

## ORDINANCE NO. 8-2023

### AMENDING THE BLAKELY BOROUGH ZONING ORDINANCE SECTION 809

AND NOW, this 16<sup>th</sup> day of October 2023, upon consideration of the need to update the Noise Regulations within the Borough, the below amends the Zoning Ordinance Section 809.

#### 1. General Provisions.

- a. Title. This ordinance shall be known and may be cited as the "Blakely Borough Noise Control Ordinance."
- b. Purpose. This ordinance aims to ensure that public health, safety, and welfare shall not be abridged by the making and creating of public nuisances from disturbing, excessive or offensive noises in the Borough of Blakely. The residents of Blakely Borough recognize that uncontrolled noise represents a danger to the health and welfare of their neighbors and that each person in the community is entitled to live in an environment in which the level of noise is minimized for the community good. This ordinance attempts to foster mutual respect among residents and to establish a community position against noise pollution. The community believes that it should rely on the good sense of all residents to respect one another's living and working environments and one another's right to an environment that is free from noise disturbances.
- c. Scope. This ordinance applies to all persons, property, animals, equipment, appliances, instruments and other sound-emitting devices, as regulated herein.
- d. 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 the other rules, regulations or ordinances, the more stringent regulation shall apply.

#### 2. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings:

## **BOROUGH**

The Borough of Blakely, Lackawanna County, Pennsylvania.

## **EMERGENCY**

Any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.

## **EMERGENCY WORK**

Any work performed for the purpose of alleviating or resolving an emergency.

## **MOTOR VEHICLE**

Any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways.

## **NOISE**

Any sound emitted by a person, an appliance, equipment, instrument, other device, or an animal other than a barking dog.

## **NOISE DISTURBANCE**

Those unlawful noises prohibited in Section 3 that have been deemed to disturb the comfort, repose or peace of others within the Borough.

## **PERSON**

An individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.

## **PLAINLY AUDIBLE**

Any sound that can be detected by a person of normal sensibilities using his or her unaided hearing facilities.

## **PUBLIC RIGHT-OF-WAY**

The traveled portion of any street or alley or similar place which is owned or controlled by the Borough or other governmental entity.

## **SOUND**

Something audible: something that can be heard; vibrations sensed by ear: vibrations

traveling through air, water, or some other medium, especially those within the range of frequencies that can be perceived by the human ear. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

### **SOUND EQUIPMENT**

Any radio, record player, tape deck or player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except, however, "sound equipment" does not include mobile radio or telephone signaling devices and automobile and truck radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants, provided that the sound emitted therefrom is not audible for more than 50 feet from such automobile or truck.

### **UNREASONABLE NOISE**

Sound that is of a volume, frequency, or pattern that prevents, disrupts, injures, or endangers the health, safety, welfare, comfort, or repose of reasonable persons of ordinary sensitivities within the Borough of Blakely, given the time of day, day of week, location, and/or other relevant factors in which and where the sound is made.

#### **3. Unlawful Noise Prohibited.**

- a.** Except as otherwise provided in this chapter, it shall be unlawful for any person to make or cause to be made any unreasonable noise or to allow any unreasonable noise to be caused or made in or on any real or personal property occupied or controlled by that person.
- b.** In addition to the foregoing, it shall also be unlawful for any person to create, assist in creating, or as owner, lessee or occupant of the property on which the activity is located permit any of the following acts:
  - (1)** Radios, stereos, and musical instruments. The playing of any radio, stereo, television set, amplified or unamplified musical instrument, loudspeaker, tape recorder, compact disc player, or other such electronic sound-producing devices, in such a manner or with volume that is between the hours of 10pm to 7AM from Sunday evening through Friday morning. 11PM to 7AM from Friday evening to Sunday morning and national holidays.
    - (a)** Plainly audible beyond the property line of a single-family dwelling unit from which it is generated or outside of the duplex dwelling unit or individual dwelling unit of the multiple-family dwelling unit from which it is generated; or
    - (b)** Plainly audible at a distance of 50 feet from the vehicle in which it is generated; or
    - (c)** Plainly audible at a distance of 50 feet from its location on public property or private property open to the general public.
    - (d)** Causing or has caused vibrations with a bass within a dwelling unit or within a vehicle

other than the unit or vehicle from which it is/was generated.

- (2) Shouting and whistling. Continuous or repeated yelling, shouting, loud whistling, or loud singing, so as to disturb the peace, comfort, or repose of others within the Borough by being plainly audible to persons within any dwelling, hotel, hospital, office or other type of residence other than that from which it originates.
- (3) Animal and bird noises. The keeping of any animal or bird which by causing frequent or long continued noise, shall disturb the peace, comfort or repose of any person.
- (4) Whistles or sirens. The blowing of any amplified or electronic whistles, vuvuzelas, air horns or sirens, except to give notice of the time to begin or stop work or as a warning of fire or other danger.
- (5) Loading Operations. Loading, unloading, opening or otherwise handling boxes, crates, containers or similar objects between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance within a residential district, except during an emergency.
- (6) Construction Noise. Operating or causing to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto in the following manner:
  - (a) With sound control devices or standard noise-reducing equipment which has been tampered with or not being operated within the manufacturer's specifications or otherwise not in proper operating condition; or
  - (b) Between the hours of 7:00 p.m. and 7:00 a.m. the following day on weekdays and Saturdays and between 7:00 p.m. on Saturday evenings and 9:00 a.m. on Sunday, which creates a noise disturbance, unless otherwise exempted in this ordinance, or by an act of Council.
- (7) Power Equipment. Operating, or permitting to be operated, any power saw, sander, drill, grinder, garden equipment or tools of a similar nature, outdoors between the hours of 9:00 p.m. and 7:00 a.m. weekdays and Saturdays and between 9:00 p.m. on Saturday evenings and 9:00 a.m. on Sundays, in such a manner as to create a noise disturbance.
- (8) Explosives, Firearms, Fireworks, or Similar Devices. The use or firing of explosives, firearms, fireworks, or similar devices which create a noise disturbance.
- (9) Devices to attract attention. The continuous or repeated use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention so as to disturb the peace, comfort, or repose of others within the Borough by being plainly audible to persons within any dwelling, hotel, hospital, office or other type of residence other than that from which it originates.
- (10) Other excessive noise. The creation of any other excessive or unreasonably loud noise

which disturbs the peace, comfort, or repose of others within the Borough by being plainly audible to persons within any dwelling, hotel, hospital, office, or other type of residence other than that from which it originates.

#### **4. Exemptions.**

a. None of the terms or prohibitions of Section 3 shall apply to or be enforced for any of the following:

- (1) **Safety and Warning Devices.** Safety signals and warning devices (e.g. stationary emergency signal devices, intrusion alarms, back-up alarms on trucks, police/fire/ambulance sirens) or any other device used to alert persons to an emergency or used during emergency work.
- (2) **Highway and utility maintenance and construction.** Necessary excavations in or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the Borough, or any public utility or any agency of the Commonwealth of Pennsylvania, during the night or on Sunday, when the public health, safety, or welfare necessitates the performance of the work at such time.
- (3) **Municipal Facilities or Public Utilities.** The provision, repair and maintenance of municipal services, facilities, or public utilities.
- (4) **Law Enforcement.** The sounds made or caused to be made by law enforcement officials in the performance of their official duties such as sirens, two-way radio communications, public address systems, the discharging of a firearm, aircraft, etc.
- (6) **Valley View School District or Blakely Borough Borough.** Musical, recreational, and athletic events conducted by Valley View Schools or the Borough including such outdoor practices as may be necessary in preparation for such events.
- (7) **Bells, chimes and carillons.** Bells, chimes, and carillons used for religious purposes or in conjunction with national celebrations or public holidays; existing bells, chimes and carillons and clock strike mechanisms that are currently in use for any purpose.
- (8) **Appliances, lawn and garden equipment or household power tools.** Appliances, lawn and garden equipment or household power tools in use between the hours of 7:00 a.m. and 9:00 p.m., provided such are operated within the manufacturer's specifications and with all standard noise reducing equipment is in use, unmodified and in proper operating condition.
- (9) **Air conditioners, fans, heating units.** Air conditioners, fans, heating units and similar devices of less than eight tons heating or cooling capacity, provided such are operated within the manufacturer's specifications and all reasonable measures have been taken to reduce noise levels as required by the Noise Abatement ordinance.

(10) Snow removal. The operation of snow removal equipment necessary for the removal of snow or ice from public or private streets, alleys, drives, sidewalks, and parking areas, provided that any motor vehicle used for snow removal which is required to be licensed shall be equipped with an exhaust system in good working order to prevent excessive or unusual noise and shall be equipped to prevent engine noise in excess of the limits established by the laws or statutes of the Commonwealth of Pennsylvania. Also, any motor-driven vehicle of a type not subject to registration for road use or domestic snow removal equipment shall be equipped with an exhaust system or mufflers in good working order to prevent excessive or unusual noise.

(11) Construction Equipment. Heavy construction equipment (including pile drivers, crawler-tractors, bulldozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, ditchers, trenchers, compactors, scrapers, pavement breakers, compressors, pneumatic power equipment and similar devices) in use between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and Saturdays, and between 9:00 a.m. and 7:00 p.m. on Sundays, for the duration of such construction and demolition work, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.

(12) Parades, festivals, and similar events. Borough approved or sponsored parades, festivals, fairs, music, or other events.

(13) Aircraft. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control and instructions and pursuant to and within the duly adopted federal air regulations.

(14) Special Waivers. Activities permitted by emergency waiver, as provided herein, and activities conducted in accordance with special activity permits for use of public property or the public rights-of-way, approved by Borough Council.

## **5. Penalty for Violation.**

- a. Any person found guilty of violating provisions of this ordinance, shall be fined \$300.
- b. A penalty provided for under this ordinance may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.
- c. A separate and distinct offense shall be committed each day that a violation of the terms of this ordinance continues to exist.

**6. Administration.**

The provisions of this ordinance shall be enforced by Borough Police Officers, Borough Code Enforcement Officers, and others designated by the Borough Manager.

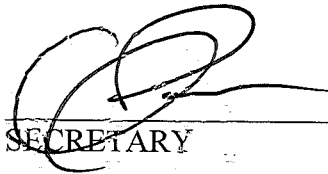
**7. Emergency Waivers.**

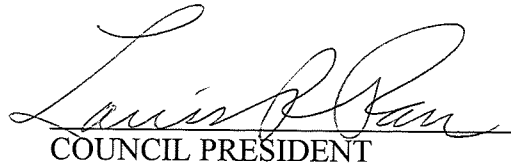
A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons for emergencies, as determined by the Borough Manager, to protect health and safety or to comply with other lawful rules, regulations, and ordinances.

**8. Severability.**

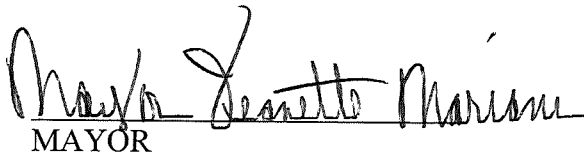
If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance, which remaining portions shall continue in full force and effect.

So enacted this 16<sup>th</sup> day of October 2023.

  
SECRETARY

  
COUNCIL PRESIDENT

ATTEST:

  
MAYOR