

ENACTED 9-4-14

ORDINANCE NO. 1-2014

TOWNSHIP OF DUNBAR

NOISE DISTURBANCE ORDINANCE
ORDINANCE NO. 1-2014

AN ORDINANCE OF DUNBAR TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, PROHIBITING UNNECESSARY AND DISTURBING NOISES WITHIN THE TOWNSHIP AND PROVIDING FOR PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, pursuant to the Second Class Township Code, 53 P.S. § 66506, the Board of Supervisors may make and adopt any ordinances, bylaws, rules and regulations...necessary for the proper management, care and control of the township and its finances and the maintenance of peace, good government, health and welfare of the township and its citizens, trade, commerce and manufacturers.

WHEREAS, pursuant to the Second Class Township Code, 53 P.S. § 66529, the Board of Supervisors may by ordinance prohibit nuisances.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Dunbar, Fayette County, Pennsylvania, and it is hereby enacted and ordained as follows:

Section 1. Definitions. For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context words used in the present tense included the future, words in the plural number include the singular number, and words in the singular number include the plural number and the word "shall" is always mandatory and not merely directory.

- (1) "Township" shall mean the Township of Dunbar, Fayette County, Pennsylvania.
- (2) "Owner" shall mean a person owning, leasing, occupying or having charge of any premises within the Township
- (3) "Person" shall mean any natural person, firm, partnership, association, corporation, company or organization of any kind.

Section 2. Prohibition of Excessive and Disturbing Noise.

(1) It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, within the limits of the Township, provided that noises created in the normal and reasonable course of a legitimate business activity shall not be deemed illegal.

(2) The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this Ordinance, but said enumeration shall not be deemed to be exclusive, namely:

(a) Horns, signaling devices, etc.: Sounding any horn or signaling device on any automobile, motorcycle, street car, all-terrain vehicles, motorbikes, or other 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;

(b) Radios, phonographs, television sets, etc.: Using, operating or permitting the playing, use or operation of any radio receiving set, television set, musical instrument, phonograph, tape player or other machine or device for the producing or reproducing of sound in such 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 or persons who are in the room or vehicle in which such machine or device is being operated. The operation of any such set, instrument, phonograph, machine or device between the hours of eleven o'clock, P.M. and seven o'clock, A.M. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.

(c) Loud speakers, amplifiers for advertising: 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 legitimate business activity or auction sales.

(d) Yelling, shouting, etc.: Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of eleven o'clock, P.M. and seven o'clock, A.M. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(e) Exhausts: The discharge into the open air of the exhaust of any stationary internal combustion engine, or motor vehicle, motorbike, or all-terrain vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

Section 3. Penalties for Violation. The failure of a person to comply with any term, provision, requirement or mandate under this ordinance shall constitute a violation hereof. All actions for enforcement of this ordinance shall be brought as follows:

(1) As a summary offense, before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, firm or corporation who shall violate any provision of the ordinance, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus court costs and costs of prosecution and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this ordinance continues or each section of this ordinance which shall be found to have been violated shall constitute a separate violation and offense.

(2) As a civil action in law or equity, before a magisterial district judge in the same manner provided under the Pennsylvania Rules of Civil Procedure for Magisterial District Judges. Any person, partnership, or corporation who or which has violation of the provisions of this ordinance, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, shall pay a judgment of not less than \$100 nor more than \$600 plus all court costs and costs of prosecution. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by a magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure, at which time, in addition to any penalties, the violator shall be liable for any attorney's fees and costs incurred. Each day that a violation continues or each section of this ordinance which shall be found to have been violated shall constitute a separate violation and offense.

Section 4. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 5. 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 the Township of Dunbar that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included herein.

Section 6. Effective Date. This ordinance shall take effect and be in full force and effect five (5) days from and after the date of its final passage and adoption.

DULY ENACTED AND ORDAINED by the Board of Supervisors of the Township of Dunbar, Fayette County, Pennsylvania, this 4th day of September, 2014.

BOARD OF SUPERVISORS OF THE TOWNSHIP OF
DUNBAR, FAYETTE COUNTY, PENNSYLVANIA

BY: John Tabaj
JOHN TABAJ, CHAIRMAN

Ronald Keller
RONALD KELLER, VICE CHAIRMAN

ATTEST:

Luanne Dye
LUANNE DYE, SECRETARY