

ARTICLE 714
Noise

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CROSS REFERENCES

Preventing noises - see 3rd Class §2403(25) (53 P.S. §37403(25))
Unreasonable noise as disorderly conduct - see 18 C.P.S.A. §5503

714.01 PURPOSE.

The Council finding 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, and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of excessive sound and the sources of excessive sound within the City.
(Ord. 27-2007. Passed 9-4-07.)

714.02 TITLE.

This article shall also be known as the "City of York Noise Control Ordinance".
(Ord. 27-2007. Passed 9-4-07.)

714.03 DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings herein given, except where the context clearly indicates a different meaning.

- (a) "Brake retarder" means a motor/engine retarding device, or any retarding device or system that brakes on the motor or engine rather than on the wheels as a means of slowing or stopping a truck, truck tractor, motor carrier vehicle, motor vehicle or vehicle.
- (b) "Construction operation" means the erection, repair, renovation, demolition or removal of any building or structure and the excavation, filling, grading, and regulation of lots in connection therewith.
- (c) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

- (d) “Emergency work” means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (e) “Motor carrier vehicle” means a truck, truck tractor or combination having a gross weight or registered gross weight in excess of 17,000 pounds.
- (f) “Motor vehicle” means a vehicle, which is self-propelled, except one which is propelled solely by human power or by electric power obtained from overhead trolley wires, but not operated upon rails.
- (g) “Muffler” or “sound-dissipative device” means a device designed or used for decreasing or abating the level of sound escaping from an engine or machinery system.
- (h) “Noise” means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- (i) “Noise disturbance” means any sound, which does any one of the following:
 - (1) Endangers or injures the safety or health of humans or animals;
 - (2) Annoys or disturbs a reasonable person of normal sensitivities;
 - (3) Endangers or injures personal or real property;
- (j) “Person” means an individual or individuals, a partnership, an association, a corporation, a joint stock company, a trust, an unincorporated association, or any other group of legally recognized entity.
- (k) “Powered model vehicle” means 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.
- (l) “Property line (boundary)” means an imaginary line, drawn through the points of contact of adjoining lands, apartments, condominiums, townhouses and duplexes owned, rented or leased by different persons, a demarcation or a line of separate of properties, and also, for any two or more buildings, sharing common grounds, the line drawn midway between any two such buildings. All areas devoted to public rights of way shall be deemed to be across the property line. For the purpose of this definition, the property line includes all points on a plane formed by projecting the property line in a manner deemed appropriate by the enforcing police officer.
- (m) “Public right of way” means any street, avenue, boulevard, highway, sidewalk, alley or similar place, which is owned or controlled by a governmental entity.
- (n) “Public space” means any real property or structures thereon which are owned or controlled by a governmental entity.
- (o) “Real property” means all land, whether publicly or privately owned, whether improved or not improved, with or without structures, exclusive of any areas devoted to public rights of way.
- (p) “Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, or the superposition of such propagated oscillation which evokes an auditory sensation. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

- (q) “Truck” means a motor vehicle designed, used or maintained primarily for the transportation of property.
- (r) “Truck tractor” means a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
- (s) “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks.
(Ord. 27-2007. Passed 9-4-07.)

714.04 PROHIBITED ACTS; VIOLATIONS.

(a) Noise Disturbance Prohibited. No person shall make, continue or cause to be made or cause to be continued any noise disturbance by any means, nor shall any person suffer, allow or permit any noise disturbance, by any means, to be made or continued from or at any property, whether public or private, real or personal, that is subject to such person’s right to control.

(b) Specific Prohibitions. The following acts and the causing thereof are declared to be noise disturbances and therefore in violation of this article:

- (1) Radios, television sets, musical instruments 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, high-fidelity equipment or similar device which produces, reproduces or amplifies sound:
 - A. At any time in such a manner as to cause a noise disturbance across a property line (boundary), or between the hours of 9:00 p.m. and 7:00 a.m. Monday through Saturdays and during the hours from 9 p.m. Saturdays and noon on Sundays so as to be plainly audible across a property line (boundary).
 - B. In such a manner as to create a noise disturbance across a property line (boundary), or at fifty feet from such device, whichever is less, when the device is operated in or on a motor vehicle, or hand carried, on a public right of way or public space; or
 - 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 or a common carrier.
- (2) Yelling and shouting, etc. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing:
 - A. On the public streets between the hours of 9:00 p.m. and 7:00 a.m.; or
 - B. At any time or place in such a manner as to create a noise disturbance.
- (3) Construction.
 - A. Operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work:

1. Between the hours of 9:00 p.m. and 7:00 a.m. Monday through Saturday and after 9 p.m. Saturdays and noon on Sundays or at any time on Sundays or legal holidays, such that the sound therefrom creates a noise disturbance across a residential real property line (boundary), except for emergency work or work authorized by special permit issued by the City.
- B. This section shall not apply to the use of domestic power tools subject to subsection (b)(4) hereof.
- (4) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 9:00 p.m. and 7:00 a.m. Monday through Saturdays and during the hours from 9 p.m. Saturdays and noon on Sundays so as to cause a noise disturbance across a residential property line (boundary).
 - (5) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential property line (boundary). This section shall not apply to municipal or utility services in or about the public right of way.
 - (6) Animals and birds. Owning, possessing, harboring or controlling any animal or bird which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly for a period of ten minutes or makes such noise intermittently for one-half 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 legitimate cause which teased or provoked the animal or bird.
 - (7) Powered model vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential property line (boundary) or between the hours of 9:00 p.m. and 7:00 a.m. Monday through Saturdays and during the hours from 9 p.m. Saturdays and noon on Sundays.
 - (8) Street sales. Offering for sale or selling by shouting or outcry or by any other amplified or non-amplified sound within any residential or commercial area except between the hours of 8:00 a.m. and 9:00 p.m. and at no time in such a manner as to violate Section 714.05.
 - (9) 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 muffler or sound dissipative device or element of design or noise label of any product;
 - B. The intentional moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the Police Department, provided that such device or the immediate area is clearly labeled in accordance with noise control regulations to warn of the potential illegality; and

- C. The use of a product which has had a muffler or sound dissipative device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.
- (10) Vehicle, motorboat or aircraft repairs and testing. Repairing, rebuilding or testing any motor vehicle, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a residential real property line (boundary) Monday through Saturdays and during the hours from 9 p.m. Saturdays and noon on Sundays.
- (c) Motor Vehicle Prohibitions.
- (1) Motor vehicle and motorcycles on public rights of way. No person shall operate or cause to be operated on a public or private motor vehicle or motorcycle, or any equipment attached to such a vehicle, on a public right of way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle, or any equipment attached to such a vehicle, exceeds the level set forth in Pennsylvania Department of Transportation Regulations Title 67, Chapter 157, Subchapter B, 67 Pa. Code §157.11.
- (2) 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 fifteen minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, anywhere within 150 feet of any residence in such a manner as to cause a noise disturbance across a residential property line (boundary).
- (3) Unnecessary horn blowing. 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.
- (4) Sound trucks. No person shall operate sound amplifying equipment mounted on or attached to any motor vehicle at any time in such a manner as to exceed the maximum permissible motor vehicle noise emissions as set forth in subsection (c)(1) hereof.
- (5) Motor/engine retarder devices. No person shall use a brake retarder or other motor/engine retarding device while operating a truck, truck tractor, motor carrier vehicle, motor vehicle or any other vehicle within the City. The prohibition against use of a jake brake or other motor/engine retarding device shall not apply to an "emergency vehicle" as defined in Pennsylvania Title 75 when said emergency vehicle is actually responding to an emergency call.
- (6) No person shall cause or allow the tires of a motor vehicle, which the person is operating, to squeal except when necessary in order to avoid a collision with another person, vehicle or other property.
(Ord. 27-2007. Passed 9-4-07.)

714.05 EXEMPTIONS.

The following sounds are exempted from the provisions of this article:

- (a) Amplified Announcements. Electronically amplified announcements at athletic events.
- (b) Blasting. Blasting under permit by the Bureau of Fire, which blasting may occur only between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, unless specifically authorized by such permit.
- (c) City Permitted Concerts, etc. Band concerts, block parties, church carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, provided that:
 - (1) Such activities do not occur between the hours of 11 p.m. and 8:00 a.m., unless otherwise permitted by the City to operate later.
- (d) Emergency Work. Sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.
- (e) Municipal and Utility Services. Sounds resulting from the repair or replacement of any municipal, cable television or utility installation in or about the public right of way.
- (f) School and Public Activities. Sounds not electronically amplified, created by organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events, other than fireworks or fireworks displays and motor vehicle racing events.
 - (1) Any person responsible for any activity or event involving fireworks or fireworks displays shall apply with the Police Department for an application for a special variance from noise control, in accordance with Section 714.07(b), prior to applying for a Fire Bureau fireworks permit.
 - (2) Any person involved in any motor vehicle racing event shall apply for a special variance from noise control with the Police Department.
- (g) Warning Devices. Sounds made by warning devices operating continuously for three minutes or less, except that in the event of an actual emergency, the time limitation shall not apply. (Ord. 27-2007. Passed 9-4-07.)

714.06 VARIANCES AND NOISE CONTROL BOARD; APPLICATION AND FEE.

- (a) Variances.
 - (1) Authority. The Noise Control Board shall have the authority to grant variances, consistent with the provisions of this section, after public hearing, upon application of any person who owns, controls or operates any sound source which does not comply with the provisions or standards of this chapter.
 - (2) Application. The application shall state the standard, provision or section from which the variance is being sought and the period of time and reasons for which the variance is sought. It shall contain information which demonstrates that bringing the sources of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, and it shall contain any other supporting information which may reasonably be required.

- (3) Public notification. Public notice of an application and the date, time and place of the public hearing to be held thereon for a variance shall be given by publishing notice thereof in a newspaper of general circulation in the City at least once, not less than three days prior to the scheduled public hearing, and by, if practicable, conspicuously posting the premises that is the source of the sound for which the variance is sought.
- (4) Hearing. The Board shall hold a public hearing to decide variance applications presented to it. Any person who claims to be affected by allowance of the variance may become a party to the hearing.
- (5) Review standards. In determining whether to grant or deny the application, the Board shall balance the hardship to the applicant versus the adverse impact to the public health, safety and welfare and shall consider at a minimum the following conditions:
 - A. The physical characteristics of the emitted sound;
 - B. The times and duration of the emitted sound;
 - C. The geography, zone and population density of the affected area;
 - D. Whether the public health and safety is endangered;
 - E. Whether the sound source predates the receivers; and
 - F. Whether compliance with the standards from which the variance is sought would produce hardship without equal or greater benefit to the public.
- (6) Decision. The Board shall render a written decision in granting or denying the application for variance and, if denied, shall state the reasons therefore. The Board's decision shall be made available to the applicant and any other person who requests it in writing. In granting a variance the Board may attach reasonable conditions, including but not limited to placing a time limit on the permitted activity and/or establishing a time schedule within which the source of sound or activity for which the variance was sought must be brought into compliance with this article. Where the grant of a variance is conditioned, the variance shall not become effective until all conditions are agreed to and/or complied with by the applicant. Noncompliance with any condition of the variance shall terminate it and subject the person holding it to those provisions of this article regulating the source of sound or activity for which the variance was granted. Variances may be granted for a period of up to one year. The person obtaining the variance may reapply for additional variance periods under terms set forth by the applicant and the Board.
- (7) Appeals. Appeal from an adverse decision of the Board shall be made to the Court of Common Pleas of York County.

(b) Special Variances. The Chief of Police, the Police Commissioner or his designee may, upon application and guided by the standards for review set forth in subsection (a)(5) hereof, grant special variances for infrequent events or activities which do not exceed twenty-four hours in duration. Such special variances are not renewable except by action of the Board pursuant to subsection (a) hereof. The Board shall hear and decide all appeals from the denial of a special variance, the practice and procedure thereon to be in accordance with subsection (a) hereof.

(c) Noise Control Board. The Noise Control Board for the purposes of this chapter shall be the Nuisance Abatement Board of Appeals as established by Article 1751 of the Codified Ordinances, which Board, in addition to its other duties as outlined by Article 1751 of the Codified Ordinances, shall have full authority to carry out the duties of the Noise Control Board, as set forth in this chapter. All applications to the Board shall be filed through the Director of the Department of Community Development or his or her designee and shall be accompanied by application fee, which shall be set by Council. The hearing shall be held not more than thirty days following the filing of the application and the decision thereon rendered within forty-five days of the last hearing in the case before the Board. (Ord. 27-2007. Passed 9-4-07.)

714.07 ENFORCEMENT.

This article shall be enforced by the Bureau of Police. In addition, the Bureau of Fire Services and all City inspectors shall be authorized to enforce this article as part of their day-to-day inspection duties. The Dog Law Enforcement Officer shall be authorized to enforce Section 714.04(b)(6) and in so doing shall have the powers of a police officer except the power of arrest. (Ord. 27-2007. Passed 9-4-07.)

714.08 REPEALER.

All ordinances or parts of ordinances conflicting with the provisions of this article are hereby repealed. It is hereby declared that the provisions of the Dog Law Ordinance codified as Article 717 are not in conflict with this article and shall remain in full force and effect. (Ord. 27-2007. Passed 9-4-07.)

714.99 PENALTY.

(a) Whoever violates any provisions of this article shall, upon conviction thereof in a summary proceeding, be fined not less than one hundred fifty dollars (\$150.00) and not more than one thousand dollars (\$1,000) for a first offense, not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000) for a second offense, and not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000) for a third or subsequent offense, to be collected as other fines and costs are by law collectible, or imprisoned for not more than ninety days, or both. Each day during which a violation occurs shall constitute a separate offense.

(b) This article and the foregoing penalties shall not be construed to limit or deny the right of the City or any person to such equitable or other remedies as may otherwise be available with or without process of law. (Ord. 27-2007. Passed 9-4-07.)