



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

**DATE: OCTOBER 6, 2020 – VIRTUAL MEETING  
REGULAR MEETING**

**MEETING CALLED TO ORDER**

**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 October 2, 2020 and a copy of the notice was posted on the bulletin board in Borough Hall and posted on the website. All meetings are open to the public.

**ROLL CALL**

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

**APPROVAL OF MINUTES**

**COMMUNICATIONS**

**REPORTS OF COMMITTEES**

**UNFINISHED BUSINESS**

**PUBLIC COMMENTS ON NEW BUSINESS**

## **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 2020-126  
Refund of Tree Removal Escrow

## **NEW BUSINESS**

Resolution 2020-123  
Payment of Bills  
Offered by Councilman D'Antuono

Resolution 2020-124  
Payment of Bills NJ Natural Gas  
Offered by Councilwoman Kropac

Resolution 2020-125  
Annual Audit  
Offered by Councilman Witte

Ordinance 2020-951  
Amending Noise Restrictions  
Introduction: 1<sup>st</sup> Reading  
Offered by Councilman Witte

## **PUBLIC COMMENTS**

## **NEXT MEETING**

The next regular meeting of the Mayor and Council will be held on Tuesday, October 20, 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**

MOTION:	_____
SECOND:	_____
ALL IN FAVOR:	_____
OPPOSED:	_____

**RESOLUTION NO. 2020-126**

**WHEREAS**, Beverly Fierro, owner of 2 Ripley Lane, Lake Como, NJ, also known as Block - 19, Lot - 3.04, applied for Tree Removal Permit #20-05 on April 27, 2020 to remove seven (7) trees for the purpose of new construction; and

**WHEREAS**, Mrs. Fierro paid the required \$50.00 Application Fee with Check #163 and paid the required Tree Removal Escrow for the removal of seven (7) trees in the amount of \$2,800.00 which is refundable upon satisfactory planting of fourteen (14) new saplings; and

**WHEREAS**, upon inspection by Zoning Officer Mark Fessler, it was determined that Mrs. Fierro planted above and beyond the required fourteen (14) saplings.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Lake Como that the Tree Removal Escrow in the amount of \$2,800.00 posted with Check #241 be refunded to Beverly Fierro.

Date: October 6, 2020

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Kevin G. Higgins  
Mayor

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

Resolution 2020 – 123

Be it resolved by the Mayor and Council of the Borough of Lake Como that the proper officers be directed and authorized to make payment from the following accounts:

CURRENT ACCOUNT:

Per Attached Bill List	\$395,739.37
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WATER/SEWER ACCOUNT:

Per Attached Bill List	\$185,722.69
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PAYROLL ACCOUNT:

4819	Employee Payroll Dated 9/11/2020	\$ 27,296.86
2322	Employee Payroll Dated 9/11/2020	8,939.73
4825	Employee Payroll Dated 9/30/2020	26,553.59
2324	Employee Payroll Dated 9/30/2020	<u>9,270.89</u>
		\$ 72,061.07

DOG LICENSE ACCOUNT:

1114	NJ Department of Health	\$ 6.00
1115	NJ Department of Health	1.20
1116	NJ Department of Health	<u>1.20</u>
		\$ 8.40

Dated: October 6, 2020

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Kevin G. Higgins, Mayor

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

October 2, 2020  
11:53 AM

Borough Of Lake Como  
Purchase Order Status Report by P.O. Number

Page No: 1

Range: First to Last

P.O. Type: All

Format: Condensed

Include Non-Budgeted: Y

Include Revenue: Y

First Enc Date Range: to 10/02/20

Open: N Rcvd/Aprv/Held: Y Paid: N Deleted: N  
Bid: Y State: Y Other: Y Exempt: Y As of Date: 10/02/20

PO #	PO Date	Vendor	Description	R/A/H Amount
20-00342	05/06/20	MONMOUTH CTY PUBLIC WORKS&ENG	Street Sweeping 5/6/2020	600.49
20-00464	07/13/20	JAEGER LUMBER	Clear Bumper/deck screws	40.28
20-00502	08/04/20	Quill LLC	SUPPLIES	254.90
20-00507	08/03/20	TAYLOR HARDWARE	August Purchases	186.93
20-00520	08/04/20	RELANCE GRAPHICS	Primary/Mail/Emergency Ballots	382.00
20-00550	08/06/20	UNITED RENTALS - BRANCH G84	Rental Equip Lake Clean Up	785.05
20-00556	08/11/20	USA BLUEBOOK	Disinfecting Wipes	52.95
20-00557	08/19/20	MONMOUTH CTY PUBLIC WORKS&ENG	Street Sweeping 8/19/2020	569.48
20-00563	08/28/20	BOROUGH OF BELMAR	Purchase Fuel June 2020	537.09
20-00565	09/01/20	BOROUGH OF BELMAR	Lake Como Court Postage 2019	1,335.64
20-00566	09/01/20	BOROUGH OF BELMAR	Diesel/Gas August 2020	379.90
20-00567	09/01/20	WATCHUNG SPRING WATER CO INC	Water/Rental	176.42
20-00568	09/01/20	FEDERAL EXPRESS CORP	Shipping charges	47.36
20-00569	08/19/20	STAVOLA ASPHALT CO., INC.	Hi Performance Cold Patch	162.00
20-00570	09/01/20	STATE OF NJ PENSIONS&BENEFITS	Employee Group Ins. September	17,474.90
20-00571	09/01/20	SO. MONMOUTH REG. SEWAGE AUTH.	Sewer Use Charges for 4th Qtr	125,572.23
20-00572	09/01/20	SO. MONMOUTH REG. SEWAGE AUTH.	Deposit Sewer Rent Res 4th Qtr	232.51
20-00576	09/09/20	DELL MARKETING L.P.	Dell 24 Monitor P2419H	359.98
20-00577	09/09/20	THE COAST STAR	Legal Advertising	37.45
20-00580	09/09/20	GARDEN STATE LABORATORIES, INC	Water Analysis September	207.00
20-00581	09/09/20	MONMOUTH CTY PUBLIC WORKS&ENG	Repairs to Box Truck	299.05
20-00582	09/10/20	LAGER GLASS COMPANY	Replace safety glass front doo	360.00
20-00583	09/01/20	JAMM PRINTING	Bulk Pick Up Stickers	798.00
20-00584	08/13/20	ALLIED DIESEL SERVICE	Remove Dump Body from Chassis	4,471.45
20-00585	09/10/20	ONE CALL CONCEPTS	One Call Service	14.30
20-00586	09/10/20	SHAIN SCHAFFER PC	Borough Attorney September	2,083.34
20-00587	09/10/20	JEANNETTE JIMENEZ	Cleaning Service September	420.00
20-00588	09/10/20	LAKE COMO BOARD OF EDUCATION	School Tax September	265,195.10
20-00589	09/10/20	Marco Technologies LLC	Copy Machine Lease September	398.56
20-00590	09/02/20	MONMOUTH CTY PUBLIC WORKS&ENG	Street Sweeping 9/2/2020	563.03
20-00591	09/10/20	NJ LEAGUE OF MUNICIPALITIES	Legislative Bulletin	49.00
20-00592	09/10/20	STATE OF NJ DEPT OF LABOR	Catastrophic Illness Fund	49.50
20-00593	09/10/20	DELTA DENTAL OF NEW JERSEY	Dental	1,012.12
20-00594	09/10/20	S.PODD AND SON COMPANY	Winterize Sprinkler Service	380.00

PO #	PO Date	Vendor	Description	R/A/H Amount
20-00595	09/11/20	DOCKSIDE LUMBER	8x8 Posts	408.96
20-00596	09/11/20	LAKE COMO PAYROLL ACCOUNT	Employee Payroll 9/16/2020	36,236.59
20-00597	09/16/20	JUNGLE LASERS, LLC.	Nat. Geomatica July	1,060.00
20-00598	09/16/20	MONMOUTH COUNTY SPCA	Animal Control Service August	200.00
20-00599	09/16/20	VERIZON	Dispatch Telephone	76.67
20-00600	09/16/20	VERIZON WIRELESS	Construction Cell Phone	43.16
20-00601	09/16/20	NJ WATER SUPPLY AUTHORITY	Raw Water Supply	9,223.11
20-00602	08/31/20	DELISA WASTE SERVICES	Recycle Tipping Fees August	330.95
20-00603	09/08/20	HI-WAY OIL SERVICE, INC.	Silicone/Spray Nine	127.74
20-00604	09/16/20	NEW JERSEY AMERICAN WATER CO.	Purchase of Water August	31,216.97
20-00606	09/16/20	Cintas Corporation	SANIS Ultra Clean Service	580.24
20-00609	09/17/20	DELISA WASTE SERVICES	TIPPING FEES SEPT 1-15, 2020	2,344.58
20-00610	09/17/20	KAY PRINTING & ENVELOPE CO.	Stop Work Order/Notice	57.90
20-00611	09/21/20	DENTAL SERVICE ORG	Dental October	103.83
20-00613	09/21/20	JCP&L	Street Lighting	1,942.59
20-00614	09/21/20	BOROUGH OF BELMAR	Police Traffic control-JCP&L	800.00
20-00615	09/17/20	CME ASSOCIATES	Lakefront Improvements	1,512.00
20-00616	09/17/20	CME ASSOCIATES	Improvements to 17th Ave PH2	504.00
20-00617	09/21/20	DELISA WASTE SERVICES	Recycle/Trash Service October	10,216.67
20-00618	09/21/20	AWCO PEST SERVICES, INC.	Pest Control Service September	110.00
20-00619	09/01/20	HI-WAY OIL SERVICE, INC.	Cut wheels	44.95
20-00620	09/23/20	Qui11 LLC	Supplies	217.88
20-00622	09/25/20	COSTCO WHOLESALE CLUB	COPY PAPER/CLEAN SUPPLIES	315.54
20-00623	09/25/20	HOME DEPOT	HEATER/CLEANING SUPPLIES	55.95
20-00624	09/28/20	LAKE COMO PAYROLL ACCOUNT	Employee Payroll 9/30/2020	35,824.48
20-00625	09/29/20	BRENDAN MAAS	Cell Phone Reimbursement	75.00
20-00626	09/29/20	SEAN RYDHOLM	Cell Phone Reimbursement	75.00
20-00627	09/29/20	JOSEPH KELLY	Cell Phone Reimbursement	75.00
20-00628	09/29/20	JOHN CUSIC	Cell Phone Reimbursement	75.00
20-00630	09/29/20	STATE OF NJ PENSIONS&BENEFITS	Employee Group Ins October	17,474.90
20-00633	09/30/20	CABLEVISION/OPTIMUM	Telephone/optonline	845.04
20-00634	09/30/20	JCP&L	Electric Service	882.05
20-00635	09/30/20	NJ LEAGUE OF MUNICIPALITIES	Virtual Conference 2020	385.00
20-00640	10/01/20	FERGUSON ENTERPRISES INC.	BRZ A/SIPHON SILL	35.30
20-00641	10/01/20	CME ASSOCIATES	Lakefront Improvements	1,092.00
20-00642	10/01/20	CME ASSOCIATES	IMPTS to 17 Ave Phase 2	1,405.00

Total Purchase Orders: 70 Total P.O. Line Items: 184

Total R/A/H Amount: 581,462.06

PO #	PO Date	Vendor	Description	R/A/H Amount

Totals by Year-Fund Fund Description	Fund	Budget Total	Revenue Total	G/L Total	Total
	0-10	394,403.73	0.00	0.00	394,403.73
	0-20	185,722.69	0.00	0.00	185,722.69
Year Total:		580,126.42	0.00	0.00	580,126.42
	9-10	1,335.64	0.00	0.00	1,335.64
Total of All Funds:		581,462.06	0.00	0.00	581,462.06



Resolution 2020- 124

Be it resolved by the Mayor and Council of the Borough of Lake Como that the proper officers be directed and authorized to make payment from the following account:

CURRENT ACCOUNT:

4829	NJ Natural Gas Co.	PB&G OE	\$158.56
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Dated: October 6, 2020

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Kevin G. Higgins, Mayor

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

**BOROUGH OF LAKE COMO  
RESOLUTION NO. 2020-125**

**WHEREAS**, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

**WHEREAS**, the Annual Report of Audit for the Fiscal Year 2019 has been filed by a Registered Municipal Accountant with the Borough Clerk as per the requirements of N.J.S.A.40A:5-6, and a copy has been received by each member of the governing body, and

**WHEREAS**, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S.52:27BB-34, and

**WHEREAS**, the Local Finance Board has promulgated NJAC 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed as a minimum, the sections of the annual audit entitled "Comments and Recommendations" and

**WHEREAS**, the Members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations", as evidenced by the group affidavit form of the governing body attached hereto, and

**WHEREAS**, such Resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to NJAC 5:30-6.5, and

**WHEREAS**, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

**WHEREAS**, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the Local Governing Body to the penalty provisions of R.S.52:27BB-52, to wit:

R.S.52-27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.19.

**NOW, THEREFORE, BE RESOLVED** that the Mayor and Council of the Borough of Lake Como hereby states that it has complied with NJAC 5:30-6. and does hereby submit a certified copy of this Resolution and the required affidavit to said Board to show evidence of said compliance.

Dated: 10/6/2020

\_\_\_\_\_  
Kevin Higgins, Mayor

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

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

**ORDINANCE NO. 2020-\_\_**

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

*\* Draft -  
See Page 9  
for realigned  
added  
language  
original  
follows  
this  
draft*

**BE IT ORDAINED** by the Borough Council of the Borough of Lake Como, in the County of Monmouth and State of New Jersey 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	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) The Chief of Police, a Borough Police Officer or any taxpayer or resident of the Borough may make a complaint in the Municipal Court for any violation of this Ordinance. A first time offender convicted under this Ordinance will be subject to a fine of \$250 for each offense; a second conviction of the same person or entity within a 12 month period will be subject to a fine of \$500 for each offense; and a third conviction within the same 12 month period will be subject to a fine of \$2,000 for each offense, regardless whether such offense is minor violation or not. The Noise Control Officer or Noise Control Investigator can also elect to make a complaint under Subsection (I) without issuing any prior notice.

(J) 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.

**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**

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**BE IT ORDAINED** by the Borough Council of the Borough of Lake Como, in the County of Monmouth and State of New Jersey 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	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) The Chief of Police, a Borough Police Officer or any taxpayer or resident of the Borough may make a complaint in the Municipal Court for any violation of this Ordinance. A first time offender convicted under this Ordinance will be subject to a fine of \$250 for each offense; a second conviction of the same person or entity within a 12 month period will be subject to a fine of \$500 for each offense; and a third conviction within the same 12 month period will be subject to a fine of \$2,000 for each offense, regardless whether such offense is minor violation or not. The Noise Control Officer or Noise Control Investigator can also elect to make a complaint under Subsection (I) without issuing any prior notice.

(J) 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.

### **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