

## Chapter 101

### NOISE

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[HISTORY: Adopted by the Borough Council of the Borough of West Pittston 8-4-1992 as Ord. No. 479. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building construction — See Ch. 50.  
Nuisance — See Ch. 105.

Peddling and soliciting — See Ch. 114.

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§ 101-1. Purpose and scope.

It is the purpose and scope of this chapter to secure and promote the public health, comfort, convenience, safety and welfare and the peace and quiet of the borough and its inhabitants by limiting and prohibiting certain noises.

§ 101-2. Applicability.

This chapter shall apply to:

- A. All types of vehicles, appliances, equipment, containers, machinery or other devices or objects creating noises, whether privately or publicly owned or leased.
- B. Sounds or noises of any time duration.
- C. Both the owner or owners, operator or operators or lessee or lessees of vehicles, appliances, equipment, containers, machinery or other devices or objects creating noises and/or of the real estate where such noises are being created.

§ 101-3. Exempt devices.

The following devices are exempt from the provisions of these regulations:

- A. Aircraft (except model aircraft).
- B. Police, fire, ambulance and other governmental emergency vehicles.

- C. Backup alarm devices on trucks and other equipment when installed and operated in accordance with Society of Automotive Engineers recommended practice.
- D. Governmental warning devices (i.e., civil defense or fire sirens, etc.).

#### § 101-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**APPLIANCE** — Any device or combination of devices used or capable of being used as a means of accomplishing a desired end, such as a window air-conditioning unit, a radio, a stereo, etc.

**CODE ENFORCEMENT OFFICER** — Any person appointed by West Pittston Borough with the responsibility of enforcing municipal ordinances or any member of the Borough Police Department.<sup>1</sup>

**EQUIPMENT** — Any devices or combination of devices to accomplish a desired end, such as a chain saw, bulldozer, backhoe, hammer, power saw, lawn mower, etc.

**NOISE** — Any sound emitted by a person, animal, vehicle, appliance, equipment, container, machinery or other devices or objects creating noises, and its environmental interaction.

**PERSON** — Individuals, partnerships, associations, corporations, businesses, churches, schools, nonprofit organizations, including their lessees, assignees, employees, servants, trustees, receivers, executors, administrators or other successors in interest, and including any owner or operator of vehicles, appliances, machinery, equipment, containers or devices and the owners and lessees of real estate where such vehicle, appliance, machinery, equipment, container or device is located.

**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, GoKarts, racers and like devices, farm graders and semitrailers and tractor-trailers.

#### § 101-5. Loud or unnecessary noises prohibited.

It shall be unlawful for any person to make or continue to cause to be made or continued any loud, unnecessary, excessive or unusual noise or any noise which either annoys, disturbs, injures, interferes with or endangers the comfort, repose, health, peace or safety of others within the limits of the borough or is annoying to a person of ordinary sensibilities as hereinafter set forth.

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**§ 101-6. Enumeration of prohibited noises.**

The following acts, among others, are declared to be loud, excessive, disturbing and unnecessary noises in violation of this chapter and are prohibited, but such enumeration shall not be deemed to be exclusive, namely:

- A. Horns and signaling devices, etc.: the sounding of any horn or signaling device on any vehicle, within the limits of the borough, except as a danger warning; the creation by means of horns or such signaling device of any unreasonably loud, excessive, disturbing, unnecessary or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time; the use of any signaling device or horn except one operated by hand or by electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any horn or signaling device when traffic is, for any reason, held up.
- B. Racing motors: the unnecessary or excessive or unnatural acceleration, deceleration or racing of motors in vehicles, whether in motion or at rest, within the limits of the borough.
- C. Exhausts: the discharge upon the open air of the exhaust of any steam or diesel locomotive, stationary internal combustion engine, motorboat or vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- D. Defects in vehicle or load: the use of any vehicle or other piece of machinery, equipment appliance, container or device so out of repair or so loaded or in such manner as to create loud or unnecessary or excessive grating, grinding, rattling or other noise.
- E. Radios, etc.: the using, operating or permitting to be played, used or operated of any radio receiving sets, musical instruments, sound amplifiers, phonographs, radios, stereos, tape players, compact disk players, car or vehicle radios or stereos or other machines or devices for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, comfort and repose of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereof. The operation of any such set, instrument, machine or device between the hours of 11:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prohibited and shall be prima facie evidence of a violation of this section.
- F. Loudspeakers and amplifiers for advertising: the using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- G. Yelling and shouting, etc.: yelling, shouting, hooting, whistling or signing on the public streets, or public property, particularly between the hours of 11:00 p.m. and 8:00 a.m. or at any time or place, including private property, so as to annoy or disturb the quiet, comfort or repose of persons in any school, church or office or in any dwelling, hotel or other type of residence or of any persons in the vicinity.

- H. Loading, unloading and opening boxes, dumpsters and other containers: the creating of noise in connection with loading or unloading any vehicle, dumpsters or other containers or the opening and destruction of bales, boxes, crates and containers from 11:00 p.m. to 7:00 a.m.
- I. Animals and birds, etc.: the keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any persons in the vicinity.
- J. Construction, maintenance or repairing of buildings or lands: the erection (including excavation), demolition, alteration, maintenance or repair of any streets, highways, sidewalks, lands, trees, lawns, landscaping and buildings between 9:00 p.m. and 7:00 a.m. except in case of urgent necessity in the interest of public health and safety and then only with a permit from the Mayor, which permit may be granted for a period not to exceed three (3) days or less while the emergency continued, and which permit may be renewed for periods of three (3) days or less while the emergency continues.
- K. Hawkers and peddlers: the shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- L. Railway, operation thereof: the causing, permitting or continuing of any excessive, unnecessary or avoidable noise in the operation of any railway locomotive or railway car or train of cars.
- M. Noise from premises or property: no person owning, leasing, occupying or otherwise in possession or control of any building, land, or premises, shall use the same or permit the use of the same or permit any equipment, machinery, appliance, container or other device to be used at said building, land or premises if such use shall disturb or destroy or annoy the peace of the neighborhood or otherwise be dangerous or detrimental to health or quiet enjoyment.
- N. Equipment noise: It shall be unlawful for any person to use any construction equipment, tractor-trailer, saw, backhoe, law or landscaping, maintenance equipment or other mechanical equipment operated by fuel or electric power between the hours of 9:00 p.m. and 7:00 a.m. except for emergency work on public improvements, municipal services and/or except by special permit as issued by the Mayor or for a duration of three (3) days as provided for in Subsection J of this section.

#### **§ 101-7. Violation and penalties.<sup>2</sup>**

Any person violating any provision of this chapter, upon conviction, shall be guilty of a summary offense and shall be subject to pay a fine not more than six hundred dollars (\$600.), plus costs of prosecution, or, in default of payment of such fine and costs, to undergo imprisonment for a term not exceeding thirty (30) days. Each day that such violation continues shall constitute a separate offense.

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<sup>2</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**§ 101-8. Enforcement.**

- A. Any emission of noise from any source in violation of this chapter shall be deemed and is hereby declared to be a public nuisance and may be abated, in addition to the administrative proceeding, fines and penalties herein provided. Such abatement may be made by any police officer or, at his direction by his designee or by the Code Enforcement Officer or by the Court of Common Pleas of Luzerne County in a complaint, petition or action filed by or on behalf of West Pittston Borough.<sup>3</sup>
- B. The Police Department of the Borough of West Pittston and/or the Code Enforcement Officer shall have authority to enforce this chapter.
- C. Nothing in this chapter 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 and in such place or manner of at such levels which may give rise to such cause of action.
- D. The police and/or Code Enforcement Officer is authorized but not required to issue a warning to persons considered in violation of this chapter, which may allow an appropriate, time, not to exceed ten (10) days, for correction to terminate said prohibited noise or other violation of this chapter before enforcement by prosecution.

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<sup>3</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.