



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

**DATE: OCTOBER 20, 2020
7:30 PM WORKSHOP**

DISCUSSION ITEMS

1. Resolution for Sale of Real Property
2. Animal House Ordinance

PUBLIC COMMENTS ON WORKSHOP ITEMS

RESOLUTION OF THE BOROUGH OF LAKE COMO,

RESOLUTION NO. 2020-131

COUNTY OF MONMOUTH, STATE OF NEW JERSEY,

**RESOLUTION OF THE BOROUGH COUNCIL
OF THE BOROUGH OF LAKE COMO
AUTHORIZING THE SALE OF REAL
PROPERTY BY PUBLIC AUCTION**

WHEREAS, the Borough of Lake Como owns certain undersized real property, namely Lot 1 in Block 26 (the "Property"), and

WHEREAS, no capital improvements exist thereon and the Property is not needed for any public purpose; and

WHEREAS, all contiguous property owners have been advised in writing of their opportunity to purchase the Property but none of the land owners are willing to purchase same for the fair market value; and

WHEREAS, all contiguous property owners will have right to prior refusal to purchase the undersized Property pursuant to N.J.S.A. 40A:12-13.2; and

NOW, THEREFORE, BE IT RESOLVED that the Property be sold at public auction, to the highest bidder.

BE IT FURTHER RESOLVED that the Borough shall **not** establish a minimum price for the Property, but the Borough shall reserve the right to reject all bids in the event that the highest bid is not accepted; and

BE IT FURTHER RESOLVED that the public auction shall be held at the Lake Como Municipal Building, 1740 Main Street Lake Como, NJ 07719, at 6:30 p.m. Tuesday, December 1, 2020. The highest bidder shall be required to execute a contract and provide a check in the amount of ten (10%) percent of the bid, the form of contract can be obtained from the Borough Clerk; and

BE IT FURTHER RESOLVED that the highest bid will be reviewed and accepted or rejected by the Borough Council, subject to the right of prior refusal of contiguous property owners, at its public meeting to be held Tuesday, December 1, 2020 at 7:30 p.m; and

BE IT FURTHER RESOLVED that the successful bidder shall be required to close title within thirty (30) days from the date when all of the contiguous property owners have declined to exercise their right to prior refusal, time being of the essence.

Dated: 10/20/2020

Kevin G. Higgins, Mayor

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

CERTIFICATION

I hereby certify the foregoing Resolution to be a true and exact copy of a Resolution adopted by the Lake Como Borough Council at its meeting held on _____, 2020.

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

*Borough of Lake Como, NJ
Monday, October 19, 2020*

Chapter 11. Rental Housing

§ 11-1. BOND REQUIREMENTS FOR RENTAL PROPERTIES WITH THREE SUBSTANTIATED COMPLAINTS.

§ 11-1.1. Legislative Findings.

[Ord. No. 94-597 § 1]

The Borough Council finds, determines and declares that:

- a. Lake Como is a resort community and its citizens have experienced disturbances, damage and public expense resulting from carelessly granted and inadequately supervised seasonal rentals to irresponsible vacationers by inept or indifferent landlords.
- b. This section is enacted to preserve the peace and tranquility of the community for its permanent residents, and to maintain the municipality as a viable vacation resort for all persons and families availing themselves of the facilities in the community.
- c. The enactment of this section is necessary and desirable to provide a means to curb and discourage those occasional excesses arising from irresponsible seasonal rentals.
- d. The Legislature of the State of New Jersey enacted N.J.S.A. 40:48-2.12n et seq. to enable certain communities to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords offering seasonal rentals be held to sufficient standards of responsibility.

§ 11-1.2. Definitions.

[Ord. No. 94-597 § 2]

As used in this section:

HEARING OFFICER

shall mean a licensed attorney of the State of New Jersey appointed by the Mayor, subject to the advice and consent of the Borough Council. The hearing officer shall not own or lease any real property within the Borough of Lake Como nor hold any interest in the assets of or profits arising from the ownership of such property.

LANDLORD

shall mean the person or persons who own or purport to own any building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease, including but not limited to any building subject to the "Hotel and Multiple Dwelling Law," N.J.S.A. 55:13A-1 et seq.

SEASONAL RENTAL

shall mean any rental of residential accommodations for a term of less than one (1) year and including any part of the period extending from May 15 to September 15.

SUBSTANTIATED COMPLAINT

shall mean an act of disorderly, indecent, tumultuous or riotous conduct upon or in proximity to any seasonal rental premises, and attributable to the acts or incitements of any of the tenants of those premises which have been substantiated by prosecution and conviction in any court of competent jurisdiction.

§ 11-1.3. Hearing, Penalty.

[Ord. No. 94-597 § 3]

- a. If in any one year, three complaints, on separate occasions, of disorderly, indecent, tumultuous or riotous conduct upon or in proximity to any seasonal rental premises, and attributable to the acts or incitements of any of the tenants of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction, the Borough Council or any officer or employee of the Borough so designated by the Borough Council for this purpose, may institute proceedings to require the landlord of the seasonal rental premises to post a bond against the consequences of future incidents of the same character.
- b. The Borough Council or any officer or employee of the Borough designated by the Borough Council shall cause to be served upon the landlord, in person or by registered mail, to the address appearing on the tax records of the municipality, notice advising of the institution of such proceedings, together with particulars of the substantiated complaint upon which those proceedings are based, and of the time and place at which the hearing will be held in the matter, which shall be in the Municipal Building, Building Court or such other public place as designated by the Borough Council, and which shall be no sooner than 30 days from the date upon which the notice is served or mailed.
- c. At the hearing convened pursuant to paragraph b above, the hearing officer shall give full hearing to both the complaint of the municipality and to any evidence in contradiction or mitigation that the landlord, if present or represented and offering such evidence, may present. At the conclusion of the hearing the Hearing Officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of this section.
- d. Any bond required to be posted shall be in accordance with the hearing officer, in light of the nature and extent of the offenses indicated in the substantiated complaints upon which the proceedings are based, to be adequate in the case of subsequent offenses to make reparation for:
 1. Damages likely to be caused to public or private property and damages consequent upon disruption of affected residents' rights of fair use and quiet enjoyment of their premises; and
 2. Securing the payment of fines and penalties likely to be levied for such offenses; and
 3. Compensating the municipality for the costs of repressing and prosecuting such incidents of disorderly behavior; provided however, no such bond shall be in an amount less than \$500 nor more than \$5,000. The Borough may enforce a bond thus required in the Superior Court, and shall be entitled to an injunction prohibiting the landlord from making or renewing any lease of the affected premises for residential purposes until that bond or equivalent security, in satisfactory form and amount, has been deposited with the municipality.
- e. Any bond or other security deposited in compliance with paragraph d. above shall remain in force for a period of four years. Upon the lapse of the four-year period, the landlord shall be entitled to the discharge of the bond, unless prior thereto further proceedings leading to a forfeiture or partial forfeiture of the bond or other security shall have been had under subsection 11-1.4 below, in which case the security shall be renewed in an amount and for a period that shall be specified by the hearing officer. A transfer of ownership or control of the property shall not void a requirement for security imposed under this section. The person or persons to whom ownership or control is transferred shall maintain that security and shall be subject to injunctive proceedings as

authorized by paragraph d. above in the same manner as the landlord upon which the requirement was originally imposed; provided however, the Borough Council may by Resolution shorten the period for which security is required to not less than one year from the date of the transfer of ownership or control, if during that year no substantiated complaints are recorded with respect to the property in question.

§ 11-1.4. Bond Forfeiture, Extension.

[Ord. No. 94-597 § 4]

- a. If during the period for which a landlord is required to give security pursuant to subsection **11-1.3** above, a substantiated complaint is recorded against the property in question, the Borough Council or its designee may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension as provided in subsection **11-1.3e** above, of the period for which the security is required, or for increase in the amount of security required, or for any or all of those purposes.
- b. Any forfeiture or partial forfeiture of security shall be determined by the hearing officer solely in accordance with the amount deemed necessary to provide for the compensatory purposes set forth in subsection **11-1.3d** above. Any decision by the hearing officer to increase the amount or extend the period of the required security shall be determined in light of the same factors set forth in subsection **11-1.3d** above, and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of which proceedings arise under this section indicates the appropriateness of such change in order to effectually carry out the purposes of this section. The decision of the hearing officer in such circumstances shall be enforceable in the same manner as provided in subsection **11-1.3d** above.

ORDINANCE NO. 2020-36

**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE
BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF
NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 26-11
OF THE BOROUGH CODE ENTITLED “ARTICLE III RENTAL
PROPERTY”**

WHEREAS, the Mayor and Council of the Borough of Belmar (hereinafter referred to as “Belmar”) has reviewed Chapter 26-11 of the Borough Code entitled “Article III Rental Property” in order to confirm whether any provisions therein should be updated.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, as follows:

SECTION I. Chapter 26, Section 11, shall be amended as follows:

26-11.2 Definitions

For the purposes of this section, the following meanings shall apply:

SUBSTANTIATED COMPLAINT

Shall mean an act of disorderly, indecent, tumultuous or riotous conduct, including by way of example but not limited to, simple assault, terroristic threats, harassment, urinating in public, lewdness, criminal mischief, excessive noise, petty disorderly offense, or as a violation of any provision of Title 2C of the New Jersey Statutes or any other municipal ordinance governing disorderly conduct upon or in proximity to any seasonal rental premises, and attributed to the acts or incitements of any of the tenants of those premises which have been substantiated by prosecution and conviction and/or guilty plea in any court of competent jurisdiction. For purposes of this definition, the phrase “upon or in proximity to” shall mean anywhere on the property or upon or within the adjacent right-of-way, adjoining roadways, or adjoining properties.

26-11.3 Hearing Penalty

- a. If, in any 24 month period, two complaints, as defined in subsection 2-11.2 hereof, on separate occasions, of disorderly, indecent, tumultuous or riotous conduct, including by way of example, but not limited to, simple assault, assault, terroristic threats, harassment, lewdness, urinating in public, criminal mischief, excessive noise, a petty disorderly offense, or as a violation of any provision of Title 2C of the New Jersey Statutes or any other municipal ordinance governing disorderly conduct upon or in proximity to any seasonal rental premises, and attributable to the acts or incitements of any of the tenants of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction, the Borough Council or any officer or employee of the Borough so designated by the Borough Council for this purpose, may institute proceedings to require the landlord of the seasonal rental premises to post a bond against the consequences of future incidents of the same character, or of a character actionable under this ordinance. For purposes of this definition, the phrase “upon or in proximity to” shall mean anywhere on the property or upon or within the adjacent right-of-way, adjoining roadways, or adjoining properties.

26-11.7 Revocation or Suspension of licenses

1. Causes: Any license granted or issued pursuant to Ordinance §26.3 et seq. may be suspended or revoked as provided herein after notice and hearing for any of the following causes:
 - a. In the event any tenant or occupant of any individual living unit upon the licensed premises is charged with a violation of a Borough Ordinance, notice of the pending charge will be given by mail to the licensee and the person designated to receive notices on the behalf of the licensee’s behalf. In the event two (2) such complaints are issued during one (1) licensing year and result in convictions and/or guilty pleas in Municipal Court, then such convictions and/or guilty pleas may be grounds for suspension or revocation of the license. In the event the owner of the licensed premises is the complaining party and said complaint results in a conviction -in municipal court, such conviction shall not be counted as a complaint for purposes of license suspension or revocation.



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

**DATE: OCTOBER 20, 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 16, 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

Minutes from the September 15, 2020 and October 6, 2020 Regular Meetings

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 2020-127
Best Practices Survey

Resolution 2020-128
Declaring Halloween Curfew

Resolution 2020-130
Executive Session – Contractual Discussion

NEW BUSINESS

Resolution 2020-129
Payment of Bills
Offered by Councilwoman Scull

Resolution 2020-131
Sale of Real Property
Offered by Councilwoman Kropac

Ordinance 2020-951
Amending Noise Restrictions
Second Reading and Public Hearing
Offered by Councilman Witte

PUBLIC COMMENTS

NEXT MEETING

The next regular meeting of the Mayor and Council will be held on **MONDAY, NOVEMBER 16, 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. 2020-127

RESOLUTION CONFIRMING THE SUBMISSION OF THE BEST PRACTICES CHECKLIST INVENTORY TO THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES ON BEHALF OF THE BOROUGH OF LAKE COMO

WHEREAS, Local Finance Notice 2020-20 requires the municipality to submit by November 3, 2020 to the Director of the Division of Local Government Services a report describing the municipality's compliance with the "Best Practices Inventory" established by the Director of the Division of Local Government Services, and

WHEREAS, the report as required was submitted by the Chief Financial Officer on October 8, 2020 and the law allows the municipality to have the Best Practices Checklist available to review at their regular public meeting scheduled on or after the Best Practices checklist submission, and

WHEREAS, the members of the governing body have received the Best Practices Inventory 2020 questions and the answers as submitted; and

WHEREAS, the Borough of Lake Como has achieved a Positive Credit based on its responses which will entitle the Borough of Lake Como to 100% of the eligible State Aid; and

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Lake Como, that the Local Government Best Practices Checklist, as completed by the Chief Financial Officer, is hereby approved.

DATED: 10/20/20

Kevin G. Higgins, Mayor

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

RESOLUTION NO. 2020-128

**RESOLUTION AUTHORIZING MAYOR AND COUNCIL TO
DECLARE HALLOWEEN CURFEW**

BE IT RESOLVED by the Mayor and Council that the Mayor be and is hereby authorized to declare a curfew on the use of streets and highways in all of the Borough of Lake Como, between the hours of 8 o'clock in the evening prevailing time and 6 o'clock in the morning prevailing time, beginning at 8 p.m. on October 29, 2020 and ending at 6 a.m. on November 1, 2020. During such hours, no person under the age of 18 shall remain in or upon any public street, highway or place except those accompanied by a parent or guardian and except those who are going directly between their home and place of work or school.

Dated: 10/20/2020

Kevin G. Higgins, Mayor

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

RESOLUTION OF THE BOROUGH OF LAKE COMO,

RESOLUTION NO. 2020-130

COUNTY OF MONMOUTH, STATE OF NEW JERSEY,

**RESOLUTION OF THE BOROUGH COUNCIL AUTHORIZING
CLOSED PORTION OF PUBLIC MEETING**

WHEREAS, the Open Public Meetings Act N.J.S.A. 10:4-12b(6) permits the Borough Council to exclude the public from a meeting, or any portion thereof, at which the Council wishes to discuss contractual matters; and

WHEREAS, minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes shall be made public;

NOW, THEREFORE, BE IT RESOLVED that the Borough Council shall exclude the public from that portion of its October 20, 2020 meeting which pertains to the aforementioned matter, and that such matters that are not covered by the attorney-client privilege will be disclosed to the public if and when confidentiality is no longer required.

BE IT FURTHER RESOLVED by the Borough Council of the Borough of Lake Como, that the public portion of this meeting is hereby closed.

Dated: October 20, 2020

**Kevin G. Higgins,
Mayor**

CERTIFICATION

I hereby certify the foregoing Resolution to be a true and exact copy of a Resolution adopted by the Lake Como Borough Council at its meeting held on October 20, 2020.

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

Resolution 2020 – 129

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 \$308,144.37

WATER/SEWER ACCOUNT:

Per Attached Bill List \$121,968.55

PAYROLL ACCOUNT:

4835	Employee Payroll Dated 10/14/2020	\$ 27,755.33
2326	Employee Payroll Dated 10/14/2020	8,627.21
1432	Employee Payroll Dated 10/14/2020	134.56
Wire	State of NJ – PERS	<u>7,841.23</u>
		\$ 44,358.33

TOURISM ACCOUNT:

1432	Lake Como Payroll Account	\$ 134.56
	Bry's Marine	<u>494.50</u>
		\$ 629.06

Dated: October 20, 2020

Kevin G. Higgins, Mayor

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

Range: First to Last

P.O. Type: All

Format: Condensed

Include Non-Budgeted: Y

Include Revenue: Y

Open: N Rcvd/Aprv/Held: Y Paid: N Void: N Deleted: N
Bid: Y State: Y Other: Y Exempt: Y As of Date: 10/19/20

First Enc Date Range: to 10/19/20

PO #	PO Date	Vendor	Description	R/A/H	Amount
20-00573	09/01/20	TAYLOR HARDWARE	September Purchases		200.79
20-00621	09/24/20	Vancho Tolomanosi	Res20-83 Street Open Refund		600.00
20-00629	09/29/20	JUNGLE LASERS, LLC.	National Geomatica August		120.00
20-00631	09/29/20	MONMOUTH CTY PUBLIC WORKS&ENG	Street Sweeping 9/23/2020		564.05
20-00632	09/29/20	WATCHUNG SPRING WATER CO INC	Water/Rental		80.83
20-00639	10/01/20	SHAIN SCHAFFER PC	Borough Attorney October		2,083.34
20-00643	10/02/20	DELISSA WASTE SERVICES	Tipping Fees Sept 16-30,2020		2,781.14
20-00644	10/05/20	BRENDAN MAAS	Reimburse tarp canopy		399.00
20-00645	08/19/20	Lease Servicing Center, Inc.	Leaf Machine Doc/Process fee		250.00
20-00646	10/06/20	TREASURER, STATE OF NJ	Marriage Lic/Civil Union 3rd Q		125.00
20-00647	10/06/20	HOLMAN FRENIA ALLISON, PC	Final Billing-Audit 2019		500.00
20-00648	10/06/20	VAN WICKLE AUTO SUPPLY, INC.	Air Filter		8.19
20-00649	10/06/20	LAKE COMO BOARD OF EDUCATION	October School Tax		265,195.10
20-00650	10/06/20	GARDEN STATE LABORATORIES, INC	Water Analysis October		207.00
20-00651	10/06/20	BOROUGH OF BELMAR	Fuel September		357.61
20-00652	07/28/20	US DEPT OF AGRICULTURE	USDA Phase I		38,966.00
20-00653	08/03/20	US DEPT OF AGRICULTURE	USDA Phase II		52,119.00
20-00658	10/06/20	Craney's Interpreting Services	Interpreting Service Court		100.00
20-00659	10/08/20	Beverly Fierro	Tree Escrow Refund RES20-126		2,800.00
20-00660	10/08/20	DELTA DENTAL OF NEW JERSEY	Dental		1,012.12
20-00661	10/08/20	ATLANTIC SECURITY & FIRE	Alarm monitor/Total Conn/Fire		809.40
20-00663	10/08/20	ELLCOTT NETWORK CONSULTANTS	Sonic Wall 3 year license		1,137.00
20-00664	10/09/20	LAKE COMO PAYROLL ACCOUNT	Employee Payroll 10/14/2020		36,517.10
20-00665	10/13/20	BRY'S MARINE	Rowboat		1,289.00
20-00666	10/14/20	Marco Technologies LLC	Copy Machine Lease		394.24
20-00667	10/14/20	VERIZON	Police Dispatch Telephone		77.27
20-00668	10/14/20	NEW JERSEY AMERICAN WATER CO.	Purchase of Water September		20,309.67
20-00669	10/14/20	STATE OF NEW JERSEY-PWT	PWT July/August/September		206.88
20-00672	10/15/20	VERIZON WIRELESS	Building Dept Cell Phone		42.74
20-00673	10/13/20	Gannett NJ Newspapers	Legal Adv Ord 2020-951		583.10
20-00680	10/19/20	ELLCOTT NETWORK CONSULTANTS	Maintenance Contract		906.41

Total Purchase Orders: 31

Total P.O. Line Items: 88

PO #	PO Date	Vendor	Description	R/A/H Amount
Total R/A/H Amount:				430,741.98

Totals by Year-Fund Fund Description	Fund	Budget Total	Revenue Total	G/L Total	Total
	0-10	308,144.37	0.00	0.00	308,144.37
	0-20	121,968.55	0.00	0.00	121,968.55
	0-74	629.06	0.00	0.00	629.06
Total of All Funds:		<u>430,741.98</u>	<u>0.00</u>	<u>0.00</u>	<u>430,741.98</u>

**RESOLUTION OF THE BOROUGH OF LAKE COMO,
RESOLUTION NO. 2020-131
COUNTY OF MONMOUTH, STATE OF NEW JERSEY,**

**RESOLUTION OF THE BOROUGH COUNCIL
OF THE BOROUGH OF LAKE COMO
AUTHORIZING THE SALE OF REAL
PROPERTY BY PUBLIC AUCTION**

WHEREAS, the Borough of Lake Como owns certain undersized real property, namely Lot 1 in Block 26 (the "Property"), and

WHEREAS, no capital improvements exist thereon and the Property is not needed for any public purpose; and

WHEREAS, all contiguous property owners have been advised in writing of their opportunity to purchase the Property but none of the land owners are willing to purchase same for the fair market value; and

WHEREAS, all contiguous property owners will have right to prior refusal to purchase the undersized Property pursuant to N.J.S.A. 40A:12-13.2; and

NOW, THEREFORE, BE IT RESOLVED that the Property be sold at public auction, to the highest bidder.

BE IT FURTHER RESOLVED that the Borough shall **not** establish a minimum price for the Property, but the Borough shall reserve the right to reject all bids in the event that the highest bid is not accepted; and

BE IT FURTHER RESOLVED that the public auction shall be held at the Lake Como Municipal Building, 1740 Main Street Lake Como, NJ 07719, at 6:30 p.m. Tuesday, December 1, 2020. The highest bidder shall be required to execute a contract and provide a check in the amount of ten (10%) percent of the bid, the form of contract can be obtained from the Borough Clerk; and

BE IT FURTHER RESOLVED that the highest bid will be reviewed and accepted or rejected by the Borough Council, subject to the right of prior refusal of contiguous property owners, at its public meeting to be held Tuesday, December 1, 2020 at 7:30 p.m; and

BE IT FURTHER RESOLVED that the successful bidder shall be required to close title within thirty (30) days from the date when all of the contiguous property owners have declined to exercise their right to prior refusal, time being of the essence.

Dated: 10/20/2020

Kevin G. Higgins, Mayor

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

CERTIFICATION

I hereby certify the foregoing Resolution to be a true and exact copy of a Resolution adopted by the Lake Como Borough Council at its meeting held on _____, 2020.

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

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

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ORDINANCE NO. 2020-951

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**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.

DOUGLAS E. WITTE, Council President

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 _____, October 6, 2020. Said Ordinance will again be read and considered for final passage at a meeting of the Lake Como Borough Council to be held at 7:030 p.m. on _____ on October 20, 2020 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

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