

MIDDLE SMITHFIELD TOWNSHIP
Monroe County, Pennsylvania

Ordinance # 248

AN ORDINANCE OF MIDDLE SMITHFIELD TOWNSHIP, MONROE COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF MIDDLE SMITHFIELD TOWNSHIP BY ADDING A NEW ARTICLE III, NOISE NUISANCES, TO CHAPTER 136, NUISANCES, PROHIBITING EXCESSIVE NOISE FROM ANY SOURCE UNLESS EXCEPTED HEREIN; DEFINING EXCESSIVE NOISE; AND PROVIDING PROCEDURES FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS

WHEREAS, Middle Smithfield Township ("Township") is empowered to ensure the public safety and to define conduct that constitutes disturbing the peace within the boundaries of the Township pursuant to Section 1527 of the Second Class Township Code, 53 P.S. 66527; and

WHEREAS, it is in the interest of the citizens of Middle Smithfield Township to ensure that the public health, safety, and welfare shall not be abridged by the making and creating of noise constituting a public nuisance in the Township; and

WHEREAS, residents of Middle Smithfield Township have the right to peacefully enjoy their residences and community without nuisance from excessive or offensive noise; and

WHEREAS, a substantial body of science and technology exists by which excessive sound may be substantially abated; and

WHEREAS, it is the purpose and scope of this Ordinance to provide regulations defining the maximum sound levels that vehicles, appliances, animals, instruments, and equipment or other devices shall be allowed to produce measured at specific distances from these devices and to provide for the prohibition of other kinds of offensive noises.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Board of Supervisors of Middle Smithfield Township that the Code of Ordinances of Middle Smithfield Township shall be amended by adding a new Article III, Noise Nuisances, to Chapter 136, Nuisances, to read as follows:

SECTION I

The Code of Ordinances of Middle Smithfield Township is hereby amended by the addition of a new Article III, Noise Nuisances, to Chapter 136, Nuisances, to read as follows:

ARTICLE III. NOISE NUISANCES

§136-15. Definitions.

For purposes of this Article, the following terms, phrases, words and their derivations shall have the meanings given herein. All acoustical terminology shall be interpreted through ANSI S1.1, "Acoustical Terminology." All other words and terms not defined herein shall be used with a meaning of standard usage. When not inconsistent with the context, words used in the singular include the plural; words used in the plural include the singular; and words used in the present tense include the future. Personal pronouns, his, her, their, are gender neutral. The words "must" and "shall" are mandatory. The words "may", "advised", and "advisory" are discretionary. Any time given is the prevailing time unless otherwise noted.

AMBIENT SOUND PRESSURE LEVEL

The all-encompassing background sound pressure levels associated with a given environment at a specified time, without the sound contribution of the specific source in question. Ambient noise is usually a composite of sounds from near and far sources, none of which is particularly dominant.

ANSI

American National Standards Institute or its successors.

A-WEIGHTED SOUND LEVEL

An A-weighted decibel that expresses the relative loudness of sounds as perceived by a person. Time and frequency weightings employed should be specified; if not specified, fast time. A-Weighted Sound Level shall be measured with an appropriate sound level meter with a standard frequency-weighting and standard exponentially weighted time-averaging, which meets or exceeds the requirements for an ANSI Type S1A or Type S2A Sound Level Meter. Unit symbol: dBA.

BACKGROUND NOISE

The total noise from all sources other than a particular sound that is of interest (e.g., other than the sound being measured).

CONTINUOUS SOUND

Any sound which is in a steady, fluctuating or intermittent state of prolonged duration.

dBA

The sound level in decibels, reported as measured by a sound level measuring instrument having an "A" weighting scale. The "A" weighted scale (aka A-weighted scale) is used to measure volume of common residential, commercial, natural and industrial sounds. The level so read is designated dB(A) or dBA.

dB(C)

The sound level, in decibels, reported as measured by a sound level instrument having a "C" weighted scale. The "C" weighted scale (aka C-weighted scale) offers a larger audio

frequency range than "A" weighted and is used for measurement of higher volumes, peak volumes, and noises with a large component of low frequency sounds.

DECIBEL (dB)

The practical unit of measurement for sound pressure level which denotes the ratio between two quantities that are proportional to power; the number of decibels is 10 times the common logarithm of this ratio. One decibel is one-tenth of a bel.

EXCESSIVE NOISE

Excessive noise is sound that meets any one of the following descriptions:

- (1) Is injurious or unreasonably interferes with the comfortable enjoyment of life and property. Measured noise levels in excess of the limits established in this Article or those specified in valid permits are declared to be excessive noise;
- (2) Is physically annoying to the comfort of any person of ordinary auditory sensibilities and/or harsh, prolonged, unnatural, or unusual in their use, time, and place, as to occasion physical discomfort;
- (3) Any noise that exceeds the acceptable decibel levels set forth in this Article; or
- (4) Is otherwise injurious to the lives, health, peace, and comfort of any of the inhabitants of Middle Smithfield Township.

IMPULSIVE SOUND

Any sound of short duration (less than one second) with an abrupt onset and rapid decay (including metal-to-metal impacts or exploding impacts) separated in time by at least one second. Includes sudden and sharp sounds or repetitive sounds that have the tendency to startle, disrupt or annoy, and which may include the elements of both sounds and vibration.

NOISE

Any sound which annoys or disturbs humans of normal auditory sensitivity, or which causes or tends to cause an adverse psychological or physiological effect on humans of normal auditory sensitivity, excluding all aspects of noise regulated by the Federal Occupational Safety and Health Act. Any unwanted sound or vibration that encroaches upon the real property of another at any time of day.

NOISE CONTROL OFFICER (NCO)

Employees or consultants of the Township who are qualified to perform noise enforcement activities specified within the Township Code of Ordinances. All NCOs must receive noise enforcement training that includes understanding of the concepts and operation of noise enforcement measuring, field experience with an already designated NCO, and a sign off by the NCO certifying competency. If the employee is not also the Codes Enforcement Officer, he/she shall submit complaint forms and substantiating data to the Codes Enforcement Officer for issuance of citations of violations.

NOISE LEVEL

Same as sound level but usually used to describe unwanted sound.

NOISE NUISANCE

Noise of such loudness and character from a single source or from multiple sources, which is or may be predicted with reasonable certainty to be, injurious to health or which unreasonably interferes with the enjoyment of property or with any lawful business or activity. Noise/sound pressure levels exceeding those permitted in this Article shall constitute a "noise nuisance."

NORMAL AGRICULTURAL OPERATION

The customary and generally accepted activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products, and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities, and are:

- A. Not less than 10 contiguous acres in area; or
- B. Less than 10 contiguous acres in area but has an anticipated yearly gross income of at least \$10,000. The term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the Act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act.¹ Custom work shall be considered a normal farming practice..

PERIOD OF OBSERVATION

The time interval during which acoustical data is 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.

PERSON

Includes both the singular and the plural and can be an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity for the purposes of this Article.

PURE TONE

A sound that can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this Article, 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 one-third octave bands by 15 dB for bands with center frequencies

less than 160 Hz, by 8 dB for bands with center frequencies of 160 Hz to 400 Hz, and by 5 dB for bands with center frequencies greater than 400 Hz.

SOUND PRESSURE LEVEL

In air, 20 times the common logarithm of the ratio of the given sound pressure to the reference sound pressure of 20 micropascals (μPa). Unit Symbol: dB; Quantity symbol: L_p .

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, motorized bicycles, snowmobiles, scooters, all-terrain vehicles, go-carts, farm machinery, industrial machinery, highway graders, tractor-trailers, and semi-trailers.

TOWNSHIP

Middle Smithfield Township, Monroe County, Pennsylvania, its Board of Supervisors, Township Manager, and all employees and appointees of the Township.

§136-16. Maximum Permissible Sound Levels

- A. **Maximum Permissible A-Weighted and C-Weighted Sound Levels.** No Person, as defined in this Article, shall operate, or enable to be operated, within the Township any source of Continuous Sound in such a manner as to create an A-Weighted or C-Weighted Sound Level which exceeds the limits set forth herein during an appropriate Period of Observation for the receiving land use when measured at the property line of the adjoining property, as set forth in the Continuous Sound Levels Table 1 below:

TABLE 1
Continuous Sound Levels
When Measured Outdoors

Receiving Land Use Category	Hours/Days	Weighted Sound Level Limit Measured in dBA or dBC
I. At a lot line of a residential use in a residential zoning district, when measured outdoors	1) 7:00 a.m. to 9:00 p.m., other than Sundays, Christmas Day, Thanksgiving Day, New Year's Day, Easter, Labor Day and Memorial Day	1) 60 dB
	2) 9:00 p.m. to 7:00 a.m., plus Sundays, Christmas Day,	2) 50 dB

	Thanksgiving Day, New Year's Day, Easter, Labor Day, and Memorial Day	
II. At a lot line of a residential use in a commercial or industrial zoning district, when measured outdoors	1) 7:00 a.m. to 9:00 p.m., other than Sundays, Christmas Day, Thanksgiving Day, New Year's Day, Easter, Labor Day and Memorial Day 2) 9:00 p.m. to 7:00 a.m., plus Sundays, Christmas Day, Thanksgiving Day, New Year's Day, Easter, Labor Day, and Memorial Day	1) 65 dB 2) 60 dB
III. At any lot line other than No. I or No. II above, when measured outdoors	1) All times and days	1) 65 dB

TABLE 2
Continuous Sound Levels
When Measured Indoors

Receiving Land Use Category	Hours/Days	Weighted Sound Level Limit
I. At a residential use in a residential zoning district, when measured indoors	1) 7:00 a.m. to 9:00 p.m., other than Sundays, Christmas Day, Thanksgiving Day, New Year's Day, Easter, Labor Day and Memorial Day 2) 9:00 p.m. to 7:00 a.m., plus Sundays, Christmas Day, Thanksgiving Day, New	1) 55 dB 2) 40 dB

	Year's Day, Easter, Labor Day, and Memorial Day	
II. At a residential use in a commercial or industrial zoning district, when measured indoors	1) 7:00 a.m. to 9:00 p.m., other than Sundays, Christmas Day, Thanksgiving Day, New Year's Day, Easter, Labor Day and Memorial Day 2) 9:00 p.m. to 7:00 a.m., plus Sundays, Christmas Day, Thanksgiving Day, New Year's Day, Easter, Labor Day, and Memorial Day	3) 55 dB 4) 55 dB
3) At any lot line other than No. I or No. II above, when measured indoors	1) All times and days	1) 55 dB

B. **Standards.** For the purpose of measuring sound in accordance with the applicable provisions of this Article, test equipment methods and procedures shall conform to the latest approved standards as published by ANSI or its approved equivalent.

C. **Correction for Character of Sound.** For any source of sound, which emits a Pure Tone, cyclically varying sound, or Impulsive Sound, the maximum A-Weighted or C-Weighted Sound Level limits set forth in this Article shall be reduced by 5 dB. For any source of sound which emits an Impulsive Sound, the excursions of Sound Pressure Level shall not exceed 20 dB over the Ambient Sound Pressure Level, regardless of time of day or night or receiving land use, using the "fast" meter characteristic of Type II meter, meeting the IEC-651 and ANSI S1.4 Type Specification.

D. **Sound Measurements.** The sound meter shall be operated in accordance with the manufacturer's instructions. The sound meter shall be calibrated with each use. To measure the A-Weighted Sound Level, the sound meter shall be operated using the "A" weighting and fast response settings. To measure the C-Weighted Sound Level, the sound meter shall be operated using the "C" weighting settings. Readings shall be taken in such a way that Vehicle Noise is factored into the reading.

E. When conducting indoor sound level measurements across a real property line, the measurements shall be taken at least three feet from any wall, floor or ceiling and all

exterior doors and windows may, at the discretion of the investigator, be closed. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

§136-17. Enforcement Officers

- A. Noise control officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this Article and pursue enforcement activities.
- B. Noise control officers may cooperate with adjacent municipalities in enforcing one another's municipal noise ordinances.

§136-18. Excessive Noise Prohibited

In addition to §136-16, it is hereby declared to be a Noise Nuisance and shall be unlawful for any Person, as defined in this Article, to make, cause, suffer or enable to be made or caused upon a property owned, occupied, or controlled by him or her or upon any public land, street, alley or thoroughfare in the Township any Excessive Noise, as defined in this Article, by means of Vehicles, machinery, equipment, including sound amplification equipment and musical instrument, or by any other means or methods.

§136-19. Specific Prohibitions

The following acts and causes thereof are hereby declared to be a Noise Nuisance and in violation of this Article:

- A. Possessing, harboring, or keeping any animal or bird which makes any Noise continuously and/or incessantly for a period of five (5) minutes or more, or makes such Noise intermittently for twenty (20) minutes or more to the disturbance of any Person, as defined in this Article, any time of the day or night, regardless of whether the animal or bird is physically situated in or upon private property; provided, that at the time the animal or bird is making such Noise, no Person, as defined in this Article, is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated, nor is there any other legitimate cause which justifiably provoked the animal or bird.
- B. Operating, playing or permitting the operation or playing of any radio, television, audio equipment, sound amplifier, musical instrument or other such device in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the Person, as defined in this Article, who is in the room or Vehicle in which such machine or device between the hours of 9:00 p.m. and 7:00 a.m. Sunday through Friday and between 10:00 p.m. and 7:00 a.m. Friday through Sunday.

- C. Loudspeakers, amplifiers: Playing, using, operating, or permitting the playing, use or operation of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure except in the course of an approved legitimate business activity or auction sale.
- D. Repair or installation of utilities or construction of structures, sidewalks, or streets between the hours of 8:00 p.m. and 7:00 a.m. other than emergency repairs protecting the public health or safety which shall not be restricted by time.
- E. Use of lawnmowers, snowblowers, leaf blowers, and household power tools and/or maintenance tools between the hours of 10:00 p.m. and 7:00 a.m.
- F. Repairing, rebuilding, modifying, testing or operating any Vehicle, as defined in this Article, in such a manner as to cause annoyance to a Person, as defined in this Article, across a real property boundary from the source of the Noise.
- G. Horns, signaling devices, etc.: Sounding any horn or signaling device on any Vehicle on any street or public place of the Township except as a danger warning; creating, by means of any such signaling device, any unreasonably loud or harsh sound; or the sounding of any such device for any unnecessary or unreasonable period of time.
- H. Use of heavy construction equipment for any purpose between the hours of 8:00 p.m. and 7:00 a.m.
- I. Exhaust from any stationary internal combustion engine that creates a loud or explosive Noise because it is not discharged through a muffler or other preventative device.
- J. Causing, creating or allowing any other Excessive Noise as defined in this Article.

§136-20. Exceptions

- A. Noise emitted from the following sources shall be exempt from the noise standards and restrictions specified in this Article:
 - (1) The emission of sound for the purpose of alerting a Person, as defined in this Article, to the existence of an emergency including safety signals and warning devices (e.g. intrusion alarms, back-up alarms on trucks) and authorized Vehicles when responding to emergencies (e.g. police, fire, ambulance sirens) or any other device used to alert Persons to an emergency or used during the conduct of emergency work;
 - (2) Repair or installation of utilities or construction of structures, sidewalks, or streets between the hours of 7:00 a.m. and 8:00 p.m., except emergency repairs protecting the public health or safety shall not be restricted by time;

- (3) Use of lawnmowers, snowblowers, leaf blowers, and household power tools between the hours of 7:00 a.m. and 10:00 p.m. if they are used within the manufacturer's specifications and with all standard Noise reducing equipment in use, unmodified, and in proper operating condition;
- (4) Licensed game hunting activities and firing ranges on property where such activities are authorized between the hours of 7:00 a.m. and 9:00 p.m.;
- (5) Agricultural activities, including Vehicles, machinery, appliances, equipment or hand tools used in conjunction with Normal Agricultural Operations, and other farm-related activities including those necessary for the preservation and health of farm animals and livestock at any time, but not exempting a commercial kennel;
- (6) Motor Vehicle operations on public streets already provided for by Pennsylvania Department of Transportation Regulations, as amended, if they are operated within the manufacturer's specifications and with all standard Noise reducing equipment in use, unmodified and in proper working condition;
- (7) Public celebrations specifically authorized by the Township;
- (8) Unamplified human voices;
- (9) Routine ringing of bells and chimes by a place of worship or a municipal clock;
- (10) Snowmaking within a commercial resort;
- (11) Festivals and similar special events that involve a total maximum of 20 days per calendar year per lot;
- (12) Emergency or snow removal Vehicles, machinery, appliances and equipment;
- (13) Heavy construction equipment for a specific short-term project (such as building or road construction, demolition, or repair) in use between the hours of 7:00 a.m. and 8:00 p.m. for the duration of the short term specific project, provided such heavy construction equipment is operated within the manufacturer's specifications and with all standard Noise reducing equipment in use, unmodified, and in proper operating condition; if a properly issued Township construction permit provides otherwise, the permit shall control;
- (14) Emergency work including training activities performed to protect public health or safety, including fire protection, protection from flood or other disasters, and work performed to provide electricity, water, or other public utilities that implicate public health or safety;
- (15) Air conditioner, fans, hearing units and similar comfort devices, provided such are operated within the manufacturer's specifications and with all standard Noise reducing equipment in use, unmodified, and in proper operating condition;

- (16) Normal airport and railroad activities including properly licensed airplane, helicopter and train activity;
- (17) Any reasonable noise created by a governmental entity in the performance of an official and necessary duty;
- (18) Any activity the regulation of which has been expressly preempted by Pennsylvania or federal statute or regulation; and
- (19) Any other activities provided for by a special waiver, as provided herein, according to the terms and conditions of said waiver.

§136-21. Special Waiver

A temporary waiver of strict compliance with the Noise standards of this Article may be granted to a Person, as defined in this Article, to permit a reasonable time to attain compliance as determined by the Board of Supervisors.

§136-22. Written Notice and Corrective Action.

- A. Whenever a condition constituting a nuisance under this Article is created or maintained, the Board of Supervisors, through any Township law enforcement officer, enforcement officer, code enforcement officer, zoning officer, or other Person with Township authority, as designated by the Board, shall cause written notice to be served upon the owner of the property wherein the condition constituting the nuisance occurred in one of the manners provided for within §136-4.A. of Article I of this Chapter 136.
- B. Such notice shall include a description of the Person, as defined in this Article, causing or enabling the Noise Nuisance, the specific Noise creating the nuisance, the time(s) at which the Noise was perceived, and/or the actual or approximate Noise level in Decibels for each instance in which the alleged Noise Nuisance was heard and measured, if applicable.
- C. Such notice shall require the owner to commence corrective action in accordance with the terms thereof within the time period provided for within the notice, and thereafter to comply fully with its terms. For Noise Nuisances that substantially deprive the neighboring residents of the use and enjoyment of their property, regardless of ownership status, the Board of Supervisors may, at its discretion, require immediate corrective action of the Noise Nuisance.

§136-23. Appeals.

- A. Any Person, as defined in this Article, aggrieved by a notice of violation for a Noise Nuisance may request a hearing before the Board of Supervisors as provided for within §136-5 of Article I of this Chapter 136.

§136-24. Penalties.

The following procedures and penalties will be used to enforce this Article:

- A. Any Person, as defined in this Article, or business entity who shall violate any of the provisions of this Article shall, upon summary conviction thereof, be punishable by a minimum fine of not less than five hundred dollars (\$500.00) and a maximum fine of not more than one thousand dollars (\$1,000.00), plus costs of prosecution, and, in default of payment of said fine and costs or prosecution, shall be imprisoned for not more than 90 days. Each violation of any of the provisions of this Article shall be deemed to be a separate and distinct offense. When a violation continues beyond the time limit set forth in any order requiring corrective action, it shall be deemed to be a separate and distinct offense.
- B. When a second and/or subsequent violation is committed by the same Person and/or on the same property within any twelve (12) month period, the fine shall be double the amount of the previous fine up to a maximum fine of one thousand dollars (\$1,000.00) for each separate and distinct offense.
- C. **Public Nuisance.** Any emission of Noise from any source exceeding the limitations and/or restrictions established herein is hereby declared to be a public nuisance and may be abated by administrative or judicial proceedings, fines, and penalties herein provided.
- D. **Other Remedies.** Nothing in this Article 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 of Noise into the atmosphere or ground from any source whatsoever, in any place or manner, and at any levels which may give rise to any cause of action.

§136-25. Relationship with Other Restrictions.

The provisions of this Article are not intended to interfere with, abrogate or annul other rules, regulations, or ordinances including Title 18 (Crimes Code) and Title 75 (Vehicle Code) of the Pennsylvania Consolidated Statutes. If more stringent requirements concerning Noise abatement are contained in other statutes, rules, regulations, or ordinances, the more stringent shall apply.

SECTION II Repealer.

All other ordinances or parts of ordinances which are inconsistent herewith are hereby repealed, but only to the extent of such conflict.

SECTION III 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 Board of Supervisors of Middle Smithfield Township that


this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

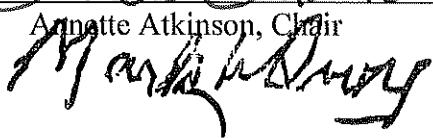
ARTICLE IV Effective Date.

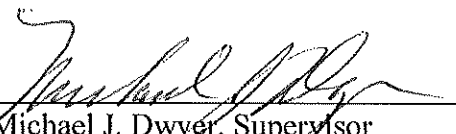
This Ordinance shall become effective five (5) days after final enactment.

ENACTED AND ORDAINED this 27 day of March, A.D., 2025,
by the Board of Supervisors of Middle Smithfield Township in lawful session, duly assembled.

Board of Supervisors of Middle Smithfield
Township

By: 
Annette Atkinson, Chair

By: 
Mark Oney, Vice-Chair

By: 
Michael J. Dwyer, Supervisor

ATTEST: 
Township Secretary

[TOWNSHIP SEAL]