

CHAPTER 6

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Part 1

Prohibiting Disorderly Conduct

§101. Disorderly Conduct Prohibited. Disorderly conduct, as defined in the Pennsylvania Crimes Code of 1972 (18 Pa.C.S.A. §5503), is hereby prohibited within the Borough of New Holland. A person is guilty of disorderly conduct if he:

A. Engages in fighting or in threatening, violent or tumultuous behavior.

B. Makes unreasonable noise.

C. Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor. Provided, as used in this Section, the word "public" means affecting or likely to affect persons in a place to which the public or a substantial group has access. Among the places included are streets, alleys and sidewalks, transport facilities, schools, prisons, apartment houses, places of business or amusement, any neighborhood, or any premises which are open to the public. (Ord. 244, 2/3/1970; as revised by Ord. 427, 12/28/1993)

§102. Penalty for Violation. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) and costs and, in default of payment of said fine and costs, to imprisonment for a term not to exceed thirty (30) days. (Ord. 244, 2/3/1970; as revised by Ord. 427, 12/28/1993)

Part 2

Curfew

§201. Title. This Part shall be known as the "Borough of New Holland Curfew Ordinance." (Ord. 504, 10/5/2004, §1)

§202. Legislative Intent. The Council of the Borough of New Holland, recognizing the problem of crimes committed by and committed against juveniles during the nighttime, and believing that it can be dealt with more effectively by regulating the hours during which minors less than eighteen (18) years of age may remain in public places and certain establishments without adult supervision, and by defining more clearly certain duties and responsibilities upon those who have the custody and responsibility for the care of such minors, hereby enacts this Part for the purpose of promoting the general welfare and protecting the general public through reduction of juvenile violence and crime within the Borough of New Holland, promoting the safety and welfare of the Borough's citizens under the age of eighteen (18) years, whose youth and inexperience renders them particularly vulnerable to becoming participants in criminal activity and in being victimized by perpetrators of crime, and fostering and strengthening parental responsibility for children. (Ord. 504, 10/5/2004, §2)

§203. Definitions. In this Part the following definitions shall apply.

AFTER HOURS - the period of time between the hours of 11:00 p.m. and 5:00 a.m. on Sunday through Thursday nights and 12:00 midnight and 5:00 a.m. on Friday and Saturday nights.

ESTABLISHMENT - any privately owned place of business operated for profit, including any place of amusement or entertainment, to which the public is invited.

EMERGENCY - refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disaster, automobile accidents, or other similar circumstances.

MINOR - any person less than eighteen (18) years of age. For the purpose of this Part any person shall be deemed to be eighteen (18) years of age on the date of his or her eighteenth (18th) birthday and not before this time.

OPERATOR - any individual, firm, association, partnership or corporation owning, operating, managing or conducting any establishment. Whenever used in any provision prescribing a penalty, the word "operator" shall include the members, partners, officers and managers of any firm, association, partnership or corporation.

PARENT - the biological or adoptive parent of the minor; a legal guardian of the minor; or an adult person twenty-one (21) years of age or over and who is authorized by the minor's parent or legal guardian to be responsible, either temporarily or permanently, for the custody or care of the minor or for the control of such minor.

PUBLIC PLACE - any public street, highway, road, alley, park, playground, vacant lot or any private building, structure or area to which the public is invited or in which the public is allowed to remain.

REMAIN - to be at or stay at a place.

(Ord. 504, 10/5/2004, §3)

§204. Unlawful Conduct of Minor. It shall be unlawful for a minor to remain in or upon any public place or to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon an establishment in the Borough of New Holland after hours except as follows:

A. The minor is accompanied by a parent.

B. The minor is involved in an emergency.

C. The minor is engaged in an activity, related to his or her employment, or is going to or returning home from such activity, without detour or stop.

D. The minor is on the sidewalk directly abutting a place where he or she resides with a parent.

E. The minor is attending an activity sponsored by a school, religious or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop.

F. The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand; no minor or parent shall falsify the documents described above.

G. The minor is involved in interstate travel through or beginning or terminating in the Borough of New Holland.

(Ord. 504, 10/5/2004, §4)

§205. Unlawful Conduct of Parents. No parent shall knowingly permit any minor to remain in or upon any public place or establishment after hours unless the minor is engaged in an activity permitted under §204 of this Part. "Knowingly" shall mean knows or has reason to know. (Ord. 504, 10/5/2004, §5)

§206. Unlawful Conduct of Operators of Establishments. No operator of an establishment shall knowingly permit any minor to remain upon the premises of such establishment after hours. (Ord. 504, 10/5/2004, §6)

§207. Rules and Regulations. The Chief of Police is hereby authorized, from time to time, to promulgate such rules and regulations, including the extension of hours for special occasions, as in his or her opinion shall be necessary or useful in the enforcement of this Part. Such rules and regulations shall, however, be subject to the approval of the Council of the Borough of New Holland. (Ord. 504, 10/5/2004, §7)

§208. Offenses. Each violation of the provisions of this Part shall constitute a separate offense. (Ord. 504, 10/5/2004, §8)

§209. Penalties. Before taking any enforcement action under this Section. A police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances. No exception set forth in §204 of this Part applies.

A. Any minor or parent who violates the provisions of this Part for the first time may be issued a citation. The minor may be taken into temporary custody, in which case his or her parents or other appropriate person shall be notified and the minor shall be released into the custody of the appropriate parent or parents of the minor or to a brother or sister eighteen (18) years of age or older. If no such person is available after reasonable efforts have been made to locate such person, then the minor shall be released to such agencies or institutions as are established for juvenile welfare.

B. At the officer's discretion, a minor who is found upon the streets, alleys, parks or public places within the Borough, for the first time, may take the minor into custody. The Officer will contact the minor's parent(s), legal guardian, or brother or sister over the age of eighteen (18) years, instruct them to come into the police station to pick up the minor. At that time, the Officer will deliver to the minor's parent(s), legal guardian, brother or sister over the age of eighteen (18) years, a copy of the Borough's Curfew Ordinance. If the Officer chooses to follow this procedure for a first-time violation, this arrest would not be considered the minor's first violation for purposes of paragraph .C of this Section. A subsequent violation would be considered the minor's/parents' first violation under paragraph .C.

C. Any minor or parent who violates any provisions of this Part is guilty of a summary offense and, upon conviction thereof, shall be subject to fine or imprisonment as follows:

(1) First offense: up to twenty-five dollars (\$25.00).

(2) Second offense: up to one hundred dollars (\$100.00).

(3) Third and Subsequent offenses: up to three hundred dollars (\$300.00). Parents are subject to imprisonment for up to thirty (30) days and the minor to referral to the juvenile court system.

D. Any operator convicted of violating the provisions of this Part for the first times shall be fined fifty dollars (\$50.00), and shall be subject to imprisonment for a term of not to exceed thirty (30) days. Any operator convicted of violating the provisions of this Part for the second or subsequent time shall be fined three hundred dollars (\$300.00), and shall be subject to imprisonment for a term not to exceed thirty (30) days.

(Ord. 504, 10/5/2004, §9)

§210. Annual Review. This Part and the need for it shall be reviewed annually. By November 1, 2004, and each year thereafter, the Mayor and/or

the Chief of Police of the Borough of New Holland shall review this Part and report and make recommendations to the Council of the Borough of New Holland concerning the effectiveness of and the continuing need for this Part. The report shall include, but not be limited to, the following information:

A. The practicality of enforcing the ordinance and any problems with enforcement identified by the New Holland Police Department.

B. The impact of this Part and support programs on juvenile crime statistics.

C. Number of juveniles taken into custody for curfew violations.

D. Number of official citizen complaints filed regarding the enforcement of this Part.

(Ord. 504, 10/5/2004, §10)

Part 3

Prohibiting Discharge of Firearm or Similar Device

§301. Discharge of Firearms Prohibited. Except in necessary defense of person and property and except as provided in §303 of this Part, it shall be unlawful for any person to use, fire, or discharge any gun or other firearm within the Borough of New Holland. (Ord. 315, 2/2/1982; as revised by Ord. 427, 12/28/1993)

§302. Use of Air Rifles, Bow and Arrows, or Similar Devices Restricted. It shall be unlawful for any person to discharge any air rifle, air pistol, spring gun, spring pistol, B-B gun, bow and arrow, or similar device, or any implement that is not a firearm but which impels a pellet of any kind with a force that can reasonably be expected to cause bodily harm, at any place within the Borough, except as provided in §303 of this Part, and except on a target range which is properly constructed to trap or stop the projectile as ascertained by the Chief of Police. (Ord. 315, 2/2/1982; as revised by Ord. 427, 12/28/1993)

§303. Exceptions. This Part shall not apply to:

A. Persons licensed to hunt in this Commonwealth while actually engaged in hunting where permitted under the laws of the Commonwealth of Pennsylvania;

B. Members of any organization incorporated under laws of this Commonwealth engaged in target shooting upon the grounds or property belonging to or under the control of such organization; and

C. Any law enforcement officers when used in the discharge of their official duties.

(Ord. 315, 2/2/1982; as revised by Ord. 427, 12/28/1993)

§304. Penalties for Violation. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) and costs and, in default of payment, to imprisonment for a term not to exceed thirty (30) days. (Ord. 315, 2/2/1982; as revised by Ord. 427, 12/28/1993)

Part 4

Alcoholic Beverages in Public Places

§401. Definitions. As used in this Part, certain terms are defined as follows:

ALCOHOLIC BEVERAGE - any liquor, malt or brewed beverage, wine, or alcoholic cider, as those terms are defined in Pennsylvania Liquor Code, 47 P.S. §1-102, or as regulated by the Pennsylvania Liquor Code, 47 P.S. §1-101 et seq.

PUBLIC PLACE - any street, alley, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate front of any store, shop, restaurant, tavern or other place of business.

(Ord. 505, 10/5/2004, §1)

§402. Possession in Public Places Prohibited. No person within the Borough of New Holland shall transport or have in his possession an open or unsealed bottle or container of alcoholic beverage when such person is in a public place. (Ord. 505, 10/5/2004, §2)

§403. Possession in Nonpublic Places Regulated. No person within the Borough of New Holland shall enter upon the private property of another, having on his person an open or unsealed bottle or container of an alcoholic beverage, without the permission, consent or invitation of the owner, occupant or other person having control of such private property. (Ord. 505, 10/5/2004, §3)

§404. Violations and Penalties.

1. Any person who violates any of the provisions of this Part shall, upon conviction thereof in a summary proceeding before a district justice, be fined:

- A. Twenty-five dollars (\$25.00) for the first offense.
- B. One hundred dollars (\$100.00) for any subsequent offense.

2. In default of payment thereof, such person shall be imprisoned for not more than thirty (30) days.

3. The fines collected by the district justice for violations of the provisions of this Part shall be paid over to the Borough of New Holland.

(Ord. 505, 10/5/2004, §4)

Part 5
Noise Control

§501. Purpose. The Council, finding that excessive levels of sound are detrimental to the physical, mental and social well-being of the residents as well as to their comfort, living conditions, general welfare and safety, and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of excessive sound and the sources of excessive sound within the Borough of New Holland. (Ord. 510, 3/1/2005, §1)

§502. Title. This Part shall also be known as the "Borough of New Holland Noise Control Ordinance." (Ord. 510, 3/1/2005, §2)

§503. Definitions. The following words, terms and phrases, when used in this Part, shall have the meanings herein given, except where the context clearly indicates a different meaning. All terminology used in this Part, not defined below, shall be in conformance with the applicable publications of the American National Standards Institute [ANSI S1.1 - 1960 (R1971) and its revisions] or its successor body.

AMBIENT NOISE - the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near far.

A-WEIGHTED SOUND LEVEL - the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated "dB(A)."

CONSTRUCTION OPERATION - the erection, repair, renovation, demolition or removal of any building or structure and the excavation, filling, grading and regulation of lots in connection therewith.

DECIBEL; dB - a unit for measuring the sound-pressure level, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

EMERGENCY - any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

EMERGENCY WORK - any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

ENGINE BRAKE - a motor/engine retarding device, or any retarding device or system that brakes on the motor or engine rather than on the wheels as a means of slowing or stopping a truck, truck tractor, motor carrier vehicle, motor vehicle or vehicle. Such devices are commonly known as "Jake brakes" or "Jacob brakes."

IMPULSIVE SOUND - sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

MOTOR CARRIER VEHICLE - a truck, truck tractor or combination having a gross weight or registered gross weight in excess of seventeen thousand (17,000) pounds.

MOTOR VEHICLE - a vehicle which is self-propelled, except one which is propelled solely by human power or by electric power obtained from overhead trolley wires, but not operated upon rails.

MUFFLER or SOUND-DISSIPATIVE DEVICE - a device designed or used for decreasing or abating the level of sound escaping from an engine or machinery system.

NOISE - any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE - any sound which:

(1) Endangers or injures the safety or health of humans or animals.

(2) Annoys or disturbs a reasonable person of normal sensitivities.

(3) Endangers or injures personal or real property.

(4) Is in excess of the sound levels by zoning districts established in §505.1 of this Part.

PERSON - any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a State or any political subdivision of a State. Whenever used in any clause prescribing and imposing a penalty, "person" includes the individual members, partners, officers and managers or any of them of partnerships and associations and, as for corporations, the officers and managers thereof or any of them.

POWERED MODEL VEHICLE - any self-propelled airborne, waterborne or land borne plane, vessel or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

PROPERTY LINE (BOUNDARY) - an imaginary line drawn through the points of contact of adjoining lands, apartments, condominiums, townhouses and duplexes owned, rented or leased by different persons, a demarcation or a line of separate of properties, and also, for any two or more buildings sharing common grounds, the line drawn midway between any two such buildings. All areas devoted to public rights-of-way shall be deemed to be across the property line. For the purpose of this definition, the property line includes all points on a plane formed by projecting the property line in a manner deemed appropriate by the enforcing police officer.

PUBLIC RIGHT-OF-WAY - any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

PUBLIC SPACE - any real property or structures thereon which are owned or controlled by a governmental entity.

PURE TONE - any sound which can be heard as a single pitch or a set of single pitches. For the purpose of this Part, a pure tone shall exist if the one-third (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 (2) contiguous octave bands by five (5) dB for center frequencies of five hundred (500) Hz and above and by eight (8) dB for center frequencies between one hundred sixty (160) and four hundred (400) Hz and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.

REAL PROPERTY - all land, whether publicly or privately owned, whether improved or not improved, with or without structures, exclusive of any areas devoted to public rights-of-way.

SOUND - an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, or the superposition of such propagated oscillation which evokes an auditory sensation. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

SOUND LEVEL - the weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network, such as A, B or C, as specified in the American National Standards Institute specifications for sound level meters (ANSI S 1.4 1971, or the latest revision thereof). If the frequency weighing employed is not indicated, the A-weighing shall apply.

SOUND LEVEL METER - an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and any applicable weighing network used to measure sound pressure levels which meets or exceed the requirement for a Type I or Type H sound level meter as specified in ANSI Specification S1.4-1971. The manufacturer's published indication of compliance with such specifications shall be prima facie evidence of such compliance.

TRUCK - a motor vehicle designed, used or maintained primarily for the transportation of property.

TRUCK TRACTOR - a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

VEHICLE - every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks.

ZONING DISTRICTS - the land use districts established by the Zoning Ordinance of the Borough of New Holland Ordinance [Chapter 27], and all subsequent amendments.

(Ord. 510, 3/1/2005, §3)

§504. Prohibited Acts; Violations.

1. Noise Disturbance Prohibited. No person shall make, continue or cause to be made or continued any noise disturbance, nor shall any person suffer, allow or permit any noise disturbance to be made or continued from or at any property, whether real or personal, that is subject to such person's right to control.

2. Specific Prohibitions. The following acts and the causing thereof are declared to be noise disturbances and therefore in violation of this Part:

A. Radios, television sets, musical instruments and similar devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo, high-fidelity equipment or similar device which produces, reproduces or amplifies sound:

(1) At any time in such a manner as to cause a noise disturbance across a property line (boundary), or between the hours of 10:00 p.m. and 8:00 a.m. so as to be plainly audible across a property line (boundary).

(2) In such a manner as to create a noise disturbance across a property line (boundary), or at fifty (50) feet from such device, whichever is less, when the device is operated in or on a motor vehicle, or hand carried, on a public right-of-way or public space.

(3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger or a common carrier.

B. Yelling and Shouting, Etc. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing:

(1) On the public streets between the hours of 9:00 p.m. and 8:00 a.m.

(2) At any time or place in such a manner as to create a noise disturbance.

C. Construction.

(1) Operating or permitting the operation of any tools or equipment used in construction operations, drilling or demolition work:

(a) Between the hours of 9:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property line (boundary), except for emergency work.

(b) At any other time such that the sound level at or across a real property line (boundary) exceeds eight-five (85) dB(A) for a period of one (1) hour.

(2) This Section shall not apply to the use of domestic power tools subject to subsection .2.D hereof.

D. Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snow blower or similar device used outdoors in residential areas (see §505.1, Table 405-1) between the hours of 9:00 p.m. and 7:00 a.m. so as to cause a noise disturbance across a residential property line (boundary).

E. Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans 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 cause a noise disturbance across a residential property line (boundary). This Section shall not apply to municipal or utility services in or about the public right-of-way.

F. Animals and Birds. Owning, possessing, harboring or controlling any dog, cat, bird or animal which habitually howls, barks, meows, squawks or makes noise or sounds in such a manner as to materially disturb or annoy persons in the surrounding neighborhood and such dog, cat, bird or other animal exhibiting the aforementioned behavior are hereby declared to be a public nuisance; provided, however, that at the time the dog, cat, bird or animal is making such noise or sound, no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated, or no other legitimate cause exists which teased or provoked the dog, cat, bird or animal.

Whenever a person shall complain to the New Holland Police Department that a dog, cat, bird or other domestic animal which habitually barks, howls, yelps, cries or otherwise makes disturbing noise is being kept by a person in the Borough of New Holland, the Police Department shall:

(1) Notify that owner, handler, custodian or keeper of such dog, cat, bird or other, domestic animal that a complaint has been received and that the person should take necessary action to alleviate in a humane manner the barking, howling, yelping or crying.

(2) If the warning given pursuant to subparagraph (1), above, to the person alleged to be keeping any such dog, cat, bird or other domestic animal is ineffective, then a verified complaint of at least two (2) citizens not from the same family may be presented to the Police Department alleging that the dog, cat, bird or other domestic animal which habitually barks, howls, yelps or cries is being kept by the person first complained about. If said complaint is found to be true, the Police Department shall inform the owner, handler, custodian or keep of said dog, cat or other domestic animal that said petition has been received and shall prosecute that person for a violation of this Part.

(3) "Habitually" is hereby defined to include, by way of illustration and not limitation, noise or sounds made continuously and/or incessantly for a period of thirty (30) minutes or noise or sounds made intermittently for two (2) hours or more in any twenty-four (24) hour period, to the disturbance of any person at any time of the day or night, regardless of whether the dog, cat, bird or animal is situated in or upon private property.

G. Powered Model Vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential property line (boundary) between the hours of 9:00 p.m. and 8:00 a.m.

H. Street Sales. Offering for sale or selling by shouting or outcry or by any other amplified or unamplified sound within any residential or commercial area (see §505.1, Table 505-1) except between the hours of 8:00 a.m. and 9:00 p.m. and at no time in such a manner as to violate §505.1.

I. Tampering. The following acts or the causing thereof are prohibited:

(1) The removal or rendering inoperative by any person other than for purposes of maintenance, repair or replacement of any muffler or sound dissipative device or element of design or noise label of any product.

(2) The intentional moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the New Holland Police Department, provided that such device or the immediate area is clearly labeled in accordance with noise control regulations to warn of the potential illegality.

(3) The use of a product which has had a muffler or sound dissipative device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

J. Vehicle, Motorboat or Aircraft Repairs and Testing. Repairing, rebuilding or testing any motor vehicle, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a residential real property line (boundary).

3. Motor Vehicle Prohibitions.

A. Motor Vehicle and Motorcycles on Public Rights-of-Way. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle, or any equipment attached to such a vehicle, on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle, or any equipment attached to such a vehicle, exceeds the level set forth in Pennsylvania Department of Transportation Regulations, Title 67, Chapter 157, Subchapter B, 67 Pa.Code §157.11.

B. Standing Motor Vehicles. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period longer than fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, anywhere within one hundred (150) feet of any residence in such a manner as to cause a noise disturbance across a residential property line (boundary).

C. Unnecessary Horn Blowing. No person shall at any time sound the horn or other warning device of a vehicle except when absolutely necessary as a warning while actually driving such vehicle.

D. Sound Trucks. No person shall operate sound amplifying equipment mounted on or attached to any motor vehicle at any time in such a manner as to exceed the maximum permissible motor vehicle noise emissions as set forth in subsection .3.A hereof.

E. Engine Brake. No person shall utilize an engine brake device on any truck, truck tractor, truck trailer, or other motor vehicle, except in the event of emergency.

4. Prima Facie Violation. The noise from any of the aforesaid prohibited acts that disturbs two (2) or more residents who are in general agreement as to the times and durations of the noise and who reside in separate residences, including apartments and condominiums, located across a property line (boundary) from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance.

(Ord. 510, 3/1/2005, §4)

§505. Sound Level by Zoning Districts.

1. Maximum Permissible Sound Levels by Zoning Districts. No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth in the zoning designations category in Table 505-1 hereof when measured at or across the property line (boundary) from the noise source. Any sound source that produces sound in excess of those levels shall constitute a noise disturbance.

<u>Table 505-1</u> <u>Sound Levels by Zoning Districts</u>		
	<u>Sound Level Limit</u>	
<u>Zoning District of the Property on Which the Noise Source Is Located</u>	<u>8:00 a.m. to 9:00 p.m. [dB(A)]</u>	<u>9:00 p.m. to 8:00 a.m. [dB(A)]</u>
Residential	57	52
Commercial	67	62
Manufacturing	77	77

2. When Exceeded. The sound level limits set forth in subsection .1, Table 505-1, hereof shall be exceeded when any one (1) or more of the following occur:

A. The sound at any one point in time exceeds any of the established zone limits in subsection .1, Table 505-1, hereof by a measured sound level of fifteen (15) dB(A).

B. The sound exceeds any of the established zone limits in subsection .1, Table 505-1, hereof by a measured sound level of ten (10) dB(A) for a cumulative total of one (1) minute or more out of any ten (10) minute period.

C. The sound exceeds, except in the Manufacturing District, any of the established zone limits in subsection .1, Table 505-1, hereof by a measured sound level of three (3) dB(A) continually for a period of five (5) minutes, or a total of five (5) minutes out of any ten (10) minute period.

3. Ambient Sound. In the event that the background ambient sound levels in an area of suspected noise disturbance exceed the levels set forth in subsection .1, Table 505-1, hereof, the sound level of the intrusive sound source shall be measured with the ambient background sound level being substituted as the Table 505-1 sound level limit.

4. Where Measured. For the purposes of this Section, sound shall be measured at or beyond the property line (boundary) of the property on which the noise source is located.

5. Pure Tone and Impulsive Sound. For any source of sound which emits a pure tone or impulsive sound, the limits set forth in subsection .1, Table 505-1, hereof shall be reduced by five (5) dB(A).

6. Adjustment for Nonconforming Uses. Any noise which occurs on property which, according to the Zoning Code, is being used in a legally

nonconforming manner, and which noise relates to such use, shall be judged as if the property bore a zoning designation under which the use would be conforming.

7. Measuring Instruments. All sound measurements shall be made on a sound level meter calibrated in the manner required by the manufacturer's specifications.

8. Exemptions from Sound Level Limits. The provisions of this Section shall not apply to:

- A. Activities covered by §504.2.C and .D, or any emergency signaling device used because of an emergency.
- B. Interstate railway locomotives and cars.
- C. Motor vehicles.

(Ord. 510, 3/1/2005, §5)

§506. Exemptions. The following sounds are exempted from the provisions of this Part:

A. Amplified Announcements. Electronically amplified announcements at athletic events.

B. Blasting. Blasting under permit by the Borough of New Holland, which blasting may occur only between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, unless specifically authorized by such permit.

C. Concerts, Etc. Band concerts, block parties, church carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, provided that:

(1) Such activities do not produce sound fifteen (15) dB(A) in excess of the sound levels set forth in §505.1, Table 505-1.

(2) Such activities do not occur between the hours of 10:00 p.m. and 8:00 a.m.

D. Emergency Work. Sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.

E. Municipal and Utility Services. Sounds resulting from the repair or replacement of any municipal or utility installation in or about the public right-of-way.

F. School and Public Activities. Sounds not electronically amplified, created by organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events, other than fireworks or fireworks displays and motor vehicle racing events.

(1) Any person responsible for any activity or event involving fireworks or fireworks displays shall apply with the Borough of New Holland for an application for a special variance from noise control, in accordance with §507.2, prior to applying for a fireworks permit.

(2) Any person involved in any motor vehicle racing event shall apply for a special variance from noise control with the New Holland Police Department.

G. Warning Devices. Sounds made by warning devices operating continuously for three (3) minutes or less, except that in the event of an actual emergency, the time limitation shall not apply.

(Ord. 510, 3/1/2005, §6)

§507. Variances and Noise Control Board; Application and Fee.

1. Variances.

A. Authority. The Noise Control Board shall have the authority to grant variances, consistent with the provisions of this Section, after public hearing, upon application of any person who owns, controls or operates any sound source which does not comply with the provisions or standards of this Part.

B. Application. The application shall state the standard, provision or section from which the variance is being sought and the period of time and reasons for which the variance is sought. It shall contain information which demonstrates that bringing the sources of sound or activity for which the variance is sought into compliance with this Part would constitute an unreasonable hardship on the applicant, and it shall contain any other supporting information which may reasonably be required.

C. Public Notification. Public notice of an application and the date, time and place of the public hearing to be held thereon for a variance shall be given by publishing notice thereof in a newspaper of general circulation in the city at least once, not less than three (3) days prior to the scheduled public hearing, and by, if practicable, conspicuously posting the premises that is the source of the sound for which the variance is sought.

D. Hearing. The Board shall hold a public hearing to decide variance applications presented to it. Any person who claims to be affected by allowance of the variance may become a party to the hearing. All proceedings shall be conducted under the provisions of the Pennsylvania Local Agency Act.

E. Review Standards. In determining whether to grant or deny the application, the Board shall balance the hardship to the applicant versus the adverse impact to the public health, safety and welfare and shall consider at a minimum the following conditions:

- (1) The physical characteristics of the emitted sound.
- (2) The times and duration of the emitted sound.
- (3) The geography, zone and population density of the affected area.
- (4) Whether the public health and safety is endangered.
- (5) Whether the sound source predates the receivers.

(6) Whether compliance with the standards from which the variance is sought would produce hardship without equal or greater benefit to the public.

F. Decision. The Board shall render a written decision in granting or denying the application for variance and, if denied, shall state the reasons therefor. The Board's decision shall be made available to the applicant and any other person who requests it in writing. In granting a variance the Board may attach reasonable conditions, including, but not limited to, placing a time limit on the permitted activity and/or establishing a time schedule within which the source of sound or activity for which the variance was sought must be brought into compliance with this Part. Where the grant of a variance is conditioned, the variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate it and subject the person holding it to those provisions of this Part regulating the source of sound or activity for which the variance was granted. Variances may be granted for a period of up to one (1) year. The person obtaining the variance may reapply for additional variance periods under terms set forth by the applicant and the Board.

G. Appeals. Appeal from an adverse decision of the Board shall be made to the Court of Common Pleas of Lancaster County.

2. Special Variances. The Chief of Police or his designee may, upon application and guided by the standards for review set forth in subsection .1.E hereof, grant special variances for infrequent events or activities which do not exceed twenty-four (24) hours in duration. Such special variances are not renewable except by action of the Board pursuant to subsection .1 hereof. The Board shall hear and decide all appeals from the denial of a special variance, the practice and procedure thereon to be in accordance with subsection .1 hereof.

3. Noise Control Board. The Noise Control Board for the purposes of this Part shall be the Zoning Hearing Board, which Board shall have full authority to carry out the duties of the Noise Control Board, as set forth in this Part. All applications to the Board shall be filed through the Zoning Officer and shall be accompanied by an application fee to be established by resolution adopted by the New Holland Borough Council. The hearing shall be held not more than thirty (30) days following the filing of the application and the decision thereon rendered within forty-five (45) days of the last hearing in the case before the Board.

(Ord. 510, 3/1/2005, §7)

§508. Enforcement. This Part shall be enforced by the New Holland Police Department. (Ord. 510, 3/1/2005, §8)

§509. Violations and Penalties.

1. Whoever violates any provisions of this Part shall, upon conviction thereof in a summary proceeding, be fined not less than fifty dollars (\$50.00), and not more than one thousand dollars (\$1,000.00), for each offense, to be collected as other fines and costs are by law collectible, or imprisoned for not more than ninety (90) days, or both. Each day during which a violation occurs shall constitute a separate offense.

2. This Part and the foregoing penalties shall not be construed to limit or deny the right of the Borough or any person to such equitable or other remedies as may otherwise be available with or without process of law.

(Ord. 510, 3/1/2005, §9)

