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Chapter 95

Noise

[HISTORY: Adopted by the Board of Supervisors of Lower Frederick Township 5-3-2005 by Ord. No. 05-05. Amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct — See Ch. **69**.

Nuisances — See Ch. **99**.

Peddling and soliciting — See Ch. **107**.

Public gatherings — See Ch. **113**.

Zoning — See Ch. **170**.

Article I

Title

§ 95-1 Short title.

This chapter may be cited as the "Noise Control Ordinance of the Township of Lower Frederick."

Article II

Declaration of Findings; Policy; Scope

§ 95-2 Declaration of findings and policy.

- A. Whereas excessive sound is a serious hazard to the public health and welfare, safety, and the quality of life; and
- B. Whereas a substantial body of science and technology exists by which excessive sound and vibration may be substantially abated; and
- C. Whereas the people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life;
- D. Now, therefore, it is the policy of the Township of Lower Frederick to prevent excessive sound and vibration which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

§ 95-3 Scope.

This chapter shall apply to the control of all sound originating within the limits of the Township of Lower Frederick. This chapter does not prohibit or permit any activities or uses. This chapter regulates sound levels.

- 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; 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;
- (4) Residential properties;
- (5) Multi-use properties; and
- (6) Multi-dwelling-unit buildings.

C. Sound from stationary emergency signaling devices shall be regulated in accordance with § **95-15G** below.

Article III Definitions and Standards

§ 95-4 **Terminology.**

All terminology used in this chapter not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

§ 95-5 **Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

AFFECTED PERSON

Any person who has registered a noise complaint that he or she is a receptor of noise on a protected property category, and said affected person has an interest in the protected property category as an owner, tenant, or employee.

AGRICULTURAL ACTIVITIES

Those activities performed on farmlands in order to cultivate soil, produce crops, or raise livestock. In addition, activities associated with the growing, producing, processing, or selling of farm-related products, as long as those activities are conducted on farmlands, would be considered agricultural activities.

A-WEIGHTED SOUND LEVEL

The sound level in decibels, reported as measured by a sound level measuring instrument having an "A" weighting network which discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear. The level so read is designated dB(A) or dBA.

COMMERCIAL FACILITY

Any premises, property or facility involving traffic in goods or furnishing of services for sale or profit, whether conforming or nonconforming, including, but not limited to:

- A. Banking and other financial institutions;
- B. Dining establishments;
- C. Establishments for providing retail services;
- D. Establishments for providing wholesale services;
- E. Establishments for recreation and entertainment;
- F. Office buildings;
- G. Transportation;
- H. Warehouses;
- I. Establishments providing living accommodations which exceed six dwelling units, including, but not limited to, apartments, co-ops, hotels, motels, and dormitories, when they are the source of the sound that is being investigated and the source of sound is a heating, air-conditioning or pool filter unit or system; and
- J. Any facility of a similar nature as those listed above.

COMMUNITY SERVICE FACILITY

Any nonresidential facility used to provide services to the public, including, but not limited to:

- A. Club meeting halls, offices and facilities;
- B. Organization offices and facilities;
- C. Facilities for the support and practice of religion;
- D. Public, private and parochial schools; and
- E. Hospitals.

CONSTRUCTION

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

dBA

The abbreviation designating the unit of sound level as measured by a sound level meter using A-weighting.

DECIBEL (dB)

The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound

to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

DEMOLITION

Any dismantling, intentional destruction or removal of structures, buildings, utilities, or public or private right-of-way surfaces.

EMERGENCY

Any unexpected occurrence or situation resulting from natural or unnatural causes which endangers or has the potential to endanger the health, safety or resources of citizens or a municipality, and, as such, necessitates prompt action and response on the part of emergency services personnel.

EMERGENCY SERVICES PERSONNEL

Those people who are trained or designated to respond to an emergency, as defined in this section, or who actually participate in activities normally associated with a response to an emergency.

EMERGENCY WORK

Work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, including any work or action necessary to deliver essential public services not limited to: repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way or abating life-threatening conditions.

EQUIVALENT A-WEIGHTED SOUND LEVEL (Leq)

The constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound.

FACILITY

Land and/or buildings used for commercial or industrial operations which produce the sound under investigation.

IMPULSIVE SOUND

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

INDUSTRIAL FACILITY

Any activity and its related premises, property, facilities and equipment involving the fabrication, manufacture, warehousing, or production of durable or nondurable goods.

MOTOR VEHICLE

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

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.

NEIGHBORHOOD RESIDUAL SOUND LEVEL

That measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous and transient sounds and the sound from the source of interest.

NOISE

Any sound which is plainly audible to humans.

NOISE CONTROL OFFICER (NCO)

The Chief of Police for Lower Frederick Township and his officers, and the Zoning Officer and the Building Inspector.

NOISE DISTURBANCE

- A. An unreasonable sound.

- B. Any sound which:

- (1) Endangers the safety or health of the residents of Lower Frederick Township; or
- (2) Is plainly audible to a reasonable person of normal sensitivities in a proscribed place, time or manner; or
- (3) Endangers or injures personal or real property.

- C. Any sound that equals or exceeds the levels at particular locations as set forth in this chapter.

NOISE-SENSITIVE ZONE

Any area designated pursuant to § 95-7E of this chapter for the purpose of ensuring exceptional quiet.

PERSON

Any individual, public or private corporation, political subdivision, governmental agency, department or bureau of the state, municipality, industry, or association, including condominium or co-op associations, limited liability corporations, and partnerships and limited liability partnerships.

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 noise control officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

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, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

PUBLIC SERVICE FACILITY

Any facility and its related premises, property, or equipment used to provide governmental services to the public, including, but not limited to:

- A. Maintenance centers;
- B. Offices and buildings of agencies or instrumentalities of government;
- C. Waste collection centers;
- D. Waste recycling centers; and
- E. Water and sewage facilities.

PUBLIC SPACE

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

PURE TONE

Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this chapter, a pure tone may be perceived as a whine, hum, squeal, or buzz. Such sound sources include, but are not limited to, heating, ventilating or air-conditioning units; refrigeration units; and transformers.

REAL PROPERTY BOUNDARY

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).

RESIDENTIAL PROPERTY

Property used for human habitation, unless the habitation is a condition of employment, including, but not limited to:

- A. Private property used for human habitation;
- B. Commercial living accommodations and commercial property used for human habitation;
- C. Recreational and entertainment property used for human habitation;
- D. Community service property used for human habitation.

SOUND

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL

The sound pressure level measured in decibels with a sound level meter set for A-weighting, as specified in the American National Standards Institute specifications for sound level meters (ANSI S1.4-1971), or the latest approved revision thereof; sound level is expressed in terms of dBA.

SOUND LEVEL METER

A device which is used to measure sound pressure level, sound level, octave band sound pressure level, or peak sound pressure level, separately or in any combinations thereof.

SOUND PRESSURE

The instantaneous difference between the actual pressure and the average or barometric pressure of a given point in space, as produced by sound energy.

SOUND PRESSURE LEVEL

The level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.

SOUND SOURCE

Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

STATIONARY EMERGENCY SIGNALING DEVICE

Any device, excluding those attached to motor vehicles, used to alert local persons engaged in local emergency operations. These include, but are not limited to, fire fighters, first aid squad members, and law enforcement officers, whether paid or volunteer.

TOTAL SOUND LEVEL

The measured level which represents the summation of the sounds from all of the sound sources affecting a given place at a given time.

WEEKDAY

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

The time period beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

WIND SCREEN

A device recommended by the manufacturer as a microphone cover to reduce the effect of wind.

Article IV Noise Control Officer

§ 95-6 Designated officials.

The noise control program established by this chapter shall be administered by the Zoning Officer, the Building Inspector, the Police Chief of Lower Frederick Township and his officers.

§ 95-7 Powers of noise control officer (NCO).

In order to implement and enforce this chapter and for the general purpose of sound and vibration abatement and control, the NCO shall have, in addition to any other authority vested in it, the power to:

A. Coordination and cooperation.

(1) Coordinate the noise and vibration control activities of all municipal departments;

- (2) Cooperate to the extent practicable with all appropriate state and federal agencies;
 - (3) Cooperate or combine to the extent practicable with appropriate county and municipal agencies; and
 - (4) Enter into contracts with the approval of the Lower Frederick Board of Supervisors for the provision of technical and enforcement services.
- B. Inspections. 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 Lower Frederick Township, and enforce this chapter in accordance with Article X.
 - C. Records. Require the owner or operator of any commercial or industrial activity to establish and maintain records and make such reports as the NCO may reasonably prescribe.
 - D. Measurements by the owner or operator. Require the owner or operator of any commercial or industrial activity to measure the sound level from any source in accordance with the methods and procedures and at such locations and times as the NCO may reasonably prescribe and to furnish reports of the results of such measurements to the NCO. The NCO may require the measurements to be conducted in the presence of its enforcement officials.
 - E. Noise-sensitive zone recommendations. Prepare recommendations, to be evaluated by the Lower Frederick Board of Supervisors, for the designation of noise-sensitive zones which contain noise-sensitive activities.

§ 95-8 Duties of noise control officer (NCO).

In order to implement and enforce this chapter effectively, the NCO shall within a reasonable time after the effective date of the chapter:

- A. Investigate and pursue violations. In consonance with provisions of this chapter, investigate and pursue or cause to be investigated or pursued possible violations of this chapter.
- B. Delegation of authority. Delegate functions, where appropriate under this chapter, to personnel within the NCO and to other agencies or departments, subject to approval of the Lower Frederick Board of Supervisors.
- C. State and federal laws and regulations. Make recommendations for modifications or amendments to this chapter to ensure consistency with all state and federal law and regulations.

Article V

Duties and Responsibilities of Other Departments

§ 95-9 Departmental actions.

All departments and agencies shall, to the fullest extent consistent with other law, carry out their programs in such a manner as to further the policy of this chapter.

§ 95-10 Departmental cooperation.

All departments and agencies shall cooperate with the NCO to the fullest extent in enforcing this chapter.

§ 95-11 Departmental compliance with other laws.

All departments and agencies shall comply with federal and state laws and regulations and the provisions and intent of this chapter respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.

Article VI

Prohibited Acts

§ 95-12 Noise disturbances prohibited.

- A. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in § 95-3A above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Table I and when measured at or within the real property boundary of any of the receiving properties listed in Table I, 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. All sound within the dwelling unit must be shut off or removed and measurements shall only be taken in areas which receive more than casual or transitory 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-unit dwelling unit building. The allowable sound level standards for indoors are shown in Table I.

§ 95-13 Noise-sensitive zones.

- A. Creating or causing the creation of any sound within any noise-sensitive zone designated by resolution of the Board of Supervisors, so as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone; or
- B. Creating or causing the creation of any sound within any noise-sensitive zone, designated by resolution of the Board of Supervisors, containing a hospital, nursing home or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.

§ 95-14 Restricted uses and activities.

- A. Personal or commercial vehicular amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a residential property line between the hours of 10:00 p.m. and 7:00 a.m.
- B. Personal vehicular music amplification equipment shall not be operated 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 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 7:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator.
- C. Self-contained, portable, hand-held music or sound amplification or reproduction equipment 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 7:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 7:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator.

Article VII Exceptions and Variances

§ 95-15 Exceptions.

The provisions of this chapter shall not apply to the following exceptions:

- A. The emission of sound for the purpose of alerting persons to the existence of an emergency.

- B. Public health or safety is involved, emergency work to provide electricity, water or other public utilities, to make emergency repairs to public roadways or bridges.
- C. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.
- D. Animal sounds emitted from public zoos.
- E. Licensed game-hunting activities and target shooting on property where such activities are authorized.
- F. Devices used at places of religious worship in conjunction with religious services.
- G. The testing or sounding of emergency signaling devices when in compliance with the following performance standards:
 - (1) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 8:00 a.m. or after 6:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 60 seconds.
 - (2) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 8:00 a.m. or after 6:00 p.m. The time limit specified in Subsection **G(1)** shall not apply to such complete system testing.
 - (3) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within five minutes of activation.
- H. The unamplified human voice.
- I. Permitted use of explosive devices.
- J. Agricultural activities.
- K. Sound generated at a lawfully scheduled stadium or sporting event.
- L. Sound generated by a parade and spectators and participants on the parade route during a lawful parade.
- M. Sound generated by a pyrotechnic display that was inspected and approved by the Fire Marshal.
- N. An activity emitting proscribed sound levels where a variance has been issued and the issuee is in compliance with all the conditions contained in the variance.

§ 95-16 **Variances.**

- A. The NCO shall have the authority, consistent with this section, to grant variances that may be requested at any time before or after the issuance of a citation.
- B. Any person seeking a variance pursuant to this section shall file an application with the NCO. The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the variance may file a statement with the NCO containing any information to support his claim.
- C. In determining whether to grant or deny the application, the NCO shall balance the hardship to the applicant, the community, and other persons of not granting the variance against the adverse impact on

the health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the variance. Applicants for variances and persons contesting variances may be required to submit any information the NCO may reasonably require. In granting or denying a contested application, the NCO shall place on public file a copy of the decision and the reasons for denying or granting the variance.

- D. Variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted sound production. The variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate it and will subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the variance was granted, including enforcement actions as though permission had never been granted.
- E. Application for extension of time limit specified in variances or for modification of other substantial conditions shall be treated like applications for initial variances and consideration for changed circumstances is assumed.
- F. Variances may be granted for any amount of time up to one year in duration, such duration dependent on the facts and circumstances of the situation.
- G. The Lower Frederick Board of Supervisors may issue guidelines by resolution defining the procedures to be followed and the permits to be used in applying for a variance and the criteria to be considered in deciding whether to grant a variance consistent with this chapter.

§ 95-17 Appeals.

Appeals shall be made to the appropriate court of law.

Article VIII
Sound Levels by Receiving Land Use

§ 95-18 Maximum permissible sound levels.

- A. No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table I when measured at or within the property boundary of the receiving land use.
- B. No person shall suffer an impulsive sound to be transmitted to a receiving property category under § **95-3B** of 80 dBA unless governed by exception or having obtained variance.

§ 95-19 Correction for character of sound.

For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in Table I shall be reduced by five dBA.

Article IX
Equipment

§ 95-20 Requirements for equipment.

- A. Sound level meters:
 - (1) Measurements of continuous sounds shall be made either with a Type 1 (Precision) or a Type 2 (General Purpose) sound level meter manufactured to the requirements of ANSI specifications for sound level meters.
 - (2) Equipment shall be maintained according to manufacturers' standards and calibrated annually or upon reasonable suspicion that the sound level meter is malfunctioning.

Article X Enforcement

§ 95-21 **Violations and penalties.**

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 30 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall constitute a separate offense.

§ 95-22 **Enforcement in equity.**

Nothing in this chapter shall proscribe the Township from enforcing provisions in this chapter in an action in equity brought in the Court of Common Pleas of Montgomery County.

§ 95-23 **Civil actions.**

Any person aggrieved by a violation of this chapter may commence a civil action on his or her own behalf against any person who is alleged to be in violation of § **95-18**. 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.

Attachments:

[095a Table 1](#)