

LEHMAN TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA
NOISE NUISANCES - ORDINANCE NO #041921

AN ORDINANCE DEFINING AND PROHIBITING CERTAIN NOISE NUISANCES ON PRIVATE AND PUBLIC PROPERTY WITHIN THE TOWNSHIP, ESTABLISHING PROCEDURES FOR ENFORCEMENT OF THE SAME, AND FIXING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, The Board of Supervisors of Lehman Township deem it to be in the best interest and general welfare of the citizens and residents of this Township to prohibit certain disturbances of the peace caused by generating noise on public and private property which unreasonably interfere with the rights of owners or occupants of other property(ies) to the enjoyment of their person(s) or property(ies).

WHEREAS, The Pennsylvania Second Class Township Code authorizes the Township Board of Supervisors to prohibit nuisances and the Second Class Township Code authorizes imposition of penalties for violation of said Ordinances.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of Supervisors of Lehman Township, Luzerne County, Pennsylvania, and it is hereby enacted and ordained by Authority of the same an Ordinance to be entitled Noise Nuisances as follows:

Section 1. DEFINITIONS.

1. Definitions. For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural include the singular and words in the singular include the plural. Any personal pronoun shall be construed so as to mean either the masculine, feminine, or neutral gender, as the context may require; and the word "shall" is always mandatory and not merely precatory.

- (a) "Township" is the Township of Lehman, Luzerne County, Pennsylvania.
- (b) "Board of Supervisors" is the Board of Supervisors of Lehman Township, Luzerne County, Pennsylvania.
- (c) "Owner" is a person owning, leasing, occupying or having charge of any premises within the Township.
- (d) "Person" is any natural person, firm partnership, association, corporation, company or organization of any kind.
- (e) "Nuisance" is the unreasonable, unwarrantable or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person in the legitimate enjoyment of his reasonable rights of person or property.
- (f) "Permits" means to suffer, allow, consent, let; to give, leave or licensed to acquiesce by failure to prevent, or to expressly accept or agree to the doing of an act.

Section 2. UNREASONABLE NOISE.

1. Unreasonable noise defined. It shall be considered an unreasonable noise and a public nuisance, regardless of the sound level which is emitted, for any person to engage in the following conduct:

- (a) Play or permit the operation of the playing of any radio, television, drum, musical instrument, music player, sound amplifier, phonograph or similar device which produces, reproduces or amplifies sound in such a manner as to be plainly audible across a property line or from within another dwelling unit.
- (b) Rebuild, test, operate on other than a public road, or otherwise work on any motorcycle, motor vehicle, motor boat or aircraft in such a manner as to be plainly audible across a property line.
- (c) To yell, shout, whistle, sing or otherwise create noise across property lines that disturbs the quiet, comfort or repose of persons in any dwelling, or other type of residence.
- (d) The erection, excavation, demolition, alteration, maintenance of sidewalks, lands, trees, landscaping and/or buildings, except in case of urgent necessity in the interest of public health and safety between the hours of 6:00 P.M. of one day and 8:00 A.M. the following day.
- (e) The discharge of "Consumer Grade" Fireworks as defined and regulated by PA. 2017 Act 43, Article XXIV, Fireworks, in the Township except during the following holidays, dates and times: Memorial Day: 4:00 p.m. to 10:00 p.m., July 4: 4:00 p.m. to 10:00 p.m., Labor Day: 4:00 p.m. to 10:00 p.m., December 31: 4:00 p.m. to 11:59 p.m., January 1: 12:00 midnight to 1:00 a.m.

Section 3. EXEMPTIONS. The following activities shall be exempt from the provisions of this Ordinance:

- (a) Noise as safety signals, warning devices, emergency pressure relief valves or other sound needed to alert people about an emergency.
- (b) Noise resulting from emergency work.
- (c) Noise resulting from public festivals, celebrations, or other lawfully authorized public gatherings.
- (d) Noise resulting from any athletic, recreational, or other such outdoor activity on fields and sites specifically set aside for such purposes.
- (e) The provision, repair and maintenance of municipal services or public utilities.
- (f) The sounding of bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or public holidays.
- (g) The operation of snow removal equipment.
- (h) The operation of 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.
- (i) The operation of air conditioners, fans, heating units and similar comfort devices.
- (j) The operation of airplanes, helicopters and normal activities of properly licensed airports.
- (k) The operation of all motor vehicles being operated on public roads.
- (l) Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver.
- (m) All farm related operations and activities.

- (n) Any lawfully existing or licensed business, commercial or industrial operation. Includes the discharge of professional licensed fireworks displays after applying for and receiving a permit from Lehman Township.
- (o) Any person or persons, and such equipment and/or vehicles operated by such person or persons, engaged in the performance of services contracted by Lehman Township, while such person(s) and/or vehicle(s) are conducting services for which the Township has contracted.

Section 4. PRESUMPTIONS. It shall not be necessary to establish that any occurrence has lasted for a specific period of time in order to find the violation of this section. If the offending noise emanates from private property, it shall be conclusively presumed that the occupant of the property authorized and/or permitted and participated in the violation.

Section 5. SPECIAL WAIVERS. Upon written application to the Township not less than thirty (30) days in advance, a temporary waiver from strict compliance with the noise standards specified herein may be granted to persons for reasonable cause, as determined by the Board of Supervisors.

Section 6. PENALTY FOR VIOLATION. Any person found guilty of a violation of this Ordinance in a Summary proceeding before a District Magistrate shall pay a fine of not more than Three Hundred Dollars (\$300.00) together with the cost of prosecution, and in default of payment of said fine and cost of prosecution, shall be imprisoned for not more than ten (10) days. Each day a violation continues, after notice, shall constitute a separate offense.

Section 7. ENFORCEMENT. Provisions of this Chapter may be enforced by any Police Officer.

Section 8. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

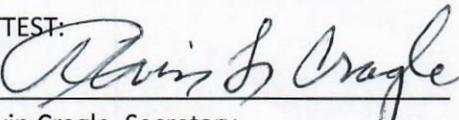
Section 9. REPEALER. All ordinances or part of ordinances and all resolutions or part of resolutions that are inconstant with this Ordinance shall be and expressly are repealed.

Section 10. EFFECTIVE DATE. This Ordinance shall become effective upon passing.

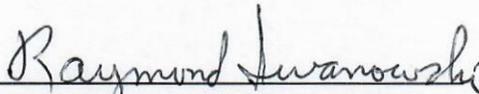
ENACTED by the Board of Supervisors of Lehman Township, Luzerne County, Pennsylvania

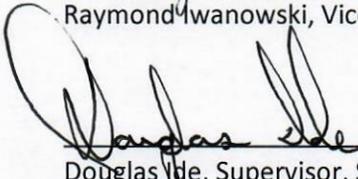
this 19TH Day of APRIL, 2021

ATTEST:


Alvin Cragle, Secretary

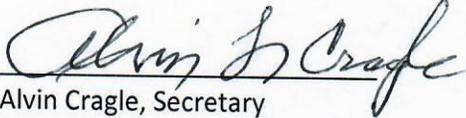

David Sutton, Chairman


Raymond Iwanowski, Vice Chairman


Douglas He, Supervisor, Supervisor

CERTIFICATION

I, Alvin Cragle, Township Secretary, hereby certify that the foregoing ordinance was advertised in the Citizens Voice, a newspaper of general circulation in the Municipality and was duly enacted and approved as set forth at a Regular Public Meeting of the Board of Supervisors held on the 19~~th~~ Day of APRIL, 2021.



Alvin Cragle, Secretary