

ORDINANCE NO. 2019 - 8

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF BUTLER, ADAMS COUNTY, PENNSYLVANIA, AMENDING CHAPTER 61 OF THE CODE OF THE TOWNSHIP OF BUTLER ENTITLED "NOISE" TO ADD FURTHER PROVISIONS FOR REGULATING NOISE

WHEREAS, the Supervisors of the Township of Butler have determined that it is in its best interest and general welfare to adopt and enforce additional provisions related to noise; and

WHEREAS, the Supervisors of the Township of Butler deem it to be in the best interest and for the general welfare of the citizens and residents of the Township to amend Chapter 61 of the Code of the Township of Butler to add the provisions that follow.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Township Supervisors of the Township of Butler, Adams County, Pennsylvania, and it is enacted and ordained as follows:

SECTION I: Chapter 61 of the Code of the Township of Butler entitled "Noise" is hereby revised to add a new ARTICLE II entitled "Other Noises" and shall read as follows:

§61-7. Definitions.

The following definitions shall apply to this Part.

LIQUOR CONTROL BOARD EXEMPTED AREA. The area within the Township of Butler, as approved by the Pennsylvania Liquor Control Board, is exempted from enforcement of Pennsylvania Liquor Control Regulation 532(a) as amended regarding amplified music.

NOISE DISTURBANCE. Any sound that endangers the safety or health of any person, disturbs a reasonable person of normal sensitivities, or any sound which unreasonably injures or endangers the comfort, repose, health, hearing, peace or safety of persons or animals.

ALL TERRAIN VEHICLES (ATVs). A motorized off highway vehicle which travels on three or more inflatable tires and which are (1) a maximum width of 50 inches and a maximum dry weight of 1000 pounds; or (2) a width which exceeds 50 inches or a dry weight which exceeds 1000 pounds. The term "ATV" shall not include motorized vehicles for law enforcement, fire, emergency, fire emergency, military, or other authorized government purposes, or off-road motorized vehicles used as utility vehicles for agriculture, husbandry, lawn care, snow removal or business operations, or any other "reasonable" property maintenance or landscaping.

DIRT BIKE. A motorcycle designed and built with special tires and suspension for riding on

unpaved roads and over rough terrain.

SNOWMOBILE. An engine-driven vehicle which is all of the following: 1) is designed to travel over snow or ice; 2) has an endless belt track or tracks; 3) is steered by a ski or skis; and 4) has an overall width of 48 inches or less. The term Snowmobile does not include a farm tractor, construction equipment, military vehicle, vehicle with inflatable tires or machinery used strictly for the grooming of snowmobile trails.

§61-8. Noise Disturbances.

1. *Excessive Noise and Noise Disturbance Prohibited.* It is hereby declared to be a nuisance and shall be unlawful for any person, firm, association, or business entity to make, cause, suffer, or permit to be made or caused upon a property owned, occupied or controlled by him, her or it, or upon any public land, street, alley, or thoroughfare in the Township of Butler any, noise disturbance, or sounds, by means of vehicles, machinery, equipment (including sound amplification equipment and musical instruments) or by any other means or methods which create an annoyance or discomfort beyond the boundaries of property lines which disturbs a reasonable person of normal sensitivities.

2. *Special prohibitions.* The following acts and causes thereof are hereby declared to be a nuisance and in violation of this Part:

A. Operating, playing, or permitting the operation or playing of any radio, television, audio equipment, loud speaker, public address system, sound amplifier, musical instrument, or similar device that reproduces or amplifies sound through electric or battery means in such a manner as to create a noise disturbance to persons in the vicinity for any person other than the operator greater than seventy-five (75) feet from the source and not operated upon the property of the operator or with the knowledge, permission or consent of the owner or legal occupant of the property, and if operated on the property of the operator or with the knowledge, permission or consent of the owner or legal occupant of the property, then so as to be a noise disturbance greater than seventy-five (75) feet from the boundary of the property.

B. Using or operating of any loudspeakers, public address systems, or similar device for commercial purposes, such that the sound there from creates a noise disturbance greater than seventy-five (75) feet from the boundary of the property.

C. Repairing, rebuilding, modifying, testing, or operating a motor vehicle, motorcycle, recreational vehicle or powered model vehicle in such a manner as to create an annoyance or discomfort beyond the boundaries of property lines which disturbs a reasonable person of normal sensitivities.

D. The sounding of any horn or signaling device on any automobile, motorcycle, recreational vehicle or powered model vehicle in such a manner as to create an annoyance or discomfort beyond the boundaries of property lines which disturbs a reasonable person of normal sensitivities.

E. The discharge into the open air of the exhaust of any steam engine,

stationary internal combustion engine, motor board or motor vehicle except through a muffler or other device as provided by the Motor Vehicle Code of the Commonwealth of Pennsylvania as amended, which will effectively prevent loud or explosive noises therefrom; or the spinning of wheels or squealing of tires; or the racing of internal combustion engines, without cause clearly created by road or weather conditions.

F. The erection (including excavation), demolition, alteration or repair of any building or structure other than between the hours of 6 a.m. and 10 p.m. daily except in the case of urgent necessity in the interest of public health and safety.

G. The creation of loud and excessive noise in connection with loading and unloading any vehicle, or the opening or destruction of bales, boxes, crates and containers.

H. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool or similar device used out of doors between the hours of 10 p.m. and 6 a.m. in such a manner as to cause annoyance or discomfort to a person of reasonable sensibilities across real property boundary from the noise source.

I. Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five (5) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, with the exception of railroad engines, which remain idle during a warm-up period not to exceed twenty (20) minutes.

J. Operating or permitting the operation of an ATV, Dirt Bike or Snowmobile that emits excessive noise that creates an annoyance or discomfort beyond the boundaries of property lines which disturbs a reasonable person of normal sensitivities. Further, no noise from operating or permitting the operation of an ATV, Dirt Bike or Snowmobile shall be heard beyond a boundary line between the hours of 10 p.m. and 6 a.m.

K. The setting off or igniting of fireworks, pyrotechnics or other loud combustible materials between the hours of 11 p.m. and 6 a.m., unless specifically permitted by the Township.

§61-9. Exceptions.

The restrictions set forth in §61-8 shall not apply to any of the following noise sources:

- A. The emission of sound for the purpose of alerting person to the existence of an emergency.
- B. Emergency work performed to protect public health and safety, including fire protection, protection from flood or other disasters, and work performed to provide electricity, water or other public utilities when public health or safety is involved.
- C. Public gatherings, performances and the like for which a special event permit has been obtained from the Township.

- D. Warning devices on authorized emergency vehicles and/or required for safety purposes.
- E. Vehicles, machinery, appliances and equipment used in the case of an emergency snow removal.
- F. Trash collection services.
- G. Normal Agricultural Activity as defined by the Pennsylvania Right to Farm Act (3 P.S. §§ 951-957).

§61-10. Enforcement Violation and Penalties.

A. Any person who permits a public nuisance as defined in § 61-8 on property in the Township of Butler which is owned, occupied, or used by such person shall be deemed to have violated this article.

B. Whenever a person, not occupying the same residence or dwelling unit of the alleged offender, complains in writing to law enforcement authorities authorized to enforce laws in the Township of Butler that any person is in violation of this article, then such law enforcement authority, upon being satisfied that the allegations are accurate or are probable, is authorized to:

1. In response to the first such written complaint about such a nuisance, provide the person or persons deemed responsible for the property from which the nuisance emanates with a warning about the existence of the nuisance and of this article, and of the need to immediately and thereafter to cause the nuisance to abate; and

2. In response to a second or subsequent written complaint about such a nuisance which is lodged after the warning is given in Subsection 1 above, issue a citation or to take such other authorized criminal prosecution action against such person or persons responsible for the property from which such nuisance emanates.

C. Any person or business entity, including but not limited to property owner, renter, user and/or possessor, who shall violate any of the provisions of this Part shall upon summary conviction thereof, be punishable by a maximum fine of \$300.00 for the first violation within a twelve (12) month period. Each violation of any of the provisions of this Part shall be deemed to be a separate and distinct offense. When a second and/or subsequent violation is committed by the same person or entity within any 12 month period shall, upon conviction of a summary offense, be punishable by a maximum fine of \$600.00 for each separate and distinct offense.

D. In addition to the above, the Township shall have any and all remedies available under the Pennsylvania Crimes Code and may institute an action for injunctive relief to prohibit or abate any activity in violation of this Part.

SECTION II: SAVINGS CLAUSE. In all other respects, the Code of Ordinances of the Township of Butler shall remain as heretofore enacted, ordained and amended.

SECTION III: SEVERABILITY. The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance

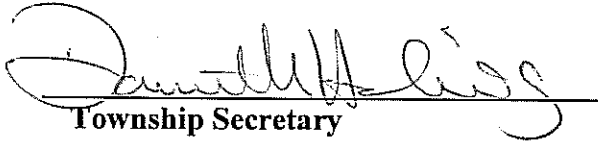
SECTION IV: REPEALER. All provisions of previous Ordinances of the Township of Butler which are contrary to this Ordinance are expressly repealed.

SECTION V: EFFECTIVE DATE. This Ordinance shall be effective immediately.

ENACTED AND ORDAINED this 9th day of September 2019, by the Supervisors of the Township of Butler, Adams County, Pennsylvania.

ATTEST:

TOWNSHIP OF BUTLER


Township Secretary


Chairman of Board of Supervisors