

BEFORE THE COUNTY COMMISSION OF PUTNAM COUNTY, WEST VIRGINIA

RE: ORDINANCE TO ABATE EXCESSIVE RESIDENTIAL NOISE WHERE SUCH NOISE IS DEEMED A PUBLIC NUISANCE

WHEREAS, Section 11, Article IX of the Constitution of West Virginia and West Virginia Code §7-1-3 provide that county commissions have the superintendence and administration of the internal police and fiscal affairs of their counties;

WHEREAS, West Virginia Code §7-1-3kk authorizes a county commission to enact ordinances, issue orders and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate anything which the commission deems to be a public nuisance within a county;

WHEREAS, the County Commission of Putnam County, West Virginia, hereby finds that excessive noise is a hazard to public health and safety, and that excessive noise constitute a public nuisance;

Now, THEREFORE, the County Commission of Putnam County, West Virginia sitting in regular session the 13th day of April, 2021 hereby approves and adopts the following "Putnam County Ordinance To Abate Excessive Residential Noise Where Such Noise is Deemed A Public Nuisance";

The adoption having been moved by Commissioner Skidmore, and duly seconded by Commissioner Ellis, the vote on passage of the motion was as follows:

Ronald R. Foster	Aye
R. Andrew Skidmore	Aye
C. Brian Ellis	Aye

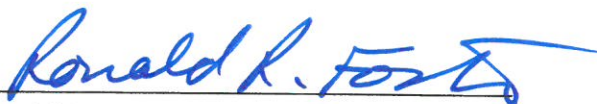
President Foster declared the Ordinance approved and passed.

WHEREFORE, it is therefore ADJUDGED and ORDERED that the attached Putnam County Ordinance To Abate Excessive Residential Noise Where Such Noise is Deemed A Public Nuisance be adopted.

Entered this 13th day of April, 2021.

This Ordinance shall be effective from the date of passage.

THE PUTNAM COUNTY COMMISSION



Ronald R. Foster, President



R. Andrew Skidmore, Commissioner



C. Brian Ellis, Commissioner

BEFORE THE COUNTY COMMISSION OF PUTNAM COUNTY, WEST VIRGINIA

AN ORDINANCE TO ABATE EXCESSIVE RESIDENTIAL NOISE WHERE SUCH NOISE IS DEEMED A PUBLIC NUISANCE

The members of the Putnam County Commission hereby find that excessive noise which, in its decibel level or its frequency, or both, disturbs the peace and quietude of others located in residential housing, whether such housing is single or multiple family dwelling; dormitory domicile; motel, hotel or other sleeping accommodations; and, hospitals or nursing care facilities is a public nuisance and, as such, is under the jurisdiction of this body. Accordingly, upon a motion and second, the following Ordinance is adopted, as indicated, pursuant to the provisions of W.Va. Code §7-1-3kk, as amended.

NUISANCE: EXCESSIVE NOISE IN RESIDENTIAL AND SIMILAR SETTINGS

- (a) Any person who, from any source, disturbs the peace and quietude of others located in residential housing, whether such housing is single or multiple family dwelling; dormitory domicile; motel, hotel or other such sleeping accommodations; or, hospitals or nursing care facilities and who persist in such conduct after being requested to desist by a law-enforcement officer acting in his or her lawful capacity, is guilty of causing and maintaining a nuisance, a misdemeanor and, upon conviction thereof, shall be fined not less than \$250.00 and not more than \$500.00 for a first offense and fined not less than \$500.00 and not more than \$1,000.00 for second and subsequent offenses.
- (b) In determining whether the peace and quietude of any residential setting has been disturbed by noise, the following standards shall be used:
 - 1. Between the hours of 7:00 o'clock a.m. and 10:00 o'clock p.m., the noise level received and measured by a law-enforcement officer at the residential setting may not exceed 80 decibels (db)[A scale], except that noise that is produced for no more than a cumulative period of five minutes in any hour may exceed that level by 5 db[A scale]; noise that is produced for no more than 1 minute in any hour may exceed the standard by 10 db [A scale].
 - 2. Between the hours of 10:00 o'clock p.m. and 7:00 o'clock a.m., the noise level received and measured by a law-enforcement officer at the residential setting may not exceed 60 db [A scale].
 - 3. Residential setting is defined as any of the housing facilities set out in section (a) above and within the cartilage of such facilities, not to exceed a radius of 100 feet outside the facility, itself, or the fenced part of the property, whichever is less.
- (c) The provisions of subsection (a) and (b) of this Ordinance do not apply to:
 - 1. Lawful hunting or target shooting, trap, skeet or shooting ranges as defined in W.Va. Code §61-6-23, as amended;

2. Bonafide agricultural or forestry activities;
3. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, regardless of whether such work is performed by a public or private agency, or upon public or private property;
4. Sounds caused by regular vehicular traffic upon premises open to the public. The lack of a muffler system or a muffler which exaggerates sound shall not be considered to be regular traffic sound;
5. Sounds regulated by federal and state law, including, but not limited to, sounds caused by railroads and aircraft;
6. Lawn, garden or household equipment associated with the normal repair, upkeep or maintenance of property between the hours of 7:00 o'clock a.m. and 10:00 o'clock p.m.;
7. Construction projects for construction or excavation of public or private developments between the hours of 7:00 o'clock a.m. and 10:00 o'clock p.m.;
8. Organized athletic or recognized festival or similar activities: Sounds caused by organized athletic or other group activities, when those activities are conducted on property generally used for those purposes, including stadiums, parks, schools, churches, airports and athletic fields. These exceptions do not prohibit the county from declaring a specific event or activity in violation of this ordinance or other laws, rules and regulations and, in any case in which the athletic event or group activity extends in time beyond 10:00 o'clock p.m. and prior to 7:00 o'clock a.m. This exemption does not include motorcycle, motocross, ATV, or other vehicle racing, running and/or practice events; and
9. Manufacturing or industrial activity, deriving from legitimate business concerns, between the hours of 7:00 o'clock a.m. and 10:00 o'clock p.m.

Those who are offended by violations of this Ordinance may avail themselves of any legal remedy available to them notwithstanding the fact that the violators may have been charged and convicted of a misdemeanor pursuant to this Ordinance.

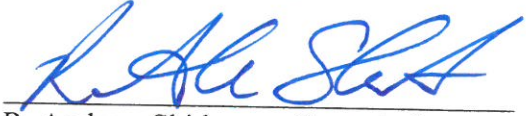
Adopted this 13th day of April, 2021.

This Ordinance shall be effective on the 13th day of April, 2021

THE PUTNAM COUNTY COMMISSION



Ronald R. Foster, President



R. Andrew Skidmore, Commissioner



C. Brian Ellis, Commissioner