

Ordinance # 435 NOISE CONTROL ORDINANCE

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BOROUGH OF MEYERSDALE  
ORDINANCE NO. 435  
Somerset County, Pennsylvania  
NOISE CONTROL ORDINANCE

**WHEREAS**, the BOROUGH OF MEYERSDALE is the government entity charged with the protection of the residents of the Borough of Meyersdale;

**WHEREAS**, the BOROUGH OF MEYERSDALE has determined that the residents of the Borough have commented at Borough Council Meetings and have declared an ongoing nuisance of Noise being transmitted across residents' property boundary lines disturbing the tranquility, use and enjoyment of the various residents' properties;

**WHEREAS**, the BOROUGH OF MEYERSDALE has determined that the Pa Liquor Control Board currently regulates the noise produced by businesses licensed to serve alcohol to customers in the Borough;

**WHEREAS**, the BOROUGH OF MEYERSDALE has determined that Borough residents have made complaints about noise produced by businesses licensed to serve alcohol in the Borough and the Borough is unable to enforce any Ordinance against said Business with respect to noise unless the Borough passes an Ordinance and Petitions the Liquor Control Board;

**WHEREAS**, the BOROUGH OF MEYERSDALE has determined that local businesses in the Borough that are serve alcohol desire for the Borough to regulate said noise;

**WHEREAS**, the BOROUGH OF MEYERSDALE has determined that many complaints have been made by the residents of the Borough concerning combustion engines in which the mufflers or other exhaust and or sound reducing devices have been altered or removed causing noise nuisances in the Borough;

**WHEREAS**, the BOROUGH OF MEYERSDALE intends to enact this Ordinance to regulate the noise produced by establishments licensed by the Pa Liquor Control Board serving alcoholic beverages to indoor and outdoor customers in the Borough with the knowledge that the Liquor Control Board will no longer regulate said Noise from said establishments once said Ordinance is passed by the Borough and the Borough Petitions the Liquor Control Board;

**WHEREAS**, the BOROUGH OF MEYERSDALE intends to enact this Ordinance to protect the health and safety by preventing noise nuisances within the Borough limits;

**WHEREAS**, the BOROUGH OF MEYERSDALE incorporates the previously enacted several nuisance ordinances by reference;

**BE IT ORDAINED AND ENACTED** by the Meyersdale Borough Council, of Meyersdale Borough, Somerset County, Pennsylvania, and it is Hereby ORDAINED AND ENACTED by authority of the same as follows:

**Section 101.** General Provisions.

a. **Title.** This Ordinance shall be known and may be cited as the "Meyersdale Borough Noise Control Ordinance."

b. **Purpose.** This Ordinance aims to ensure that public health, safety and welfare shall not be abridged by the making and creating of public nuisances from disturbing, excessive or offensive noises in the Borough of Meyersdale. The residents of Meyersdale Borough 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 noise is minimized for the community good. This Ordinance attempts to foster mutual respect among residents and to establish a community position against noise pollution. The community believes that it should rely on the good sense of all residents to respect one another's living and working environments and one another's right to an environment that is free from noise disturbances.

c. **Scope.** This Ordinance applies to all persons, property, animals, equipment, appliances, instruments and other sound-emitting devices, as regulated herein.

d. **Relationship with Other Restrictions.** The provisions of this Ordinance 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 rules, regulations or Ordinances, the more stringent regulation shall apply.

**Section 102.** Definitions. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings:

- a. **Borough.** The Borough of Meyersdale, Somerset County, Pennsylvania.
- b. **Emergency.** Any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
- c. **Emergency Work.** Any work performed for the purpose of alleviating or resolving an emergency.
- d. **Motor Vehicle.** Any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways.
- e. **Noise.** Any sound emitted by a person, an appliance, equipment, instrument, other device or an animal other than a barking dog.
- f. **Noise Disturbance.** Those unlawful noises prohibited in Section 103 of this chapter that have been deemed to disturb the comfort, repose or peace of others within the Borough.
- g. **Person.** An individual, firm, association, organization, partnership, trust, company, corporation or any other similar entity.
- h. **Plainly Audible.** Any sound that can be detected by a person of normal sensibilities using his or her unaided hearing facilities.
- i. **Public Right-of-Way.** The traveled portion of any street or alley or similar place which is owned or controlled by the Borough or other governmental entity.
- j. **Sound.** Something audible: something that can be heard; vibrations sensed by ear: vibrations traveling through air, water, or some other medium, especially those within the range of frequencies that can be perceived by the human ear. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

k. **Sound Equipment.** Any radio, record player, tape deck or player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except, however, "sound equipment" does not include mobile radio or telephone signaling devices and automobile and truck radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted there from is not audible for more than fifty (50) feet from such automobile or truck.

l. **Unreasonable Noise.** Unreasonable Noise is defined as follows:

a. **Combustion Engine Devices:**

i. The operation of any said device in which the exhaust or noise restricting or reducing device, controls or measures have been removed, altered or changed in any way shall be a violation of this Ordinance;

ii. Any said device must be operated in accordance with this Ordinance any other applicable Ordinances and laws.

b. Any noise that travels across the property line from which the noise was generated onto any other property except for those situations described in Section 103 of this Ordinance.

c. If a noise occurs that does meet the criteria of any other category in this Ordinance but the noise is of a volume, frequency, or pattern that prevents, disrupts, injures, or endangers the health, safety, welfare, comfort or repose of reasonable persons of ordinary sensitivities within the Borough of Meyersdale, given the time of day, day of week, location, and/or other relevant factors in which and where the sound is made the Ordinance Enforcement Officer shall determine on a case by case basis if the noise is a nuisance.

**Section 103. Unlawful Noise Prohibited.**

a. Except as otherwise provided in this chapter, it shall be unlawful for any person to make or cause to be made any unreasonable noise or to allow any unreasonable noise to be caused or made in or on any real or personal property occupied or controlled by that person.

b. In addition to the foregoing, it shall also be unlawful for any person to create, assist in creating, or as owner, lessee or occupant of the property on which the activity is located permit any of the following acts:

(1) **Radios, Stereos, and Musical Instruments.** The playing of any radio, stereo, television set, amplified or unamplified musical instrument, loudspeaker, tape recorder, compact disc player, or other such electronic sound-producing devices, in such a manner or with volume that is:

- (a) plainly audible beyond the property line of a single-family dwelling unit from which it is generated or outside of the duplex dwelling unit or individual dwelling unit of the multiple-family dwelling unit from which it is generated; or
- (b) plainly audible at a distance of 50 feet from the vehicle in which it is generated; or
- (c) plainly audible at a distance of 50 feet from its location on public property or private property open to the general public.
- (d) causing or has caused vibrations with a bass within a dwelling unit or a vehicle other than the unit or vehicle from which it is/was generated.

(2) **Shouting and Whistling.** Continuous or repeated yelling, shouting, loud whistling, or loud singing, so as to disturb the peace, comfort, or repose of others within the Borough by being plainly audible to persons within any dwelling, hotel, hospital, office or other type of residence other than that from which it originates.

(3) **Animal and Bird Noises.** With the exception of dogs which are regulated by other said Ordinances, the keeping of any animal or bird which by causing frequent or long continued noise, shall disturb the peace, comfort or repose of any person.

(4) **Whistles or Sirens.** The blowing of any amplified or electronic whistles, vuvuzelas, air horns or sirens, except to give notice of the time to begin or stop work or as a warning of fire or other danger.

(5) **Loading Operations.** Loading, unloading, opening or otherwise handling boxes, crates, containers 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 create a noise disturbance within a residential district, except during an emergency.

(6) **Construction Noise.** Operating or causing to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto in the following manner:

- (a) With sound control devices or standard noise-reducing equipment which has been tampered with or not being operated within the manufacturer's specifications or otherwise not in proper operating condition; or

(b) Between the hours of 7:00 p.m. and 7:00 a.m. the following day on weekdays and Saturdays and between 7:00 p.m. on Saturday evenings and 9:00 a.m. on Sunday, which creates a noise disturbance, unless otherwise exempted in this Ordinance, or by an act of Council.

(7) **Power Equipment.** Operating, or permitting to be operated, any power saw, sander, drill, grinder, garden equipment or tools of a similar nature, outdoors between the hours of 9:00 p.m. and 7:00 a.m. weekdays and Saturdays and between 9:00 p.m. on Saturday evenings and 9:00 a.m. on Sundays, in such a manner as to create a noise disturbance.

(8) **Explosives, Firearms, Fireworks, or Similar Devices.** The use or firing of explosives, firearms, fireworks, or similar devices which create a noise disturbance.

(9) **Devices to attract attention.** The continuous or repeated use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention so as to disturb the peace, comfort, or repose of others within the Borough by being plainly audible to persons within any dwelling, hotel, hospital, office or other type of residence other than that from which it originates.

(10) **Other excessive noise.** The creation of any other excessive or unreasonably loud noise which disturbs the peace, comfort, or repose of others within the Borough by being plainly audible to persons within any dwelling, hotel, hospital, office or other type of residence other than that from which it originates.

(11) **Alcohol Licensed Serving Facilities, Restaurants and Clubs.** Any said establishment that serves Alcohol shall have the following noise restrictions applied:

A. During Weekdays 10 a.m. to 10 p.m. no audible noise shall be permitted to be emitted across the property line boundary.

B. Between the hours of 10 p.m. and 10 a.m., no outdoor bands, music or other outdoor entertain shall be permitted unless issued by special permit by Borough Council by Resolution at a Regularly Advertised Monthly Council Meeting.

**Section 104.** Exemptions.

a. None of the terms or prohibitions of Section 103 shall apply to or be enforced for any of the following:

(1) **Safety and Warning Devices.** Safety signals and warning devices (e.g. stationary emergency signal devices, intrusion alarms, back-up alarms on trucks, police/fire/ambulance sirens) or any other device used to alert persons to an emergency or used during emergency work.

(2) **Highway and Utility Maintenance and Construction.** Necessary excavations in or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the Borough, or any public utility or any agency of the Commonwealth of Pennsylvania, during the night or on Sunday, when the public health, safety, or welfare necessitates the performance of the work at such time.

(3) **Municipal Facilities or Public Utilities.** The provision, repair and maintenance of municipal services, facilities, or public utilities.

(4) **Law Enforcement.** The sounds made or caused to be made by law enforcement officials in the performance of their official duties such as sirens, two-way radio communications, public address systems, the discharging of a firearm, aircraft, etc.

(5) **Meyersdale Area School District or Meyersdale Borough.** Musical, recreational and athletic events conducted by Meyersdale Area Schools or the Borough including such outdoor practices as may be necessary in preparation for such events.

(6) **Bells, Chimes and Carillons.** Bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or public holidays; existing bells, chimes and carillons and clock strike mechanisms that are currently in use for any purpose.

(7) **Appliances, Lawn and Garden Equipment or Household Power Tools.** Appliances, lawn and garden equipment or household power tools in use between the hours of 7:00 a.m. and 9:00 p.m., provided such are operated within the manufacturer's specifications and with all standard noise reducing equipment is in use, unmodified and in proper operating condition.

(8) **Air conditioners, Fans, Heating Units.** Air conditioners, fans, heating units and similar devices of less than 8 tons heating or cooling capacity, provided such are operated within the manufacturer's specifications and all reasonable measures

have been taken to reduce noise levels as required by the Noise Abatement Ordinance.

(9) **Snow Removal.** The operation of snow removal equipment necessary for the removal of snow or ice from public or private streets, alleys, drives, sidewalks, and parking areas, provided that any motor vehicle used for snow removal which is required to be licensed shall be equipped with an exhaust system in good working order to prevent excessive or unusual noise and shall be equipped to prevent engine noise in excess of the limits established by the laws or statutes of the Commonwealth of Pennsylvania. Also, any motor-driven vehicle of a type not subject to registration for road use or domestic snow removal equipment shall be equipped with an exhaust system or mufflers in good working order to prevent excessive or unusual noise.

(10) **Construction Equipment.** Heavy construction equipment (including pile drivers, crawler-tractors, bulldozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, ditchers, trenchers, compactors, scrapers, pavement breakers, compressors, pneumatic power equipment and similar devices) in use between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and Saturdays, and between 9:00 a.m. and 7:00 p.m. on Sundays, for the duration of such construction and demolition work, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.

(11) **Parades, Festivals and Similar Events.** Borough approved or sponsored parades, festivals, fairs, music or other events.

(12) **Aircraft.** Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control and instructions and pursuant to and within the duly adopted federal air regulations.

(13) **Special Waivers.** Activities permitted by emergency waiver, as provided herein, and activities conducted in accordance with special activity permits for use of public property or the public rights-of-way, approved by Borough Council.

**Section 105. Penalty for Violation.**

a. Any person found guilty of violating provisions of this Ordinance, shall be fined not less than \$50.00 for the first offense, and not less than \$75.00 for any subsequent offenses in any 30-day period and, upon failure to pay such fine, shall be subject to civil penalties, legal fees and court costs. Warnings may be issued as determined by the Ordinance Officer if the Officer determines the facts warrant a warning and the offender is not a repeat offender of this Ordinance within a period of two years.

b. A penalty provided for under this Ordinance may be imposed in addition to any penalty that may be imposed for any other criminal or civil offense arising from the same conduct.

c. A separate and distinct offense shall be committed each day that a violation of the terms of this Ordinance continues to exist.

**Section 106. Administration.**

The provisions of this Ordinance shall be enforced by Borough Police Officers, Borough Ordinance Enforcement Officers, and others designated by the Borough Manager.

**Section 107. Emergency Waivers.**

A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons for emergencies, as determined by the Borough Manager, to protect health and safety or to comply with other lawful rules, regulations and Ordinances.

**Section 108. Severability.**

If any section, subsection, sentence, clause, phrase, word, or other portion of this Ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Ordinance, which remaining portions shall continue in full force and effect.

ENACTED AND ORDAINED into an Ordinance this 11<sup>th</sup> day of June, 2019

ATTEST:

Patricia C. Ackerman  
Borough Secretary

[Signature]  
President of Council

APPROVED, this 11<sup>th</sup> day of June, 2019.

[Signature]  
Mayor

I hereby certify that the foregoing Ordinance was advertised in the Daily American, May 22, 2019, a newspaper of general circulation in the Municipality and was duly ENACTED AND APPROVED as set forth at a Regular Meeting of the Borough of Meyersdale held June 11, 2019.

Patricia C. Ackerman  
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Borough Secretary