

**TOWNSHIP OF MENDHAM
COUNTY OF MORRIS – STATE OF NEW JERSEY
ORDINANCE NO. 03-2022
AN ORDINANCE OF THE TOWNSHIP OF MENDHAM AMENDING CHAPTER 229 “NOISE”**

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MENDHAM, NEW JERSEY, AS FOLLOWS:

SECTION 1. Existing Chapter 229 entitled “NOISE” is hereby deleted in its entirety and replaced with the following new Chapter 229 entitled “NOISE”

CHAPTER 229 NOISE

§ 229-1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this chapter have the same meaning as those defined in N.J.A.C. 7:29.

CONSTRUCTION — means any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures

dB(C) — The sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

DEMOLITION — means any dismantling, destruction or removal of buildings, structures, or roadways.

DEPARTMENT — means the New Jersey Department of Environmental Protection.

EMERGENCY WORK — means any work or action necessary at the site of an emergency to restore or deliver essential services, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

IMPULSIVE SOUND — means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

MINOR VIOLATION — A violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

MOTOR VEHICLE — means any vehicle that is propelled other than by human or animal power on land.

MUFFLER — means a properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

MULTI-DWELLING-UNIT BUILDING — Any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple-family houses, townhouses, and attached residences.

MULTIUSE PROPERTY — means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

- A. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- B. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

NOISE CONTROL OFFICER (NCO) — means a trained employee designated by the Township of Mendham, or an employee of a municipal, county or regional health agency (Board) which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities, or an employee of the Township of Mendham. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

PLAINLY AUDIBLE — means any sound that can be detected by an NCO using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO need not determine the title, specific words, or the artist performing the song.

PRIVATE RIGHT-OF-WAY — means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a nongovernmental entity.

PUBLIC RIGHT-OF-WAY — means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

PUBLIC SPACE — means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

REAL PROPERTY LINE — means either:

- A. The vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property;
- B. The vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling- unit building; or
- C. On a multiuse property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multiuse property is a building which is residential upstairs and commercial

downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit).

Note: This definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

SOUND PRODUCTION DEVICE — means any device whose primary function is the production of sound, including, but not limited to, any musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

SOUND-REDUCTION DEVICE — means any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

WEEKDAY — means any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

WEEKENDS — Beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

§ 229-2. Applicability.

A. This chapter applies to sound from the following property categories:

- (1) Industrial facilities;
- (2) Commercial facilities;
- (3) Public service facilities;
- (4) Community service facilities;
- (5) Residential properties;
- (6) Multiuse properties;
- (7) Public and private rights-of-way;
- (8) Public spaces; and
- (9) Multi-dwelling-unit buildings.

B. This chapter applies to sound received at the following property categories:

- (1) Commercial facilities;
- (2) Public service facilities;
- (3) Community service facilities (i.e., nonprofits and/or religious facilities);
- (4) Residential properties;
- (5) Multiuse properties;
- (6) Multi-dwelling-unit buildings.

C. Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

§ 229-4. Exemptions.

Exemptions are as follows:

A. Except as provided in §§ 229-8 and 229-9 below, the provisions of this chapter shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5. Note-The exemption for “agriculture” applies only to traditional agricultural activities; e.g. the operation of farm equipment in the nature of

tractors, planters, harvesters, to cultivate the soil, produce crops and raise livestock. The "Guidelines for the Investigation of Noise Complaints" promulgated by the State of New Jersey shall be applicable in the adjudication of any issued violations.

- B. Sound generated in the performance of any public or governmental function by persons authorized to perform such functions. (Governmental assemblies, sanctioned public events, parades, etc.)
- C. Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation. Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.
- D. Construction and demolition activities are exempt from the sound level limits set forth in Tables I and II except as provided for in § 229-8 below.
- E. Emergency stand by generators, during times of testing and when acting to supply power.

§ 229-4. Enforcement officers.

- A. Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this chapter and pursue enforcement activities.
- B. Noise Control Officers may cooperate with NCOs of an adjacent municipality in enforcing one another's municipal noise ordinances.

§ 229-5. Measurement protocols.

- A. Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2 et. seq., except that interior sound level measurements shall also conform with the procedures set forth in § 229-5B of this chapter and with the definition of "real property line" as contained herein.
- B. When conducting indoor sound level measurements across a real property line, the measurements shall be taken at least three feet from any wall, floor or ceiling, and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and, all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

§ 229-6. Maximum permissible sound levels.

- A. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in § 229-3A above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Table I or II when measured at or within the real property line of any of the receiving properties listed in Table I or II or except as specified in § 229-6B.
- B. When measuring total sound or residual sound within a multiuse property, or within a residential unit when the property line between it and the source property is a common wall,

all exterior doors and windows shall be closed, and the measurements shall be taken in the center of the room most affected by the noise. Residual sound shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound or residual sound, all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

C. Indoor measurements shall only be taken if the sound source is on or within the same property as the receiving property, as in the case of a multiuse property (e.g., sound generated within a commercial unit of a multiuse property building and received within a residential unit of the same building) or multi-dwelling unit building. In addition, indoor measurements shall be taken if the property line between the receiving property and the source property is a common wall, such as in a multi-dwelling-unit building. The allowable sound level standards for indoors are as shown in Tables I and II.

D. Impulsive sound. Impulsive sound shall not equal or exceed 80 decibels at all times.

§ 229-7. Sound production devices.

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Tables I and II when measured within the residence of a complainant according to the measurement protocol in § 229-5B of this chapter. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response.

§ 229-8. Restricted uses and activities.

A. The following standards shall apply to the activities or sources of sound set forth below:

- 1) Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 7:00 p.m. and 7:00 a.m., unless such activities can meet the applicable limits set forth in Table I and II. At all other times the limits set forth in Table I and II do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound-reduction device.
- 2) Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g., commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g., golf course, parks, athletic fields) property between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, Saturdays. No commercial use of power tools, landscaping and/or yard maintenance equipment shall be permitted on Sundays and federal holidays. ~~or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I and II.~~ At all other times the limits set forth in Table I and II do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound-reduction device.
- 3) Commercial construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 5:00 p.m. and 8:00 a.m. on Saturdays. No commercial

construction and demolition shall be conducted on Sundays and federal holidays, unless such activities can meet the limits set forth in Table I and II. At all other times the limits set forth in Table I and II do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound-reduction device.

- 4) Motorized snow-removal equipment shall be operated with a muffler and/or a sound- reduction device when being used for snow removal. When Motorized snow removal equipment is being used for snow removal, the limits set forth in Table I and II do not apply.
- 5) All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five minutes for continuous airborne sound and 15 minutes for intermittent sound after it has been activated. When interior and exterior burglar alarms of a building or motor vehicle are activated in this manner, the limits set forth in Table I and II do not apply.
- 6) Self-contained, portable, non-vehicular music or sound-production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator
- 7) It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:
 - a) Vocalizing (howling, yelping, barking, squawking, etc.) for five minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or
 - b) Vocalizing for 20 minutes intermittently, defined as an average of two vocalizations or more per minute in that period.
(It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.)

§ 229-9. Motor vehicles.

Violations of each subsection of this section shall be considered purposeful and therefore non-minor violations.

- A. No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so

modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of-way.

- B. No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.
- C. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.
- D. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

§ 229-10. Enforcement

- A. Violation of any provision of this chapter shall be cause for a notice of violation (NOV) or a notice of penalty assessment (NOPA) (individually or collectively the enforcement document(s)) to be issued to the violator by the Noise Control Officer.
- B. Any person who violates any provision of this chapter shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of September, 2021. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- C. Upon identification of a violation of this chapter the Noise Control Officer shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this chapter that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.
- D. If the violation is deemed by the Noise Control Officer to be a minor violation (as defined in § 229-2 of this chapter) an NOV shall be issued to the violator.
 - 1) The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide him or her with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.
 - 2) The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq., where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Township of Mendham. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.
- E. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, a NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of September, 2021, will be issued. If a non-minor violation is immediately corrected, a NOV without a civil penalty shall still be issued to document the

violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.

- F. The violator may request, from the Noise Control Officer, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.
- G. The recipient of a NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.
- H. The Noise Control Officer may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.
- I. Any claim for a civil penalty may be compromised and settled based on the following factors:
 - 1) Mitigating or any other extenuating circumstances;
 - 2) The timely implementation by the violator of measures which lead to compliance;
 - 3) The conduct of the violator; and
 - 4) The compliance history of the violator.

§ 229-11. Common Law Remedies Preserved

SECTION 1.

No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law.

SECTION 2.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason found to be unconstitutional or unenforceable, such decision shall not affect the remaining portion of this ordinance.

SECTION 3.

All ordinances of the Township of Mendham which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4.

This Ordinance shall take effect after final passage and publication pursuant to law.

INTRODUCED: March 14, 2022 ADVERTISED: ~~July-March 17, 2022~~^{03, 2021} PUBLIC HEARING:
~~July-March 28~~26~~, 2021~~²²

ADOPTED:

ADVERTISED:

ATTEST:

TOWNSHIP OF MENDHAM,
IN THE COUNTY OF MORRIS

Maria F. Coppinger, Township Clerk

Nick Monaghan, Mayor

NOISE

229 Attachment 1

Table I
Maximum Permissible A-Weighted Sound Levels

No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in § 121-2A in such a manner as to create a sound level that equals or exceeds the sound levels listed below.

A. Outdoors.

Receiving Property Category	Residential Property or Residential Portion of a Multiuse Property		Commercial Facility, Public Service Facility, Nonresidential Portion of a Multi-Use Property, or Community Service Facility
	7:00 a.m. - 10:00 p.m.	10:00 p.m. - 7:00 a.m.	24 hours
Maximum A-weighted sound level standard, (dB)	55	50	55

B. Indoors.

Receiving Property Category	Residential Property or Residential Portion of a Multiuse Property		Commercial Facility*, or Nonresidential Portion of a Multi-Use Property
	7:00 a.m. - 10:00 p.m.	10:00 p.m. - 7:00 a.m.	24 hours
Maximum A-weighted sound level standard, (dB)	55	40	55

** In those instances when a commercial facility shares a common wall/ceiling/floor with another commercial facility that is producing the sound.*

NOISE

229 Attachment 2

Table II
Maximum Permissible Octave Band Sound-Pressure Levels in Decibels

A. No person shall cause, suffer, allow or permit the operation of any source of sound on any source property listed in § 121-2A in such a manner as to create a sound pressure level that equals or exceeds the sound levels listed below in one or more octave bands.

B. When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

Receiving Property Category	Residential Property or Residential portion of a multi-use property		Residential property or residential portion of a multi-use property		Commercial facility, public service facility, nonresidential portion of a multi-use property, or community service facility	Commercial facility* or nonresidential portion of a multi-use property
	Outdoors		Indoors		Outdoors	Indoors
Octave Band Center Frequency (Hz)	Octave Band Sound Pressure Level (dB)		Octave Band Sound Pressure Level (dB)		Octave Band Sound Pressure Level (dB)	Octave Band Sound Pressure Level (dB)
Time	7:00 a.m. – 10:00 p.m.	10:00 p.m. – 7:00 a.m.	7:00 a.m. – 10:00 p.m.	10:00 p.m. – 7:00 a.m.	24 hours	24 hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

**In those instances when a commercial facility shares a common wall/ceiling/floor with another commercial facility that is producing the sound.*