

TOWNSHIP OF LOWER MERION

BUILDING AND PLANNING COMMITTEE

**Wednesday, October 5, 2016
8:55 PM (Approximately)**

Chairperson: Elizabeth Rogan, Philip S. Rosenzweig (Co-Chairs)
Vice Chairperson: Joshua L. Grimes, George T. Manos

AGENDA

1. NOISE ORDINANCE AMENDMENT - TIME PERMITTING

Discuss a proposed amendment to the Noise and Exterior Lighting Ordinance which would delete existing Noise Regulations in Article I and II in their entirety and create a new set of Noise Standards.

PUBLIC COMMENT



AGENDA ITEM INFORMATION

ITEM: NOISE ORDINANCE AMENDMENT - TIME PERMITTING

Discuss a proposed amendment to the Noise and Exterior Lighting Ordinance which would delete existing Noise Regulations in Article I and II in their entirety and create a new set of Noise Standards.

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Issues Briefing	Issue Briefing
<input type="checkbox"/> Proposed Noise Ordinance	Ordinance

TOWNSHIP OF LOWER MERION
Building and Planning Committee
Issue Briefing

Topic: Noise Ordinance Amendments

Prepared By: Robert Duncan, Assistant Township Manager

Date: September 26, 2016

I. Action To Be Considered By The Board:

There is no action being requested by the Board at this time. This updated ordinance has been included on the special October B&P Committee agenda to allow sufficient time for the suggested amendments to be evaluated. This ordinance will be listed on a future meeting agenda for a more detailed discussion of the suggested amendments.

II. Why This Issue Requires Board Consideration:

No action to be considered at this time.

III. Current Policy Or Practice (If Applicable): N/A

IV. Other Relevant Background Information:

The draft noise ordinance was last presented to the B&P Committee in June. There were a number of commercial property owner representatives in attendance at this meeting and they expressed concerns about the impact of the draft noise ordinance on the daily operations of many commercial properties. The B&P Committee directed staff to meet with these owners to determine if their concerns could be addressed.

I have met with commercial property owner representatives and they have provided a number of suggested amendments to the draft noise ordinance. These amendments have been included with this exhibit. Although more time is needed to fully evaluate these proposed amendments, we have included this draft on the special B&P agenda to provide the Board and the public with notice of the suggested amendments. If time permits, staff can provide a summary of the suggested amendments.

V. Impact On Township Finances: N/A

VI. Staff Recommendation:

There is no staff recommendation at this time.

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 Article 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~~

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~~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.~~

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~~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:

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§ 105-1. Definitions.

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

DAYTIME HOURS --

The hours between 8:00 a.m. and ~~11~~11:00 p.m.

~~(The Commissioners shall also consider the following alternative daytime hours.)~~

~~The hours between 8:00 a.m. and evenings hours (a range between 8:00 p.m. and 11:00 p.m.)~~

~~**DIRECTOR --**~~

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

NIGHTTIME HOURS --

The hours between ~~11:01~~11:00 p.m. and ~~7:59~~8:00 a.m.

~~(The Commissioners shall also consider the following alternative nighttime hours.)~~

~~The hours between (a range between 8:00 p.m. and 11:00 p.m.) and 8:00 a.m.~~

~~**DIRECTOR --**~~

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

PERSON --

Any individual, firm, corporation, association or partnership.

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.

~~**A-weighted Sound Pressure Level (SPL)**—the logarithmic sum of octave band sound levels obtained after applying a series of calibration factors to the sound pressure level in each octave band, as specified by the most current ANSI Standard, measured with a Type I or Type II sound level meter using the A-weighting network. The level so read is designated as dBA.~~

BACKGROUND SOUND LEVEL – The measured sound level (Leq Average SPL) in the area.

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exclusive of spontaneous, extraneous sounds, and the sound contribution of the specific source in question.

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.

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.

~~Equivalent Continuous Noise Level "Leq"—The sound pressure level in dBA equivalent to the sound energy over a given period of time, calculated as the numerical average of dBA readings taken continuously over the time interval. For the purposes of this ordinance, the time interval over which the time-averaged level is to be calculated is at least 10 minutes.~~

~~Octave band—a portion of the sound spectrum with the upper limit twice the frequency of the lower limit. Octave bands are named for their center frequency (geometric mean) of the band. Standard octave bands for sound level meters are defined in most current ANSI~~

~~Standards.~~

MAXIMUM SPL – [TO BE PROVIDED]

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.

PROPERTY LINE -- The boundary between adjoining lots, dwelling units, and condominium units ~~An imaginary line drawn through the point of contact of adjoining lands, apartments, condominiums, townhouses and duplexes~~ owned, rented or leased by different persons, ~~a demarcation or a line of separation of properties~~ and also, for any two (2) or more buildings on the same lot, sharing common grounds, 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.

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

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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 or its successor body.

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:

§ 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:

<p>Maximum A-Weighted Sound Pressure Levels (SPL) & Leq 8:00 am – 11:00 pm Daytime/11:010 pm – 78:5900 am Nighttime *</p>
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Zoning District of Receiving Property	Maximum SPL (dBA)	Leq Average SPL (dBA)
Residential District** (R)	10 dBA above permitted Leq levels 57/52	60 (Daytime); 50 (Nighttime) 52/45
Non-Residential District** (C)	10 dBA above permitted Leq levels 67/62	65 (Daytime); 60 (Nighttime) 62/55

~~*(The Daytime and nighttime hours will be adjusted based on the Commissioners selected alternative for the definitions of these terms as listed above)~~

~~** (The Commissioners shall also consider the following alternative decibel limits)~~

~~Residential Maximum SPL range to be considered – 57 to 80 ~~62/52~~~~

~~Residential LEQ average SPL range to be considered – 52 to ~~57~~75/45~~

~~Non-Residential Maximum SPL range to be considered – 67 to ~~72~~80/62~~

~~Non-Residential LEQ average SPL range to be considered – 62 to ~~67~~70/55~~

*If the Background Sound Level measured at the receiving property line at the time of the noise complaint are above the levels set forth in this chart, then the levels in this chart shall not apply and the following standards shall apply:

Residential District: 5 dBA over the Background Sound Level for Leq Average SPL; 10 dBA over the Background Sound Level for maximum SPL.

Non-Residential District: 10 dBA over the Background Sound Level for Leq Average SPL; 15 dBA over the Background Sound Level for maximum SPL.

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 Noise measurements (both for Background Sound Level and sound associated with the sound source) shall~~ould~~ be made on the receiving property within ten 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.

§ 105-5. Measurement ~~I~~instrument.

All ~~s~~Sound measurements shall be taken with a Measurement Instrument as defined in Section 105-1. ~~pressure levels shall be measured with a sound level meter that meets or exceeds the requirement for a Type I or Type II sound level meter as specified in the most current edition of the ANSI Standard or its successor.~~ 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~~decibel limitations~~, 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 (or a person conducting an activity that would be exempt if performed by a governmental unit during the hours that such activities are conducted by a governmental unit), public utilities, 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~~ routine activities~~daily operations~~ associated with a permitted land use shall be exempt during the times as provided below:

a. Residential Districts. ~~but only D~~during the hours of ~~7:00 a.m. to a range between 6:00 p.m. and 8:00 p.m. Monday-Friday and Saturday and Sunday~~ and during the hours of 9:00 a.m. to 6:00 ~~p.m.~~p.m. Saturday- Sunday;

b. Non-Residential Districts. During the hours of 6:00 a.m. to 8:00 p.m. Monday-Friday and during the hours of 8:00 a.m. to 6:00 p.m. Saturday and Sunday.

~~a.~~Upon application, the Director of Building & Planning may extend the aforesaid routine activity exemptions set forth in this section 105-6.A(2) if reasonably necessary to conduct the activity 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.

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(3) Noise associated with permitted outdoor dining activities located in Non-Residential Districts, during the hours of 8:00 a.m. and 11:00 p.m.

(4) Noises created by construction work and the repair and maintenance of any building, or structure, or property shall be exempt, b shall be exempt during the times as provided below:

a. Residential Districts. during the hours of 7:00 a.m. to 6:00 p.m. Monday-Friday and and during the hours of 9:00 a.m. to 6:00 p.m. Saturday- Sunday;

b. Non-Residential Districts. during the hours of 7:00 a.m. to 6:00 p.m. Monday-Friday and during the hours of 8:00 a.m. to 6:00 p.m. Saturday and Sunday.

Upon application, the Director of Building & Planning may extend the aforesaid routine activity exemptions set forth in this section 105-6.A(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 & Planning on such application shall be appealable in accordance with the procedures set forth in Chapter 5 of the Township Code.

~~(1) ut only during the hours of 8:00 a.m. to 6:00 p.m. and Saturday and Sunday during the hours of 9:00 a.m. to 56:00 p.m.~~

~~—The Director of Building & Planning may extend the morning hour to 7:00 a.m. and the evening hour to 8:00 p.m. for a unique portion of a large construction project requiring an extended hours to complete work that can't be delayed to another day. (An example includes a large concrete that requires an all day pour and finishing work into the early evening) The Director of Building & Planning's authority is limited to approval for a single day. Any request exceeding a single day must be approved by the Board of Commissioners.~~

~~**(The Commissioners shall also consider the following alternative nighttime hours.)**~~

~~(3) Noises created by construction work and the repair and maintenance of~~

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~~any building or structure shall be exempt, but only during the hours of 8:00 a.m. to a range between 6:00 p.m. and 8:00 p.m. and Saturday and Sunday during the hours between a range between 8:00 a.m. and 9:00 a.m. to a range between 5:00 p.m. and 8:00 p.m.~~

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

A minor repair to a property may be performed up to 8:00 p.m.

(4) Landscaping activities shall be exempt, but only Monday to Friday during the hours between 8:00 a.m. to 6:00 p.m. 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 Section 105-3 may operate. ~~and 8:00 p.m. and Saturday and Sunday during the hours between a range between 8:00 a.m. and 9:00 a.m. and to a range between 5:00 p.m. and 8:00 p.m.~~

(5) ~~Band C~~ concerts, block parties, graduations, wedding receptions parties, ceremonies, sporting or recreational activities events, carnivals, festivals, or other performances or similar activities (publicly or private) ly sponsored and presented in any public or private space outdoors shall be exempt from the provisions of this C chapter provided that:

(a.) Such activities do not produce sound at a Property Line fifteen (15) dB ~~(AA)~~ or more in excess of the sound levels set forth in Section 105-3; and

(b.) Such exemption shall not apply ~~activities do not occur~~ between the hours of 10:00 p.m. and 8:00 a.m. on Sunday-Thursday or 11:00 p.m. and 8:00 a.m. on Friday-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 wteen 10:00 a.m. and to 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 10:00 p.m. shall be exempt.

(8) Noise created by snow and ice removal/treatment equipment or activities - Noise created by snow removal equipment shall be exempt for the first 24

~~hours following the last precipitation. Snow removal operations more than 24 hours after the last precipitation shall be exempt but only during the hours between 8:00 a.m. to 8:00 p.m.~~

(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).

(10) A lawful, non-residential, nonconforming use located in a Residential District, shall for the purposes of the exemptions of this section 105-6, be deemed to be within a Non-Residential District.

- 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. The Code of the Township of Lower Merion, Chapter 155 thereof, entitled Zoning, Article XXXI, entitled MC Medical Center District, Section 155-188, Sound level limitations, shall be amended by adding noise level limitations associated with construction and landscaping noise to read as follows:

