

ORDINANCE NO. 05 – 2018

BOROUGH OF WEST CHESTER

CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF WEST CHESTER, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF WEST CHESTER, SPECIFICALLY CHAPTER 73 TITLED, "NOISE DISTURBANCE" TO AMEND SECTION 73-1 "PURPOSE AND SCOPE," SECTION 73-2 "DEFINITIONS," SECTION 73-3 "PROHIBITED ACTS," SECTION 73-4 "EXEMPTIONS," AND SECTION 73-5 "VIOLATIONS AND PENALTIES."

BE IT ENACTED AND ORDAINED, and it is hereby enacted by authority of the Council of the Borough of West Chester, as follows:

**SECTION 1.** Chapter 73 of the Code of the Borough of West Chester, titled, "Noise Disturbance," is hereby deleted and replaced with the following:

**§ 73-1 Purpose and scope.**

The purpose and scope of this chapter is to ensure that public health, safety and welfare shall not be abridged by the making or creating of public nuisances from disturbing or excessive noises in the Borough of West Chester and to protect the physical, mental and social well-being of the residents of the Borough of West Chester by prohibiting such noise and/or sound.

**§ 73-2 Definitions.**

For the purpose of this chapter, the following words, terms and phrases shall have the meanings indicated herein:

**BOROUGH**

The Borough of West Chester.

**NOISE**

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

**PERSON**

Any individual, association, trust, partnership or corporation, including any members, directors, officers, employees, partners or principals thereof. Whenever used in any clause prescribing and

imposing a penalty, "person" includes the members, trustees, partners, directors, officers, managers and supervisors, or any of them, of partnerships, associations, corporations or other forms of entity.

### **UNREASONABLE NOISE**

Noise that is above and beyond the ordinary noises associated with the appropriate and customary uses of the particular forum in which the sound is made, taking into account the time of day, day of week, location, and/or other relevant factors, and such noise is of such a volume, frequency, pattern, or duration, that it prevents, disrupts, injures, or endangers the health, safety, welfare, comfort or repose of reasonable persons of ordinary sensitivities within the Borough of West Chester.

#### **§ 73-3 Prohibited acts.**

A. General prohibition. It shall be unlawful for any person to make or cause to be made unreasonable noise, or to allow any unreasonable noise to be caused or made on any real or personal property occupied or controlled by that person within the limits of the Borough of West Chester, except as otherwise permitted in this chapter.

B. Specific prohibitions. The following are specifically prohibited, except as otherwise permitted in this chapter.

- (1) No person shall operate, play or permit the operation or playing of any radio, television, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create unreasonable noise.
- (2) No person shall operate or permit the operation of any tools or equipment used on construction operations, drilling or demolition or other work or in the sweeping of parking lots between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day on weekdays and Saturdays or at any time on Sundays or legal holidays such that the sound therefrom creates unreasonable noise.
- (3) No person shall operate or permit the operation of any powered saw, drill, sander, grinder, lawn or garden tool, snow blower or similar device used outdoors between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day so as to create unreasonable noise.

- (4) No person shall deliver, load, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or other objects between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day in such a manner as to create unreasonable noise. This subsection shall not apply to emergency municipal or public utility services in or about the public right-of-way.
- (5) No person shall own, possess, harbor or control any animal which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly for a period of 10 minutes or makes such noise intermittently for 1/2 hour or more to the disturbance of any person at any time of the day or night, regardless of whether the animal or bird is situated in or upon private property; provided, however, that at the time the animal or bird is making such noise, no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other cause which teased or provoked the animal or bird.
- (6) No person shall offer for sale or sell by shouting or outcry or by any other amplified or unamplified sound, except between the hours of 7:00 a.m. of one day and 7:00 p.m. of the same day.
- (7) No person shall remove or render inoperative, other than for purposes of maintenance, repair, replacement or other work, any muffler or sound-dissipative device or element of design or noise label of any product; or use a product which has had a muffler or sound-dissipative device or element of design or noise label removed or rendered inoperative with knowledge or reason to know that such action has occurred; or intentionally move or render inaccurate or inoperative of any sound-monitoring instrument or other device positioned by or for the borough or other governmental entity, provided that such device or the immediate area is clearly labeled or posted to warn of the potential illegality.
- (8) No person shall repair, rebuild or test or otherwise work on any motorcycle or other motor vehicle, motorboat or aircraft in such a manner as to create unreasonable noise.
- (9) No person shall create such other noise as might pose a danger to the public health, safety or welfare of the borough or otherwise constitute a nuisance in fact.

- (10) No person shall make, continue or cause to be made or continued any noise which creates or causes unreasonable noise.
- (11) No person shall operate a motorcycle, truck, automobile or other motor vehicle in such a manner as to cause unreasonable noise.

**§ 73-4 Exemptions and permits.**

A. The following noises are exempted from the provisions above:

- (1) Blasting, only if performed in accordance with a permit issued by the Borough's Department of Building and Housing or its designee. Such blasting may occur only between 8:00 a.m. and 4:30 p.m., Monday through Friday, unless specifically authorized otherwise by the permit.
- (2) Band concerts, carnivals 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 11:00 p.m. on one day and 10:00 a.m. on the following day. Such activities may require a permit pursuant to criteria set forth in §73-4.B(2).
- (3) Noises caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.
- (4) Noises resulting from the provision, repair and maintenance of municipal/governmental facilities, services or public utilities.
- (5) Noises created by organized, school-related programs, activities, athletic and entertainment events or other public programs, activities or events, other than motor vehicle racing events.
- (6) Noises made by warning devices operating continuously for three minutes or less, except that, in the event of an actual emergency, the limitation shall not apply.
- (7) Noises made by bells, chimes, 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 and were in use at the time of the original passage of this noise ordinance.

B. The following noises, events, and/or gatherings held outdoors within the limits of the Borough shall require a permit issued by the Borough's Department of Building and Housing or its designee. The Borough reserves the right to require reasonable time, place, and manner restrictions as part of the issuance of the permit for the following noises and/or events based on the nature of the location in which the noise and/or event will be taking place:

- (1) Blasting, as permitted in §73-4.A(1).
- (2) Band concerts, carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors in which 100 people or more are reasonably expected to attend by the organizers.
- (3) Public demonstrations, political protests, or other similar events in which 250 people or more are reasonably expected to attend by the organizers.

#### **§ 73-5 Violations and penalties.**

Any person who violates or permits the violation of any provision of this chapter shall, upon conviction thereof in a summary proceeding before the District Justice, be guilty of a summary offense and sentenced to pay a fine of not less than \$300 for the first offense, and not less than \$750 for any subsequent offenses in a 120-day period. The defendant shall also be liable for all court costs, including reasonable attorney fees incurred by the Borough. Upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a period of not more than 30 days. Each section or provision of this chapter that is violated shall constitute a separate offense, and each day or portion thereof in which a violation of this chapter is found to exist shall constitute a separate offense, each of which shall be punishable by a separate fine imposed by the District Justice in the amounts specified above plus the costs of prosecution. Upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days.

**SECTION 2. SEVERABILITY.** If any sentence, clause, section 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 or parts hereof. It is hereby declared as the intent of Council of the Borough of West Chester that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

**SECTION 3. REPEALER.** All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall become effective upon enactment as provided by law.

ENACTED AND ORDAINED THIS 17th DAY OF MAY, 2018.

ATTEST:

  
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Michael A. Perrone, Secretary

COUNCIL FOR THE BOROUGH  
OF WEST CHESTER

By:   
\_\_\_\_\_  
Diane C. LeBold, President

APPROVED THIS 17th DAY OF MAY, 2018.

  
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Dianne T. Herrin, Mayor