

CHAPTER 10
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Part 1

Accumulation of Garbage and Refuse

§101. Definitions.

The following words, terms and phrases when used in this Part 1 shall have the meaning hereinafter ascribed to them, except when the use thereof clearly indicates a different meaning:

ASHES — the residue from the burning of wood, coal, coke or other combustible materials.

GARBAGE — all table refuse, animal and vegetable matter, offal from meat, fish and fowls, fruits, vegetables and parts thereof, and other articles and materials ordinarily used for food which have become unfit for such use or which are for any reason discarded.

PERSON — every natural person, firm, partnership, or corporation.

REFUSE — a general term and shall mean all matter and materials which are discarded or rejected by the owners or producers thereof as offensive or useless, or which by their presence or accumulation may injuriously affect the health, comfort and safety of the community; it shall include ashes, garbage, rubbish and other refuse materials, but exclude human body waste.

RUBBISH — leaves, branches, trees, sawdust, chips, shavings, wood, woodenware, paper, printed matter, boxes, leather, rags, grass, straw, metal products, manure and all solid combustible matter not included in this §101 under the term "Garbage."

(Ord. 11, 2/7/1968, §1)

§102. Unlawful to Dump or Deposit.

It shall be unlawful for any person to deposit, dump, spill, throw or place or permit another to deposit, dump, spill, throw or place in or upon any parcel of land, lot, street, highway, gutter or in any alley or in any water or stream or in any quarry or ditch, within the limits of the Township of Earl, any ashes, garbage, rubbish and other refuse materials; provided, however, that this prohibition shall not apply in the following situations:

1. Refuse disposed of on premises owned or leased by the producer of the refuse, provided it is done in a safe, sanitary and nuisance-free manner and in compliance with applicable ordinances;

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2. Manure, fertilizer and refuse used as fertilizer in farming or gardening;
3. Soil, earth, sand, clay, gravel, loam, ashes, slate, stones, bricks, plaster, cement, leaves, branches, trees, sawdust, chips, shavings, wood, grass, straw and corn fodder when used as fill, provided it is done in a safe, sanitary and nuisance-free manner.

(Ord. 11, 2/7/1968, §2)

§103. [Reserved].

(Ord. 11, 2/7/1986, §3; as amended by Ord. 1989-2, 6/5/1989; and as repealed by Ord. 4-1996, 7/1/1996, §2)

Part 2

Storage of Motor Vehicle Nuisances

§201. Definitions.

As used in this Part 2, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LESSEE — owner for the purpose of this Part 2 when the lessor holds the lessee responsible for maintenance and repairs.

MOTOR VEHICLE — any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public street or highways, and including trailers or semi-trailers pulled thereby.

NUISANCE — any condition, structure, or improvement which shall constitute a threat or potential threat to the health, safety, or welfare of the citizens of the Township of Earl.

OWNER — the actual owner, agent or custodian of the property on which motor vehicles are stored, whether individual or partnership, association, or corporation.

PERSON — a natural person, firm, partnership, association, corporation, or other legal entity.

In this Part 2, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 2-1987, 1/5/1987; as revised by Ord. 1989-2, 6/5/1989)

§202. Motor Vehicle Nuisances Prohibited.

It shall be unlawful for any person, owner or lessee to maintain a motor vehicle nuisance upon the open private grounds of such person, owner or lessee within the Township of Earl. A motor vehicle nuisance shall include any motor vehicle which is unable to move under its own power and has any of the following physical defects:

1. Broken windshields, mirrors or other glass, with sharp edges.
2. One or more flat or open tires or tubes which could permit vermin harborage.
3. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
4. Any body parts with sharp edges including holes resulting from rust.

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5. Missing tires resulting in unsafe suspension of the motor vehicle.
6. Upholstery which is torn or open which could permit animal and/or vermin harborage.
7. Broken headlamps or tail-lamps with sharp edges.
8. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
9. Protruding sharp objects from the chassis.
10. Broken vehicle frame suspended from the ground in an unstable manner.
11. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
12. Exposed battery containing acid.
13. Inoperable locking mechanism for doors or trunk.
14. Open or damaged floor boards including trunk and firewall.
15. Damaged bumpers pulled away from the perimeter of vehicle.
16. Broken grill with protruding edges.
17. Loose or damaged metal trim and clips.
18. Broken communication equipment antennae.
19. Suspended on unstable supports.
20. Such other defects which could threaten the health, safety and welfare of the citizens of the Township of Earl.

(Ord. 2-1987, 1/5/1987; as revised by Ord. 1989-2, 6/5/1989)

§203. Storage of Motor Vehicle Nuisances Permitted.

Any person, owner or lessee who has one or more motor vehicle nuisances as defined in §202 above may store such vehicle(s) in the Township of Earl only in strict compliance with the regulations provided herein. Such person, owner or lessee must, first, apply for a permit for either temporary or permanent storage and pay a fee to the Township of Earl such as may be provided from time to time by resolution of the Board of Supervisors. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or, outside within a opaqued fence at least six feet high which is locked at all

times when unattended. With the special approval of the Board of Supervisors motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence, at least six feet high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition all gas and oil or other flammable liquid shall be removed from the motor vehicle and it shall be kept free of vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed _____ square feet.

Nothing herein shall be construed to permit the storage of motor vehicle nuisances contrary to the provisions of the Township Zoning Ordinance [See Chapter 27 of this Code of Ordinances].

(Ord. 2-1987, 1/5/1987; as revised by Ord. 1989-2, 6/5/1989)

§204. Inspection; Notice to Comply.

1. The Enforcement Officer/Inspector is hereby empowered to inspect grounds on which motor vehicles are stored to determine if there is compliance with the provisions of this Part 2. If noncompliance with the provisions of this Part 2 constitutes a nuisance, or if any condition, structure, or improvement poses a threat to the health, safety, or welfare of the public, he shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.
2. Said notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within (10) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

(Ord. 2-1987, 1/5/1987; as revised by Ord. 1989-2, 6/5/1989)

§205. Authority to Remedy Noncompliance.

If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the conditions, within the time limit prescribed, the Township of Earl shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10% of all costs. The Township, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing. (Ord. 2-1987, 1/5/1987; as revised by Ord. 1989-2, 6/5/1989)

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§206. Hearing.

1. Any person aggrieved by the decision of the Enforcement Officer/Inspector may request and shall then be granted a hearing before the Board of Supervisors; provided, he files with the Board of Supervisors within 10 days after notice of the Enforcement Officer's/Inspector's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause.
2. After such hearing, the Board of Supervisors shall sustain, modify or overrule the action of the Enforcement Officer/Inspector.

(Ord. 2-1987, 1/5/1987; as revised by Ord. 1989-2, 6/5/1989).

§207. [Reserved].

(Ord. 2-1987, 1/5/1987; as revised by Ord. 1989-2, 6/5/1989; and as repealed by Ord. 4-1996, 7/1/1996, §2)

§208. Remedies not Mutually Exclusive.

The remedies provided herein for the enforcement of this Part 2, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Board of Supervisors. (Ord. 2-1987, 1/5/1987; as revised Ord. 1989-2, 6/5/1989)

Part 3

Noise Control

§301. Purpose.

The Board of Supervisors, finding that excessive levels of sound are detrimental to the physical, mental and social well-being of the residents 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 Earl Township.

(Ord. 1-2005, 3/7/2005, §1)

§302. Title.

This Part shall also be known as the "Earl Township Noise Control Ordinance."

(Ord. 1-2005, 3/7/2005, §2)

§303. Definitions.

The following words, terms and phrases, when used in this Part, shall have the meanings herein given, except where the context clearly indicates a different meaning. All terminology used in this Part, not defined below, shall be in conformance with the applicable publications of the American National Standards Institute [ANSI S1.1 - 1960 (R1971) and its revisions] or its successor body.

AMBIENT NOISE — the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near far.

A-WEIGHTED SOUND LEVEL — the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated "dB(A)."

CONSTRUCTION OPERATION — the erection, repair, renovation, demolition or removal of any building or structure and the excavation, filling, grading and regulation of lots in connection therewith.

DECIBEL; dB — a unit for measuring the sound-pressure level, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

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EMERGENCY — any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

EMERGENCY WORK — any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

ENGINE BRAKE — a motor/engine retarding device, or any retarding device or system that brakes on the motor or engine rather than on the wheels as a means of slowing or stopping a truck, truck tractor, motor carrier vehicle, motor vehicle or vehicle. Such devices are commonly known as "jake brakes" or "jacob brakes."

IMPULSIVE SOUND — sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

MOTOR CARRIER VEHICLE — a truck, truck tractor or combination having a gross weight or registered gross weight in excess of 17,000 pounds.

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 — any sound which:

- (1) Endangers or injures the safety or health of humans or animals;
- (2) Annoys or disturbs a reasonable person of normal sensitivities;
- (3) Endangers or injures personal or real property; or
- (4) Is in excess of the sound levels by zoning districts established in §305(1) of this Part.

PERSON — any individual, association, partnership or corporation, 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 or any of them of partnerships and associations and, as for corporations, the officers and managers thereof or any of them.

POWERED MODEL VEHICLE — any self-propelled airborne, waterborne or land borne plane, vessel or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

PROPERTY LINE (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 line. For the purpose of this definition, the property line includes all points on a plane formed by projecting the property line 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.

PURE TONE — any sound which can be heard as a single pitch or a set of single pitches. For the purpose of this Part, a pure tone shall exist if the 1/3 octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous octave bands by five dB for center frequencies of 500 Hz and above and by eight dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

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.

SOUND LEVEL — the weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network, such as A, B or C, as specified in the American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest revision thereof). If the frequency weighing employed is not indicated, the A-weighing shall apply.

SOUND LEVEL METER — an instrument which includes a microphone, amplifier, RIMS detector, integrator or time averager, output meter and any applicable weighing network used to measure sound pressure levels which meets or exceed the requirement for a Type I or Type H sound level meter as specified in ANSI

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Specification S1.4-1971. The manufacturer's published indication of compliance with such specifications shall be prima facie evidence of such compliance.

TRUCK — a motor vehicle designed, used or maintained primarily for the transportation of property.

TRUCK TRACTOR — a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

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.

ZONING DISTRICTS — the land use districts established by the Zoning Ordinance of Earl Township, and all subsequent amendments.

§304. Prohibited Acts; Violations.

1. **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.
2. **Specific Prohibitions.** The following acts and the causing thereof are declared to be noise disturbances and therefore in violation of this Part:
 - A. **Radios, Television Sets, Musical Instruments and Similar Devices.** Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo, high-fidelity equipment or similar device which produces, reproduces or amplifies sound:
 - (1) At any time in such a manner as to cause a noise disturbance across a property line (boundary), or between the hours of 9:00 p.m. and 8:00 a.m. so as to be plainly audible across a property line (boundary);
 - (2) In such a manner as to create a noise disturbance across a property line (boundary), or at 50 feet from such device, whichever is less, when the device is operated in or on a motor vehicle, or hand carried, on a public right-of-way or public space; or
 - (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 or a common carrier.

- B. Yelling and Shouting, Etc. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing:
- (1) On the public streets between the hours of 9:00 p.m. and 8:00 a.m.; or
 - (2) At any time or place in such a manner as to create a noise disturbance.
- C. Construction.
- (1) Operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work:
 - (a) Between the hours of 9:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property line (boundary), except for emergency work; or
 - (b) At any other time such that the sound level at or across a real property line (boundary) exceeds 85 dB(A) for a period of one hour.
 - (2) This section shall not apply to the use of domestic power tools subject to subsection (2)(D) hereof.
- D. Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snow blower or similar device used outdoors in residential areas (see §305(1), Table I) between the hours of 9:00 p.m. and 8:00 a.m. so as to cause a noise disturbance across a residential property line (boundary).
- E. Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 9:00 p.m. and 8:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential property line (boundary). This Section shall not apply to municipal or utility services in or about the public right-of-way.
- F. Animals and Birds.
- (1) Owning, possessing, harboring or controlling any dog, cat, bird or animal which habitually howls, barks, meows, squawks or makes noise or sounds in such a manner as to materially disturb or annoy persons in the surrounding neighborhood and such dog, cat, bird or other animal exhibiting the aforementioned behavior are hereby declared to be a public nuisance; provided, however, that at the time the dog, cat, bird or animal is making such noise or sound, no person is trespassing or threatening to trespass upon private property in or

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upon which the animal or bird is situated, or no other legitimate cause exists which teased or provoked the dog, cat, bird or animal.

(2) Whenever a person shall complain to the New Holland Police Department that a dog, cat, bird or other domestic animal which habitually barks, howls, yelps, cries or otherwise make disturbing noise is being kept by a person in the Township, the police department shall:

(a) Notify that owner, handler, custodian or keeper of such dog, cat, bird or other domestic animal that a complaint has been received and that the person should take necessary action to alleviate in a humane manner the barking, howling, yelping or crying.

(b) If the warning given pursuant to subsection (a), above, to the person alleged to be keeping any such dog, cat, bird or other domestic animal is ineffective, then a verified complaint of at least two citizens not from the same family may be presented to the police department alleging that the dog, cat, bird or other domestic animal which habitually barks, howls, yelps or cries is being kept by the person first complained about. If said complaint is found to be true, the police department shall inform the owner, handler, custodian or keep of said dog, cat or other domestic animal that said petition has been received and shall prosecute that person for a violation of this Part.

(c) "Habitually" is hereby defined to include, by way of illustration and not limitation, noise or sounds made continuously and/or incessantly for a period of 30 minutes, or noise or sounds made intermittently for two hours or more hours in any twenty-four-hour period to the disturbance of any person at any time of the day or night, regardless of whether the dog, cat, bird or animal is situated in or upon private property.

G. **Powered Model Vehicles.** Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential property line (boundary) between the hours of 9:00 p.m. and 8:00 a.m.

H. **Street Sales.** Offering for sale or selling by shouting or outcry or by any other amplified or unamplified sound within any residential or commercial area (see §305(1), Table D) except between the hours of 8:00 a.m. and 9:00 p.m. and at no time in such a manner as to violate §305(1).

I. **Tampering.** The following acts or the causing thereof are prohibited:

(1) The removal or rendering inoperative by any person other than for purposes of maintenance, repair or replacement of any muffler or

sound dissipative device or element of design or noise label of any product;

- (2) The intentional moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the New Holland Police Department, provided that such device or the immediate area is clearly labeled in accordance with noise control regulations to warn of the potential illegality; and
- (3) The use of a product which has had a muffler or sound dissipative device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

J. Vehicle, Motorboat or Aircraft Repairs and Testing. Repairing, rebuilding or testing any motor vehicle, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a residential real property line (boundary).

3. Motor Vehicle Prohibitions.

- A. Motor Vehicle and Motorcycles on Public Rights-of-Way. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle, or any equipment attached to such a vehicle, on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle, or any equipment attached to such a vehicle, exceeds the level set forth in Pennsylvania Department of Transportation Regulations Title 67, Chapter 157, Subchapter B, 67 Pa. Code §157.11.
- 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, anywhere within 150 feet of any residence in such a manner as to cause a noise disturbance across a residential property line (boundary).
- C. Unnecessary Horn Blowing. 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. Sound Trucks. No person shall operate sound amplifying equipment mounted on or attached to any motor vehicle at any time in such a manner as to exceed the maximum permissible motor vehicle noise emissions as set forth in subsection (3)(A) hereof.
- E. Engine Brake. No person shall utilize an engine brake device on any truck, truck tractor, truck trailer, or other motor vehicle, except in the event of emergency.

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- 4. **Prima Facie Violation.** The noise from any of the aforesaid prohibited acts that disturbs two or more residents who are in general agreement as to the times and durations of the noise and who reside in separate residences, including apartments and condominiums, located across a property line (boundary) from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance.

(Ord. 1-2005, 3/7/2005, §4)

§305. Sound Level by Zoning Districts.

- 1. **Maximum Permissible Sound Levels by Zoning Districts.** No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth in the zoning designations category in Table I hereof when measured at or across the property line (boundary) from the noise source. Any sound source that produces sound in excess of those levels shall constitute a noise disturbance.

**TABLE I
Sound Levels by Zoning Districts**

Zoning District of the Property On Which the Noise Source Is Located	Sound Level Limit	
	8:00 a.m. to 9:00 p.m. [dB(A)]	9:00 p.m. to 8:00 a.m. [dB(A)]
Residential (RD-1, RD-2, RS-1, RS-2, RS-3, RR, CA)	57	52
Commercial (NC, CB, SD, SC)	67	62
Manufacturing (CM, SM)	77	77

- 2. **When Exceeded.** The sound level limits set forth in subsection (1), Table I, hereof shall be exceeded when any one or more of the following occur:
 - A. The sound at any one point in time exceeds any of the established zone limits in subsection (1), Table I, hereof by a measured sound level of 15 dB(A);
 - B. The sound exceeds any of the established zone limits in subsection (1), Table I, hereof by a measured sound level of 10 dB(A) for a cumulative total of one minute or more out of any ten-minute period; or
 - C. The sound exceeds, except in the Manufacturing District, any of the established zone limits in subsection (1), Table I, hereof by a measured sound level of three dB(A) continually for a period of five minutes, or a total of five minutes out of any ten-minute period.

3. **Ambient Sound.** In the event that the background ambient sound levels in an area of suspected noise disturbance exceed the levels set forth in subsection (1), Table I, hereof, the sound level of the intrusive sound source shall be measured with the ambient background sound level being substituted as the Table I sound level limit.
4. **Where Measured.** For the purposes of this Section, sound shall be measured at or beyond the property line (boundary) of the property on which the noise source is located.
5. **Pure Tone and Impulsive Sound.** For any source of sound which emits a pure tone or impulsive sound, the limits set forth in subsection (1), Table I, hereof shall be reduced by 5 dB(A).
6. **Adjustment for Nonconforming Uses.** Any noise which occurs on property which, according to the Zoning Code, is being used in a legally nonconforming manner, and which noise relates to such use, shall be judged as if the property bore a zoning designation under which the use would be conforming.
7. **Measuring Instruments.** All sound measurements shall be made on a sound level meter calibrated in the manner required by the manufacturer's specifications.
8. **Exemptions from Sound Level Limits.** The provisions of this Section shall not apply to:
 - A. Activities covered by §304(2)(C) and (D), or any emergency signaling device used because of an emergency;
 - B. Interstate railway locomotives and cars; or
 - C. Motor vehicles.

(Ord. 1-2005, 3/7/2005, §5)

§306. Exemptions.

The following sounds are exempted from the provisions of this Part:

- A. **Amplified Announcements.** Electronically amplified announcements at athletic events.
- B. **Blasting.** Blasting under permit by Earl Township, which blasting may occur only between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, unless specifically authorized by such permit.

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- C. Concerts, Etc. Band concerts, block parties, church carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, provided that:
 - (1) Such activities do not produce sound 15 dB(A) in excess of the sound levels set forth in §305(1), Table I; and
 - (2) Such activities do not occur between the hours of 10:00 p.m. and 8:00 a.m.
- D. Emergency Work. Sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.
- E. Municipal and Utility Services. Sounds resulting from the repair or replacement of any municipal or utility installation in or about the public right-of-way.
- F. School and Public Activities. Sounds not electronically amplified, created by organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events, other than fireworks or fireworks displays and motor vehicle racing events.
 - (1) Any person responsible for any activity or event involving fireworks or fireworks displays shall apply with Earl Township for an application for a special variance from noise control, in accordance with §307(2), prior to applying for a fireworks permit.
 - (2) Any person involved in any motor vehicle racing event shall apply for a special variance from noise control with the New Holland Police Department.
- G. Warning Devices. Sounds made by warning devices operating continuously for three minutes or less, except that in the event of an actual emergency, the time limitation shall not apply.

(Ord. 1-2005, 3/7/2005, §6)

§307. Variances and Noise Control Board; Application and Fee.

1. Variances.

- A. Authority. The Noise Control Board shall have the authority to grant variances, consistent with the provisions of this Section, after public hearing, upon application of any person who owns, controls or operates any sound source which does not comply with the provisions or standards of this Part.

- B. **Application.** The application shall state the standard, provision or section from which the variance is being sought and the period of time and reasons for which the variance is sought. It shall contain information which demonstrates that bringing the sources of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, and it shall contain any other supporting information which may reasonably be required.
- C. **Public Notification.** Public notice of an application and the date, time and place of the public hearing to be held thereon for a variance shall be given by publishing notice thereof in a newspaper of general circulation in the city at least once, not less than three days prior to the scheduled public hearing, and by, if practicable, conspicuously posting the premises that is the source of the sound for which the variance is sought.
- D. **Hearing.** The Board shall hold a public hearing to decide variance applications presented to it. Any person who claims to be affected by allowance of the variance may become a party to the hearing. All proceedings shall be conducted under the provisions of the Pennsylvania Local Agency Act.
- E. **Review Standards.** In determining whether to grant or deny the application, the Board shall balance the hardship to the applicant versus the adverse impact to the public health, safety and welfare and shall consider at a minimum the following conditions:
- (1) The physical characteristics of the emitted sound;
 - (2) The times and duration of the emitted sound;
 - (3) The geography, zone and population density of the affected area;
 - (4) Whether the public health and safety is endangered;
 - (5) Whether the sound source predates the receivers; and
 - (6) Whether compliance with the standards from which the variance is sought would produce hardship without equal or greater benefit to the public.
- F. **Decision.** The Board shall render a written decision in granting or denying the application for variance and, if denied, shall state the reasons therefor. The Board's decision shall be made available to the applicant and any other person who requests it in writing. In granting a variance the Board may attach reasonable conditions, including but not limited to placing a time limit on the permitted activity and/or establishing a time schedule within which the source of sound or activity for which the variance was sought must be brought into compliance with this chapter. Where the grant of a variance is conditioned, the variance shall not become effective until all conditions are

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agreed to by the applicant. Noncompliance with any condition of the variance shall terminate it and subject the person holding it to those provisions of this article regulating the source of sound or activity for which the variance was granted. Variances may be granted for a period of up to one year. The person obtaining the variance may reapply for additional variance periods under terms set forth by the applicant and the Board.

- G. Appeals. Appeal from an adverse decision of the Board shall be made to the Court of Common Pleas of Lancaster County.
2. Special Variances. The Chief of Police or his designee may, upon application and guided by the standards for review set forth in subsection (1)(E) hereof, grant special variances for infrequent events or activities which do not exceed 24 hours in duration. Such special variances are not renewable except by action of the Board pursuant to subsection (1) hereof. The Board shall hear and decide all appeals from the denial of a special variance, the practice and procedure thereon to be in accordance with subsection (1) hereof.
3. Noise Control Board. The Noise Control Board for the purposes of this Part shall be the Zoning Hearing Board, which Board shall have full authority to carry out the duties of the Noise Control Board, as set forth in this chapter. All applications to the Board shall be filed through the Zoning Officer and shall be accompanied by an application fee to be established by resolution adopted by the Earl Township Board of Supervisors. The hearing shall be held not more than 30 days following the filing of the application and the decision thereon rendered within 45 days of the last hearing in the case before the Board.

(Ord. 1-2005, 3/7/2005, §7)

§308. Enforcement.

This Part shall be enforced by the New Holland Police Department.

(Ord. 1-2005, 3/7/2005, §8)

§309. Violations and Penalties.

1. Whoever violates any provisions of this Part shall, upon conviction thereof in a summary proceeding, be fined not less than \$50, and not more than \$1,000, for each offense, to be collected as other fines and costs are by law collectible, or imprisoned for not more than 90 days, or both. Each day during which a violation occurs shall constitute a separate offense.

2. This Part and the foregoing penalties shall not be construed to limit or deny the right of the Township or any person to such equitable or other remedies as may otherwise be available with or without process of law.

(Ord. 1-2005, 3/7/2005, §9)

