

MUNICIPALITY OF PENN HILLS

Ordinance No. 2654 of 2019

**AN ORDINANCE OF THE MUNICIPALITY OF PENN HILLS,
COUNTY OF ALLEGHENY, COMMONWEALTH OF
PENNSYLVANIA, REGULATING LOUD, UNNECESSARY
AND DISTURBING NOISE**

WHEREAS, the Mayor and Council of Penn Hills have determined that the creation of excessive and unreasonable noise within the Municipality is a detriment to the comfort, convenience, safety, health and welfare of the citizens of Penn Hills; and

WHEREAS, the citizens of the Municipality of Penn Hills have a right to and should be ensured an environment free from the noise that may jeopardize their safety, health and well being or degrade the quality of life.

NOW, THEREFORE, the Mayor and Council of the Municipality of Penn Hills hereby ordain and enact by its authority that:

SECTION 1. Definitions

Municipality –The Municipality of Penn Hills

EXCESSIVE NOISE - Any sound or sounds which are unusually loud to be injurious or which unreasonably disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.

SECTION 2. Offenses Defined

- A. It is unlawful for any person to make, continue, cause to be made or permit to be made within the Municipality, any excessive noise.
- B. Without limitation as to the types of noise producing acts which are in violation of this Section, noise produced by the following acts are declared to be excessive noise in violation of this Section:
 1. **Radios and Other Amplified Music** Use or operation of, or permitting the use or operation of any radio, CD player, television set, musical instrument, phonograph or other machine or device designed or intended to produce or reproduce sound to create excessive noise to disturb the peace, quiet and comfort of residential inhabitants 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 between the hours of 10 p.m. and 6 a.m. in such a manner as to be plainly audible at a distance of fifty feet from the residential property line or anytime at a distance of fifty feet from a vehicle in which it is located, shall be prima facie evidence of a violation of this Section;

2. **Loudspeakers and/or Amplifiers Upon Public Streets** Use or operation of, or permitting the use or operation of any radio, CD player, television set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device audible upon the public streets for the purpose of commercial advertising or attracting the attention of the public to anything or activity, or to any building or structure;

3. **Construction or Repair Activities** The performance of any construction or repair work of any kind upon, or excavating for, any building or structure, where any such work entails the use of any air compressor, jackhammer, power-driven drill, riveting machine, excavator, hand hammer on steel or iron, or any other machine, tool, device or equipment which makes loud noise shall be prohibited on any day between the hours of 8 p.m. and 6 a.m. The provisions of this subsection do not apply to any person, firm, partnership or corporation who performs any construction, repair or excavation pursuant to the express written permission of the Municipal Manager, or his designee. Upon receipt of a request in writing, stating the reasons for the request and the facts upon which such reasons are based, the Municipal Manager, or his designee, may give permission if the activity is not otherwise prohibited by law or other regulation and he finds that:
 - (i) the work proposed to be done is in the public interest; or
 - (ii) hardship, or injustice or unreasonable delay would result from the interruption hereof during the hours and days specified above; or
 - (iii) the building or structure involved is devoted or intended to be devoted to a use immediately incidental to the public defense.

4. **Rubbish Collection** The performance of any rubbish collection utilizing any mechanical equipment in any residential zoning district or within five hundred feet of any residential zoning district between the hours of 10 p.m. and 6 a.m. on any day.

5. **Landscape Maintenance Activities** Use of weedblowers, string trimmers, powered lawnmowers and/or other powered landscape maintenance equipment between the hours of 10 p.m. and 6 a.m. on any day.

SECTION 3. Exceptions This ordinance shall not apply to:

- A. the construction, repair, or excavation during prohibited hours as may be necessary for the preservation of life or property when such necessity arises during such hours as the offices of the Municipality are closed or where such necessity requires immediate action prior to the time at which it would be possible to obtain required permits; provided, that the persons doing such construction, repair, or excavation obtain a permit therefore within one day after the office of the Municipal Manager is first opened subsequent to the undertaking of such construction, repair, or excavation.
- B. the construction, repair, or excavation by a public utility which is subject to the jurisdiction of the Public Utilities Commission, or the Pennsylvania Department of Transportation, or the Municipality of Penn Hills, provided such work is necessary for the immediate preservation of the public health, safety or welfare, and where such necessity makes it necessary to construct, repair, or excavate during the prohibited hours.
- C. vehicles, equipment or personnel of the Municipality engaged in necessary public business.
- D. in any area of the Municipality which is classified in the Penn Hills Zoning Ordinance as a Light or General Industrial District and which is not less than five hundred feet from any residential zoning district.

SECTION 4. Hearing. Any person aggrieved by the decision of the Municipal Manager or his designee under Section 2 subsection 3 of this ordinance may request and shall then be granted a hearing before the Penn Hills Board of Appeals; provided, he files with the Municipal Manager within ten days after the decision, a written notice requesting such hearing and setting forth a brief statement of the grounds therefore. The hearing shall commence not later than thirty days after the date on which the request was filed unless postponed for sufficient cause. After such hearing, the Penn Hills Board of Appeals shall sustain, modify, or overrule the action of the Municipal Manager, or his designee.

SECTION 5. Enforcement Procedures. Upon determination by a police officer that a violation under this ordinance has occurred or is occurring, the police officer shall first issue a verbal warning to the offender. Such warning shall describe the specific acts in violation and notify the offender that continuing the violation shall be caused for the issuance of a citation. If, after receiving of the warning and within a reasonable proximate amount of time, the same or substantially similar conduct causing the violation continues, then the offender shall be subject to the issuance of a citation and upon conviction be subject to the penalties under this ordinance.

SECTION 6. Penalties for Violation. Any person, firm, partnership or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine not more than one thousand dollars (\$1,000.00), and in default of payment, to undergo imprisonment for a term not to exceed thirty days. Each day that a violation of this ordinance continues shall constitute a separate offense.

SECTION 7. Remedies Available. The violation of any of the provisions of this ordinance shall constitute a nuisance and may be abated by the Municipality through civil process by means of restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisances. The remedies provided herein for the enforcement of this

for the abatement of such nuisances. The remedies provided herein for the enforcement of this ordinance, 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 Penn Hills Council Board of Commissioners.

SECTION 8. Repealer. All Ordinances or parts of Ordinances, in conflict with the provisions of this Ordinance, are hereby repealed to the extent of such conflict.

SECTION 9. Authorization. That the Penn Hills Mayor and Municipal Manager are hereby authorized to sign all documentation required to proceed with this ordinance.

SECTION 10. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Penn Hills Mayor and Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section, or part thereof not been included herein.

THIS ORDINANCE APPROVED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE MUNICIPALITY OF PENN HILLS on this 21st day of October, A.D., 2019.



CATHERINE SAPP, DEPUTY MAYOR DATE 10/22/19



SCOTT ANDREJCHAK, MANAGER DATE 10/22/19

SEAL