

**BOROUGH OF PLYMOUTH
LUZERNE COUNTY, PENNSYLVANIA**

ORDINANCE No. 2009 - 2

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF PLYMOUTH,
LUZERNE COUNTY, PENNSYLVANIA, PROHIBITING EXCESSIVE
LEVELS OF NOISE.**

WHEREAS, Plymouth Borough has the authority, pursuant to 53 P.S. Section 46202(34), Act of February 1, 1966, P.L. 581, as amended, to adopt ordinances for the maintenance of peace, safety and welfare in the Borough.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby adopted by the Plymouth Borough Council as follows:

SECTION 1: Legislative Intent: Declaration of Nuisance

The Plymouth Borough Council, finding that excessive levels of sound are detrimental to the physical, mental and social well-being of the residents, 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 of Plymouth.

SECTION 2: Definitions

The following words, terms and phrases, when used in the Ordinance, shall have the meanings herein given, 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.

IMPULSIVE SOUND Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of impulsive sounds include explosions, dropped force impacts and the discharge of firearms.

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 noise 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 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 OR BOUNDARY LINE: An imaginary line drawn through the points of contact or 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 a 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 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 open to public use as a matter of right.

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, with or without structures, exclusive of any areas devoted to the public right-of-way.

SECTION 3: Prohibited Acts: Violations

- 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 of control.

- B. Specific prohibitions. The following acts and the causing thereof are declared to be noise disturbances and, therefore, in violation of this Ordinance:
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 as to cause a noise disturbance across a property line or boundary line or between the hours of 10:00PM and 7:00AM so as to be plainly audible across a property or boundary line.
 - b. In such a manner as to create a noise disturbance across a property or boundary line or at a distance of fifty (50) feet from such device, whichever is less, when the device operated in or on a motor vehicle or hand carried on a public right-of-way or public space.
 - c. In such a manner as to create a noise disturbance to any person other than the operator of the device.
 2. Yelling, and shouting, etc. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing.
 - a. On the public streets between the hours of 10:00PM and 7:00AM; or
 - b. At any time or place in such a manner as to create a noise disturbance.
 3. Construction. Operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work between the hours of 10:00PM and 7:00AM, Monday through Saturday or at any time on Sundays or legal holidays, such that the sound therefrom creates a noise disturbance across a residential real property or boundary line, except for emergency work.
 4. Domestic power tools. Operating or permitting the operation of any mechanically powered saw, sander, grinder, lawn or garden tool or similar devices used outdoors between the hours of 10:00PM and 7:00AM.
 5. 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 10:00PM and 7:00AM in such a manner as to cause a noise disturbance across a residential property or boundary line. This section shall not apply to municipal or utility services in or about a public right-of-way.

6. Animals.
 - a. For the purposes of this subsection "animal" is defined as any dog, cat or domesticated animal or fowl or any undomesticated animal confined on that person's premises.
 - b. No person shall allow any animal, as defined in Subsection B.6.a. above, to make any loud or harsh noise or disturbance continuously or incessantly for a period of ten (10) minutes or to make such noise intermittently for ½ hour or more to the disturbance of any person at any time of the day or night which shall interfere with or deprive the peace, quiet, rest or sleep of any person within the borough; provided, however, that at the time such animal is making such noise, no person is trespassing or threatening to trespass upon private property in or upon which the animal is situate or for any other legitimate cause which teased or provoked the animal.
7. Powered model vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential property boundary line between the hours of 10:00PM and 7:00AM.
8. Street sales. Offering for sale or selling by shouting or outcry or by any other amplified or un-amplified sound within any residential or commercial area except between the hours of 10:00PM and 7:00AM.
9. Tampering. The following acts or the causing thereof are prohibited:
 - a. The removal or rendering inoperative by any person, other than for the purpose of maintenance, repair or replacement, of any muffler or sound dissipative device or element of design.
 - b. The use of product or equipment which has had a muffler or sound dissipative device or element of design removed or rendered inoperative.
10. 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 or disturbance across a real property or boundary line.
11. Motor vehicle prohibitions.
 - a. Standing motor vehicles. No person shall operate or permit the operation of any vehicle or any auxiliary equipment attached to such

a vehicle, for a period longer than fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion,, anywhere within one hundred (100) feet of any residence in such a manner as to cause a noise disturbance across a residential property or boundary line.

- b. Unnecessary horn blowing. No person shall at any time sound the horn or other warning device of any vehicle except when absolutely necessary as a warning while driving such vehicle.

SECTION 4: Exemptions.

The following sounds are exempted from this Ordinance:

- A. Amplified announcements: electronically amplified announcements at athletic events.
- B. Blasting. Blasting may occur only between the hours of 8:00AM and 5:00PM, Monday through Saturday. No blasting is permitted on Sundays.
- C. Concerts, band concerts, block parties, church carnivals, street festivals 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 10:00PM and 7:00AM.
- 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 or events, other than fireworks or fireworks displays and motor vehicle racing events.

SECTION 5: Violation and Penalties

Any person, firm or corporation violating any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than Fifty Dollars (\$50.00) nor more than Three Hundred Dollars (\$300.00), and the costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than ten (10) days. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

SECTION 6:

All other Ordinances or parts of Ordinances inconsistent herewith shall be and they are expressly repealed.

SECTION 7:

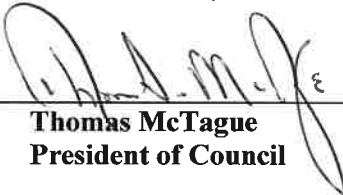
In the event that any provision, section, sentence, clause or portion of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or portion of the Ordinance, it being the intent that such remainder shall be and shall remain in full force and effect.

SECTION 8:

It is declared that enactment of this Ordinance is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Borough. It shall be the duty and responsibility of the Plymouth Borough Police Department to enforce the provisions of this Ordinance.

DULY ENACTED AND ORDAINED this 14th day of April, 2009, by the Plymouth Borough Council, in lawful session duly assembled.

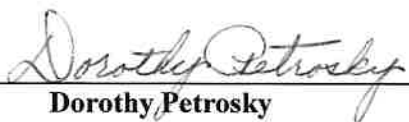
**BOROUGH OF PLYMOUTH
LUZERNE COUNTY, PENNSYLVANIA**

By: 
Thomas McTague
President of Council

Attest:


Dorothy Woodruff
Borough Secretary

Examined and approved this 14 day of
April, 2009


Dorothy Petrosky
Mayor, Borough of Plymouth
Pennsylvania