

TOWNSHIP OF EAST UNION
SCHUYLKILL COUNTY, PENNSYLVANIA

ORDINANCE NO. 1-2023
(Duly Adopted JUNE 1, 2023)

AN ORDINANCE AMENDING THE APRIL 21, 2021 CODIFIED ORDINANCES OF EAST UNION TOWNSHIP TO ADD A NEW SUBSECTION 10, UNDER THE EXISTING "CHAPTER 9. HEALTH AND SAFETY" ENTITLED "NOISE CONTROL," PROVIDING FOR GREATER CONTROL AND MORE EFFECTIVE REGULATIONS REGARDING EXCESSIVE SOUND AND THE SOURCES OF EXCESSIVE SOUND WITHIN EAST UNION TOWNSHIP, PROVIDING FOR ENFORCEMENT, FINES AND PENALTIES AND FURTHER PROVIDING FOR SEVERABILITY; FAILURE TO ENFORCE NOT A WAIVER; REPEALER AND AN EFFECTIVE DATE, AND RELATED INCORPORATED AND CODIFICATION OF NEW SECTION INTO EXISTING CODIFIED ORDINANCES.

WHEREAS, East Union Township ("Township") is a political subdivision, municipal corporation, and Second Class Township of the Commonwealth of Pennsylvania, being a body corporate and politic, situated in Schuylkill County, duly established and lawfully existing under and pursuant to the Second Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §§ 55101 et seq., as amended; and

WHEREAS, the Township Board of Supervisors recognizes excessive noise can be a serious health threat to the comfort, convenience, health, safety, welfare, and overall quality of life of the citizens of the Township; and

WHEREAS, the Township Board of Supervisors desires to adopt an Ordinance to establish requirements and criteria to prevent excessive noise which may jeopardize the health and welfare of its citizens or degrade their quality of life.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of East Union Township, Schuylkill County, Commonwealth of Pennsylvania as follows:

SECTION 1: ADOPTION OF SUBSECTION 10, ADDING IT TO SECTION 9

Subsection 10. shall be added to the Township's Codified Ordinances with the following provisions:

§ _____ -1 NOISE CONTROL

This ordinance shall be commonly known as the "Noise Control Ordinance."

§ _____-2 PURPOSE AND INTENT

There is no existing right under Pennsylvania law or Constitution to simply “make noise” which is excessive or which constitutes a noise disturbance. Excessive noise can be a serious threat to the comfort, convenience, health, safety, welfare, and overall quality of life of the citizens of East Union Township. It is the intent of this chapter to establish requirements and criteria to prevent excessive noise which may jeopardize the health and welfare of its citizens or degrade their quality of life. East Union Township intends hereby to prohibit all excessive and unreasonable noise from all sources subject to its general police power to preserve, protect, and promote health, safety, welfare and the peace, quiet and comfort of the citizens of East Union Township.

§ _____-3: DEFINITIONS

A. The following words, terms and phrases when used in this Chapter shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning.

1. **Construction Operation:** The erection, repair, renovation, demolition, or removal of any building or structure; and the excavation, filling, grading and regulation of lots in connection therewith.

2. **Emergency:** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

3. **Emergency Work:** Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

4. **Impulsive Sound:** Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Some examples include explosions and the discharge of a firearm.

5. **Motor Vehicle:** Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious crafts on land, dune buggies, racing vehicles, ATVs, motorbikes or motorcycles.

6. **Muffler or Sound Dissipative Device:** A device designed or used for abating the sound of escaping fluids from an engine or machinery system.

7. **Noise Disturbance:** Any sound which (1) endangers or injures the safety or health of humans or animals, or (2) annoys or disturbs a reasonable person of normal sensitivities, or (3) endangers or injures personal or real property. If noise or sound is plainly audible in an area extending beyond the originating source or property where the source is located, then potential liability exists for this noise or sound to be a noise disturbance under this Ordinance.

8. **Notice of violation:** A written document issued to a person in violation of a Township ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action.

9. **Person:** Any individual, association, partnership, or corporation, and includes any officer, employee, department, agency, or instrumentality of a State or any political subdivision of a State. "Person" shall include the owner or operator of the noise disturbance source, the owner, tenant or manager of real property from which the noise disturbance emanates and any other individual responsible for producing the noise disturbance or allowing said disturbance to occur.

10. **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, rocket or drone.

11. **Plainly Audible:** Any sound which may be clearly heard by a person using their own faculties, without the aid of any devices.

12. **Public Right-of-Way:** Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

13. **Public Officer:** Any authorized inspector, or public official designated by the East Union Township Manager to enforce the Township Ordinances.

14. **Public Space:** Any real property or structures thereon which are owned or controlled by a governmental entity.

15. **Real Property Boundary Line:** The imaginary line, including its vertical extension which separates one parcel or recognized unit (such as an apartment unit) of real property from another.

16. **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 right-of-way.

17. **Residential Property Boundary:** the imaginary line, including its vertical extension which separates any zoned residential district from any zoned commercial or industrial district.

18. **Sound:** An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces which causes compression and rarefaction of the medium. The description of sound may include any characteristics of such sound, including duration, intensity, and frequency.

19. **Violation Ticket:** A form issued by a police officer or public officer to a person who violates a provision of this Article.

20. **Warning - verbal or written:** Issued by an officer to achieve voluntary compliance and to establish prior notice. Warnings are issued for violations that may lead to enforcement action if not promptly and adequately corrected.

21. **Weekend:** The period from Friday 12:00 A.M. (midnight) through Sunday 11:59 P.M.

22. **Weekday:** The period from Monday 12:00 A.M. (midnight) through Thursday 11:59 P.M.

§ _____-4: PROHIBITED ACTS

A. Noise Disturbance Prohibited

No person shall make, continue, or cause to be made or continued, any noise disturbance. Non-commercial public speaking and public assembly activities shall be exempt from the operation of this section. The following acts, and the causing thereof, are declared to be noise disturbances and therefore in violation of this Chapter:

1. Radios, Tape Players, Television Sets, Musical Instruments, Electronic Amplification, Equipment and similar devices operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo or high-fidelity equipment or similar device which produces, reproduces or amplifies sound, whether live or recorded previously:

a. At any time of the day in such a manner from any source as to create a noise disturbance across a real property boundary line; or

b. In such a manner as to create a noise disturbance across any real property boundary line when operated in or on a motor vehicle on a public right-of-way or public space; or

c. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier; or

d. At such a sound intensity that the sound creates a noise disturbance in any public area, park, street or sidewalk of the Township when the sound source originates in any public area, park, street or sidewalk of the Township; or

e. At any time unless used in connection with an earplug or earphone in any of the Township parks and playgrounds.

2. Yelling and shouting. Engaging in loud or raucous yelling, hooting, whistling, or singing on the public streets between the hours of 10:00 P.M. and 7:00 A.M. to the disturbance of others.

3. Stationary non-emergency signaling devices. Sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place, for more than one minute in any hourly period.

4. Emergency signaling devices.

a. The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection (b)(i) and (b)(ii).

b. (i) Testing of a stationary emergency signaling device shall occur at the same time of the day each time such a test is performed, but not before 7:00 A.M. or after 10:00 P.M. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty seconds. (ii) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not

occur more than once in each calendar month. Such testing shall not occur before 8:00 A.M. or after 6:00 P.M. The time limit specified in (i) shall not apply to such complete system testing.

c. Sounding or permitting the sounding of any exterior burglar alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within six minutes of activation.

5. Loudspeakers/Public Address Systems. Using or operating any loudspeaker, public address system, or similar device:

a. Such that sound therefrom creates a noise disturbance across a real property boundary line, or

b. Between the hours of 10:00 P.M. and 7:00 A.M. on a public right-of-way or public space.

6. Street Sales. Offering for sale or selling by shouting or outcry within any residential or commercial area of the Township except between the hours of 7:00 A.M. and 10:00 P.M.

7. Animals and Birds

a. The keeping of any animal or bird which makes noise continuously and/or incessantly for a period of ten (10) minutes or makes such noise intermittently for thirty (30) minutes or more.

b. The noise from any animal or bird must disturb two or more residents residing in separate residences adjacent to any part of the property on which the subject animal or bird are kept or maintained, or three or more residents residing in separate residences in close proximity to the property on which the subject animal or bird are kept or maintained shall be prima facie evidence of a violation of this section.

c. However, it shall not be a violation of this ordinance if at the time the animal or bird is making such noise when a 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.

d. Nothing herein shall be deemed to conflict with provisions of Chapter 9, Part 7, §701 defining as a nuisance thereunder the disturbance by excessive barking or other noise making by a dog or cat. An unabated nuisance thereunder may be considered as unhealthy noise disturbance hereunder, with such provisions not being in conflict.

8. Delivery/Loading Operations. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, dumpsters or similar objects and any other pick-ups/deliveries;

a. Between the hours of 10:00 P.M. and 7:00 A.M. the following day, in such a manner as to cause a noise disturbance across a real property boundary line.

b. Truck idling is restricted and enforced under the Pennsylvania Diesel Powered Motor Vehicle Idling Act - Act 124 of 2008.

unlawful:

c. The following acts, related to delivery/loading are declared to be

1. Any deliveries, unloading, loading and opening of commercial goods at any times other than between the hours of 7:00 A.M. to 9:00 P.M. on weekdays and between 8:00 A.M. to 8:00 P.M. on weekends when such activity occurs within 250 feet of a residential property boundary.
2. The operation of any transportation refrigeration units during the times for which delivery, loading, or opening of commercial goods are being conducted.

d. This section shall not apply to any commercial and/or industrial development if previous delivery/loading operation time constraints have been established during the Township approval process.

e. This section shall not apply to municipal or utility services conducted in the public right-of-way.

f. The owner, possessor, lessee or responsible agent can be held responsible for any noise disturbance or unlawful activity relating to delivery/loading operations that occurs on the property.

9. Commercial/Industrial Property Maintenance. The routine maintenance of a commercial/industrial property including but not limited to lot sweeping, paving, line painting, etc. conducted on such property 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 residential property boundary, exception would be if maintenance is the result of an emergency.

a. The owner, possessor, lessee or responsible agent can be held responsible for any noise disturbance relating to commercial/industrial property maintenance operations that occurs on the property.

10. Vehicle, Motorboat, or Aircraft Repairs and Testing. 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 boundary line.

11. Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 10:00 P.M. and 7:00 A.M. the following day so as to cause a noise disturbance across a real property boundary line. Snow blowers shall be exempt from the provisions of this section.

12. Fireworks (Consumer and Non-consumer)

a. The owner, possessor, lessee or responsible agent of real property on which fireworks are being ignited for the sole purpose of this Chapter will be the legally responsible party for any violations for which the offending party is not known.

b. Prohibited acts:

(i) A person who is under the age of eighteen (18) years of age may not purchase, possess and/or use consumer fireworks within the Township.

(ii) The use or firing of consumer fireworks which create an impulsive sound so as to cause a noise disturbance cannot be ignited or discharged within the Township prior to 4:00 P.M. and not after 9:00 P.M., Sunday through Thursday and prior to 4:00 P.M. and not after 10:00 P.M., Friday and Saturday. The only exception is on December 31st, 4:00 P.M. to 11:59 P.M. and January 1st, 12:00 midnight to 12:30 A.M. Any other times than those listed is strictly prohibited.

(iii) All non-consumer firework displays must be approved by a majority of the Township Supervisors or their designee and proper permits must be obtained.

(iv) They cannot be ignited or discharged on public or private property without the express written permission of the property owner.

(v) They cannot be discharged from or within a motor vehicle or building.

(vi) They cannot be discharged toward a motor vehicle or building.

(vii) They cannot be discharged within 150 feet of an occupied dwelling, whether or not a person is actually present.

(viii) They cannot be discharged while the person is under the influence of alcohol, a controlled substance, or a drug.

(ix) No use of Consumer fireworks is permitted on Township property, including without limitation, Township owned parks, buildings or structures, streets, sidewalks and right of way unless such person upon application has secured a special permit for such activity from the Township Board of Supervisors or designee.

13. Powered Model Vehicles. Operating or permitting of powered model vehicles so as to create a noise disturbance across a real property boundary or in a public space between the hours of 9:00 P.M. and 7:00 A.M. the following day. This prohibition shall apply to all Recreational Vehicles as defined and otherwise regulated in the Codified Ordinances of East Union Township in Part 4, title "Recreational Vehicles," and nothing herein shall relieve any operator or owner of such equipment from the requirements contained therein as to hours or operation and as to noise under sections Chapter 13, part 5, §504 (b) or (c).

14. Motor Vehicle Prohibitions

a. Exhaust System. Every motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation and no muffler or exhaust system shall be equipped with a cutout, bypass or similar device.

b. Standing Motor Vehicles. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period

longer than fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion.

c. Motor Vehicle Horns and Signaling Devices. No person shall at any time sound the horn or other warning device of a vehicle except when necessary as a warning while actually driving such vehicle.

d. Sound Trucks. No person shall operate sound amplifying equipment mounted on or attached to any motor vehicle:

(i) Such that sound therefrom creates a noise disturbance across a real property boundary line; or

(ii) Between the hours of 9:00 P.M. and 7:00 A.M., the following day on a public right-of-way or public space.

e. Sound Amplification Devices in Vehicles. No person, driver, or owner of any vehicle shall operate or permit operation of any sound amplifying system which causes a noise disturbance when the vehicle is on a public right-of-way or public space unless such system is being operated to request assistance or warn of a hazardous situation. This article does not apply to authorized emergency vehicles.

15. Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:

a. Between the hours of 9:00 P.M. and 7:00 A.M. the following day on weekdays and Saturdays or at any time on Sundays or holidays, such that the sound therefrom creates a noise disturbance across a real property boundary line, except for emergency work.

b. This section shall not apply to the use of domestic power tools.

§ _____-5: EXCEPTIONS

The provisions of this Chapter shall not apply to:

A. Emergencies. The emission of sound for the purpose of alerting persons to the existence of an emergency or from the performance of emergency work.

B. Government Activity. Any activity being conducted by the Commonwealth of Pennsylvania, by the County of Schuylkill, by East Union Township or any other political subdivision and its contractors.

C. Municipal and Utility Services. The emission of sound resulting from the repair or replacement of any municipal or utility installation(s) in or about the public right-of-way or all municipal collections.

D. Places of Religious Worship. The sounding or permitting the sounding of any stationary bell or chime used in conjunction with places of religious worship.

E. Aircraft and Airport Operations. Normal aircraft and airport operations.

F. Interstate Railway Locomotives and Cars. The conduct of interstate railway transportation.

G. Blasting. Only if performed in accordance with a permit issued by the Township Fire Commissioner or designee. Such blasting may occur only between 7:00 A.M. and 7:00 P.M., Monday through Friday unless specifically authorized otherwise by the permit.

H. Concerts. Band concerts, carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, so long as: all necessary permits as defined by the Township's ordinances have been procured and must end by 11:00 p.m.

I. Amusement parks, carnival, fairs and similar activities. Sound/noises typical for and resulting from typical amusement park activities including but not limited to rides, concerts, events and patrons.

J. Amplified announcements. Sound/noises created by organized school-related programs, activities, athletics and entertainment events or public programs, activities or events.

K. Celebrations. Sound/noises made by bells, chimes carillons used for religious purposes or in conjunction with national, state or local celebrations or public holidays: existing bells, chimes, carillons and clock strike mechanisms that are currently in use for any purpose.

L. Snow Blowers. Sound/noises made by snow blowers or similar snow removal equipment used in the maintenance of private or public property following a snowstorm.

M. Assemblies, Parades, Gatherings. Any assembly, parade or gathering approved by the Township for such event.

N. Agricultural/Farming. Any sound/noise that is typically associated with normal agricultural/farming activities.

O. Routine yard and property maintenance during the hours from 7:00 a.m. to 9:00 p.m. for such items as lawn mowing, brush and bush trimming or cutting, weed-wacking, tree-trimming and similar necessary property maintenance done in the ordinary course.

§ _____-6: REGULATIONS

The Township Supervisors or duly authorized designee may publish regulations governing the procedures and enforcement of any provisions of this Chapter.

§ _____-7: ENFORCEMENT

A. The provisions of this Chapter shall be enforced by East Union Township police officers, or any other public officer authorized to enforce ordinances.

B. Any violation of the provisions of this Chapter may be cause at the discretion of the issuing officer, to issue a warning, a notice of violation, a violation ticket and/or a citation to

be issued to the violator. If violations are continuous or egregious, the officers have the right to issue citations without first issuing a warning, a notice of violation or a violation ticket.

C. A written warning, notice of violation or violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the written warning, notice of violation or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to an agent or to the person for the time being in charge thereof, or by mailing via regular US mail, the written warning, notice of violation or violation ticket to the violator's address of record.

D. Any written warnings, notice of violations, violation tickets and/or citations will be issued to the violator's last known address of record.

E. Each day a violation continues or is permitted to continue may constitute a separate offense.

§ _____-8: VIOLATION TICKET APPEALS PROCESS

A. An Appeal Officer, designated by the Township Board of Supervisors, shall be responsible for the reviewing and the rendering of a decision on any appeal as it pertains to this Chapter.

B. A person in receipt of a violation ticket may appeal to the Appeal Officer's office by filing an appeal request in writing on a form to be provided by the Township within ten (10) calendar days of the date of the violation ticket, stating the reasons for appeal.

C. The violator may request an opportunity to meet in person with the Appeal Officer concerning their appeal, and the request may be granted at the sole discretion of the Appeal Officer, who may also deem it appropriate to consult with the issuing officer(s) involved in the matter or any other concerned parties.

D. Within thirty (30) days of the appeal date, the Appeal Officer may decide to uphold the appeal, deny the appeal, or may modify the violation ticket and/or any associated costs, fines or penalty amounts as they deem appropriate, and will issue written notice of the decision.

§ _____-9: FINES AND PENALTIES

A. Violation Ticket Fines

1. Each violation of the sections of this Chapter constitutes a separate offense and fine.

2. Fines shall be \$200.00 for violations under this Chapter.

B. Violation Ticket Penalties

1. If the person in receipt of a violation ticket does not pay the fine or appeal the violation within ten (10) days, the person will be subject to an additional twenty-five (\$25.00) dollar penalty for days eleven (11) through twenty (20).

2. A citation shall be issued against any person failing to make payment or request a hearing within twenty (20) days of the issuance of a violation ticket.

C. Citation Fines. Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this Chapter, or of any regulation or requirement pursuant hereto and authorized hereby shall, upon conviction, be ordered to pay a fine of not less than One Hundred (\$100) dollars and not more than One Thousand (\$1,000) dollars on each offense or imprisoned no more than ninety (90) days, or both.

D. Restitution. The Magisterial District Judge may order the violator to make restitution where appropriate, to pay the Township's costs of collection/citation proceedings and to pay the Township reasonable attorneys' fees associated with the prosecution of the same.

SECTION 2: SEVERABILITY

If any sentence, clause, section, term, phrase or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, terms, provisions, or parts of this Ordinance. It is hereby declared the intent of the Board of Supervisors of East Union Township that this Ordinance would have been adopted had such an unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

SECTION 3: FAILURE TO ENFORCE NOT A WAIVER

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION 4: REPEALER

Any ordinance, resolution and/or other regulation of the Township, or any parts of ordinances, resolutions and/or other regulations of the Township, including but not limited to all prior zoning ordinances and amendments or parts of prior zoning ordinances and amendments, including prior zoning maps, which are inconsistent herewith are hereby repealed. All other provisions of the ordinances, resolutions and/or other regulations of the Township of East Union, Schuylkill County, Pennsylvania shall remain in full force and effect.

SECTION 5: CONFORMITY The Township is authorized to conform the form of this Ordinance into and incorporate this Ordinance into its existing Codified Ordinances, including renumbering the Table of Contents to include reference to this amendment thereto.

SECTION 5: EFFECTIVE DATE

This Ordinance shall become effective five (5) days following the date of adoption by the Board of Supervisors.

ORDAINED and ENACTED this 1st day of JUNE, 2023.

**EAST UNION TOWNSHIP
BOARD OF SUPERVISORS**

Risa Verges
Secretary - Attest

Jae Carey
Jon Petting
[Signature]