

**NEW BETHLEHEM BOROUGH,
CLARION COUNTY, PENNSYLVANIA**

Ordinance # 937

**AN ORDINANCE PROVIDING THAT LOUD, DISTURBING AND
UNNECESSARY NOISES AS ENUMERATED, SHALL BE PROHIBITED
WITHIN THE LIMITS OF THE BOROUGH AND VIOLATION OF THIS
ORDINANCE SHALL RESULT IN FINES AND/OR IMPRISONMENT**

SECTION 1. Short Title. This ordinance may be referred to as the “Noise Ordinance”.

SECTION 2. Loud, disturbing and unnecessary noises prohibited. It shall be unlawful for any person(s), firm(s) or corporation(s) to make, continue or cause to be made or continued any unreasonably loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others of reasonable and normal sensibilities and sensitivities, within the limits of the Borough.

SECTION 3. Exceptions. This ordinance shall not apply to parades, festivals, fireworks displays, public celebrations, holiday caroling, church bells and chimes, school bands, athletic or other school events, operation of air conditioning units, normal pick-ups and deliveries in commercial or industrial zones, emergency sirens and other activities sanctioned by permit or otherwise by the Borough.

SECTION 4. Enumeration of loud, disturbing and unnecessary noises.

4.1. The following acts, among others, at any time of day or night are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but this enumeration shall not be deemed to be exclusive, namely:

4.1.1. Animals, birds. The keeping of any animal or bird which by causing frequent or long continued noise or barking shall disturb the comfort or repose of any persons in the vicinity.

4.1.2. Defect in vehicle or load. The use of any motor vehicle, truck, motorcycle or other piece of machinery or equipment so out of repair or so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

4.1.3. Excessive Noise. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while it is in session, which unreasonably interferes with the workings of its’ sessions.

4.1.4. Exhausts. The discharge into the air of the exhaust of any stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device in good operating condition which will effectively prevent loud or explosive noises.

4.1.5. Hawkers, peddlers. The shouting or crying of peddlers, hawkers or vendors which disturb the peace and quiet for the neighborhood.

4.1.6. Horns, signaling devices, etc. The sounding of any horn, alarm or signaling devices of any motor vehicle, motorcycle or other means of conveyance within the limits of the

Borough, except as a danger warning; the creation by means of such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time.

4.1.7. Racing motors. The unnecessary or unreasonable acceleration, deceleration or racing of motors in motor vehicles, whether in motion or rest, within the limits of the Borough.

4.1.8. Radios, audio systems, stereos, etc. The using, operating or permitting to be played, used or operated, of any radio receiving sets, musical instruments, sound amplifiers, stereos, audio systems or other machines or devices for the producing or reproducing of sound in such a manner as to disturb the peace, quiet comfort or repose of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for a person or persons with normal hearing who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The production of sound in such a manner as to be plainly audible beyond the property boundaries or at a distance of more than 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.

4.1.9. Yelling, shouting. Yelling, shouting, hooting, singing or similar activities so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling or other type of residence, or of any persons in the vicinity.

4.2. Noises prohibited during certain hours. The following acts, among others, when occurring between the hours of 10 PM and 7 AM on weekdays and Sundays and between 12 PM and 7 AM on Fridays, Saturdays or days preceding a federally recognized holiday are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but this enumeration shall not be deemed to be exclusive, namely:

4.2.1. Construction devices and power equipment. The operation or permitting the operation of any construction, excavation, demolition, alteration or repair device, lawn or garden tool, power equipment or machinery which is attended by loud or unusual noise as determined by Police Officers or the Mayor, unless necessary in an emergency to prevent damage to property or injury to persons.

4.2.2. Radios, audio systems, stereos, etc. The using, operating or permitting to be played, used or operated, of any radio receiving sets, musical instruments, sound amplifiers, stereos, audio systems or other machines or devices for the producing or reproducing of sound in such a manner as to disturb the peace, quiet comfort or repose of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for a person or persons with normal hearing who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such item in such a manner as to be plainly audible outside the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.

4.2.3. Loud noises. The causing, permitting or continuing of any excessive, unnecessary, and avoidable noise which disturbs the peace, quiet and rest of any persons of normal sensibilities or sensitivities in the vicinity of such noise.

SECTION 5. Standards for noises prohibited under Section 4.2 of this ordinance. The continuance of any noise meeting the following standards shall be prima facie evidence of a violation of this ordinance.

5.1. Permitting any noise disturbance that is:

5.1.1. Plainly audible outside the building, structure, or vehicle in which it is located.

5.1.2. Plainly audible through partitions or walls common to two residences within a building.

5.1.3. Plainly audible within an adjacent structure with windows closed.

5.1.4. Plainly audible across property boundaries.

5.2. The standard to be applied shall be as provided in Section 2 of this Ordinance.

SECTION 6. Violations and penalties.

6.1. Any person(s), firm(s) or corporation(s) who shall violate any of the provisions of this ordinance shall be guilty of either a summary offense or crime and shall, upon conviction thereof by a Magisterial District Justice, be sentenced as follows:

6.1.1. The first conviction shall be punishable by a fine of not less than \$100 nor more than \$250 and the costs of prosecution, including court costs and attorneys' fees, and, in default of payment of such fine and costs, imprisonment for not less than one (1) nor more than four (4) days.

6.1.2. The second conviction shall be punishable by a fine of not less than \$250 nor more than \$500 and the costs of prosecution, including court costs and attorneys' fees, and in default of payment of such fine and costs, imprisonment for not less than two (2) nor more than eight (8) days.

6.1.3. The third and subsequent convictions shall be punishable by a fine of not less than \$500 nor more than \$600 and the costs of prosecution, including court costs and attorneys' fees, and, in default of payment such fine and costs, imprisonment for not less than eight (8) nor more than thirty (30) days.

6.1.4. If charged as a misdemeanor or felony crime, conviction shall be punishable by a fine of not less \$500 nor more than \$2500, and the costs of prosecution, including court costs and attorneys' fees, and/or imprisonment of up to sixty (60) days.

6.2. If any person(s), firm(s) or corporation(s) shall permit a violation of this ordinance to continue after notice to desist, each additional violation shall be deemed a separate offense.

6.3. In any proceeding for a violation of this ordinance, the tenants, owners, and/or occupants shall be considered equally responsible for committing or allowing commission of a violation or continuing a violation from a location or object under their control.

SECTION 7. 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 the intent of the Council of the Borough of New Bethlehem that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 8. Repealer. Any other ordinances or part of any ordinance conflicting with the provisions of this ordinance are hereby repealed to the extent of such conflict. Ordinances

providing greater specificity shall be deemed not to be in conflict with this ordinance and both ordinances shall be enforceable.

SECTION 9. Validation. This ordinance shall take effect upon its adoption by the Council of the Borough of New Bethlehem and approval of the Mayor.

ORDAINED and ENACTED as an Ordinance of the Borough of New Bethlehem, Clarion County, Pennsylvania, this 17th day of December, 2019.

NEW BETHLEHEM BOROUGH

By: Sandra C. Mateer
Sandra C. Mateer, President of
New Bethlehem Borough Council

ATTEST:

[Signature]
Secretary

The foregoing Ordinance of the Borough of New Bethlehem is hereby approved by the Mayor of New Bethlehem Borough on the 17th day of December, 2019.

[Signature]
Mayor of the Borough of New Bethlehem

**NEW BETHLEHEM BOROUGH COUNCIL
CLARION COUNTY, PENNSYLVANIA**

RESOLUTION NO. 2019-11

**RESOLUTION IN SUPPORT OF PETITION
TO SUBSTITUTE THE NEW BETHLEHEM NOISE ORDINANCE
FOR ENFORCEMENT INSTEAD OF SECTION 493(34) OF THE LIQUOR CODE**

WHEREAS the existing Liquor Control Board regulations regarding outdoor entertainment and use of sound producing devices make it nearly impossible for local businesses and clubs holding a liquor license to provide outdoor entertainment;

WHEREAS New Bethlehem Borough Council wishes to promote local businesses and clubs while maintaining reasonable restrictions on noise violations within local community standards;

WHEREAS New Bethlehem Borough is in a better position to enforce its noise ordinances and address violations in a timely manner through its municipal police department than the Liquor Control Board, and

WHEREAS remedies for nuisance bars remain available should local enforcement not resolve violations.

NOW THEREFORE BE IT RESOLVED as follows:


1. In accordance with 40 Pa. Code Section 5.36 and section 493.1(b) of the Liquor Code (47 P.S. Section 4-493.1(b)), New Bethlehem Council intends to file a petition with the PA Liquor Control Board requesting permission to enforce its Noise Ordinance against licensed facilities instead of having enforcement done by the Liquor Control Board under Section 493(34) of the Pennsylvania Liquor Code (47 P.S. Section 4-493(34)).
2. New Bethlehem Council hereby confirms its support of a petition to substitute the municipal Noise Ordinance Number 937 of New Bethlehem in place of section 493(34) of the Pennsylvania Liquor Code
3. The Noise Ordinance to be enforced was adopted on December 17, 2019, as New Bethlehem Borough Ordinance Number 937 known as the New Bethlehem Noise Ordinance.
4. New Bethlehem Borough intends to enforce the above-referenced Noise Ordinance in place of section 493(34) of the Pennsylvania Liquor Code.

Resolved this 17th day of December, 2019 by New Bethlehem Borough Council in open meeting duly assembled at 212 Lafayette Street in New Bethlehem Borough.

Attested:


Richard McGarrity, Secretary

BOROUGH OF NEW BETHLEHEM
CLARION COUNTY, PENNSYLVANIA


Sandra C. Mateer, President


Gordon V. Barrows, Mayor