

# **CHAPTER 18**

## **PROHIBITION OF THE USE OF INTERNAL ENGINE DECOMPRESSION DEVICE AND MUFFLERS**

BOROUGH OF WYALUSING  
ORDINANCE NO. 18

AN ORDINANCE CHAPTER NO. 18, PROHIBITION OF THE USE OF INTERNAL ENGINE DECOMPRESSION DEVICE AND MUFFLERS OF THE CODE OF THE BOROUGH OF WYALUSING, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

The purpose of this Ordinance is to regulate the internal engine decompression device and mufflers as authorized under the Borough Code found at 53 P.S. § 46202, Specific powers.

(4) Nuisances. To prohibit and remove any obstruction or nuisance in the streets of the borough.

The Borough of Wyalusing hereby ordains and enacts as follows:

GENERAL REFERENCES

§ 1. PURPOSE.

The Council, 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 by the use of Internal Engine Decompression Device within the Borough.

§ 2. TITLE.

This chapter shall also be known as the “ Internal Engine Decompression Device and Mufflers Ordinance.”

§ 3. DEFINITIONS.

The following words, terms and phrases when used in this chapter, shall have the meanings herein given, except where the context clearly indicates a different meaning:

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

INTERNAL ENGINE DECOMPRESSION DEVICE - A motor/engine retarding device, or any retarding device or internal engine decompression device 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 "internal engine decompression device".

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

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:

- A. Endangers or injures the safety or health of humans or animals;
- B. Annoys or disturbs a reasonable person of normal sensitivities;
- C. Endangers or injures personal or real property; or
- D. Is in excess of the sound levels by zoning districts established in Section 5.

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.

PUBLIC RIGHT-OF-WAY - Any Street, avenue, highway, sidewalk, alley or similar place, which is owned or controlled by a government entity.

**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 that 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, 90 decibels shall apply.

**SOUND LEVEL METER** - An instrument, which includes a microphone, amplifier, RMS 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 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 track.

#### § 4. PROHIBITED SETS; VIOLATIONS.

- A. 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 such person's right to control.
- B. Specific prohibitions. The following acts and the causing thereof are declared to be noise disturbances and therefore in violation of this chapter:

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 deceptive 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 Ordinance Enforcement Officer, 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 deceptive device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred. The discharge into the open air of the exhaust of any stationary internal-combustion engine, motorboat or motor vehicle, except through a muffler or other device, which will effectively prevent loud or explosive, noises therefrom. Further, the discharge of excessive noise from an engine that has been modified or becomes defective so as to cause the level of sound emitted to be greater than that emitted then when originally manufactured, nor shall any person operate said devices, equipment, etc., with the muffler or noise reduction equipment removed.

C. Motor vehicle prohibitions.

- 1) 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 set forth in Pennsylvania Department of Transportation Regulations.
- 2) Motor/engine retarder devices. No person shall use a brake or other motor/engine-retarding device while operating a truck, truck tractor, motor carrier vehicle, motor vehicle or any other vehicle within the Borough of Wyalusing. The prohibition against use of a brake or other motor/engine-retarding device shall not apply to an

"emergency vehicle, as defined in Pennsylvania Title 75 when said emergency vehicle is actually responding to an emergency call.

3) 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, located across a property line (boundary) front the property on which the source of the, noise is generated, shall be prima facie evidence of a noise, disturbance.

#### § 9. ENFORCEMENT.

The Ordinance Enforcement Officer shall enforce this chapter.

All Ordinances or part of Ordinances conflicting with the provisions of this chapter are hereby repealed.

#### § 10. VIOLATIONS AND PENALTIES.

Any person who violates any provision of this Article shall, upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than one hundred dollars (\$100.) and not more than six hundred dollars (\$600.) and, in default of said fine and costs, to undergo imprisonment in the County Prison for a period not in excess of thirty (30) days.

THIS ORDINANCE shall take effect immediately upon adoption.