

ORDINANCE NO. 394

AN ORDINANCE OF THE BOROUGH OF LEESPORT, BERKS COUNTY, PENNSYLVANIA, PROVIDING FOR THE CONTROL OF NOISES, PROHIBITING CERTAIN NOISES AND PROVIDING FOR THE ENFORCEMENT AND PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Leesport, Berks County, Pennsylvania, and IT IS HEREBY ORDAINED AND ENACTED by the authority of the same, as follows:

SECTION 1. Short Title.

This Ordinance shall be known as "The Noise Control Ordinance of Leesport Borough.

SECTION 2. Findings and Declaration.

Borough Council of the Borough of Leesport has determined that:

(a) The occurrence of loud noises in the Borough constitutes a detriment to the public health, comfort, safety and welfare of the residents of the Borough.

(b) The people have a right to and should be ensured an environment free from excessive and unnecessary sound that may jeopardize their health, welfare or safety or degrade the quality of life.

(c) As a matter of legislative determination of public policy, the provisions, regulations and prohibitions of this Ordinance are in pursuance of and for the purpose of securing and promoting the public health, comfort, safety, convenience and welfare of the peace and quiet of the Borough and its inhabitants.

SECTION 3. Definitions.

The following words when used in this Ordinance shall have the meanings ascribed to them in this section:

(a) "Borough" means Borough of Leesport, Berks County, Pennsylvania.

(b) "Noise Disturbance" means any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property.

(c) "Person" means any individual, association, partnership or corporation. Whenever used in prescribing and imposing a fine or imprisonment, the term "person" as applied to associations and partnerships shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

(d) "Real Property Boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

SECTION 4. Specific Noise Prohibitions.

(a) Unless exempted under the provisions of this Ordinance, no person shall make, continue or cause to be made or continued any noise disturbance.

(b) The following specific acts, and the causing thereof, are declared to be in violation of this Ordinance, but said enumeration shall not be deemed to be exclusive:

(1) Horns, Signaling Devices, Etc. - The sounding of any horn or signaling device on any automobile, motorcycle, bus, truck, or other vehicle on any street, road, or public place, except as a warning pursuant to the provisions of the Motor Vehicle Code of the State of Pennsylvania; and whistle or other device operated by engine exhaust.

(2) Radio, Television Sets, Phonographs or Similar Devices - Operating, playing or permitting the operating or playing of any radio, television set, musical instrument, phonograph, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance to the neighboring inhabitants or at any time with volume louder than is necessary for convenient hearing for the person or persons who are in the room or vehicle in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph or device between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to be plainly audible at a distance of fifty (50) feet from the building structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) Loudspeakers/Public Address Systems - Using or operating for any purpose any loudspeaker, public address system or similar device between the hours of 10:00 p.m. and 7:00 a.m. the

following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary.

(4) Animals and Birds - Owning, possessing or harboring any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary.

(5) Exhausts - The discharge into the open air of the exhaust of any internal combustion engine which creates a noise disturbance therefrom and which fails to meet the standards established by the Pennsylvania Motor Vehicle Code regarding muffler requirements on motor vehicles.

(6) Yelling, Shouting, Etc. - Yelling, shouting, hooting or whistling at any time or place so as to create a noise disturbance to persons in any office, dwelling, or other type of residence, or any persons in the vicinity.

(7) Domestic Power Tools - Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool or equipment or similar device used outdoors in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential property boundary.

(8) The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and

then only with a permit from the Borough, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for like periods while the emergency continues.

(9) The use of any blower, fan or pump or engine or motor in connection therewith, including by way of example and not by way of limitation, air conditioning systems and compression devices, if such use creates a noise disturbance.

(10) 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 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary.

SECTION 5. Exceptions.

The prohibitions contained in this Ordinance shall not apply to:

(a) The emission of sound in the performance of any institutional or governmental function such as the sounding of a church or school bell, or a police, fire, ambulance, air raid or like disaster warning, alert, or alarm, whether such an alarm be for an actual emergency purpose or for practice or drilling purposes.

(b) The emission of sound in the performance of emergency work.

SECTION 6. Penalties.

Any person violating any of the provisions of this Ordinance or failing to comply therewith, or with any of the requirements thereof, shall, upon conviction, be sentenced to pay a fine not exceeding \$1,000.00, together with costs of prosecution. Each day of violation of any provision of this Ordinance shall constitute a separate offense.

SECTION 7. Nuisance.

Any violation of this Ordinance is declared to be a nuisance. In addition to any other relief provided by this Ordinance, the Borough may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Ordinance. Such application for relief may include a preliminary injunction and permanent injunction.

SECTION 8. Severability.

If any sentence, clause, section or provision hereof shall be held to be invalid, it is hereby declared to be the intent that the remaining portions thereof would have been enacted notwithstanding such judicial determination of the invalidity of any particular sentence, clause, section or provision in any respect, and such invalidity shall not affect or impair any of the remaining sentences, clauses, sections or provisions of this Ordinance.

SECTION 9. Any Ordinance or part thereof inconsistent herewith is hereby repealed insofar as it is inconsistent herewith.

SECTION 10. This Ordinance shall become effective immediately.

ENACTED AND ORDAINED as an Ordinance of the Borough of Leesport, Berks County, Pennsylvania, this 15th day of August, 2001.

BOROUGH OF LEESPORT

ATTEST:

*Laura Miller*  
Secretary

*Lawrence C. Kibler*  
President of Council

Approved as an Ordinance of the Borough of Leesport this 15th day of August, 2001.

*Robert E. Hoffmaster*  
Mayor