

**BOROUGH OF JESSUP
LACKAWANNA COUNTY, PENNSYLVANIA
ORDINANCE NO. 9 of 2020**

**AN ORDINANCE AMENDING THE JESSUP BOROUGH
ZONING ORDINANCE, AS AMENDED, TO UPDATE THE
ZONING ORDINANCE’S NOISE LIMITATIONS**

WHEREAS, the Pennsylvania Borough Code provides that the corporate powers of the Borough Council of Jessup Borough (the “Borough Council”) include the ability to plan for the development of the Borough through Zoning, Subdivision, and Land Development Regulations under the Act of July 13, 1968 (P.L. 805, No. 247), known as the “Pennsylvania Municipalities Planning Code”, as well as the ability to make regulations as may be necessary for the health, safety, and general welfare of the Borough;

WHEREAS, the Borough has obligations under Article I of the Pennsylvania Constitution to protect property interests and to preserve and maintain the natural, scenic, historic and esthetic values of the environment;

WHEREAS, the Pennsylvania Borough Code also provides to Borough Council the ability to make regulations as may be necessary for the health, safety, and general welfare of the Borough and its residents, 53 P.S. § 1202(5);

WHEREAS, the proposed amendments have been advertised, considered, and reviewed in accordance with the Municipalities Planning Code; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Jessup, in lawful session, as follows:

I. Section 6.430 of the Borough’s Zoning Code, as amended by Ordinance No. 2-2013, is **AMENDED** by **STRIKING** the existing Section, as amended, and **REPLACING** it with the following:

1. Definitions

A-Weighted Sound Level or dBA – The sound pressure level in decibels as measured on a Sound Level meter using the A-weighting filter network. The A-weighting filter de-emphasizes the very low and very high frequency components of the sound in a manner similar to the response of the human ear and correlates well with subjective reactions to sound at modest volumes.

Pure Tone – A pure tone occurs if the one-third octave band sound pressure level in the band with the tones exceeds the arithmetic average of the two adjacent bands by 5 decibels (dB) for center frequencies of 500 Hz and above, or by 8 dB for center frequencies between 160 Hz and 400 Hz, or by 15 dB for center frequencies less than or equal to 125 Hz. One-third octave bands are defined by

the latest revision of ANSI S1.11 (Specification for Octave-Band and Fractional Octave Band Analog and Digital Filters).

Real Property Line – Either the Lot Lines separating one parcel of real property from another; or the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building, such as apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

2. Applicability

The noise requirements of this Ordinance apply to sound produced by properties in every zoning district in the Borough.

3. Maximum Permissible Sound Levels

- a. The zoning district in which a sound source is located establishes the sound limit that applies at the real property line.
- b. For properties that are located in more than one zoning district, the stricter sound limit shall apply.
- c. For properties that border another zoning district, the following rules shall apply:

1. Properties located in the R-1, R-2, S-1, and IAC Districts that border a zoning district with more liberal real property line sound limits must still comply with the real property line sound limits applicable to the district in which the property is located.

2. In all other situations in which a property borders another zoning district, the sound limit at the real property line is the arithmetic average of the respective limits for the different zoning districts (e.g., a limit of 67.5 dBA would apply for properties located along the border of the C-2 Zoning District and the M-1A Zoning District because $65 \text{ dBA C-2 District Limit} + 70 \text{ dBA M-1A District Limit} / 2 = 67.5 \text{ dBA}$).

- d. The following table sets forth the sound limits for each zoning district.

Table IV – Maximum Permissible A-Weighted Sound Level

Zoning District	Description	Property Line Limit
R-1	Low Density Residential	55 dBA daytime; 45 dBA nighttime*
R-2	Medium Density Residential	55 dBA daytime; 45 dBA nighttime*
C-1	Local Commercial	65 dBA**
C-2	General Commercial	65 dBA**
S-1	Special Purpose	65 dBA daytime, 50 dBA nighttime*
S-2	Limited Special Purpose	65 dBA**
M-1	Light Manufacturing	70 dBA**

M-1A	Business Park	70 dBA**
M-2	Heavy Manufacturing	75 dBA**
M-2A	Industrial Park	75 dBA**
IAC	Interchange Activity Center	60 dBA daytime, 50 dBA nighttime*

* Daytime – 7AM to 10PM; Nighttime – 10 PM to 7AM

** All Times

e. Pure-tones produced by any sound source, regardless of zoning district, are prohibited when measured within residential zoning districts.

f. The limits in this Section do not apply to any siren, horn, whistle, or other sound producing device, either fixed or mobile, when used as an emergency warning system for the public in any zoning district.

g. In the case of a conflict between state or federal law and this Ordinance, the stricter provision shall apply.

h. Any use that obtained any zoning approval prior to the effective date of this Ordinance shall comply with the sound standards in effect at the time of the approval. If any such grandfathered use requires new zoning approval of any kind (e.g. to expand or add a use) the entire use (e.g. not just the expanded portion) shall become subject to the sound standards in effect at the time of the new approval.

II. The title of **Section 5.245** of the Borough’s Zoning Ordinance is hereby **AMENDED** to **STRIKE** the existing title and **REPLACE** it with the following:

Examples of Considerations that Must be Addressed When Developing an Environmental Assessment

III. **Section 5.245.c.9.** is hereby **AMENDED** to add the following the language:

Quantify and identify the amount to which the proposed activity will increase ambient sound levels in the zoning district in which it is located, and in all other zoning districts in the Borough.

IV. **Partial Repealer**

All other provisions of the Borough’s Code of Ordinances, as amended, shall remain in full force and effect. All other Ordinances or provisions of the Borough’s Code of Ordinances inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

V. **Severability**

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections,

clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence or part of a provision had not been included herein.

VI. Effective Date

All provisions of this Ordinance shall be in full force and effect five (5) days after the approval and adoption.

ORDAINED AND ENACTED this ____ day of _____, 2020.

**BOROUGH COUNCIL OF
THE BOROUGH OF JESSUP**

ATTEST:

BY: _____
Council President

MIA STINE
Secretary

EXAMINED AND APPROVED THIS ____ **DAY OF** _____, **2020.**

BY: _____
Mayor – Borough of Jessup