

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 105, Entitled Noise And Exterior Lighting, Article II, Noise, To Amend The Regulations For The Prohibition of Excessive Noise, Maximum Permissible Sound Pressure Levels, Noise Measurement Locations, Exemptions, And Violations And Penalties Including But Not Limited To The Institution Of An Administrative Fee For A Failure To Comply Article II, Noise.

The Board of Commissioners of the Township of Lower Merion hereby ordains:

Section 1. The Code of the Township of Lower Merion, Chapter 105, entitled Noise and Exterior Lighting, Article II, Noise, § 105-2, Excessive noise prohibited, is hereby amended to read as follows:

§ 105-2 Excessive noise prohibited.

It shall be unlawful for any person to make or produce excessive noise. Noise shall be considered excessive if the sound exceeds the limits hereinafter set forth.

Section 2. The Code of the Township of Lower Merion, Chapter 105, entitled Noise and Exterior Lighting, Article II, Noise, § 105-3, Maximum permissible sound pressure levels, is hereby amended in its entirety to read as follows:

§ 105-3 Maximum permissible sound pressure levels.

A.

No person or equipment shall create or cause, or permit the creation of, an Equivalent Continuous Sound Pressure Level originating from a residential property that exceeds 5 decibels or a maximum sound pressure level that exceeds 10 decibels above background level measured beyond the property boundary except as provided for in § 105-6.

B.

No person or equipment shall create or cause, or permit the creation of, an Equivalent Continuous Sound Pressure Level originating from a commercial property that exceeds 10 decibels or a maximum sound pressure level that exceeds

15 decibels above background level measured beyond the property boundary except as provided for in § 105-6.

Section 3. The Code of the Township of Lower Merion, Chapter 105, entitled Noise and Exterior Lighting, Article II, Noise, § 105-4, Noise measurement locations, is hereby amended in to read as follows:

§ 105-4 Noise measurement locations.

- A. Sound measurements shall be made on the receiving property within 10 feet from the property line nearest the noise source, at least five feet from any structure that reflects sound, and at least three feet above the ground. Where the source of the noise occurs within a multi-unit building, or where buildings have a common party wall, the measurement shall be taken in a habitable space in the complainant's dwelling unit closest to the noise source.
- B. The background sound level shall be measured at the same location as the measurement for the sound contribution of the specific source in question and at a time immediately preceding that measurement.

Section 4. The Code of the Township of Lower Merion, Chapter 105, entitled Noise and Exterior Lighting, Article II, Noise, § 105-6, Exemptions, is hereby amended to read as follows:

- A. The following activities are exempt from the provisions of this chapter, subject to compliance with any restrictions listed below:
 - (1) Traffic noises, noises from the lawful operation of motor or utility vehicles, noises created by governmental units, and noises created or necessitated by emergency and civil defense activities.
 - (2) Noise created by refuse collection services, street sweepers, deliveries, and other similar activities associated with a permitted land use shall be exempt during the times as provided below:
 - (a) Only during the hours of 7:00 a.m. to 8:00 p.m., Monday to Friday, and during the hours of 8:00 a.m. to 6:00 p.m., Saturday and Sunday, and federal holidays.
 - (b) Upon application, the Director of Building and Planning may grant an exception to the aforesaid activity exemptions set forth in this § 105-6A(2) if reasonably necessary to conduct the activity in question for a specifically limited duration, and as appropriate, subject to reasonable conditions to protect the public welfare. The decision of the Director of Building and Planning on such application shall be appealable in accordance with the procedures set forth in Chapter 5 of the Township Code.

- (3) Noise associated with permitted outdoor dining activities located in nonresidential districts, during the hours of 8:00 a.m. to 10:00 p.m., Sunday to Thursday, and 8:00 a.m. to 11:00 p.m., Friday and Saturday.
- (4) Noises created by construction work and the repair and maintenance of any building, structure, or property, including landscaping, shall be exempt during the times as provided below:
- (a) During the hours of 8:00 a.m. to 6:00 p.m., Monday to Friday, and during the hours of 9:00 a.m. to 6:00 p.m., Saturday and Sunday, and federal holiday:
- [1] Monday through Friday between the hours of 6:00 p.m. and 8:00 p.m., a maximum of one piece of landscaping equipment exceeding the decibel limits in §105-3 may operate. If there is more than one piece of landscaping equipment operating during these hours and the decibel limit exceeds the decibel limits established in §105-3, the use of this equipment is in violation of this exception.
- [2] Monday through Friday between the hours of 7:00 a.m. and 8:00 p.m., landscaping equipment with an electrical power source exceeding the decibel limits in §105-3 may operate.
- (b) Upon application, the Director of Building and Planning may extend the aforesaid activity exemptions set forth in this § 105-6A(4) if reasonably necessary to conduct the construction work in question for specifically limited durations, and as appropriate, subject to reasonable conditions to protect the public welfare. The decision of the Director of Building and Planning on such application shall be appealable in accordance with the procedures set forth in Chapter 5 of the Township Code.
- (5) Concerts, block parties, graduations, wedding receptions, ceremonies, sporting or recreational activities, carnivals, festivals, or other performances or similar activities (public or private) shall be exempt, provided that:
- (a) Such activities, except for sport shooting on ranges existing on July 1, 2017, do not produce sound at the property line of 10 dBA or more in excess of the sound levels set forth in § 105-3; and
- (b) Such exemption shall not apply from 10:00 p.m. to 8:00 a.m. the following day, Sunday through Thursday, or from 11:00 p.m. to 9:00 a.m. the following day on Friday and Saturday and federal holidays.

- (6) Warning devices: sounds made by warning devices operating continuously for three minutes or less, except that in the event of an actual emergency, the time limitation shall not apply.
 - (7) Noise created by emergency generators during a power outage. Noise created by emergency generator testing shall be exempt, but only during the hours between 10:00 a.m. and 4:00 p.m.; provided however, that if generator testing from 10:00 a.m. to 4:00 p.m. is prohibited by another governmental entity, then testing occurring after 4:00 p.m., but no later than 8:00 p.m., shall be exempt.
 - (8) Noise created by the unamplified human voice; provided however, that such noise shall be subject to the applicable provisions of Chapter 111 (Peace and Good Order).
 - (9) Noise associated with snow removal activity.
 - (10) Residential mechanical equipment that is operating normally is permitted to create an average sound pressure of 72 decibels when measured in accordance with § 105.4.
 - (11) Commercial mechanical equipment that is operating normally and is located or terminated at roof level with sound baffling screening panels.
 - (12) Noise created by life safety equipment including but not limited to fire pumps, sirens, required fire alarm systems, and ventilation systems controlled by CO detectors or similar devices.
 - (13) Animal sounds provided the noise results in at less than five (5) expressions of sound (e.g., dog barking, etc.) from one or more animals kept on the exterior of a property, audible at a distance greater than 10 feet from the property boundary, during a five (5) minute period. This shall not apply to zoos, veterinary hospitals or clinics, animal shelters, a circus or other licensed entertainment venue, or a facility used for educational or scientific purposes, such as schools and laboratories.
 - (14) Aircraft and Railway Transportation.
- B. If there are any provisions of the Lower Merion Code that set forth noise standards or authorize activities that conflict with the noise level regulations set forth in this chapter, the more restrictive language shall apply.
- C. Where there is a conflict between a specific provision and a general provision of this ordinance, the specific provision shall take precedent.

SECTION 5. The Code of the Township of Lower Merion, Chapter 105, entitled Noise and Exterior Lighting, Article II, Noise, § 105-7, Violations and penalties, is hereby amended to read as follows:

- A. As authorized by Chapter A167-1, Fees, § A167-1, Schedule of fees, of the Lower Merion Township Code of Ordinances, if the Township Building and Planning Department, or its designee, is called to a property two or more times within any sixty (60) day period to investigate noise complaints, upon conviction of any violation of this Code related thereto, the property owner shall be assessed reinspection fee of \$75.00 for each inspection which resulted in said conviction.
- B. Any person who shall fail to comply with any of the provisions of this chapter shall be liable, on conviction thereof, to a fine or penalty of not less than \$100 nor more than \$1,000 for each offense. Whenever such person shall have been notified by the Director or by the service of a summons in a prosecution or in any other way that he is committing a violation of this chapter, each day in which he shall continue such violation after notification shall constitute a separate offense, punishable by a like fine or penalty. Such fines or penalties shall be collected before any District Justice as like fines or penalties are now by law collected.

Section 6. Nothing in this Ordinance or in Chapter 105 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 105 prior to the adoption of this amendment.

Section 7. Nothing in this Ordinance or in the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Code of the Township of Lower Merion prior to the adoption of this amendment.

Section 8. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 9. This Ordinance shall take affect and be in force from and after its approval as required by law.

Approved by the Board of Commissioners of the Township of Lower Merion this _____ day of _____, 20_____.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Todd M. Sinai, President

ATTEST:

Jody L. Kelley, Secretary

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