

**BOROUGH OF WILSON
ORDINANCE NO. 795**

AN ORDINANCE REPLACING ORDINANCE NO. 656 OF THE
BOROUGH OF WILSON, NORTHAMPTON COUNTY,
PENNSYLVANIA, REGARDING NOISE DISTURBANCES,
PENALTIES, AND ENFORCEMENT

WHEREAS, the Borough of Wilson, County of Northampton, Commonwealth of Pennsylvania, has found that excessive levels of sound are detrimental to the physical, mental and social well-being of the residents, as well as to their comfort, living conditions, general welfare and safety. Therefore, the Borough declares it to be necessary to provide for greater control and more effective regulation of excessive sound and the sources of excessive sounds within the Borough of Wilson.

WHEREAS, the Borough of Wilson desires to replace Ordinance Number 656 relating to Noise, which is Codified as Chapter 130 of the Borough Code entitled "Noise", to provide for more clarity with regard to the prohibition of Noise Disturbances in the Borough and the procedure and penalties for violation thereof.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Wilson, County of Northampton, Commonwealth of Pennsylvania, in regular meeting assembled, that Chapter 130 of the Borough Code shall read as follows.

§ 130-1 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the following meanings unless the context wherein they appear clearly indicates otherwise. All terminology used in this chapter which is not defined below shall be interpreted in conformity with the applicable publications of the American National Standards Institute [ANSI S1.1-1960 (R1971) or its revisions] or its successor body.

A-WEIGHTED SOUND LEVEL

The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).

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.

DECIBEL (dB)

A unit for measuring the sound pressure level, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (micronewtons per square meter).

EMERGENCY

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

EMERGENCY WORK

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

EXTRANEOUS SOUND

A sound which is neither part of the neighborhood residual sound nor comes from the source under investigation.

IMPULSIVE SOUND

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

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, semitrailers, campers, go-carts, snowmobiles, amphibious crafts on land, dune buggies, racing vehicles or motorcycles.

MUFFLER or SOUND-DISSIPATIVE DEVICE

A device designed or used for abating the sound of escaping fluids from an engine or machinery system.

NEIGHBORHOOD RESIDUAL SOUND LEVEL

That measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous and transient sounds and the sound from the source of interest.

NOISE

Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE

Any sound which:

- A. Endangers or injures the safety of health or humans or animals;
- B. Annoys or disturbs a reasonable person of normal sensitivities; or
- C. Endangers or injures personal or real property.

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" includes 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 such disturbance to occur.

POWERED MODEL VEHICLE

Any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

PUBLIC SPACE

Any real property or structures thereon which are owned or controlled by a governmental entity.

PURE TONE

Any sound which can be heard as a single pitch or a string of single pitches.

REAL PROPERTY BOUNDARY

Either:

- A. The imaginary line, including its vertical extension, that separates one parcel of real property from another;
- B. The vertical and horizontal boundaries of a dwelling unit that is one in a multidwelling unit building; or
- C. The vertical and horizontal boundaries of a dwelling unit or commercial unit of a mixed residential-business use building.

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.

SOUND

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

SOUND LEVEL

The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER

An instrument used to measure sound level and which conforms to Type 1 or Type 2 standards as specified in ANSI specification S1.4-1971.

SOUND PRESSURE

The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

SOUND PRESSURE LEVEL

The level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.

TRANSIENT SOUND

A sound whose level does not remain constant during measurement.

VIBRATION

An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

WEEKDAY

Any day, Monday through Friday, which is not a legal holiday.

§ 130-2 Powers and duties of Police Department and Code Enforcement

A. The noise control program established by this chapter shall be administered by the Wilson Borough Police Department and Code Enforcement officers.

B. The Bureau of Code Enforcement shall have the power to:

(1) Review the actions of other departments and request any department or agency responsible for any proposed or final standard, regulation or similar action to consult on the advisability of revising the action if there is reason to believe that the action is not consistent with this chapter.

(2) Review public and private projects subject to mandatory review or approval by other departments for compliance with this chapter if such projects are likely to cause sound or vibration in violation of this chapter. All zoning applications shall be reviewed by the Code Department for compliance with this chapter.

(3) Enter, upon presentation of a Borough-issued identification card, badge or other sign of authority, and inspect any private property or place, and inspect any equipment or operation or any report or records of such equipment or operation when such equipment or operation may be reasonably suspect of being the source of a noise disturbance or the cause of excessive vibration. Such entry and inspection may be accomplished at any reasonable time when granted permission by the owner or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspections may include administration of any necessary tests.

(4) Require the owner or operator of any commercial or industrial activity that may be reasonably suspect of being the source of a noise disturbance or the cause of excessive vibration to establish and maintain records (including time and duration) of equipment operations and other procedures.

(5) Require the owner or operator of any noise source(s) to cease operation of that source(s) for a period not to exceed 15 minutes so that the neighborhood residual sound levels may be measured.

(6) Develop and promulgate standards, testing methods and procedures.

(7) Investigate suspected violations and seek compliance with and enforce § 130-3D.

- C. The Wilson Borough Police Department shall have the power to investigate suspected violations and enforce § 130-3.

§ 130-3 Prohibited acts.

A. Noise disturbance prohibited: No person, property owner, tenant, or manager of such property shall allow, make, continue, or cause to be made any noise disturbance. Noncommercial public speaking and public assembly activities shall be exempt from the operation of this section. Public assembly activities include, but are not limited to, church worship services and sporting events sponsored by an educational institution or nonprofit athletic association.

B. Enforcement: The Wilson Borough Police Department shall have primary responsibility for the enforcement of prohibited acts under § 130-3.

C. Specific prohibitions: 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:

(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;

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

(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 is audible from a distance of 40 feet in any public area, street or sidewalk of the Borough, when the sound source is in any public area, street or sidewalk of the Borough.

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

(3) 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 C(3)(b)[1] and [2] hereof.

(b) Emergency testing.

[1] 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 60 seconds.

[2] 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 Subsection C(3)(b)[1] hereof 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.

(4) 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; or

(b) Between the hours of 10:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space.

(5) Street sales. Offering for sale or selling by shouting or outcry within any residential or commercial area of the Borough except between the hours of 7:00 a.m. and 10:00 p.m.

(6) Animals and birds. Owning, possessing, harboring or controlling any animal or bird which barks, bays, cries, squawks or makes any other noise 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 physically 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 legitimate cause which teased or provoked the animal or bird.

(7) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects 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 residential real property boundary. This section shall not apply to municipal or utility services in or about the public right-of-way.

(8) Vehicle repairs and testing. Repairing, rebuilding or testing any motor vehicle or motorcycle in such a manner as to cause a noise disturbance across a residential real property line.

(9) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower 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 residential real property line.

(10) Explosives, fireworks, firearms and similar devices. The use or firing of explosives, firearms or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public right-of-way.

(11) Powered model vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 10:00 p.m. and 7:00 a.m. the following day.

(12) 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 so as to cause a noise disturbance.

(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 15 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within 150 feet of a residential area.

(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 absolutely 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:

[1] Such that sound therefrom creates a noise disturbance across a real property boundary;

or

[2] Between the hours of 10:00 p.m. and 7:00 a.m. the following day on a public right-of-way

or public space.

D. Specific prohibitions. The following acts, and the causing thereof, are declared to be noise disturbances and therefore in violation of this chapter.

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

(a) Between the hours of 10:00 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 residential real property boundary, except for emergency work.

(b) At any other time such that the sound level at or across a real property boundary exceeds 85 dB(A), unless prior approval from the Code Department has been obtained.

(c) This section shall not apply to the use of domestic power tools subject to Subsection C(9) hereof.

(2) Concerts.

(a) Decibel levels may be waived by Borough Council for: band concerts, block parties, church carnivals, fairs or other similar activities publicly or privately sponsored and presented in any public or private space outdoors:

[1] Shall not produce sound 10 dB(A) in excess of the sound levels set forth in Table 1 of § 130-6A; and

[2] Shall be limited to 10 occasions in a single location within a single calendar year.

(b) All such activities sponsored by the Borough or its agencies shall be exempt from this section.

(3) Vibration: operating or permitting the operation of any device that causes vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at 50 feet from the source if the source is on a public space or public right-of-way. For the purpose of this section, "vibration perception threshold" means the minimum ground or structure-borne vibrational motion necessary to cause a person of normal sensitivities to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

(4) Tampering. The following acts or the causing thereof are prohibited:

(a) The removal or rendering inoperative by any person other than for purposes of maintenance, repair or replacement of any noise control device or element of design or noise label of any product.

(b) The removing or rendering inaccurate or inoperative any sound monitoring instrument or device positioned by the Code Enforcement, provided such device or the immediate area is clearly labeled, in accordance with noise control regulations, to warn of the potential illegality.

(c) The use of a product which has had a noise control device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

§ 130-4 Hearing Board.

A. The Zoning Hearing Board shall serve as the appeal board for the resolution of differences between the Wilson Police Department, Code Department, and persons aggrieved by the application of this chapter, pursuant to the same terms, compensation and rules as are otherwise established in the Planning and Zoning Code.

B. The Zoning Hearing Board shall:

(1) Hear appeals from and grant relief with permission from Borough Council by extension in time to comply to any person aggrieved by the application of this chapter. Any relief granted by the Board shall be limited to and consistent with the provisions of § 130-5.

(2) Make such findings of fact as may be required by the application of this chapter.

(3) Appeal: Appeals of an adverse decision of the Hearing Board by aggrieved parties shall be made within 30 days of the Board's decision to the Court of Common Pleas of Northampton County. The decision of the Hearing Board shall remain in force until such time as a judicial order of a court of competent jurisdiction supersedes the decision of the Hearing Board.

§ 130-6 Enforcement.

A. Violations and penalties.

(1) Any person violating any provisions of this chapter shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than \$100 and not more than \$300 for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than 90 days, or both. Each day during which any person violates any provision of this chapter shall constitute a separate offense.

(2) This chapter and the foregoing penalties shall not be construed to limit or deny the right of the Borough or any person to such equitable or other remedies as may otherwise be available with or without process of law.

B. Notice of violation. In lieu of issuing a citation as provided in Subsection C hereof, the Code Department officers may issue an order requiring abatement of any source or vibration alleged to be in violation of this chapter within a reasonable time period not to exceed 30 days.

C. Except where a person is acting in good faith to comply with a notice of violation issued pursuant to Subsection B hereof, violation of any part of this chapter shall be cause for a citation to be issued by the Wilson Borough Police Department or Code Department Officers.

D. Severability. If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.

E. Immediate threats to the health and welfare.

(3) Code Enforcement shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to Subsection E(2) hereof to continuous sound levels in excess of those shown in Table 1. If, following the issuance of such an order, the order is not obeyed, Code Enforcement may apply to the appropriate court for an injunction to enforce the order or may undertake any and all lawful action to effect an immediate halt to continuous sound levels in excess of those shown in Table 1.

(4) No order pursuant to Subsection E(1) hereof shall be issued if the only persons exposed to sound levels in excess of those listed in Table 1 are exposed as a result of:

- (a) Trespass;
- (b) Invitation upon private property by the person causing or permitting the sound; or
- (c) Employment by the person or a contractor of the person causing or permitting the sound.

(5) Any person subject to an order issued pursuant to Subsection E(1) hereof shall comply with such order until:

- (a) The sound is brought into compliance with the order, as determined by Code Enforcement; or
- (b) A judicial order has superseded the Bureau's order.

§ 130-7 Conflict.

Where there is a conflict between this chapter and other ordinances of the Borough, the more restrictive or stringent ordinance shall apply.

§ 130-8 Severability. If any provision, paragraph, word, section or subsection of this Ordinance is invalidated by any Court of competent Jurisdiction, the remaining provisions, paragraphs, words, sections, or subsections shall not be affected and shall remain in full force and effect. If any section, subsection, sentence, or clause of the Ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

§ 130-9 Effective date. This Ordinance shall be effective immediately upon passage.

Table 1

**Continuous Sound Levels Which Pose an Immediate Threat to Health and Welfare
(measured at receiver)**

Sound Level Limit	Duration
dB(A)	(hours)
85	8
90	4
95	2
100	1
105	1/2
110	1/4

ENACTED by the Council of the Borough of Wilson, Northampton County, Commonwealth of Pennsylvania, this 11th day of November, 2019.

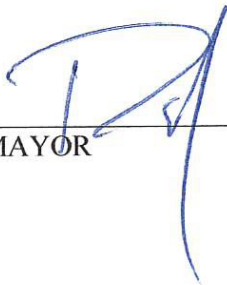
ATTEST:


MANAGER/SECRETARY

BOROUGH OF WILSON

By: 
COUNCIL PRESIDENT

Approved this 11th day of November, 2019.


MAYOR