

**BOROUGH OF DUNMORE
COUNTY OF LACKAWANNA
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 5**

**AN ORDINANCE OF THE BOROUGH OF DUNMORE
PROHIBITING NOISE WHICH DISRUPTS THE ENJOYMENT OF PRPOERTY AND
QUALITY OF LIFE IN THE BOROUGH OF DUNMORE AND PROVIDING FOR
PENALTIES FOR VIOLATIONS THEREOF.**

WHEREAS, the Borough of Dunmore (“the Borough”) is a duly organized and existing municipality and political subdivision located in the County of Lackawanna, Commonwealth of Pennsylvania with offices located at 400 S. Blakely Street, Dunmore PA 18512; and

WHEREAS, the Borough is subject to the Pennsylvania Borough Code, as found at 8 Pa. C.S.A. § 101, *et seq.* (the “Borough Code”); and

WHEREAS, pursuant to Section 1202(5) of the Borough Code, the Borough has the authority to make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough. See 8 Pa. C.S.A. § 1202(5); and

WHEREAS, excessive noise can impair and frustrate the ability of Borough residents to use and enjoy their properties; and

WHEREAS, the Council of the Borough wishes to prohibit any unnecessary or excessive noise which is of such character, intensity or duration which is detrimental to the health or life of any individual or in the disturbance of the public peace and welfare; and

WHEREAS, the Council of the Borough desires to discourage conduct which disrupts or harms the enjoyment of day-to-day life for Borough residents.

THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Dunmore, County of Lackawanna and Commonwealth of Pennsylvania, as follows:

SECTION 1 – TITLE. This Part may be cited as the “Dunmore Comprehensive Noise Control Ordinance”

SECTION 2 – PURPOSE. To provide for effective control of noise within the Borough in order to protect the health, safety, and welfare of residents and visitors and to enhance the pursuits of life, recreation, and commerce within the Borough.

SECTION 3 – DEFINITIONS. The following words, terms, and phrases when used in this Part shall have the meanings herein given, except where the context clearly indicates a different meaning:

BOROUGH – Borough of Dunmore, Lackawanna County, Pennsylvania

CONSTRUCTION OPERATIONS – The erection, repair, renovation, demolition or removal of any building, facility, street, road, bridge or other structures using equipment, tools, machinery and/or the excavation, filling, grading and regulation of lots, streets, and other structures 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.

MOTORCYCLE – A motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

MOTOR VEHICLE – A vehicle that is self-propelled except an electric personal assistive mobility device or a vehicle that is propelled solely by human power.

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 emitted by a person, animal or noise creating device.

NOISE-CREATING DEVICE – Any electrical, mechanical or chemical device or instrument or combination thereof, that creates noise during its operation by a person.

NOISE DISTURBANCE – In addition to the specific noise disturbances set forth herein, any sound that is:

- (1) Unpleasant, annoying, offensive, loud or obnoxious to a reasonable person of normal sensibilities; or
- (2) Unusual for the time of day or location where it is produced or heard; or

- (3) Detrimental to or injurious to the health, comfort or safety of person or animals or to the reasonable enjoyment of property or the lawful conduct of business because of the loudness, duration or character of the noise; or
- (4) Endangers or injures personal or real property; or
- (5) Is in violation of any other section of this or other Ordinance, statute or applicable regulation.

NON-RESIDENTIAL AREA – All areas of the Borough identified in the Borough’s Zoning Ordinance or Zoning Map as: (1) Town Downtown Mixed Use; (2) Suburban Center; and (3) Commercial-Industrial.

OPERATION – Actual control by a person.

PERSON – Any individual, partnership, limited partnership, limited liability partnership, limited liability company, association, firm, corporation or any other legally recognized entity. Whenever used in any provision prescribing and imposing a penalty, “person” includes the individual members, partners, officers, and managers of any legally recognized entity.

POLICE – The Police Department employed by the Borough or any properly authorized member or officer thereof in any other law enforcement agency having jurisdiction within the Borough.

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

PROPERTY LINE (BOUNDARY) – An imaginary line drawn through the points of contact of 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 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. As used herein, the property line includes all points on a plane formed by projecting the property line in a manner deemed appropriate by the enforcing police.

PUBLIC – Affecting or likely to affect, persons in a place to which the public or substantial group has access.

PUBLIC STREET – Property to which the public has a legal right of access, including but not limited to streets, alley, public sidewalks, public parks or similar place, which is either owned or controlled by the Borough or the

Commonwealth of Pennsylvania for the benefit and use of the public, but not including buildings.

PUBLIC SPACE – Any real property or structures thereon which are either owned or controlled by the Borough for the benefit and use of the public.

REAL PROPERTY – All land, whether publicly or privately owned, whether improved or not improved, with or without structures, exclusive of any areas devoted to public rights-of-way.

REDUCED NOISE FACILITY – Any place of worship, nursing home, in-patient medical facility, school or child day-care facility located within the Borough.

RESIDENTIAL AREA – All areas of the Borough identified in the Borough's Zoning Ordinance or Zoning Map as: R-1A 1 Family Low Density Residential; R-1B 1 Family Medium Density Residential; R-2 2 Family Residential; and R-3 Multi-Family Residential.

SOUND – An auditory sensation evoked by the oscillation of air pressure.

TAMPERING – The removal or rendering inoperative by any person other than for purposes or maintenance, repair or replacement of any muffler or sound-dissipative device or element of design of any motor vehicle or motorcycle.

TRUCK – A motor vehicle designed primarily for the transportation of property.

VEHICLE – Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks. The does not include a self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.

VEHICLE CODE – The Vehicle Code of the Commonwealth of Pennsylvania (75 Pa. C.S.A. § 101, *et seq.*) as is hereafter amended, supplemented, modified or reenacted by the General Assembly of the Commonwealth of Pennsylvania.

SECTION 5 – PROHIBITED ACTS.

A. Noise Disturbance.

No person shall make, continue or cause to be made or cause to be continued, any noise disturbance by any means, nor shall any person

suffer, allow or permit any noise disturbance, by any means, to be made or continued from or at any property, whether public or private, 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 and are, therefore, in violation of this Part:

(1) Radios, televisions, musical instruments, digital music players, stereo, and similar devices. Operating, playing or permitting the operation or playing of musical instrument, radio or audio equipment (including when the noise-creating device is operated in or on a vehicle. Or hand carried, on a public right-of-way or public space), sound amplifier, loudspeaker, television or similar device designed or used in a manner that intends to produce, reproduce or amplify sound in the following manner:

(a) At any time and in such a manner as to cause a noise disturbance in a Residential Area and to be plainly audible across a property line (boundary) and at a distance of fifty (50') feet from the source, shall be *prima facie* evidence of a violation of this Ordinance not otherwise exempted herein.

(b) At any time and in such manner as to create a noise disturbance with louder volume than is necessary for convenient hearing by the person that is operating such device and for those that are voluntary listeners thereto, in Non-Residential Areas.

(2) The use of any drum, musical instrument, loudspeaker or other instrument or device for the purpose of attracting attention to the sale or display of merchandise of a commercial character.

(a) At any time and in such a manner as to cause a noise disturbance across a property line (boundary) as to be plainly audible and at a distance of fifty (50') feet from the source, shall be *prima facie* evidence of a violation of this Ordinance.

(b) In such a manner as to cause a noise disturbance across a property line (boundary) and at fifty (50') feet from the source of such noise-creating device, when the noise-creating device is operated in or on a vehicle or hand carried or fixed at a location at or near a public right-of-way or public space.

(3) Yelling or shouting. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing:

(a) On public rights-of-way or public spaces between the hours of 10:00 p.m. and 7:00 a.m.; or

(b) At any time or place in such a manner as to cause a noise disturbance across a property line (boundary).

(4) Construction. Except for emergency work, operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work between the hours of 10:00 p.m. and 7:00 a.m., such that the sound therefrom creates a noise disturbance across a property line (boundary). The provisions of this section do not apply to any person who performs any construction, repair or excavation pursuant to the express written permission of the Borough.

(5) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, leaf blowers, lawn mowers or other powered landscape maintenance equipment or similar device used outdoors between the hours of 10:00 p.m. and 7:00 a.m., so as to cause a noise disturbance across a property line (boundary).

(6) 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 10:00 p.m. and 7:00 a.m., in such a manner as to cause a noise disturbance across a property line (boundary). This provision shall not apply to municipal or utility services or their designees in or about a public street, public right-of-way or public space.

(7) Powered model vehicles. Operating or permitting the operation of powered model vehicles so as to cause a noise disturbance across a property line (boundary) between the hours of 10:00 p.m. and 7:00 a.m.

(8) Vehicle, motor vehicle, motorcycle, motorboat or aircraft repairs and testing. Repairing, rebuilding or testing any vehicle, motor vehicle, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a property line (boundary) between the hours of 10:00 p.m. and 7:00 a.m.

C. Other prohibited acts.

Tampering. The use within the Borough of a motor vehicle or motorcycle, which has had a muffler or sound-dissipative device or element of design removed or rendered inoperative.

D. Specific prohibitions on public rights-of-way. Prohibition of certain noises upon public right-of-way by the use of motor vehicles and noise-creating devices.

(1) Motor vehicles and motorcycles on public rights-of-way. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle or any equipment attached to such a vehicle, on a public street or public right-of-way at any time in such a manner that the operation of the same violates the Vehicle Code. Consistent with Section 4523 of the Vehicle Code. All motor vehicles and motorcycles shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation and no muffle or exhaust system shall be equipped with a cutout, by pass or similar device.

(2) Standing vehicles. No person shall operate or permit the operation of any vehicle or any auxiliary equipment attached to such vehicle for a period in excess of fifteen (15) minutes in any hour while the vehicle is parked, stopped or standing within one hundred fifty (150') feet of a residence, whether on public or private property, in such a manner as to cause a noise disturbance across a residential property line (boundary).

(a) This provision shall not apply to vehicles performing emergency services or the vehicles forced to remain stopped or standing because of traffic conditions.

(b) Notwithstanding the foregoing, diesel-powered vehicles with a gross weight of 10,001 pounds or more are subject to the restrictions contained in Act 124 of 2008, 35 P.S. §§ 4601-4610, the Diesel-Powered Motor Vehicle Idling Act.

(3) Squealing Tires. 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.

(4) Racing engine/rapid throttle advance. No person, while occupying any public right-of-way shall operate any noise-creating device 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 increase of noise from the engine.

(5) Animals. No person shall permit any animal, bird or fowl in one's possession or under one's control to make any frequent or long continued noise of such character or intensity as to disturb the comfort or repose of any person.

(6) Reduced Noise Facility. No person shall create a noise disturbance on any public street, public right-of-way or public space adjacent to a Reduced Noise Facility while the same are in session which unreasonably interferes with the workings of sessions thereof and the making of any other noise so as to annoy the uses and/or occupants.

E. Prima facie violation. The noise from any of the aforesaid prohibited acts that is heard by an officer of the Borough's police department shall be *prima facie* evidence of a noise disturbance.

SECTION 6 – EXEMPTIONS.

The provisions of this Part shall not apply to the following.

- A. Blasting.** Sounds resulting from blasting activities that have been authorized by the Borough, which blasting may occur only between the hours of 7:00 a.m., and 5:00 p.m., Monday through Friday, unless specifically authorized otherwise.
- B. Events.** Events such as, but not limited to block parties, carnivals, festivals, fireworks 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 10:00 p.m. and 7:00 a.m., unless specific permission by the Borough has been obtained.
- C. Emergency work.** Sounds resulting from the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.
- D. Municipal and utility services.** Sounds resulting from the repair, maintenance or replacement of any municipal
- E. Snow Removal.** Sounds resulting from the use of snowplows, tractors or snow blowers used in connection with snow removal from private or public property.
- F. School and public activities.** Sounds resulting from organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events that serve the public interest, provided such programs, activities or events do not occur between the hours of 10:00 p.m. and 7:00a.m.

- G. Warning devices.** Sounds or sirens, alarms, public address system or other communication device or equipment made by warning devices operating continuously for no more than three (3) minutes, except that in the event of an emergency, the time limitation shall not apply. A warning device or siren used in connection with the operation of a police car, fire truck or apparatus, train, ambulance or any other emergency or other vehicle in the event of an emergency or as part of a warning. Such to include but not be limited to generators used during an emergency for law enforcement purposes. Whether such is for an actual emergency, practice or for drill purposes.
- H. Bells and Chimes.** Routine and customary ringing of bells and chimes in the performance of a religious, institutional or commercial function in Non-Residential Areas, whether such bells and chime are through a recording or other amplified process.
- I. Official duty.** Any noise created by a governmental entity, official or employee in the performance of an official governmental duty or activity, whether such is for an actual emergency, practice or drill purposes.
- J. Helicopter.** Any sound created by the arrival or departure of a helicopter at a hospital or medical facility or during an emergency.
- K. Maintenance and Waste Collection.** Any sound related to the Borough or its designee's operation or repair of municipal waste collection, landscaping, brush removal or lawn care equipment which is not in violation of Section 4.B. of this Ordinance.
- L. Public Amplification.** A public amplification or address system used at an athletic or other public event including those held at public parks.
- M. Authorized activity.** Any noise for an event or activity for which approval is necessary and has been issued by the Borough's Council or it designee, including expression or communication protected by the United States Constitution, may be obtained as long as any approval conditions relative to noise have not been violated. Such authorization shall be requested through the Borough and shall be approved by Borough Council or other appointed representative of the Borough.

SECTION 7 – INTENT.

The provisions of this chapter are intended to supplement all other provisions of these Codified Ordinances and shall not be deemed to preempt or preclude application of any of the other provisions of the Codified Ordinances except existing conflicting provisions of this chapter, which are repealed by this chapter.

SECTION 8 – PENALTIES.

- A.** Whoever violates any provision of this Part shall, upon conviction thereof in a summary proceeding, be fined for a first offense not less than one hundred fifty (\$150.00) dollars and not more than one thousand (\$1,000.00) dollars; for a second offense not less than three hundred (\$300.00) dollars and not more than one thousand (\$1,000.00) dollars. Whoever violates any provision of this Part for a fourth or subsequent offense shall, upon conviction thereof in a summary proceeding, be fined one thousand (\$1,000.00) dollars. Each occurrence of a violation of any provision of this Part shall constitute a separate and distinct offense. However, for a violation of the Vehicle Code, upon conviction thereof in a summary proceeding, the fine shall be twenty-five (\$25.00) dollars.
- B.** In addition to the above penalties, the Borough may seek such equitable, injunctive or other remedies as may otherwise be available which are deemed to supplement the other enforcement provisions including civil process to obtain a restraining order, preliminary or permanent injunction or any matter provided by the law for abatement of a nuisance.

SECTION 9 – ADMINISTRATION AND ENFORCEMENT.

The power and authority to enforce the provisions of this Art shall be vested in Borough's police department.

SECTION 10 – SEVERABILITY.

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such holding shall not affect the other provisions or applications of this Part which can be given effect without the invalid provision or application and, to this end, the provisions of this Part are declared severable.

SECTION 11 – REPEALER.

All ordinances or parts of ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 12 – EFFECTIVE DATE.

This Ordinance shall be effective immediately upon passage and approved in the manner prescribed by law.

ORDAINED AND ENACTED into an Ordinance this 12 day of August, 2024

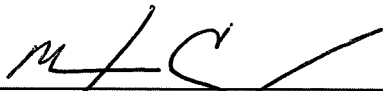
Borough Council of the Borough of Dunmore



Janet Brier
Council President

APPROVED:

Approved this 12 day of August, 2024



Max Conway
Mayor; Borough of Dunmore

ATTEST: Adopted by the Dunmore Borough Council this 12 day of

August, 2024.



Greg Wolff
Borough Manager/Secretary