

EXETER TOWNSHIP

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF EXETER, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE TOWNSHIP OF EXETER, AS AMENDED, BY AMENDING EXISTING CHAPTER 257, ENTITLED "NOISE".

PURSUANT TO THE AUTHORITY CONTAINED IN THE PENNSYLVANIA SECOND CLASS TOWNSHIP CODE, AS AMENDED, 53 P.S. § 65101, ET. SEQ., THE BOARD OF SUPERVISORS OF EXETER TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, DOES HEREBY ENACT AND ORDAIN AS FOLLOWS:

WHEREAS, Section 1506 of the Second Class Township Code, 53 P.S. § 66506, authorizes the Board of Supervisors of the Township make and adopt ordinances necessary for maintenance of the health and welfare of the Township and its citizens; and

WHEREAS, the Board of Supervisors of Exeter Township desires to update Chapter 257 of the Code of Ordinances regulating noise.

SECTION 1. Chapter 257 of the Code of the Township of Exeter ("Township Code") is hereby amended and revised as set forth in the document attached hereto and made a part of this Ordinance.

SECTION 2. REPEALER: All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are specifically repealed.

SECTION 3. SEVERANCE CLAUSE: Should any section, paragraph, clause or phrase of this Ordinance or Chapter 257 be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of said Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION 4. SAVINGS CLAUSE: In all other respects, the provisions of the Code of the Township of Exeter, as amended, shall remain in full force and effect.

ENACTED AND ORDAINED this _____ day of _____, 2020 .

ATTEST:

**EXETER TOWNSHIP
BOARD OF SUPERVISORS**

Laurie Getz, Secretary

David G. Speece, Jr., Chairperson

Chapter 257

Noise

§ 257-1 Intent and purpose.

- A. The Board of Supervisors finds that excessive levels of sound are a public health and welfare hazard, being 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, the Board of Supervisors 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 of Exeter.
- B. Methods of noise control.

To achieve the intent and purpose of the Board of Supervisors, this Chapter regulates noise in three manners:

- (a) Through a reasonable person standard of annoyance (as set forth in § 257-6);
- (b) Through per se prohibitions on certain types of noise known to cause annoyance (as set forth in §§ 257-4 and 257-5; and
- (c) Through maximum sound levels (as set forth in § 257-7).

Noncompliance with any one or more of these three manners of noise control constitutes a violation of this Chapter subject to the penalties provided herein. Violations of §§ 257-4, 257-5 and 257-6 do not require sound level measurements.

§ 257-2 Definitions.

The following words, terms and phrases when used in this Chapter shall have the meaning ascribed to them in this section, except when the context clearly indicates a different meaning. Words, terms and phrases used in this Chapter that are defined in Chapter 390 of the Code that are not defined in this § 257-2 shall have the meanings set forth in Chapter 390, except when the context clearly indicates a different meaning. All terminology used in this Chapter, not defined in this § 257-2 or in Chapter 390, shall have the meanings set forth in publications of the American National Standards Institute (ANSI and its revisions) or its successor body, applicable to sound and noise.

ALL-TERRAIN VEHICLE (ATV)

Any motorized off-road recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain, including but not limited to go-karts and multi-track, multi-wheel or low pressure tire vehicles or similar two-wheel, three-wheel, four-wheel or belt-driven vehicles, or an amphibious machine. The definition of ATV excludes golf carts, construction machines, utility vehicles used for

business operations, agriculture, yard work, landscaping, snow removal or otherwise being used in the reasonable maintenance of a person's private property, or motorized vehicles being used for law enforcement, fire, emergency, military or other authorized governmental purposes.

AMBIENT SOUND

The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.

CONSTRUCTION OPERATION

The erection, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, grading, development and improvement of real property; any man-made change to improved or unimproved land.

DECIBEL ("dB")

A unit for measuring the sound pressure level.

DIRT BIKE

A motorcycle with tires and suspension designed and built for riding on unpaved roads and over rough terrain. The definition of Dirt Bike shall also include minibikes or any similar type of motorized bike.

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 the discharge of firearms.

MUFFLER OR SOUND DISSIPATIVE DEVICE

A device designed 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. Any sound that is loud, unpleasant, unexpected or undesired to a reasonable person of normal sensitivities.

NOISE DISTURBANCE

Any sound not exempt from this Chapter as provided in § 257-8, which:

- A. Endangers, would endanger, or is likely to endanger or injures, would injure or is likely to injure the safety or health of humans or animals,
- B. Annoys, would annoy or is likely to annoy or disturbs a reasonable person of normal sensitivities,
- C. Endangers, would endanger or is likely to endanger or injures, would injure or is likely to injure personal or real property,
- D. Exceeds the sound level limits established in §257-7 of this Chapter, or
- E. Is prohibited by § 253-4 or 253-5 of this Chapter.

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, the term "person" shall include the individual members, partners, officers and managers, or any of them, of partnerships and associations, and as to corporations, the officers and managers thereof, or any of them.

POWERED MODEL VEHICLE

Any self-propelled airborne, waterborne or land borne plane, vessel or vehicle which is not designed to carry persons or property, including, but not limited to, any model airplane, boat, car or rocket.

PROPERTY LINE (BOUNDARY)

The boundary between adjacent real property and, in the case of dwelling units, the wall, floor and or ceiling separating dwelling units. In the circumstances of any two or more buildings sharing one lot, the line drawn midway between any two such buildings. All areas devoted to a right-of-way or a common or shared area shall be deemed to be across the property line.

PUBLIC SPACE

Any real property, or structures thereon, which is owned or controlled by a governmental entity.

PURE TONE

Any sound which can be heard as a single pitch or a set of single pitches. For the purpose of this Chapter, a pure tone shall exist if the 1/3 octave band sound pressure level in the band which the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous octave bands by five dB for center frequencies of 500 Hz and above and by eight dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less or equal to 125 Hz.

REAL PROPERTY

All land, whether publicly or privately owned, whether improved or not improved, with or without structures, exclusive of any areas devoted to a right-of-way.

RESIDENTIAL AREA or RESIDENTIAL PROPERTY

Any real property within the Agricultural Preservation, Rural Conservation, Rural, Suburban Residential — 0, Suburban Residential — 1, Suburban Residential — 2, Suburban Residential — 3, and Urban Residential Zoning Districts (as designated by Chapter 390 of the Code and the Township Zoning Map), as well as any real property that shares a property line (boundary) with or is across a right-of-way from a real property which is used for residential purposes.

RIGHT-OF-WAY

Any public or private street, avenue, boulevard, highway, sidewalk, alley or similar place which is used for vehicular or pedestrian traffic.

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.

SOUND LEVEL

The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in American National Standards Institute Specifications for Sound Level Meters (ANSI or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER

An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and any applicable weighting network used to measure sound pressure levels which meets as specified in ANSI. The manufacturer's published indication of compliance with such specifications shall be prima facie evidence of such compliance.

ZONING DISTRICTS

The land use districts established by Chapter **390**, Zoning, of the Code of the Township of Exeter, and all subsequent amendments.

§ 257-3 Noise disturbance prohibited.

No person shall make, continue or cause to be made or continued any noise disturbance, nor shall any person owning or occupying any real property suffer, allow or permit any noise disturbance to be made or continued from or at such real property.

§ 257-4 Specific prohibited acts.

The following acts, and the causing thereof, are declared to be noise disturbances and therefore in violation of this Chapter. Committing or causing any of the following acts is a strict liability offense and is unlawful regardless of the sound level of the noise and whether or not the sound level exceeds the limits set forth in § 257-7.

- A. Radios, television sets, musical instruments and similar devices. Operating, using or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo or high fidelity equipment or similar device which produces, reproduces or amplifies sound:
- (1) Between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to be audible across a property line (boundary); or
 - (2) In such a manner as to create a noise disturbance across a property line (boundary) or at a distance of 50 feet from such device, whichever is less, when the device is operated in or on a motor vehicle, or hand carried, on a right-of-way or public space; or
 - (3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier.
- B. Yelling and shouting. Engaging in loud or raucous yelling, hooting, whistling or singing:
- (1) On the public right-of-way between the hours of 10:00 p.m. and 7:00 a.m. the following day; or
 - (2) At any time or place in such a manner as to create a noise disturbance.
- C. Construction Operations. Engaging in construction operations:
- (1) Between the hours or 10:00 p.m. and 7:00 a.m. the following day on Monday through Saturday, or at any time on Sundays or holidays recognized by Berks County; provided however, construction operations conducted on residential properties by the owner or occupant of the residential property may be conducted on Sundays and holidays, but subject to the limitations in subsection C(2) hereinbelow;
 - (2) Between the hours of 7:00 a.m. and 10:00 p.m. the same day such that the sound

level at or across a property line (boundary) exceeds 85 dB(A) for a period of a total of sixty (60) minutes during a single day.

- (3) Notwithstanding the requirements of this § 257-4.C, road construction and paving projects performed or contracted by governmental entities shall not be subject to the time and sound limitations set forth in this § 257-4.C.
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- 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 for noncommercial, nonproprietary use on one's own property in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day on any day except in an emergency.
 - E. Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, personal property, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in a residential area. . Such restrictions shall also apply to truck idling operation of truck refrigerators, movement of trailers to and from loading docks, opening and closing of truck trailer doors, opening and closing of loading dock doors and movement of loading ramps and plates
 - 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 property line (boundary).
 - H. All-Terrain Vehicles and Dirt Bikes. Operating or permitting the operation of an all-terrain vehicle or dirt bike so as to create a noise disturbance across a property line (boundary) and/or operating or permitting the operation of an all-terrain vehicle or dirt bikes in a residential area on Sundays through Thursdays between the hours of the earlier of 7:00 p.m. or dusk; and 9:00 a.m. the following day; and on Fridays and Saturdays between the hours of the earlier of 7:00 p.m. or dusk; and 12:00 p.m. the following day. All ATVs and dirt bikes operated in the Township shall be equipped with a muffler or other effective noise-suppressing system in working order and in constant operation. A muffler, noise-suppressing system or exhaust system shall not be equipped with a cutout, bypass or similar device.
 - I. Street sales. Offering for sale or selling by shouting or outcry, or by any other amplified or unamplified sound.
 - J. 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 intentional moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the Police Department, provided such device or the immediate area is clearly labeled in accordance with noise control regulations to warn of the potential illegality.
- (3) The use of a product which has had a muffler, sound dissipative device, element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

K. 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 property line (boundary).

§ 257-5 Motor vehicle prohibitions. Committing or causing any of the following acts is a strict liability offense and is unlawful regardless of the sound level of the noise and whether or not the sound level exceeds the limits set forth in § 257-7.

- A. Motor vehicle and motorcycles on a right-of-way. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle, an ATV or dirt bike registered and lawfully operated on a right-of-way, or any equipment attached to such a vehicle, on a - 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 67 Pa. Code 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 residential property line (boundary) 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 or unless necessary in the testing of such for state inspection purposes.
- D. Sound trucks. No person shall operate 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.

§ 257-6 Reasonable person; Prima facie violation.

- A. A sound or noise constitutes a noise violation if the sound or noise annoys or disturbs a reasonable person of normal sensitivities. A noise violation may occur pursuant to this

subsection A regardless of the sound level of the noise and whether or not the sound level exceeds the limits set forth in § 257-7.

- B. The noise prohibited in §§ 257-3 to 257-5 that disturbs two or more residents who are in general agreement as to the times and durations of the noise and who reside in separate dwelling units, including dwelling units located within the same building and/or located across a property line (boundary) from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance. This is not the exclusive example of a prima facie violation.

§ 257-7 Sound level by use of real property.

- A. Maximum permissible sound levels by real property use. No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth in Table I when measured at or across the property line (boundary) from the noise source. Any sound source that produces sound in excess of those levels shall constitute a noise disturbance.

Table I

Use of the Property on which the Source of the Noise is Located	Sound Level Limit dB(A)	
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
Residential	The same day 60	The following day 57
Commercial	76	73
Industrial	77	77

- B. When exceeded. The sound level limits set forth in Table I shall be exceeded when any one or more of the following occur:
 - (1) The sound at any one point in time exceeds the established use limits in Table I by a measured sound level of 15 dB(A); or
 - (2) The sound exceeds any of the established use limits in Table I by a measured sound Level of 10 dB(A) for a cumulative total of one minute or more out of any ten-minute period; or

- (3) The sound exceeds, except for industrial uses, any of the established use limits in Table I by a measured sound Level of three dB(A) continually for a period of five minutes, or total of five minutes out of any ten-minute period.
- C. Ambient sound. If background ambient sound levels in an area of suspected noise disturbance exceed the levels set forth in Table I, then the sound level of the intrusive sound source shall be measured with the ambient sound level being substituted as the Table I sound level limit set forth in Table I above.
 - D. Where measured. For the purposes of this section, sound shall be measured at or beyond the property line (boundary) of the property on which the noise source is located.
 - E. Pure tone and impulsive sound. For any source of sound which emits a pure tone or impulsive sound, the level set forth in Table I shall be reduced by five dB(A).
 - F. Measuring instruments. All sound measurements shall be made on a sound level meter calibrated in the manner required by the manufacturer's specification.
 - G. Exemptions from sound level limits. The provisions of this section shall not apply to:
 - (1) Any emergency signaling device used because of an emergency.
 - (2) Interstate railway locomotives and cars.
 - (3) The use of motor vehicles, which shall be governed exclusively by § 257-5 above.
 - (4) Church bells, chimes or carillons.
 - (5) Activities conducted by police, fire or other emergency service providers, including, but not limited to, training activities.

§ 257-8 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 provided:
 - (1) Such activities do not produce sound 15 dB(A) in excess of sound levels set forth in Table I of § 257-7.
 - (2) Such activities do not occur between the hours of 10:00 p.m. and 8:00 a.m.

- (3) All permits required by Township ordinances have been procured, e.g., special event permit.
- D. Emergency work; Emergency service providers. Sounds caused by the performance of emergency work, or by the ordinary and accepted use of emergency apparatus and equipment, or any other activities conducted by police, fire or other emergency service providers, including training activities.
- E. Municipal and utility services. Sounds resulting from the repair or replacement of any municipal or utility installation in or about the 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. In the event of an actual emergency, the time limitation shall not apply.

§ 257-9 Enforcement.

This Chapter shall be enforced by the Exeter Township Police Department.

§ 257-10 Violations and penalties.

- A. A violation of this Chapter shall be a strict liability offense.
- B. Exeter Township Police Department officers are authorized to make an initial determination of a violation of and to enforce the provisions of this Chapter.
- C. A violation of this Chapter shall be subject to summary enforcement proceedings under the Pennsylvania Rules of Criminal Procedure. A person found guilty of a summary offense before a District Justice shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1000) per violation. Upon default in payment of a fine or costs, the person found guilty may be subject to a term of imprisonment up to the maximum allowed by law for a summary offense. Each day that a violation continues or each section of this Chapter that is found to be violated shall be considered a separate violation and offense.
- D. All persons convicted of violating this Chapter shall also pay the costs of prosecution.
- E. Any person who violates any provision of this Chapter may also be subject to civil proceedings for damages and/or injunctive relief instituted by the Township of Exeter or by any property owner and any entity injured or damaged by such violation.
- F. Both criminal and civil proceedings may be commenced against a person violating this Chapter and commencement of any such proceedings shall not constitute an election of remedies preventing the commencement of the other proceedings against such person.