

BENNER TOWNSHIP

ORDINANCE NO. 55

**AN ORDINANCE OF BENNER TOWNSHIP
DEFINING AND REGULATING NOISE.**

**BE IT ENACTED AND ORDAINED, AND IT HEREBY IS ENACTED
AND ORDAINED, BY THE BOARD OF SUPERVISORS OF BENNER
TOWNSHIP:**

SECTION 1. TITLE. This Ordinance shall be known as the Benner Township Noise Ordinance.

SECTION 2. AUTHORITY. This Ordinance is enacted pursuant to Section 702 of the Second Class Township Code, clauses XII, XXIX, XXXV, XLI, LXII, 53 P.S., 65712, 65729, 65735, 65741, and 65762.

SECTION 3. PURPOSE. The purpose of this Article is to ensure that public health, safety and welfare shall not be abridged by the making and creating of noise pollution or of public nuisances from disturbing, excessive or offensive noises in the Township. The residents of the Township 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 impulsive and amplified noise is minimized for the community good. It is the purpose and scope of this ordinance to provide regulations defining the maximum sound levels that vehicles, appliances and equipment shall be allowed to produce at specified distances from these devices, and also to provide for the prohibition of other kinds of offensive noises. These regulations and prohibitions are intended to protect the physical, mental and social well-being of the residents of Benner Township.

SECTION 4. LEGISLATIVE FINDING. The Board of Supervisors finds that the failure of individuals, businesses, industries, persons maintaining animals, social gatherings and other activities to regulate the noise emanating from their premises constitutes a violation of the peace and enjoyment of the residents of the Township and a public nuisance. Specifically, such noise emanating from home occupations, businesses, industries, sound amplification equipment, radios, electronic sound recording equipment, vehicles, persons maintaining animals, social gatherings, and other activities:

- a) Creates a nuisance in that residents are deprived of the enjoyment of their homes, disturbed in their sleep, and otherwise prevented from the quiet enjoyment of their residential premises;
- b) Affects the property values of residences in the residential district of the Township;

- c) Affects the public welfare by reflecting negatively on the residential districts established for the Township;
- d) Disturbs the peace and good order of the Township; and
- e) Creates noise pollution.

SECTION 5. DEFINITIONS. The following words and phrases, when used in this Article, shall have, unless the context clearly indicates otherwise, the meanings given to them in this Section.

- a) All acoustical terminology shall be interpreted in accordance with that contained in ANSI S1.1, "Acoustical Terminology." All other words and terms not defined herein shall be used with a meaning of standard usage.
- b) ANSI – American National Standards Institute, or its successors.
- c) Decibel (db) – A unit of sound level which is a division of a logarithmic scale used to express the ratio of the sound pressure of the source to the pressure of an arbitrarily chosen reference pressure; the ratio is expressed on the decibel scale by multiplying its "base 10 logarithm" by 20.
- d) Excessive Noise – excessive noise is that sound which is (1) injurious or which unreasonably interfere with the comfortable enjoyment of life and property. Measured noise levels in excess of limits established in these regulations or those specified in valid permits are declared to be excessive noise; (2) annoying to a person of ordinary sensibilities.
- e) Fluctuating Noise – a fluctuating noise is a noise whose sound level varies significantly with time.
- f) Impulsive Noise – impulsive noise is characterized by brief excursions of sound level. The duration of a single impulse is usually less than one second.
- g) Intermittent Noise – an intermittent noise is a noise whose sound level exceeds the ambient noise levels at least twice during the period of observation, which is one minute or more. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient is on the order of one second or more.
- h) Night Time – 9:00 p.m. to 7:00 a.m., prevailing time.
- i) Noise – Any sound emitted by a person, animal, appliance, equipment, instrument or other device.

- j) Noise Level – Airborne sound levels expressed in dB and obtained by the use of specific frequency dependent weighting networks, as specified in the referenced standards and indicated by proper notation; if “A” weighting is employed, the sound level is identified as dB(A).
- k) Noise Pollution – Noise of such loudness and character from a single source or from multiple sources, which is or may be predicted with reasonable certainty to be, injurious to health or which unreasonably interferes with the enjoyment of property or with any lawful business or activity. Noise/sound pressure levels exceeding those permitted in any district shall constitute “noise pollution.”
- l) Party – A social gathering.
- m) Period of Observation – the time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and the instrumentation being used. The period of observation must be at least as long as the response time of the instrumentation. The greater the variance in individual sound level, the longer must be the observation time for a given expected accuracy of measurement.
- n) Person – Includes an individual, firm, association, organization, partnership, trust, company, corporation or any other similar entity.
- o) S.A.E., Incorporated – Society of Automotive Engineers.
- p) Sound Level – Noise level.
- q) Sound Level Meter – An instrument or combination of instruments which meets or exceeds the requirements for an ANSI Type SIA or Type S2A Sound Level Meter.
- r) Steady Noise – a noise whose level remains essentially constant (i.e., fluctuations are less than five (5) dB) during the period of observation is a steady noise.
- s) Vehicle – any device, or combination of devices, used for or capable of being used for transporting persons or property. Vehicles include, but are not limited to, the following: automobiles, trucks, buses, motorcycles, motorized bicycles, snowmobiles, scooters, all-terrain vehicles, go-carts, racers and like devices, farm machinery, industrial machinery, highway graders, trailers, graders and semi-trailers.
- t) Township – The Township of Benner.

- u) Zoning Districts – Those districts as set forth on the Zoning Map of the Township.

SECTION 6. NOISE LIMITS. The following limits are established for noise in the Township.

A. General Standards. No person shall create or allow the creation of any noise or operate or cause to be operated any source of sound on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level, when measured at or beyond the boundaries of the lot on which such activities take place, to exceed the noise levels specified below for the various zoning districts.

<u>Zoning Districts</u>	<u>Noise Level</u>
All Forest, Agricultural and Residential Districts	62
All other zoning districts	70

B. Special Regulations. No person shall create or permit to be created any sound which can be heard at the residence of any neighbor if any Residential District, as follows:

- 1) Any amplified sound.
- 2) Any repetitive animal sound
- 3) Sound from a party exceeding 70 dB(A).
- 4) Sound from appliance or equipment exceeding 55 dB(A) except where exempted below.
- 5) Sound from any commercial or industrial activity whether located in a residential or other district.

C. Vehicles – No person shall operate either a motor vehicle of a type subject to registration, except in police, fire equipment, ambulances or other government emergency vehicles at any time or under any condition of grade, load, acceleration or declaration in such a manner as to exceed the following noise limits for the category of minor vehicles based on a distance of fifty feet (50') from the center of the lane traveled on within the speed limit specified in this section under test procedures established by this ordinance.

<u>Type of Vehicle</u>	<u>Speed limit of 35 MPH or less</u>	<u>Speed limit of 35 MPH or more</u>
(1) Any motor vehicle with a manufacturer's gross combination weight rating of 10,000 lbs. or more and any combination of vehicles towed by such motor vehicles:	86 dB(A)	90 dB(A)

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| (2) Any other vehicle or any combination of vehicles towed by such motor vehicle: | 76 dB(A) | 82 dB(A) |
| (3) Any motorcycle or motor driven cycle:) | 78 dB(A) | 82 dB(A) |

D. Equipment. No person shall operate any powered equipment or powered hand tool that produces of maximum noise level exceeding the following noise limits at a distance of fifty feet (50'), under test procedures established by this ordinance.

<u>Type of Equipment</u>	<u>Noise Limit</u>
(1) Construction and industrial machinery, such as crawler-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, pavement breakers, truck loaders, conveyor belts, stone crushers, compressors and pneumatic power equipment, but not included pile drivers:	86 dB(A)
(2) Agricultural tractors and equipment:	86 dB(A)
(3) Powered commercial equipment of 2 HP or less intended for infrequent use in residential areas, such as chain saws, pavement breakers, log chippers, powered hand tools, etc.	84 dB(A)
(4) Powered equipment intended for repetitive use in residential areas, such as lawnmowers, small lawn and garden tools, riding tractors, snow removal equipment, etc.,:	70 dB(A)

SECTION 7. EXEMPTIONS. Noise emitted from the following sources shall be exempted from the noise standards specified herein:

A. All safety signals and warning devices (e.g. intrusion alarms, back-up alarms on trucks); authorized vehicles when responding to emergencies (e.g. police, tire, ambulance sirens or any other device used to alert persons to an emergency or used during the conduct of emergency work.

B. The provision, repair and maintenance of municipal services or public utilities.

C. Bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or public holidays; existing bells, chimes and carillons that are currently in use for any purpose.

D. Appliances, lawn and garden equipment, snow removal equipment and household power tools in use between the hours of 7:00 a.m. (prevailing time) and 9:00 p.m. (prevailing time) provided such are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified, and in proper operating condition.

E. Heavy construction equipment when being used for a relatively short period of time 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) in use between the hours of 7:00 a.m. and 6:00 p.m., prevailing time, for the duration of such short term, specific project; PROVIDED, such heavy construction equipment is operated within the manufacturer specifications and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.

F. Air conditioners, fans, heating units and similar comfort devices, provided such are operated within the manufacturer's specifications and reasonable measures are taken to reduce noise levels as approved by the Noise Enforcement Officer.

G. Airplanes, helicopters and normal activities of properly licensed airports.

H. Musical, recreational and athletic events conducted by or permitted by schools or local government.

I. Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver; activities conducted in accordance with a special activity permit approved by the Board of Township Supervisors.

SECTION 8. SPECIAL WAIVERS. A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons during emergency circumstances, as determined by the Noise Enforcement Officer to permit reasonable time to effect repairs and/or adjustments to equipment, appliances, instruments and other sound-emitting devices which, when in use, exceed the noise level limits, provided that the use of such devices shall be essential to preserve and protect health and safety or to comply with other lawful rules, regulations and ordinances.

SECTION 9. NOISE ENFORCEMENT OFFICER. For the administration of this Ordinance, the Board of Supervisors shall appoint a Noise Enforcement Officer who shall not hold any elective office in the Township and who shall be qualified by training and experience to perform the necessary measurements and procedures required to determine violations of this Ordinance. The duties of the Noise Enforcement Officer shall be:

A. To make inspections and observations of noise conditions, and to investigate complaints;

B. To issue all warnings, citations, and special waivers as provided herein, and to undertake all other activities necessary for the enforcement and administration of this Ordinance.

C. To prepare and maintain records of all activities undertaken in the course of the administration or enforcement of this Ordinance.

SECTION 10. ENFORCEMENT OFFICERS. This Ordinance may be enforced by the Noise Enforcement Officer or any police officer.

SECTION 11. ENFORCEMENT PROCEDURES. The following procedures and penalties are prescribed for enforcement of this Article.

A. First Offense. If it is determined by the Noise Enforcement Officer or a police officer that a noise level is in excess of the levels prescribed by this Article, the officer shall issue a written warning to the person responsible. Any such warning shall be in effect for 90 days.

B. Second and Subsequent Offenses. If it is determined by the Noise Enforcement Officer or a police officer that a noise level in excess of the levels permitted by this Ordinance shall have been caused or permitted by any person within 90 days after the issuance of a warning for a first offense, the officer shall issue a citation to such person causing or permitting said noise level, and prosecute the same before the District Magistrate.

C. Injunctions. In addition, the Noise Enforcement Officer may, after obtaining approval by the Board of Supervisors, file legal or equitable actions in Court in the name of the Township to abate or enjoin violations of this Ordinance.

D. Other Penalties. Nothing in this Ordinance shall be construed to impairing or equitable legal thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise in such place or manner, or at such levels which may give rise to such cause of action.

E. Public Nuisance. Any emission of noise from any source in excess of the limitations established herein is hereby declared to be a public nuisance and may be abated by administrative or judicial proceedings, fines and penalties herein provided.

F. Other Remedies. Nothing in this Ordinance shall be construed to impair any cause of action or legal remedy thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise on such place or manner, or at such levels which may give rise to such cause of action.

G. Noise Pollution. This Ordinance is enacted as an ordinance for protection of the public health and safety and for the control of noise pollution in the Township.

SECTION 12. RELATIONSHIP WITH OTHER RESTRICTIONS. The provisions of this Article 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 statutes, rules, regulations or ordinances, the more stringent regulation shall apply.

SECTION 13. PENALTIES. Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction there, be sentenced to pay a fine of not more than one thousand (\$1,000.00) dollars; and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of the ordinance continues shall constitute a separate offense.

SECTION 14. 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 of this ordinance, it is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had the unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

SECTION 15. REPEALER. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances or parts thereof are specifically repealed.

SECTION 16. EFFECTIVE DATE. This ordinance shall take effect five (5) days from the date of adoption.

ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS THIS 7th DAY OF FEBRUARY A.D. 1991

BOARD OF SUPERVISORS OF
BENNER TOWNSHIP

BY: _____
Robert Kuhlman-Chairman

ATTEST:

Secretary