

ORDINANCE OF THE TOWNSHIP OF DEPTFORD AMENDING THE ORDINANCE ENTITLED "AN ORDINANCE PROVIDING FOR THE REGULATION OF NOISE CONTROL FOR STATIONARY SOURCES AND MOBILE SOURCES AND FURTHER PROVIDING FOR PENALTIES FOR THE VIOLATION THEREOF," TO BE KNOWN AND CODIFIED AS REVISED ORDINANCES OF THE TOWNSHIP OF DEPTFORD, CHAPTER 43

BE IT ORDAINED, by the Mayor and Council of the Township of Deptford in the County of Gloucester and State of New Jersey as follows:

SECTION 1. TITLE.

Chapter 43 of the Code of the Township of Deptford, formerly reserved shall be enacted and may be cited as the "Noise Control Ordinance of the Township of Deptford."

SECTION 2. LEGISLATIVE FINDING; POLICY; APPLICABILITY.

A. The Mayor and Council of the Township of Deptford find that excessive sound is a serious hazard to the health, safety, general welfare and the quality of life of the citizens of Deptford. Since a substantial body of science and technology exists by which excessive sound may be substantially abated and the people have a right to and should be ensure an environment free from excessive sound, it is the policy of the Township of Deptford to prevent excessive sound that may jeopardize the health and welfare or safety of the citizens or degrade the quality of life.

B. This chapter shall apply to the control of sound originating from stationary and mobile sources within the limits of the Township of Deptford.

SECTION 3. DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

COMMERCIAL AREA – A group of commercial properties and the abutting public rights-of-way and public spaces.

COMMERCIAL PROPERTY – Any facility or property used for activities involving the furnishing or handling of goods or services, including, but not limited to:

- A. Commercial dining.
- B. Off-road vehicle operations, such as repair, maintenance and terminalling.
- C. Retail services.
- D. Wholesale services.
- E. Banking and office activities.
- F. Recreation and entertainment.
- G. Other commercial activities.

CONSTRUCTION – any site preparation, assembly, erection, repair, alteration or similar action, but excluding demolition of buildings or structures.

dBa – The abbreviation designation both the unit of measured sound level (the decibel) and the mode of measurement that uses the A-weighting of a sound level meter.

DECIBEL (db) – The practical unit of measurement for sound pressure level. The number of decibels of a measured sound is equal to twenty (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 (twenty (20) micropascals). It is abbreviated dB.

DEMOLITION – Any dismantling, intentional destruction or removal of buildings or structures.

EMERGENCY WORK – Any work or action necessary to deliver essential services, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities and

public transportation facilities, removing fallen trees on public rights-of-way or abating life threatening situations.

GROSS VEHICLE WEIGHT RATNG (GVWR) – The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

INDUSTRIAL PROPERTY – Any facility or property used for activities involving the production, fabrication, packaging, storage, warehousing, shipping or distribution of goods.

MOTOR CARRIER VEHICLE ENGAGED IN INTERSTATE COMMERCE – Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (PL 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

MOTORCYCLE – An unenclosed motor vehicle having a saddle for the use of the operator and two (2) or (3) wheels in contact with the ground, including, but not limited to, motor scooters, mopeds and minibikes.

MOTOR VEHICLE – Any vehicle that is propelled or drawn on land by an engine or motor.

MUFFLER – A sound-dissipative device or system for abating sound of escaping gases of an internal combustion engine.

MULTI-DWELLING-UNIT BUILDING – Any building wherein there are two (2) or more dwelling units.

NOISE – Any sounds of such level and duration as to be or tend to be injurious to human health or welfare or which would unreasonably interfere with the enjoyment of life or property.

NOISE CONTROL OFFICER – An officially designated member or members of the Township of Deptford Police Department (Police Department) trained in the measurement of sound and empowered to issue summonses for violations of this chapter.

NOISE DISTURBANCE – Any sound that endangers the safety or health of any person, or disturbs a reasonable person of normal sensitivities, or endangers personal or real property.

PERSON – Any individual, corporation, company, association, society, firm partnership, joint-stock company, the state or any political subdivision, agency or instrumentality of the state.

PUBLIC RIGHT-OF-WAY – Any street, avenue, boulevard, road, highway, sidewalk or alley or similar place that is owned or controlled by a governmental entity.

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

REAL PROPERTY LINE – Either the imaginary line, including its planar extension, that separates one parcel of real property from another of the vertical or horizontal boundaries of a dwelling unit that is one in a multi-dwelling-unit building.

RESIDENTIAL AREA – A group of residential properties and the abutting public rights-of-way and public spaces.

RESIDENTIAL PROPERTY – Any property used for human habitation.

SOUND LEVEL – The sound pressure level measured in decibels with a sound level meter set for A-weighting; sound level is expressed in dBA.

SOUND LEVEL METER – An instrument for the measurement of sound levels as specified in NJAC 7:29B, which provisions are incorporated herein by reference.

WEEKDAY – Any day, Monday through Friday, which is not a legal holiday.

SECTION 4. ADMINISTRATION, POWERS AND DUTIES OF NOISE CONTROL OFFICERS.

A. The noise control program established by this chapter shall be administered by the Police Department or Noise Control Officer.

B. The Police Department shall be empowered to stop any motor vehicle or motorcycle operated on a public right-of-way, public space or private property suspected of violating any provision of this chapter.

C. The Noise Control Officer must be qualified according to NJAC 7:29B-1.11.

D. Noise measurements made by Noise Control Officers must be taken according to procedures specified by NJAC 7:29B, which provisions are incorporated herein by reference.

E. Noise Control Officers shall not use this chapter in situations within the jurisdiction of the Federal Occupational Safety and Health Act.

SECTION 5. MAXIMUM PERMISSIBLE SOUND LEVELS.

A. Stationary sources.

(1.) No person shall cause, suffer, allow or permit the operation of any source of sound on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the particular sound level limits as contained in Title 7, Chapter 29 of the New Jersey Administrative Code, which provisions are incorporated herein by reference and when measured at or within the real property line of the receiving property, except as provided in Subsection (3) herein.

(2.) When measuring noise within a dwelling unit a multi-dwelling-unit building, all exterior doors and windows shall be closed and the measurements shall be taken in the center of the room.

(3.) Exemptions. The following are exempt from the sound level limits of Title 7, Chapter 29 of the New Jersey Administrative Code.

(a.) Noise from domestic power tools, lawnmowers and agricultural equipment when operated with a functioning muffler between the hours of 8:00AM and 8:00PM on weekdays and 9:00AM ad 8:00PM weekends and legal holidays, provided that they produce less than eighty-five (85) dBA at or within any real property line of a residential property.

(b.) Sound from church bells and church chimes when a part of a religious observance or service.

(c.) Noise from construction activity, provided that all motorized equipment used in such activity is equipped with functioning mufflers, except as provided in Section 6B(6) herein.

(d.) Noise from snowblowers, snow throwers and snowplows when operated with a muffler for the purpose of snow removal.

(e.) Noise from stationary emergency signaling devices that conform to the provisions of NJAC 7:29-13, which provisions are incorporated herein by reference.

(f.) Noise from an exterior burglar alarm of any building or motor vehicle, provided that such burglar alarm shall terminate its operation within fifteen (15) minutes after it has been activated.

(g.) Assigned activity of municipal employees performing employment tasks or approved municipal public events.

B. Mobile Sources.

(1.) Motor vehicles and motorcycles on public rights-of-way. No person shall cause, suffer, allow or permit the operation of a public or private motor vehicle or motorcycle on

a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table I.

(2.) Recreational motorized vehicles operating off public rights-of-way. No person shall cause, suffer, allow or permit the operation of a recreational vehicle in such a manner that the sound level emitted therefrom exceeds the limits set forth in Table II at either a distance of fifty (50) feet [fifteen (15) meters] or more from the path of the vehicle when operated on a public space or (2) or at or across a real property line when operated on a private property. This section shall apply to all recreational vehicles, whether or not duly licensed or registered.

(3.) Adequate mufflers.

(a.) No person shall cause, suffer, allow or permit the operation of any motor vehicle or motorcycle not equipped with original muffler or equivalent replacement in good working order and in constant operation.

(b.) No person shall remove or render inoperative or cause to be removed or rendered inoperative other than for purposes of maintenance, repair or replacement, any muffler on a motor vehicle or motorcycle.

(3.) Motor vehicle horns and signaling devices. The following acts and the causing thereof are declared to be in violation of this chapter:

(a.) The sounding of any horn or other auditory signaling device that produces a sound level in excess of one hundred (100) dBA at twenty-five (25) feet [seven and five-tenths (7.5) meters].

(4.) Standing motor vehicles. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle for a period longer than three (3) minutes in any hour while the vehicle is stationary, for reasons other than traffic

congestion, on a public right-of-way or public space within one hundred fifty (150) [forty-six (46) meters] of a residential area between the hours of 8:00PM and 7:00AM the following day.

SECTION 6. PROHIBITED ACTS.

A. No person shall cause, suffer, allow or permit to be made, verbally or mechanically, any noise disturbance. Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this section.

B. No person shall cause, suffer, allow or permit the following acts:

(1.) Sound reproduction systems.

Operation, playing or permitting operation or playing of any radio, television, phonograph or similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance for any person other than the operator of the device.

(2.) Loudspeakers/public address systems.

Using or operating of any loudspeaker, public address system or similar device other than as may otherwise be permitted in other Ordinances of the Township of Deptford.

(3.) Animals and birds.

Owning, possessing or harboring any pet animal or pet bird that frequently or for continued duration makes sounds that create a noise disturbance across a residential real property line. For the purpose of this section, a noise disturbance from a barking dog shall be defined as that created by a dog barking continually for ten (10) minutes or intermittently for thirty (30) minutes, unless provoked.

(4.) Loading and unloading.

Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, liquids, garbage cans, refuse of similar objects or the compacting of refuse:

(a.) Between the hours of 10:00PM and 7:00AM the following day in such a manner as to exceed any applicable limit set forth in Title 7, Chapter 29 of the New Jersey Administrative Code across a residential property line.

(b.) By persons engaged in the business of scavenging or garbage collection, for municipal, between the hours of 7:00PM and 6:00AM the following day, except by permit.

(c.) By persons engaged in the business of scavenging or garbage collection, for private, between the hours of 7:00PM and 7:00AM the following day, except by permit.

(5.) Motor vehicle repairs and testing.

Repairing, rebuilding, modifying or testing any motor vehicle or motorboat in such a manner as to exceed any applicable limit in Title 7, Chapter 29 of the New Jersey Administrative Code across a residential real property line.

(6.) Construction and demolition.

Operation and permitting the operation of any tools or equipment used in construction, drilling, earthmoving, excavating or demolition work between the hours of 6:00PM and 7:00AM the following day or weekdays or any time on weekends or legal holidays; except for emergency work or by special variance issued pursuant to Section 7 within the Ordinances and provided that such equipment is equipped with a proper muffler.

(7.) Air conditioning, air handling devices and wind energy conversion systems.

The operation of air conditioning, air handling devices, including heat pumps or wind energy conversion systems that produces a sound level greater than fifty-five (55) dBA at a real property

line of a residential property, except when said operation produces less than an increase of five (5) dBA in the sound level that exists in the absence of such sound.

SECTION 7. VARIANCES.

A. Any person who owns or operates any stationary noise source may apply to the Noise Control Office of the Township of Deptford through the Township Manager for a variance from one (1) or more of the provisions of this chapter. Applications for a permit of variance shall supply information including, but not limited to:

(1.) The nature and location of the noise source for which such application is made.

(2.) The reason for which the permit of variance is requested, including the hardship that will result to the Applicant, his/her client or the public if the permit of variance is not granted.

(3.) The nature and intensity of noise that will occur during the period of the variance.

(4.) The section or sections of this chapter for which the permit of variance shall apply.

(5.) A description of interim noise control measures to be taken by the Applicant to minimize noise and the impacts occurring therefrom.

(6.) A specific schedule of the noise control measures which shall be taken to bring the source into compliance with this chapter within a reasonable time.

B. A copy of the permit of variance must be kept on file by the Township Manager for public inspection.

C. Failure to supply to the Noise Control Officer the information required hereby shall be cause for rejection of the application.

D. The Township Manager shall charge the applicant a fee of ten dollars (\$10.00) to cover expenses resulting from the processing of the permit of variance application.

E. The Noise Control Officer may impose such terms and conditions as he deems necessary and grant such variances for the protection of the health, welfare and environment to the public. No permit shall be issued for longer than one (1) year.

F. Appeal from a denial of a variance by the Noise Control Officer may be filed with the Township Council within ten (10) days of such denial.

SECTION 8. ENFORCEMENT.

A. Issuance of summons. Violation of any provision of this chapter shall be cause for a summons to be issued by the Noise Control Officer or, in the case of prohibited acts specified in Section 6, by any member of the Township of Deptford Police Department.

B. Abatement Orders.

(1.) Except as provided in Section (2) hereof, the Noise Control Officer may issue an order requiring abatement of any source of sound alleged to be in violation of this chapter within a reasonable time period and according to guidelines which the Noise Control Officer may prescribe.

(2.) An abatement order shall not be issued for any violation covered by Section 8 C. (2) of the within Ordinance or when the Noise Control Officer has reason to believe that there will not be in compliance with the abatement order.

C. Penalties.

(1.) Any person who violates any provision of this chapter shall be subject to a penalty for each offense of not more than one thousand dollars (\$1,000.00) or be imprisoned for a term not exceeding ninety (90) days, or both, for each offense, excepted as provided in Subsection C. (2) herein.

(2.) If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

D. Other remedies. 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 9. REPEAL OF INCONSISTENT ORDINANCES.

All ordinances, codes or parts of same inconsistent with any of the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 10. SEVERABILITY.

If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the chapter shall not be invalidated.

SECTION 11. This Ordinance shall be effective twenty (20) days after its final passage and publication as provided by law.



TOWNSHIP OF DEPTFORD

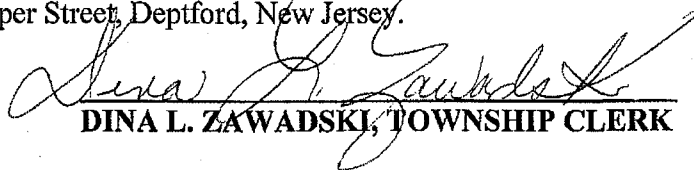
Paul Medany
PAUL MEDANY, MAYOR

ATTEST:

DINA L. ZAWADSKI, TOWNSHIP CLERK

CERTIFICATION

The foregoing Ordinance was introduced at a Regular Meeting of Township Council of the Township of Deptford held on the 7th day of April, 2014 and will be considered for final passage and adoption at a Work Session Meeting at which time any person interested therein will be given an opportunity to be heard. Said meeting to be held on the 21st day of April, 2014 at the Municipal Building, 1011 Cooper Street, Deptford, New Jersey.


DINA L. ZAWADSKI, TOWNSHIP CLERK

Introduction

Council Member	Resolution No.	Ordinance No.	Yes	No	Abstain	Absent
		O.7.14				
Medany			✓			
Hufnell			✓			
Barnshaw			✓			
Lamb			✓			
Love			✓			
Schocklin						✓
Scott			✓			

Adoption

Council Member	Resolution No.	Ordinance No.	Yes	No	Abstain	Absent
		O.7.14				
Medany			✓			
Hufnell			✓			
Barnshaw			✓			
Lamb			✓			
Love			✓			
Schocklin			✓			
Scott			✓			