

**MINUTES OF THE HARDYSTON TOWNSHIP COUNCIL SPECIAL MEETING HELD ON SEPTEMBER 9, 2020**

The meeting was called to order by Mayor Kula at approximately 7:00 P.M. with the opening statement that the meeting had been duly advertised and met all the requirements of the Sunshine Law. Also present were: Deputy Mayor Miller, Councilwoman Hamilton, Councilman Kaminski, Manager Carrine Piccolo-Kaufer and Clerk Jane Bakalarczyk. Township Attorney Fred Semrau of Dorsey & Semrau was in attendance via Zoom. Councilman Verrilli was absent from this meeting.

**SALUTE THE FLAG**

**ORDINANCES**

**1<sup>ST</sup> READING:**

**2020-06**

**ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING THE TOWNSHIP CODE BY ESTABLISHING CHAPTER 135 "NOISE"**

**WHEREAS**, the Township Code currently contains regulations and restrictions regarding noise throughout the Township; and

**WHEREAS**, the Mayor and Township Council have reviewed the recommended changes and believe that the changes promote the peace, health, public safety of the residents of the Township and are in the public interest.

**NOW THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey as follows:

**SECTION 1.** Chapter 135 "Noise" is hereby established to read as follows:

**§135-1 Noise prohibited.**

It shall be unlawful for any person to make, to continue, or cause to be made or continued and allowed, unnecessary or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the Township of Hardyston.

**§135-2 Definitions.**

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

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

"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.

"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.

"Plainly audible" means any sound that can be detected by a person 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 complainant need not determine the title, specific words, or the artist performing the song.

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"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).

"Sounds-amplifying equipment" means any machine or device for the amplification of the human voice, music or any other sounds. Sound-amplifying equipment as used herein shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicles in which they are installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

"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.

"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.

### **§135-3 Unlawful Acts**

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but enumerations shall not be deemed to be exclusive:

- A. Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, street car, or other vehicle on any street or public place of the Township, except as a danger warning; the creation by means of any such signaling device or any unreasonably loud or harsh sound; the sounding of any such device for any unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- B. Radios, phonographs, etc. Using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time at louder volume than is necessary for convenient hearing for the personal enjoyment of persons who are on the property or in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners.

The operation of any device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the property line, building, structure or vehicle from which it emanates shall be prima facie evidence of a violation of this chapter.

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- C. Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or singing in the public or private right of way, particularly between the hours of 10:00 p.m. and 7:00 a.m. or any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.
- D. Steam whistles. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper Township authorities.
- E. Exhausts. The discharge into the open air of the exhaust of any internal combustion engine except through an adequate muffler or other device which will effectively prevent loud or explosive noises therefrom. This includes by way of example and not by way of limitation, internal combustion engines power mowing motor vehicles, lawnmowers and chain saws.
- F. Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to a school, institution of learning, church or courthouse while the same are in use, or adjacent to a hospital, which unreasonably interferes with the workings of such institutions or which disturbs or unduly annoys patients in such hospitals; provided that conspicuous signs are displayed in the streets indicating that located thereon is a school, hospital or court house.
- G. Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- H. Miscellaneous night noises. The "warming up" of diesel motors or motor vehicles; creation of loud or excessive noise in connection with loading or unloading of any vehicle; the repair, erection or demolition of any building, or the creation of any other loud or raucous sound or noise between the hours of 10:00 p.m. and 7:00 a.m. in proximity to any dwelling, residence or other inhabited buildings.
- I. The sound of any landscaping equipment, construction vehicles and/or equipment in operation that creates unreasonably loud or harsh sounds, including engine noise which shall be prohibited at commercial and residential development construction sites every day between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and 9:00 p.m. and 9:00 a.m. on weekends.

**§135-4 Exemptions and exclusions.**

- A. Use of sound-amplification equipment by Township and county, state or federal governments or agencies in connection with any emergency or other governmental or educational function, or use of any program or activity sponsored by the Township Council.
- B. Use of sound-amplification equipment by persons at the Wheatsworth Road Recreation Complex in Hardyston, provided that such equipment is approved or sanctioned by the Township Mayor and Council.
- C. Use of sound-amplification equipment in enclosed buildings where the sound is not audible at a distance of 50 feet from such buildings.
- D. The emission of sound at any regularly, permitted outdoor commercial recreational facility for the conduct of its usual business, as long as such activity takes place during the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 11:00 p.m. on weekends.
- E. Noise from or generated as a result of farming operations or farming equipment/vehicles incidental to the undertaking of a farming business or enterprise as long as such activity takes place during the hours of 6:00 a.m. and 11:00 p.m.

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- F. Noise resulting from the use generators for the purpose of providing power to residential properties or commercial properties as the result of power outages lasting greater than four hours.

**§135-4 Violations.**

Violations of the provisions of this chapter may be enforced by the Township Health officer, Police and/or the Zoning officer and punished as provided in Chapter 1, General Provisions, Article I, §1-15, General penalties. In addition, any Township establishment or owner thereof that has a license to serve or sell alcohol that is issued a violation of this section must disclose such violation to the Township Clerk.

**SECTION 3.** All ordinances of the Township of Hardyston, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

**SECTION 4.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

**SECTION 5.** 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 6.** This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

**SECTION 7.** This Ordinance may be renumbered for codification purposes.

A motion was made by Kaminski to approve Ordinance 2020-06 on first reading with minor revisions, seconded by Miller. All in favor. Motion carried.

**BILLS TO BE PAID:** A motion was made by Hamilton to approve the bill list as presented, seconded by Miller. All in favor. Motion carried.

**PUBLIC PORTION:** A motion was made and seconded to open the meeting to the public. All in favor. Motion carried. No public comment. A motion was made and seconded to close the meeting to the public. All in favor. Motion carried.

**ADJOURNMENT:** A motion was made by Miller to adjourn at approximately 7:15 p.m., seconded by Hamilton. All in favor. Motion carried.

Jane Bakalarczyk, RMC/CMC  
Municipal Clerk