

NOISE CONTROL ORDINANCE

ORDINANCE NO. 2005 - 03

1. INTENT AND PURPOSE.

The Council of the Borough of Yoe, find that excessive levels of sound are detrimental to the physical, mental and social well being of the people as well as to their comfort, living conditions, general welfare and safety and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of excessive sound and the sources of excessive sound within the Borough of Yoe.

2. SHORT TITLE.

- 1) This Part shall be known as the "Yoe Borough Noise Control Ordinance."

3. DEFINITIONS.

1) The following words, terms and phrases when used in this Part shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning. All terminology used this Part, not defined below, shall be in conformance with the applicable publications of the American National Institute (ANSI S1.1 – 1960(91971) and its revisions) or its successor body.

a) **AMBIENT NOISE** – the all encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.

b) **CONSTRUCTION OPERATION** – the erection, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, grading and regulation of lots in connection therewith.

c) **EMERGENCY** – any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

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

e) **IMPULSIVE SOUND** – sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

f) **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.

g) **NOISE DISTURBANCE** – any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans of normal sensitivities.

h) **PERSON** – any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state. Whenever used in any clause prescribing and imposing a penalty, "person" includes the individual members, partners, officers and managers, or any of them, of partnerships and associations, and as to corporations, the officer and managers thereof or any of them.

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

j) **PUBLIC RIGHT-OF-WAY** – any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

k) **PUBLIC SPACE** – any real property or structures thereon which are owned or controlled by a governmental entity, church or civic organization.

l) **PROPERTY LINE (BOUNDARY)** – any 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 separation of properties, and also, for any two (2) or more buildings sharing common grounds, the line drawn midway between any two (2) said buildings. All areas devoted to public right-of-way shall be deemed to be across the property line. For the purpose of this regulation, the property line includes all points on a plane formed by projecting the property line in a manner deemed appropriate by the enforcing police officer.

m) **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 right-of-way.

n) **SOUND** – an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

o) **ZONING DISTRICTS** – means the land use districts established by the Zoning Ordinance of the Borough of Yoe, [Chapter 27], and all subsequent amendments.

4. **PROHIBITED ACTS.**

1) **Noise Disturbance Prohibited.** No person shall make, continue, or cause to be made or continued, any noise disturbance.

2) **Specific Prohibitions.** In addition to noise disturbances prohibited above, the following acts, and the causing thereof, are declared to be noise disturbances and therefore in violation of this Part 3:

a) **Radios, Television Sets, Musical Instruments and Similar Devices.** Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo or high fidelity equipment or similar device which produces, reproduces or amplifies sound:

i) At any time in such a manner as to cause a noise disturbance across a property line (boundary), or between the hours of 9:00 p.m. and 8:00 a.m. so as to be plainly audible across a property line (boundary).

ii) In such a manner as to create a noise disturbance across a property line (boundary) or at fifty (50) feet from such device, whichever is less,

when the device is operated in or on a motor vehicle, or hand carried, on a public right-of-way or public space.

- iii) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger or a common carrier.
- b) Yelling and Shouting, Etc. Engaging in loud yelling, shouting, hooting, whistling or singing:
 - i) At any time in such a manner as to cause a noise disturbance across a property line (boundary).
 - ii) Between the hours of 9:00 p.m. and 8:00 a.m. so as to be plainly audible across a property line (boundary).
 - iii) On the public streets between the hours of 9:00 p.m. and 8:00 a.m.
- c) Construction. Operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work:
 - i) Between the hours of 9:00 p.m. and 7:00 a.m. the following day on weekdays and Saturdays or at any time on Sunday or legal holidays, such that the sound therefrom creates a noise disturbance across a residential real property line (boundary), except for emergency work.
 - ii) At any other time such that the sound level at or across a real property line (boundary) exceeds 85 (dB(A)for a period of one (1) hour.
 - iii) This Section shall not apply to the use of domestic power tools except as governed by the following Section.
- d) Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors or indoors in residential areas between the hours of 9:00 p.m. and 8:00 a.m. so as to cause a noise disturbance across a property line (boundary).
- e) 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 9:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a property line (boundary). This Section shall not apply to municipal or utility services in or about the public right-of-way or to licensed refuse haulers.
- f) Animals and Birds.
 - i) Owning, possessing, harboring or controlling any animal or bird which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly for a period of ten (10) minutes or makes such noise intermittently for one-half (1/2) hour or more to the disturbance of any person at any time of the day or night regardless of whether the animal or bird is situated in or upon private property; provided, however, that at the time the animal or bird is making such noise, no person is trespassing or threatening to trespass upon private property in or upon

which the animal or bird is situated or for any other legitimate cause which teased or provoked the animal or bird.

- ii) This subsection only applies when one (1) or more persons files a complaint against an individual, corporation, or agency about the animal or bird. However, prior to filing the first complaint, the complainants must first request the person or entity owning, possessing, harboring or controlling the animal or bird to take action to prevent the animal or bird from creating a noise disturbance. If the person owning, possessing, harboring, or controlling the animal or bird is unavailable, the complainant must be willing to testify that an attempt to contact was made.

- g) Powered Model Vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a property line (boundary) between the hours of 9:00 p.m. and 8:00 a.m.

- h) Street Sales. Offering for sale or selling by shouting or outcry or by any other amplified or unamplified sound within any residential or commercial area between the hours of 9:00 p.m. and 8:00 a.m.

- i) Tampering. The following acts or the causing thereof are prohibited:
 - i) 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 or noise label of any product.

 - ii) The use of a product which has had a muffler or sound dissipative device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

- j) Vehicle, Motorboat or Aircraft Repairs and Testing. Repairing, rebuilding or testing any motor vehicle, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a real property line (boundary).

- k) Standing Motor Vehicles. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period longer than fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, anywhere within one hundred fifty (150) feet of any residence in such a manner as to cause a noise disturbance across a residential property line (boundary).

- l) Unnecessary Horn Blowing. No person shall at any time sound the horn or other warning device of a vehicle except when absolutely necessary as a warning while actually driving such vehicle.

- m) Sound Trucks. No person shall operate sound amplifying equipment mounted on or attached to any motor vehicle at any time in such a manner as to exceed the maximum permissible motor vehicle noise emissions as set forth herein.
- n) Prima Facie Violation. The noise from any of the aforesaid prohibited acts that disturbs one (1) or more residents who are in general agreement as to the times and duration's of the noise and who reside in separate residences (including apartments and condominiums) located across a property line (boundary) from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance.

5. EXEMPTIONS.

The following sounds are exempted from the provisions of this Part:

- 1) Amplified Announcements. Electronically amplified announcements at athletic events.
- 2) Blasting. Blasting, under permit by the Police Department. Such blasting may occur only between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, unless specifically authorized by permit.
- 3) Block Parties. Block parties, church carnivals, publicly or privately sponsored and presented in any public or private space outdoors shall be exempt from the provisions of this Part provided:
 - a) Such activities do not occur between the hours of 10 p.m. and 8 a.m.; and
 - b) One months prior notifications must be given and approved by Borough Council.
- 4) Emergency Work. Sounds caused by the performance of emergency work, or by the ordinary and accepted use of emergency apparatus and equipment.
- 5) Municipal and Utility Services. Sounds resulting from the repair or replacement of any municipal or utility installation in or about the public right-of-way.
- 6) School and Public Activities. Sounds not electronically amplified, created by organized school related programs, activities, athletic and entertainment events, or other public programs, activities or events, other than motor vehicle racing events.
- 7) Warning Devices. Sounds made by warning devices operating continuously for three (3) minutes or less, except in the event of an actual emergency, the time limitation shall not apply.

6. ENFORCEMENT.

- 1) Authority for Enforcement. This Ordinance shall be enforced by the Borough Police Department or other duly appointed Police Department or authority of record.

- 2) Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine as follows, plus costs and in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.
- a) First Offense – minimum of \$200.00, maximum of \$1,000.00; and
 - b) Second Offense – minimum of \$500.00, maximum of \$1,000.00.
- 3) This Part and the foregoing penalties shall not be construed to limit or deny the right of the Borough or any person to such equitable or other remedies as may otherwise be available with or without process of law.

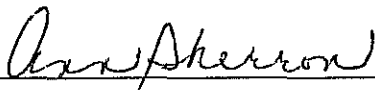
7. **SEVERABILITY.**

- 1) If any portion of this Ordinance shall be deemed unenforceable, the rest and remainder of the Ordinance shall remain in full force and effect.

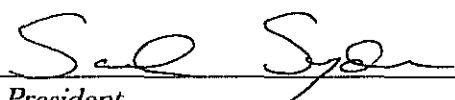
ENACTED AND ORDAINED this 6th day of June, 2005.

ATTEST:

YOE BOROUGH COUNCIL

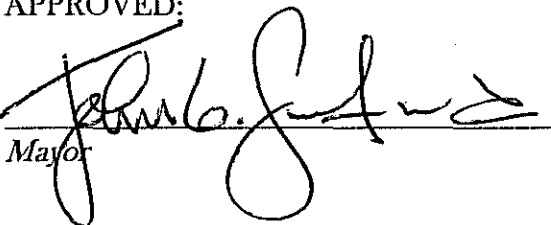


Secretary



President

APPROVED:



Mayor

YORK COUNTY, PENNSYLVANIA

ORDINANCE NO.: 2005-c#

AN ORDINANCE OF THE Borough
(governing body) of Joe Borough (municipality),
YORK COUNTY, PENNSYLVANIA, AMENDING SECTION
CH. 24 SEC. 1 OF THE CODE OF ORDINANCES OF
Joe Borough (municipality), ENTITLED
[EARNED INCOME TAX] (insert title here) TO PROVIDE
FOR COLLECTION OF THE EARNED INCOME TAXES
AND NET PROFITS AT THE SOURCE BY ALL
EMPLOYERS WITHIN Joe Borough (municipality),
AND EXCLUDING THE WITHHOLDING OF SUCH
TAXES FROM MARYLAND RESIDENTS

WHEREAS, the Borough/Township of Joe, York County, by Resolution and/or Ordinance, has levied, assessed and provided for the collection of taxes on earned income and net profits under and pursuant to the authority of Act No. 511 of the 1965 General Assembly of the Commonwealth of Pennsylvania, enacted December 31, 1965, and effective January 1, 1966, as amended; and

WHEREAS, Joe (municipality) has designated the York Area Tax Bureau (YATB) to collect said taxes on earned income and net profits levied by Joe (municipality); and

WHEREAS, YATB has requested that its member municipalities amend its earned income tax and net profits ordinance for the following reasons:

- a. To simplify the procedure of withholding and remitting earned income tax and net profits for employers by creating uniformity throughout the YATB's member municipalities;
- b. To create additional funds flowing through the YATB for investment purposes thereby creating additional operating revenue;
- c. To be in compliance with anticipated legislation requiring all earned income tax collectors to be non-resident collectors;
- d. To enhance the efficiency of the YATB's employer accounts department and audit group when dealing with employers, payroll services, other tax bureaus and taxpayers;

- e. To be in compliance with the recommendations for the withholding of earned income taxes set forth in the document entitled "Pennsylvania's Earned Income Tax Collection System, an analysis with recommendations," dated August 2004, prepared by the Pennsylvania Department of Community and Economic Development and published by the Governor's Center for Local Government Services; and

WHEREAS, after due advertisement of this ordinance, the Council (governing body) of Joe (municipality) finds the ordinance to be in the best interest of the health, safety and general welfare of its residents.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED AS FOLLOWS:

Section 1. Section _____ of the Code of Ordinances of Joe (municipality) is hereby amended by the deletion of the current text and adopting the following:

§ _____. Collection at Source.

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation who has not previously registered shall, within fifteen (15) days after becoming an employer, register with the York Area Tax Bureau or other designated tax officer, his name and address and such other information as the _____ may require.
- B. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation shall deduct at the time of payment thereof the tax imposed by this article on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a return and pay to the Officer the amount of taxes deducted during the preceding three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the officer and employer, shall show the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total income of all such employees during such preceding three-month period and the total tax

deducted therefrom and paid with the return. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax or any part thereof or who has failed to pay over the proper amount of tax to the taxing authority may be required by the York Area Tax Bureau or designated tax officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the York Area Tax Bureau or designated tax officer on or before the last day of the month succeeding the month for which the tax was withheld.

C. Every employer shall deduct or withhold from employees, exclusive of domestic servants and Maryland residents, at the following rates:

- (1) Resident taxpayers at the applicable rates imposed by Joe (municipality) and Dallastown Area (school/district) of the resident taxpayer's earned income and net profits.
- (2) Non-resident taxpayers at the rate of no less than one (1%) percent of the non-resident taxpayer's earned income and net profits.

D. On or before February 28 of the succeeding year, every employer shall file with the Officer:

- (1) An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Officer for the period beginning January 1 of the current year and ending December 31 of the current year.
- (2) A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivision imposing the tax upon such employee and the amount of tax paid to the York Area Tax Bureau or designated tax officer. Every employer shall furnish two (2) copies of the individual return to the employee for whom it is filed.

E. Every employer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

F. Except as otherwise provided in § _____, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he is required to withhold to the extent that such taxes have not been recovered from the employee.

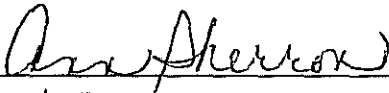
- G. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of this article relating to the filing of declarations and returns.
- H. No employer shall be required to register, deduct or withhold taxes, file returns or pay taxes with regard to domestic servants or residents of Maryland.

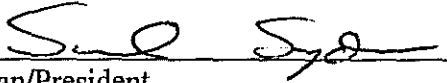
Section 2. Any ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed to the extent of such conflict.

Section 3. This Ordinance shall become effective January 1, 2006.

ADOPTED AND ORDAINED this 2 day of August, 2005.

ATTEST:


Secretary

Yoe Boro (municipality)

Chairman/President