

ORDINANCE NO. 1997-5

AN ORDINANCE OF THE BOROUGH OF COALDALE DEFINING AND RESTRICTING THE MAXIMUM SOUND LEVELS THAT ARE EMITTED, GENERALLY, AND SPECIFICALLY BY MUSICAL INSTRUMENTS, EQUIPMENT, ANIMALS, PEDDLERS, VEHICLES, APPLIANCES AND PREMISES; AUTHORIZING THE ADMINISTRATION AND ENFORCEMENT THEREOF AND EXCEPTIONS THEREFROM; ESTABLISHING AN APPEAL BOARD AND PROCEDURES; REGULATING THE USE OF PROPERTY SUBJECT TO NOISE REGULATIONS AND REQUIRING TESTING PROCEDURES; AND PRESCRIBING PENALTIES FOR VIOLATION.

The Borough Council hereby enacts as follows:

Section 1. Purpose and Scope. It is the purpose and scope of this ordinance to provide regulations defining the maximum sound levels that vehicles, appliances and equipment shall be allowed to produce at specified distances from these devices, and also to provide for the prohibition of other kinds of prohibited noises. These regulations and prohibitions are intended to protect the physical, mental and social well-being of the residents of the Borough of Coaldale.

Section 2. Application. This ordinance shall apply:

1. To all types of vehicles, appliances and equipment, whether privately or publicly owned.
2. To sounds of any time duration.
3. To both the owner and operator of vehicles, appliances, equipment, devices, animals, fowl or any other object creating noises.

Section 3. Exemptions. The following devices are exempt from the provisions of these regulations:

1. Aircraft (except model aircraft).
2. Police, fire, ambulance and other governmental emergency vehicles.
3. Back-up alarm devices on trucks and other equipment when installed and operated in accordance with Society of

Automotive Engineers recommended practice J 994, "CRITERIA FOR BACK-UP ALARM DEVICES."

4. Governmental warning devices (i.e., civil defense of fire siren).

5. This ordinance shall not be deemed to prohibit or otherwise declare unlawful any agricultural operations protected from nuisance suits by Act No. 1982-133.

Section 4. Definitions. All acoustical terminology shall be that contained in ANSI S1.1 "Acoustical Terminology."

ANSI - American National Standards Institute or its successors.

APPLIANCE - any device or combination of devices used or capable of being used as a means of accomplishing a desired end, such as a window air conditioning unit.

DAY - the twenty-four (24) hour period starting at local midnight.

DAY-TIME - 6:00 A.M. to 6:00 P.M.

DECIBEL (dB) - a unit of sound level which is a division of logarithmic scale used to express the ratio of the sound intensity of the source to the intensity of an arbitrarily chosen reference intensity. The ratio is expressed on the decibel scale by multiplying its "base ten logarithm" by ten.

EQUIPMENT - any devices or combination of devices to accomplish a desired end, such as a chain saw, bulldozer, etc.

EXCESSIVE NOISE - excessive noise is that sound which is (1) injurious or which unreasonably interferes with the comfortable enjoyment of life and property. Measured noise levels in excess of limits established in these regulations or those specified in valid permits are declared to be excessive noise; (2) annoying to a person of ordinary sensibilities.

FLUCTUATING NOISE - a fluctuating noise is a noise whose sound level varies significantly with time.

IMPULSIVE NOISE - impulsive noise is characterized by brief excursions of sound level. The duration of a single impulse is usually less than one second.

INTERMITTENT NOISE - an intermittent noise is a noise whose sound level exceeds the ambient noise levels at least twice during the period of observation, which is thirty minutes or more. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient is on the order of ten seconds or more, twice in the thirty minute period.

NOISE - noise is any sound emitted by a person, animal, fowl, vehicle, appliance, equipment or other device and its environmental interaction.

ORDINANCE ENFORCEMENT OFFICER - any sworn member of the Coaldale Borough Police Department.

PERSON - either the owner or operator of vehicles, appliances, equipment, devices, animal(s) or fowl.

PERIOD OF OBSERVATION - the time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and the instrumentation being used. The period of observation must be at least as long as the response time of the instrumentation. The greater the variance in individual sound level, the longer must be the observation time for a given expected accuracy of measurement.

S.A.E. - Society of Automotive Engineers.

SOUND LEVEL (Noise level) - airborne sound levels are expressed in dB and obtained by the use of specific frequency dependent weighting networks, as specified in the referenced standards. The specific weighting network used must be indicated by the proper notation. If the A-weighting is employed, the sound level is identified as dB(A).

SOUND LEVEL METER - a sound level meter is an instrument, or combination of instruments, which meets or exceeds the requirements for an ANSI Type S1A or Type S2A Sound Level Meter.

STEADY NOISE - a noise whose level remains essentially constant (i.e., fluctuations are less than five (5) dB) during the period of observation is a steady noise.

VEHICLE - any device, or combination of devices, used for or capable of being used for transporting persons or property. Vehicles include, but are not limited to, the following: automobiles, trucks, buses, motorcycles, motorized bicycles, snowmobiles, scooters, all-terrain vehicles, go-carts, racers and like devices, farm machinery, industrial machinery, highway graders, trailers, graders and semi-trailers.

Section 5. Enforcement.

1. Abatement. Any emission of noise from any source in excess of the limitation established in or pursuant to this ordinance herein described shall be deemed and is hereby declared to be a public nuisance and may be abated, in addition to the administrative proceedings, fines and penalties herein provided. Such abatement may be made by any Police Officer, or may be made by order of the Court of Common Pleas of Schuylkill on complaint or petition filed on behalf of the Borough of Coaldale.

2. Nothing in this ordinance shall be construed to impair any cause of action, or legal remedy thereof, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise in such place or manner, or at such levels which may give rise to such cause of action.

3. The Noise Enforcement Officers of the Borough of Coaldale shall:

A. Be qualified by training and experience to perform the necessary measurements and procedures required to determine violations of the provisions of this ordinance.

B. File complaints with the District Justice to prosecute violations of this ordinance.

C. Investigate complaints of violations of this ordinance and make inspections and observations of noise conditions; and

D. Be authorized to issue a warning to persons considered in violation of these regulations, a warning which may allow an appropriate time not to exceed thirty (30) calendar days for correction to bring the offending vehicle(s), appliance(s), equipment or other device(s), animal(s) or fowl within the provisions of these regulations before enforcement by prosecution.

Section 6. Administration. The Borough of Coaldale shall:

1. Have available in convenient form as in a unit the provisions of this ordinance and the recommended practices, rules, regulations and standards which have been adopted. A copy of the information sources shall be kept on file in the Borough of Coaldale offices;

2. Prepare and maintain records of all orders issued by the Noise Enforcement Officers and the Appeals Board;

3. By the Coaldale Borough Police Department, issue all standards, permits, certificates, notices or other matters required under the provisions of this ordinance and notify all persons concerned of any decisions rendered and provide such persons with an opportunity to be heard as herein set forth:

4. Establish an Advisory Committee to investigate and make recommendations from time to time to the Borough Council with respect to needed additions or revisions of this Part.

Section 7. Appeals Board.

1. The Borough Council shall establish an Appeals Board consisting of three (3) members, who shall be two (2) council members and the Borough Engineer, to hear and decide cases regarding interpretations of this ordinance and variances for undue hardship situations;

2. The membership of the Appeals Board shall contain at least one (1) member who is qualified by training and experience in the field of noise control and noise control regulations.

Section 8. Noise Limitations.

1. General. No person shall make, permit or cause to be made, any excessive noise of any kind by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, hand organ, mechanically-operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound amplifying or other similar electronic device unless said person has obtained a special permit from the Borough of Coaldale Police Department as provided in this Part.

2. Musical Instruments. No person shall use or perform on any hand organ or other musical instrument or device, for pay or in expectation of payment, in any public way or public open space of the Borough of Coaldale before 6:00 A.M. or after 6:00 P.M. of the day unless said person has obtained a special permit from the Borough of Coaldale Police Department.

3. Noise from Premises. No person owning, or in possession or control of any building or premises, shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood as measured at the property line in which such building or premise is situated, or be dangerous or detrimental to health.

4. Equipment Noise. It shall be unlawful for any person to use any pile driver, shovel, hammer, derrick, hoist, tractor, roller or other mechanical equipment operated by fuel or electric power in building or construction operations from 7:00 P.M. to 6:00 A.M. of the following day, except for emergency work on public improvements, work of public service utilities, and municipal services unless such equipment has been manufactured or modified for sound control and meets the provisions of this ordinance.

5. Noise in Handling Refuse Cans. No person shall make any unnecessary noise in the handling of ash, trash or garbage cans, either in loading or unloading, whether full or empty.

6. Noise in Vicinity of Hospitals, Schools and Churches. No person shall make unnecessary noise in the vicinity of any hospital, or church during hours of public worship, or school during school hours.

7. Unlawful to Keep Noisy Animals. No person shall keep, or permit to be kept, harbor, or otherwise maintain any animal or fowl which shall disturb the quiet of any public street or other public place, or of any neighborhood. Provided, however, that a noisy animal or fowl shall be defined as one or more animals or fowl which makes any noise continuously and/or incessantly for a period of ten minutes or makes such noise intermittently for thirty minutes or more, so as to constitute annoyance to a person of ordinary sensibilities.

8. Noise by Peddlers. No peddler or other person who plies a trade or calling of any nature on the streets of the Borough of Coaldale shall use any horn, bell, or other sound instrument to make any noise tending to disturb the peace and quiet of the neighborhood, for the purpose of directing attention to his wares, trade or calling.

9. Use of Horns or Other Devices on Vehicles. No person, operating any vehicle, other than police, fire, public service or ambulance operators shall sound any horn, bell, gong, siren, or whistle, except for the ordinary horn installed on such vehicle by the manufacturer, or sound any type of horn except when reasonably necessary to prevent accidents or to otherwise comply with the law of motor vehicles.

10. The operational performance standards established by this ordinance shall not apply to any public performance being conducted in accordance with provisions of a special permit obtained from the Borough of Coaldale Police Department for the conduct thereof.

11. Vehicles. No person shall operate either a motor vehicle of a type subject to registration, except in police, fire equipment, ambulances or other government emergency

vehicles at any time or under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the following noise limits for the category of minor vehicles based on a distance of fifty feet (50') from the center of the land traveled on within the speed limit specified in this section under test procedures established by section 10 of this ordinance.

Type of Vehicle	Speed limit of 35 MPH or less	Speed limit of 35 MPH or more
-----------------	-------------------------------	-------------------------------

(1) Any motor vehicle with a manufacturer's gross combination weight rating of 10,000 lbs. or more and any combination of vehicles towed by such motor vehicle:	86 dB(A)	90 dB(A)
---	----------	----------

(2) Any other vehicle or any combination of vehicles towed by such motor vehicle:	76 dB(A)	82 dB(A)
---	----------	----------

(3) Any motorcycle or motor driven cycle:	78 dB(A)	82 dB(A)
---	----------	----------

A. This section applies to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this code relating to motor vehicle mufflers for noise control.

B. No person shall modify or change the exhaust muffler, intake muffler or any other noise abatement device of a motor vehicle so that the noise level is increased above that emitted by the vehicle as originally manufactured. Procedures used to establish compliance with this paragraph shall be those used to establish compliance of a new motor vehicle with the requirements of this ordinance.

C. No person shall sell or lease or offer for sale or lease a new or second-hand vehicle that produces a

maximum noise exceeding the noise limit at a distance of fifty feet (50') from the centerline of travel as stated in 8.11 of this ordinance. The manufacturer, distributor, importer or designated agent shall if requested certify in writing to the [Municipality] that his vehicles sold or leased within the [Municipality] comply with the provisions of this Part.

12. Equipment.

A. No person shall operate any powered equipment or powered hand tool that produces a maximum noise level exceeding the following noise limits at a distance of fifty feet (50'), under test procedures established by 10 of this ordinance.

Type of Equipment	Noise limit
(1) Construction and industrial machinery, such as crawler-tractors, dozers, rotary drills, and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, pavement breakers, compressors and pneumatic power equipment, but not including pile drivers;	86 dB(A)
(2) Agricultural tractors and equipment	86 dB(A)
(3) Powered commercial equipment of 2HP or less intended for infrequent use in residential areas, such as chain saws, pavement breakers, log chippers, powered hand tools, etc.;	84 dB(A)
(4) Powered equipment intended for repetitive use in residential areas, such as lawnmowers, small lawn and garden tools, riding tractors, snow removal equipment, etc.	70 dB(A)

B. No person shall sell or lease or offer for sale or lease new or second-hand equipment that produces a maximum noise exceeding the noise limit at a distance of fifty feet (50') as stated in this ordinance [Subsection 12 A above]. The manufacturer, distributor, importer or designated agent shall if requested certify in writing to the [Municipality] that his equipment sold or leased within the Township complies with the provisions of this ordinance.

Section 9. Use of Property.

1. Any property use established in a zoning district as defined and designated under the provisions of any zoning ordinance in effect at the time shall be such as to comply with the performance standards governing noise set forth hereinafter for the district in which such use shall be located.

2. Noise levels shall be measured in terms of the sound level in dBA using equipment which meets the requirements established by this ordinance.

3. 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 dBA levels shown below for the zoning district indicated from 7:00 P.M. to 6:00 A.M. of the following day, as measured under the test procedures established by 10.2 of this ordinance.

Maximum sound levels dB(A) along district boundaries as measured by conventional sound level meters on slow response:

	<u>Residential</u>	<u>Commercial/Industrial</u>
A-scale levels	55 dB(A)	62 dB(A)

In commercial zoning districts, all activities involving the production, processing, cleaning, servicing, testing, repair of materials, goods or products, or any property use shall conform with the performance standards stated above, provided that performance standards shall, in every case, be applied at the boundaries of the lot on which any such activities take place,

except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

In residential zoning districts, any property use shall conform with the performance standards stated above for residential district boundaries, provided that performance standards shall, in every case, be applied at the boundaries of the lot on which such use is established, except in such cases where the maximum permitted sound levels may be exceeded at a more distant point.

The maximum sound levels established in this section to be applied to the boundaries of a lot shall not apply to construction sites and emergency operations. Construction site noise levels shall be regulated by section 8.12 of this ordinance.

Section 10. Test Procedures.

1. Test procedures to determine whether maximum noises emitted by new motor vehicles sold or offered for sale or lease meet the noise limits stated in 8(12) of this ordinance shall be in substantial conformity with standards and recommended practice established by the S.A.E., Incorporated, and the Pennsylvania Department of Environmental Protection as well as the United States Environmental Protection Agency and such other and further standards as may be propounded in the Code of Recommended Practices of the Borough of Coaldale.

2. Test procedures to determine whether maximum noises emitted by powered equipment or powered hand tools, sold or leased, or offered for sale or lease, meet the noise limits stated in 8(12) of this Part shall be in substantial conformity with Standards and Recommended Practices established by the S.A.E., Incorporated and the Pennsylvania Department of Environmental Protection as well as the United States Environmental Protection Agency and such other and further standards as may be propounded in the Code of Recommended Practices of the Borough of Coaldale.

Section 11. Penalties. Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00); and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Every

day that a violation of the ordinance continues shall constitute a separate offense.

Section 12. Severability. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance, it is hereby declared as the intent of the Borough Council that this ordinance would have been adopted had the unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

Section 13. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances thereof are specifically repealed: No. 1995-2

Section 14. Effective Date. This ordinance shall become effective immediately upon its adoption.

Ordained and enacted this 13 day of October, 1997.

Borough of Coaldale

BY: Robert B. Hobenjan
President

Attest:

Kathryn J. Ruff
Secretary

Approved this 13 day of October, 1997.

John J. Madorsky
Mayor

C E R T I F I C A T I O N

I hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by Coaldale Borough at a regular meeting held on October 13, 1997.

Kathryn J. Luff

Secretary