PART A

NOISE CONTROL ORDINANCE

Section 101. General Provisions.

a. Title. This ordinance shall be known and may be cited as the "State College Noise Control Ordinance."

b. Purpose. This ordinance aims to ensure that public health, safety and welfare shall not be abridged by the making and creating of public nuisances from disturbing, excessive or offensive noises in the Borough of State College. The residents of State College recognize that uncontrolled noise represents a danger to the health and welfare of their neighbors and that each person in the community is entitled to live in an environment in which the level of noise is minimized for the community good. This ordinance attempts to foster mutual respect among residents and to establish a community position against noise pollution. The community believes that it should rely on the good sense of all residents to respect one another's living and working environments and one another's right to an environment that is free from noise disturbances.

c. Scope. This ordinance applies to all persons, property, animals, equipment, appliances, instruments and other sound-emitting devices, as regulated herein.

d. Relationship with Other Restrictions. The provisions of this ordinance are not intended to interfere with, abrogate or annul other rules, regulations or ordinances, including Title 18 (Crimes Code) and Title 75 (Vehicle Code), Pennsylvania Consolidated Statutes. If more stringent requirements concerning noise abatement are contained in the other rules, regulations or ordinances, the more stringent regulation shall apply.

(Ordinance 1460[5], January 19, 1995, Section 1.)[10]

Section 102. Definitions. The following words and phrases, when used in this ordinance, shall have, unless the context clearly indicates otherwise, the meanings given to them in this Section. All acoustical terminology shall be interpreted in accordance with that contained in ANSI S1.1, "Acoustical Terminology." All other words and terms not defined herein shall be used with a meaning of standard usage.

Words used in the present tense include the future tense; the singular number includes the plural and the plural number includes the singular; words of masculine gender include feminine gender and words of feminine gender include masculine gender; the word "includes" or "including" shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of like kind and character; the words "shall" and "must" are mandatory; the words "may" and "should" are permissive; the words "used" or "occupied" include the words "intended, designed, maintained or arranged to be used or occupied."

ANSI. American National Standards Institute, Inc. or its successor.

Best Engineering Practice. Standards adopted by professional bodies in the field of acoustical and mechanical engineering including techniques recommended by the manufacturer of the equipment causing the noise disturbance.

Borough. The Borough of State College, Centre County, Pennsylvania.

Central Business District (CBD). An area defined by the north property line on College Avenue, the south property line on Beaver Avenue, the west property line on Atherton Street, and the east property line on Sowers Street. The distance separating these lines is called the central business district.

Decibel (dB). A unit of sound level which is a division of a logarithmic scale used to express the ratio of the sound pressure of the source to the pressure of an arbitrarily chosen reference pressure; the ratio is expressed on the decibel scale by multiplying its base 10 logarithm by 20.

District. The zoning districts as set forth on the Zoning Map of the Borough of State College.

Noise. Any sound emitted by a person, an appliance, equipment, instrument, other device or an animal other than a barking dog.

Noise Disturbance. Any noise which:

(1) endangers or injures the safety or health of humans or animals, or
(2) annoys or disturbs a reasonable person of normal sensibilities, or
(3) jeopardizes the value of property or erodes the integrity of the environment, or
(4) is in excess of the allowable noise level established in this ordinance.

Person. Includes an individual, firm, association, organization, partnership, trust, company, corporation or any other similar entity.

Plainly Audible. Any sound that can be detected by a person of normal sensibilities using his or her unaided hearing facilities.

Sound Level. The sound pressure level (SPL) 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). The unit of measurement is the decibel. If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound Level Meter. An instrument or combination of instruments which meets or exceeds the requirements for an ANSI Type SIA or Type S2A Sound Level Meter.

(Ordinance 1460, January 19, 1995, Section 2, as amended by Ordinance 1704, July 22, 2002, Section 1.)

Section 103. Noises Prohibited.

a. General Prohibitions. It shall be unlawful for any person(s) to make or cause to be made, a noise disturbance within the limits of the Borough of State College, except as provided in this ordinance. All such disturbances are declared to be public nuisances.

b. Specific Prohibitions. The following are specifically prohibited, except as otherwise provided in this ordinance.

(1) Radios, Television Sets, Phonographs, Compact Discs, CD-ROM and Computer-Generated Musical Instruments and similar devices, as follows:

(a) Operating or permitting the use of operation of any musical instrument, radio, television, phonographs, compact discs, CD-ROM and computer-generated musical instruments, or other device for the production or reproduction of sound, in such a manner as to cause a noise disturbance.

(b) Operating any such device between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to be audible across real property boundaries or through partitions common to two parties within a building, or plainly audible at fifty (50) feet from such device when operated within a motor vehicle on a public right-of-way or in a public space.

(2) Loudspeakers/Sound Amplifiers.

(3) Street Sales. Selling anything by shouting or by outcry except by permit.

(4) Loading Operations. Loading, unloading, opening or otherwise handling boxes, crates, containers or similar objects between the hours of 9:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance within a residential district, except during an emergency.

(5) Construction Noise. Operating or causing to be operated any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto in the following manner:

(a) With sound control devices which have been tampered with;
(b) In violation of any regulation of the United States Environmental Protection Agency; or

(c) Between the hours of 7:00 p.m. and 7:00 a.m. the following day on weekdays and between 7:00 p.m. on Saturday evenings and 9:00 a.m. on Sunday mornings, which creates a noise disturbance, unless otherwise exempted in this ordinance, or by an act of Council.

(6) Explosives, Firearms, or Similar Devices. The use or firing of explosives, firearms, or similar devices which create a noise disturbance.

(7) Yelling, Shouting, and Whistling. Yelling, shouting, whistling or generally creating a noise disturbance on public streets between the hours of 9:00 p.m. and 7:00 a.m.

(8) Power Equipment. Operating, or permitting to be operated, any power saw, sander, drill, grinder, garden equipment or tools of a similar nature, outdoors in residential districts between the hours of 9:00 p.m. and 7:00 a.m. the following day, in such a manner as to create a noise disturbance.

(9) No person(s) shall create or permit to be created noise which exceeds the following noise when measured at or beyond the property line of the noise source:

(a) All Districts – 58 dB(A), except,
(b) the Central Business District – 62 dB(A).

(Ordinance 1460, January 19, 1995, Section 3.)

Section 104. Noise Abatement Required for Large Heating, Ventilation, and Air Conditioning (HVAC) Units.

a. Purpose and Intent.

(1) Changes in air conditioning technology have resulted in the introduction of new types of large air conditioning units. These new types of units, which typically use screw or scroll type compressors, operate at higher pressure and are more economical than older units. These efficiencies will lead to the increased use of these newer technologies in the larger unit applications that service commercial buildings and apartment buildings.

(2) An undesirable by-product of the operation of these units is the emission of a high frequency noise that is qualitatively different from earlier technology air conditioners. The distance that this noise carries is considerable and often varies with time of day and weather conditions.

(3) Because this high-frequency noise carries considerable distances, is often continuous or semi-continuous in nature, and fluctuates in loudness and pitch, it can be extremely annoying when “plainly audible” even though its decibel level may not be high.

(4) Furthermore, the magnitude and characteristics of the noise emitted by these units varies by type, model, location, and/or installation. While some units may operate in a manner that does not disturb neighborhood residents, other units produce noise that is “plainly audible” beyond the property boundary. This noise can be particularly annoying during nighttime hours when persons are attempting to sleep, but cannot because of the magnitude and characteristics of the sound emitted. Under these circumstances such noise is a nuisance and constitutes a “noise disturbance” as defined in the noise ordinance.

(5) Therefore, the purpose of this section is to require noise abatement devices to be installed and or techniques used when the noise emitted from these units is “plainly audible” beyond the property boundary and causes a noise disturbance.

(6) The type and location of abatement devices required and or techniques used shall be based on the application of “best engineering practices” for sound mitigation techniques as established by acoustical and mechanical experts in their respective fields. The approach used is to achieve abatement by requiring the simplest and least expensive techniques, as recommended by experts in the field, to be employed first. Additional mitigation techniques shall be required to the extent that is reasonable when the initial response (step) fails to abate the noise disturbance. It is recognized that in some situations total abatement of noise beyond the property line cannot be reasonably achieved. In such circumstances, the intention is to reduce the noise emitted beyond the property line to the greatest extent that is reasonably feasible by applying “best engineering practices.” It is implicit that best engineering practice relies on the judgment of experts in the field to determine how much noise mitigation is feasible within the bounds of reasonable cost and effort.

b. <u>Abatement Required</u>.

(1) Abatement as required by this subsection is applicable to all air conditioners, ventilation, heating units, and similar devices of 8 tons or greater heating or cooling capacity that have been installed or first routinely operated on or after January 1, 2000.

(2) When such units emit noise that is “plainly audible” beyond the property boundary and such noise causes a noise disturbance, noise abatement devices shall be installed and or techniques used in accordance with the procedures prescribed in subsection d. to the extent necessary to cause abatement. The type and location of abatement devices required and or techniques used shall be based on the application of “best engineering practices” for sound mitigation techniques as recommended by acoustical and mechanical experts in their respective fields.

(3) Abatement shall be deemed to occur when either (a) the noise disturbance is eliminated or, (b) where in the judgment of experts in the field the noise cannot be further reduced except at prohibitive or unreasonable cost and the noise emitted beyond the property boundary has been reduced to the extent that is reasonably feasible using “best engineering

practices" for sound mitigation.

(4) Upon complaint from a resident that the noise is a nuisance and upon verification by the Borough of State College that such noise is "plainly audible" and disturbing, the Borough shall send the landowner written notice that the noise is plainly audible beyond the property line and is causing a nuisance by disturbing persons and is therefore deemed to be a "noise disturbance." Upon receiving the notice, it shall be the landowner's duty to provide a noise abatement plan to the Borough of State College that is based on "best engineering practices" for sound mitigation and to install noise abatement devices on or before the compliance dates as established in the notice.

(5) It shall be a violation of this ordinance to operate air conditioners or other units as described above beyond the compliance date without having employed abatement devices and or techniques based on "best engineering practices" sound mitigation techniques that actually eliminated the noise disturbance or are otherwise designed to reduce the noise emitted beyond the property boundary to the greatest extent that is reasonably feasible.

c. <u>Content of Written Notice</u>. The written notice shall at a minimum state the following:

(1) The name of the owner of record and any other person or entity against whom the Borough intends to take action.

(2) The location of the property in violation.

(3) A description of the violation and the citation of the applicable provisions in the ordinance.

(4) The date before which a Noise Mitigation Plan shall be submitted to the Borough of State College.

(5) The date before which initial abatement devices and or techniques shall be employed.

(6) The final date before which abatement shall occur.

d. <u>Procedure for Abatement</u>.

(1) A Noise Mitigation Plan prepared by a licensed acoustical or mechanical engineer with working knowledge of "best engineering practices" for sound mitigation techniques shall be submitted to the Borough of State College within 45 days of receipt of the written notice.

(2) The plan shall describe in detail the types of devices and or techniques based on "best engineering practices" for sound mitigation that can be employed to abate the noise disturbance and shall set forth a schedule that describes and recommends which approach to use first followed by additional recommendations of sound mitigation techniques to be pursued should the initial devices or techniques as recommended fail to abate the noise disturbance. The plan shall also provide the estimated cost of employing the various mitigation devices and or techniques recommended.

(3) Upon review of the plan, the Borough shall communicate in writing to the landowner either authorization to proceed with the sound mitigation techniques as described and recommended in the plan or shall require modification of the plan.

(4) Once authorized by the Borough, abatement devices or techniques described and recommended in the plan shall be installed within 30 days following authorization unless extended by the Borough for just cause.

(5) Should the initial abatement devices and or techniques used and relied upon fail to abate the noise disturbance, the landowner shall follow the schedule and pursue other recommended abatement techniques, as needed, until abatement is effected to the extent that is feasible within the bounds of reasonable cost and effort.

(6) Any contention that the noise emitted beyond the property line cannot be further mitigated after having pursued reasonable means to do so as described and recommended in the noise mitigation plan shall be documented by experts in the field. The Borough of State College shall consider with great weight expert opinion and the documentation in judging reasonableness and whether further mitigation is feasible and therefore warranted.

e. Right to Enter and Inspect. Enforcement officers, as designated by the Borough Manager, and associated technical advisors, shall have the right to enter the property to determine if "best engineering practices" for noise mitigation techniques have been properly applied. Failure to allow entry after receiving proper notice from the Borough of State College shall be deemed a violation of this ordinance.

(Ordinance 1704, July 22, 2002, Section 2.)

Section 105. Exemptions. Noise from the following sources shall be exempt from the noise standards specified herein:

a. All safety signals and warning devices (e.g. stationary emergency signal devices, intrusion alarms, back-up alarms on trucks, police/fire/ambulance sirens) or any other device used to alert persons to an emergency or used during the conduct of emergency work.

b. The provision, repair and maintenance of municipal facilities, services or public utilities.

c. Bells, chimes and 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.

d. Appliances, lawn and garden equipment or household power tools in use between the hours of 7:00 a.m. and 9:00 p.m., provided such are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified and in proper operating condition.

e. Snow removal equipment, operated within the manufacturer's specification and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.

f. Heavy construction equipment (including pile drivers, crawler-tractors, bulldozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders, paving machines, ditchers, trenchers, compactors, scrapers, pavement breakers, compressors, pneumatic power equipment and similar devices) in use between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and Saturdays, and between 9:00 a.m. and 7:00 p.m. on Sundays, for the duration of such construction and demolition work, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.

g. Air conditioners, fans, heating units and similar devices of less than 8 tons heating or cooling capacity, provided such are operated within the manufacturer's specifications when all reasonable measures have been taken to reduce noise levels as required and approved by the Noise Enforcement Officer.

h. Aircraft.

i. Musical, recreational and athletic events conducted by schools or a local government including such outdoor practices as may be necessary in preparation for such events.

j. Activities permitted by special waiver, as provided herein, and activities conducted in accordance with special activity permits for use of public property or the public rights-of-way, approved by Borough Council.

(Ordinance 1460, January 19, 1995, Section 4, as amended by Ordinance 1704, July 22, 2002, Section 3.)

Section 106. Administration. The provisions of this ordinance shall be enforced by Borough Ordinance Enforcement Officers, Police Officers and others designated by the Borough Manager. (Ordinance 1460, January 19, 1995, Section 5, as amended by Ordinance 1704, July 22, 2002, Section 4.)

Section 107. Special Waivers. A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons for emergencies, as determined by the Borough Manager, to protect health and safety or to comply with other lawful rules, regulations and ordinances. (Ordinance 1460, January 19, 1995, Section 6, as amended by Ordinance 1704, July 22, 2002, Section 4.)

Section 108. Enforcement and Penalties. Any noise in violation of this ordinance is hereby declared a public nuisance and may be abated by administrative proceedings, fines and penalties herein provided.

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 on such place or manner, or at such levels which may give rise to such cause of action.

a. Procedure. If, in the enforcement of this ordinance, it is determined that a noise disturbance exists, a written warning or a citation may be issued. Any warning shall be in effect for 120 days. If within the 120 days another violation occurs, a citation shall be issued. A citation shall be issued for each subsequent violation that occurs during the 120-day period.

b. dB(A) Measurement and Test Procedures. When required to be measured, dB(A) levels shall be measured by conventional sound level meters on slow response.

c. Penalties. Any person found guilty of violating provisions of this ordinance, shall be fined not less than $100.00 nor more than $600.00 for the first offense, and not less than $200.00 nor more than $600.00 for the second offense, and not less than $300.00 nor more than $600.00 for the third offense and not less than $400.00 nor more than $600.00 for the fourth and subsequent offenses in any 120-day period and, upon failure to pay such fine, shall be sentenced to jail for a term not to exceed 30 days for each offense.

A separate and distinct offense shall be committed each day that a violation of the terms of this ordinance continues to exist.

(Ordinance 1460, January 19, 1995, Section 7, as amended by Ordinance 1704, July 22, 2002, Section 5, and by Ordinance 1914, December 15, 2008, Section 3.)