

Chairman Mark Petros on Monday, April 29, 2019 at 6:15pm in the Meeting Room of the Municipal Building called a Special Meeting of the Sewickley Township Board of Supervisors to order as advertised in the Tribune Review on Thursday, April 25, 2019. The members of the Board of Supervisors present were Mark Petros, Brian Merdian and Joseph Kerber. Also attending the meeting were Kathy Kerber, Jack McWilliams, Ann McWilliams, John Cochran, Bill Luzar, K. Waryanka, Attorney Kansler and Erika Horvat.

Mr. Petros led those present in the Pledge of Allegiance.

### **Public Comment**

Mr. Luzar asked who brought this issue to the Board of Supervisors. The Planning Commission brought it to their attention. Mr. Merdian stated that it is in regards to a water treatment impound facility off West Newton Road. The Planning Commission reviewed information they received over a couple meetings. No formal application has been received for this facility as of yet.

He then asked about the paving project in Hutchinson. Where is the \$130,000 coming from? Most of it will come out of the General Fund. Is the bond released yet for the contractor working over there? No. Are there plans for the \$130,000 project? Mr. Kerber stated that we will be going off Gibson Thomas plans that were submitted for stormwater management. They may start at the bottom at Jackson Street with putting new storm pipes and catch basins and then paving after. Gibson-Thomas will figure out where the water will go. It might go onto the Game Commission property. Mr. Luzar would like to see the drawings before anything is done. \$130,000 doesn't go far.

A discussion then followed regarding low income surveys with Hutchinson and Rillton. He has concerns about the project coming out of the General Fund and not being approved for a grant to pay for it. Also, Hutchinson is paying a street light tax when there are no street lights in town.

John Cochran spoke in support of the Noise Ordinance. Speaking for the Planning Commission, they don't have anything to mandate the noise issues and recommended to the Supervisors that this approach be taken. There is a need for this to give them the tools they need to keep the community livable.

### **Public Hearing on Proposed Ordinance concerning noise.**

Solicitor Kansler explains the purpose for the Public Hearing and the details of the advertised noise to the Zoning Code. Draft Ordinance is attached.

Mr. Merdian asked if any current activities can be grandfathered. Solicitor Kansler stated that this will be applied to new uses of land noise. Construction related activities are exempt from these requirements, but the actual operation of gas wells will have to comply with the decibel requirements. Once they have drilled the horizontal well and it is in place, it is considered use of the land. Most of noise restriction ordinances exempt the development activities because you could never develop a construction site within the decibel limits. We are restricting the noise use on the property, not the development of the property.

Brian Merdian made a motion, seconded by Joe Kerber, to approve Resolution No. 15 – 2019 amending the Township of Sewickley Zoning Code to address noise. Voting: Mr. Petros, Mr. Merdian, Mr. Kerber; yes. Motion carried unanimously.

With no further business to come before the Board, Brian Merdian made a motion to adjourn, seconded by Joe Kerber. Voting: Mr. Petros, Mr. Merdian, Mr. Kerber; yes. Meeting adjourned at 6:40pm.

Susan D. Leukhardt  
Secretary/Treasurer

**RESOLUTION NO. 15 – 2019**

**A RESOLUTION OF THE TOWNSHIP OF SEWICKLEY, WESTMORELAND COUNTY, PENNSYLVANIA, DECLARING ITS INTENTION TO AMEND THE ZONING CODE TO ADDRESS NOISE CREATED BY THE USE OF PROPERTY**

**BE IT RESOLVED** by Board of Supervisors of the Township of Sewickley, in a regular meeting assembled and by the authority of the same:

**Section 1:** The Township of Sewickley, Westmoreland County, hereby resolves to amend the Township's Zoning Code to regulate the use of land that creates off-site noise.

**Section 2:** The solicitor is hereby directed to advertise a Notice of Pending Ordinance and to schedule any necessary public hearings to discuss the herein described amendment to the Township's Zoning Code, which is in the preliminary form attached hereto, marked Exhibit A, and incorporated by reference herein.

**DULY ENACTED** this 29<sup>th</sup> day of April, 2019, a quorum being present and acting.

TOWNSHIP OF SEWICKLEY

By: \_\_\_\_\_  
Mark Petros, Chairman

Attest:

\_\_\_\_\_  
Brian Merdian, Vice-Chairman

\_\_\_\_\_  
Susan D. Leukhardt  
Secretary

\_\_\_\_\_  
Joseph E. Kerber, Supervisor

**TOWNSHIP OF SEWICKLEY**  
**Westmoreland County, Pennsylvania**  
**Ordinance No. \_\_\_\_\_ - 2019**

**AN ORDINANCE AMENDING THE TOWNSHIP OF SEWICKLEY ZONING CODE  
BY ADDING A SUPPLEMENTAL REGULATION PROVIDING STANDARDS FOR  
NOISE GENERATED BY USES OF LAND**

WHEREAS, the Board of Supervisors has determined that noises generated by certain uses of land can have adverse effects on nearby persons and uses of land; and

WHEREAS, the Board has determined that it is in the public's health, safety and welfare to set standards for what level of sound can leave a property; and

WHEREAS, the Board desires to enact noise standards that permit the lawful and beneficial use of land while also protecting the public at large from excessively loud noises that can adversely affect nearby residents.

NOW THEREFORE BE IT ORDAINED BY THE Board of Supervisors of the Township of Sewickley AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME as follows:

SECTION 1. The Township of Sewickley Code Chapter 28 is amended to add a new Section 810, as follows:

§ 810. Noise.

- A. No use in any zone district, which by the nature of its use, operation or activity, shall produce noise above the maximum decibel levels per zone district, as follows:
  1. R-R, R-1, V-1, V-2 Zone Districts:
    - a. In excess of 60 dBA (decibel) for any period of time between the hours of 8:00 p.m. and 7:00 a.m.
    - b. In excess of 80 dBA for any period of time between the hours of 7:01 a.m. and 7:59 p.m.
    - c. The use of maintenance equipment including, but not limited to, power mowers, on a temporary basis, in residentially zoned districts shall be exempt from the standards in this section.
  2. C-C, A-1, P-1 Zone Districts: In excess of 90 dBA for more than two hours during a twenty-four-hour period, with noise not to exceed 110 dBA for any period of time.
  3. M-U Zone District: In excess of 90 dBA for four hours during a twenty-four-hour period, with noise not to exceed 115 dBA for any period of time.
- B. Noise which is determined by a designated Township representative to be in violation of the standards of this Section shall be muffled or otherwise, through any and all appropriate devices, enclosures or processes.

- C. Noise shall be measured on a decibel or sound-level meter of standard quality and design operated on the A-weighting scale at a distance of 25 feet from any property line of the property on which the noise source is located, or near the exterior wall of any occupied structure on an adjacent property, which ever is closer. A noise study and/or specification documentation, where appropriate, shall be provided with any building permit application, subdivision or land development application, or any other permit application, where the Building Code Inspector, Township Engineer or any other Township representative determines that such study or documentation is necessary to ensure compliance with this section. The applicant shall bear the cost of the Township's retention of an appropriate professional(s) to analyze the applicant's study and/or documentation.
- D. Exemptions and special provisions.
1. Exemptions. Exempted from the requirements of this Section are those noises:
    - a. Covered explicitly by state or federal laws and regulations for noise; or
    - b. Needed to maintain community health, safety (including public safety), and welfare.
  2. The intrusive noise level limits are not applicable to the following situations:
    - a. Noise regulated by the Federal Aviation Administration, FAA, and originating from FAA-regulated aircraft, helicopters, and airships in flight within controlled airspace or landing or departing FAA or Department of Transportation, DOT, sanctioned or regulated airports or helipads. Engine- or motor-powered hang gliders and related devices, ultra-light aircraft and other devices capable of powered flight that are not regulated by the FAA are subject to compliance with this Section.
    - b. Sound originating from safety and protective devices where noise suppression would defeat the safety intent of the device when it is being used for its intended purpose.
    - c. Sound originating from a warning device used for its intended purpose.
    - d. Sound originating from emergency equipment and emergency work necessary in the interest of law enforcement or of the health, safety or welfare of the community.
    - e. Sound originating from all state, county and municipal snow removal equipment. The noise of privately owned snow removal equipment is exempted from this Section during periods of snowfall and immediately thereafter until such time as both private and public roads, sidewalks, and parking lots are cleared so as to prevent a hazard to citizens.
    - f. Sound originating from emergency standby generators during emergency use. The sound of routine testing of generators shall comply with the intrusive noise level limits, unless such testing occurs during daytime hours, during which time the generators can exceed the intrusive noise level limits by no more than 20 dBA for one cumulative hour or less per seven-calendar-day period. Noise-control devices such as mufflers, silencers, and noise enclosures will be used as necessary to achieve compliance with this Section.

- g. Noise of trains regulated by the Federal Railroad Administration (FRA).
  - h. Sounds of motor vehicles, including cars and trucks and motorcycles, being operated legally and in compliance with the noise regulations of the Pennsylvania Department of Transportation. Any of these operating with nonapproved mufflers and producing excessive noise will be in violation of this Section. No exemption or exclusion is made for recreational vehicles of all types that are not licensed for use on public roads and subject to state vehicle inspection laws and rules. These include but are not limited to ATVs, quads, UTVs, snowmobiles, dirt-bike motorcycles, dune buggies, racing-type tractors, dragsters, formula one cars, closed-circuit cars of all types, stock cars, sprint cars, race cars or vehicles of all types, boats, drag boats, and air boats.
3. Special provisions.
- a. These special provisions are intended to make provisions for normal community sounds that occur for reasonable sound levels and time durations so as not to create a hardship for members of the community, both private and commercial. Most provisions are intended to cover situations with existing equipment but go on to promote the use of quieter equipment when replacing, upgrading, or buying new equipment and devices. Other special provisions are made for situations of a short-term nature or construction activities.
  - b. All existing HVAC equipment, fans of all types, compressors of all types, and fluid-moving devices, including those of the commercial and residential type, may exceed the intrusive noise level limits if the equipment is in good operating condition and working order, meets the manufacturer's original noise level, and was placed in operation on the source property before the enactment of this Section. Existing equipment will not be subject to any time restriction but must not be excessively loud. New, replacement, or upgrades of existing equipment, which will include but not be limited to HVAC equipment, fans, compressors, and fluid-moving devices, must comply with the intrusive noise level limits. Noise-control devices will be used as necessary to achieve compliance with this Section for all equipment put into service after enactment of this Section.
  - c. The noise of construction activities may exceed the intrusive noise level limits only on weekdays during daytime hours (7:00 AM through 8:00 PM), provided that earnest efforts are made to minimize the noise generated by these efforts. Noise control will include proper muffling of all engines, motors, or turbine-driven equipment. Other noise controls will be used as appropriate, such as noise enclosures on excessively loud engines, earthen berms, barriers, lagging, properly muffled pneumatic devices, noise-enclosed air compressors and noise-enclosed generators. Construction noise includes:
    - (1) Construction of all types, that is to include but not be limited to buildings, houses, commercial and industrial facilities, and related activities.

- (2) Oil and gas development, including site development and the construction of all facilities. This includes site development activities on that specific site only and does not include the operation of the oil and or gas site.
  - (3) Mining development, including site development and the construction of all facilities. This includes site development activities on the specific site only and does not include the operation of the mine.
  - (4) Demolition of buildings and structures.
  - (5) Site development of all types, to include but not be limited to housing developments, commercial developments, landfills, mining, and any other development as defined by the Township's Subdivision and Land Development Ordinance.
  - (6) The use of construction equipment.
- d. The sounds of nonprofit events, including but not limited to those requiring permits issued by the Township, will be excluded from the intrusive noise level limits for the duration of the event. All for-profit events are subject to the intrusive noise level limits.
  - e. The normally occurring sounds of events sponsored by nonprofit organizations, such as nonprofit sports teams, community associations and groups, churches, schools, and colleges are excluded from the intrusive noise limits, provided that they are not excessively loud in the context of the event. Cheering crowds, referee voices, whistles, bands and music directly associated with these events are considered normal community sounds. External activities, such as tailgate parties and parking lot activities, are not exempt and are subject to the intrusive noise level limits as measured at any real receiving property that might be affected by the event.
  - f. Existing equipment used for commercial farming, nurseries, and golf courses is excluded from this Section, provided that the equipment is in good working order and it meets the original sound levels of the equipment when originally manufactured for that make and model. New, replacement, or upgrades to this equipment made after the enactment of this Section must meet the intrusive noise level limits.
  - g. Pulsating, intermittent, impulsive, impact, or fluctuating noises and combinations thereof, especially those with a tonal nature which are clearly audible in the presence of natural environmental sounds and normal community sounds, are not permitted during the nighttime (8:00 PM through 7:00 AM) hours. Examples include but are not limited to backup alarms, bells, whistles, horns, blasting, gunfire, hammer blows, and pile driving.
  - h. The sounds of farm livestock and fowl located on a privately owned farm located in an agricultural zone or other permitted districts are exempt from the intrusive noise level limits. Privately owned animals, mammals, fowl, and reptiles, especially dogs and cats, are subject to the intrusive noise level limits. The noise of commercial farms, commercial kennels, dog breeding and day-

care facilities, and animal facilities are subject to the intrusive noise level limits.

- i. Oil and gas development and mining development is subject to the construction provisions of this noise Section. Oil and gas operations and mining operations are subject to the intrusive noise level limits. If doubt exists, as to whether development or operations is occurring, operations will be assumed, and the intrusive noise level limits will be used for compliance with this Section.
- j. Sounds originating from church bells or electronically generated bell sounds used for commonly accepted purposes based on the time of day and the day of the week are excluded. The excessive uses of bells or electronically generated bell sounds is not permitted. The time of day and day of the week will be factors in determining whether the sounds are excessive. "Excessive" will be sounds that are too loud and/or frequent with long durations per bell operation episode.

E. Administration and Enforcement.

1. Responsibility.
  - a. It shall be the duty of the Building Code Inspector, Ordinance Officer and/or any other Township Employee, Official and/or designee to administer and enforce the provisions of this Section.
  - b. Township personnel or their designees trained in the use of sound-measuring equipment shall be permitted to take measurements at any source of noise.
2. Administration. In administering the provisions of this Section, the Township may, with appropriate authorization, undertake any of the following actions:
  - a. Conduct studies related to public annoyance due to noise and monitor sound levels in the Township.
  - b. Review public and private projects for the purpose of determining whether such projects are in compliance with this Section, how such projects intend to remain in compliance with this Section, and determination of the adequacy of any acoustic screening proposed to control noise. Any costs incurred by the Township in review of such projects shall be borne by the applicant for project approval.
  - c. Conduct inspections upon any location, site or premises which may be the source of noise which violates the provisions of this Section pursuant to all due process requirements of the Commonwealth of Pennsylvania or the United States of America.
  - d. Stop moving vehicles to inspect them and, if necessary, to issue a notice of complaint to the driver of such vehicle if found to be in violation of the provisions of this Section.
  - e. Require any owner or operator to make measurements (at their own expense) of sound levels from any source, according to methods and procedures specified by the Township, and to furnish the Township with reports of such measurements.

E. Need for corrective action.

1. If the Township determines at any time that noise levels specified in this Section have been exceeded, the applicant/developer/owner or any others shall be advised of corrective measures required within a period of time set by the Township. For nonstationary sources of noise, the required period of time may be an immediate correction. For stationary sources of noise, the required period of time shall be a minimum of eight hours.
2. If such measures are not taken by the owner or any others within the designated period of time, the Township may cause the work to be done and lien all costs against the property.
3. The following actions or causing thereof are prohibited:
  - a. The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any noise-control device or element of design or noise label of any product used in the control of noise, which results in noise being generated that violates the compliance metrics.
  - b. The knowing use of a product which has had a noise-control device or element of design or noise label removed or rendered inoperative that results in noise being generated.

F. Penalties.

1. Anyone violating the terms of this Section shall be guilty of a summary offense and, upon conviction, shall be subject to a fine or penalty of not more than \$300 for each and every violation. All costs incurred by the Township in the enforcement and abatement of any violation of this Section shall be recoverable upon conviction of a summary offense. Each day that the violation continues after proper notification (notice of complaint) shall be a separate offense.
2. The Township may lien any property of any person convicted of a summary offense to collect all court-ordered fines and recoverable costs.
3. In addition thereto, the Township may institute injunctive, mandamus or any other appropriate action or proceeding at law or equity for the enforcement of this Section or to correct violations of this Sections, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or mandamus or other appropriate forms of remedy or relief.

SECTION 2: REPEALER - All ordinances or parts of ordinances in conflict herewith be and are hereby repealed, except any ordinance or parts of ordinances that authorize greater remedies than this Ordinance are preserved.



SECTION 3: EFFECTIVE DATE - This Ordinance shall take effect immediately.

**ORDAINED AND ENACTED**, this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

TOWNSHIP OF SEWICKLEY

By: \_\_\_\_\_  
Mark Petros, Chairman

\_\_\_\_\_  
Brian Merdian, Vice Chairman

\_\_\_\_\_  
Joseph Kerber, Supervisor

Attest:

\_\_\_\_\_  
Susan D. Leukhardt  
Secretary