

CHAPTER 10
HEALTH AND SAFETY

PART 1
ENFORCEMENT OF HEALTH LAWS

- § 101. Abolition of the Board of Health and Position of Health Officer;
 Future Enforcement of Health Laws.**

PART 2
NOISE NUISANCE

- § 201. Definitions.**
§ 202. Prohibited Acts.
§ 203. Exceptions.
§ 204. Penalties.

PART 3
ENGINE BRAKES

- § 301. Title.**
§ 302. Findings.
§ 303. Use Without Mufflers Prohibited on Certain Streets.
§ 304. Exceptions.
§ 305. Violations and Penalties.

PART 1

ENFORCEMENT OF HEALTH LAWS

§ 101. Abolition of the Board of Health and Position of Health Officer; Future Enforcement of Health Laws. [Ord. 829, 11/15/2001, as amended by Ord. 914, 1/21/2010]

1. Findings. The Borough Council, after due deliberation and discussion, has determined that it is no longer economically feasible to continue in existence the Elizabethtown Board of Health and the position of Health Officer most recently created by Ordinance 829 on November 15, 2001. The Borough Council has determined that the functions of the Board of Health and Health Officer may be undertaken by the Commonwealth of Pennsylvania through the Pennsylvania State Department of Health. As such, specific expenditures related to a Board of Health and Health Officer have been found to be unnecessary at this time. Further, the Borough Council notes that 53 P.S. § 48110 of the Borough Code provides "any Borough may cooperate with the county or counties in which it is located, or with any city, borough or township as well as with the State Department of Health in the administration and enforcement of health laws."
2. Abolishment of Elizabethtown Board of Health and Health Officer Position. Based upon the foregoing findings, it is herewith resolved that immediately upon the effective date of this Part the Board of Health of the Borough of Elizabethtown and the position of Health Officer are abolished and each and every of its members and Health Officer are discharged and relieved of any further duty or responsibility.
3. Future Enforcement of Health Laws, Ordinances, Rules and Regulations. The Borough Council herewith resolves that the Borough staff shall forthwith contact appropriate persons at the State Department of Health of the Commonwealth of Pennsylvania in order to coordinate the taking over of all functions previously engaged in by the Board of Health of the Borough of Elizabethtown and its Health Officer as soon as is reasonably practical.

PART 2
NOISE NUISANCE

§ 201. Definitions. [Ord. 813, 6/15/2000, § A]

The following words, terms and phrases, when used in this Part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

EMERGENCY — Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

NOISE DISTURBANCE — Any sound which (1) endangers or injures the safety or health of humans or animals, or (2) annoys or disturbs a reasonable person of normal sensitivities, or (3) endangers or injures personal or real property.

PERSON — Any individual, association, partnership, corporation, or other legally recognized entity. Whenever used in any subsection prescribing and imposing a penalty, "person" includes any individual members, partners, officers and managers, or any of them, of partnerships and associations, and as to corporations, the officers and managers thereof or any of them.

PLAINLY AUDIBLE — Any sound (including, but not limited to, bass reverberations) produced by a sound-amplification system, musical instrument, similar device or any other method or way which clearly can be heard at a distance of 50 feet or more from its source. Words or phrases need not be clearly discernible and/or understood for a sound to be plainly audible.

PROPERTY LINE (BOUNDARY) — An 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 or more buildings sharing common grounds, the line drawn midway between any two said buildings. All areas devoted to public right-of-way shall be deemed to be across the property line. For the purposes 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 Borough official or employee.

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.

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

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, or the superposition of such propagated oscillation which evokes an auditory sensation. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

SOUND-AMPLIFICATION SYSTEM — Any radio, tape player, compact disc player, loudspeaker, or other device, electronic or otherwise, used for the amplification or production of sound.

§ 202. Prohibited Acts. [Ord. 813, 6/15/2000, § B]

1. **Noise Disturbance Prohibited.** No person shall make, continue or cause to be made or continued any noise disturbance, nor shall any person suffer, allow or permit any noise disturbance to be made or continued from or at any property, whether real or personal, that is subject to such person's right to control.
2. **Specific Prohibitions.** The following acts, without limitation, and the causing thereof, are declared to be noise disturbances and therefore in violation of this Part:
 - A. Use or operation of, or permitting the use or operation of, any sound-amplification system or other device designed or intended to produce or reproduce sound in such a manner as to disturb the peace, quiet and comfort of residential inhabitants or at any time with louder volume than is necessary for convenient hearing by the person or persons who are in a motor vehicle in which such sound-amplification system or other device is operating and who are voluntary listeners thereto. The operating of any such sound-amplification system or other device in a motor vehicle, at any time, in such a manner as to be plainly audible at a distance of 50 feet from the source shall be evidence of a violation of this Part.
 - B. Any sound at any time in such a manner as to cause a noise disturbance across a property line (boundary) between the hours of 9:00 p.m. and 7:00 a.m. so as to be plainly audible across a property line (boundary).
 - C. Yelling, shouting, hooting, whistling, singing or creating any other noise disturbance on the public streets, public spaces, or public rights-of-way at any time in such a manner as to cause a noise disturbance across a property line (boundary) between the hours of 9:00 p.m. and 7:00 a.m. as to be plainly audible across a property line (boundary).

§ 203. Exceptions. [Ord. 813, 6/15/2000, § C; as amended by Ord. 973, 2/18/2016]

Notwithstanding the foregoing, the operation of a sound amplification system within a vehicle operated by police, fire or emergency medical service agency or within a vehicle responding to an emergency or by a person participating in a public activity such as a parade, festival or fair, customarily regulated and/or sanctioned sporting event or a civic celebration, which produces plainly audible sounds shall not be in violation of this Part. The aforementioned public activities shall include any municipal, school or college sanctioned event held within the real property controlled by the person or entity. Voices or other noises, originating in the public space of a designated public park, as outlined in Chapter 16, during the park's authorized hours of operation, which are reasonable and related to the purpose of the park, shall not be in violation of this Part. The repair, construction or excavation of any utility such as sewer, water, natural gas, electric or other public utility during prohibited hours shall not be in violation of this Part. The provisions of this Part do not apply to a legal use classified by the Borough Zoning Ordinance (Chapter 27) within the Office-Industrial,¹ General Industrial or General Commercial Zoning Districts. The collection of municipal waste and/or trash shall be regulated by other governing ordinances.

§ 204. Penalties. [Ord. 813, 6/15/2000, § D; as amended by Ord. 829, 11/15/2001]

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to a fine of not less than \$50 nor more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day in which a violation of this Part shall take place shall be deemed a separate offense.

¹Editor's Note: Now titled the Light Industrial District, pursuant to Ord. 975, 6/16/2016.

PART 3
ENGINE BRAKES

§ 301. Title. [Ord. 969, 6/18/2015]

This Part shall be known and may be cited as the "Elizabethtown Borough Engine Brake Ordinance."

§ 302. Findings. [Ord. 969, 6/18/2015]

The Elizabethtown Borough Council, Lancaster County, Pennsylvania, finds, as a fact, that the operation of an engine brake on a gasoline-powered or diesel-powered motor vehicle not equipped with exhaust mufflers for the engine brake, or equipped with defective or modified engine brake exhaust mufflers, so as to create excessive noise through the use of said engine brake adversely affects the public health, safety and welfare of the residents of Elizabethtown Borough and, therefore, is a nuisance in fact.

§ 303. Use Without Mufflers Prohibited on Certain Streets. [Ord. 969, 6/18/2015]

No gasoline-powered or diesel-powered motor vehicle shall be operated on the streets, roads, alleys or highways within the Borough of Elizabethtown listed below, utilizing, in said operation, an engine brake, without engine brake exhaust mufflers, permitting excessive noise to be created by said motor vehicle using the engine brake. The streets subject to this prohibition shall be as follows:

East High Street, between the Borough line and Center Square
Masonic Drive, between West Bainbridge Street and West High Street
Maytown Avenue, between the Borough line and South Market Street
North Market Street, between the Borough line and Center Square
South Market Street, between the Square and College Avenue
West Bainbridge Street, between the Borough line and Masonic Drive
West High Street, between Masonic Drive and Center Square

§ 304. Exceptions. [Ord. 969, 6/18/2015]

1. Emergency Situations. This Part shall not apply to emergency driving situations requiring the utilization of an engine brake to protect the safety and property of the residents of Elizabethtown Borough, other motor vehicle operators, pedestrians and the operator and passengers of the motor vehicle involved in said emergency situation.
2. Emergency Vehicles. This Part shall not apply to emergency response vehicles when said emergency vehicle is actually responding to an emergency situation. The term "emergency vehicle" shall include, but is not limited to, fire trucks.

§ 305. Violations and Penalties. [Ord. 969, 6/18/2015]

For each violation of the provisions of this Part, any person who commits, takes part in or assists in any such violation shall be liable, upon conviction thereof in a summary proceeding, to pay a fine of not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this Part, and each section of this Part which is violated shall be considered a separate violation. In default of payment of such fine, such person shall be liable to imprisonment for a period not exceeding 30 days.