

**BOROUGH OF CLARKS SUMMIT  
COUNTY OF LACKAWANNA  
COMMONWEALTH OF PENNSYLVANIA  
ORDINANCE NO. 2022-01**

**AN ORDINANCE OF THE BOROUGH OF CLARKS SUMMIT  
PROHIBITING UNREASONABLE OR EXCESSIVE NOISE CONSTITUTING A NOISE  
DISTURBANCE AND PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF.**

WHEREAS, the Borough of Clarks Summit (the “Borough”) is a duly organized and existing municipality and political subdivision located in the County of Lackawanna, Commonwealth of Pennsylvania with offices located at 304 South State Street, Clarks Summit, Pennsylvania 18411; and

WHEREAS, the Borough is subject to the Pennsylvania Borough Code, as found at 8 Pa.C.S.A. §101, *et seq.* (the “Borough Code”); and

WHEREAS, pursuant to Section 1202(5) of the Borough Code, the Borough has the authority to make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough. *See* 8 Pa. C.S.A. §1202(5); and

WHEREAS, excessive noise can pose impair and frustrate the ability of Borough residents to use and enjoy their properties; and

WHEREAS, the Council of the Borough wishes to prohibit any unnecessary or excessive noise which is of such character, intensity or duration which is detrimental to the health or life of any individual or in the disturbance of the public peace and welfare; and

WHEREAS, the Council of the Borough desires to discourage conduct which disrupts or harms the enjoyment of day-to-day life for Borough residents.

THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Clarks Summit, County of Lackawanna and Commonwealth of Pennsylvania, as follows:

**SECTION 1 – TITLE.** This Part may be cited as the “Clarks Summit Comprehensive Noise Control Ordinance”

**SECTION 2 – PURPOSE.** To provide for effective control of noise within the Borough in order to protect the health, safety and welfare of residents and visitors and to enhance the pursuits of life, recreation and commerce within the Borough.

**SECTION 3 – DEFINITIONS.** The following words, terms, and phrases when used in this Part shall have the meanings herein given, except where the context clearly indicates a different meaning:

BOROUGH – Borough of Clarks Summit, Lackawanna County, Pennsylvania.

CONSTRUCTION OPERATIONS – The erection, repair, renovation, demolition or removal of any building, facility, street, road, bridge or other structures using equipment, tools, machinery and/or the excavation, filling, grading and regulation of lots, streets and other structures in connection therewith.

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

EMERGENCY WORK – Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

MOTORCYCLE – A motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

MOTOR VEHICLE – A vehicle that is self-propelled except an electric personal assistive mobility device or a vehicle that is propelled solely by human power.

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 emitted by a person, animal, or noise-creating device.

NOISE-CREATING DEVICE – Any electrical, mechanical, or chemical device or instrument, or combination thereof, that creates noise during its operation by a person.

NOISE DISTURBANCE – In addition to the specific noise disturbances set forth herein, any sound that is:

1. Unpleasant, annoying, offensive, loud, or obnoxious to a reasonable person of normal sensibilities; or
2. Unusual for the time of day or location where it is produced or heard; or
3. Detrimental to or injurious to the health, comfort, or safety of persons or animals or to the reasonable enjoyment of property or the lawful conduct of business because of the loudness, duration, or character of the noise; or
4. Endangers or injures personal or real property; or
5. Is in violation of any other section of this or other Ordinance, statute, or applicable regulation.

OPERATION – Actual control by a person.

PERSON – Any individual, partnership, limited partnership, limited liability partnership, limited liability company, association, firm, corporation, or any other legally recognized entity. Whenever used in any provision prescribing and

imposing a penalty, "person" includes the individual members, partners, officers and managers of any legally recognized entity.

POLICE – The Police Department employed by the Borough, or any properly authorized member or officer thereof in any other law enforcement agency having jurisdiction within the Borough.

POWERED MODEL VEHICLE – Any self-propelled airborne, waterborne or land borne plane, vessel or vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

PROPERTY LINE (BOUNDARY) – 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. As used herein, the property line includes all points on a plane formed by projecting the property line in a manner deemed appropriate by the enforcing police.

PUBLIC – Affecting, or likely to affect, persons in a place to which the public or a substantial group has access.

PUBLIC STREET – Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

PUBLIC SPACE – Any real property or structures thereon which are either owned or controlled by the Borough for the benefit and use of the public.

REAL PROPERTY – All land, whether publicly or privately owned, whether improved or not improved, with or without structures, exclusive of any areas devoted to public rights-of- way.

REDUCED NOISE FACILITY – Any place of worship, nursing home, in-patient medical facility, school or child day-care facility located within the Borough.

RESIDENTIAL AREA – All areas of the Borough identified in the Borough's Zoning Ordinance or Zoning Map as: (1) Town A Single Family Residential; (2) Town B Single Family Residential; (3) Town Mixed Residential; and (4) Town-City Single Family Residential.

SOUND – An auditory sensation evoked by the oscillation of air pressure.

TAMPERING – The removal or rendering inoperative by any person other than for purposes of maintenance, repair or replacement of any muffler or sound-dissipative device or element of design of any motor vehicle or motorcycle.

TRUCK – A motor vehicle designed primarily for the transportation of property.

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 tracks. The term does not include a self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.

VEHICLE CODE – The Vehicle Code of the Commonwealth of Pennsylvania (75 Pa. C.S.A. § 101, *et seq.*) as is hereafter amended, supplemented, modified, or reenacted by the General Assembly of the Commonwealth of Pennsylvania.

## **SECTION 5 – PROHIBITED ACTS.**

### **A. Noise disturbance.**

No person shall make, continue or cause to be made, or cause to be continued, any noise disturbance by any means, nor shall any person suffer, allow or permit any noise disturbance, by any means, to be made or continued from or at any property, whether public or private, real or personal, that is subject to such person's right to control at certain times of day.

A. **Specific prohibitions.** The following acts and the causing thereof are declared to be noise disturbances and are, therefore, in violation of this Part:

. Radios, televisions, musical instruments, digital music players, stereo and similar devices. Operating, playing or permitting the operation or playing of musical instrument, radio or audio equipment (including when the noise-creating device is operated in or on a vehicle, or hand carried, on a public right-of-way or public space), sound amplifier, loudspeaker, television, or similar device designed or used in a manner that intends to produce, reproduce or amplify sound in the following manner:

- Between the hours of 10:00p.m. and 7:00a.m. in such a manner as to cause a noise disturbance in a Residential Area and to be plainly audible across a property line (boundary) and at a distance of fifty (50') feet from the source, may be evidence of a violation of this Ordinance not otherwise exempted herein.
- Between the hours of 10:00p.m. and 7:00a.m. in such manner as to create a noise disturbance with louder volume than is necessary for convenient hearing by the person that is operating such device and for those that are voluntary listeners thereto, in Non-Residential Areas.

a. Yelling or shouting. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing:

On public rights-of-way or public spaces between the hours of 10:00 p.m. and 7:00 a.m.; or

- Between the hours of 10:00p.m. and 7:00a.m. in any place in such a manner as to cause a noise disturbance across a property line (boundary).

b. Construction. Except for emergency work, operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work between the hours of 10:00 p.m. and 7:00 a.m., such that the sound therefrom creates a noise disturbance across a property line (boundary). The provisions of this section do not apply to any person who performs any construction, repair, or excavation pursuant to the express written permission of the Borough.

c. Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, leaf blowers, lawn mowers or other powered landscape maintenance equipment or similar device used outdoors between the hours of 10:00 p.m. and 7:00 a.m., so as to cause a noise disturbance across a property line (boundary).

d. Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m., and 7:00 a.m., in such a manner as to cause a noise disturbance across a property line (boundary). This provision shall not apply to municipal or utility services or their designees in or about a public street, public right-of-way or public space.

e. Powered model vehicles. Operating or permitting the operation of powered model vehicles so as to cause a noise disturbance across a property line (boundary) between the hours of 10:00 p.m. and 7:00 a.m.

f. Vehicle, motor vehicle, motorcycle, motorboat or aircraft repairs and testing. Repairing, rebuilding or testing any vehicle, motor vehicle, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a property line (boundary) between the hours of 10:00 p.m. and 7:00 a.m.

g. Animals. No person shall permit any animal, bird or fowl in one's possession or under one's control to make any frequent or long continued noise of such character or intensity as to disturb the comfort or repose of any person between the hours of 10:00p.m. and 7:00a.m.

h. Reduced Noise Facility. No person shall create or cause to create a noise disturbance on any public street, public right-of-way or public space adjacent to a Reduced Noise Facility while the same are in session which unreasonably interferes with the workings of sessions thereof and the making of any other noise so as to annoy the users and/or occupants.

**B. Other prohibited acts.**

Tampering. The use within the Borough of a motor vehicle or motorcycle, which has had a muffler or sound-dissipative device or element of design removed or rendered inoperative.

**A. Specific prohibitions on public rights-of-way.** Prohibition of certain noises upon public rights-of-way by the use of motor vehicles and noise-creating devices.

Motor vehicles 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 street or public right-of-way at any time in such a manner that the operation of the same violates the Vehicle Code. Consistent with Section 4523 of the Vehicle Code. All motor vehicles and motorcycles shall be equipped with a muffler or other effective

noise suppressing system in good working order and in constant operation and no muffler or exhaust system shall be equipped with a cutout, bypass or similar device.

a. Standing vehicles. No person shall operate or permit the operation of any vehicle or any auxiliary equipment attached to such vehicle for a period in excess of fifteen (15) minutes in any hour while the vehicle is parked, stopped or standing within one hundred fifty (150') feet of a residence, whether on public or private property, in such a manner as to cause a noise disturbance across a residential property line (boundary) between the hours of 10:00p.m. and 7:00a.m. This provision shall not apply to vehicles performing emergency services or to vehicles forced to remain stopped or standing because of traffic conditions.

b. Notwithstanding the foregoing, diesel-powered vehicles with a gross weight of 10,001 pounds or more are subject to the restrictions contained in Act 124 of 2008, 35 P.S. §§ 4601-4610, the Diesel-Powered Motor Vehicle Idling Act.

### **SECTION 6 – EXEMPTIONS.**

The provisions of this Part shall not apply to the following:

**A. Blasting.** Sounds resulting from blasting activities that have been authorized by the Borough, which blasting may occur only between the hours of 7:00 a.m., and 5:00 p.m., Monday through Friday, unless specifically authorized otherwise.

**B. Events.** Events such as, but not limited to block parties, carnivals, festivals, fireworks, or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, provided that such activities do not occur between the hours of 10:00 p.m. and 7:00 a.m., unless specific permission by the Borough has been obtained.

**C. Emergency work.** Sounds resulting from the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.

**D. Municipal and utility services.** Sounds resulting from the repair, maintenance or replacement of any municipal or utility installation in or about a public street, public right-of-way or any public space.

**E. Snow Removal.** Sounds resulting from the use of snowplows, tractors or snow blowers used in connection with snow removal from private or public property.

**F. School and public activities.** Sounds resulting from organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events that serve the public interest, provided such programs, activities or events do not occur between the hours of 10:00 p.m. and 7:00 a.m.

**G. Warning devices.** Sounds or sirens, alarms, public address system or other communication device or equipment made by warning devices operating continuously for no more than three (3) minutes, except that in the event of an emergency, the time limitation shall not apply. A warning device or siren used in connection with the operation of a police car, fire truck or apparatus, train, ambulance or any other emergency or other vehicle in the event of an emergency or as part of a warning. Such to include but not be limited to generators used during

an emergency for law enforcement purposes. Whether such is for an actual emergency, practice or for drill purposes.

**H. Public Amplification.** A public amplification or address system used at an athletic or other public event including those held at public parks.

**I. Authorized activity.** Upon application, special permits for infrequent events or activities which are approved by the Borough.

### **SECTION 7 – REQUIRED ELEMENTS FOR VIOLATION.**

One of the following elements must be present in order for a violation to be alleged:

That the alleged noise violation:

A. 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 and condominiums located within the same building; or

B. If the alleged violation is witnessed/observed by a police officer when citing any section listed hereunder.

### **SECTION 8 – INTENT.**

The provisions of this chapter are intended to supplement all other provisions of these Codified Ordinances and shall not be deemed to preempt or preclude application of any of the other provisions of the Codified Ordinances except existing conflicting provisions of this chapter, which are repealed by this chapter.

### **SECTION 9 – PENALTIES.**

Whoever violates any provision of this Part shall, upon first contact with law enforcement, be issued a warning to cease any offensive and/or unreasonable noise. Any violations thereafter which result in conviction thereof in a summary proceeding, shall be fined for a first offense not less than one hundred fifty (\$150.00) dollars and not more than one thousand (\$1,000.00) dollars; for a second offense not less than three hundred (\$300.00) dollars and not more than one thousand (\$1,000.00) dollars; for a third offense nor less than five hundred (\$500.00) dollars and not more than one thousand (\$1,000.00) dollars. Whoever violates any provision of this Part for a fourth or subsequent offense shall, upon conviction thereof in a summary proceeding, be fined one thousand (\$1,000.00) dollars. Each occurrence of a violation of any provision of this Part shall constitute a separate and distinct offense. However, for a violation of the Vehicle Code, upon conviction thereof in a summary proceeding, the fine shall be twenty-five (\$25.00).

### **SECTION 10 – ADMINISTRATION AND ENFORCEMENT**

The power and authority to enforce the provisions of Ordinance shall be vested in the Borough's police department.

### **SECTION 11 – SEVERABILITY.**

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such holding shall not affect the other provisions or applications of this Part which can be given effect without the invalid provision or application and, to this end, the provisions of this Part are declared severable.

**SECTION 12 – REPEALER.**

All ordinances or parts of ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 13 – EFFECTIVE DATE.**

This Ordinance shall be effective immediately upon passage and approved in the manner prescribed by law.

ORDAINED AND ENACTED into an Ordinance this 6th day of July, 2022.

**Borough Council of the Borough of Clarks Summit**

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**GERMAINE CAREY**  
Council President

**APPROVED:**

**Approved this 6th day of July, 2022**

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**HARRY KELLY**  
Mayor; Borough of Clarks Summit

**ATTEST: Adopted by the Clarks Summit Borough Council this 6th day of July, 2022**

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**VIRGINIA KEHOE**  
Borough Manager/Secretary

**SEAL**