

**ORDINANCE 10-12
NOISE ORDINANCE**

**AN ORDINANCE OF BOROUGH OF MERCERSBURG, FRANKLIN
COUNTY, PENNSYLVANIA, PROHIBITING UNNECESSARY NOISES IN THE
BOROUGH AND PROVIDING FOR THE PENALTIES THEREFORE.**

The Council of the Borough of Mercersburg, Franklin County, Pennsylvania, pursuant to the authority granted to it by the Pennsylvania Borough Code, hereby ORDAINS AND ENACTS as follows:

ARTICLE I—DEFINITIONS

SECTION 1.01: For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context words used in the present tense, included the future, words in the plural number include singular number and words in the singular number include the plural number, and the word “shall” is always mandatory and not merely directory.

- A. “BOROUGH” is the Borough of Mercersburg, Franklin County, Pennsylvania.
- B. “OWNER” is a person owning, leasing, occupying or having charge of any premises within the Borough.
- C. “PERSON” is any natural person, firm, partnership, association, corporation, company or organization of any kind.

**ARTICLE II—PROHIBITION OF EXCESSIVE NOISE;
PENALTIES FOR VIOLATION**

SECTION 2.01: It shall be unlawful for any person to make, continue, cause to be made or continued any loud, unnecessary or unusual noise, any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the Borough.

SECTION 2.02: The following acts, among others, are declared to be disturbing and unnecessary noises in violation of this Ordinance, but said enumeration (listing) shall not be deemed to be exclusive, namely:

- A. Horns, signaling devices, etc.: Sounding any horn or signaling device of any automobile, motorcycle, street car or other vehicle on any street or public place of the Borough except as a danger warning; creating, by means of any such signaling device, any unreasonably loud or harsh sound; or the sounding of any such device for any unnecessary or unreasonable period of time.

- B. Radios, phonographs, television sets, CD players, MP players etc:
Using, operating or permitting the playing, use or operation of any radio receiving set, television set, instrument, phonograph, tape player or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room or vehicle in which such machine or device is being operated. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible by the human ear or feeling the sound in the form of vibrations associated therewith at a distance of fifty (50) or more feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.
- C. Loud speakers, amplifiers for advertising: Using, operating or permitting the playing, use or operation of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure except in the course of legitimate business activity of auction sales.
- D. Exhausts: The discharge into the open air of the exhaust of any stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

SECTION 2.03: 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, back-up 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, snow removal equipment and power tools in use between the hours of 7:00 A.M., prevailing time, and 9:00 P.M., prevailing time,

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

- 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 conditioner, fans, hearing 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.
- H. Musical, recreational and athletic events conducted by or permitted by schools, local government, community or community association or Borough festivals, or events sponsored by non-profit organizations.
- I. All motor vehicles being operated on the public roads in Mercersburg Borough, provided such are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified and in proper working condition.
- J. Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver.
- K. All farm related operations and activities.
- L. Any existing legitimate or licensed business, commercial or industrial operation between the hours of 7:00 A.M. and 9:00 P.M., prevailing time; 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.

SECTION 2.04: SPECIAL WAIVER. A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons during emergency circumstances, as determined by the Council or its duly appointed representatives to permit reasonable time to effect repairs.

SECTION 2.05: POLICY. It is the policy of the Council in adopting this Ordinance 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 Ordinance.

SECTION 2.06: ENFORCEMENT OFFICERS. This Ordinance may be enforced by any police officer.

SECTION 2.07: RELATIONSHIP WITH OTHER RESTRICTIONS. The provisions of this Ordinance 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.

SECTION 2.08: ENFORCEMENT AND PENALTIES. Any person, firm or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, as a summary offense, be sentenced to pay a fine as specified in the Borough schedule of fees as approved by Council together with costs of prosecution; and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Ordinance continues shall constitute a separate offense.

SECTION 2.09: SEVERABILITY. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Council of the Borough of Mercersburg that this Ordinance would have been adopted had the unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included therein.

SECTION 2.10: REPEALER. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

SECTION 2.11: EFFECTIVE DATE. This Ordinance shall take effect August 29, 2006.

ENACTED AND ORDAINED as an Ordinance this 28 day of August,
2006, by the Mercersburg Borough Council of the Borough of Mercersburg, Franklin
County, Commonwealth of Pennsylvania.

[s]

Joshua Meyers
Borough Council President

[s]

Mayor James C. Zeger

ATTEST:

SEAL

[s]

Steven Mellott
Borough secretary