

BOROUGH OF EAST GREENVILLE
MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2024- 06

AN ORDINANCE OF THE BOROUGH OF EAST GREENVILLE, MONTGOMERY COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 42 *DISORDERLY CONDUCT* BY RETITLING CHAPTER 42 *CONDUCT* AND ADDING REGULATIONS REGARDING THE DISCHARGE OF PROJECTILE WEAPONS IN THE BOROUGH OF EAST GREENVILLE; REPEALING PRIOR INCONSISTENT ORDINANCES AND PARTS OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND CONTAINING AN EFFECTIVE DATE.

WHEREAS, the Borough Code, 8 Pa.C.S. § 101, *et seq.*, authorizes the Borough Council of the Borough of East Greenville to make regulations as may be necessary for the health, safety, morals, general welfare, cleanliness, beauty, convenience, comfort and safety of the Borough and its residents;

WHEREAS, the Borough of East Greenville has adopted several ordinances addressing the conduct of persons within the Borough, including at Chapter 42 *Disorderly Conduct*;

WHEREAS, the Borough's Chief of Police has identified a specific issue in the Borough, which contains a relatively dense population with buildings constructed in close proximity, including residences located within close proximity of other residences, regarding the discharge of projectile weapons in the Borough, including for target practice;

WHEREAS, the Pennsylvania Supreme Court recently entered its ruling in *Barris v. Stroud Township*, 68 MAP 2022, 2024 WL 696822 (Pa. Feb. 21, 2024), upholding an ordinance banning the discharge of projectile weapons with certain exceptions;

WHEREAS, Borough Council desires to address the issue identified by the Chief of Police while remaining within the boundaries of constitutional jurisprudence; and

WHEREAS, the Borough Council of the Borough of East Greenville believes it to be in the best interest of the Borough to amend the Borough's Code of Ordinances as set forth hereinbelow address the issues set forth hereinabove.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of East Greenville as follows:

SECTION 1.

Chapter 42 *Disorderly Conduct* is hereby retitled Chapter 42 "Conduct".

SECTION 2.

Chapter 42 *Conduct* is hereby amended by repealing the provisions of the existing Chapter 42 in their entirety and replacing them with the following:

Article I Disorderly Conduct

§ 42-1.1 General Provisions

A. Disorderly conduct prohibited.

- (i) Disorderly conduct, as defined in the Pennsylvania Crime Code, 18 Pa.C.S.A. § 5503, is hereby prohibited within the Borough.
- (ii) As used in enforcing this article, 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.

B. Disorderly Practices. A person is guilty of disorderly conduct if they:

- (i) Engage in fighting or in threatening, violent or tumultuous behavior.
- (ii) Make unreasonable noise.
- (iii) Use obscene language or make an obscene gesture.

- (iv) Create a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

C. Violations and penalties. Any person, firm or corporation who shall violate any provision of this section 42-1.1, except as specifically set forth, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

§ 42-1.2. Noise

A. Unnecessary or excessive noise prohibited and defined as disorderly conduct.

- (i) Specifically prohibited unreasonable noise, within the meaning of this chapter, is hereby defined to include the following:
 - (a) For any person at any time to use a horn or other warning device otherwise than as a reasonable warning, or to make any unnecessary or unreasonable loud or harsh sound by means of a horn or other warning device.
 - (b) The playing of any radio, phonograph or any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or any dwelling, hotel or other type of residence or of any persons in the vicinity thereof.
 - (c) Yelling, shouting, hooting, whistling or singing on the public streets and/or public property so as to annoy or disturb

the quiet, comfort or repose of any persons in any hospital, dwelling, hotel or other type of residence or of any persons in the vicinity thereof.

- (d) Permitting any animal, bird or fowl in one's possession or under one's control to make any frequent or long-continued noise of such character or intensity as to disturb the comfort or repose of any person.
- (e) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger.
- (f) The erection (including excavating), demolition, alteration or repair of any building in any residential district or section, the excavation of streets or highways in any residential district or section other than between the hours of 7:00 a.m. and 10:00 p.m. on Monday through Saturday, except in the case of urgent necessity in the interest of public health and safety, and then only with a permit from the Borough Secretary, which permit may be granted for a period not to exceed 30 days while the emergency continues. If the Borough Council should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between the hours of 10:00 p.m. and 7:00 a.m., and if they shall further determine that loss or inconvenience would result to any party in interest, they may grant permission for such work to be done between the hours of 10:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is

awarded or during the progress of the work.

- (g) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while the same are in session, which unreasonably interferes with the workings of sessions thereof and the making of any other noise so as to annoy the users and/or occupants of such places or buildings as are herein defined.
 - (h) The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention to the sale or display of merchandise of a commercial character.
 - (i) Refuse-compacting vehicles. Operating of or permitting to be operated the compact cycle of the motor vehicle which can compact refuse between the hours of 6:00 p.m. and 6:00 a.m. the following day in residential areas.
 - (j) For any person or persons to make any unreasonable noise continuously and/or incessantly for a period in excess of 10 minutes, or make such noise intermittently for 30 minutes or more which results in a 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.
- (ii) This regulation of specifically prohibited unreasonable noise in this article shall not limit the unreasonable noise prohibited by § 42-1.B of this chapter.

B. Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

- (i) Any vehicle or personnel of the Borough while engaged upon necessary public business, and/or emergency vehicles such as police, ambulance and fire companies.
- (ii) Excavations or repairs of bridges, streets or highways by or on behalf of the Borough during the nighttime, when the public welfare and convenience renders it impossible to perform such work during the daytime.
- (iii) Parades with band music on holidays or by civic organizations or by the public schools or divisions of the public schools.
- (iv) School sports events which may or may not be accompanied by cheering and/or music.
- (v) The reasonable use of amplifiers or loud speakers in the course of public addresses which are noncommercial in character.
- (vi) Fireworks exhibits held under permit by the Borough.

C. Violations and penalties. Any person who shall violate any provision of this section 42-1.2 shall, upon conviction thereof, be punishable by a fine of not more than \$300 and costs of such proceedings or, upon default of payment of such fine and costs, by imprisonment in the county jail for a term of not more than 30 days; provided, however, that if the District Justice determines that the defendant is without financial means to pay the fines and costs immediately or in a single remittance, such defendant shall be permitted to pay the fines or costs in

installments and over such periods of time as the District Justice deems to be just.

Article II Discharge of Projectile Weapons

§ 42-2.1 Intent and purposes. Due to the density of the population in the Borough of East Greenville, it is necessary that the discharging of projectile weapons be regulated for the protection of the public health and safety and general welfare of the residents, property owners, visitors and others within the Borough of East Greenville, and that the unauthorized discharge of projectile weapons be prohibited.

§ 42-2.2 Definitions. As used in this article, the following term shall have the meaning indicated:

Projectile Weapon

Includes, but is not limited to, any gun, shotgun, rifle, handgun, pistol, pellet gun, BB gun, other firearm, crossbow, bow and arrow, slingshot, or any device which propels a projective through the use of force.

§ 42-2.3 Firing or discharge restricted. It shall be unlawful to fire or discharge any projectile weapon with the Borough of East Greenville except as provided in **§ 42-2.4 Exceptions** below.

§ 42-2.4 Exceptions. Exceptions to this article are as follows. However, in no case shall a projectile weapon be discharged before dawn or after dusk and/or within 150 yards of an adjacent occupied structure, except as provided under the following subsections A, B, D, and E below:

- A.** The use of a projectile weapon is permitted when employed by any duly appointed law enforcement officer in the course of his or her official duty.
- B.** The use of a projectile weapon is permitted when necessary as authorized under state and/or federal laws.

- C. The use of a projectile weapon is permitted when hunting in conformity with the game laws and other applicable laws, regulations, permits and ordinances of the Commonwealth of Pennsylvania and this Borough, including, but not limited to, a deer control permit issued by the Pennsylvania Game Commission, provided that any person hunting upon the land of another shall have the written permission of the landowner or lessee of the property and shall have the written permission upon his or her person. The written permission shall be signed by the owner, the owner's authorized representative or official, or lessee, shall clearly and legibly state the name and address of the person to whom the permission has been granted and shall be dated and shall be valid only for that period as appears on the face of the permittee's then-current state hunting license or permit.

- D. The discharging of projectile weapons shall be allowed on indoor or outdoor shooting ranges pursuant to applicable provisions of the **Chapter 95 Zoning**, as may be amended, under the supervision of the owner or occupant of that property or his or her duly appointed representative, provided that such range is issued all necessary Borough permits, including such zoning and occupancy permits as shall be required by applicable Borough ordinances, rules, or regulations.

- E. Farmers engaged in "normal agricultural operation" protecting their "agricultural commodity" from animal predators in accordance with the Pennsylvania Right to Farm Act, 3 P.S. § 951 et seq.

- F. 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 or affiliated club, such

as the Pennsylvania Federation of Sportsmen's Clubs, Inc.

§ 42-2.5 Improper use prohibited. The careless, reckless or improper use of any projectile weapon tending to imperil or cause danger or harm to personal security or to endanger the property of any person within the Borough of East Greenville is prohibited.

§ 42-2.6. Seizure of projectile weapons. Any law enforcement officer lawfully engaged in his law enforcement duties within the Borough of East Greenville is hereby authorized to seize, for evidentiary purposes, any projectile weapon, as defined herein, which shall be fired or discharged within the limits of the Borough of East Greenville in violation of this article.

§ 42-2.7 Violations and penalties. Any person or persons discharging a projectile weapon in violation of any of the provisions of this article, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Prosecution under this article may be instituted by the Borough Zoning or Code Enforcement Officer or by any law enforcement officer. Enforcement shall be by an action brought before a magisterial district judge in the same manner as provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Borough Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pennsylvania Rule of Criminal Procedure No. 454(c) (relating to trial in summary cases).

SECTION 3.

Any and all other ordinances or parts of ordinances in violation or in conflict with the terms, conditions and provisions of this ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION 4.

The terms, conditions and provisions of this ordinance are hereby declared to be severable, and, should any portion, part or provision of this ordinance be found by a court of competent jurisdiction to be invalid, non-enforceable or unconstitutional, the Council hereby declares its intent that the ordinance shall have been enacted without regard to the invalid, non-enforceable, or unconstitutional portion, part or provision of this ordinance.

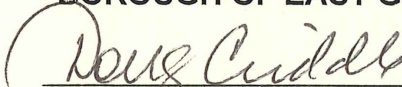
SECTION 5.

This ordinance shall become effective at the earliest time permitted under Pennsylvania law.

ORDAINED and **ENACTED** an ordinance of the Borough of East Greenville this


3rd day of June, 2024.

BOROUGH OF EAST GREENVILLE:



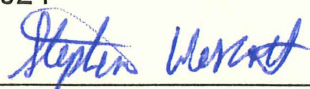
DOUG CRIDDLE, COUNCIL PRESIDENT

ATTEST:



SHARON KACHMAR, BOROUGH SECRETARY

Approved this 5th day of June,
2024



STEPHEN WESCOTT, MAYOR