

AN ORDINANCE

NO. 4290

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 With 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 set forth in § 105-3 below.

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, sound having an Equivalent Continuous Sound Pressure Level received by a residential property that exceeds 5 decibels above background level or the limits set forth in the chart below.
- B. No person or equipment shall create or cause, or permit the creation of, sound having an Equivalent Continuous Sound Pressure Level received by a non-residentially used or zoned property that exceeds 7 decibels above background level or the limits set forth in the chart below.
- C. Notwithstanding the provisions in A and B above, during daytime or nighttime hours, the maximum permissible sound pressure levels and average levels shall not exceed those set forth in the following chart:

Maximum A-Weighted Sound Pressure Levels (SPL) 8:00 a.m. - 8:00 p.m. Daytime/8:00 p.m. - 8:00 a.m. Nighttime			
Zoning District of Receiving Property	Time of Day	Maximum SPL (dBA)	LEQ Average SPL (dBA)
Residential (R)	Daytime	75	70
	Nighttime	60	50
Nonresidential (C)	Daytime	75	70
	Nighttime	65	55

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 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 following that measurement. All sound measurements shall be made using the zoning district permissible sound pressure limits of the receiving property found in 105.3.

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:

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- (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.

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(5) Concerts, block parties, graduations, wedding receptions, religious 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 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.

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(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. for a maximum of 20 minutes; 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.

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(10) Mechanical equipment that was in place and Code compliant as of the date of enactment and that is operating normally, but above the limits set forth in §105-3 is required to be brought into compliance to the greatest extent possible, as determined by the Director of Building and Planning or his/her designee, by use of sound baffling or other screening technology.

(11) 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.

(12) Aircraft and Railway Transportation.

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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 confirmation of any violation of this Code related thereto, the property owner shall be assessed a reinspection fee of \$75.00 for each inspection thereafter.

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 ~~\$25~~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 17th day of April, 2024.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Todd M. Sinai, President

ATTEST:

Jody L. Kelley, Secretary