

TOWNSHIP OF UPPER MACUNGIE
Lehigh County, Pennsylvania

ORDINANCE #2024-08
(Duly Adopted September 5, 2024)

AN ORDINANCE AMENDING CHAPTER 10 (HEALTH AND SAFETY) OF THE TOWNSHIP OF UPPER MACUNGIE CODE OF ORDINANCES BY ESTABLISHING A NEW PART 2 (NOISE) SETTING FORTH PROVISIONS IDENTIFYING THE SECTION'S PURPOSE AND INTENT; DEFINING TERMS; IDENTIFYING ENFORCEMENT STANDARDS; ESTABLISHING PROHIBITED NOISE AND MAXIMUM SOUND LEVELS AND EXEMPTIONS THERETO; AND ESTABLISHING PENALTIES FOR VIOLATIONS AS SET FORTH IN MORE DETAIL IN THE BODY OF THIS ORDINANCE

WHEREAS, Upper Macungie Township is a thriving community having a well-balanced blend of agricultural, residential, commercial, and industrial properties within its borders; and

WHEREAS, Upper Macungie Township is a community that enjoys a quality of life that people want to invest in, where they want to live and raise a family, coupled with an attractive area for business and job growth; and

WHEREAS, the Upper Macungie Township Board of Supervisors, in order to preserve this quality of life, recognizes and understands that certain environmental and life quality matters also need to be preserved in order to continue to promote, protect, and facilitate the public health, safety, and welfare; and

WHEREAS, the Upper Macungie Township Board of Supervisors further recognizes and understands that undesirable noise intrusions within the community, or that potential sources of noise pollution, can impact the quality of life and the public health, safety, and welfare of the Township; and

WHEREAS, with that recognition and understanding, the Upper Macungie Township Board of Supervisors finds it necessary to implement steps to address and appropriately plan for noise related issues and how to best mitigate noise pollution within the community, now and in the future; and

WHEREAS, the Upper Macungie Township Board of Supervisors has concluded that the most appropriate means to implement these steps implementation is to establish new regulations under Chapter 10 (Health and Safety) of the Upper Macungie Township Code of Ordinances as set forth herein below.

NOW, THEREFORE, BE IT HEREBY ENACTED by the Board of Supervisors of Upper Macungie Township as follows:

SECTION 1.

The above recitals shall form a part of this Ordinance as fully as though the same were set forth herein at length.

SECTION 2. DELETIONS, AMENDMENTS, INSERTIONS AND CHANGES

Unless noted otherwise, the following Section are added to be codified at Chapter 10 (Health and Safety) at a NEW Part 2 – Noise.

For purposes of Codification, all Sections noted herein follow the Sections as set forth in the Township of Upper Macungie Code of Ordinances, revised through November 2, 2023.

SECTION 3. BODY OF THE ORDINANCE

CHAPTER 10 HEALTH AND SAFETY

“NEW” PART 2 NOISE

§ 10-201. General Provisions.

1. Title. This ordinance shall be known and may be cited as the "Upper Macungie Noise Control Ordinance."
2. Purpose. The Supervisors of the Township recognize that uncontrolled noise poses a concern for the health, safety, and welfare of its residents and that each Person in the community is entitled to live in an environment in which the level of noise is minimized for the community good. This ordinance attempts to foster mutual respect among residents and to establish a community position against noise pollution. The community believes that it should rely on the good sense of all residents to respect one another's living and working environments and one another's right to an environment from which Noise Disturbances are limited.
3. Scope. This ordinance applies to all Persons, property, equipment, appliances, instruments, and other Sound-emitting devices, as regulated herein.
4. Relationship with Other Restrictions. The provisions of this ordinance are not intended to interfere with, abrogate or annul other rules, regulations or ordinances. If more stringent requirements concerning noise abatement are contained in the other rules, regulations, or ordinances, the more stringent regulation shall apply.

§10-202. Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings:

dB(A) (A-WEIGHTED DECIBEL) – The symbol designation of a noise level, reported in decibels, using the A-weighted network of a sound level meter, as defined by ANSI S1.4, Specification for Sound Level Meters.

DECIBEL (dB) – A unit of measure of the sound pressure level at a specific location.

EMERGENCY SERVICES – Any work necessary to deliver essential services, including but not limited to fire suppression and related services, medical care and related services, emergency management services, repairing gas, water, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees from public rights-of-way, or abating life-threatening conditions.

IMPULSIVE SOUND – A sound having a duration of less than one second with rapid onset and decay rates.

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

NOISE DISTURBANCE – Any sound at or exceeding any or all of the sound level limitation noise criteria identified in this chapter, and/or any specific acts constituting a noise disturbance identified in this chapter.

ORIGINATING PROPERTY – The property from where noise is generated or originates. The property that is the source of the noise.

PERSON – Any individual, corporation or other legal entity.

PROPERTY LINE – The real or imaginary line and its vertical extension which separates real property owned or controlled by one person from that which is owned or controlled by another person.

PUBLIC RIGHT-OF-WAY – Any street, highway, road, sidewalk, avenue, alley, or boulevard which is leased, owned or controlled by a governmental entity.

RECEIVING PROPERTY, COMMERCIAL/INDUSTRIAL – The property receiving noise and is located within the following zoning districts: NC; HC; LI; LI(L); GI, RT as defined by Chapter 27 Section 301 of the Upper Macungie Township Code of Ordinances.

RECEIVING PROPERTY, RESIDENTIAL – A residential property receiving noise and is located within the following zoning districts: RU3; RU1.5; R1; R2; R3; R4; R5, OSP as defined by Chapter 27 Section 301 of the Upper Macungie Township Code of Ordinances.

SOUND LEVEL – The instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow response speed, unless otherwise noted.

SOUND LEVEL METER – An instrument, including a microphone, an amplifier, an output meter and frequency-weighting networks, used for measurement of sound pressure levels conforming to Type 1 or Type 2 standards as specified in ANSI Standard S1.4, Specifications of Sound Level Meters, 1983 (R1990), or the latest version thereof.

TOWNSHIP – The Township of Upper Macungie, Lehigh County, Pennsylvania acting by and through its Board of Supervisors or its authorized designees.

Any term not specifically defined herein shall have its plain and ordinary meaning within the context of the Section. A standard reference dictionary should be consulted.

§10-203. Noise Disturbances.

1. Maximum allowable noise. The following are sound level limitation noise criteria to be followed when evaluating noise levels within the Township:
 - A. No person shall allow, cause, transmit, or propose the operation of any sound source on a particular property in such a manner as to create a sound level that exceeds those set forth in Table 1 hereinbelow, when measured at or within the property line of the receiving property. Such a sound level increase would constitute a noise disturbance and a violation of this chapter.

Table 1
Maximum Permissible Level
Receiving Property

Residential Property	Commercial/Industrial Property
7:00 am to 10:00 pm	All Times
65 dBA	65 dBA
10:00 pm to 7:00 am	
50 dBA	

Should a Receiving Residential Property be located in a Commercial/Industrial District, said property shall be subject to the Commercial/Industrial Maximum Permissible Levels. Should a Receiving Commercial/Industrial Property be located in a Residential District, said property shall be subject to the Residential Property Maximum Permissible Limits.

The sound levels in Table 1 shall be exceeded when the sound exceeds any of the established zone limits continuously for a period of five minutes, or a total of five minutes out of any ten-minute period.

- B. Impulsive sounds. Impulsive sounds are sounds that last for short durations (usually less than one second), with an abrupt onset and a rapid decay. Some examples would include explosions from mining operations, the discharge of firearms,

discharge of fireworks, test revving of engines or motors, or other sounds of a similar nature. Sounds of this nature may not equal or exceed a maximum noise level of 80 dBA, when measured at or within the property line of the receiving property. Impulsive sounds at or above 80 dBA would constitute a noise disturbance and a violation of this chapter.

- C. Correction for character of Sound. For any source of sound which emits a pure tone or continuous sound, the maximum Sound level limits set forth in Table 1 shall be reduced by 5 dB(A).
- D. Testing for Sound Levels. Testing shall be conducted in accordance with methods set forth hereinafter. Alternative generally acceptable industry methods, procedures, or instruments may be used subject to approval and conditions prescribed by the Township. The Township may itself employ such alternatives when warranted by test conditions or other circumstances.
 - (1) Operating conditions during the test. Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions including, but not limited to, design, maximum and fluctuating rates.
 - (2) When the sound source that is identified can be discontinued, the source shall be shut off so that an ambient sound reading can occur prior any sound source measurement occurring. Upon obtaining an ambient sound measurement, the source of noise shall be continued with the level of the sound measured to be reduced by the level of ambient sound so measured.
 - (3) General Requirements. All tests shall be conducted in accordance with the following procedures:
 - a. The investigator shall, to the extent practicable, identify all sources contributing sound to the point of measurement.
 - b. Measurements shall be taken at or within the property line of any affected person.
 - c. The measuring device must be calibrated before and after each series of readings.
 - d. The sound level meter must be recalibrated, and the calibrator must be recalibrated at least once per year by the manufacturer or by a laboratory accredited for such calibrations by either the American Association for Laboratory Accreditation or the National Institute of Standards and Technology. A copy of written documentation of such re-calibration, in a form approved by the Department, shall be kept with the equipment to which it refers.

- e. No outdoor measurements shall be made:
 - i. During periods when the wind speed exceeds 12 miles per hour (including gusts).
 - ii. Without a wind screen properly attached to the measuring device.
 - iii. Under any condition which allows the measuring device to become wet, such as rain, snow, or condensation.
 - iv. When the ambient temperature is below 14 degrees F (-10 degrees C) or above 122 degrees F (50 degrees C).

2. Specific Acts Constituting a Noise Disturbance.

A. In addition to the violations of noise level limitations set forth above, the following items and the causes thereof are declared to be in violation of this Noise Ordinance and constitute a noise disturbance if the use or activity occurs between the hours of 10:00 p.m. and 7:00 a.m. and causes sound that annoys or disturbs a reasonable person of normal sensibilities on a residential receiving property:

- (1) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound either indoors or outdoors at a place of public entertainment, on private property, public right-of-way, or public space.
- (2) The use and operation of any lawn maintenance device, including lawn mowers, edgers, leaf blowers, trimmers, as well as other similar equipment. Snowblowers and snow removal equipment shall be exempt during periods of inclement winter weather.
- (3) The use of any tools or equipment used in construction, drilling, earthmoving, excavating, or demolition work.
- (4) The repairing, rebuilding or testing of any motor vehicle, motorcycle, motorboat, or aircraft (with or without mufflers).
- (5) Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, trash dumpsters, garbage cans, or similar objects.

3. Exemptions.

The following noise is exempted from the provisions of this chapter:

- A. Noise generated to request assistance or warn of a hazardous situation, as part of providing Emergency Services, or is part of responding to natural emergencies.
- B. Noise generated from an authorized warning alarm or siren, emergency vehicle or a vehicle operated by a gas, electric, communications or water/sewer utility.
- C. Noise generated from a bell, chime or similar device used by a church, mosque, synagogue or a school.
- D. Noise generated from lawn care and other household maintenance equipment and tools used between 7:00 a.m. and 10:00 p.m.
- E. Noise generated from normal business activities conducted by Upper Macungie Township or an agent or contractor of the Township or other governmental/quasigovernmental agency.
- F. Noise generated from the engine of a motor vehicle on a public highway that is subject to regulation exclusively by the Commonwealth of Pennsylvania Department.
- G. Noise generated from community, school or municipality sponsored or approved celebrations or special events.
- H. Noise generated from emergency backup generators used during a power failure or other emergency situation, except that no exercising of generators shall occur between the hours of 10:00 p.m. and 7:00 a.m.
- I. Noise generated from agricultural activities and other activities protected by the Right to Farm Act (Title 3 P.S. §§ 951-957) involving agricultural animals, equipment, and field machinery (used and maintained in accordance with the manufacturer's specifications).

§10-204. Complaints; Compliance Monitoring and Enforcement.

The Township shall designate an Enforcement Officer(s), responsible for the enforcement of the provisions of this Ordinance and who shall be trained to conduct testing. The provisions of this Ordinance may be enforced by the Upper Macungie Township Enforcement Officer or Township Code Enforcement Official, or other individuals designated by the Township.

1. Procedure for Complaint.

- A. A Complaint must be made. A person, or persons, may identify a possible violation by communicating a complaint to Township stating:
- (1) the name(s) and address(es) of the complainant;
 - (2) the nature of the complaint; and Names and or addresses of location if known of nuisance origin;
 - (3) the relevant times and dates of the alleged Noise Disturbance;
 - (4) whether there is an expectation of continued noise violation;
 - (5) what, if anything , they did to notify the property owner of the property where the sound was originating, if known; and
 - (6) steps taken or that can be taken towards resolution of the complaint, such as a meeting between parties to resolve the issue.
- B. The Township will attempt to resolve the Resident Complaint between parties or with the alleged offender prior to the commencement of enforcement proceedings as set forth in §10-204.2. below.
- C. If no informal resolution is obtained in a manner consistent with these provisions within two (2) weeks of the date of the Resident Complaint, the Township shall monitor the alleged Noise Disturbance for a period not to exceed seven (7) days to determine whether the Noise violates this Ordinance.

2. Compliance Monitoring.

- A. Township designees and associated technical advisors shall be afforded the right to enter the originating and receiving properties to monitor and investigate compliance with this chapter.
- B. Where property owners cooperate with the Township designee and associated technical advisors, and corrective action is deemed to be necessary to comply with this chapter, the Township may provide an initial informal notification to the originating property regarding the appropriate remedial action necessary.
- C. If a violation is determined to exist, the Township shall be entitled to pursue the enforcement remedies provided in this Ordinance pursuant to §10-204.3. below.

3. Enforcement.

Where cooperation and/or corrective action is not provided, or where the nature of the violation is, in the sole discretion of the Township, so egregious that it does not allow for the initial informal

notification, the Township shall issue a Notice of Violation and pursue enforcement remedies as well as initiate other appropriate legal action.

§10-205. Violations and Penalties.

1. Any person found guilty of violating provisions of this Part shall be fined not less than \$250.00 for the first offense, and not less than \$500.00 for any subsequent offenses in any one-hundred-twenty (120) day period and, upon failure to pay such fine, shall be sentenced to jail for a term not to exceed thirty (30) days for each offense.
2. A penalty provided for under this Part may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.
3. A separate and distinct offense shall be committed each day that a violation of the terms of this Part continues to exist.
4. The Upper Macungie Township Board of Supervisors may also take any other appropriate action at law or equity, civil or criminal, to enforce the provisions of this Part and recover the fees, expenses and costs associated with enforcement. This Part shall in no way restrict any other remedies, including but not limited to injunctive relief, and other remedies otherwise available and provided by law.

§10-206. Appeals from Notice of Violations.

1. Appeals from a Notice of Violation issued under this Part shall be made to the Board of Supervisors in writing within thirty (30) days from the date of written notification of the decision in question.
2. The appellant shall be entitled to a hearing before the Board of Supervisors at its next regularly scheduled meeting if a written appeal is received at least fourteen (14) days prior to that meeting. If the appeal is within fourteen (14) days of the next regularly scheduled meeting, the appeal shall be heard at the next regularly scheduled meeting. The Township shall thereafter affirm, modify, or reverse the aforesaid decision. The hearing may be postponed for a good cause shown by the appellant or the Township. Additional evidence may be introduced at the hearing, provided that it is submitted with the notice of appeal.
3. A decision shall be rendered in writing within thirty (30) days of the date of the hearing.

SECTION 4. EFFECTIVE DATE

This Ordinance shall become effective five (5) calendar days following adoption.

SECTION 5. SEVERABILITY

In the event that any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of this Township that such remainder shall be and shall remain in full force and effect.

SECTION 6. REPEALER

All other Ordinances or parts of Ordinances inconsistent herewith shall be and the same expressly are repealed.

ENACTED AND ORDAINED the 5th day of September, 2024 by the Board of Supervisors of the Township of Upper Macungie, Lehigh County, Pennsylvania, in lawful session duly assembled.

ATTEST

**UPPER MACUNGIE TOWNSHIP
BOARD OF SUPERVISORS**

JAZMIN VAZQUEZ, Secretary

JEFFREY FLEISCHAKER, Chairman

SUNNY GHAI, Vice-Chairman

JAMES M. BRUNELL, Member