

Guidelines for Drafting Municipal Noise Control Ordinances

As the population increases and expanding metropolitan areas and more efficient modes of transportation continue to push residential communities further into areas formerly characterized as "rural", noise control (<https://www.epa.gov/history/epa-history-noise-and-noise-control-act>) will likely become a more prominent issue for all local communities and their governments. Noise produced by human activities has been increasingly recognized as a serious and growing environmental and health problem. Noise pollution has been implicated in a variety of health disorders, ranging from stress and hypertension to permanent hearing loss. Additionally, noise has been demonstrated to cause psychological problems: "[e]ven moderate levels of noise can heighten anxiety, decrease the incidence of cooperative behavior, and increase the risk of hostile behavior in experimental subjects." [Sidney A. Shapiro, *Lessons from a Public Policy Failure: EPA and Noise Abatement*, 19 Ecology L. Q. 1,5 (1992).]

Local communities will be in the vanguard of efforts to address noise pollution, since environmental groups thus far have all but ignored the issue with the exception of airport noise. Noise is therefore, probably the most localized form of pollution and unlike most other forms of pollution, its immediate short-term effects do not range beyond local jurisdictions. As a result, noise is almost never seen as a national, or even a statewide issue. [Frank P. Grad, *Treatise on Environmental Law Section 5.03* pg. 5-105 (3d Ed. 1985).] For example, the U.S. Environmental Protection Agency (<https://www.epa.gov/>) ("EPA") has indicated that only a handful of states have on-going noise abatement programs. [General Accounting Office, *Transportation Noise: Federal Control and Abatement Responsibilities May Need to be Revised*, p. 18 (1989).] Noise pollution control is therefore, a problem for local government to address.

Existing local ordinances directed at noise control are generally oriented toward limitations on the level of noise emissions. Local governments may enact ordinances in an attempt to control noise produced by commercial and non-commercial activities (industry, motor vehicle traffic, race tracks, etc.). Although the focus of this article will be municipal ordinances, other means of controlling noise pollution (<https://www.epa.gov/clean-air-act-overview/clean-air-act-title-iv-noise-pollution>) "include land use planning (zoning, subdivision regulation, and site design review), environmental impact assessment, real estate disclosure requirements (related to noise levels on real property), and impact fees based on the levels of noise emissions." [Shapiro, *supra*, pg. 29.]

When a local community recognizes that there currently exists undesirable noise intrusion within the community, or that potential sources of noise pollution are imminent and that some control or means of abatement are therefore necessary, an assessment and classification of the community's existing and potential sources of unwanted noise, as well as the peculiar, subjective responses of its citizens, should be made. Experience has shown that simply enacting an ordinance is not enough unless:

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1. new law is reasonable, realistic and clear;
2. there is a capable supervision and enforcement agency in place; and
3. there is a straight-forward, practical and economical approach to solving the noise problem. [See, e.g. Crocker, Malcolm, Edit., Noise Control, 1957.]

When a municipality undertakes to draft an ordinance to control noise, the following elements must be considered:

1. authority to enact the ordinance;
2. potential conflicts with state and federal constitutions;
3. qualitative vs. quantitative noise ordinances;>
4. establishment and measurement of noise levels; and
5. specific provisions to include in the ordinance. Each of these considerations will be discussed below.

Authority To Enact Ordinances

An ordinance is a legislative enactment by the corporate authority of a municipal corporation. The authority to enact general regulatory ordinances is generally founded upon the police power of the state as delegated to the municipality. When drafting any ordinance, it is first necessary to determine whether the particular municipality concerned has the authority to legislate on the subject matter involved. The powers of a municipality are delegated powers and the municipality has no legislative authority except as granted by constitutional or statutory provisions.

In Pennsylvania, the power of a municipality to enact ordinances is dependent upon its classification. For instance, in a township of the second class (<https://codes.findlaw.com/pa/title-53-ps-municipal-and-quasimunicipal-corporations/pa-st-sect-53-65201.html>), the board of supervisors may adopt ordinances in which general or specific powers of the township may be exercised, including the assessment of fines not exceeding one thousand dollars (\$1,000.00) for a violation of a health, fire or public safety ordinance and noise pollution violations. 53 P.S. Section 66601 (a) and (c) (<https://codes.findlaw.com/pa/title-53-ps-municipal-and-quasimunicipal-corporations/pa-st-sect-53-66601.html>). Enabling legislation for cites and municipalities other than townships of the second class is set forth at 53 Pa. C.S. Sections 101 (<https://codes.findlaw.com/pa/title-53-ps-municipal-and-quasimunicipal-corporations/pa-st-sect-53-101.html>) et. seq.

Pennsylvania courts have held that a municipal ordinance is presumptively valid and municipal officers are presumed to have acted in good faith in passing an ordinance. *Bilbar Construction Co. v. Easttown Twp* (https://scholar.google.com/scholar_case?case=15074878208135880227&hl=en&as_sdt=6&as_vis=1&oi=scholarr), 393 Pa. 62, 71, 141 A.2d 851 (1958); *Lutz v. Armour* (https://scholar.google.com/scholar_case?case=14406212896454582798&hl=en&as_sdt=6&as_vis=1&oi=scholarr), 395 Pa. 576, 578, 151 A.2d 108 (1959); *Township of Whitehall v. Oswald* (https://scholar.google.com/scholar_case?case=12418472843793018310&hl=en&as_sdt=6&as_vis=1&oi=scholarr), 400 Pa. 65, 68, 161 A.2d 348(1960); *Hines v. Winfree* (https://scholar.google.com/scholar_case?case=7064579207342586099&hl=en&as_sdt=6&as_vis=1&oi=scholarr), 408 Pa. 128 (1962).

A determination must also be made whether federal legislation has preempted the subject matter of the ordinance, thus restricting the power of the municipality or prohibiting municipal regulation. [Thomas Matthews, Byron Matthews, *Municipal Ordinances*, Section 1A.01 (2nd Ed. 1991).] Generally, in the area of noise pollution, EPA merely provides recommendations for the enactment and enforcement of local regulations. Local governments, however, are prohibited from regulating railroad and motor carrier noise sources for which EPA standards exist, even by means other than noise emission standards. [See 42 U.S.C. Sections 4916(c)(2) (<https://codes.findlaw.com/us/title-42-the-public-health-and-welfare/42-usc-sect-4916.html>) and 4917(c)(2).] Local governments can,

however, enforce EPA regulations by adopting local laws or ordinances identical to EPA regulations. [See 42 U.S.C. Section 4905(e)(1)(A) (<https://codes.findlaw.com/us/title-42-the-public-health-and-welfare/42-usc-sect-4905.html>) and 4916(c)(1).] In the area of noise pollution control, local authorities have wide discretion as to what standards to enact, and may use suggestions from the EPA as one of the sources of information supporting a proposed ordinance.

Constitutional Considerations

Any proposed ordinance must be analyzed to discern whether the ordinance raises any substantial constitutional questions. Pennsylvania courts have held that uncertainties in the interpretation of an ordinance are to be resolved in favor of a construction which renders the ordinance constitutional. *Archbishop O'Hara's Appeal* (https://scholar.google.com/scholar_case?case=10176422881164912244&q=Archbishop+O%27Hara%27s+Appeal&hl=en&as_sdt=6,2389 Pa. 35, 50 n.5, 131 A.2d 587, 594 n.5 (1957); *Schmalz v. Buckingham Township Zoning Board*, 389 Pa. 295, 298, 132 A.2d 233, 234 (1957); *Upper Salford Tp. v. Collins* (https://scholar.google.com/scholar_case?case=14195790319946350822&q=Upper+Salford+Tp.+v.+Collins&hl=en&as_sdt=6,24), 669 A.2d 335 (1995). Municipal ordinances are presumed to be constitutionally valid whether they are enacted by the council of a city, town or borough or by the supervisors of a township. *Bilbar Const.*, supra, at 856.

As with all other enactments, ordinances establishing general rules for the conduct of citizens must be drafted clearly and completely so as to express the intention of the governing body, and the statutory requirements for the enactment of the ordinance must be followed. The ordinance must be reasonable, must avoid discrimination, and must avoid the arbitrary or unlawful delegation of power to enforcing officers.

Prior Restraint Implications

Arguably, anytime a restriction is placed on noise, the right to free speech is implicated, since verbal speech creates sound and if loud enough, noise. The First Amendment forbids the federal government from imposing any system of prior restraint, with certain limited exceptions, in any area of expression that is protected by that Amendment. Freedom of speech is a fundamental right which is not subject to impairment by state action. *Gitlow v. New York* (https://scholar.google.com/scholar_case?case=5505973138575755803&hl=en&as_sdt=6&as_vis=1&oi=scholarr), 268 U.S. 652, 45 S.Ct. 625, 69 L.Ed. 1138 (1925). A municipal ordinance constitutes state action and is addressed by the prohibition of Section 1 of the Fourteenth Amendment of the U.S. Constitution. *Lovell v. City of Griffin* (https://scholar.google.com/scholar_case?case=5706334303740337745&hl=en&as_sdt=6&as_vis=1&oi=scholarr), 303 U.S. 444, 58 S.Ct. 666, 82 L.Ed. 949 (1938).

By incorporating the prohibitions of the First Amendment in the Fourteenth Amendment, the same limitations are applicable to the states. See, *Saia v. People of State of New York* (<https://caselaw.findlaw.com/us-supreme-court/334/558.html>), 334 U.S. 558, 559-560, 68 S.Ct. 1148, 92 L.Ed. 1574 (1948); *Cantwell v. Connecticut* (https://scholar.google.com/scholar_case?case=1009999677896592458&hl=en&as_sdt=6&as_vis=1&oi=scholarr), 310 U.S. 296 (1940); *Lovell v. Griffin*, 303 U.S. 444; *Hague v. C.I.O.*, 307 U.S. 496. Running afoul of the First Amendment can be avoided by drawing the proposed local ordinance narrowly to regulate the hours and location of the noise restriction, and proscribing specific levels of sound (in decibels) that are reasonably related to the noise problem sought to be regulated. See, *NAACP v. City of Chester* (https://scholar.google.com/scholar_case?case=12640685902220320947&hl=en&as_sdt=6&as_vis=1&oi=scholarr), 253 F. Supp. 707 (E.D. Pa. 1966). The U.S. Supreme Court has held that the police power of a state extends beyond regulation of health, morals and safety, and comprehends the duty, within constitutional limitations, to protect the well-being and tranquility of a community. *Kovacs*

v. Cooper (https://scholar.google.com/scholar_case?case=15254119947371011856&hl=en&as_sdt=6&as_vis=1&oi=scholar), 336 U.S. 77, 69 S. Ct. 448, 93 L.Ed. 513 (1949).

In *NAACP v. City of Chester*, the Plaintiff brought an action under 28 U.S.C. Section 1343 (<https://codes.findlaw.com/us/title-28-judiciary-and-judicial-procedure/28-usc-sect-1343.html>) claiming that an ordinance of the City of Chester, regulating the use of sound amplifying equipment in streets and in public places violated the U.S. Constitution. Plaintiff claimed that the ordinance was subject to the following constitutional infirmities:

1. the ordinance was unconstitutional on its face, since it established a prior restraint on the right of free speech;
2. the twenty-five dollar per diem fee required by the ordinance was unreasonable; and
3. the ordinance imposed an unreasonable restriction on the volume-producing capacity of sound amplifying equipment.

The US District, Eastern Division Court of Pennsylvania, held that the ordinance was not an invalid prior restraint on Plaintiff's right of free speech. The court stated:

The number of hours during which a sound truck may be operated is set forth, an attempt is made to regulate the volume of sound to which amplifying devices must be adjusted and, most important, the issuance of the required permit itself does not, in any way, depend upon an administrative decision. 253 F. Supp. at 710.

The city clerk in Chester was in charge of issuing the permits and the ordinance made it clear that permit issuance was a purely "ministerial" function. The court emphasized that the ordinance interfered very little, if at all, with the Plaintiff's right of free speech because permit issuance was premised upon clear, non-discriminatory and non-discretionary standards not subject to the control of any local official and reflected the concern of the City of Chester for the maintenance of peace and tranquility within the community.

The ordinance was also not an unreasonable restriction on the volume of sound amplifying equipment since the ordinance regulated "the volume of sound (in decibels) to which they must be adjusted" in accordance with the U.S. Supreme Court ruling in *Saia v. People of the State of New York*, supra. *Id.* at 714. The court enjoined, however, the enforcement of the \$25.00 fee imposed by the ordinance because the City of Chester failed to show that the fee bore a reasonable relationship to the cost of enforcing the ordinance.

Vague, Indefinite or Uncertain Provisions

If a statute or an ordinance is so "vague, indefinite or uncertain" that the courts are unable to determine, with any reasonable degree of certainty, the intent of the legislative body, such statute or ordinance is invalid. *Murray, et ux. v. Philadelphia, et al* (https://scholar.google.com/scholar_case?case=7364061924243242980&hl=en&as_sdt=6&as_vis=1&oi=scholar), 364 Pa. 157, 176, 71 A.2d 280 (1950); *Willcox v. Penn Mutual Life Ins. Co.*, 357 Pa. 581, 595, 55 A.2d 521(1947); *Miller v. Belmont Packing & Rubber Co.*, 268 Pa. 51, 63, 110 A. 802 (1920). The crucial test to be applied is whether the language of the legislation clearly reveals the intent of the legislative body. *Hines v. Winfree*, supra, at 702.

In *Hines v. Winfree*, another case involving the Chester sound truck ordinance, a citizen attacked the constitutional validity of an ordinance which prohibited the making of unnecessary noises and regulated the use of sound trucks. The party attacking the ordinance asserted that it was invalid because it was "vague, indefinite or uncertain." The Pennsylvania Supreme Court held that the language of the ordinance clearly set forth "the intent of the legislative body" and thus met the test. The court stated:

This ordinance clearly shows that it was the intent of the councilmanic body to protect the citizens of Chester from "unnecessary noises and sounds" as would occasion them discomfort and annoyance and to regulate the use of sound trucks and sound amplifying equipment in and about the public highways so as to decrease accident hazards, insure the orderly movement of traffic and avoid traffic congestion on such highways. *I, supra*, at 702.

The court found the provisions of the ordinance to be sufficiently definite because the ordinance permitted the use of sound equipment under certain stated conditions which were "... clearly set forth and with which compliance is neither onerous nor difficult." *Id.* at 702.

By setting forth the noise restrictions specifically, including the conditions under which certain sound levels will be proscribed, and by choosing restrictions which make compliance "neither onerous nor difficult", the ordinance will avoid being found to be invalid because of vagueness, indefiniteness or uncertainty. *Hines v. Winfree*, 182 A.2d 698 (1962).

Lawful Exercise of Police Power

A law which purports to be an exercise of the police power must not be unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the objects sought to be obtained. As the court stated in *Lutz v. Armour*, 395 Pa. 576 (1959):

"Under the guise of protecting the public interests the legislature may not arbitrarily interfere with private business or impose unusual or unnecessary restrictions upon lawful occupations. . . ." An ordinance cannot, under the guise of the police power, but really to effect some purpose not within its power interfere with a person's individual lawful property rights. *Id.* at 110, 111, quoting *Gambone v. Commonwealth*

(https://scholar.google.com/scholar_case?case=13681066017068853696&hl=en&as_sdt=6&as_vis=1&oi=scholarr), 375 Pa. 547, 551,

101 A.2d 634, 636 (1954).

In *Lutz v. Armour* a second class township enacted an ordinance permitting the collection of garbage, rubbish, waste material or ashes within the township and the operations of garbage disposal facilities. The same ordinance prohibited the hauling and disposition into the township of any of those materials which originate "from without the township." Operators of a garbage collection and disposal business in the township instituted a suit in equity seeking to enjoin enforcement of the ordinance after being cited for a violation. The Supreme Court of Pennsylvania affirmed the trial court's granting of a permanent injunction. In doing so, the court stated that although the regulation of garbage disposal areas was a proper exercise of police power, the township supervisors failed to demonstrate a factual distinction between waste collected from outside the township and waste collected from within. The distinction in the ordinance had to do with the place of origin of the garbage which the court held had "...no kind of relation to the evil which the ordinance apparently seeks to remedy." Based upon that lack of relationship the court concluded that the challenged ordinance provisions were "...arbitrarily capricious, discriminatory and unconstitutional."

In *Gambone v. Commonwealth*, supra, the Pennsylvania Supreme Court struck down a statute which limited the size of gas station signs that advertised the price of gasoline. A purpose of the law was to prevent the fraudulent advertising of prices, price cutting and price wars. The court found that limiting the size of the sign had no relevancy or connection to the prevention of fraud or price cutting. The court stated that larger signs would have the opposite purpose and would make it more difficult for the gasoline dealer to deceive the purchaser. Also, there was no connection proved "between the size of the sign and the upholding of a uniform price, since the evil to be avoided would not logically be prevented by forbidding conspicuous advertisement of the lower price but rather by prohibiting a lower price being charged." *Gambone*, supra, at 631-638. Consequently, the prohibition of the posting of price signs in excess of a certain size had no rational relation to public health, safety, morals, or welfare and was not a valid exercise of the police power.

Care must be taken in drafting the ordinance to ensure that the means employed for its enforcement are not unduly oppressive and that the restrictions placed upon the unwanted noise are not beyond those necessary to accomplish the purpose of the ordinance.

Qualitative vs. Quantitative Noise Ordinances

Local noise ordinances have typically included broad noise prohibitions such as the following:

The creation . . . of any unreasonable, unnecessary or excessive noise which results in the disturbance of the public peace and welfare and complaints to local government agencies is hereby prohibited and shall constitute disorderly conduct. Borough of Ebensburg Ord. No. 442, enacted September 25, 1995. Declared null and void by Court of Common Pleas Cambria County order dated October 1, 1996.

This type of ordinance is based upon vague standards that proscribe noise characterized by one or more adjectives, such as "unusual", "unnecessary", or "unreasonable". The ordinance may also define certain sound related activities or specific noise sources to be annoying or disturbing and thus violative of the ordinance. Borough of Huntingdon Ord. No. 200 (<https://ecode360.com/31385858>) proscribes inter alia, the use of auto horns, playing a radio, phonograph, musical instrument and "yelling, shouting, hooting, whistling or singing" under certain circumstances.

Such ordinances are commonly referred to as qualitative, because they define the prohibited noise by its "character or nature". In the past, noise control ordinances universally took this form. Daniels, John and Jones, Barbara, *Noise Abatement at the Municipal Level*, 7 U.S.F.L. Rev. 478 (April, 1973). Such ordinances may also prohibit certain activities, restrict activities to certain hours of the day, require permits or licenses for noisy activities or create quiet zones in which certain activities are prohibited. Linda A. Malone, *Environmental Regulation of Land Use*, Section 11.06[2], pg. 11-43. The qualitative ordinance is generally subjective in nature, and is more likely to pose constitutional issues such as vagueness, and is also more likely to be subject to enforcement at the discretion of local police and to non-uniform application as indicated above. Many noise control ordinances fail to include quantitative acoustical criteria, and merely prohibit "loud noise".

Quantitative ordinances, on the other hand, proscribe noise-producing conduct by amount, applying scientific standards of sound intensity and frequency. The quantitative ordinance is capable of providing non-discretionary, objective and predictable standards. Quantitative standards are more amendable to tailoring in order to meet the specific, unique needs of a local community. As stated previously, a determination must be made in a given community as to how much quiet or lack of noise the community seeks. One approach to making this determination can include the following steps: 1) observe the way communities react to known noise conditions; 2) supplement this data by obtaining answers to carefully worded questionnaires; 3) use this information in developing appropriate noise restrictions. Stevens, Rosenblith and Bolt, *A Community's Reaction to Noise: Can it be forecast?* (1955).

Maximum noise levels (<http://www.dot.ca.gov/dist2/projects/sixer/loud.pdf>) are generally expressed in dBA and vary considerably from ordinance to ordinance, ranging from 40 dBA (Beverly Hills, CA (https://www.beverlyhills.org/cbhfiles/storage/files/filebank/10284-8_Noise%2001122010.pdf)) to 60 dBA (cities). The ordinance may specify varying dBA levels for different areas of the community, as appropriate.

In addition, the World Health Organization (<http://www.who.int/en/>) has published draft recommended guideline noise levels for protection against unwanted noise. These noise levels are designed to prevent sleep disturbance, annoyance, and speech interference. The levels are based upon results from numerous studies in laboratories and field surveys. The levels are as follows:

- To protect the majority from being moderately annoyed, the noise level should not exceed 50 dBA.
- To protect the majority of people from being seriously annoyed during the daytime, the level from steady continuous noise in outdoor living areas should not exceed 55 dBA.
- At night, outdoor levels should not exceed 45 dBA, so that the recommended level of 30 dBA inside bedrooms for steady state continuous noise can be met with the windows open. Dieter Gottlob, *Regulations for Community Noise*, (December, 1995) 224-225 Noise/News International. The above stated levels are in accord with the comfort values which were recommended by the EPA in 1974.

Establishing and Measuring Noise Levels

When determining appropriate noise emission levels, it is also important to outline the conditions under which they must be verified, including: 1) the reference time intervals; and 2) the location at which the noise emission is measured (determine whether the emission level will be measured near the wall of a building or in an open field; the difference amounts to 3 dBA). Gottlob, *supra*, at pg. 225.

The field of study of acoustics has provided scientifically accepted standards for the identification and measurement of a noise. By using this scientific expertise, a local community can develop an effective and meaningful noise regulation by enacting an objective, quantitative ordinance. J. Daniels, *Noise Abatement at the Municipality Level*, pg. 481.

Sound is produced by any vibrating body. The sensation of sound is caused by stimulation of the auditory nerve of the ear by sound waves produced by the vibrating body. In order to give meaning to the system used to measure sound (decibels), acoustical measurements use a reference level. The reference level for sound pressure is 0.0002 microbar. A microbar is a pressure of 1 dyne/cm² or approximately one-millionth of normal atmospheric pressure (1,013,250 microbars). A sound pressure level of 0.0002 microbar is approximately the weakest sound that can be heard by a person with very good hearing. This quantity represents the threshold of audibility and is also equal to zero decibels, the lowest point of the decibel scale of noise levels. The range of the decibel scale is from zero, at which the human ear receives little or no sensation, even though some energy may be present, to approximately 120 decibels, where the sound becomes extremely intense. Dunham, *Sound Control and Thermal Insulation of Buildings*, pgs. 15, 19, 24.

Intensity and frequency are the two significant properties of sound. Frequency is the number of complete fluctuations per second of the sound wave, and intensity (or loudness) is the magnitude of the fluctuation measured in atmospheric pressure units or microbars. Measurements of the frequency and intensity of sound as they apply to noises in the community can be quantified using a sound-level meter. The readings are measured using the decibel scale. "Weighting" systems built into all standard sound-level meters can account for the fact that different sound frequencies affect the listener's perception of loudness. The weighting of decibel levels is done through the application of electrical filtering mechanisms. The A-weighting scale is most often used for measuring the level of noise in local communities. The A-weighted decibel scale, expressed as "dBA", is designed to correct decibel readings to account for the fact that the human ear is less sensitive to low pitched sounds than it is to high pitched sounds. The A-weighted scale provides a better measure of the subjective response of a human to any given noise.

In order to measure noise in the field effectively ambient noise levels must be accounted for. Ambient noise is defined as the surrounding or steady background noise, as distinguished from the specific noise which is the subject of the attempted measurement. When a measurement is made with a sound level meter, it is difficult to isolate the ambient noise from the subject noise, and the measurement of the subject noise is thereby affected.

Solutions to the ambient noise measurement problem include:

1. establishing maximum noise levels for fixed delineated areas within the community, which are related to particular zoning classifications and time periods;
2. including in the ordinance's definition of "ambient noise level" a provision for on-site determination; and
3. establishing quantitative noise levels in relation to the ambient noise level (i.e. "5 dBA above ambient").

The ambient noise level can be determined by taking sound level readings with the offending sound silenced. If this is not possible, most sounds can be specifically identified through the use of different types of field tests. Also, although difficult and expensive, it is scientifically possible to identify any sound through spectrum analysis.

Specific Provisions of a Noise Control Ordinance

The provisions of an ordinance should be as precise, simple and clear as possible to make them comprehensible to the public and to improve their amenability to enforcement by authorities.

General Prohibitions

This section of the ordinance should generally define prohibited acts to include making excessive noise or creating a noise disturbance.

Definitions

At a minimum, the following terms must be defined:

1. The unit of measure to be employed to determine proscribed noise levels such as "A-weighted sound pressure level" (see footnote 19);
2. "Noise" is usually defined as any sound which annoys or disturbs humans or is unwanted or which causes or tends to cause an adverse psychological effect on human beings.
3. "Noise disturbance" is defined to include any sound which endangers or injures the health of humans or disturbs a reasonable person of normal sensitivities.

Specific Prohibitions

Specific prohibited acts should include the use or maintenance of the following items or activities if they create a noise or noise disturbance:

- radios, television sets, musical instruments;
- loudspeakers;
- animals
- loading operations;
- construction;
- horns and signaling devices.

Maximum Permissible Sound Pressure Levels

Using the unit of measure defined in the "definitions" section, this section sets forth noise level restrictions for designated time periods in specific land use categories.

Exceptions

The noise prohibitions in a noise control ordinance would generally not apply to the following:

- vehicles or personnel of the municipality engaged in necessary public business
- emergency repair activity directed at vital services;
- any emergency or alarm devices; and
- public events, such as parades.

Enforcement

Penalties for violations of noise ordinances generally include fines which are of increasing severity for willful and knowing violations. Also, each day of a violation is usually considered a separate offense. Noise ordinances most often expressly do not preclude or impair any common law or statutory cause of action for injury or damage arising from a violation of the ordinance.

Conclusion

The provisions of a noise control ordinance, of course, must be tailored to meet the enforcement needs of the municipality. As the final step in drafting a noise ordinance, existing ordinances should be examined to determine if there are any currently enacted ordinances in the community that are in conflict with the proposed noise control ordinance and which for purposes of clarity and enforcement should be amended or repealed if the new noise ordinance is passed.

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