

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 105 Thereof, Entitled Noise And Exterior Lighting, By Deleting Existing Noise Regulations In Article I And II In Their Entirety And Creating A New Set of Noise Standards.

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

Chapter 105, Noise and Exterior Lighting

Section 1. The Code of the Township of Lower Merion, Chapter 105 thereof, entitled Noise and Exterior Lighting, shall be amended to delete the existing noise standards in Articles I and II in their entirety as listed below.

~~Chapter 105, NOISE~~

~~§ 105-1. Definitions.~~

~~The following words and terms, as used herein, shall have the following meanings:~~

~~CONTINUOUS NOISE— A noise which normally continues for a period of time necessary for an operator of a sound level meter and associated band analyzer to obtain accurate readings in all frequency bands, as set forth in the tables in § 105-3 hereof.~~

~~DAYTIME HOURS— The hours between 7:00 a.m. and 11:00 p.m.~~

~~DIRECTOR— The Director of the Building and Planning Department of the Township.~~

~~NIGHTTIME HOURS— The hours between 11:00 p.m. and 7:00 a.m.~~

~~PERSON— Any individual, firm, corporation, association or partnership.~~

~~SPORADIC NOISE— Any noise which does not normally continue for a period of time necessary to obtain decibel readings in all frequency bands.~~

~~§ 105-2. Excessive noise prohibited.~~

~~It shall be unlawful for any person, in the operation of an air conditioning unit or units and equipment or other types of mechanical equipment or apparatus installed in or attached to buildings or located on premises appurtenant to buildings, to make or produce excessive noise, thereby causing annoyance, inconvenience or detriment to the public or to any other person or persons. Noise shall be considered excessive if the sound pressure from the air conditioning unit or units and equipment or other type of mechanical equipment or apparatus exceeds the limits hereinafter set forth.~~

~~§ 105-3. Maximum permissible sound pressure levels.~~

~~A.— During daytime hours, the maximum permissible sound pressure levels at specified points of measurement for continuous noise radiated from premises shall not exceed the following:~~

~~_____ Sound Pressure Level~~

~~Decibels Re 0.0002 Microbar—~~

~~_____ Frequency Band~~

(cycles per second)	Inside Table	Outside Table
20 to 75	73	76
75 to 150	66	69
150 to 300	60	64
300 to 600	55	59
600 to 1,200	52	57
1,200 to 2,400	50	55
2,400 to 4,800	48	53
4,800 to 10,000	47	52

B. During nighttime hours, the maximum permissible sound pressure levels at specified points of measurement for continuous noise radiated from premises shall not exceed the following:

Sound Pressure Level
 Decibels Re 0.0002 Microbar

Frequency Band (cycles per second)	Inside Table	Outside Table
20 to 75	69	76
75 to 150	62	69
150 to 300	56	64
300 to 600	50	59
600 to 1,200	47	57
1,200 to 2,400	45	55
2,400 to 4,800	43	53
4,800 to 10,000	42	52

C. When the source of complaint originates inside of a building or structure, the microphone shall be placed three feet from the nearest window in the room where the source of complaint originates and not less than three feet above the floor, in which case the inside table of sound pressure levels shall be used.

D. When the source of complaint originates outside, the microphone shall be placed at the source of the complaint but no closer than three feet to any wall and not less than three feet above the ground, in which case the outside table of sound pressure levels shall be used.

E. If, as a result of such test, the air conditioning unit and equipment or other mechanical equipment or apparatus is found to violate the provisions of this chapter, the operation thereof shall forthwith be discontinued and not be resumed unless and until proper corrections have been made therein, which shall first have been approved by the Director.

~~§ 105-4. Sporadic noise.~~

~~No person shall create any sporadic noise which, when measured in the frequency band of 600 to 1,200 cycles per second, exceeds a sound pressure level of 57 decibels during daylight hours or 52 decibels during nighttime hours.~~

~~§ 105-5. Measurement instrument.~~

~~Sound levels shall be measured with a sound level meter and associated octave band analyzer manufactured according to standards prescribed by the American Standards Association.~~

~~§ 105-6. Exemptions.~~

~~A.——Traffic noises, noises created by governmental units and noises created by emergency and civil defense activities shall be exempt from the application of this chapter.~~

~~B.——Noises created by construction work and the repair and maintenance of any building or structure shall be exempt, but only during the hours of 8:00 a.m. to 6:00 p.m.~~

~~§ 105-7. Violations and penalties.~~

~~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 \$25 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.~~

~~§ 105-8. Chapter cumulative.~~

~~This chapter shall be cumulative and shall be in addition to other Township ordinances and regulations and, in particular, to any ordinance pertaining to disorderly conduct.~~

Section 2. The Code of the Township of Lower Merion, Chapter 105 thereof, entitled Noise and Exterior Lighting, shall be amended by creating a new Article I, entitled definitions, creating new definitions being set forth under Article I to read as follows:

**ARTICLE I
DEFINITIONS**

§ 105-1. Definitions.

All terminology used in this chapter shall be in conformance with the applicable publications of the most current edition of the American National Standards Institute (ANSI) or its successor body.

The following words and terms, as used herein, shall have the following meanings:

A-WEIGHTED SOUND PRESSURE LEVEL (SPL) -- The logarithmic sum of the decibel levels of the full frequency range between 20 Hz to 20,000 Hz weighted to correlate to the loudness of sounds as perceived by the human ear using the A-weighted network.

BACKGROUND SOUND LEVEL – The measured sound level in the area, exclusive of spontaneous, extraneous sounds, and the sound contribution of the specific source in question.

DAYTIME HOURS -- The hours between 8:00 a.m. and 8:00 p.m.

DECIBEL (dBA) -- A unit for measuring the sound-pressure level, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals or 0.0002 microbar.

DIRECTOR -- The Director of the Building and Planning Department of the Township.

EQUIVALENT CONTINUOUS SOUND PRESSURE LEVEL (LEQ) -- The constant sound level which contains the same amount of sound energy over a given time period as the fluctuating sound. It is considered to be the average sound level within each measurement period. For the purposes of this ordinance, the LEQ shall be measured on the A-weighted scale and the time interval shall be 10 minutes.

MEASUREMENT INSTRUMENT -- A Type I or Type II sound level meter as specified by the most current ANSI standard using the A-weighting network as specified in the most current edition of the ANSI standard or its successor.

NIGHTTIME HOURS -- The hours between 8:00 p.m. and 8:00 a.m.

NON-RESIDENTIAL DISTRICT(S) -- Land within any zoning district other than a Residential District per the Township Code.

PERSON -- Any individual, firm, corporation, association or partnership.

PROPERTY LINE – The boundary between adjoining lots, dwelling units, and condominium units owned, rented or leased by different persons, and also, for any two (2) or more buildings on the same lot, the line drawn midway between any two (2) said buildings.

RESIDENTIAL DISTRICT(S) -- Land within a R AA; R A; R 1; R 2; R 3; R 4; R 5; R 6; R 6A; or R 7 Residence District per the Township Code.

Section 3. The Code of the Township of Lower Merion, Chapter 105 thereof, entitled Noise and Exterior Lighting, shall be amended by creating a new Article II, entitled Noise, creating new noise regulations under Article II, Section 2 through 8 to read as follows:

ARTICLE II NOISE

§ 105-2. Excessive noise prohibited.

It shall be unlawful for any person to make or produce excessive noise, thereby causing annoyance, inconvenience or detriment to the public or to any other person or persons. Noise shall be considered excessive if the sound is subject to this Chapter and the sound exceeds the limits hereinafter set forth.

§ 105-3. Maximum permissible sound pressure levels.

During daytime or nighttime hours, the maximum permissible sound pressure levels and average levels shall not exceed the following:

The Board of Commissioners shall consider a decibel range limit included in the chart below. The actual decibel limits within this range will be determined prior to adoption.

Maximum A-Weighted Sound Pressure Levels (SPL) 8:00 am – 8:00 pm Daytime/8:00 pm – 8:00 am Nighttime		
Zoning District of Receiving Property	Maximum SPL (dBA)	Leq Average SPL (dBA)
Residential (R)	<u>57 to 62</u> /52	<u>52 to 57</u> /45
Non-Residential (C)	<u>67 to 72</u> /62	<u>62 to 67</u> /55

In addition to the sound limits in the chart above, the Board of Commissioners shall also consider the following decibel range limits prior to adoption.

If the background sound level measured at the receiving property line at the time of the noise complaint are within 5 dBA of the limits in Section 105-3 or above the levels set forth in Section 105-3, then the levels in this chart shall not apply and the following standards shall apply:

Residential and Non-Residential Districts: 5 dBA over the background sound level for maximum and Leq Average SPL up to a maximum (The Commissioners shall consider a range between 75 dBA and 90 dBA). The background sound level shall be measured at the same location as the measurement for the sound contribution of the specific source in question at a time immediately preceding the measurement of the sound contribution of the specific source in question.

§ 105-4 Noise measurement locations.

Sound measurements shall be made on the receiving property within ten (10) feet from the property line nearest the noise source, at least five (5) feet from any structure that reflects sound, and at least three (3) 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.

§ 105-5. Measurement Instrument.

All sound measurements shall be taken with a measurement instrument as defined in Section 105-1. The manufacturer’s published indication of compliance with such specifications shall be prima facie evidence of such compliance.

§ 105-6. Exemptions.

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 shall be exempt from the application of this chapter.
- (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) Residential Districts. Only during the hours of 7:00 a.m. to **a range between 6:00 p.m. and 8:00 p.m.** Monday to Friday and during the hours of 8:00 a.m. to 6:00 p.m. Saturday and Sunday;
 - (b) Non-Residential Districts. Only during the hours of **a range between 6:00 a.m. and 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.
 - (c) Upon application, the Director of Building & Planning may grant a one-time exception to the aforesaid activity exemptions set forth in this Section 105-6.A (2) if reasonably necessary to conduct the activity in question for a specifically limited durations, and as appropriate, subject to reasonable conditions to protect the public welfare. The decision of the Director of Building & 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 Non-Residential 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.

(Does the Board want to modify the hours for outdoor music associated with outdoor dining?)

- (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 **a range between 8:00 a.m. and 9:00 a.m.** to 6:00 p.m., Saturday and Sunday;
 - [i] **Monday through Thursday (The Board of Commissioners will also consider an alternative of Monday through Friday)** between the hours of 6:00 p.m. and 8:00 p.m., a maximum of one (1) piece of landscaping equipment exceeding the decibel limits in Section 105-3 may operate. If there is more than one (1) piece of landscaping equipment operating during these hours and the decibel limit exceeds the decibel limits established in Section 105-3, the use of this equipment is in violation of this exception.
 - (b) Upon application, the Director of Building & Planning may extend the aforesaid activity exemptions set forth in this Section 105-6. A (4) no more than once every three (3) months **(Is 3 months the appropriate time frame?)** 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 & Planning on such application shall be appealable in accordance with the procedures set forth in Chapter 5 of the Township Code.

(The Commissioners shall also consider whether to include the following language to the construction noise exemption under § 105-6 if the evening construction limits are set at 6:00 p.m.)

- (c) A minor repair to a building may be performed up to 8:00 p.m., subject to the submission of a written request to and approval from the Director and Planning to perform minor work between 6:00 p.m. and 8:00 p.m. The application shall include the scope of work planning during this time period.

(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 from the provisions of this Chapter provided that:

(a) Such activities do not produce sound at the property line **(a range between ten (10) and fifteen (15) dB)** or more in excess of the sound levels set forth in Section 105-3; and

(b) Such exemption shall not apply between the hours of 10:00 p.m. and 8:00 a.m. on Sunday to Thursday or 11:00 p.m. and 8:00 a.m. on Friday to Saturday.

(6) Warning devices: sounds made by warning devices operating continuously for three (3) 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 Monday to Friday 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. **This exemption may be extended to Saturday and Sunday for non-residential uses in Non-residential zoning districts.**

(8) Noise created **associated with the preparation for and the removal of** snow and ice shall be exempt. Snow removal operations more than 24 hours after the last precipitation shall be exempt, but only during a declared snow emergency. **(The B&P discussion at the March meeting raises the question whether we should we attempt to regulate noise associated with snow removal activity due to the difficulty in establishing appropriate time frames? The different types of snow/ice storms makes this determination very difficult to attempt to regulate.**

(9) Noise created by the unamplified human voice, provided however, that such noise shall be subject to the applicable provisions of Chapter 111 (Peace & Good Order).

B. This ordinance and its governing terms shall not alter, abridge, limit or affect in any way such provisions in other existing or to be adopted ordinances of the Township of Lower Merion which specifically provide for either different noise standards applicable to specific circumstances or sites set forth therein or to different time frames during which certain levels of noise are permitted. By way of example, if another ordinance permits events, weddings or other exceptions with live music until 11 pm, then the terms of that ordinance shall prevail.

§ 105-7. Violations and penalties.

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 \$25 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.

§ 105-8. Chapter cumulative.

This chapter shall be cumulative and shall be in addition to other township ordinances and regulations and, in particular, to any ordinance pertaining to disorderly conduct. This Chapter and the foregoing penalties shall not be construed to limit or deny the right of the township or any person to such equitable or other remedies as may otherwise be available with or without process of law.

Section 4. 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 of causes of action existing under the said Chapter 105 prior to the adoption of this amendment.

Section 5. 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 6. This Ordinance shall take affect and be in force from and after its approval as required by law.

Enacted by the Board of Commissioners of the Township of Lower Merion this day of
, 2017.

BOARD OF COMMISSIONERS
TOWNSHIP OF LOWER MERION

Daniel S. Bernheim, President

ATTEST:

Jody L. Kelley, Secretary