

ORDINANCE NO. 2006-11

AN ORDINANCE OF THE BOROUGH OF GREENCASTLE,
FRANKLIN COUNTY, PENNSYLVANIA, AN ORDINANCE REGULATING NOISE
WITHIN THE BOROUGH OF GREENCASTLE AND SETTING FORTH THE
PENALTIES

BE IT ENACTED AND ORDAINED, by the Mayor and Borough Council of the Borough of Greencastle, Franklin County, Pennsylvania, and it is enacted and ordained as follows:

SECTION I: Definitions.

DEVICE- Any mechanism which is intended to produce, or which does produce as a result of its operation, noise when used or operated.

EMERGENCY- Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

EMERGENCY VEHICLE- A motor vehicle used in response to a public calamity, or to protect persons or property from an imminent exposure to danger.

NOISE- Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans

PERSON- Any individual, association, partnership or corporation. Whenever used in any clause prescribing a penalty, "person" includes the individual members, partners, officers and managers thereof or any of them.

PROPERTY LINE- 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 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 open to public use as a matter of right.

SOUND- A temporal and spatial oscillation in pressure, or other physical quantity, in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points. The description of sound may include any characteristics of such sound, duration, intensity and frequency.

SECTION II: The following actions are specifically prohibited, unless otherwise exempted in Section II.

Radios and other amplified music. Use or operation of, or permitting the use or operation of, any radio, CD player, MP3 player, television set, musical instrument, stereo (phonograph), or other machine or device designated or intended to produce or reproduce sound in such a manner which may reasonably be anticipated to disturb the peace, quiet, comfort, health or safety of residential inhabitants or at any time with louder volume than is necessary for convenient hearing by the person or persons who are in the room, vehicle or chamber in which such machine or device is operating and who are voluntary listeners thereto. The operating of any such machine or device in such manner as to be plainly audible at a distance of fifty feet from the source shall be *prima facie* evidence of a violation of this ordinance.

Operation of machinery or equipment. The use or operation of, or permitting the use or operation of, between the hours of 11:00 p.m. and 7:00 a.m., all types of machinery or equipment, whether indoors or outside, including, but not limited to, any machinery or equipment used in industrial fabrication, manufacture, or assembly, any machinery or equipment used in the construction, repair, alteration, demolition, or excavation of property, any machinery or equipment used in the improvement or maintenance of lawns or gardens, or any other type of equipment which may reasonably be anticipated to disturb the peace, quiet, comfort, health or safety of residential inhabitants at a level which is audible beyond the property line of the property upon which the machinery or equipment is being used or operated and is at such a level which may reasonably be anticipated to disturb the peace, quiet, comfort, health or safety of residential inhabitants. The use or operation of any machinery or equipment in such manner as to be plainly audible at a distance of fifty feet from the property line of the property upon which the machinery or equipment is being used or operated shall be *prima facie* evidence of a violation of this ordinance.

Vehicles. The repairing, rebuilding, or testing, between the hours of 11:00 p.m. and 7:00 a.m., of any vehicle, including, but not limited to, cars, trucks, vans, sport utility vehicles, motorcycles, dirt bikes, all terrain vehicles, snowmobiles, motorboats, or aircraft in such a manner which may reasonably be anticipated to disturb the peace, quiet, comfort, health or safety of residential inhabitants. The repairing, rebuilding, or testing of any vehicle in such manner as to be plainly audible at a distance of fifty feet from the property line of the property upon which the vehicle is being repaired, rebuilt, or tested shall be *prima facie* evidence of a violation of this ordinance.

Animals and birds. Owning, possessing, harboring or controlling any animal or bird which barks, bays, cries, squawks or makes any other noise continuously and/or incessantly for a period of ten minutes or more or makes such noise intermittently for one half hour or more, which may be reasonably anticipated to be a disturbance of any reasonable 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.

SECTION III: Exemptions. The following uses and activities shall be exempt from the provision of Section I:

1. The use of safety signals, warning devices, emergency pressure valves, or other devices designed to alert persons of an emergency.
2. Public festivals or celebrations, fairs or carnivals, lawful fireworks, noise-makers, when permitted by the Borough or used in celebration of an official holiday authorized by the Borough, Commonwealth, or Federal Government.
3. Concerts, band concerts, block parties, church carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space, provided that such activities do not occur between the hours of 11:00 p.m. and 7:00 a.m.
4. Routine and customary ringing of bell or chimes (including ice cream trucks).
5. Athletic, recreational, or other such outdoor events, including electronically amplified announcements, from an official Borough, School District, private school, or other organized league recognized by Greencastle Borough.
6. Municipal or utility services. The maintenance, repair, or replacement of any municipal or utility installation in or about the public right of way or any other customary municipal or utility function, including, but not limited to snow

removal, refuse collection, tree trimming, and any other type of municipal or utility function.

7. The use of sirens by any authorized emergency vehicle that is responding to an emergency or acting in any other official capacity.
8. Emergency work. Work performed for the purpose of preventing or repairing the physical trauma or property damage.
9. Any train or aircraft being operated pursuant to Commonwealth or Federal regulations.

SECTION IV: Administration

The Greencastle Police Department shall have the authority to administer the provisions of this ordinance and to investigate complaints and prosecute violations of this chapter.

SECTION V: Enforcement and Penalties

Any person, firm, or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than fifty dollars (\$50.00) and no more than three hundred dollars (\$300.00), and cost of prosecution, and in default of payment of such fines and costs, to imprisonment of not more than ten (10) days. Each day a violation occurs or continues shall be considered a separate offense.

SECTION VI: Repealer. All provisions of previous Ordinances of the Borough of Greencastle which are contrary to this Ordinance are expressly repealed.

SECTION VII: Severability. If any sentence, clause, paragraph, section or portion of this chapter is declared by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such declaration shall not affect the remaining provisions of this ordinance.

SECTION VIII: Effective Date. This Ordinance shall take effect immediately.

ENACTED, ORDAINED, AND APPROVED this 2nd day of January, 2007.

ATTEST:

(Seal)

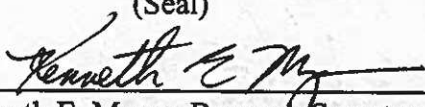
/s/ Kenneth E. Myers
Secretary of Borough Council

/s/ Charles R. Eckstine
President of Borough Council

APPROVED this 2nd day of January, 2007.

/s/ Robert E. Eberly
Mayor

"I hereby certify that the above Ordinance was duly adopted on January 2, 2007 at a Regular Meeting of the Mayor and Borough Council, and that the intention to adopt this Ordinance was advertised in The Echo-Pilot, a newspaper of general circulation within the Borough on December 20, 2006, and entered in the Borough Ordinance Book on January 8, 2007".

(Seal)

Kenneth E. Myers, Borough Secretary