

WEST WYOMING ORDINANCE NUMBER 6-96

AN ORDINANCE OF THE BOROUGH OF WEST WYOMING DEFINING AND RESTRICTING THE MAXIMUM SOUND LEVELS THAT ARE EMITTED , GENERALLY AND SPECIFICALLY BY MUSICAL INSTRUMENTS , EQUIPMENT, ANIMALS, PEDDLERS, VEHICLES, APPLIANCES AND PREMISES; AUTHORIZING THE ADMINISTRATION AND ENFORCEMENT THEREOF AND EXCEPTIONS THEREFROM; REGULATING THE USE OF PROPERTY SUBJECT TO NOISE REGULATIONS AND REQUIRING TESTING PROCEDURES; AND PRESCRIBING PENALTIES FOR VIOLATION.

The West Wyoming Borough Council hereby ordains:

§1. Purpose and Scope. It is the purpose and scope of this ordinance to provide regulations defining the maximum sound levels that vehicles, appliances and equipment shall be allowed to produce at specified distances from these devices, and also to provide for the prohibition of other kinds of prohibited noises. These regulations and prohibitions are intended to protect the physical, mental and social well-being of the residents of the borough of West Wyoming.

§2. Application. This ordinance shall apply:

1. To all types of vehicles, appliances and equipment, whether privately or publicly owned.
2. To sounds of any time duration.
3. To both the owner and operator of vehicles , appliances, equipment, devices, animals or any other object creating noises.

§3. Exemptions. The following devices are exempt from the provisions of these regulations:

1. Aircraft (except model aircraft).
2. Police, fire, ambulance and other governmental emergency vehicles.
3. Back-up alarm devices on trucks and other equipment when installed and operated in accordance with prevailing laws of the Commonwealth of Pennsylvania.
4. Governmental warning devices (i.e., civil defense of fire siren).
5. Business and Residential burglar and fire alarms.

§4. Definitions. All acoustical terminology shall be that contained in ANSI S1.1 "Acoustical Terminology."

ANSI - American National Standards Institute or its successors.

APPLIANCE - any device or combination of devices used or capable of being used as a means of accomplishing a desired end, such as a window air conditioning unit.

DAY - the twenty-four (24) period starting at local midnight.

DAY TIME - 6:00 A.M. to 6:00 P.M.

DECIBEL (dB) - a unit of sound level which is a division of logarithmic scale used to express the ratio of the sound intensity of the source to the intensity of an arbitrarily chosen reference intensity. The ratio is expressed on the decibel scale by multiplying its "base ten logarithm " by ten.

EQUIPMENT - any devices or combination of devices to accomplish a desired end, such as a chain saw, bulldozer, etc.

EXCESSIVE NOISE - excessive noise is that sound which is (1) injurious or which unreasonably interferes with the comfortable enjoyment of life and property. Measured noise levels in excess of limits established in these regulations or those specified in valid permits are declared to be excessive noise; (2) annoying to a person of ordinary sensibilities.

FLUCTUATING NOISE - a fluctuating noise is a noise whose sound level varies significantly with time.

IMPULSIVE NOISE- impulsive noise is characterized by brief excursions of sound level. The duration of a single impulse is usually less than one second.

INTERMITTENT NOISE - an intermittent noise is a noise whose sound level exceeds the ambient noise levels at least twice during the period of observation, which is one minute or more. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient is on the order of one second or more.

NOISE -noise is any sound emitted by a person, animal, vehicle, appliance, equipment or other device and its environmental interaction.

ORDINANCE ENFORCEMENT OFFICER - any person appointed by the borough of West Wyoming with responsibility to enforce municipal ordinances; or, any sworn member of the West Wyoming Police Department.

PERSON - either the owner or operator of vehicles, appliances, equipment or devices.

PERIOD OF OBSERVATION - the time interval during which

acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and the instrumentation being used. The period of observation must be at least as long as the response time of the instrumentation. The greater the variance in individual sound level, the longer must be the observation time for a given expected accuracy of measurement.

SOUND LEVEL (Noise Level) - airborne sounds levels are expressed in dB and obtained by the use of specific frequency dependant weighing networks, as specified in the referenced standards, The specific weighing network used must be indicated by the proper notation. If the A-weighing is employed, the sound level is identified as dB(A).

SOUND LEVEL METER - a sound level meter is an instrument , or combination of instruments, which meets or exceeds the requirements for an ANSI Type S1A or TYPE S2A Sound Level Meter.

STEADY NOISE - a noise whose level remains essentially constant (i.e., fluctuations are less than five (5) dB during the period of observation is a steady noise.

VEHICLE - any device, or combination of devices, used for or capable of being used for transporting persons or property. Vehicles include, but are not limited to , the following: automobiles, trucks, buses, motorcycles, snowmobiles, all-terrain vehicles, go-carts, racers and like devices, farm machinery, industrial machinery, highway graders, trailers, graders and semi-trailers.

§5 Enforcement.

1. Abatement. Any emission of noise form any source in excess of the limitation established in or pursuant to this ordinance herein described shall be deemed and is hereby declared to be a public nuisance and may be abated, in addition to the administrative proceedings , fines and penalties herein provided. Such abatement may be made by any Police Officer or the Ordinance Enforcement Officer, or may be made by order of the Court of Common Pleas of Luzerne County on complaint or petition filed on behalf of the borough of West Wyoming.

2. Nothing in this ordinance shall be construed to impair any cause of action, or legal remedy thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whenever of noise in such place or manner, or at such levels which may give rise to such cause of action.

3. The Police Officers who will serve as Noise Enforcement Officers shall:

A. Be qualified by training and experience to perform the necessary measurements and procedures required to determine violations of the provisions of this ordinance.

B. File complaints with the District Justice to prosecute violations of this ordinance.

C. Investigate complaints of violations of this ordinance and make inspections and observations of noise conditions; and

D. Be authorized to issue a warning to persons considered in violation of these regulations, a warning which may allow an appropriate time not to exceed thirty(30) calendar days for correction to bring the offending vehicle(s), appliance(s), equipment or other devices(s) within the provisions of these regulations before enforcement by prosecution.

§6. Administration. The Borough of West Wyoming shall:

1. Have available in convenient form as in a unit the provisions of this ordinance and the recommended practices, rules, regulation and standards which have been adopted. A copy of the information sources shall be kept on file in the West Wyoming Borough office;

2. Prepare and maintain records of all orders issued by the Noise Enforcement Officers;

3. By the Borough Administrator and his designees, issue all standards, permits, certificates, notices or other matters required under the provisions of this ordinance and notify all persons concerned of any decisions rendered and provide such persons with an opportunity to be heard as herein set forth;

§7. Noise Limitations.

1. General. No persons shall make, permit or cause to be made, any excessive noise of any kind by crying, calling or shouting, or by means of any whistle, bell, hammer, drum horn musical instrument, electric musical instrument(s), mechanical device, radio, television, CD player, stereo system, sound amplifying or other similar device unless said person has obtained a special permit from the West Wyoming Borough Administrator or his designees as provided in this Part.

2. Musical Instruments and Equipment. No person shall use or perform on any musical instrument or device or

equipment, for pay or in expectation of payment, in any public way or open space of the borough of West Wyoming before 6:00A.M. or after 6:00P.M. of the day unless said person has obtained a special permit form the Borough Administrator or his designees.

3. Noise from Premises. No person owning, or in possession or control of any building or premises, shall use the same , permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy thee peace of the neighborhood as measured at the propertyline in which such building or premise is situated, or be dangerous or detrimental to health.

4. Equipment Noise. It shall be unlawful for ny person to use any pile driver, shovel , hammer, derrick, hoist, tractor, roller or other mechanical equipment operated by fuel or electric power in building or construction operations from 6:00 P.M. to 6:00 A.M. of the following day, except for emergency work on public improvements, work of public service utilities, and municipal servicès unless such equipment has been manufactured or modified for sound control and meets the provisions of this ordinance.

5. Noise in Vicinity of Schools, Child Care Centers and Churches No person shall make any unnecessary noise in the vicinity of any school or child care center during hours of operation or church during hours of public worship.

6. Unlawful to Keep Noisy Animals. No person shall keep, or permit to be kept, harbor, or otherwise maintain any animal which shall disturb the quiet of any public street or other public place, or of any neighborhood. Provided, however, that a noisy animal shall; be defined as one or more animals which makes noises habitually, so as to constitute annoyance to a person of ordinary sensibilities.

7. Use of Horns, and other Devices on Vehicles. No person, operating any vehicle, other than police, fire, public service or ambulance operators shall sound any horn, bell, siren except for ordinary horn installed on such vehicle by the manufacturer, or sound any type of horn except when reasonably necessary to prevent accidents or to otherwise comply with the law of motor vehicles.

8. The operational performance standards established by this ordinance shall not apply to any public performance

being conducted in accordance with provisions of a special permit obtained from the Borough Administrator or his designees for the conduct thereof.

9. Vehicles. No person shall operate either a motor vehicle of a type subject to registration, except in police, fire equipment, ambulances or other government emergency vehicles at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the following noise limits for the category of minor vehicles based on a distance of fifty feet (50) from the center of the lane traveled on within the speed limit specified in this section under test procedures established by section 10 of this ordinance.

Type of Vehicle	Speed limit of 35 MPH or LESS	Speed limit of 35 MPH or MORE
(1) Any motor vehicle with a manufacturer's gross combination weight rating of 10,000 lbs. or more and any combination of vehicles towed by such motor vehicle.	86 dB(A)	90 dB(A)
(2) Any other vehicle any combination of vehicles towed by such motor vehicle.	76 dB(A)	82 dB(A)
(3) Any motorcycle or motor driven cycle)	78 dB(A)	82 dB(A)

A. This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this code relating to motor vehicle mufflers for noise control.

B. No person shall modify or change the exhaust muffler, intake muffler or any other noise abatement device of a motor vehicle so that the noise level is increased above that emitted by the vehicle as originally manufactured. Procedures used to establish compliance of a new motor vehicle with the requirements of this ordinance.

C. No person shall sell or lease or offer for sale or lease a new or second-hand vehicle that produces a maximum noise exceeding the noise limit at a distance of fifty (50') from the centerline of travel as stated in 8.11 of this ordinance. The manufacturer, distributor, importer or designated agent shall if requested certify in writing to the borough of West Wyoming that his/her

vehicles sold or leased within the borough of West Wyoming comply with the provisions of this Part.

10. Equipment

A. No person shall operate any powered equipment or powered hand tool that produces a maximum noise level exceeding the following noise limits at a distance of fifty (50') feet, under test procedures established by 10 of this ordinance.

Type of Equipment	Noise Limit
(1) Construction and industrial machinery, such as crawler-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditcher, trenchers, compactors, scrapers, pavement breakers, compressors and pneumatic power equipment, but not including pile drivers;	86 dB(A)
(2) Agricultural tractors and equipment;	86 dB(A)
(3) Powered commercial equipment of 2HP or less intended for infrequent use in residential areas, such as chain saws, pavement breakers, log chippers, powered hand tools, etc.	84dB(A)
(4) Powered equipment intended for repetitive use in residential areas, such as lawn mowers, small lawn and garden tools, riding tractors, snow removal equipment, etc.	70 dB(A)

B. No person shall sell or lease or offer for sale or lease new or second-hand equipment that produces a maximum noise exceeding the noise limit at a distance of fifty feet (50') as stated in this ordinance. The manufacturer, distributor, importer or designated agent shall if requested certify in writing to the borough of West Wyoming that his equipment sold or leased within the borough complies with the provisions of this ordinance.

§8. Use of Property.

1. Any property use established in a zoning district as defined and designated under the provisions of the West Wyoming Zoning Ordinances shall be such as to comply with the performance standards governing noise set forth hereinafter for the district in which such use shall be located.

2. Noise levels shall be measured in terms of the sound

level in dBA using equipment which meets the requirements established by this ordinance.

3. In all business and industrial zoning districts, at no point on the boundary of any residential zoning district shall the sound level of any individual operation or business, or the combined operations of any person, firm or corporation exceed the dBA levels shown below for the zoning district indicated from 6:00P.M. to 6:00 A.M. of the following day, as measured under the test procedures established in this ordinance.

Maximum sound levels dB(A) along district boundaries as measured by conventional sound level meters on slow response:

	<u>Residential</u>	<u>Business/Industrial</u>
A-scale levels	55 dB(A)	62 dB(A)

In business zoning districts all activities involving the production, processing, cleaning, servicing, testing repair of materials, goods or products, or any property use shall conform with the performance standards stated above, provide that performance standards shall in every case, be applied at the boundaries of the lot which any such activities take place, except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

In residential zoning districts, any property use shall conform with the performance standards stated above for residential boundaries, provided that performance standards shall, in every case, be applied at the boundaries of the lot on which such use is established, except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

The maximum sound levels established in this section to be applied to the boundaries of a lot shall not apply to construction sites and emergency operations. Construction site noise levels shall be regulated by applicable sections in this ordinance.

§9. Test Procedures.

1. Test procedures to determine whether maximum noises emitted by new motor vehicles sold or offered for sale or lease meet the noise limits stated in 8.9 of this ordinance shall be in substantial conformity with standards and recommended practice established by the Pennsylvania and United States Environmental Protection Agencies and such other and further standards as may be propounded in this borough.

2. Test procedures to determine whether maximum noises

emitted by powered equipment or powered hand tools, sold or leased, or offered for sale or lease, meet the noise limits in 8.10 of this Part shall be in substantial conformity with standards and recommended practice established by the Pennsylvania and United States Environmental Protection Agencies and such other and further standards as may be propounded in this borough.

§10 Penalties

Any person, firm or corporation who shall violate any provisions of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of the ordinance continues shall constitute a separate offense.

§11 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, to is hereby declared as "the intent of the West Wyoming Borough Council that this ordinance would have been adopted had the unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

§12 Repealer

All ordinances or parts of this ordinance which are inconsistent herewith are hereby repealed.

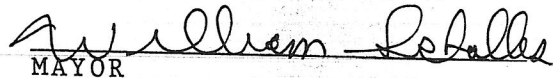
§13 Effective Date

This ordinance shall become effective on Oct 14 .9 1996

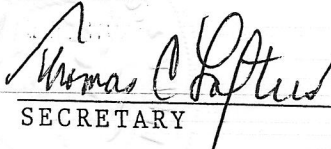
ENACTED AND ORDAINED, at a regular meeting of the Council of the Borough of West Wyoming held the 14th day of October 1996.


PRESIDENT

Approved this 14th day of Oct, 1996


MAYOR

ATTEST:


SECRETARY

(SEAL)