



**LAKE COMO BOROUGH
1740 MAIN STREET
LAKE COMO, NJ 07719
(732) 681-3232
MINUTES**

**DATE: SEPTEMBER 15, 2020 – VIRTUAL MEETING
REGULAR MEETING IMMEDIATELY FOLLOWING THE WORKSHOP**

MEETING CALLED TO ORDER

Mayor Higgins called the meeting to order at 7:32pm

SALUTE TO FLAG AND MOMENT OF SILENT REFLECTION

SUNSHINE LAW

Introduction as required under the Sunshine Law: Adequate notice of this meeting has been provided by the adoption of a Resolution by the Mayor and Council on the seventh day of January 2020 in which Resolution the time and place of Agenda and Regular Meetings commencing with January 7, 2020 were set forth. Notice of same was delivered to the Asbury Park Press and the Coast Star and a copy of the notice was posted on the bulletin board in Borough Hall. All meetings are open to the public. Notice of the virtual meeting was noticed to the papers on September 11th and a copy of the notice was posted on the bulletin board of Borough Hall and posted on the website. All meetings are open to the public.

ROLL CALL

Douglas Witte	Present
Virginia Kropac	Present
Hawley Scull	Present
Christopher D'Antuono	Present
David Gardner	Present
Nick DeMauro	Present

APPROVAL OF MINUTES

Councilman D'Antuono made a motion to approve the minutes from the September 1, 2020 and September 8, 2020 Regular Meetings seconded by Councilwoman Kropac, all are in favor.

COMMUNICATIONS

None on the agenda

REPORTS OF COMMITTEES

- Councilman DeMauro thanked Borough Clerk/Administrator Louise Mekosh for allowing LEAD to hold their workbook distribution at Borough Hall. Councilman DeMauro thanked Chief Scott, at the last meeting he discussed the traffic issue on Newman Street and he has seen patrol officers out there taking notes. All other matters are in order.

- Councilman Gardner reported that the Environmental Commission Meeting will be held tomorrow at 7:30pm and will be a hybrid meeting and the instructions to attend that meeting will be on the website. All other matters are in order.
- Councilman D'Antuono reported that he has been looking at the items to prioritize for the Open Space Grant for the lake project. Councilman D'Antuono also reported that the seasonal one-way streets have been converted back and the 18th Avenue no parking has been lifted. All other matters are in order.
- Councilwoman Scull congratulated the winners of the Tourism Commission Photo Contest and thanked Mayor Higgins for handing out the prizes. All other matters are in order.
- Councilwoman Kropac reported that all matters are in order.
- Councilman Witte reported that Planning Board has canceled the September meeting and the next Planning Board meeting will be held October 19, 2020 at 7:00pm and Councilman Witte reported on the summer incident from the Police Department. Captain Cox urged all residents to report any suspicious activity in the Borough.
- Mayor Higgins yielded part of his report to Kevin Lynch, SMRSA representative for the Borough of Lake Como for his report. Mr. Lynch reported that Lake Como's percentages have gone down, from 6.78% in 2019 to 6.39% in 2020 and less rain equals less cost for Lake Como. Mr. Lynch reported that the 2021 budget will be available in November. Mayor Higgins congratulated Construction Official and Fire Subcode Inspector John Rowe on his retirement. Mayor Higgins reported that there is a young girl in our community battling a rare form of cancer that requires extreme treatments. There is a Go Fund Me page to help with the treatments, Belmar Elementary School students held a lemonade stand to raise money for her. Lake Como will be holding a town wide yard sale on October 3rd and 4th and Mayor Higgins and the Council are asking residents to donate the waived permit fee to Jackie's battle with cancer. All the information will be on the Borough Website. All other matters are in order.

UNFINISHED BUSINESS

No Unfinished Business

PUBLIC COMMENTS ON NEW BUSINESS

Councilwoman Scull made a motion to open the meeting to the public, seconded by Councilman Witte, all are in favor.

No Public Comments

Councilwoman Kropac made a motion to close the meeting to the public, seconded by Councilman Witte, all are in favor.

CONSENT AGENDA

All items listed under this section are considered to be routine by the Borough Council and will be enacted by one motion. There will be no separate discussion

on these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Resolution 2020-120
Sale of Surplus Municipal Property

Resolution 2020-121
Appointing Construction Official and Fire Subcode Official

Resolution 2020-122
Refund of Street Opening Escrow

Councilman D'Antuono made a motion to approve the items on the Consent Agenda, seconded by Councilwoman Scull, roll call vote as follows:
Yes: Councilmembers Witte, Kropac, Scull, D'Antuono, Gardner and DeMauro
No: None
Abstain: None
Absent: None

NEW BUSINESS
No New Business

PUBLIC COMMENTS
Councilwoman Scull made a motion to open the meeting to the public, seconded by Councilwoman Kropac, all are in favor.

No Public Comments

Councilwoman Kropac made a motion to close the meeting to the public, seconded by Councilwoman Scull, all are in favor.

NEXT MEETING
The next regular meeting of the Mayor and Council will be held on Tuesday, October 6, 2020, immediately following the 7:30pm Workshop meeting and the location is to be determined. All meetings are open to the public.

MOTION TO ADJOURN
Councilwoman Scull made a motion to adjourn, seconded by Councilwoman Kropac, all are in favor.

Respectfully Submitted
Amy L. Boney
Deputy Borough Clerk

The minutes of this meeting are not verbatim. Please call Borough Hall at (732)681-3232 to schedule an appointment to hear the tape(s) of this meeting in

its entirety. All tapes are subject to being destroyed 80 days after the approval of the Minutes.

Resolution No. 2020-120

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF LAKE COMO AUTHORIZING THE SALE OF SURPLUS PERSONAL PROPERTY NO LONGER NEEDED FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE

WHEREAS, the Borough of Lake Como has determined that the property described on Schedule A attached hereto and incorporated herein is no longer needed for public use; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) authorizes the sale of surplus personal property no longer needed for public use through the use of an online auction service; and

WHEREAS, the Borough of Lake Como intends to utilize the online auction services of US Gov Bid Government Surplus, Eatontown, NJ 07724.

WHEREAS, the sales are being conducted pursuant to the Division of Local Government Services' Local Finance Notice 2008-9,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Lake Como in the County of Monmouth, State of New Jersey, that the Borough Clerk/Administrator is hereby authorized to sell the surplus personal property as indicated on Schedule A on an online auction website entitled USGovBid.com.

Dated: 9/15/2020

Kevin G. Higgins
Mayor

Louise A. Mekosh, RMC,CMC,CMFO
Borough Clerk/Administrator

ATTACHMENT A

Description of Items to be sold

2004 ODB Leaf Machine Identification Number 06049 094

Various other equipment that the estimated fair value of the property to be sold will not exceed 15 percent of the bid threshold

RESOLUTION NO. 2020-121

WHEREAS, Mayor Kevin G. Higgins has appointed

Theodore A. Bianchi, Jr.

To the positions of Construction Code Official and

Fire Subcode Official

License # 002151

for the Borough of Lake Como

Commencing October 1, 2020.

Dated: 9/15/2020

Kevin G. Higgins
Mayor

Louise A. Mekosh, RMC,CMC,CMFO
Borough Clerk/Administrator

RESOLUTION NO. 2020-122

WHEREAS, Joanne Mc Nellis, owner of 1700 E Street, Lake Como, NJ; also known as Block - 11, Lot - 8, applied for Street Opening Permit #20-18 to repair a sewer main pipe; and

WHEREAS, in addition to the \$90.00 Application Fee, Ms. Mc Nellis posted a \$600.00 Escrow Fee which is refundable upon satisfactory completion of the job; and

WHEREAS, Brendan Maas, Superintendent of the Department of Public Works, did visit the above property address for the purpose of inspecting the street after the completed job and found the street to be in satisfactory condition.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Lake Como that the \$600.00 Escrow Fee posted with Cash be refunded to Joanne Mc Nellis.

Date: September 15, 2020

Kevin G. Higgins
Mayor

Louise A. Mekosh, RMC, CMC, CMFO
Borough Clerk/Administrator



**LAKE COMO BOROUGH
1740 MAIN STREET
LAKE COMO, NJ 07719
(732) 681-3232
AGENDA**

**DATE: SEPTEMBER 15, 2020
7:30 PM WORKSHOP**

DISCUSSION ITEMS

1. Draft Noise Ordinance

PUBLIC COMMENTS ON WORKSHOP ITEMS

1 VK
2 HS X 1 HS
2 CD

BOROUGH OF LAKE COMO, MONMOUTH COUNTY, STATE OF NEW JERSEY

ORDINANCE NO. 2020-951

**ORDINANCE OF THE BOROUGH OF LAKE COMO
AMENDING CHAPTER § 3-15 "NOISE RESTRICTIONS"
OF THE BOROUGH CODE**

BE IT ORDAINED by the Borough Council of the Borough of Lake Como, in the County of Monmouth and State of New Jersey that the Model Noise Control Ordinance issued by the New Jersey Department of Environmental Protection be adopted and that § 3-15 of the Code of the Borough of Lake Como be and is hereby amended to read as follows:

§ 3-15 Noise Control

I. Declaration of Findings and Policy

WHEREAS excessive sound is a serious hazard to the public health, welfare, safety, and quality of life; and

WHEREAS a substantial body of science and technology exists by which excessive sound may be substantially abated; and

WHEREAS the people have a right to, and should be ensured of, an environment free from excessive sound; and

WHEREAS it is the policy of the Borough of Lake Como to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This ordinance shall apply to the control of sound originating from sources within the Borough of Lake Como.

II. Definitions

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

"Construction" means any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

"dBC" means the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

"Demolition" means any dismantling, destruction or removal of buildings, structures, or roadways.

"Department" means the New Jersey Department of Environmental Protection.

"Emergency work" means any work or action necessary at the site of an emergency to restore or deliver essential 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 or a state of emergency declared by a governing agency.

"Impulsive sound" means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

"Minor Violation" means a violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

"Motor vehicle" means any vehicle that is propelled other than by human or animal power on land.

"Muffler" means a properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

"Multi-dwelling unit building" means 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" means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. 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
2. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

"Noise Control Officer" (NCO) means an employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities or an employee of a municipality with a Department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and is

currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

“Noise Control Investigator” (NCI) means an employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

"Plainly audible" means any sound that can be detected by a NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words, or the artist performing the song.

"Private right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

"Public right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

"Public space" means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

"Real property line" means either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (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 as defined herein, the vertical or horizontal boundaries 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, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

“Sound production device” means any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

“Sound reduction device” means any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

"Weekday" means 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" means beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

III. Applicability

(A) This model noise ordinance 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 right-of-ways;
8. Public spaces; and
9. Multi-dwelling unit buildings.

(B) This model noise ordinance applies to sound received at the following property categories:

1. Commercial facilities;
2. Public service facilities;
3. Community service facilities (i.e. non-profits and/or religious 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. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

IV. Exemptions

(A) Except as provided in IX. and X. below, the provisions of this ordinance shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5.

(B) Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation.

Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.

- (C) Construction and demolition activities are exempt from the sound level limits set forth in tables I and II and III except as provided for in IX. below.

V. Enforcement Officers

- (A) Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance and pursue enforcement activities.
- (B) Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance that do not require the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities.
- (C) Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

VI. Measurement Protocols

(A) 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 VIB of this ordinance and with the definition of "real property line" as contained herein.

(B) When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and 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.

VII. 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 III.(A) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in VI(B).

- (B) Impulsive Sound

Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

**TABLE I
 MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
 WHEN MEASURED OUTDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	65	50	65

**TABLE II
 MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
 WHEN MEASURED INDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility or non-residential portion of a multi-use property
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 Hours
Maximum A-Weighted sound level standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

**TABLE III
MAXIMUM PERMISSIBLE OCTAVE BAND
SOUND PRESSURE LEVELS IN DECIBELS**

Receiving Property Category	Residential property, or residential portion of a multi-use property		Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility	Commercial facility or non-residential 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
	Time	7 a.m.-10 p.m.	10 p.m.-7 a.m.	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
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

Note: 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.

VIII. Sound Production Devices

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in VI(B) of this ordinance. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response.

TABLE IV
MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS
WITHIN A RESIDENTIAL PROPERTY

Week nights 10:00 p.m. - 7:00 a.m. Weekend nights 11:00 p.m. and 9:00 a.m.	All other times
3 dB(C)	6 dB(C)

IX. Restricted Uses and Activities

The following standards shall apply to the activities or sources of sound set forth below:

- A. Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- B. Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- C. All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.
- D. Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. At all other times the limits set forth in Tables I, II or III do not apply.
- E. All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times the limits set forth in Tables I, II or III do not apply.
- F. Self-contained, portable, non-vehicular music or sound production devices 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 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator;

G. It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:

- (1) Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
- (2) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

X. Motor Vehicles

Violations of each paragraph of this section shall be considered purposeful and therefore non-minor violations.

(A) No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of-way.

(B) No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.

(C) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.

(D) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

XI. Enforcement

(A) Violation of any provision of this ordinance shall be cause for a Notice of Violation (NOV) or a Notice of Penalty Assessment (NOPA) document to be issued to the violator by the Noise Control Officer or Noise Control Investigator.

(B) Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.

(C) Upon identification of a violation of this Ordinance the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this Ordinance that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.

(D) If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined in Section II of this ordinance) a NOV shall be issued to the violator.

1. The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide them with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.

2. The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Noise Control Officer. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.

(E) If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, a NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014, will be issued. If a non-minor violation is immediately corrected, a NOV without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.

(F) The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to

approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.

(G) The recipient of a NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.

(H) The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.

(I) Any claim for a civil penalty may be compromised and settled based on the following factors:

1. Mitigating or any other extenuating circumstances;
2. The timely implementation by the violator of measures which lead to compliance;
3. The conduct of the violator; and
4. The compliance history of the violator.

XII. Consistency, Severability and Repealer

(A) If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

(B) All ordinances or parts of ordinances, which are inconsistent with any provisions of this ordinance, are hereby repealed as to the extent of such inconsistencies.

(C) No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged, and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 4. This Ordinance shall take effect upon final passage and publication as provided by law.

SO ORDAINED as aforesaid.

KEVIN G. HIGGINS, Mayor

NOTICE

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at a meeting of the Lake Como Borough Council held on _____. Said Ordinance will again be read and considered for final passage at a meeting of the Lake Como Borough Council to be held at 7:00 p.m. on _____ at 1740 Main Street, Lake Como, New Jersey 07719. At said time and place, all persons having an interest in the foregoing Ordinance will be granted an opportunity to be heard concerning the same prior to consideration for final passage by the Council.

LOUISE A. MEKOSH, Borough Clerk

MAYORAL APPROVAL

APPROVAL BY THE MAYOR ON THIS ____
DAY OF _____, 2020

Kevin Higgins, Mayor