

HAMILTON TOWNSHIP, FRANKLIN COUNTY, PENNSYLVANIA
ORDINANCE NO. 2016-163

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 Hamilton 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 interferes with the rights of adjoining property owners to the enjoyment of their person or property,

WHEREAS, Section 1529 of the Pennsylvania Second Class Township Code authorizes the Township Board of Supervisors to prohibit nuisances and Section 1601 of 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 Hamilton Township, Franklin County, Pennsylvania, and it is hereby enacted and ordained by Authority of the same as follows:

Section 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 neuter gender, as the context may require; and the word "shall" is always mandatory and not merely precatory.

- (1) "Township" is the Township of Hamilton, Franklin County, Pennsylvania.
- (2) "Board of Supervisors" is the Board of Supervisors of Hamilton Township, Franklin County, Pennsylvania.

- (3) "Owner" is a person owning, leasing, occupying or having charge of any premises within the Township.
- (4) "Person" is any natural person, firm partnership, association, corporation, company or organization of any kind.
- (5) "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/her reasonable rights of person or property.
- (6) "Permits" means to suffer, allow, consent, let; to give, leave or license; to acquiesce by failure to prevent, or to expressly accept or agree to the doing of an act.

Section 2. Unreasonable Noise.

A. Unreasonable noise defined. In residential neighborhoods, it shall be considered an unreasonable noise and a public nuisance if, between the hours of 10:00 P.M. of one day and 6:00 A.M. the following day, regardless of the sound level which is emitted, for any person to engage in the following conduct:

- (1) 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.
- (2) 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.
- (3) To yell, shout, whistle, sing or otherwise create noise across property lines that disturbs the quiet, comfort or repose of persons in any dwelling, hotel, or other type of residence.

B. Exemptions. The following activities shall be exempt from the provisions of this Ordinance:

- (1) Noise as safety signals, warning devices, emergency pressure relief valves or other sound needed to alert people about an emergency.
- (2) Noise resulting from emergency work.
- (3) Noise resulting from public festivals, celebrations, or other lawfully authorized public gatherings.
- (4) Noise resulting from any athletic, recreational, or other such outdoor activity on fields and sites specifically set aside for such purposes.
- (5) The provision, repair and maintenance of municipal services or public utilities.
- (6) The sounding of bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or public holidays.
- (7) The operation of snow removal equipment.
- (8) 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.
- (9) The operation of air conditioners, fans, heating units and similar comfort devices.
- (10) The operation of airplanes, helicopters and normal activities of properly licensed airports; trains operating on railroads.
- (11) The operation of all motor vehicles being operated on public roads.
- (12) Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver.
- (13) All farm related operations and activities.
- (14) Any lawfully existing or licensed business, commercial or industrial operation.

C. Presumptions. It shall not be necessary to establish that any occurrence has lasted for a specific period of time in order to find a 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 3. Notice Required. Prior to the filing of a private criminal complaint for violation under the terms of this Ordinance, it shall be necessary for the Township to serve written notice upon the occupant of the property in one of the following ways:

- (1) By mailing a copy of the notice to the occupant by any form of mail requiring a receipt signed by the occupant.
 - (2) By personal delivery of notice to the occupant.
- A. Form to be provided. Notice required under this section must be given on a form prescribed and provided by the Township and said required notice may be executed and served as required by the aggrieved party or by a Township Official on complaint received from the aggrieved party in writing and signed.
- B. Content of Notice. A notice shall set forth the name and address of the property and the occupant of the property, the nature and extent of the violation or offense, the identity of the person giving notice, the date of the sending or posting of notice and a statement to the effect that a complaint may be filed if the nuisance is not abated or if it is repeated.
- C. Duration of Notice. Any notice given pursuant to this section shall be valid for a period of six (6) months. Within six (6) months, no additional notice need to be given prior to the filing of a private complaint.

Section 4. 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 5. Penalty for Violation. Any person found guilty of a violation of this Chapter in a Summary proceeding before a District Court 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 6. Enforcement. Provisions of this Ordinance may be enforced by any Peace Officer. Enforcement may also be by any person who, after prior notice is given as required, shall, as an affiant, institutes a private criminal proceeding by filing a complaint with the District Court as provided by law.

Section 7. 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 8. Conflicting Ordinances. Any Ordinance provision inconsistent with the provisions of this Ordinance is hereby repealed to the extent of the conflict.

Section 9. Effective Date. This Ordinance shall become effective five (5) days after the adoption hereof.

ENACTED by the Board of Supervisors of the Township of Hamilton this 15th day of June, 2016.

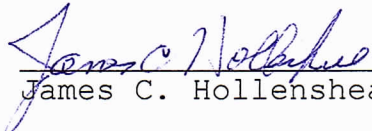
BOARD OF SUPERVISORS
OF HAMILTON TOWNSHIP

ATTEST:


Deborah J. Hollenshead
Deborah J. Hollenshead
Township Secretary

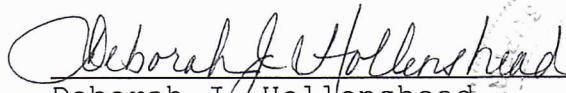
By Michael K. Kessinger
Michael K. Kessinger


Randall E. Negley


James C. Hollenshead

CERTIFICATION

I, Deborah J. Hollenshead, Township Secretary, hereby certify that the foregoing ordinance was advertised in the Public Opinion on May 23, 2016, 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 June 15, 2016.


Deborah J. Hollenshead
Township Secretary

