

ORDINANCE NO. 434

AN ORDINANCE OF THE TOWNSHIP OF WEST DEER, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE CODE OF THE TOWNSHIP OF WEST DEER TO ADD A NEW CHAPTER 114 ENTITLED "NOISE CONTROL" WHICH SHALL: REGULATE AND CONTROL LOUD AND OFFENSIVE SOUND AND NOISE WITHIN THE TOWNSHIP; DEFINE RELEVANT TERMS; SET FORTH PROHIBITED ACTS; ESTABLISH SOUND LEVEL LIMITATIONS; SET FORTH EXEMPTIONS; ESTABLISH PROCEDURES FOR REPORTING VIOLATIONS; AND ESTABLISH ENFORCEMENT PROCEDURES, VIOLATIONS AND PENALTIES

WHEREAS, the Board of Supervisors of the Township of West Deer ("Board of Supervisors") finds that it will promote the health, safety and public welfare of the citizens of the Township of West Deer ("Township") if enforceable standards are provided to prevent loud, excessive or unreasonable noise in the Township; and

WHEREAS, the Board of Supervisors seeks to regulate and limit unlawful noises to ensure that the residents of the Town may peacefully enjoy the properties that they occupy; and

WHEREAS, the Board of Supervisors also recognize the need to support local businesses that may provide various types of live and recorded amplified music and other entertainment for the benefit of their customers; and

WHEREAS, the Board of Supervisors desires to protect the public from the adverse impacts of certain noise by designating certain activities that constitute noise disturbances as unlawful in the Township; and

WHEREAS, the Board of Supervisors desires to set forth limitations on the noise levels permitted within the Township and to provide for certain exceptions to those limitations; and

WHEREAS, the Board of Supervisors has determined that the following time, place and manner regulation of noise disturbances and noise levels will promote and protect the health, safety and general welfare of the Township and its citizens.

NOW THEREFORE, THE TOWNSHIP OF WEST DEER HEREBY ORDAINS, by and through its Board of Supervisors, as follows:

Section 1. A new Chapter 114 entitled "Noise Control" shall be added to the Code of the Township of West Deer, stating as follows:

§114-1. Title. This chapter shall be known and cited as the "Noise Control Ordinance" of West Deer Township, Allegheny County, Pennsylvania,

§114-2. Purpose. The purpose of this chapter is to establish an effective means of regulating and controlling loud and offensive sound and noise within the Township to:

- A. Promote the health, safety and general welfare for residents and visitors; and
- B. Protect the interest of local businesses while providing reasonable regulations.

§114-3. Definitions. As used in this Chapter, the following terms shall have the meanings indicated:

A-WEIGHTED DECIBEL (dB(A)). 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.

ALL TERRAIN VEHICLE (ATV). Any motorized off-road recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain, including but not limited to a multi-track, multi-wheel or low pressure tire vehicle or related 2-wheel, 3-wheel, 4-wheel or belt driven vehicle, or an amphibious machine. The definition of ATV excludes golf carts, construction machines, utility vehicles used for business operations, agriculture, yard work, landscaping, snow removal or otherwise being used in the reasonable maintenance of a person's private property, or motorized vehicles being used for law enforcement, fire, emergency, military or other authorized governmental purposes.

DIRT BIKE. A small motorcycle designed and built with special tires and suspension for riding on unpaved roads and over rough terrain.

DECIBEL (dB). A unit for measuring the sound pressure level at a specific location

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

LEQ(H). The steady-state, equivalent noise level over a given one-hour period of time that would have the same acoustical energy as the actual varying noise level over that same time period.

NOISE. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

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 or any other sound that:

- A. Endangers or injures the safety of health or humans or animals;
- B. Annoys or disturbs a reasonable person of normal sensitivities; or
- C. Endangers or injures personal or real property.

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. "Person" includes the owner or operator of the noise disturbance source; the owner, tenant or manager of real property from which the noise disturbance emanates; and any other individual responsible for producing the noise disturbance or allowing such disturbance to occur.

PUBLIC RIGHT-OF-WAY. 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 owned or controlled by a governmental entity.

PURE TONE. Any sound which can be heard as a single pitch or a string of single pitches.

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

REAL PROPERTY BOUNDARY. Either:

- A. The imaginary line, including its vertical extension, that separates one parcel of real property from another;
- B. The vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling unit building; or
- C. The vertical and horizontal boundaries of a dwelling unit or commercial unit of a mixed residential-business use building.

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.

SOUND LEVEL. The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C, as specified in American National Standards Institute specifications for sound level meters (ANSI

S1.4-1971, or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER. An instrument used to measure sound level and which conforms to Type 1 or Type 2 standards as specified in ANSI specification S1.4-1971.

ZONING CLASSIFICATIONS. Those which have been enacted by the Board of Supervisors of the Township of West Deer in Chapters 210 and 212 of the Code of the Township of West Deer, as many be amended from time to time.

§114-4. Specific Acts Constituting a Noise Disturbance.

- A. No person shall create a Noise Disturbance in the Township. The term Noise Disturbance specifically includes, but is not limited to, the following acts:
1. The unnecessary and repeated sounding of the horn of any vehicle or the use of any loud signaling device thereon except an emergency vehicle or a vehicle on emergency business.
 2. Noise or sounds that are substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.
 3. Noise or sounds that is perceived by a person of ordinary and reasonable sensibilities as interrupting the normal peace and calm of an area or neighborhood, particularly during the hours of 10:00 p.m. and 8:00 a.m.
 4. Dogs or any other constrained animals that, by frequent or habitual howling, yelping, barking or otherwise, cause loud noises and produce seriously annoying disturbance to any person or to the neighborhood for a period of 10 minutes continuously and unnecessarily, or intermittently for a period of 30 minutes or more.
 5. Operating any audio amplification or reproduction device, including but not limited to an oversized hand-carried radio, cassette, compact disc player, or one that is installed in or audio powered by a vehicle, on a Township street or sidewalk, in a Township park, on a public conveyance, or in any other public property which generates noise that is audible to an officer standing in excess of 100 feet away from the source of the noise or otherwise constitutes a Noise Disturbance. The subsection shall not apply to audio amplification devices used for approved activity exempted in Section 114-5.
 6. Performing any construction operation, or operating or permitting the operation of any tools or equipment used in construction, drilling a well unrelated to an oil and gas development, preparing a well site and

constructing a drilling pad for an oil and gas development, demolition, excavating, or other such activities between the hours of 10:00 p.m. and 8:00 a.m.

7. Yelling, shouting, or other audible disturbances in or on the public streets or sidewalks so as to annoy or disturb the quiet, comfort or repose of a person or persons in the vicinity or within any nursing home, personal care center, residential dwelling, or retail space.
8. The creation of noise on any street or area adjacent to any school, institution of learning, religious institution or court, while the same are in session, which unreasonably interferes with the workings of sessions therein, or the making of any noise that disturbs or annoys the quiet, comfort or repose of those within such places or buildings.
9. Commercial trash and/or recycling pick-up before 6:00 a.m.
10. Discharging fireworks after 9:00 p.m., except that on July 4 of each year, fireworks may be discharged until 11:00 p.m.
11. Repairing, rebuilding, modifying, testing or operating a motor vehicle, motorcycle, or other recreational vehicle, including ATVs and/or dirt bikes in such a manner as to cause annoyance or disturbance to persons across a real property boundary from the noise source.
12. Violation of the following regulations applicable to Dirt Bikes and ATVs:
 - a. No person shall operate an ATV or dirt bike without an effective and suitable muffling device on its engine which efficiently deadens or muffles the noise of the exhaust.
 - b. Operation of ATVs and dirt bikes may only be on private lots from 10:00 a.m. to Dusk and the riding area shall not be located closer than 100 feet from any property line.
 - c. Operation of ATVs and dirt bikes will be limited to a one hour (1) session with a three (3) hour rest before the next operation of the vehicle.
 - d. None of the terms or prohibitions hereof shall apply to or be enforced against any vehicle used by the Township or any other governmental body in conducting official business
13. Any other noise not enumerated above that is a Noise Disturbance as defined herein.

§114-5. Sound Level Limitations. The following is a three-tiered sound level limitation noise criteria to be followed when evaluating noise levels within the Township:

- A. Maximum Allowable Noise Increase. No person shall allow, cause, transmit, or propose the operation of any sound source on a particular property, zoning district, public right-of-way, or public space in such a manner as to create a sound level that exceeds average hourly equivalent A-weighted [Leq(h)] background sound levels by 10 dBA or greater during daytime (8:00 a.m. until 10:00 p.m.) hours and by five dBA or greater during nighttime (10:00 p.m. until 8:00 a.m.) hours, when measured at or within the Real Property Boundary of the receiving property. Such a sound level increase would constitute a noise disturbance and a violation of this chapter.

- B. Maximum Permissible Sound Levels. In addition to the restrictions set forth above, Sound Levels emanating from activities on public or private property at the Real Property Boundary, including, but not limited to sounds produced by any audio amplification system or device, shall not exceed the Sound Level set forth in the following table. Sound levels at or above those shown in the table constitute a noise disturbance and a violation of this chapter.

Zoning Classification	Time	Maximum Sound Level
R, R-1, R-2, R-3, R-4, C-1, SU or V	<u>Daytime</u> 8:00 a.m. to 10:00 p.m.	65 dBA
	<u>Nighttime</u> 10:00 p.m. to 8:00 a.m.	50 dBA
C-2, I, or BTP	<u>Daytime</u> 8:00 a.m. to 10:00 p.m.	100 dBA
	<u>Nighttime</u> 10:00 p.m. to 8:00 a.m.	60 dBA

- C. 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, 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 Real Property Boundary of the receiving property. Impulsive sounds at or above 80 dBA constitute a noise disturbance and a violation of this chapter.

D. Sound Levels shall be measured with a Sound Level Meter, either Type I or Type II. In addition:

1. Sound Level Meters shall be set to the A-weighted scale and set to "slow" response, except for the measurement of impulsive sounds. Noise measurements related to the evaluation of impulsive sounds shall be set to "fast" response.
2. The measurement of noise levels under this section shall be performed at points on or within the Real Property Boundary of the receiving property or boundary of a zoning district if the receiving property has multiple zoning districts within it.
3. The sound level meter must be "field calibrated" before and after any noise monitoring session, and noise measurement and calibration devices must be laboratory calibrated and certified annually (i.e., at least once per year). A copy of factory/laboratory calibration documentation should be kept on file and submitted with reports.
4. The report of each measurement location shall include the following data: (1) The date, time and day of the week when the measurements are performed; (2) The times of calibration; (3) The weather conditions; (4) The identification of all monitoring equipment by the manufacturer, model number and serial number (and provide factory calibration certificates); (5) The ambient sound level, in dBA, with the noise sources in question operating; (6) The background level, in dBA, without the noise sources in question; and (7) A sketch and photos of the measurement site, including all relevant information pertaining to the test.
5. The monitoring test should last for a period of time sufficient to ensure that the sounds levels measured are typical of the noise source (or background conditions) in question.

§114-6. Exceptions. The following noises and sounds are exempt from this chapter:

- A. Noises of safety signals, warning devices, emergency pressure valves, factory steam whistles and all mechanical and electronic church bells or chimes.
- B. Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
- C. Approved Public Entertainment as defined in Chapter 113, to include athletic events, shows, exhibitions, carnivals, circuses or concerts which are not conducted on a regular basis and for which an admission charge is made, provided that such activities do not occur between the hours of 11:00 p.m. and 8:00 a.m.

- D. Other approved performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, including any gatherings for entertainment purposes conducted for benevolent or charitable purposes, any church or school affair, block parties provided that such activities do not occur between the hours of 11:00 p.m. and 8:00 a.m.
- E. Noise from lawn mowers, weed trimmers, edging machines, leaf blowers or other similar small-engine yard maintenance equipment, properly equipped according to manufacturer's specifications, and used between 8:00 a.m. and 10:00 p.m.
- F. Fireworks exhibitions held by the Township or held pursuant to a permit issued by the Township.
- G. Construction equipment when being used on a specific short-term or temporary project (such as construction of a building, drilling a well unrelated to an oil and gas development, preparing a well site and constructing a drilling pad for an oil and gas development, demolition, repair, and similar projects) between 8:00 a.m. and 10:00 p.m. for the duration of such short-term or temporary project; provided, however, that such construction equipment is operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified, and in proper operating condition, and consistent with any approvals or permits issued by the Town.
- H. Air conditioners, fans, heating units and similar comfort devices, designed and used solely for individual single-family dwelling units, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified, and in proper operating condition.
- I. Emergency generators when used in a power outage or emergency situations for the duration of the event provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified, and in proper operating condition.
- J. Testing of emergency generators in accordance with manufacturer's specifications for a short duration between the hours of 8:00 a.m. and 10:00 p.m.
- K. Musical accompaniment/noise associated with any event held in recognition of a community celebration of national, state or county events or public festivals.
- L. All state, county, and Township snow removal equipment. All other snow removal equipment is excluded from this chapter during periods of substantial snowfall and immediately thereafter until such time both private and public roads, sidewalks, and parking lots are cleared so as to prevent a hazard to citizens. Routine snow removal will be limited to daytime hours. All equipment must be properly muffled and efforts are to be made to avoid unneeded noise.

- M. 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.
- N. Any use or action where the noises and sounds generated by that use or action are specifically regulated by the Township Zoning ordinance.

§114-7. Noise Complaint Procedure. In the event any person has reasonable grounds for believing that any provision of this chapter is being violated, he may make a report thereof to the West Deer Police Department or Code Enforcement Officer, which shall investigate the alleged violation. If any such investigation reveals a violation, the investigating officer has the authority to cause a written complaint to be made and may issue a citation for a civil penalty, and/or may obtain other enforcement measures as allowed in this chapter.

§114-8. Enforcement; violations and penalties.

- A. Informal Notification.
 - 1. 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.
 - 2. Where property owners cooperate with the Township designee and associated technical advisors, and corrective action is deemed to be necessary to comply with the chapter, the Township may provide an initial informal notification to the originating property regarding the appropriate remedial action necessary.
 - 3. Where cooperation and/or corrective action is not provided, or where the nature of the violation does not allow for the initial informal notification, the Township may have a formal summary citation issued and/or commence other appropriate legal action as provided below.
- B. Criminal Enforcement. Any person who is found to have violated an order of the Township or who willfully or negligently failed to comply with the provisions of this chapter and the orders, rules, regulations, and permits issued hereunder shall be prosecuted by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Municipal Solicitor or the Code Enforcement Officer may assume charge of the prosecution without the consent of the District Attorney as required by Pa.R.Crim.P. No. 83 (relating to trial in summary cases). The Township shall pursue criminal fines not to exceed \$1,000 for the violation of this chapter and imprisonment to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that such violation continues or

is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense. The Township may also take any appropriate action at law or equity, civil or criminal, to enforce the provisions of this chapter and recover the fees, expenses and costs associated with enforcement. This chapter shall in no way restrict any remedies, including but not limited to injunctive remedies, otherwise available and provided by law.

- C. Civil Enforcement. In the event the procedures set forth in subsection B are inapplicable, the Township shall proceed pursuant to this subsection C. Any person who violates or permits a violation of this chapter shall pay a fine of \$300/\$600. If this fine is not voluntarily paid to the Township, the Township shall initiate a civil enforcement proceeding before a district justice. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. In any case where a penalty for a violation of this Ordinance has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefor in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. The Township shall be exempt from the payment of costs in any civil case brought to enforce this Ordinance. In addition to or in lieu of enforcement under this section, the Township may enforce this chapter in equity in the Court of Common Pleas of Allegheny County.
- D. A separate offense shall arise for each day or portion thereof in which a violation is found to exist and for each section of this Chapter which is found to have been violated.
- E. All fines and penalties collected for the violation of this Chapter shall be paid to the Township treasurer.

Section 3. SEVERABILITY

If any provision or provisions of this Ordinance shall be deemed by a court of law having jurisdiction over such matters to be unenforceable, invalid, or unconstitutional for any reason, such declaration shall not affect the validity of the Ordinance as a whole, or any part thereof that is not specifically declared to be.

Section 4. CONFLICT OF LAWS OR CHAPTER PROVISIONS

Whenever the regulations of this chapter conflict with each other, or with the requirements of another statute, the more restrictive standard shall govern.

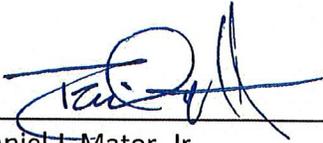
Section 5. REPEALER

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

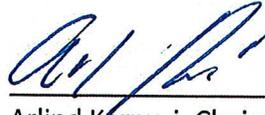
ORDAINED AND ENACTED INTO LAW THIS 17TH DAY OF JUNE, 2020.

ATTEST:

TOWNSHIP OF WEST DEER



Daniel J. Mator, Jr.
Township Manager



Arlind Karpuzi, Chairman
Board of Supervisors

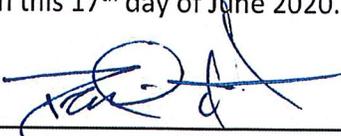
CERTIFICATE

I, the undersigned, hereby certify that the foregoing and attached is a true copy of an Ordinance which was duly enacted at a meeting of the Board of Supervisors of West Deer Township on 17 June 2020, and that at such meeting a quorum was present and acting throughout, after due notice to the members of the Board of Supervisors of West Deer Township and to the public and such meeting was at all times open to the public; that the Ordinance was duly recorded in the West Deer Township Minutes Book and that a summary thereof was published as required by law in a newspaper of general circulation in the Township. I further certify that the Township met the advance requirements of Act No. 1998-93 by advertising the date of the meeting and posting a notice of the meeting at the public meeting place of the Board of Supervisors; that the total number of members of the Board of Supervisors is seven; and the vote upon the Ordinance was called and duly recorded upon the minutes and that the members voted in the following manner:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Arlind Karpuzi, Chairperson	X			
Shirley Hollibaugh, Vice Chairperson	X			
Brandon Forbes	X			
Beverly Jordan	X			
Shawn Maudhuit	X			

WITNESS my hand and the seal of the Township on this 17th day of June 2020.

[SEAL]

By: 

Daniel Mator
Township Manager