ORDINANCE NO. 058

AN ORDINANCE PROVIDING FOR THE REGULATION OF EXCESSIVE SOUND AND THE PROHIBITION OF CERTAIN NOISES IN PEQUEA TOWNSHIP AND PROVIDING FOR VARIANCES AND EXEMPTIONS AND SETTING PENALTIES FOR VIOLATIONS

BE IT ORDAINED and enacted by the Board of Supervisors of Pequea Township, Lancaster County, Pennsylvania, as follows:

SECTION I - INTENT AND PURPOSE

The Board of Supervisors of Pequea Township finding that the occurrence of excessive levels of noise in Pequea Township constitutes a determent to the public health, safety and welfare of the Township residence, herby declares this Ordinance to be necessary to provide for the greater control and more effective regulation of excessive noise and sources of excessive noise within Pequea Township.

SECTION II - DEFINITIONS

The following words, terms and phrases when used in this Ordinance shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning. All terminology used in this Ordinance, not defined below, shall be in conformance with the applicable publications of the American National Standards Institute (ANSI S 1.1 - 1960 [RI 971] and its revisions) or its successor body.

(a) 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).

(b) Ambient Noise - The all encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.

(c) Construction Operation - The erection, repair, renovation, demolition, or removal of any building or structure; and the excavation, fil ling, grading and regulation of lots in connection therewith.

(d) Decibal dB - A unit for measuring the sound pressure level, equal to twenty times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (20 micronewtons per square meter).

(e) Emergency - Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

(f) Emergency Work — Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(g) 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.

(h) 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.

(i) Noise - Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(j) Noise Disturbance — Any sound which (1) endangers or injuries, the safety or health of humans or animals, or (2) annoys or disturbs a reasonable person of normal sensitivities, or (3) endangers or injures personal or real property, or (4) is in excess of the sound levels by zoning districts established in Section 734.05.

(k) 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 association, and as to corporations, the officers and managers thereof or any of them.

(l) 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.

(m) Public Right-of-Way - Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

(n) Public Space - Any real property or structures thereon which are owned or controlled by a governmental entity.

(o) Pure Tone - Any sound which can be heard as a single pitch or a set of single pitches. For the purpose of this Ordinance, a pure tone shall exist if the one-third 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 5dB for center frequencies of 500 Hz and above and by 8dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

(p) 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 separation of properties, and also, for any two or more buildings sharing common grounds, the line drawn midway between any two said buildings. All areas devoted to public right-of-way shall be deemed to be across the property line. For the purpose of this regulation, 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.

(q) 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 right-of-way.

(r) Sound - An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium, or the superposition of such propogated oscillation which evokes an auditory sensation. The description of sound may include any characteristics of such sound, including duration, intensity, and frequency.

(s) Sound Level - The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in American National Standards Institute specifications for sound level meters (ANSI S 1.4 -1971, or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

(t) Sound Level Meter - An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and any applicable weighting network used to measure sound pressure levels which meets or exceeds the requirement for a Type I or Type Il sound level meter as specified an ANSI Specification S1.4-1971. The manufacturer's published indication of compliance with such specifications shall be prima facie evidence of such compliance.

(u) Zoning Districts - Means the land use districts established by the Zoning Ordinance of Pequea Township, enacted September 3, 1980, as amended.

SECTION III - PROHIBITED ACTS

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 Ordinance:

(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 or 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); or

(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 the operator of the device, when operated by any passenger or a common carrier.

(b) Construction - Operating or permitting the operation of any tools or equipment used in construction operations, drilling, or demolition work:

(1) Between the hours of 9:00 p.m. and 7:00 a.m. the following day on weekdays and Saturdays or at any time on Sundays or legal holidays, such that the sound therefrom creates a noise disturbance across a residential real property line (boundary), except for emergency work.

(2) 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 (1) hour.

(3) This Section shall not apply to the use of domestic power tools subject to Section 734.04 B 4.

(c) Yelling and Shouting – engaging in loud or raucous yelling, shouting, hooting, whistling or singing (a) on the public streets between the hours of 7:00 p.m. and 7:00 a.m.; or (b) at any time or place in such a manner as to create a noise disturbance

(d) Domestic Power Tools - Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors in residential areas (see Table I Section IV A) between the hours 9: 00 p.m. and 6: 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 7:00 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 - Owning, possessing, harboring or controlling any animal or bird which howls, barks, meows, squawks, or makes other sounds continuously and/or incessantly for a period of ten (10) minutes or makes such noise intermittently for one-half (1/2) hour 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.

(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 of Pequea Township 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 Section III (A) of this Ordinance.

(i) Tampering – The following acts or the causing thereof are prohibited.

    (a) The removal or rendering inoperative by any person other than for the purposes of maintenance, repair or replacement, of any muffler or sound dissipative device or element of design or noise label of any product.

(b) The intentional moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the Police Department, provided such device or the immediate area is clearly labeled in accordance with noise control regulations, to warn of the potential illegality.

(c) 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 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 Title 67, Chapter 450, of the Pennsylvania Department of Transportation Regulations (Established Sound Levels) .

(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 fifteen (15) minutes in any hour while the vehicle is stationary for reasons other than traffic congestion, anywhere within one hundred fifty (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

Section IV (1) of this Ordinance.

12. Prima Facie Violation — The noise from any of the aforesaid prohibited acts that disturbs two (2) 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.

SECTION IV – 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 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 Source Of The Noise is Located	Sound Level Limit, db (A) 8:00 a.m. to 9:00 p.m.	9:00 p.m. to 8:00 a.m.
Residential (Zoning Districts R-240, R-180, R-150)	60	55
Agricultural and Commercial (Zoning Districts A and C)	70	65
Industrial (Zoning District I)	75	75

2. When Exceeded - The sound level limits set forth in Table I shall be exceeded when any one (1) or more of the following occur:

   (a) The sound at any one point in time exceeds any of the established zone limits in Table I by a measured sound level of fifteen (15) dB (A); or

   (b) The sound exceeds any of the established zone limits in Table I by a measured sound level of ten (10) dB (A) for a cumulative total of one (1) minute or more out of any ten (10) minute period; or

(c) The sound exceeds, except in the Manufacturing District, any of the established zone limits 'in Table I by a measured sound level of three (3) dB (A) continually for a period of five (5) minutes, or a total of five (5) minutes out of any ten (10) minute period.

3. Ambient Sound - In the event the background ambient sound levels in an area of suspected noise disturbance exceed the levels set forth in Table I, 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 Table I shall be reduced by five (5) dB (A).

6. Adjustment for Non-Conforming Uses - Any noise which occurs on property which, according to the Zoning Ordinance for Pequea Township, is being used in a legally non-conforming manner, and which noise relates to said 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 III shall not apply to:

   (a) Activities covered by the following Sections: Section III (2) (d) – 4 (Domestic Power Tools), and Section III (2) (d) – 4 (Construction), or any emergency signaling device used because of an emergency;

   (b) interstate railway locomotives and cars;

   (c) motor vehicles.

SECTION V – EXEMPTIONS

1. Amplified Announcements - Electronically amplified announcements at athletic events.

2. Blasting - Blasting, under permit by the Bureau of Fire. Such blasting may occur only between the hours of 9: 00 a. m. and 4: 00 p. m., Monday through Friday, unless specifically authorized by permit.

3. 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 shall be exempt from the provisions of this Ordinance provided:

    (a) Such activities do not produce sound 15dB (A) in excess of the sound levels set forth in Table I in Section IV (1) of this Ordinance; and

    (b) Such activities do not occur between the hours of 10:00 p. m. and 8:00 a. m.

4. Emergency Work - Sounds caused by the performance of emergency work, or by the ordinary and accepted use of emergency apparatus and equipment.

5. 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.

6. 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 motor vehicle racing events.

7. Warnings Devices - Sounds may be warning devices operating continuously for three (3) minutes or less except in the event of an actual emergency the time limitation shall not apply.

SECTION VI – VARIANCES AND NOISE CONTROL BOARD

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 Ordinance.

    (b) Application - The application shall state the standard or provision form which the variance is being sought, the period of time and reasons for which the variance is sought, shall contain information which demonstrates that bringing the sources of

sound or activity for which the variance is sought into compliance with this Ordinance would constitute an unreasonable hardship on the applicant and 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 Pequea Township at least once, not less than three (3) 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 Noise Control 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.

(e) Review Standards - In determining whether to grant or deny the application, the Noise Control 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 receiver (s); and

(6) whether compliance with the standard(s) from which the variance is sought would produce hardship without equal or greater benefit to the public.

(f) Decision - The Noise Control 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 Hearing 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 Ordinance. Where the grant of a variance is conditioned, the variance shall not become effective until all conditions are 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 Ordinance regulating the source of sound or activity for which the variance was granted. Variances may be granted for a period of up to one (1) year. The person obtaining the variance may reapply for additional variance periods under terms set forth by the applicant and the Noise Control Board.

(g) Appeals – Appeal from an adverse decision of the Noise Control Board shall be made to the Court of Common Pleas of Lancaster County.

2. Special Variances - Special Variances - The Chief of the Pequea Township Police Department, or his designee, may, upon application and guided by the standards for review set forth in Section VI (1), grant special variances for infrequent events or activities which do not exceed twenty-four (24) hours in duration. Such special variances are not renewable except by action of the Noise Control Board pursuant to Section VI (1). The Noise Control Board shall hear and decide all appeals from the denial of a special variance, the practice and procedure thereon to be in accordance with Section VI (1).

3. Noise Control Board - The Noise Control Board for the purposes of this Ordinance shall be the Zoning Hearing Board of Pequea Township, which Board shall have full authority to carry out the duties of the Noise Control Board, as set forth in this Ordinance. All applications to the Board shall be filed through the Zoning Officer and shall be accompanied by an application fee of One Hundred Fifty and 00/100 ($150.00) Dollars. The hearing shall be held not more than thirty (30) days following the filing of the application and the decision thereon rendered within forty-five (45) days of the last hearing in the case before the Board.

SECTION VII – ENFORCEMENT AND PENALTIES

1. Authority for Enforcement – This Ordinance shall be enforced by the Police Department for Pequea Township.

2. Penalties

(a) Any person violating any provisions of this Ordinance shall, upon conviction thereof, in a summary proceeding, be sentenced to pay a fine of not more than Three Hundred and 00/100 ($300. 00) Dollars for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than five (5)

days or both. Each day during which any person violates any provision of this Ordinance shall constitute a separate offense

(b) This Ordinance and the foregoing penalties shall not be construed to limit or deny the the rights of Pequea Township or any person to such equitable or other remedies as may otherwise be available with or without process of law.

SECTION VIII – CONSTRUCTION AND SEVERABILITY

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the Township that the remainder of this Ordinance shall remain in full force and effect.

SECTION IX – REPEALER

All other ordinances or parts of ordinances in consistent herewith are hereby repealed.

SECTION X – EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment.

November 19, 1986

PEQUEA TOWNSHIP BOARD OF SUPERVISORS

BY: Ralph Schlegelmilch
Ralph Schlegelmilch

Barry Acker
Barry Acker

Chester Eshleman
Chester Eshleman