ordinance no. ______

an ordinance of the borough of kutztown, berks county, pennsylvania, amending chapter 225 entitled “zoning” of the code of the borough of kutztown establishing noise regulations in the c-c business commercial central zoning district, c-1 business commercial zoning district, c-2 commercial/residential zoning district, and c-3 highway commercial zoning district.

whereas, the zoning regulations of the borough of kutztown, berks county, pennsylvania, currently only has established noise regulations in the i-industrial zoning district; and

whereas, the c-c business commercial central zoning district, the c-1 business commercial zoning district, the c-2 commercial/residential zoning district, and the c-3 commercial highway zoning district of the borough of kutztown, berks county, pennsylvania permit for a wide variety of land uses; and

whereas, noise that may be generated from different land uses must be balanced with the property rights of neighboring properties; and

whereas, excessive noise can be detrimental to the health, safety, and general welfare of property owners, and

whereas, excessive noise can impact the enjoyment of one’s property; and

whereas, the pennsylvania municipalities planning code allows for zoning ordinances to be designed to promote, protect, and facilitate the public health, safety, morals, and general welfare of the municipality (article vi, section 604.1).

be it and it is hereby enacted and ordained by the borough council of the borough of kutztown, berks county, pennsylvania, as follows:

section 1. section 225-17 of the code of the borough of kutztown, entitled “c-c – business commercial central.” is hereby amended to add the following subsection:

h. additional regulations for permitted uses.

1. noise. no noise shall be audible beyond the lot lines of the lot on which said noise originates exceeding 60 dba 1/2 hour after sunrise to 1/2 hour prior to sunset or
exceeding 50 dba at all other times. Objectionable noises due to intermittence, frequency, or shrillness shall be muffled.

(a) The following activities are exempted from section (1) above:

[1] Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or snowblower, in accordance with §168-12 Working Hours.

[2] Construction. Operating or permitting the operation of any tools or equipment used in construction operations, drilling, or demolition work, in accordance with §168-12 Working Hours.

[3] Domesticated animals and pets. Owning, possessing, harboring or controlling any domesticated animal or pet which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly such that said noise does not exceed a period of 10 minutes or such that the domesticated animal or pet does not make such noise intermittently for 1 hour or more to the disturbance of any person at any time of day or night.

[4] Any event or activity that has been approved by resolution by Borough Council.

SECTION 2. Section 225-18 of the Code of the Borough of Kutztown, entitled “C-1 – Business Commercial.” is hereby amended to add the following subsection:

H. Additional regulations for permitted uses.

(1) Noise. No noise shall be audible beyond the lot lines of the lot on which said noise originates exceeding 60 dba 1/2 hour after sunrise to 1/2 hour prior to sunset or exceeding 50 dba at all other times. Objectionable noises due to intermittence, frequency, or shrillness shall be muffled.

(a) The following activities are exempted from section (1) above:

[1] Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or snowblower, in accordance with §168-12 Working Hours.

[2] Construction. Operating or permitting the operation of any tools or equipment used in construction operations, drilling, or demolition work, in accordance with §168-12 Working Hours.
[3] Domesticated animals and pets. Owning, possessing, harboring or controlling any domesticated animal or pet which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly such that said noise does not exceed a period of 10 minutes or such that the domesticated animal or pet does not make such noise intermittently for 1 hour or more to the disturbance of any person at any time of day or night.

[4] Any event or activity that has been approved by resolution by Borough Council.

SECTION 3. Section 225-19 of the Code of the Borough of Kutztown, entitled “C-2 – Commercial/Residential.” is hereby amended to add the following subsection:

G. Additional regulations for permitted uses.

(1) Noise. No noise shall be audible beyond the lot lines of the lot on which said noise originates exceeding 60 dba 1/2 hour after sunrise to 1/2 hour prior to sunset or exceeding 50 dba at all other times. Objectionable noises due to intermittence, frequency, or shrillness shall be muffled.

(a) The following activities are exempted from section (1) above:

[1] Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or snowblower, in accordance with §168-12 Working Hours.

[2] Construction. Operating or permitting the operation of any tools or equipment used in construction operations, drilling, or demolition work, in accordance with §168-12 Working Hours.

[3] Domesticated animals and pets. Owning, possessing, harboring or controlling any domesticated animal or pet which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly such that said noise does not exceed a period of 10 minutes or such that the domesticated animal or pet does not make such noise intermittently for 1 hour or more to the disturbance of any person at any time of day or night.

[4] Any event or activity that has been approved by resolution by Borough Council.
SECTION 4. Section 225-20 of the Code of the Borough of Kutztown, entitled “C-3 – Highway Commercial.” is hereby amended to add the following subsection:

H. Additional regulations for permitted uses.

(1) Noise. No noise shall be audible beyond the lot lines of the lot on which said noise originates exceeding 60 dba 1/2 hour after sunrise to 1/2 hour prior to sunset or exceeding 50 dba at all other times. Objectionable noises due to intermittence, frequency, or shrillness shall be muffled.

(a) The following activities are exempted from section (1) above:

[1] Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or snowblower, in accordance with §168-12 Working Hours.

[2] Construction. Operating or permitting the operation of any tools or equipment used in construction operations, drilling, or demolition work, in accordance with §168-12 Working Hours.

[3] Domesticated animals and pets. Owning, possessing, harboring or controlling any domesticated animal or pet which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly such that said noise does not exceed a period of 10 minutes or such that the domesticated animal or pet does not make such noise intermittently for 1 hour or more to the disturbance of any person at any time of day or night.

[4] Any event or activity that has been approved by resolution by Borough Council.

SECTION 5. Repeal of Ordinances. Any Ordinance or part of Ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance’s provisions.

SECTION 6. Severability. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is for any reason declared to be unconstitutional, illegal or invalid, by any court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the within Ordinance. The Borough Council of the Borough of Kutztown, Berks County, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation,
restriction, sentence, clause, phrase, and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or words that may be declared illegal, invalid, or unconstitutional.

SECTION 7. Effective Date. This Ordinance shall become effective on the earliest date permitted by law.

SECTION 8. Code of Ordinances. The Kutztown Code, as amended, shall be and remain unchanged in full force and effect except as amended, supplemented, and modified from time to time. This Ordinance shall become part of the Kutztown Code upon adoption.

ENACTED AND ORDAINED as an Ordinance of the Borough of Kutztown, Berks County, Commonwealth of Pennsylvania, by the Borough Council this _______ day of __________________________, 2023, in lawful session duly assembled.

BOROUGH OF KUTZTOWN

By:

______________________________
Kevin J. Snyder, President of Borough Council

Attest:

______________________________
Gina M. Wiand, Borough Secretary

Approved as an Ordinance this _____ day of __________________________, 2023.

______________________________
James F. Schlegel, Mayor