennsylvania, do hereby certify that the foregoing Ordinance No. _____ was advertised in the *Reading Eagle*, a daily newspaper of general circulation in Marion Township on Tuesday, May 18, 2021 and was duly enacted and approved as set forth at a regular meeting of the Board of Supervisors held on Thursday, May 27, 2021.

[SEAL]

Susan M. Staaby, Secretary