

AN ORDINANCE BY THE BOARD OF COMMISSIONERS OF UPPER ALLEN TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA, CHAPTER 181 (PEACE AND GOOD ORDER), INCLUDING SECTIONS 181-1, PROHIBITED ACTS AND 181-2, VIOLATIONS AND PENALTIES; INCORPORATING ARTICLE II FOR THE ADOPTION OF A NUISANCE NOISE ORDINANCE; AND AMENDING CHAPTER 217 (STREETS AND SIDEWALKS), SECTION 217-4, ISSUANCE OF PERMITS; APPLICABILITY.

ORDINANCE _____

BE IT ENACTED AND ORDAINED by the Board of Commissioners of Upper Allen Township, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by authority of the same as follows:

SECTION 1: The Code of Upper Allen Township, Chapter 181 (Peace and Good Order), shall be amended to create Article I, Prohibited Acts.

SECTION 2: The Code of Upper Allen Township, Chapter 181 (Peace and Good Order), Section 181-1 (Prohibited acts) shall be renumbered to Section 181-1.1 and shall be located within Article I.

SECTION 3: The Code of Upper Allen Township, Chapter 181 (Peace and Good Order), Section 181-1 (Prohibited acts), Subsection C. shall hereby be deleted.

SECTION 4: The Code of Upper Allen Township, Chapter 181 (Peace and Good Order), Section 181-2 (Violations and penalties) shall be renumbered to Section 181-1.2 and shall be located within Article I.

SECTION 5: The Code of Upper Allen Township, Chapter 181 (Peace and Good Order), shall be amended to add the following attached Article II, Noise Disturbance by reference here in as Exhibit "A".

SECTION 6: The Code of Upper Allen Township, Chapter 217 (Streets and sidewalks), Article I, Section 217-4 (Issuance of permit; applicability), Subsection E. shall hereby be amended as follows:

- E. It shall be the applicant's responsibility to notify the Township's Code Enforcement Officer prior to any lane or street closure required to conduct work as defined in a permit, except in the event of an emergency as defined in § 217-6 herein. Notice of any road closure shall be in conformance with the provisions herein and § 181-1.1.E of the Peace and Good Order Ordinance.

SECTION 7: All other ordinances and parts of ordinances inconsistent herewith are hereby repealed.

SECTION 8: The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provision shall not affect or impair any other remaining sections, clauses or sentences of the same.

SECTION 9: This Ordinance shall take effect and be in force immediately upon enactment.

ENACTED AND ORDAINED, into an Ordinance this ____ day of _____, 20____, by the Board of Commissioners of Upper Allen Township.

ATTEST:

UPPER ALLEN TOWNSHIP

(Assistant) Secretary

By: _____

Kenneth M. Martin, President
Board of Commissioners

EXHIBIT “A”

Article II. Noise Disturbance.

§ 181-2.1 Title.

This article shall be known as the Upper Allen Township Noise Ordinance.

§ 181-2.2. Purpose.

The purpose of this article is to ensure that public health, safety, and welfare shall not be abridged by the making and creating of noise pollution or of public nuisances from disturbing, excessive, or offensive noises or sounds in the Township. It is the purpose and scope of this article to provide regulations defining a noise disturbance, which persons, non-farm animals, vehicles, appliances, and equipment shall be not allowed to produce within specified distances from their neighbors, and to provide for the prohibition of other kinds of offensive noises. The Township finds it to be necessary to provide for control and regulation to protect the physical, mental, and social well-being of the residents of Upper Allen Township. This article attempts to foster mutual respect among all residents and to establish a community position against noise pollution.

§ 181-2.3. Scope.

§ 181-2.4. Definitions.

As used in this article, the following terms shall have the following meanings:

AMBIENT SOUND LEVEL – The composite of outdoor sound from all sources near and far. The normal or existing level of environmental sound at a given location, with the exclusion of the primary sound that is being monitored.

ANIMAL – Any dog, cat, or other domesticated animal or fowl confined on that person’s premises.

BOARD OF COMMISSIONERS – The Board of Commissioners of Upper Allen Township, Cumberland County, Pennsylvania.

CONSTRUCTION OPERATION – The erection, repair, renovation, demolition, removal of any building or structure, and the excavation, filling, grading of lots in connection therewith.

CONSUMER FIREWORKS – Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or an successor regulation and complies with the provisions for “consumer fireworks” as defined in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout this Commonwealth. The term does not include devices such as “ground and hand-held sparkling devices”, “novelties”, or “toy caps” in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

DECIBEL – A unit of sound level which is a division of a logarithmic scale used to express the ratio of the sound pressure of the source to the pressure of an arbitrarily chosen reference pressure; the ratio is expressed on the decibel scale by multiplying its base 10 logarithm by 20. The sound is indicated as ‘dBA’ or ‘dBC’. Noise and other sounds shall be measured on a dBA scale. Bass sounds shall be measured on a dBC scale.

EMERGENCY – Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

EMERGENCY VEHICLE – A motor vehicle used in response to a public calamity or to protect persons or property from imminent exposure to danger.

EMERGENCY WORK – Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities or work required to protect persons or property from an imminent exposure to danger.

NOISE – Any sound emitted by a person, animal, appliance, equipment, instrument, or other device.

NOISE DISTURBANCE – The plainly audible noise of such loudness, character, duration, or repetition from a single source or from multiple sources, which is or may be predicated with reasonable certainty to be injurious to health, or which disturbs the peace, quiet, comfort, and enjoyment of neighboring property, persons in a public space or public right-of-way, within any lawful business or activity, or exceeds the limits set out in § 181-2.6.

NOISE POLLUTION – An unwanted or disturbing sound.

PERSON – Any individual, association, partnership, corporation, user, owner, or operator and includes any officer, employee, department, agency, or instrument 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 and, in their absence, the shareholders.

PLAINLY AUDIBLE – Any sound that can be detected by a person using unaided hearing faculties at a distance of fifty (50) feet from the sound source. Plainly audible shall refer to a sound heard at a volume level above that of normal conversation and shall not include sounds which are just barely audible. For example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. A law enforcement officer need not determine the title, specific words or artist performing the song.

PROPERTY BOUNDARY – An imaginary line exterior to any enclosed structure, at the ground surface, which separates the real property owned, rented, or leased by one person from that owned, rented, or leased by another person, and its vertical extension.

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

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 to any areas devoted to public rights-of-way.

SOUND – The sensation produced by stimulation of the organs of hearing by vibrations transmitted through the air or other medium.

TOWNSHIP – The Township of Upper Allen, Cumberland County, Pennsylvania.

§ 181-2.5. Limits of noise disturbance.

- A. 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 to control.
- B. Specific prohibitions. The following acts and the causing thereof are declared to be noise disturbances between the hours of 10:00 p.m. and 6:00 a.m., unless otherwise stated herein, and therefore in violation of this section.
 - (1) Radios, television sets, musical instruments, and similar devices. Operating, playing or permitting the operation or playing of any radio, television, disc jockey equipment, drum, musical instrument, sound amplifier, automobile radio, automobile stereo, high-fidelity equipment, portable stereo or other similar device, including but not limited to devices utilizing digital technology, all for which produces, reproduces or amplifies sound at any time in such a manner as to cause a noise disturbance:
 - (a) Such noise level shall not create a noise disturbance within a dwelling unit which is not the source of the sound.
 - (b) Such noise level shall not be audible from the boundary line of the real property affected by the noise, the curbline of a public street or way or a point not less than 50 feet from the source of the noise within any existing residential-only use.
 - (c) Nothing herein shall be construed to prohibit a musical band or orchestra from performing in an authorized parade, during a Township-sponsored, community-sponsored or religious-sponsored event or during any lawful activity subject to the provisions of this chapter.
 - (2) Yelling and shouting, etc. Engaging in loud or raucous yelling, shouting, houting, whistling, or singing on a public street, or 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 in a manner as to cause a noise disturbance across a property boundary.
- (4) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, mower, snowblower, lawn or garden tool, or similar device used outdoors in residential areas so as to cause a noise disturbance across a property boundary.
- (5) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, or similar objects in such a manner as to cause a noise disturbance across a property boundary. This section shall not apply to municipal or utility services in or about the public right-of-way and the collection of refuse in compliance with municipal ordinances.
- (6) Domesticated 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 30 minutes or makes such noise intermittently for one 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.
- (7) Off-road vehicles. Operating or permitting the operation of off-road vehicles so as to create a noise disturbance across a property boundary.
- (8) Repairing, rebuilding, or testing any motor vehicle, motorcycle, motorboat, or aircraft in such a manner as to cause a noise disturbance across a real property or boundary line.
- (9) Motor vehicle prohibitions.
 - (a) Squealing tires, burn-outs, peel-outs, power-braking, or similar activity. No person shall cause or allow the tires of a motor vehicle, which the person is operating, to squeal except when necessary in order to avoid a collision with another person, vehicle, or other property.
 - (b) Racing engine/rapid throttle advance. No person shall operate a motor vehicle in such a manner that the public's attention is drawn to the source of the noise. The prohibition of this section shall include racing the engine or rapid throttle advance and/or revving of an internal combustion engine resulting in an increase of noise from the engine.
 - (c) Unnecessary horn blowing or other warning device of a vehicle except when necessary as a warning while actually driving such vehicle.
 - (d) Operating motor vehicles on private property causing continuous and excessive noise for a period of 1/2 hour or more.

- (10) Discharging, detonating, igniting or otherwise using consumer fireworks, unless otherwise permitted by state law or special permit.

§ 181-2.6. Maximum permissible sound levels.

- A. In accordance with the forgoing prohibitions, no person shall make, continue or cause to be made or continued any noise disturbance which is in excess of the limits set forth in Table 1. The ambient sound level shall apply only if the measured ambient sound exceeds the maximum sound level within the applicable category in Table 1.

Table 1: Maximum Permissible Sound Levels

Sound Originating Land Use	Maximum Sound Level (dBA or dBC)	
	6:01 a.m. to 9:59 p.m. (Daytime Hours)	10:00 p.m. to 6:00 a.m. (Nighttime Hours)
Residential dwelling (at the lot line of a property that is used for residential use only)	65 dBA/dBC or 10 dBA/dBC above ambient sound level, whichever is higher.	55 dBA/dBC or 10 dBA/dBC above ambient sound level, whichever is higher.
Other	75 dBA/dBC or 10 dBA/dBC above ambient sound level, whichever is higher.	60 dBA/dBC or 10 dBA/dBC above ambient sound level, whichever is higher.

- B. When exceeded. The sound level limits set forth in Table 1 shall be exceeded if the measured sound level exceeds the established limit by 10 dBA/dBC at any point during a continuous two-minute measurement period.
- C. Where measured. For the purposes of this section, sound measurements shall be taken either at the property line (boundary) where the noise is being received, or at least 20 feet away from the noise source if located in a public right-of-way. The measurements shall be made at least five feet above the ground and away from any large surfaces that reflect sound.
- D. No outdoor measurements shall be taken:
- (1) During periods when wind speeds (including gusts) exceed 15 mph; without a windscreen, recommended by the measuring instrument manufacturer, properly attached to the measuring instrument;
 - (2) Under any condition that allows the measuring instrument to become wet (e.g. rain, snow, or condensation); or
 - (3) When the ambient temperature is out of the range of the tolerance of the measuring instrument.
- E. Measuring instruments. All sound measurements shall be made on a sound level meter calibrated in the manner required by the manufacturer's specifications.

- F. Background sounds. When measuring noise levels to ensure compliance with Table 1, efforts shall be taken to remove or minimize atypical background noises, when possible.

§ 181-2.7. Exemptions.

Noise emitted from the following sources shall be exempt from the noise standards specified herein this article:

- A. All safety signals, warning devices, or other sounds of authorized vehicles and communication systems 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. Emergency work. Sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.
- C. Municipal and utility services. All operations by the township, county, or commonwealth departments, and public utility companies.
- D. Bells, chimes, and carillons. When used in conjunction with celebrations or public holidays. Routine ringing of bells and chimes by a place of worship or clock owned by the Township or other governmental entity.
- E. Household power tools and gardening/lawn care instruments between the hours of 6:00 a.m. and 10:00 p.m.
- F. Air conditioners, fans, heating units. Air conditioners, fans, heating units, and similar devices of less than eight tones heating or cooling capacity, provided such are operated within the manufacturer's specifications and all reasonable measures have been taken to reduce noise levels.
- G. Tools, materials, and equipment are exempt from the time limitations if used in the case of an emergency (such as a weather event). This includes snow removal equipment.
- H. Schools and public activities. Musical, recreational, and athletic events conducted by or permitted by schools, local government, community festivals, or other events sponsored by public or nonprofit organizations.
- I. Concert, block parties, carnivals, parades, or other performances or similar activities as permitted or authorized by the Township,
- J. Existing weapons firing ranges during daytime hours. Any weapons firing ranges used for training or certifying law enforcement agencies shall be exempt from this article.
- K. All vehicles operating on public streets, railroads, and aircrafts.
- L. All agriculturally-related operations and activities. This shall include all animals on a permitted farm or in a permitted agricultural-related operation or activity. This section does not apply to commercial kennels.

- M. Construction. Construction operations during the hours of 6:00 a.m. to 10:00 p.m. from Monday through Saturday, excluding Sundays and legal holidays, except in the case of urgent necessity in the interests of public safety. Additional times may be approved by special waiver, as provided herein. Construction operations approved by the Pennsylvania Department of Transportation (PennDOT) for work on or around state-owned roads shall be exempt from provisions of this article.
- N. Commercial and Industrial Operations. The following are exempt:
 - (1) Any legitimate or licensed business, commercial or industrial operation of any plant, factory or industry engaged in the business of manufacturing, processing of food or other industrial or commercial operation.
 - (2) Any legitimate or licensed business which is not less than 500 feet from any residential dwelling.
- O. Emergency power generation equipment used during a power outage.
- P. All activities and sounds granted immunity and/or exemption from noise pollution control by the legislature of the Commonwealth of Pennsylvania to the extent of the immunity or exemption as granted by state law.
- Q. Activities, events, or other operations permitted by a waiver, as provided herein, according to the terms and conditions of said waiver.

§ 181-2.8. Waivers.

- A. Business waivers. A waiver of this article may be considered, if upon written request to the Board of Commissioners, the permitted business can successfully prove the limits within this article create an undue burden on the operation of said business.
- B. Special waivers. A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons for special circumstances, as determined by the Board of Commissioners or its designee. No waiver shall be issued for the same location within thirty (30) business days of the date of the expiration of the previous special waiver.

§ 181-2.9. (Reserved)

§ 181-2.10. Enforcement.

- A. The police officers of Upper Allen Township shall have the power and authority to enforce the provisions of this article.
- B. Violation of this article shall be cause for a police officer to issue a request to desist, a written warning, or a citation, of which is to be issued, directly to the owner, occupant or person or persons in charge of or in control of the device, building, or premises.

- C. Enforcement personnel may verbally communicate with the on-site staff to request that sound levels be decreased. Enforcement personnel shall have the power to shut down amplified music if two or more complaints are received for the same event from unrelated parties.
- D. A special waiver or business waiver may be revoked by the Board of Commissioners after a public hearing if the terms of the waiver are violated; if it is learned that there were material misrepresentations made in the waiver request; or if there is a material change in any of the circumstances relied upon by the Board of Commissioners in granting said waiver.

§ 181-2.11. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this article shall, upon conviction before a Magisterial District Judge as a summary offense, be sentenced to pay a fine of no less than \$300 and no more than \$1,000 for each offense plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this article continues shall be deemed a separate and distinct offence.

§ 181-2.12. Conflicting regulations.

The provisions of this article are not intended to interfere with, abrogate or annul other rules, regulations, or ordinances, including Title 18 (Crimes Code), Title 75 (Vehicle Code) of the Pennsylvania Consolidated Statutes, and other ordinances of the Township. If more stringent requirements concerning noise abatement are contained in other statutes, rules, regulations or ordinances, the more stringent regulation shall apply.