# ALLOWAY TOWNSHIP
# ORDINANCE NO. 507

## AN ORDINANCE ESTABLISHING A CODE FOR THE TOWNSHIP 0F ALLOWAY ENTITLED "NOISE CONTROL"

**WHEREAS,** the Township of Alloway (the "Township") suffers from certain noise problems; and

**WHEREAS,** the Township requires a detailed ordinance to assist in combating the ongoing noise problems; and

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Alloway, County of Salem, and the State of New Jersey that Chapter xxx of the Code of the Township of Alloway, entitled "Noise Control" shall be added to the code as follows:

1. Section xxx-1 of the Code of the Township of Alloway shall be entitled "Noise Prohibitions" and adopted as follows:

1. No person shall make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which does or is likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others.

2 No person shall allow a person on premises or within a structure under his or her control, as an owner or lessee, to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which does or is likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others.

2. Section xxx-2, shall be entitled "Examples" and shall be adopted as follows:

A. Without intending to limit the generality of numbers Section xxx-1, the following acts are hereby declared to be examples of loud, disturbing and unnecessary noise in violation of this chapter:

(1) Electronic devices, instruments, or sound machines or devices.

(a) The playing, use, or operation of any electronic device, radio receiving set, television, musical instrument, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of neighboring inhabitants or with louder volume than is necessary for convenient hearing for persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners; or

(b) The operation of such a set, instrument, phonograph, machine or device so that it is clearly audible across real property boundaries or through partitions common to two parties within a building or clearly audible at 50 feet from such device when operated within a motor vehicle parked on a public right-of-way or on a public space or within a boat.

(2) Yelling; shouting. Yelling, shouting, hooting, whistling or singing on the public streets which annoys or disturbs the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.

(3) Animals; birds. The keeping of animals or birds which, by causing frequent or long continued noise, disturbs the comfort or repose of any person in the vicinity.

(4) Horns. The sounding of a horn or warning device on an automobile, motorcycle, bus, or other vehicle except when required by law or when necessary to give timely warning of the approach of the vehicle or as a warning of impending danger to persons driving other vehicles or to persons on the street. No person shall sound a horn or warning device on an automobile, motorcycle, bus or other vehicle which emits an unreasonably loud or harsh sound or for an unnecessary or unreasonable period of time.

(5) Exhaust. The discharge into the open air of the exhaust of an engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises. In addition, the modification of an exhaust system in a motor vehicle in a manner which will amplify or increase the noise emitted by such vehicle above that by the exhaust system originally installed on the vehicle.

(6) Defect in vehicle or load. The use of an automobile, motorcycle, or vehicle so out of repair or so loaded that it creates loud and unnecessary grating, grinding, rattling or other noise.

(7) Construction or repair. The carrying on of any excavation, demolition, construction, repair or alteration work other than between the hours of 7:30 a.m. and 6:00 p.m., or one half hour after sunset, whichever is earlier, on Monday through Friday and between the hours of 9:00 a.m. and 12:00 noon on Saturday. Property owners and tenants may carry on construction, repairs or alteration work on property they own or lease on Saturday and Sunday between the hours of 9:00 a.m. and 5:00. Commercial activities relating to excavation, demolition, construction, repairs, or alteration work are prohibited on Sunday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and New Year's Day. In case of urgent necessity or in the interest of public health or safety, the Construction Official may grant a permit for excavation, demolition, construction, repair, or alteration for a period not to exceed three days for work to be carried on over a twenty-four-hour basis.

(8) Schools; courts; churches; hospitals. The creation of excessive noise on a street adjacent to a school, institution of learning, church, or court while in use or adjacent to a hospital which unreasonably interferes with the working of the institution or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such a street indicating that it is a school, hospital, or court street.

(9) Public use of sound-creating devices. The operation of any form of a sound-creating device, vocal or instrumental, human or mechanical or otherwise on the sidewalks, streets and highways or other public places of the Township, for or without profit, for the purpose of attracting the attention of the public to and the advertisement of any business, sport, exhibition, entertainment, spectacle, undertaking, happening, occasion and any other event or the operation in any building or on any premises or on any public street of the Township any audio device or mechanical musical instrument or device of any kind whereby the sound is cast directly or indirectly upon any public street or place and where such device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public or which is so placed and operated that the sounds coming therefrom can be heard to the annoyance or inconvenience of persons upon any street or public place or in neighboring premises, provided

that the inhibition herein contained shall not be applicable to any parade for which a permit has been issued.

(10) Motor Vehicles and Motor Cycles

(a) Unreasonable noise disturbances made, continued, or caused to be made by the operation of a motor vehicle or motorcycle.

(b) Repairing, rebuilding, modifying, or testing any motor vehicle or motorcycle in such a manner as to cause a noise disturbance.

(c) Operating or causing to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table I:

Table 1

Motor Vehicle and Motorcycle Sound Limits

(Measured at 15 feet)

| Vehicle Class | Sound Level (DBA) Speed Limit 35 mph or less | Sound Level (DBA) Speed Limit over 35 mph |
|---|---|---|
| Any motorcycle | 82 | 86 |
| Any Motor Vehicle | 76 | 82 |

(d) The operation of any motor vehicle or motorcycle not equipped with a muffler or sound-dissipative device in good working order and in constant operation.

(11) Engine Braking. The use or operation, at any time and on any road within the Township of Alloway, any mechanical exhaust or decompression device also known as "Engine Braking". "Engine braking," as used herein, shall mean the use or operation of any mechanical exhaust device designed to aid in the braking, decompression or deceleration of any motor vehicle which results in loud or unusual noise from such vehicle and shall include engine compression brakes. The provisions herein regarding Engine Braking shall not apply where conventional vehicle brakes have failed resulting in an emergency making necessary the use of engine braking, or by emergency equipment being used for emergency purposes.

B. The above enumeration is intended to give typical illustrations of prohibited noise and shall not be construed as exclusive.

3. Section xxx-3 shall be entitled "Exceptions" and be adopted as follows:

Nothing herein contained in Section xxx-1 and xxx-2 shall be construed to apply to:

(1). The reasonable use of bells, chimes, or sound amplifiers by churches engaged in church activities, subject to the permission of the Mayor and Committee.

(2) Activities of municipal departments in the performance of their duties, drills, or public demonstrations.

(3) Activities in public parks, playgrounds, or public buildings under permission or authority of municipal officials.

(4) The playing by a band or orchestra in a hall or building or in the open air, where duly authorized.

(5) School band practice.

(6) School and Township sponsored sporting events.

(7) Township approved parades and/or similar celebrations or events

(8) Noise from domestic power tools and lawn mowers when operated with a muffler between the hours of 8:00 a.m. and 8:00 p.m.

(9) Noise from construction activity, provided all motorized equipment used in such activity is equipped with functioning mufflers.

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

(11) Noise from stationary emergency signaling devices that conform with the provisions of N.J.A.C. 7:29.

(12) Noise from an exterior burglar alarm of any building or motor vehicle, provided such burglar alarm shall terminate its operation within 30 minutes after it has been activated.

(13) Noise from agricultural equipment.

(14) The emission of sound for the purpose of alerting persons to the existence of an emergency.

(15) The emission of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Act.

4. Section xxx-4 shall be entitled "Enforcement, Violations and Penalties" and shall be adopted as follows:

A. Issuance of Summons. Violation of any provision of this article shall be cause for a summons to be issued by police according to procedures set forth in the Township of Alloway.

B. Abatement orders.

(1) In lieu of issuing a summons, a police officer may issue an order requiring abatement of any source of sound alleged to be in violation of this article within a reasonable time period according to guidelines which the police officer may prescribe. Noncompliance with an abatement order will result in a summons being issued.

(2) An abatement order shall not be issued:

(a) If any person willfully or knowingly violates any provisions of this article; or

(b) If the police officer has reason to believe that there will not be compliance with the abatement order.

C. Penalties.

(1) Any person who violates any provision of this article shall be subject to a penalty, for each offense, of not less than $100 nor more than $2,000, except as provided in Subsection C(2).

(2) Any person who is convicted of violating this ordinance within one year of the date of a previous violation of this ordinance and who was fined for the previous violation, shall be sentenced by the court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

4. Section xxx-5 shall be inserted and entitled "Other remedies" and shall state the following:

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

**THIS ORDINANCE** shall take effect according to law. All other Ordinances or part of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

ATTEST: TOWNSHIP OF ALLOWAY

Charlet Cheeseman, Municipal Clerk K. Myrle Patrick, Mayor

**NOTICE**

NOTICE is hereby given that the foregoing ordinance was introduced and passed on first reading at the Regular Meeting of the Township Committee of the Township of Alloway, in the County of Salem and State of New Jersey on the 18th day of October, 2018 and will be considered for final passage and adoption at a Regular Meeting to be held on the 15th day of November, 2018 at 7:00 p.m. at the Alloway Township Municipal Building, 49 South Greenwich Street, Alloway, NJ, at which time any person interested therein will be given an opportunity to be heard.

Charlet Cheeseman, RMC, Municipal Clerk