

## **Chapter 10**

### **Health and Safety**

#### **Part 1**

##### **Alarm Systems**

- §10-101. Definitions
- §10-102. Timing Mechanisms Required
- §10-103. False Alarms
- §10-104. Recovery of Costs
- §10-105. Violations and Penalties

#### **Part 2**

##### **Weeds and Other Vegetation**

- §10-201. Vegetative Growth a Nuisance under Certain Conditions
- §10-202. Responsibility for Removing, Cutting or Trimming
- §10-203. Notice to Remove, Trim or Cut; Borough May Do Work and Collect Cost and Additional Amount
- §10-204. Penalties for Violation

#### **Part 3**

##### **Noise Control**

- §10-301. Short Title
- §10-302. Scope
- §10-303. Definitions
- §10-304. Administration and Enforcement
- §10-305. Noise Standards
- §10-306. Exceptions
- §10-307. Permits
- §10-308. Violations and Penalties



**Part 1****Alarm Systems****§10-101. Definitions.**

As used in this Part, the following words, terms and phrases shall have the following meanings given herein, unless the context specifically and clearly indicates otherwise:

*Audible alarm*—any device, bell, horn or siren which is attached to the interior or exterior of a building and emits a warning signal audible outside the building and designed to attract attention when activated by a criminal act or other emergency requiring police and/or fire personnel to respond.

*Automatic protective device*—an electrically operated instrument composed of sensory apparatus and related hardware which automatically transmits a prerecorded voice alarm over regular telephone line by direct or indirect connection to the police and/or fire department upon receipt of a stimulus from a sensory apparatus that has detected a physical force or condition inherently characteristic of a fire or intrusion.

*False alarm*—an emergency alarm activated by malice, inadvertence, negligence or unintentional acts to which the police, fire or EMS units respond, but which is not the result of an emergency and which is caused by a condition within the control of the person in possession of the premises where device is located, including the malfunction of the alarm system. The definition excludes alarms caused by testing or repairing telephone or electric lines or equipment outside the premises, acts of God, such as earthquake, flood, windstorm, thunder or lightning, an attempted illegal entry of which there is visible evidence, the user acting under sincere belief that a need exists to call the police, fire or EMS units, If a doubt exists as to the cause of the “false alarm” the fire marshal or chief, or their designate, shall make a decision regarding the circumstances of the activations. Multiple alarms received by emergency response units before the system can be deactivated within a reasonable period of time shall be considered a single alarm.

*Person*—any person or persons, male or female, corporation, partnership, association, company, individual, owner, occupant, lessee or any agency, organization or other entity recognized by law as the subject of rights and duties.

*Service charge for false alarms*—the person in possession of the premises when an automatic protection device is in use shall be assessed and shall pay to the Borough a service charge which shall be based upon the reasonable expenses incurred by the Borough in responding to a false and/or accidental alarm. In an apartment building or structure with multiple occupancies, the assessment shall be charged to the person (occupant) of the occupied portion of the building where said alarm is initiated.

*Testing automatic protective devices*—except as required or permitted by law, no person shall conduct any test or demonstration of an automatic protection device without first notifying the Borough. If a test or demonstration of an automatic protection device results in a false alarm due to lack of notification, a service charge

for the reasonable expenses incurred by the Borough in responding to the false alarm will be assessed against the person responsible for the test or demonstration.

*(Ord. 2015-4, 9/8/2015)*

#### **§10-102. Timing Mechanisms Required.**

After the enactment of this Part, except as otherwise governed by applicable Federal and State laws, persons must equip audible alarms with a timing mechanism that will disengage the audible alarm after a maximum period of 25 minutes. Audible alarms without such a timing mechanism shall be unlawful in the Borough and must be disconnected by the persons within 60 days from the effective date of this Part. Excepted from this requirement are fire-suppression systems with audible alarms activated by the flow of water.

*(Ord. 2015-4, 9/8/2015)*

#### **§10-103. False Alarms.**

1. Any person who installs or permits to be installed, in any building used or occupied for any purpose, any answering device, audible alarm, automatic protection device and/or central station protective system, and which equipment is so poorly designed, constructed, regulated or installed, as a result whereof false alarms are transmitted to the police, fire, EMS or any other municipal office or officer, shall be in violation of this Part.

2. Any person who owns, leases or occupies a building which has an answering service, audible alarm, automatic protection device and/or central station protective system installed, and such equipment results in continual accidental activation, then, in such case, said person shall be in violation of this Part. For the purposes of this Section, "continual accidental activation" shall be defined to mean three accidental activations within a 6-month period with respect to calls to the police, fire, EMS or other municipal office.

*(Ord. 2015-4, 9/8/2015)*

#### **§10-104. Recovery of Costs.**

For the purpose of defraying costs to the Borough for responding to a false or accidental alarm, the owner or lessee of an automatic protection device, and persons using the services of intermediaries, and users of audible alarms, and users of any kind of direct or indirect connection with the police or fire communication center, except persons using the two-way live communication by telephone, shall, as a condition to installation and continued operation of such equipment or service, execute a consent in such form as may be prescribed by the Borough agreeing that such owner, lessee or user shall pay to the Borough a charge for false and/or accidental alarms as established by the Borough. The charge will be based upon the reasonable expenses incurred by the Borough in responding to false and/or accidental alarms. Such expenses shall be calculated on an individual occurrence basis.

*(Ord. 2015-4, 9/8/2015)*

#### **§10-105. Violations and Penalties.**

In addition to those violations and remedies detailed herein, any person, firm or

corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs together with reasonable attorney fees and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

*(Ord. 2015-4, 9/8/2015)*



**Part 2****Weeds and Other Vegetation****§10-201. Vegetative Growth a Nuisance under Certain Conditions.**

1. No person, firm or corporation, owning or occupying any property within the Borough shall permit any grass or weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of 8 to 10 inches; nor shall any noxious weeds prohibited by the Noxious Weed Control Law, 3 P.S. §255.8, as amended, or by regulations of the Department of Agriculture be permitted to grow within the Borough.

2. Any grass, weeds or other vegetation growing upon any premises in the Borough in violation of any of the provisions of this Section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Borough.

*(Ord. 2015-4, 9/8/2015)*

**§10-202. Responsibility for Removing, Cutting or Trimming.**

The owner of any premises, or the occupant of premises occupied by other than the owner, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of the provisions of §10-201. The Borough may notify the Department of Health of any conditions it deems to cause health hazards to the residents of the Borough, including vegetation growth which promotes rodent infestation.

*(Ord. 2015-4, 9/8/2015)*

**§10-203. Notice to Remove, Trim or Cut; Borough May Do Work and Collect Cost and Additional Amount.**

The Borough Council, or any officer or employee of the Borough designated thereby for this purpose, is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of §10-201 of this Part, directing and requiring such occupant to remove, trim or cut such grass, weeds or vegetation so as to conform to the requirements of this Part, within 14 days after issuance of such notice with extensions possible at the discretion of Borough Council. Whenever, in the judgment of the Codes Enforcement Officer it shall appear to be impracticable to give notice as above provided, either because the owner or occupant cannot readily be found or because a search for the owner or occupant would entail unreasonable delay, the Borough Council or any officer or employee of the Borough designated thereby for that purpose, may give notice by posting conspicuously on the property where such nuisance exists, a notice or order directing and requiring that such nuisance be abated within 14 days with extensions possible at the discretion of Borough Council. In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Borough Council may order the removal, trimming or cutting of such grass, weeds or vegetation,

and the cost thereof, together with a penalty of 10 percent of the cost thereof shall be collected by the Borough from such person, firm or corporation, in the manner provided by law. Any work done by the Borough to remove weeds which remain after notice, shall be a lien against the property.

*(Ord. 2015-4, 9/8/2015)*

**§10-204. Penalties for Violation.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs together with reasonable attorney fees and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

*(Ord. 2015-4, 9/8/2015)*



**Part 3****Noise Control****§10-301. Short Title.**

The Borough Council of the Borough of New Morgan hereby ordains and enacts the following ordinance which shall be referred to as the “Noise Control Ordinance.”

(*Ord. 2008-1, 4/8/2008, §1-1*)

**§10-302. Scope.**

This Part shall apply to the control of all sound originating within the limits of the Borough of New Morgan.

(*Ord. 2008-1, 4/8/2008, §1-2*)

**§10-303. Definitions.**

As used in this Part, the following terms shall have the meanings indicated herein. All terminology used in this Part and not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

*Agricultural operations*—an enterprise that is actively engaged in the production and preparation of crops, livestock and livestock products and in the production, harvesting, and preparation of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities.

*All terrain vehicle (ATV)*—any motor vehicle designed for off-highway use by one operator with no passengers having a seat or saddle designed to be straddled by the operator and handlebars for steering control.

*Ambient noise level*—the composite or normal or existing sound from all sources measured at a given location for a specific time of the day or night.

*A-weighted sound pressure level*—the sound pressure level as measured on a sound level meter using the A-weighting network. The level so read shall be designated dB(A) or dBA.

*Construction*—any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures, or the operation of a landfill.

*Contiguous land use*—any land use bordering or abutting, whether divided by real property boundary or by real property boundary and public street.

*Continuous noise*—a steady, fluctuating or impact noise which exists essentially without interruption for a period of 1 hour or more.

*Cyclically varying noise*—steady, fluctuating or impulsive noise which may or may not contain a pure tone and which varies in sound pressure level such that the same level is obtained repetitively at reasonably uniform intervals of time.

*Decibel*—a logarithmic (dimensionless) unit of measure often used in describing the amplitude of sound. Decibel is denoted dB.

*Demolition*—any dismantling, destruction, or removal of buildings, structures or roadways.

*Emergency*—any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

*Equivalent noise level (Leq)*—the level of a steady sound which in a stated time period and at a stated location has the same a-weighted sound energy as the time-varying sound.

*Fluctuating noise*—when the sound pressure level of a fluctuating noise varies more than 6 dBA during the period of observation when measured with the slow-meter characteristic of a sound level meter, and does not equal the previously existing ambient noise level more than once during the period of observation.

*Impulsive sound*—a noise characterized by brief excursions of sound pressure whose peak levels exceed the ambience by 10 dB. The duration of a single impulse is usually less than one second and requires the use of a sound level meter specially adapted for its measurement. Examples of impulsive sound include, but are not limited to, gun shots, blasting and hammering.

*Land use*—the actual real use of land and buildings thereon situated regardless of the zoning or other classification attributed to such land and buildings.

*Motor vehicle*—a vehicle which is self-propelled except for one which is propelled solely by human power.

*Noise*—any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans or which endangers personal or real property.

*Noise disturbance*—any noise which:

- (1) Endangers or injures the safety or health of humans or animals.
- (2) Annoys or disturbs a reasonable person of ordinary sensibilities.
- (3) Endangers or injures personal or real property.
- (4) Disturbs the peace.
- (5) Creates a public nuisance.

*Plainly audible noise*—any noise for which the information content of that noise is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech or comprehensible musical rhythms.

*Powered model vehicles*—any powered vehicles, either airborne, waterborne, or landborne, which are designed not to carry persons or property and which can be propelled by mechanical means such as, but not limited to, model airplanes, boats, cars and rockets.

*Property boundary*—an imaginary line at the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

*Pure tone*—any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this Part, a pure tone shall exist if the  $\frac{1}{3}$  octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous  $\frac{1}{3}$  octave bands by 5 dB for center frequencies of 500 Hz and above, by 8 dB for center frequencies between 160

Hz and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

*Receiving land use*—the land use which is a contiguous use to the noise source.

*Recreational off-road vehicles*—motor vehicles which are used for the purpose of recreation off of the public right of way, such as, but not limited to, ATV's, motorized dirt bikes, go-karts and snowmobiles.

*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. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

*Sound dissipative device*—a noise control device intended to abate or lessen the noise made by vehicles, equipment or machinery.

*Sound level*—the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI SI.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

*Sound level meter*—an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels. The sound level meter used for testing purposes in accordance with this Chapter shall meet the current American National Standard Institute specifications.

*Stationary noise source*—any device, fixed or movable, which is located or used on geographically defined real property other than a public right-of-way.

(Ord. 2008-1, 4/8/2008, §1-3)

#### **§10-304. Administration and Enforcement.**

Borough Council may delegate to the Borough Police Department and/or to the Borough Codes Enforcement Officer the power to administer the terms of this Part, to investigate complaints and prosecute violations of this Part. When enforcing the terms of this Part, the Police Department and Codes Enforcement Officer may engage consultants and engineers with experience in measuring sound levels with the use of sound level meters from as approved by Borough Council. Such consultants shall have the powers and authority as delegated by the Police Department or Codes Enforcement Officer and shall act as the Borough's agent for the administration and enforcement of this Part.

(Ord. 2008-1, 4/8/2008, §1-4)

#### **§10-305. Noise Standards.**

1. *Specific Prohibited Acts.* The following actions are specifically prohibited regardless of the sound level which is emitted, unless otherwise exempted in this Part:

A. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, cassette player, sound amplifier or similar device which produces, reproduces or amplifies sound between the hours of 10 p.m. of one day and 7 a.m. of the following day in such a manner as to be plainly audible across a property line.

B. No person shall load or unload trucks or other motor vehicles or open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or other objects between the hours of 10 p.m. of one day and 7 a.m. of the following day in such a manner as to be plainly audible across a property line.

C. No person shall own, possess, harbor or control any animal or bird which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly for a period of 10 minutes or makes such noise intermittently for ½ hour or more to the disturbance of any person at any time of the day or night, regardless of whether the animal or bird is situated in or upon private property; provided, however, that at the time the animal or bird is making such noise, no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other cause which teased or provoked the animal or bird.

D. No person shall remove or render inoperative a sound dissipative device from motor vehicles, equipment or machinery, other than for purposes of maintenance, repair or replacement, when such motor vehicle, equipment or machinery is not in use; intentionally move or render inaccurate or inoperative any sound-monitoring instrument or other device positioned by or for the Borough or other governmental entity or agent thereof; or use any motor vehicle, equipment or machinery which has had a sound-dissipative device or any part thereof removed or rendered inoperative.

E. No person shall repair, rebuild or test or otherwise work on any motorcycle, motor vehicle, motorboat or aircraft between the hours of 10 p.m. of one day and 7 a.m. of the following day in such a manner as to be plainly audible across a property line.

F. Except for emergencies, and only if required by State regulations, no person shall intentionally sound or permit the sounding outdoors of any fire, police or burglar alarm.

G. Except for emergency situations, no person shall operate a recreational off-road vehicle.

## 2. *General Performance Standards/Noise Levels.*

A. It shall be unlawful for any person to operate or permit to be operated any stationary source of noise in such a manner as to create a sound pressure level which exceeds the limits set forth for the receiving land use in the following table when measured at the property boundary. When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between the different land use categories. All measurements shall be made with a sound level meter which is in conformance with American National Standards Institute specifications. The minimum time period for measuring the stationary source of noise shall be 5 minutes and where practicable, the microphone of the sound level meter shall be positioned 5½ feet above the ground level.

B. *Continuous Sound Levels by Receiving Land Use.*

Receiving Land Use Category	Time	Maximum Leq in dBA
Residential, public space, agricultural or institutional	7 a.m. - 10 p.m.	65 dBA
	10 p.m. - 7 a.m. plus Sundays and legal holidays	55 dBA
Commercial or business	7 a.m. - 10 p.m.	72 dBA
	10 p.m. - 7 a.m. plus Sundays and legal holidays	62 dBA
Industrial or Solid Waste Management	At all times	72 dBA

C. *Correction for Character of Sound.* For any stationary source of sound which emits a pure tone, a cyclically varying noise or repetitive impulse noise, the maximum sound-level limits set forth in the above table shall be reduced by 5 dBA. For any source of sound which emits an impulsive sound, the excursions of sound pressure level shall not exceed 20 dBA over the ambient sound pressure level, regardless of the time of day or night or receiving land use, using the “fast” meter characteristic of a Type II meter, meeting ANSI Specification SI.4-1971.

(Ord. 2008-1, 4/8/2008, §1-5)

**§10-306. Exceptions.**

The following noises are exempted from the provisions set forth in §10-405 of this Part:

A. Blasting, only if performed in accordance with permits issued by the Pennsylvania Department of Environmental Protection or any other governmental agency having jurisdiction, and the Borough of New Morgan. Such blasting may occur only between the hours of 7 a.m. and 5 p.m., Monday through Friday, unless specifically authorized at different times by the DEP permit.

B. Devices such as a horn or siren installed in a motor vehicle and used to warn persons of an imminent danger.

C. Emergency work to provide electricity, water or other public utilities or restore essential public services, including construction activities directly related to the abatement of an emergency.

D. Authorized emergency vehicles responding to an emergency.

E. Snow removal operations.

F. Work or activities performed or sponsored by schools and governmental agencies or their contractors in the performance of public service.

G. Noises made by bells, chimes, carillons used for religious purposes or in conjunction with national celebrations or public holidays; existing bells, chimes and carillons and clock strike mechanisms that are currently in use for any purpose.

H. Motor vehicle operations shall not exceed the noise levels established in 67 Pa.Code, Chapter 115, Subchapter B, “Established Sound Levels.”

I. Construction and demolition shall be exempt from the sound level limits in §10-405.2; provided, however, that all construction and demolition activity, excluding emergency work, shall be performed between the hours of 7 a.m. until 8 p.m. on weekdays and 9 a.m. until 6 p.m. on Saturdays, unless such activities meet the sound level limits in §10-405.2.

J. Construction and demolition activities performed by the property owner himself (without using paid employees), provided that such activity shall be performed between the hours of 7 a.m. until 8 p.m. on weekdays and 9 a.m. until 6 p.m. on weekends and Federal holidays, unless such activities meet the sound level limits in §10-405.2.

K. Domestic power tools including, but not limited to, lawn mowers, garden equipment, power saws, sanders and other equipment used for building repair or maintenance between the hours of 8 a.m. and 9 p.m.

L. Agricultural operations.

*(Ord. 2008-1, 4/8/2008, §1-6)*

### **§10-307. Permits.**

1. Borough Council, upon application from any person, shall have the authority to grant temporary permits permitting the operation or causation of sound in excess of the maximum permissible sound levels by receiving land use established in §10-405.2 if the following conditions are met to the satisfaction of the Board:

A. The temporary operation or causation of such sound, under the circumstances, will not severely jeopardize the health, welfare or safety of the citizens of the Borough.

B. The denial of such a permit will impose excess hardship on the applicant, the community or other persons.

C. The operation will not have an adverse effect on a contiguous land use.

D. The operation will not exceed 30 days.

2. Borough Council shall have the right and authority to impose reasonable conditions and restrictions upon any applicant for a temporary permit in order that the policy of this Part be implemented.

3. Any person seeking a permit pursuant to this Section shall file an application with Borough Council at least 7 days prior to the regularly scheduled monthly Borough Council Meeting. Said applicant shall include the following information:

A. The name, address and telephone number of the applicant.

B. The proposed location of the activity.

C. The nature and purpose of the proposed activity which will generate sound.

D. The proposed (estimated) levels of sound to be generated and the hours of generation.

E. A statement demonstrating that bringing the source of sound or activity for which the permit is sought into compliance with the standards set forth in this Part would impose an unreasonable hardship on the applicant, the community or other persons.

4. Permits shall be granted, by written notice, to the applicant containing all necessary conditions, including a time limit on the permitted activity. The permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any conditions of the permit shall terminate the permit and subject the person holding it to the violation provisions of this Part.

5. The issuance of any permit by Borough Council does not hold the Borough of New Morgan, the Borough Police or the Codes Enforcement Officer responsible in any way for death, injuries or damages resulting from the issuance of a permit.

*(Ord. 2008-1, 4/8/2008, §1-7)*

**§10-308. Violations and Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs together with reasonable attorney fees and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

*(Ord. 2008-1, 4/8/2008, §1-8; as amended by Ord. 2015-4, 9/8/2015)*

