

## **TOWNSHIP OF WANTAGE**

### **ORDINANCE #\_\_08\_\_-2020**

#### **An Ordinance to Amend Chapter 3 Police Regulations**

**WHEREAS**, the Township Committee of the Township of Wantage believes that adopting an Ordinance regulating noise will result in the preservation of public safety; and

**WHEREAS**, the Township is authorized to pass this Ordinance pursuant to N.J.S.A. 40:48-2.26 et. seq.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Wantage in the County of Sussex and the State of New Jersey, that there should be added to Chapter 3, Section 3-9 of the Revised General Ordinances of the Township, entitled “Noise,” which shall provide as follows:

#### **Section 1.**

##### **§3-9.1. 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**

Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

##### **DEMOLITION**

Any dismantling, destruction or removal of buildings, structures or roadways.

##### **DEPARTMENT**

The New Jersey Department of Environmental Protection.

##### **EMERGENCY WORK**

Any work or action necessary to deliver essential public 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.

##### **IMPULSIVE SOUND**

Either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

##### **MOTOR VEHICLE**

Any vehicle that is propelled other than by human or animal power on land.

**MUFFLER**

A properly functioning sound dissipative device or system for abating the sound of escaping gases on equipment where such a 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.

**MULTI-USE PROPERTY**

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, behind, below or adjacent.

**NOISE CONTROL ADMINISTRATOR**

The noise control officer designated as the official liaison with all municipal departments empowered to grant permits for a temporary variance.

**NOISE CONTROL OFFICER**

An employee of the municipality trained and currently certified in the measurement of sound, designated and empowered to issue a summons for violation of this Chapter. All persons designated shall be certified in noise control activities in accordance with N.J.A.C. 7:29-2.11.

**PLAINLY AUDIBLE**

Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The noise control officer need not determine the title, specific words or the artist performing the song.

**PRIVATE RIGHT-OF-WAY**

Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a nongovernmental entity.

**PUBLIC RIGHT-OF-WAY**

Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a governmental entity.

**PUBLIC SPACE**

Any real property or structures thereon that are owned, leased or controlled by a governmental entity.

**REAL PROPERTY LINE**

Either:

- A. The imaginary line including its vertical extension that separates one parcel of real property from another;
- B. The vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling-unit building; or
- C. On a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use 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).

**WEEKDAY**

Any day that is not a federal holiday, and beginning on Monday at \_\_\_\_ a.m. and ending on the following Friday at \_\_\_\_ p.m.

**WEEKENDS**

Beginning on Friday at \_\_\_\_ p.m. and ending on the following Monday at \_\_\_\_ a.m.

**§3-9.2. 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) Multi-use properties.
  - (7) Public and private rights-of-way.
  - (8) Public spaces.
  - (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.
  - (4) Residential properties.
  - (5) Multi-use properties.
  - (6) Multi-dwelling-unit buildings.
- C. Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.3, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

**§3-9.3. Declaration of findings; policy.**

- A. Excessive sound is a serious hazard to the public health, welfare, safety and the quality of life.
- B. A substantial body of science and technology exists by which excessive sound may be substantially abated.
- C. The people have a right to, and should be ensured of, an environment free from excessive sound.
- D. It is the policy of the Township of Wantage to prevent excessive sound that may jeopardize the health, welfare or safety of the citizens or degrade the quality of life.
- E. This Chapter shall apply to the control of sound originating from sources within the Township of Wantage.

**§3-9.4. Noise control officers.**

- A. The provisions of this Chapter shall be enforced by noise control officers. A person shall be qualified to be a noise control officer if the person meets the criteria set forth in the definition above and completes, at a frequency specified by the Department in N.J.A.C. 7:29-2.11, a noise certification and recertification course which are offered by the Department of Environmental Sciences of Cook College, Rutgers, the State University of New Jersey or any other noise certification or recertification course which is offered by an accredited university and approved by the Department.
- B. Sound measurements made by a noise control officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound-level measurements shall also conform with the procedures set forth in §3-9.5B and C of this Chapter and with the definition of "real property line" as contained herein.
- C. Noise control officers shall have the power to:
  - (1) Coordinate the noise control activities of all departments in the Township of Wantage and cooperate with all other public bodies and agencies to the extent practicable.
  - (2) Review the actions of the Township of Wantage and advise of the effect, if any, of such actions on noise control.
  - (3) Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this Chapter.
  - (4) Investigate and pursue possible violations of this Chapter for sound levels which equal or exceed the sound levels set forth in Tables I and II, when measured at a receiving property located within the designated jurisdiction of the noise control officer, in accordance with §3-9.7 below.
  - (5) Cooperate with noise control officers of adjacent municipalities in enforcing one another's municipal noise ordinances.

#### **§3-9.5. 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 §3-9.2A above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I and II when measured at or within the real property line of any of the receiving properties listed in Tables I and II, except as specified in Subsection B below.

- B. When measuring total sound or residual sound within a multi-use 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 multi-use property (e.g., sound generated within a commercial unit of a multi-use 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.

#### **§3-9.6. Restricted uses and activities.**

- A. Exemptions.
  - (1) Except as provided in Subsection **B** below, the provisions of this Chapter shall not apply to the exceptions listed at N.J.A.C. 7:29-1.4.
  - (2) Construction and demolition activities are exempt from the sound level limits set forth in Tables I and II, except as provided for in Subsection **B** below.
  - (3) Activities pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. shall be subject to the provisions of that Act.
- B. Notwithstanding the provisions of Tables I and II, the following standards shall apply to the activities or sources of sound set forth below:
  - (1) Noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment shall not be operated between the hours of \_\_\_\_:00 p.m. and \_\_\_\_:00 a.m., unless such activities can meet the applicable limits set forth in Tables I and II. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment.

- (2) Commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated on a residential property or within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of \_\_:00 p.m. and \_\_:00 a.m. on weekdays or between the hours of \_\_:00 p.m. and \_\_:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I and II. In addition, commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Tables I and II between the hours of \_\_:00 p.m. and \_\_:00 a.m. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.
- (3) Construction and demolition activity, excluding emergency work, shall not be performed between the hours of \_\_:00 p.m. and \_\_:00 a.m. on weekdays or between the hours of \_\_:00 p.m. and \_\_:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I and II. All motorized equipment used in construction and demolition activity shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to construction and demolition activities.
- (4) Motorized snowblowers, snow throwers and lawn equipment with attached snowplows may be operated at all times with a muffler.
- (5) The use or operation of any outdoor loudspeaker, public address systems or similar device which is used outdoors or is directed outdoors and which is capable of reproducing or amplifying sound and/or music shall be prohibited between the hours of \_\_:00 p.m. to \_\_:00 a.m. of the following day. The Township Committee may alter the prohibited hours to \_\_:00 p.m. to \_\_:00 a.m. as a condition of an outdoor show, concert and theatrical performance permit approval in accordance with Section 4-2 et seq. of the Municipal Code.

### **§3-9.7. Variance.**

Any person or entity who believes that as a result of exigent circumstances, a variance is necessary in one or more of the provisions of this Chapter, said person or entity shall apply to the Noise Control Administrator for a temporary variance. In the opinion of the Noise Control Administrator, if the exigent circumstances exist, then the Administrator may issue a variance for a temporary period of time, with or without conditions. All

applicants for a variance shall comply with any and all reasonable conditions set forth by the Noise Control Administrator.

**§3-9.8. Enforcement; civil penalty.**

- A. Violation of any provision of this Chapter shall be cause for an enforcement document to be issued to the violator by the noise control officer according to procedures set forth at N.J.A.C. 7:29-1.6. The recipient of an enforcement document shall be entitled to a hearing in Municipal Court having jurisdiction to contest such action.
- B. Any person who violates any provision of this Chapter shall be subject to a civil penalty for each offense of not more than \$3,000. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.
- C. 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.

**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 §3-9.2A in such a manner as to create a sound level that equals or exceeds the sound levels listed below.

- A. Outdoors.

	<b>Receiving Property Category</b>		
	<b>Residential property or residential portion of a multi-use property</b>	<b>Commercial facility, public service facility, nonresidential portion of a multi-use property or community service facility</b>	
	<b>___:00 a.m. to ___:00 p.m.</b>	<b>___:00 p.m. to ___:00 a.m.</b>	<b>24 hours</b>
<b>Maximum A-weighted sound level standard, dB</b>	<b>65</b>	<b>50</b>	<b>65</b>

- B. Indoors.

	<b>Receiving Property Category</b>		
	<b>Residential property or residential portion of a multi-use property</b>	<b>Commercial facility* or nonresidential portion of a multi-use property</b>	
	<b>___:00 a.m. to ___:00 p.m.</b>	<b>___:00 p.m. to ___:00 a.m.</b>	



	<b>__:00 p.m.</b>	<b>__:00 a.m.</b>	<b>24 hours</b>
<b>Maximum A-weighted sound level standard, dB</b>	<b>55</b>	<b>40</b>	<b>55</b>

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

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**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 §3-9.2A above 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.

	<b>Receiving Property Category</b>					
	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
	__ :00 a.m. to __ :00 p.m.	__ :00 a.m. to __ :00 p.m.	__ :00 a.m. to __ :00 p.m.	__ :00 a.m. to __ :00 p.m.	<b>24 hours</b>	<b>24 hours</b>
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.

### **Section 2. Severability.**

If any provision of this Ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

### **Section 3. Repealer.**

All ordinances or parts of ordinances or resolutions that are inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

**Section 4. Effective Dates.**

This Ordinance will take effect after publication and passage according to law.

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Jon Morris, Mayor  
Township of Wantage

ATTEST:

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Michael L. Restel, CPWM, Township Administrator/  
Acting Clerk

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NOTICE is given that this ordinance amendment was introduced and passed upon first reading at a meeting of the Mayor and Township Committee of the Township of Wantage, in the County of Sussex, New Jersey, held on \_\_\_\_\_, 2020. It will be further considered for final passage with the proposed ordinance after public hearing at a meeting of the Mayor and Township Committee to be held in the Wantage Township Municipal Building, 888 Route 23, Wantage, New Jersey 07461, on \_\_\_\_\_, 2019, at 7:00 o'clock P.M., and copies of the ordinance will be made available at the Administrator's office in the Municipal Building to members of the general public.

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Michael L. Restel, CPWM