

Ordinance # 7 of 2016

Chapter 93 Noise Regulations

§93-1. Purpose. It is the purpose of this Part to:

- (a) Prohibit noise or sound which disrupts the peace and harmony of the residents of Foster Township, and protect the physical, mental and social well-being of the residents of Foster Township by prohibiting such noise or sound.
- (b) Ensure that the 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 Township of Foster.
- (c) Prevent uncontrolled noise that represents a danger to the public health, safety and welfare so each person in the Township could live in an environment in which the level of noise is minimized for the community good.
- (d) Foster mutual respect among residents and establish a community position against noise pollution while respecting everyone's right to an environment that is free from noise disturbances.
- (e) Provide regulations defining the maximum sound levels that vehicles, appliances and equipment shall be allowed to produce at specified distances from these devices, and also to provide for the prohibition of other kinds of prohibited noises.

§93-2. Application and Interpretation.

- (a) This Part shall apply to:
 - (1) All persons, properties (real and personal), animals, vehicles, equipment, appliances, instruments, sound-emitting objects and devices.
 - (2) The owner, operator, tenant and user of property, animals, vehicles, equipment, appliances, instruments and sound-emitting objects or devices.
- (b) The provisions of this Ordinance are not intended to interfere with, abrogate or annul other rules, regulations or ordinances, including the Crimes Code or 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.

§93-3. Definitions. For the purpose of this Ordinance, the following words, terms and phrases shall have the meanings indicated herein:

- (a) ANSI – means the American National Standards Institute or its successors. All acoustical terminology shall be contained in ANSI S1.1 “Acoustical Terminology.”

(b) Appliance – means any device or combination of devices used or capable of being used as a means of accomplishing a desired end, such as a window air conditioning unit.

(c) Day – means the twenty-four (24) hour period starting at local midnight.

(d) Day-Time – means 7:00 A.M. to 5:00 P.M. during the months of October through March, and 6:00 A.M. to 8:00 P.M. during the months of April through September.

(e) Decibel (dB) – means a unit of sound level which is a division of logarithmic scale used to express the ratio of the sound intensity of the source to the intensity of an arbitrarily chosen reference intensity. The ratio is expressed on the decibel scale by multiplying its “base ten logarithm” by ten.

(f) Equipment – means any devices or combination of devices to accomplish a desired end, such as a chain saw, bulldozer, etc.

(g) Excessive Noise –includes sound which is: (1) injurious or which unreasonably interferes with the comfortable enjoyment of life and property. Measured noise levels in excess of limits established in these regulations or those specified in valid permits are declared to be excessive noise; or (2) annoying to a person of ordinary sensibilities.

(h) Fluctuating Noise –means a noise whose sound level varies significantly with time.

(i) Impulsive Noise –means noise that is characterized by brief excursions of sound level. The duration of a single impulse is usually less than one second.

(j) Intermittent Noise –means a noise whose sound level exceeds the ambient noise levels at least twice during the period of observation, which is one minute or more. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient is on the order of one second or more.

(k) Noise – includes any sound emitted by a person, animal, vehicle, appliance, equipment, instrument, or other device and its environmental interaction.

(l) Noise Disturbance- includes any noise which endangers, would endanger or is likely to endanger, or injures, would injure or is likely to injure, the safety or health of humans or animals, annoys, would annoy or is likely to annoy, or disturb a reasonable person of ordinary sensibilities; endangers, would endanger or is likely to endanger, or injures, would injure or is likely to injure, personal or real property; disturbs, would disturb or is likely to disturb, the peace; or creates, would create or is likely to create, a nuisance.

(m) Person – includes any individual, association, trust, partnership or corporation, including any members, directors, officers, employees, partners or principals thereof. Whenever used in any provision 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. The term also includes the owner, operator, tenant and user

of property, animals, vehicles, equipment, appliances, instruments and sound-emitting objects or devices.

(n) Period of Observation – means the time interval during which acoustical data is obtained. The period of observation is determined by the characteristics of the noise being measured and the instrumentation being used. The period of observation must be at least as long as the response time of the instrumentation. The greater the variance in individual sound level, the longer the observation time must be for a given expected accuracy of measurement.

(o) SAE – means the Society of Automotive Engineers.

(p) Sound Level (Noise Level) – means airborne sound levels expressed in dB and obtained by the use of specific frequency dependent weighting networks, as specified in the referenced standards. The specific weighting network used must be indicated by the proper notation. If the A-weighting is employed, the sound level is identified as dB(A).

(q) Sound Level Meter – means an instrument, or combination of instruments, which meets or exceeds the requirements for an ANSI Type S1A or Type S2A Sound Level Meter.

(r) Steady Noise – means a noise whose level remains essentially constant (i.e., fluctuations are less than five (5) dB) during the period of observation is a steady noise.

(s) Township-means Foster Township, Luzerne County, Pennsylvania.

(t) Vehicle –includes any device, or combination of devices, used for or capable of being used for transporting person or property. Vehicles include, but are not limited to, the following: automobiles, trucks, buses, motorcycles, motorized bicycles, snowmobiles, scooters, all-terrain vehicles, go-carts, racers and like devices, farm machinery, industrial machinery, highway graders, trailers, graders and semi-trailers.

§93-4. Noise Limitations or Prohibitions.

(a) General Noise Limitation or Prohibition. No person shall make, permit or cause to be made, any excessive noise or noise disturbance of any kind within the Township, except as otherwise permitted in this Part.

(b) Specific Noise Limitations or Prohibitions. The following are specifically prohibited, except as otherwise permitted in this Part:

(1) Musical Instruments. No person shall use, perform, operate or play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, player, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create excessive noise or a noise disturbance.

(2) Noise from Buildings, Structures, and Properties. No person owning, or in possession or control of any building, structure or property, shall use the same, permit the use of

the same, or rent the same to be used for any use (residential, commercial, industrial), which is boisterous in nature, disturbs or destroys the peace of any person, the public or the neighborhood as measured at the property line in which such building, structure or property is located, or be dangerous or detrimental to public health, safety or welfare or which causes excessive noise or a noise disturbance.

(3) Equipment Noise. It shall be unlawful for any person to use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or other mechanical equipment operated by fuel or electric power in building or construction operations except between the hours of 6:00 a.m. and 6:00 p.m. Monday through Saturday

(4) Noise in Handling Refuse Cans. No person shall make any excessive noise or noise disturbance in the handling of ash, trash, or garbage cans, whether in loading or unloading, whether full or empty.

(5) Noise in Vicinity of Schools and Churches. No person shall make any unnecessary noise in the vicinity of any church during hours of public worship, or school during school hours.

(6) Noisy Animals, Agricultural or Recreational Uses. No person shall keep, or permit to be kept, harbor, or otherwise maintain any animal which creates a noise disturbance or excessive noise. Provided, however, that a noisy animal shall be defined as one or more animals which makes noises habitually, so as to constitute annoyance to a person of ordinary sensibilities. It shall also be unlawful for any person to operate or permit the operation of any agricultural or recreational uses that create a noise disturbance or excessive noise.

(7) Noise by Peddlers. No peddler or other person who applies a trade or calling of any nature on the streets of the Township shall use any horn, bell, or other sound instrument to make any noise tending to disturb the peace and quiet enjoyment of persons within the Township or the neighborhood, for the purpose of directing attention to wares, trade or calling.

(8) Use of Horns and Other Devices on Vehicles. No person, operating any vehicle, other than police, fire, public service or ambulance operators shall sound any horn, bell, gong, siren, or whistle, except for the ordinary horn installed on such vehicle by the manufacturer, or sound any type of horn except when reasonably necessary to prevent accidents or otherwise comply with the law of the Pennsylvania Motor Vehicle Code.

(9) Vehicles. No person shall operate either a motor vehicle of a type subject to registration, at any time or under any condition of grade, load, acceleration or deceleration in such manner as to exceed the following noise limits for the category of minor vehicles based on a distance of fifty feet (50') from the center of the lane traveled on within the speed limit specified in this section under test procedures established by section 93-10 of this Part.

	Type of Vehicle	Speed Limit of 35 MPH or less	Speed Limit of 35 MPH or greater
(1)	Any motor vehicle with a manufacturer's gross combination weight rating of 10,000 lbs. or more and any combination of vehicles towed by such motor vehicle	86 dB(A)	90 dB(A)
(2)	Any other vehicle or any combination of vehicles towed by such motor vehicle	76 dB(A)	82 dB(A)
(3)	Any motorcycle or motor driven cycle	78 dB(A)	82 dB(A)

(i) This section applies to the total noise from a vehicle or a combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this Part relating to motor vehicle mufflers for noise control.

(ii) No person shall modify or change the exhaust muffle, intake muffler or any other noise abatement device of a motor vehicle so that the noise level is increased above that emitted by the vehicle as originally manufactured. Procedures used to establish compliance with this paragraph shall be those used to establish compliance of a new motor vehicle with the requirements of this Part.

(iii) No person shall sell or lease or offer for sale or lease a new or second-hand vehicle that produces a maximum noise exceeding the noise limit at a distance of fifty feet (50') from the centerline of travel as stated in Section 93-4(9) of this Part. The manufacturer, distributor, importer or designated agent shall if requested certify in writing to the Township that his or her vehicles sold or leased within the Township comply with the provisions of this Part.

(10) Equipment.

(i) No person shall operate any powered equipment or powered hand tools that produces a maximum noise level exceeding the following noise limits at a distance of fifty feet (50'), under test procedures establish by Section 93-10 of this Part.

	Type of Equipment	Noise Limit
(1)	Machinery, such as crawler-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, pavement breakers, compressors and pneumatic power equipment, but not including pile drivers	86 dB(A)
(2)	Agricultural tractors and equipment	86 dB(A)
(3)	Powered commercial equipment of 2HP or less intended for infrequent use in residential areas, such as chain saws,	86 dB(A)

	pavement breakers, compressors and pneumatic power equipment, but not including pile drivers	
(4)	Powered equipment intended for repetitive use in residential areas, such as lawnmowers, small lawn and garden tools, riding tractors, snow removal equipment, etc.	70 dB(A)

(ii) No person shall sell or lease or offer for sale or lease new or second-hand equipment that produces a maximum noise exceeding noise limits at a distance of fifty feet (50') as stated in this Part. The manufacturer, distributor, importer or designated agent shall if requested certify in writing to the Township that his equipment sold or leased within the Township complies with the provisions of this Part.

§93-5. Use of Property within Zoning Districts.

(a) Any property use established in a zoning district as defined and designated under the provisions of the Township Zoning Ordinance shall be such as to comply with the performance standard governing noise set forth hereinafter for the district in which such use shall be located.

(b) Noise levels shall be measured in terms of the sound level in dB(A) using equipment which meets requirements established by this Part.

(c) In all agricultural, conservation, business, commercial and industrial zoning districts, at no point on the boundary of any residential zoning district or residential use shall the sound level of any individual operation or business, or the combined operations of any person, firm or corporation exceed the dB(A) levels shown below for the zoning district indicated except during daytime hours, as measured under the test procedures established by Section 93-10 of this Part.

Maximum sound levels dB(A) along district boundaries as measured by conventional sound level meters on slow response:

A – Scale levels	<u>Residential/Agricultural/Conservation</u>	<u>Business/Commercial/Industrial</u>
	55 dB(A)	62 dB(A)

(d) In commercial/business/industrial zoning districts, all activities involving the production, processing, cleaning, servicing, testing, repair of materials, goods or products, or any property use shall conform with the performance standards stated above, provided that performance standards shall, in every case, be applied at the boundaries of the lot on which any such activities take place, except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

(e) In residential and agricultural zoning districts, any property use shall conform with the performance standards stated above for residential district boundaries, provided that performance standards shall, in every case, be applied at the boundaries of the lot on which such use is established, except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

(f) The maximum sound levels established in this section to be applied to the boundaries of a lot shall not apply to construction sites and emergency operations.

§93-6. Exceptions. The noise limitations, prohibitions and the operational performance standards of this Part shall not apply to the following:

(a) Any public performance or special event being conducted in accordance with provisions of a special permit obtained from the Zoning Officer or Code Enforcement Officer for the conduct thereof, including band and concerts, carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, provided that such activities do not occur between 11:30 pm on one day and 10:00 am on the following day.

(b) Emergency work or the ordinary and accepted use of emergency apparatus and equipment on private property or public improvements, work of public service utilities, and municipal services.

(c) Police, fire equipment, ambulances or other government emergency vehicles and activities.

(d) Blasting, if performed in accordance with a permit issued by the Code Enforcement Officer or Zoning Officer. Such blasting may occur only between 8:00 am and 4:30 pm, Monday through Friday, unless specifically authorized otherwise by the permit.

(e) Organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events, other than motor vehicle racing events.

(f) Warning devices operating continuously for three minutes or less, except that, in the event of an actual emergency, the limitation shall not apply.

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

(h) Construction work performed between the hours of 6:00 a.m. and 6:00 p.m. Monday through Saturday.

§93-7. Exemptions. The following devices are exempt from the provisions of these regulations:

(a) Aircraft (except model aircraft).

(b) Police, fire, ambulance and other governmental vehicles.

(c) Back-up alarm devices on trucks and other equipment when installed and operated in accordance with Society of Automotive Engineers recommended practice J 994, "CRITERIA FOR BACK-UP ALARM DEVICES."

(d) Governmental warning devices (i.e., civil defense fire siren).

§93-8. Enforcement.

(a) Abatement. Any emission of noise from any source in excess of the limitation established in or pursuant to this Part herein described shall be deemed and is hereby declared to be a public nuisance and may be abated, in addition to the administrative proceedings, fines and penalties herein provided. Such abatement may be made by any Police Officer, Zoning officer and Code Enforcement Officer, or may be made by order of the Court of Common Pleas of Luzerne County on complaint or petition filed on behalf of the Township.

(b) Nothing in this Part shall be construed to impair any cause of action, or legal remedy thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise in such place or manner, or at such levels which may give rise to such cause of action.

(c) The Zoning Officer, Code Enforcement Officer or Police Officer shall:

(1) Be qualified by training and experience to perform the necessary measurements and procedures required to determine violations of the applicable provisions of this Part that require the measuring of dB sound levels.

(2) File complaints with the Magisterial District Judge to prosecute violations of this Part.

(3) Investigate complaints of violations of this Part and make inspections and observations of noise conditions; and

(4) Be authorized to issue a warning to persons considered in violation of these regulations, a warning which may allow an appropriate time not to exceed thirty (30) calendar days for correction to bring the offending vehicles(s), appliance(s), equipment or other device(s) within the provisions of these regulations before enforcement by prosecution.

§93-9. Administration. The Township shall:

(a) Have available in convenient form as in a unit the provisions of this Part and the recommended practices, rules, regulations and standards which have been adopted. A copy of the information sources shall be kept on file in the Township Office.

(b) Prepare and maintain records of all orders issued by the Zoning Officer, Code Enforcement Officer, and Police Officers.

(c) Issue all standards, permits, certificates, notices, or other matters required under the provisions of this Part and will notify all persons concerned of any decisions rendered and provide such persons with an opportunity to be heard as herein set forth.

§93-10. Test Procedures.

(a) Test procedures to determine whether maximum noises emitted by new motor vehicles sold or offered for sale or lease meet the noise limits stated in Section 93-4(9) of this Part shall be in substantial conformity with standards and recommended practice established by the SAE, Incorporated, and the Pennsylvania Department of Environmental Protection as well as the United States Environmental Protection Agency and such other and further standards as may be adopted by the Township.

(b) Test procedures to determine whether maximum noises emitted by powered equipment or powered hand tools, sold or leased, or offered for sale or lease, meet the noise limits stated in Section 93-4(10) of this Part shall be in substantial conformity with standards and recommended Practices established by the SAE, Incorporated and the Pennsylvania Department of Environmental Protection as well as the United States Environmental Protection Agency and such other and further standard as may be adopted by the Township.

§93-11. Penalties. 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 Six Hundred Dollars (\$600.00), plus costs of prosecution (reasonable attorney fees and court costs); and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Part continues shall constitute a separate offense.

§93-12. Severability. If any sentence, clause, section, or part of this Part 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 Part. It is hereby declared as the intent of the Township that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§93-13. Repealer. All other ordinances which are inconsistent herewith are hereby repealed.

§93-14. Effective Date. This Part shall become effective within five (5) days from the date of its adoption as indicated below.

[Adopting Signatures on the Following Page]

ADOPTED THIS 14th DAY OF December, 2016, by the Foster
Township Board of Supervisors.

ATTEST:

Brian Majewski
Secretary

FOSTER TOWNSHIP BOARD OF
SUPERVISORS:

Gail J. Byrne
Chairperson

Jim Vukobratovich
Vice-Chairperson

J. Eckrote Jones
Supervisor