



CITY OF BETHLEHEM  
OFFICE OF THE CITY SOLICITOR

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INTER-OFFICE MEMORANDUM

To: Louise M. Kelchner, City Clerk  
From: Matthew J. Deschler, Esquire, Assistant Solicitor  
Re: Noise Disturbances  
Date: October 11, 2018

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Attached are the following: (1) a proposed ordinance to repeal and replace Article 717 of the Codified Ordinances titled Noises; (2) a proposed ordinance to repeal a section of Article 705, titled Disorderly Conduct, the substance of which is incorporated into the revised Article 717; and (3) a proposed ordinance to repeal a section of Article 509, title General Enforcement and Penalty, the substance of which is incorporated into the revised Article 717.

Please place this matter on Council's agenda for review and appropriate action.

Please be advised that Police Chief Diluzio should be involved with respect to any committee hearings since enforcement will rest primarily with his department. I will attend any committee hearings in support of this proposal for the Administration.

/s/ Matthew J. Deschler  
Matthew J. Deschler, Esquire  
Assistant Solicitor

Cc: Robert Donchez, Mayor  
William P. Leeson, Esq., City Solicitor  
Mark A. Diluzio, Chief of Police

Bill No. \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, REPEALING AND REPLACING ARTICLE 717 OF THE CODIFIED ORDINANCES OF THE CITY OF BETHLEHEM, TITLED "NOISES"

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Article 717 of the Codified Ordinances of the City of Bethlehem, titled "Noises", is hereby repealed in its entirety and shall be replaced pursuant to Section 2 of this Ordinance:

SECTION 2: Article 717 of the Codified Ordinances of the City of Bethlehem, titled "Noises" is hereby established and shall read as follows:

**ARTICLE 717**  
**Noises**

Cross-References

Preventing Riots, 11 Pa.C.S. § 12422  
Disorderly Conduct, 11 Pa.C.S. § 12432  
Disorderly Conduct, 18 Pa.C.S. § 5503  
Disorderly Conduct, Article 705 of the Codified Ordinances  
Short Term Lodging Facilities, Article 1741 of the Codified Ordinances

**717.01. Legislative Intent.**

Council finds that excessive levels of sound are detrimental to the physical, mental, and social well-being of the people 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.

**717.02. Definitions.**

The following words, terms, and phrases, when used in this Article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

**CONSTRUCTION OPERATION**

The erection, repair, renovation, demolition or removal of any building or structure, or any part thereof, and the excavation, filling, grading and regulation of lots in connection therewith.

**EMERGENCY**

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or risk to public health or safety.

**EMERGENCY WORK**

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

**MOTORCYCLE**

An unclosed motor vehicle, having a saddle for the use of the operator, with two or three wheels in contact with the ground, including, but not limited to, motor scooters and mini bikes.

**MOTOR VEHICLE**

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.

**MUFFLER or SOUND-DISSIPATIVE DEVICE**

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

**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**

In addition to the sounds specified in Section 717.05, any sound which:

- (a) Endangers or injures the safety or health of humans or animals;
- (b) Is so harsh, prolonged, unnatural, or unusual in time or place as to occasion discomfort or annoyance to a reasonable person of normal sensitivities;
- (c) Endangers or injures personal or real property. or
- (d) Is so harsh, prolonged, unnatural, or unusual as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

**OCCUPIED STRUCTURE**

A structure, vehicle or place adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.

**OPERATION**

Actual control by a person.

**PERSON**

Any individual, association, general or limited partnership, corporation, limited liability company, professional corporation, and any other similar entity, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state. Whenever used in any clause prescribing and imposing a penalty, "person" includes the individual members, partners, officers, and managers of the association, general or limited partnership, corporation, limited liability company, professional corporation, or other similar entity.

**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.

**PROPERTY BOUNDARY**

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 boundary. For the purpose of this definition, the property boundary includes all points on a plane formed by projecting the property boundary in a manner deemed appropriate by the enforcing police officer.

**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.

**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 rights-of-way.

**SOUND**

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.

**VEHICLE**

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.

**717.03. In General – Noise Disturbance Prohibited.**

No person shall make, continue or cause to be made or continued any noise disturbance, nor shall any person suffer, allow or permit any noise disturbance to be made or continued from or at any property, whether real or personal, that is subject to such person's right to control. An owner of any real property that is leased or rented for any period of time shall be deemed to be in control of that property for purposes of this Article, regardless of whether the owner is in occupation of the property. Without limitation to other types of real property, a Short-Term Lodging facility as defined in Article 1741 shall be deemed to be subject to its owner's right to control for purposes of this Article, regardless of whether the owner is in occupation of the facility.

#### **717.04. Factors for determining a Noise Disturbance.**

Factors for determining whether a sound constitutes a Noise Disturbance include, but are not limited to, the following:

- (a) the proximity of the sound to sleeping facilities, whether residential or commercial;
- (b) the land use, nature, and zoning of the area from which the sound emanates and the area where it is heard or detected;
- (c) the time of day or night the sound occurs;
- (d) the duration, intensity, and frequency of the sound; and
- (e) whether the sound is recurrent, intermittent, or constant.

#### **717.05. Specified prohibited acts.**

In addition to any acts which violate the general prohibition on noise disturbances pursuant to Article 717.03, the following acts, and the causing thereof, are declared to be noise disturbances and therefore in violation of this Article:

- (a) **Radios, television sets, musical instruments and similar devices.** Operating, playing or permitting the operation or playing of any radio, television, boom box, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo or high fidelity equipment, disc or tape player, loudspeaker or other similar device that produces, reproduces or amplifies sound:
  - (1) At any time of the day in such a manner from any source as to create a noise disturbance across a real property boundary;
  - (2) In such a manner as to create a noise disturbance across any real property boundary when operated in or on a motor vehicle on the public-right-of-way or public space;

(3) 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

(4) At such a sound intensity that the sound is audible from a distance of 40 feet in any public area, street or sidewalk, when the sound source is in any public area, street or sidewalk.

**(b) 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 an hourly period.

**(c) Emergency signaling devices.** 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 for in subsection (c)(1) and (c)(2) hereof.

(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 7:00 a.m. or after 6:00 p.m. The time limit specified in subsection (c)(1) hereof shall not apply to such complete system testing.

**(d) Burglar alarms.** 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.

**(e) Loudspeaker/public address systems.** Using or operating any loudspeaker, public address system or similar device:

(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. on the following day on a public-right-of-way or public space.

**(f) Street sales.** Peddling or plying a trade or calling or offering for sale or selling by shouting or outcry or by any other amplified or unamplified sound, including, without limitation, using bells or horns, causing a noise disturbance for the purpose of directing attention to one's wares, trade, calling, or offerings.

(g) **Animals and birds.** Owning, possessing, harboring or controlling any animal or bird which howls, barks, bays, cries, 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 legitimate cause which teased or provoked the animal or bird.

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

(i) **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 within 150 feet of an occupied structure between the hours of 10:00 p.m. and 7:00 a.m. on the following day so as to cause a noise disturbance across a residential real property boundary. The preceding limitations shall not apply to the use of snow removal equipment.

(j) **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. on the following day.

(k) **Construction.** Unless authorized by proper permit issued by the Director of the Department of Community and Economic Development or designee, operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work between the hours of 9:00 p.m. and 6:00 a.m. on the following day on weekdays and Saturdays or at any time on Sundays or legal holidays such that the sound creates a noise disturbance across a residential real property boundary, except for emergency work. This subsection (k) shall not apply to the use of domestic power tools as herein provided in subsection (i).

(l) **Willful noise disturbances.** Willfully making or causing to be made a noise disturbance on or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed or the traveling public is disrupted or annoyed.

**717.06. Motor vehicles.** Except as provided for in subsection (g), the general and specific prohibitions on noise disturbances set forth in Article 717.03 and Article 717.05, respectively, apply to noise disturbances emitted by or from a motor vehicle upon, near or adjacent to the streets or other public places in the City by horns, engine whistles, bells, sirens, radios, amplifying systems or otherwise. In addition, except as provided for in subsection (g), the following subsections (a) through (f) apply to the operation of motor vehicles:

(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 an occupied structure.

(c) **Unnecessary horn blowing.** Except as provided for in subsection (f)(1), 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) **False alarm.** No person shall cause or allow the making of more than one false alarm within twenty-four (24) hours by a motor vehicle alarm.

(e) **Sound trucks.** No person shall operate sound amplifying equipment mounted on or attached, or powered by connection, 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. on the following day on a public right-of-way or public space.

(f) No person shall operate or allow to be operated a motor vehicle or any equipment attached thereto on a public right-of-way at any time in such a manner that the sound emitted by the motor vehicle or any equipment attached thereto exceeds the levels set forth in Pennsylvania Department of Transportation Regulations Title 67, Chapter 157, Subchapter B, 67 Pa. Code § 157.11, and all amendments thereto. Neither this subsection (f) nor any provision of this Article is intended to interfere with, abrogate or annul other rules, regulations or ordinances, including Title 18 and Title 75, Pennsylvania Consolidated Statutes. If more stringent requirements are contained elsewhere, the more stringent rules or regulations shall apply. Any sound measurements required to be made on a sound level meter shall be performed, and required calibrations shall be made, pursuant to Pennsylvania Department of Transportation Regulations Title 67, Chapter 157, and all amendments thereto.

(g) **Exemptions.** This Article 717.06 shall not apply to the following:

- (1) The sound generated by a warning device, such as a horn or siren, installed in a motor vehicle, unless such device is intentionally sounded in order to preclude an otherwise valid noise emission measurement.
- (2) An emergency vehicle, such as a fire department vehicle, police vehicle, ambulance, blood-delivery vehicle, armed forces emergency vehicle, one private vehicle of fire or police chief or assistant chief or ambulance corps commander or assistant commander or of a river rescue commander, or



other vehicles designated by the State Police as emergency vehicles, when responding to an emergency call.

(3) A snow plow in operation.

(4) The sound generated by special mobile equipment which is normally operated only when the motor vehicle on which it is installed is stopped or is operating at a speed of 5 miles per hour or less, unless such device is intentionally operated at speeds greater than 5 miles per hour in order to preclude an otherwise valid noise measurement.

**717.07. Exemptions.** The following sounds and occasions are exempted from the provisions of this Article:

(a) **Emergency work sounds.** Sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.

(b) **Public Works, municipal and utility services.** Sounds resulting from the construction, repair or replacement of any public works, municipal or utility installation in or about the public right-of-way, and the emission of sound from a municipal and/or utility services vehicle, device, or building.

(c) **Police, Fire, and Ambulance Sounds.** The emission of sound, including radios, public address systems or other communications devices, from a police, fire and/or ambulance vehicle, device, or building.

(d) **Places of Religious Worship.** The sound of any bell or chime used in conjunction with places of religious worship.

(e) **Emergencies.** The emission of sound for the purpose of alerting persons to the existence of an emergency or emitted in response to an emergency.

(f) **Outdoor venues.** Facilities that offer entertainment between the hours of 12:00 p.m. and 12:00 a.m. in outdoor venues located in an Industrial Redevelopment District and an Industrial Redevelopment – Residential District.

(g) **Political and Labor Rallies, Athletic Events or City of Bethlehem Licensed, Permitted or Authorized Events.** The use of devices such as public address systems, amplifying systems, bull horns, musical instruments, tape messages or similar devices which are used at political or labor rallies, or athletic events or other events licensed, permitted or authorized by the City or otherwise protected under law.

**717.99. Penalty.**

(a) Any person who violates any provision of this Article shall be subject to the following penalties:

(1) First violation - A fine of not less than \$50.00 nor more than \$100.00;

(2) Second violation - A fine of not less than \$100.00 nor more than \$300.00; and

(3) Third and Each Subsequent Violation - A fine of not less than \$500.00 nor more than \$1,000.00, or thirty days imprisonment, or both.

SECTION 3: That all ordinances and sections thereof that are inconsistent with this Ordinance are hereby repealed.

Sponsored by \_\_\_\_\_

\_\_\_\_\_

Passed finally in Council this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
City Clerk

This Ordinance approved this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

Bill No. \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AMENDING ARTICLE 509 OF THE CODIFIED ORDINANCES OF THE CITY OF BETHLEHEM, TITLED “ENFORCEMENT AND GENERAL PENALTY”

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1: That Article 509.03 of the Codified Ordinances of the City of Bethlehem, which presently reads as follows:

509.03 UNNECESSARY NOISE BY OR FROM A MOTOR VEHICLE A NUISANCE

~~(a) The making of unnecessary noise, by or from a motor vehicle upon, near or adjacent to the streets or other public places in the City by horns, engine whistles, bells, sirens, radios, amplifying systems or otherwise, is declared to be a public nuisance. Prohibited conduct shall include, but not be limited to the following:~~

- ~~(1) No person shall operate or allow to be operated a radio, stereo, boom box, tape and/or CD player or any other type of sound reproduction device at a sound level which is audible at a distance of greater than forty (40) feet from the location of such motor vehicle.~~
- ~~(2) No person shall operate or allow to be operated a motor vehicle unless the vehicle is equipped with a muffler or other effective noise suppressing system in good working order and in constant operation. Further, no muffler or exhaust system shall be equipped with a cutout, bypass or similar device so as to cause unnecessary noise.~~
- ~~(3) No person shall operate or allow to be operated a motor vehicle or any equipment attached thereto on a public right of way at any time in such a manner that the sound emitted by the motor vehicle or any equipment attached thereto exceeds the levels set forth in Pennsylvania Department of Transportation Regulations Title 67, Chapter 157, Subchapter B, 67 Pa. Code § 157.11, and all amendments thereto.~~
- ~~(4) No person shall cause or allow the making of more than one false alarm within twenty four (24) hours by a motor vehicle alarm.~~

~~(b) The provisions of this Section 509.03(a) shall not apply to:~~

- ~~(1) Police, Fire and Ambulance Vehicles or Devices.~~

~~The emission of sound, including radios, public address systems or other communications devices from a police, fire and/or ambulance vehicle.~~

~~(2) — Municipal and Utility Services Vehicles or Devices.~~

~~The emission of sound from a municipal and/or utility services vehicle or device.~~

~~(3) — Places of Religious Worship.~~

~~The sound of any bell or chime used in conjunction with places of religious worship.~~

~~(4) — Political and Labor Rallies, Athletic Events or City of Bethlehem Licensed, Permitted or Authorized Events.~~

~~The use of devices such as public address systems, amplifying systems, bull horns, musical instruments, tape messages or similar devices which are used at political or labor rallies, or athletic events or other City of Bethlehem licensed, permitted or authorized events to the extent already protected by law.~~

~~(5) — Construction and Improvements~~

~~The operating of any tools or equipment used in construction, drilling or demolition work, provided that such work does not occur between 9:00 p.m. and 6:00 a.m. unless a special permit is obtained from the Community and Economic Development Director or his designated representative.~~

~~(6) — Emergencies~~

~~The emission of sound for the purpose of alerting persons to the existence of an emergency or emitted in response to an emergency.~~

~~(c) — The provisions of this ordinance are not intended to interfere with, abrogate or annul other rules, regulations or ordinances, including Title 18 and Title 75, Pennsylvania Consolidated Statutes. If more stringent requirements are contained elsewhere the more stringent rules or regulations shall apply. Any sound measurements required to be made on a sound level meter shall be performed, and required calibrations shall be made, pursuant to Pennsylvania Department of Transportation Regulations Title 67, Chapter 157, and all amendments thereto.~~

Shall be amended to read:

509.03 UNNECESSARY NOISE BY OR FROM A MOTOR VEHICLE A NUISANCE

[Reserved] Note: Cross-reference to Article 717.06.

SECTION 2: That all ordinances and sections thereof that are inconsistent with this Ordinance are hereby repealed.

Sponsored by \_\_\_\_\_

\_\_\_\_\_  
Passed finally in Council this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
City Clerk

This Ordinance approved this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

Bill No. \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AMENDING ARTICLE 705 OF THE CODIFIED ORDINANCES OF THE CITY OF BETHLEHEM, TITLED "DISORDERLY CONDUCT"

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1: That Article 705.01 of the Codified Ordinances of the City of Bethlehem, which presently reads as follows:

705.01 DISORDERLY CONDUCT; PEACE DISTURBANCE.

~~Whoever willfully makes or causes to be made any loud, boisterous and unseemly noise or disturbance to the annoyance of the peaceable residents nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed or the traveling public is annoyed, is guilty of the offense of disorderly conduct.~~

Shall be amended to read:

705.01 DISORDERLY CONDUCT; PEACE DISTURBANCE.

[Reserved] Note: Cross-reference to Article 717.04(l).

SECTION 2: That all ordinances and sections thereof that are inconsistent with this Ordinance are hereby repealed.

Sponsored by \_\_\_\_\_

\_\_\_\_\_

Passed finally in Council this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
City Clerk

This Ordinance approved this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor