

**BOROUGH OF MODENA**  
**ORDINANCE 138-06**

Ordinance Prohibiting the Making of Disturbing Noises  
and Prescribing Penalties for Violations

**BE IT ORDAINED**, by the Council of the Borough of Modena, as follows:

Section 1. **INTENT AND PURPOSE** The Council of the Borough of Modena, finding that excessive levels of sound are detrimental to the physical, mental and social well-being of the people 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 Modena.

Section 2. **NOISE DISTURBANCE** The term Noise Disturbance as used in this ordinance is defined as 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, or (3) endangers or injures personal or real property.

**A. Noise Standards**

1. The following shall apply to specified uses and properties within the Borough, between the hours of 10:00 p.m. and 6:00 a.m., plus all day Sunday and legal holidays.

- a. There shall be no nonresidential off-street loading operation.
- b. There shall be no outside operation for nonresidential purposes of any powered equipment, mobile refrigeration unit, powered handtool, fork lift, tractor, or other similar vehicle except for business districts or industrial districts, lawn maintenance, snow removal, or emergency services or emergency repairs.
- c. Other than police, fire, public service, or ambulance operators, no person shall sound any horn, bell, gong, siren or whistle or make other unnecessary loud noises except when reasonably required to prevent accidents.
- d. There shall be no outdoor loudspeakers or similar

amplification which may be heard beyond the property line.

2. The restrictions established in Subsection 1 above shall not be applied to agricultural operations on properties within the Borough. Agriculture shall be defined as activities which involve the raising of food, plants, poultry, and livestock, including but not limited to crop production and nurserying.

3. For any proposed or existing use of land in which potential or actual noise impacts need amelioration, the means to ameliorate such impacts shall be proposed by the applicant and reviewed by the Borough on a case-by-case basis. The use of berms, existing and installed vegetation, fencing or similar enclosure, etc., shall be considered by the Borough and, where deemed suitable, may permit modification or waiver of restrictions in Subsection 1 above.

Section 3. VIOLATIONS It shall be illegal within the Borough for any person or persons to make any noise continuously and/or incessantly for a period of ten minutes or makes such noise intermittently for one-half hour or more which results in a noise disturbance to any person at any time of the day or night regardless of whether the noise disturbance is physically situated in or upon private property, said noise disturbance being a nuisance.

Section 4. EXCEPTIONS This ordinance shall not be deemed to prohibit or otherwise declare unlawful any agricultural operation protected from the nuisance suits by Act 1982, June 10 P.L. 454, No. 133.

Section 5. PENALTIES Any person, firm or corporation who shall violate any provision of this ordinance, shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00), and/or to imprisonment for a term not to exceed ninety (90) days.

Section 6. REPEALER All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 7. SEVERABILITY If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough of Modena that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause section or part thereof not been included herein.

Section 8. EFFECTIVE DATE This ordinance shall become effective five (5) days after adoption.

ENACTED, ORDAINED and APPROVED this 6<sup>th</sup> day of March, 2006.

COUNCIL OF THE BOROUGH OF MODENA

*Christopher J. Ayers, Jr.*  
President, Borough Council

*[Signature]*  
Member, Borough Council

*[Signature]*  
Member, Borough Council

*[Signature]*  
Member, Borough Council

*Ranonna Plunk*  
Member, Borough Council

BOROUGH SEAL

ATTEST:

*Sandy [Signature]*

Secretary  
Council of the Borough of Modena

