

WHITPAIN TOWNSHIP

ORDINANCE NO. 395

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WHITPAIN AT PART II [GENERAL LEGISLATION], CHAPTER 83 [DISTURBING THE PEACE], BY AMENDING AND RESTATING ARTICLE I [NUISANCE DISTURBANCE BY NOISE], AMENDING AND RESTATING SECTIONS 83-3 AND 83-4 AS ARTICLE II [LOITERING], RESTATING ARTICLE II [COMMERCIAL GENERATOR NOISE] AS ARTICLE III AND CREATING ARTICLE IV [NUISANCE DISTURBANCE BY LIGHTING] TO PROVIDE FOR STANDARDS AND PENALTIES RELATED TO DISTURBANCES OF THE PEACE

CERTIFICATION

I, ROMAN M. PRONCZAK, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT I AM THE TOWNSHIP MANAGER IN WHITPAIN TOWNSHIP, MONTGOMERY COUNTY, PA AND THAT ATTACHED HERETO IS A TRUE AND COMPLETE CORRECT COPY OF ORDINANCE NO. 395.



Roman M. Pronczak, P.E., Township Manager

May 19, 2022, 2022

ENACTED: May 18, 2022

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AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WHITPAIN AT PART II [GENERAL LEGISLATION], CHAPTER 83 [DISTURBING THE PEACE], BY AMENDING AND RESTATING ARTICLE I [NUISANCE DISTURBANCE BY NOISE], AMENDING AND RESTATING SECTIONS 83-3 AND 83-4 AS ARTICLE II [LOITERING], RESTATING ARTICLE II [COMMERCIAL GENERATOR NOISE] AS ARTICLE III AND CREATING ARTICLE IV [NUISANCE DISTURBANCE BY LIGHTING] TO PROVIDE FOR STANDARDS AND PENALTIES RELATED TO DISTURBANCES OF THE PEACE

IT IS HEREBY ENACTED AND ORDAINED by the Whitpain Township Board of Supervisors that the Township's Code is amended as follows:

SECTION 1. **Amendment to Chapter 83 [Disturbing the Peace], Article I [General Provisions] to re-title Article I.**

The Code of the Township of Whitpain, Part II [General Legislation], Chapter 83 [Disturbing the Peace], Article I [General Provisions] is hereby re-titled Article I [Nuisance Disturbance by Noise].

SECTION 2. **Amendment to Chapter 83 [Disturbing the Peace], Article I [Nuisance Disturbance by Noise], Section 1 [Definition; disturbing the peace prohibited] to provide definitions.**

The Code of the Township of Whitpain, Part II [General Legislation], Chapter 83 [Disturbing the Peace], Article I [Nuisance Disturbance by Noise], Section 1 [Definition; disturbing the peace prohibited] is deleted in its entirety and amended as follows:

§ 83-1. Definitions.

All terminology used in this Article shall be in conformance with the applicable publications of the most current edition of the American National Standards Institute (ASNI) or its successor body. In addition, as used in this Chapter, the following terms shall have the meanings indicated:

A-WEIGHTED SOUND PRESSURE LEVEL (SPL)

The sound pressure level adjusted using the A-weighted network in order to approximate human hearing at louder listening levels, expressed in units of dB(A).

BACKGROUND SOUND LEVEL

The sound pressure level at a location without transient sounds and without the sound contribution of the specific source in question.

DISTURBING THE PEACE

The making, causing or permitting to be made or caused to be made anywhere within the Township of Whitpain of any loud, boisterous or unseemly noise or unnecessary noises, clamor, din or other sounds tending to disturb the peace and quiet of the community, and the carrying on of any business, trade, transportation, recreation or amusement at any time, in any place or in any manner which causes any unnecessary noise or disturbances, and all such noises and disturbances are hereby prohibited.

DECIBEL (dB)

The unit of measure of sound pressure levels. The sound decibel is the ratio of the measure sound pressure relative to a reference pressure of 20 micropascals and is calculated as 20 times the base-10 logarithm of the ration of the measured pressure to the reference pressure.

EQUIVALENT CONTINUOUS SOUND PRESSURE LEVEL (LEQ)

A constant sound level which contains the same amount of energy as the time-varying sound over the given time period, typically considered as the average sound level over the length of the measurement period. For the purposes of this Article, the LEQ shall be measured on the A-weighted scale (dB(A)), and the time interval shall be ten (10) minutes.

EVENING QUIET HOURS

Sunday before 8:00 a.m. or after 9:00 p.m.; Monday through Thursday before 6:00 a.m. or after 9:00 p.m.; Friday before 6:00 a.m. or after 11:00 p.m.; and Saturday before 8:00 a.m. and after 11:00 p.m.

MEASUREMENT INSTRUMENT

A Type I or Type II sound level meter as specified by the most-current ANSI standard using the A-weighted network as specified in the most-current edition of the ANSI standard or its successor.

SECTION 3. Amendment to Chapter 83 [Disturbing the Peace], Article I [Nuisance Disturbance by Noise], Section 2 [Acts constituting disturbing the peace] to provide standards for a nuisance violation for disturbing the peace.

The Code of the Township of Whitpain, Part II [General Legislation], Chapter 83 [Disturbing the Peace], Article I [Nuisance Disturbance by Noise], Section 2 [Acts constituting disturbing the peace] is deleted in its entirety and amended as follows:

§ 83-2. Acts constituting disturbing the peace.

A. All noises or other sounds shall be considered to be unnecessary and to constitute disturbing the peace if:

- (1) During the following times, prevailing local time, the maximum permissible sound pressure level (SPL) and average level (LEQ) exceed the dB(A) level shown below for the zoning district, as measured at the boundaries of the lot from which the sound

emanates, except for (b)[1] below where the measurement is from the boundary of any residential district:

(a) Evening Quiet Hours:

- [1] Commercial, unless permitted by Article II [Commercial Generator Noise]:
 - i. Max. SPL: 62 dB(A)
 - ii. LEQ: 55 dB(A)
- [2] Industrial:
 - i. Max. SPL: 62 dB(A)
 - ii. LEQ: 55 dB(A)
- [3] Residential:
 - i. Max. SPL: 52 dB(A)
 - ii. LEQ: 45 dB(A)

(b) At all times of day:

- [1] In all commercial and industrial zoning districts, at no point on the boundary of any residential zoning district shall the sound level of any individual operation or business, or the combined operations of any person, firm or corporation, exceed the maximum permissible sound pressure level (SPL) and average level (LEQ) shown below for the zoning district:
 - i. Commercial, unless permitted by Article II [Commercial Generator Noise]:
 - a. Max. SPL: 67 dB(A)
 - b. LEQ: 62 dB(A)
 - ii. Industrial:
 - a. Max. SPL: 67 dB(A)
 - b. LEQ: 62 dB(A)
 - [2] Residential:
 - i. Max. SPL: 57 dB(A)
 - ii. LEQ: 52 dB(A)
- (2) If the background sound level measured at the receiving property line at the time of a noise complaint are within five (5) dB(A) of the limits in this chart, or above such limits, then the levels in this chart shall not apply, and the following standards shall apply:
- (a) The maximum SPL and the LEQ levels shall be increased by five (5) dB(A) over the background sound level up to a maximum of 75 dB(A).

- (b) The background sound level shall be measured at the same location as the measurement for the sound contribution of the specific source in question and at a time immediately preceding that measurement.
 - (3) On New Year's Eve, the day before Memorial Day, Memorial Day, the day before Independence Day, Independence Day, the day before Labor Day, and Labor Day, the Evening Quiet Hours begin at 11:00 p.m., regardless of the day of the week.
 - (4) Notwithstanding the remainder of this chapter, except in cases of emergency, no person shall carry on an activity at any time or in any manner which causes unnecessary annoyance or disturbs the peace and quiet of the immediate neighborhood.
- B. The operation of any radios, televisions, stereo equipment, amplification equipment, public address systems, electronic microphone or electronic amplification system or other electronic or mechanical equipment, or the singing, shouting or playing of musical instruments, in such a manner as to violate § 83-2.A above.
- C. The unnecessary sounding of automobile horns, sirens, bells, whistles or other warning devices. The operators of motor vehicles shall at all times exercise due care and foresight in their operation and shall not substitute the sounding of warnings for careful driving and the maintenance of proper control over their respective vehicles. It is not intended hereby to prohibit the use of such warning devices in emergencies or at times when, in the exercise of good judgment, a prudent operator would use such devices. Emergency vehicles operating in accordance with adopted standards shall not constitute a disturbance of the peace.
- D. The unnecessary noise created by minibikes, dirt bikes, cycles and go-carts which is considered excessive and is causing a disturbance of the peace within the immediate neighborhood.
- E. The keeping of dogs, roosters, or other animals under such conditions or in such a manner that by barking, crowing, or otherwise they disturb the peace and quiet of the immediate neighborhood.
- F. Acting in and about the streets or other public places in the Township in a noisy, loud, boisterous and unseemly manner or in such a manner as to disturb the peace and quiet of the community.
- G. Permitting or giving one's consent to any person to violate the terms of this chapter as above set forth upon his property or elsewhere.
- H. The use of any of the following equipment during Evening Quiet Hours, except for emergency work on public improvements, work of public service utilities, and municipal services:

- (1) Construction and industrial machinery, including but not limited to, such as crawler-tractor, dozers, rotary drills and augers, motor graders, paving machines, trenchers, compactors, compressors and other power equipment.
- (2) Agricultural tractors and equipment.
- (3) Powered commercial equipment of two horse power or less intended for infrequent use in residential areas, including but not limited to, chainsaws, pavement breakers, log chippers, and powered hand tools.
- (4) Powered equipment intended for repetitive use in residential areas, including but not limited to, lawn mowers, small lawn and garden tools, and riding tractors. Residential generators used during a power outage shall not constitute a disturbance of the peace.

SECTION 4. Amendment to Chapter 83 [Disturbing the Peace], Article I [Nuisance Disturbance by Noise] to provide measurement procedures for a nuisance violation for disturbing the peace.

The Code of the Township of Whitpain, Part II [General Legislation], Chapter 83 [Disturbing the Peace], Article I [Nuisance Disturbance by Noise] is amended to create new Sections 83-3, 83-4, and 83-5, as follows:

§ 83-3. Noise measurement locations.

Sound measurements shall be made on the receiving property line within ten (10) feet from the property line nearest the noise source, at least five (5) feet from any structure that reflects sound, and at least three (3) feet above the ground. Where the source of the noise occurs within a multi-unit building, or where buildings have a common party wall, the measurement shall be taken in a habitable space in the complainant's dwelling unit closest to the noise source.

§ 83-4. Measurement instrument.

All sound measurements shall be taken with a measurement instrument as defined in § 83-1. The manufacturer's published indication of compliance with such specifications shall be prima facie evidence of such compliance.

§ 83-5. Violations and penalties.

Any person or persons violating any of the provisions of Chapter 83, Article I shall be subject to a criminal fine not to exceed \$1,000 per violation and imprisonment in the Montgomery County Correctional Facility to the extent allowed by law for the punishment of summary offenses. Enforcement of any such violations shall be 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.

SECTION 5. Amendment to and Restatement of Chapter 83 [Disturbing the Peace], Article I [General Provisions], Section 83-3 [Loitering] and Section 83-4 [Violations and Penalties] as Article II [Loitering].

The Code of the Township of Whitpain, Part II [General Legislation], Chapter 83 [Disturbing the Peace], Article I [General Provisions] Section 83-3 [Loitering] and Section 83-4 [Violations and Penalties] is hereby amended and restated as Article II [Loitering], as follows:

§ 83-6. Acts constituting disturbing the peace.

- A. Loitering prohibited. It shall be unlawful for any person to loiter within the limits of the Township.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

LOITERING

Any act, word or conduct causing or tending to cause any danger, annoyance, inconvenience or alarm, or the reckless creating of a risk thereof, to the inhabitants of the Township or users of any of the public streets, alleys, sidewalks or public places in the Township by any person or persons who shall idle, linger aimlessly or congregate in or upon any street, alley, sidewalk or other public way or public place or in any public gathering or assembly or in or around any store, shop, business or commercial establishment or on any private property or place without lawful business.

- C. Obstruction on public street or sidewalk. Whenever any group of three or more persons shall be idling, lingering aimlessly or congregating upon any of the public streets, sidewalks or public ways of the Township, whereby the pedestrian traffic upon such sidewalk, street or public way is obstructed from free passage thereon, all persons in such groups shall be prima facie guilty of loitering.

§ 83-7. Violations and penalties.

Any person or persons violating any of the provisions of Chapter 83, Article II shall be subject to a criminal fine not to exceed \$1,000 per violation and imprisonment in the Montgomery County Correctional Facility to the extent allowed by law for the punishment of summary offenses. Enforcement of any such violations shall be 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.

SECTION 6. **Restatement of Chapter 83 [Disturbing the Peace], Article II [Commercial Generator Noise] as Article III [Commercial Generator Noise].**

The Code of the Township of Whitpain, Part II [General Legislation], Chapter 83 [Disturbing the Peace], Article II [Commercial Generator Noise] is hereby re-stated as Article III [Commercial Generator Noise]. All sections of the new Article III [Commercial Generator Noise] shall be renumbered sequentially from § 83-6 through § 83-10 to § 83-8 through § 83-12, respectively.

SECTION 7. **Creation of Chapter 83 [Disturbing the Peace], Article IV [Nuisance Disturbance by Lighting].**

The Code of the Township of Whitpain, Part II [General Legislation], Chapter 83 [Disturbing the Peace] is hereby amended to create Article IV [Nuisance Disturbance by Lighting], as follows:

§ 83-13. Acts constituting disturbing the peace.

In residential districts or any other district where exterior lighting casts light onto residential properties, any permitted illumination of buildings, structures, yards, tennis courts, pools, signs, or other open areas shall be subject to the following regulations:

- A. Outdoor lighting shall be selected, located and focused so that only the building, structure, yard, sign, or other open area on the lot is illuminated. Signs, if lighted, shall be externally illuminated only from directly above the face of the sign. The internal lighting limitation shall not apply to internally lit signs that have been approved by the Township and are designed and operated in compliance with the Township's ordinances.
- B. All lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
- C. Directional luminaries, such as floodlights and spotlights, when their use is specifically approved by the Township, shall be so shielded, installed and aimed that they do not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway or pedestrian way. Floodlights installed above grade on residential properties, except when motion-sensor actuated, shall not be aimed out more than 45° from straight down. When a floodlight creates glare as viewed from an adjacent residential property, the floodlight shall be required to be re-aimed and/or fitted with a shielding device to block the view of the glare source from that property.
- D. Outdoor lighting shall be aimed and/or shielded so that the light shall not be directed onto any adjacent lot, public street or public right-of-way. If any exterior luminaire (light fixture) exceeds the following lamp wattage limits,

then the source of illumination shall be fully shielded in order to prevent glare and off-site migration of light onto adjacent properties. The following limits shall apply to the total lamp wattage per luminaire:

- | | |
|---|------------|
| (1) Incandescent: | 100 watts. |
| (2) Halogen (quartz or tungsten halogen): | 75 watts. |
| (3) Halogen infrared reflecting (infrared-conserving): | 60 watts. |
| (4) High-pressure sodium (HPS): | 50 watts. |
| (5) Pulse start metal halide (PSMH) or
Ceramic metal halide (CMH): | 40 watts. |
| (6) Compact fluorescent (CFL): | 26 watts. |
| (7) Straight (linear) fluorescent: | 32 watts. |
| (8) Low voltage (12 to 24 volts) landscape lighting: | |
| (a) Incandescent: | 25 watts. |
| (b) Halogen: | 15 watts. |
| (c) LED: | 2 watts. |
| (9) LED: | 12 watts. |

- E. Outdoor lighting shall not result in a measurable light level greater than one-half of one (0.5) footcandle at the approximate location of the property line or lot line, measured either vertically, horizontally, or line of sight at an elevation of five feet (5') above grade.
- F. No decorative, sign or floodlighting, except low-intensity (low-brightness) safety or security lighting, which exceeds the lamp wattages listed above shall be permitted to operate after 11:00 p.m. and until dawn. Lighting controlled by an automatic motion sensor, with daylight detection plus automatic turnoff and adjusted for a maximum "on" duration of not more than 10 minutes, shall be exempt from the 11:00 p.m. time limit.
- G. Holiday lighting and lighting displays shall not constitute a disturbance of the peace unless operated after 11:00 pm and before dawn. Holiday lighting and light displays should be designed in a manner to avoid directed light or glare on a neighboring property.
- H. "Barn lights," a.k.a. "dusk-to-dawn lights," when a source of glare as viewed from an adjacent property, shall not be permitted unless effectively shielded as viewed from that property.

§ 83-14. Violations and penalties.

Any person or persons violating any of the provisions of Chapter 83, Article IV shall be subject to a criminal fine not to exceed \$1,000 per violation and imprisonment in the Montgomery County Correctional Facility to the extent allowed by law for the punishment of summary offenses. Enforcement of any such violations shall be 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.

SECTION 8. **Repeal and Ratification.**

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. Any other terms and provisions of the Township's Code unaffected by this Ordinance are hereby reaffirmed and ratified.

SECTION 9. **Severability.**

Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and affect, and for this reason the provisions of this Ordinance shall be severable.

SECTION 10. **Effective Date.**

This Ordinance shall become effective 5 days after enactment.

ORDAINED AND ENACTED this 18th day of May 2022, by the Whitpain Township Board of Supervisors.

**WHITPAIN TOWNSHIP
BOARD OF SUPERVISORS**



KIMBERLY J. KOCH, *Chair*

[Seal]

Attested by:



JEFFREY CAMPOLONGO, *Secretary*

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