

**WEST GOSHEN TOWNSHIP,
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 4-2018

AN ORDINANCE OF THE TOWNSHIP OF WEST GOSHEN, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF WEST GOSHEN TOWNSHIP TO ADD PROVISIONS GOVERNING VIBRATION; DEFINING TERMS; ESTABLISHING VIBRATION STANDARDS; PROVIDING EXCEPTIONS; DECLARING EXCESS VIBRATION TO BE A PUBLIC NUISANCE; AND PROVIDING FOR VIOLATIONS AND PENALTIES; REPEALING ALL INCONSISTENT ORDINANCE OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Board of Supervisors of West Goshen Township has enacted the Code of Ordinance of West Goshen Township which contains, *inter alia*, provisions designed to protect the health, safety, and welfare of the residents of West Goshen Township; and

WHEREAS, the Board of Supervisors has determined that causing vibration in excess of certain limits on peak particle velocity must be regulated in order to preserve the quality of life of the residents of West Goshen Township, and keep them free from the disturbance caused by excess vibration; and

WHEREAS, the Board of Supervisors has determined that causing vibration in excess of certain limits on peak particle velocity is a public nuisance, punishable by fines and, in default of the payment of such fines, imprisonment;

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Supervisors of West Goshen Township, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

I. Section 53-1. of the Code of Ordinance of West Goshen Township is amended by adding as new subsection J. as follows:

“J. Vibration that violates Chapter 78B of the Code of Ordinances of West Goshen Township. In the case of vibration that violates Chapter 78B of this Code, the violations and penalties provisions of Chapter 78B shall supersede the violations and penalties provisions of Section 53-3 of this Code.”

II. The Code of Ordinances of West Goshen Township is amended by adding a new Chapter 78B as follows:

“Chapter 78B: Vibration

§78B-1. **Scope.**

This chapter shall apply to any person, firm, corporation, association or entity who engages in activity which initiates an intensity of ground motion or vibration, whether or not such initiating source is located within the Township, to any real estate, receiving structure, or person thereupon, which exceeds the levels set forth in §78B-4.

§78B-2. **Definitions.**

The following terms, when used in this Chapter, shall have the meanings indicated herein:

PEAK PARTICLE VELOCITY (PPV) – A measurement of the maximum instantaneous peak amplitude of a vibration signal; used to evaluate potential for building damage.

VIBRATION – A periodic motion of the particles of an elastic body or medium in alternatively opposite directions from the position of equilibrium when that equilibrium has been disturbed; the action of vibrating; the state of being vibrated. As applied in this chapter shall mean ground-borne vibration.

VIBRATION MEASURING DEVICE (VMD) – A three (3) component device capable of sensing, measuring, and recording displacement, velocity, and acceleration of ground motion from vibration with a sensor that produces an electrical signal that is proportional to the amplitude of the ground motion.

VIBRATION VELOCITY LEVEL IN DECIBELS (VdB) – A decibel notation for root mean squared velocity of vibration amplitude; used to evaluate human perception and response.

§78B-3. **Administration and enforcement.**

The West Goshen Township Code Enforcement Officer or his or her designee shall have the power to administer the terms of this Chapter, investigate complaints, make observations, maintain surveillance, and prosecute violations of this Chapter in accordance with §78B-6 and §78B-7 of this Chapter. When enforcing the terms of this Chapter, the Code Enforcement Officer may be trained by a qualified person specializing in the use of vibration measuring devices, or may retain consultants and engineers with experience in measuring vibration levels with the use of vibration measuring devices.

§78B-4. **Vibration standards.**

The following actions are specifically prohibited, unless otherwise exempted in this Chapter:

(1) No person shall operate or cause to be operated on private or public property any source of continuous vibration (any vibration which is static, fluctuating, or intermittent with a recurrence greater than one time in any fifteen-second interval) in such a manner as to create a vibration level which exceeds the limits set forth beyond any property boundary or 30 yards from any moving vibration source for the receiving land use category in the following tables:

a. Continuous vibration levels by receiving land use for effect on structures (in PPV), measured at or within the receiving structure.

Category	PPV
Residential, public space, open space, agricultural or institutional	0.12 in/sec
Residential uses permitted by ordinance in an industrial-commercial district	0.12 in/sec
Commercial or business	0.12 in/sec
Industrial	0.2 in/sec

b. Continuous vibration levels by receiving land use for effect on human response (in VdB), measured at or within the property boundary of the receiving land use.

Category	VdB
Residential, public space, open space, agricultural or institutional	72
Residential uses permitted by ordinance in an industrial-commercial district	72
Commercial or business	75
Industrial	94

§78B-5. Exceptions.

The following sources for vibration are exempted from the provisions set forth in §78B-4 of this Chapter:

(1) Blasting, only if performed in accordance with a permit issued by the Pennsylvania Department of Environmental Protection. Such blasting may

occur only between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, unless specifically authorized at different times by the DEP permit.

- (2) Construction activities directly related to the abatement of an emergency.
- (3) A snowplow, snowblower or other similar device in operation used to remove snow or ice.
- (4) Work or activities performed or sponsored by schools and governmental agencies or their contractors in the performance of public service.

§78B-6. Excess vibration declared a public nuisance

Any emission of earth-shaking vibration from any source in excess of the limitations established in or pursuant to this Chapter shall be deemed and is hereby declared to be a public nuisance, and may be subject to summary abatement procedures. Such abatement may be in addition to the administrative proceedings, fines, and penalties herein provided. The West Goshen Township Solicitor or designated legal counsel is empowered to institute legal proceedings in the Court of Common Pleas seeking an injunction for the abatement or prosecution of emissions of earth-shaking vibration which exceed the levels established in §78B-4(1)a. or b. and which cause injury, detriment, nuisance or annoyance to the public or endanger the health, comfort, safety or welfare of the public, or cause or have a natural tendency to cause injury or damage to public property. Such legal proceedings may be in addition to the administrative proceedings, fines, and penalties herein provided.

§78B-7. Violations and penalties.

Any person who violates or permits the violation of any provision of this Chapter shall, upon conviction thereof in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense, and shall be subject to the payment of a fine of not less than \$1,000, plus the costs of prosecution, plus attorneys' fees expended by the Township to prosecute any violation of this Chapter. In default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days. Each section of this Chapter violated shall constitute a separate offense, and each day or portion thereof in which a violation of this Chapter is found to exist shall constitute a separate offense, each of which violations shall be punishable by a separate fine imposed by the Magisterial District Judge of not less than \$1,000, plus the costs of prosecution, plus attorneys' fees expended by the Township to prosecute any violation of this Chapter, or upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than 30 days. All fines and penalties collected for the violation of this Chapter shall be paid to the Township Treasurer."

III. All ordinances of parts thereof inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency.

IV. The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to

be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the provisions of the Code of Ordinances of West Goshen Township.

V. This Ordinance shall be effective immediately upon its legal enactment.

ENACTED and **ORDAINED** this 21st day of May, 2018.

ATTEST:

**BOARD OF SUPERVISORS OF
WEST GOSHEN TOWNSHIP**

Casey LaLonde, Township Secretary

Christopher Pielli, Esquire, Chair

Robin Stuntebeck, Vice-Chair

Mary R. LaSota, Esquire, Member

Edward G. Meakim, Jr., Member

Hugh Purnell, Jr., Member