

WESTTOWN TOWNSHIP

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AGENDA

Westtown Township Board of Supervisors Virtual Workshop Agenda

**Westtown Township Municipal Building
1039 Wilmington Pike, Westtown**

Monday, December 21, 2020

Start time 6:30 pm

- 1. Executive Session (5:30pm)**
- 2. Review of Draft Noise Ordinance**
- 3. Brandywine Battlefield Interpretative Marker Next Steps**
- 4. Consideration of Additional Traffic Calming Measures Orvis Way & Jughandle**

MEMO

Date: December 17, 2020
To: Board of Supervisors
From: Jon Altshul, Township Manager
Re: Workshop—Draft noise ordinance

Attached please find a **draft** stand-alone noise ordinance for the Board's review in the workshop. This ordinance is based on West Chester Borough's noise ordinance and would make it unlawful for any person to make or cause to be made unreasonable noise, or to allow any unreasonable noise to be caused or made on any real or personal property occupied or controlled by that person.

In particular, if the Board would like to proceed with this ordinance, Pat has asked if the Township wants to repeal the noise provisions in the Zoning ordinance (§170-1515)? This section has very specific requirements. A copy of this section is pasted below.

Pat has also highlighted a couple of straight-forward items that staff can follow up on, including confirming the process for blasting (Paragraph 1 under Exemptions and permits) and ensuring that the provision about band concerts, carnivals or other performances is consistent with any past decisions pertaining to schools in the Township (Paragraph 2 under exemptions and permits).

Look forward to receiving your comments.

§ 170-1515 **Noise standards.**

A.

Except as noted in Subsection **B** below, the following shall apply to specified uses and properties within the Township, between the hours of 10:00 p.m. and 6:00 a.m., plus all day Sunday and legal holidays.

(1)

There shall be no nonresidential off-street loading operation.

(2)

There shall be no operation of a vehicle in excess of 8,600 pounds on the property, nor idling of any motor of such vehicle.

(3)

There shall be no outside operation for nonresidential purposes of any powered equipment, mobile refrigeration unit, powered handtool, forklift, tractor, or other similar vehicle except for lawn maintenance, snow removal, or emergency services or repairs.

(4)

Other than police, fire, public service, or ambulance operators, no person shall sound any horn, bell, gong, siren, or whistle or make other unnecessarily loud noises except when reasonably required to prevent accidents.

(5)

There shall be no outdoor loudspeakers or similar amplification which may be heard beyond the property line.

B.

The restrictions established in Subsection **A** above, shall not be applied to agricultural operations on properties within the Township. Agriculture shall be as defined and regulated by this chapter.

C.

For any proposed or existing use of land in which potential or actual noise impacts need amelioration, the means to ameliorate such impacts shall be proposed by the applicant and reviewed by the Township on a case-by-case basis. The use of berms, existing and installed vegetation, fencing or similar enclosure, etc., shall be considered by the Township and, where deemed suitable, may permit modification or waiver of restrictions in Subsection **A** above.

D.

Noise impacts upon dwellings.

[Added 3-3-2003 by Ord. No. 2003-2]

(1)

Between the hours of 10:00 p.m. and 6:00 a.m., there shall be no exterior construction of buildings, driveways or parking lots or use of related construction vehicles or any commercial or industrial operations or any truck loading or unloading activities that create a noise level exceeding 55 A-weighted decibels at the exterior walls of any dwelling.

(2)

Between the hours of 6:00 a.m. and 10:00 p.m., no commercial or industrial operation or truck loading or unloading activities shall create a noise level exceeding 63 A-weighted decibels at the exterior walls of any dwelling.

(3)

This § **170-1515D** shall not regulate emergency repairs.

ORDINANCE __ of 2021

WESTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF WESTTOWN, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE TOWNSHIP OF WESTTOWN, CHAPTER ###, TITLE OF THAT CHAPTER, ESTABLISHING ARTICLE I, NOISE DISTURBANCE, §§-1, REGARDING THE PURPOSE AND SCOPE OF THE ARTICLE; §§-2, REGARDING THE DEFINITIONS; §§-3, REGARDING THE PROHIBITED ACTS; §§-4, REGARDING THE EXEMPTIONS AND PERMITS; AND §§-5, REGARDING THE VIOLATIONS AND PENALTIES.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that Part II, General Legislation, Chapter ##, TITLE OF THAT CHAPTER, of the Code of the Township of Westtown shall be amended to establish Article I, Noise Disturbance, as follows:

SECTION 1. Part II, General Legislation, Chapter ##, TITLE OF THAT CHAPTER, Article I, Noise Disturbance, of the Code is hereby established include the following sections:

Article I. Noise Disturbance.

§ ##-1 Purpose and scope.

The purpose and scope of this chapter is to ensure that public health, safety and welfare shall not be abridged by the making or creating of public nuisances from disturbing or excessive noises in Westtown Township and to protect the physical, mental and social well-being of the residents of Westtown Township by prohibiting such noise and/or sound.

§ ##-2 Definitions.

For the purpose of this chapter, the following words, terms and phrases shall have the meanings indicated herein:

TOWNSHIP

The Township of Westtown.

NOISE

Any sound emitted by a person, an appliance, equipment, an instrument or other device.

PERSON

Any individual, association, trust, partnership or corporation, including any members, directors, officers, employees, partners or principals thereof. Whenever used in any clause prescribing and imposing a penalty, "person" includes the members, trustees, partners, directors, officers, managers and supervisors, or any of them, of partnerships, associations, corporations or other forms of entity.

UNREASONABLE NOISE

Noise that is above and beyond the ordinary noises associated with the appropriate and customary uses of the particular forum in which the sound is made, taking into account the time of day, day of week, location, and/or other relevant factors, and such noise is of such a volume, frequency, pattern, or duration, that it prevents, disrupts, injures, or endangers the health, safety, welfare, comfort or repose of reasonable persons of ordinary sensitivities within Westtown Township.

§ ##-3 Prohibited acts.

- A. General prohibition. It shall be unlawful for any person to make or cause to be made unreasonable noise, or to allow any unreasonable noise to be caused or made on any real or personal property occupied or controlled by that person within the limits of Westtown Township, except as otherwise permitted in this chapter.
- B. Specific prohibitions. The following are specifically prohibited, except as otherwise permitted in this chapter:
 1. No person shall operate, play or permit the operation or playing of any radio, television, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create unreasonable noise.

2. No person shall operate or permit the operation of any tools or equipment used on construction operations, drilling or demolition or other work or in the sweeping of parking lots between the hours of 10:00 p.m. of one day and 6:00 a.m. of the following day on weekdays and Saturdays or at any time on Sundays or legal holidays such that the sound therefrom creates unreasonable noise.
3. No person shall operate or permit the operation of any powered saw, drill, sander, grinder, lawn or garden tool, snow blower or similar device used outdoors between the hours of 10:00 p.m. of one day and 6:00 a.m. of the following day so as to create unreasonable noise.
4. No person shall deliver, load, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or other objects between the hours of 10:00 p.m. of one day and 6:00 a.m. of the following day in such a manner as to create unreasonable noise. This subsection shall not apply to emergency municipal or public utility services in or about the public right-of-way.
5. No person shall offer for sale or sell by shouting or outcry or by any other amplified or unamplified sound, except between the hours of 7:00 a.m. of one day and 7:00 p.m. of the same day.
6. No person shall remove or render inoperative, other than for purposes of maintenance, repair, replacement or other work, any muffler or sound-dissipative device or element of design or noise label of any product; or use a product which has had a muffler or sound-dissipative device or element of design or noise label removed or rendered inoperative with knowledge or reason to know that such action has occurred; or intentionally move or render inaccurate or inoperative any sound-monitoring instrument or other device positioned by or for the Township or other governmental entity, provided that such device or the immediate area is clearly labeled or posted to warn of the potential illegality.
7. No person shall repair, rebuild or test or otherwise work on any motorcycle or other motor vehicle, motorboat or aircraft in such a manner as to create unreasonable noise.
8. No person shall create such other noise as might pose a danger to the public health, safety or welfare of the Township or otherwise constitute a nuisance in fact.

9. No person shall make, continue or cause to be made or continued any noise which creates or causes unreasonable noise.
10. No person shall operate a motorcycle, truck, automobile or other motor vehicle in such a manner as to cause unreasonable noise.

§ ##-4 Exemptions and permits.

A. The following noises are exempted from the provisions above:

1. **Blasting**, only if performed in accordance with a permit issued by the **Township's Department of Building and Housing** or its designee. Such blasting may occur only between 8:00 a.m. and 4:30 p.m., Monday through Friday, unless specifically authorized otherwise by the permit.
2. Band concerts, carnivals 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 11:00 p.m. on one day and 10:00 a.m. on the following day. Such activities may require a permit pursuant to criteria set forth in § **##B(2)**.
3. Noises caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.
4. Noises resulting from the provision, repair and maintenance of municipal/governmental facilities, services or public utilities.
5. Noises created by organized, school-related programs, activities, athletic and entertainment events or other public programs, activities or events, other than motor vehicle racing events.
6. Noises made by warning devices operating continuously for three minutes or less, except that, in the event of an actual emergency, the limitation shall not apply.
7. Noises made by bells, chimes, or carillons used for religious purposes or in conjunction with national celebrations or public holidays; existing bells, chimes and carillons and clock-strike mechanisms that are currently in use for any purpose and were in use at the time of the original passage of **this chapter**.

B. The following noises, events, and/or gatherings held outdoors within the limits of the Township shall require a permit issued by the Township's Department of Building and Housing or its designee. The Township reserves the right to require reasonable time, place, and manner restrictions as part of the issuance of the permit for the following noises and/or events based on the nature of the location in which the noise and/or event will be taking place:

1. **Blasting**, as permitted in § **##A(1)**.
2. Band concerts, carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors in which 100 people or more are reasonably expected to attend by the organizers.
3. Public demonstrations, political protests, or other similar events in which 250 people or more are reasonably expected to attend by the organizers.

§ ##-5 Violations and penalties.

Any person who violates or permits the violation of any provision of this chapter shall, upon conviction thereof in a summary proceeding before the District Justice, be guilty of a summary offense and sentenced to pay a fine of not less than \$300 for the first offense, and not less than \$750 for any subsequent offenses in a one-hundred-twenty-day period. The defendant shall also be liable for all court costs, including reasonable attorneys' fees incurred by the Township. Upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a period of not more than 30 days. Each section or provision of this chapter that is violated shall constitute a separate offense, and each day or portion thereof in which a violation of this chapter is found to exist shall constitute a separate offense, each of which shall be punishable by a separate fine imposed by the District Justice in the amounts specified above plus the costs of prosecution. Upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days.

SECTION 2. 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 that this Ordinance would have been adopted had such unconstitutional, illegal, invalid sentence, clause, section or part thereof not been included herein.

SECTION 3. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

SECTION 4. This amendment shall take effect and be in full force and effect five (5) days from and after the date of its final passage and adoption.

ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township this [redacted] day of [redacted], 2020-2021.

**WESTTOWN TOWNSHIP
BOARD OF SUPERVISORS**

Richard Pomerantz, Chair

Carol DeWolf, Vice Chair

Scott Yaw, Police Commissioner

Attest:

Jon Altshul, Township Manager

MEMO

Date: December 17, 2020
To: Board of Supervisors
From: Jon Altshul, Township Manager
Re: Workshop—Orvis Way and Jughandle

The Township has received a number of complaints about the Orvis Way/ Jughandle intersection, specifically that cars traveling northbound on Orvis Way are not yielding to Jughandle traffic, which has the right of way.

I would recommend that staff meet with our traffic engineer and a representative of the traffic safety unit to brainstorm additional traffic improvements at the intersection.