

BOROUGH OF WHITAKER
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE NO. 1 OF 2023

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF WHITAKER, ALLEGHENY COUNTY, PENNSYLVANIA REGULATING "NOISE" AND WELFARE SHALL NOT BE ABRIDGED BY PUBLIC NUISANCES FROM DISTURBING, EXCESSIVE OR OFFENSIVE NOISES IN THE BOROUGH OF WHITAKER.

WHEREAS, the Council for the Borough of Whitaker is desirous of ensuring that the public health, safety, and welfare shall not be abridged by public nuisances from disturbing, excessive, or offensive noises in the Borough of Whitaker.

NOW, THEREFORE, be it ORDAINED and ENACTED by the Council of the Borough of Whitaker and it is hereby ordained and enacted as follows:

Section 1. General Provisions.

1. **Title.** This Ordinance shall be known and may be Cited as the Borough of Whitaker Noise Control Ordinance
2. **Purpose.** This ordinance is adopted 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 Whitaker. The residents of the Borough of Whitaker recognize that uncontrolled noise represents a danger to the health and welfare of their neighbors. This ordinance attempts to foster mutual respect among residents and to establish a community position against noise pollution.
3. **Scope.** This ordinance applies to all persons, property, animals, equipment, appliances, instruments and other sound-emitting devices, as regulated herein.
4. **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. The Borough will enforce this ordinance in lieu of Section 493(34) of the Liquor Code.

Section 2. Definitions.

1. The following words and phrases, when used in this ordinance, shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:
 - a. **Best Engineering Practice** – Standards adopted by professional bodies in the field of acoustical and mechanical engineering including techniques recommended by the manufacturer of the equipment causing the noise disturbance.
 - b. **District** – The zoning districts as set forth on the Zoning Map of the Borough of Whitaker
 - c. **Noise** – Any sound emitted by a person, an appliance, equipment, instrument, other device or an animal other than a barking dog
 - d. **Noise Disturbance** – Any noise which:
 - i. Endangers or injures the safety or health of humans or animals; or
 - ii. Annoys or disturbs a reasonable person of normal sensibilities; or
 - iii. Jeopardizes the value of property or erodes the integrity of the environment.
 - e. **Person** – Includes an individual, firm, association, organization, partnership, trust, company, corporation or any other similar entity.
 - f. **Borough** – The Borough of Whitaker, Allegheny County, Pennsylvania

Section 3. Noises Prohibited.

1. **General Prohibitions.** It shall be unlawful for any person(s) to make or cause to be made, a noise disturbance within the limits of the Borough of Whitaker, except as provided in this ordinance. All such disturbances are declared to be public nuisances.
2. **Specific Prohibitions.** The following are specifically prohibited, except as otherwise provided in this ordinance:
 - a. Radios, Television Sets, Phonographs, Compact Discs, CD-ROM and Computer-Generated Musical Instruments and similar devices, as follows:
 - i. Operating or permitting the use of operation of any musical instrument, radio, television, phonograph, compact disc, CD-ROM and computer-generated musical instruments, or other device for the production of sound, in such a manner as to cause a noise disturbance.

- ii. Operating any such device between the hours of 9:00 p.m. Sunday to 7:00 a.m. Monday, 9:00 p.m. Monday to 7:00 a.m. Tuesday, 9:00 p.m. Tuesday to 7:00 a.m. Wednesday, 9:00 p.m. Wednesday to 7:00 a.m. Thursday, 9:00 p.m. Thursday to 7:00 a.m. Friday, 11:00 p.m. Friday to 7:00 a.m. Saturday, and 11:00 p.m. Saturday to 7:00 a.m. Sunday, in such a manner as to be audible across real property boundaries or through partitions common to two parties within a building, or plainly audible at fifty (50) feet from such device when operated within a motor vehicle on a public right-of-way or in a public space.
 - iii. The operation of any such device during hours not listed above shall be governed by the provisions set forth in the Borough of Whitaker Zoning Ordinance.
- b. Loudspeakers/ Sound Amplifiers and similar devices as follows:
 - i. Operating or permitting the use of operation of any loudspeakers, sound amplifiers or similar devices for the production of sound, in such a manner as to cause a noise disturbance.
 - ii. Operating any such device between the hours of 9:00 p.m. Sunday to 7:00 a.m. Monday, 9:00 p.m. Monday to 7:00 a.m. Tuesday, 9:00 p.m. Tuesday to 7:00 a.m. Wednesday, 9:00 p.m. Wednesday to 7:00 a.m. Thursday, 9:00 p.m. Thursday to 7:00 a.m. Friday, 11:00 p.m. Friday to 7:00 a.m. Saturday, and 11:00 p.m. Saturday to 7:00 a.m. Sunday, in such a manner as to be audible across real property boundaries or through partitions common to two parties within a building, or plainly audible at fifty (50) feet from such device when operated within a motor vehicle on a public right-of-way or in a public space.
 - iii. The operation of any such device during hours not listed above shall be governed by the provisions set forth in the Borough of Whitaker Zoning Ordinance.
- c. Street Sales.
 - i. Selling anything by shouting or by outcry except by permit.
- d. Loading Operations.
 - i. Loading, unloading, opening or otherwise handling boxes, crates, containers or similar objects between the hours of 10:00 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.

- ii. Loading Operations during hours not listed above shall be governed by the provisions set forth in the Borough of Whitaker Zoning Ordinance.

e. Construction Noise.

- i. Operating or causing to be operated any equipment used in commercial construction, repair, alterations or demolition work on buildings, structures, streets, alleys or appurtenances thereto in the following manner:
 - 1. With sound control devices which have been tampered with,
 - 2. In violation of any regulation of the United States Environmental Protection Agency or any other law or regulation, or
 - 3. Between the hours of 7:00 p.m. and 7:00 a.m. the following day on weekdays and between 7:00 p.m. on Saturday evenings and 9:00 a.m. on Sunday mornings, which creates a noise disturbance, unless otherwise exempt by this ordinance, or by an act of the Council.
- ii. Construction noise during hours not listed above shall be governed by the provisions set forth in the Borough of Whitaker Zoning Ordinance.

f. Explosives, Firearms, or Similar Devices.

- i. The use or firing of explosives, firearms, or similar devices which creates a noise disturbance.

g. Yelling, Shouting, Whistling.

- i. Yelling, shouting, whistling or generally creating a noise disturbance on public streets between the hours of 9:00 p.m. Sunday to 7:00 a.m. Monday, 9:00 p.m. Monday to 7:00 a.m. Tuesday, 9:00 p.m. Tuesday to 7:00 a.m. Wednesday, 9:00 p.m. Wednesday to 7:00 a.m. Thursday, 9:00 p.m. Thursday to 7:00 a.m. Friday, 11:00 p.m. Friday to 7:00 a.m. Saturday, and 11:00 p.m. Saturday to 7:00 a.m. Sunday.

h. Power Equipment.

- i. Operating, or permitting to be operated, any power saw, sander, drill, grinder, garden equipment or tools of a similar nature, outdoors in residential districts 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.
- ii. Operating power equipment during hours not listed above shall be governed by the provisions set forth in the Borough of Whitaker Zoning Ordinance.

Section 4. Exemptions.

1. Noise from the following sources shall be exempt from the noise standards specified herein:
 - a. All 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 the conduct of emergency work.
 - b. All 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 the conduct of emergency work.
 - c. 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.
 - d. 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 in use, unmodified and in proper operating condition.
 - e. Snow removal equipment, operated within the manufacturer's specification and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.
 - f. Heavy construction equipment (including, but not limited to, pile drivers, crawler-tractors, bulldozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor grader, 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.

- g. Air conditioners, fans, heating units and similar devices of less than 8 tons heating or cooling capacity, provided such are operating within the manufacturer's specifications when all reasonable measures have been taken to reduce noise levels as required.
- h. Transient noises emanating from moving sources, such as trucks, automobiles, motorcycles, airplanes and trains.
- i. Musical, recreational and athletic events conducted by schools or a local government including such outdoor practices as may be necessary in preparation for such events.
- j. Activities permitted by special 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 the Borough Council.

Section 5. Special Waivers

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

Section 6. Enforcement and Penalties

- 1. Any person, firm or corporation who violates a provision of this Ordinance, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine up to \$1,000 for each violation, plus costs, and, in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
- 2. The Borough Police Department and/or Code Enforcement Officer are authorized to carry out the duties and obligations of enforcing this Ordinance.

Section 7. Severability

1. 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, sections or parts of this Ordinance. 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, section or part thereof not been included herein.

Section 8. Repealer.

1. All Ordinances or parts of Ordinances which are inconsistent herewith, except to the extent otherwise provided herein, are hereby repealed. The following Ordinances or parts thereof are specifically repealed.

ORDAINED AND ENACTED into law this 9 day of AUGUST, 2023.

ATTEST:

BOROUGH OF WHITAKER


Borough Secretary

By: 
President of Council

Examined and approved this 9 day of AUGUST, 2023.


Mayor

**PUBLIC NOTICE
BOROUGH OF WHITAKER**

NOTICE OF PROPOSED ORDINANCE

TAKE NOTICE that the Council of the Borough of Whitaker, Pennsylvania, at its regularly monthly meeting scheduled to be held at 7 P.M., prevailing time, on Wednesday, August 9, 2023, at the Whitaker Borough Building, 124 Grant Street, Whitaker, Pennsylvania, 15120, will consider the enactment of a proposed ordinance titled as follows:

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF WHITAKER, ALLEGHENY COUNTY, PENNSYLVANIA REGULATING "NOISE" AND WELFARE SHALL NOT BE ABRIDGED BY PUBLIC NUISANCES FROM DISTURBING, EXCESSIVE OR OFFENSIVE NOISES IN THE BOROUGH OF WHITAKER.

Attested copies of the full text of the proposed ordinance are available for public inspection during regular business hours at the following locations: Office of the Clerk of Allegheny County Council, Room 119, County Court House, 436 Grant Street, Pittsburgh, PA 15219; and Allegheny County Law Library, Ninth Floor, City-County Building, 414 Grant Street, Pittsburgh, PA 15219; and via request to 412-462-8940 or whitakerpa@outlook.com.

Sean [redacted], Borough Secretary,
Whitaker Borough

VM07/20/23

Commonwealth of Pennsylvania - Notary Seal
Richard R. Schiavoni, Notary Public
Allegheny County
My commission expires October 20, 2025
Commission number 1322274

Member, Pennsylvania Association of Notaries

PROOF OF PUBLICATION OF NOTICE

OATH

State of Pennsylvania }
County of Allegheny } ss.

Emily O'Conly

THE VALLEY MIRROR, in said County, being duly sworn, doth depose and

News Editor

say that he/she is the _____ of
THE VALLEY MIRROR, a weekly newspaper of general circulation, published in said County
and the Notice, of which annexed is a copy, cut from said newspaper was printed and published
in the regular edition and issue of said newspaper on the following days, viz:

On July 20, 2023

Emily O'Conly

Subscribed and sworn to before me this 21st day

of July 2023
Richard R. Schiavoni
Notary Public

THE VALLEY MIRROR
MUNHALL, PA 15120

IN

NOTICE

**PROOF OF PUBLICATION
OF**

In the Matter of

No. _____ Term _____