

ORDINANCE NO. 2023 -

**BOROUGH OF PHOENIXVILLE
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE OF THE BOROUGH OF PHOENIXVILLE, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 6 “CONDUCT”, PART 4 “NOISE” OF THE CODE OF ORDINANCES OF THE BOROUGH OF PHOENIXVILLE.

The Council of the Borough of Phoenixville, Chester County, Pennsylvania, hereby ORDAINS that:

Section 1:

Chapter 6, Part 4 “Noise” of the Code of Ordinances of the Borough of Phoenixville is hereby amended to repeal and replace the text in Chapter 6, Part 4 “Noise” with the following:

§ 6-401 Purpose and Scope.

The purpose and scope of this chapter is to ensure that public health, safety and welfare shall not be abridged by the making or creating of public nuisances from disturbing or excessive noises in the Borough of Phoenixville and to protect the physical, mental and social well-being of the residents of the Borough by prohibiting such noise and/or sound. Although it is recognized that in present society certain amounts of noise are unavoidable, the citizens of the Borough are entitled to be protected from unnecessary disturbance, annoyance or injury from sound.

§ 6-402 Definitions.

For the purpose of this chapter, the following words, terms and phrases shall have the meanings indicated herein:

BOROUGH

The Borough of Phoenixville.

NOISE

Any sound emitted by a person, group of persons, an appliance, equipment, instrument or other device, object or animal.

PERSON

Any individual, association, trust, partnership or corporation, including any members, directors, officers, employees, partners or principals thereof. Whenever used in any clause prescribing and imposing a penalty, "person" includes the members, trustees, partners, directors, officers, managers and supervisors, or any of them, of partnerships, associations, corporations or other forms of entity.

UNREASONABLE NOISE

Noise that is above and beyond the ordinary noises associated with the appropriate and customary uses of the particular forum in which the sound is made, taking into account the time of day, day of week, location, and/or other relevant factors, and such noise is of such a volume, frequency, pattern, or duration, that it prevents, disrupts, injures, or endangers the health, safety, welfare, comfort or repose of reasonable persons of ordinary sensitivities within the Borough of Phoenixville.

§ 6-403 **Prohibited Acts.**

1. **General Prohibition.** It shall be unlawful for any person to make or cause to be made unreasonable noise, or to allow any unreasonable noise to be caused or made on any real or personal property occupied or controlled by that person within the limits of the Borough of Phoenixville, except as otherwise permitted in this chapter.
2. **Specific Prohibitions.** The following are specifically prohibited, except as otherwise permitted in this chapter:
 - A. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, cassette player, sound amplifier or similar device which produces, reproduces or amplifies sound in such manner as to cause unreasonable noise.
 - B. No person shall operate or permit the operation of any tools or equipment used in construction operations, drilling or demolition or other work or in the sweeping of parking lots in Residential District and in areas adjacent to Residential Districts between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day on weekdays and Saturdays or at any time on Sundays or legal holidays such that the sound therefrom creates unreasonable noise.
 - C. No person shall operate or permit the operation of any electrically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device used outdoors between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day so as to create unreasonable noise.
 - D. No person shall load, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or other objects between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day in such a manner as to create unreasonable noise. This subsection shall not apply to municipal or utility services in or about the public right-of-way.

- E. No person shall offer for sale or sell by shouting or outcry or by any other amplified or unamplified sound, except between the hours of 8:00 a.m. of one day and 6:00 p.m. of the same day.
 - F. No person shall remove or render inoperative, other than for purposes of maintenance, repair, replacement or other work, any muffler or sound-dissipative device or element of design or noise label of any product; intentionally move or render inaccurate or inoperative any sound-monitoring instrument or other device positioned by or for the Borough or other governmental entity, provided that such device or the immediate area is clearly labeled or posted to warn of the potential illegality; or use a product which has had a muffler or sound-dissipative device or element of design or noise label removed or rendered inoperative with knowledge or reason to know that such action has occurred.
 - G. No person shall repair, rebuild or test or otherwise work on any motorcycle or other motor vehicle, motorboat or aircraft in such a manner as to create unreasonable noise.
 - H. No person shall create such other noise as might pose a danger to the public health, safety or welfare of the Borough or otherwise constitute a nuisance in fact.
 - I. No person, including, without limitation, a pedestrian, shall make, continue or cause to be made or continued any noise which creates or causes unreasonable noise.
 - J. No person shall own, possess, harbor or control any animal which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly for a period of 10 minutes or makes such noise intermittently for 30 minutes 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 cause which teased or provoked the animal or bird.
 - K. No person shall operate a motorcycle, truck, automobile or other motor vehicle in such a manner as to cause unreasonable noise.
3. Most-Restrictive Provisions to Apply. Where any two or more provisions of these sound-performance standards apply to any sound source, the most-restrictive section shall be applicable to that source.

§ 6-404 **Exemptions.**

1. The following noises are exempted from the provisions above:
 - A. Band concerts, carnivals, fireworks, or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors which are approved by Borough Council as a Temporary Community Event (TCE), provided that such activities do not occur between 10:00 p.m. on one day and 10:00 a.m. on the following day.
 - B. Noises caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.
 - C. Noises resulting from the provision, repair and maintenance of municipal/governmental facilities, services or public spaces, open spaces, or utilities.
 - D. Noises created by organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events, other than motor vehicle racing events.
 - E. Noises made by warning devices operating continuously for three minutes or less, except that, in the event of an actual emergency, the limitation shall not apply.
 - F. Noises made by bells, chimes, or carillons used for religious purposes or in conjunction with national celebrations or public holidays; existing bells, chimes and carillons or any other clock strike mechanism currently in use for any purpose.

Provided: the provisions of this Section shall not be applicable to any public parade or to the celebration of any public event for which a permit has been issued by the Borough, or to the sounding of bells or sirens or other noises made by the fire fighters, police officers or ambulance drivers in the Borough, in the performance of their duties.

§ 6-405 **Penalty for Violation.**

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

§ 6-405 **Special Relief.**

A temporary waiver from strict compliance with this Part may be granted for:

1. Emergencies as determined by the Borough Manager to protect the health, safety and welfare or to comply with other laws, regulations, or ordinances; and
2. Special events as approved by Borough Council or its designee, upon the filing of a written request with the Borough Manager, together with such information as the Borough may reasonably require to determine whether such relief is appropriate.

Section 2: Officer Authorization. The appropriate officers of the Borough are authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Ordinance.

Section 3: Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, parts, or sections hereof. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, part or section thereof not been included herein.

Section 4: Repealer. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

Section 5: Effective Date. This Ordinance shall become effective upon enactment as provided by law.

PASSED by Borough Council this 14th Day of March, 2023.

By: _____
Jonathan M. Ewald
President, Borough Council

APPROVED by the Mayor, this 14th Day of March, 2023.

By: _____
Peter J. Urscheler
Mayor

ENACTED this 14th Day of March, 2023.

By: _____
E. Jean Krack
Borough Manager/Secretary

I HEREBY CERTIFY that the foregoing is a true and correct copy of the said Ordinance duly adopted at a regular meeting of Borough Council held on the 14th Day of March, 2023.

By: _____
E. Jean Krack
Borough Manager/Secretary