

TOWNSHIP COUNCIL MEETING AGENDA

MONDAY, OCTOBER 19, 2020

7:00 P.M.

SALUTE TO THE FLAG

STATEMENT OF PUBLIC NOTICE - TAKE NOTICE THAT ADEQUATE NOTICE OF THIS MEETING HAS BEEN PROVIDED IN ACCORDANCE WITH N.J.S.A. 10:4-8 AND N.J.S.A. 10:4-10 AS FOLLOWS: A NOTICE OF THE MEETING WAS PROMINENTLY POSTED ON THE BULLETIN BOARD AT THE MUNICIPAL BUILDING, LOCATED AT 225 MAIN STREET, LITTLE FALLS, N.J. ON JANUARY 9, 2020. A COPY OF THE NOTICE WAS MAILED TO THE NORTH JERSEY HERALD & NEWS AND THE RECORD ON THE SAME DATE. ADDITIONALLY, A COPY OF THE NOTICE WAS FILED IN THE OFFICE OF THE TOWNSHIP CLERK ON SAID DATE. **THIS MEETING IS BEING CONDUCTED UNDER THE CIRCUMSTANCES SURROUNDING THE COVID-19 HEALTH SITUATION. NO PUBLIC WILL BE ALLOWED TO ATTEND THE MEETING IN PERSON. A YOUTUBE LINK TO VIEW THIS MEETING CAN BE ACCESSED ON THE TOWNSHIP WEBSITE AT WWW.LENJ.COM. ELECTRONIC PROVISIONS HAVE BEEN ESTABLISHED FOR THE PUBLIC TO PARTICIPATE DURING THE PUBLIC COMMENT PORTION OF THE MEETING.**

ROLL CALL

MINUTES

APPROVAL OF MINUTES FROM THE REGULAR MEETINGS OF SEPTEMBER 21, 2020

REMARKS FROM THE CHAIR

COUNCIL MEMBER REPORTS

MAYOR'S REPORT

BREAST CANCER AWARENESS PROCLAMATION

DOWN SYNDROME AWARENESS PROCLAMATION

2020 BEST PRACTICES REPORT

ATTORNEY'S REPORT

PUBLIC COMMENT - ALL MATTERS

ANYONE WISHING TO ADDRESS THE TOWNSHIP COUNCIL MAY DO SO BY SENDING AN EMAIL TO CKRAUS@LENJ.COM. THE EMAIL MUST PROVIDE YOUR NAME AND ADDRESS FOR THE RECORD. AT THIS TIME THERE WILL BE A TEN-MINUTE RECESS, WHICH WILL ALLOW THE PUBLIC TO SEND COMMENTS AND QUESTIONS VIA EMAIL. AT THE END OF THE RECESS, THE MEETING WILL RECONVENE AND ALL PROPER EMAILS WILL BE READ INTO THE RECORD. THE COUNCIL PRESIDENT WILL DETERMINE IF A RESPONSE IS NEEDED AND IF SO, SHALL DIRECT SAID RESPONSE. ONCE THE PROCESS IS COMPLETE, WE WILL RETURN TO THE REGULAR ORDER OF BUSINESS.

CONSENT AGENDA

ALL ITEMS ON THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE AND WILL BE ENACTED WITH A SINGLE MOTION. FOR ANY ITEMS UNDER REQUISITIONS THE TREASURER HAS SUPPLIED A CERTIFICATION OF THE AVAILABILITY OF FUNDS.

REPORTS

MUNICIPAL CLERK'S REPORT FOR THE MONTH OF SEPTEMBER 2020

MUNICIPAL CLERK'S DOG/CAT LICENSE REPORT FOR THE MONTH OF SEPTEMBER 2020

RECREATION CENTER REPORT FOR THE MONTH OF SEPTEMBER 2020

CIVIC CENTER REPORT FOR THE MONTH OF SEPTEMBER 2020

POLICE DEPARTMENT REPORT FOR THE MONTH OF SEPTEMBER 2020

CONSTRUCTION REPORT FOR THE MONTH OF SEPTEMBER 2020

APPLICATIONS

RED LIGHT PERMIT, EDMUND POMPONIO, DONATO DRIVE, LITTLE FALLS FIRE DEPARTMENT

RAFFLE, OUR LADY OF THE HOLY ANGELS CHURCH, ANNUAL CALENDAR RAFFLE LICENSE, 12/24/20 THROUGH 03/18/2021, 9:30 A.M., 465 MAIN STREET, LITTLE FALLS

RESOLUTIONS

RESOLUTION AUTHORIZING THE TREASURER TO ISSUE VARIOUS CHECKS IN THE TOTAL AMOUNT OF \$3,850.81 TO REFUND 2020 REAL ESTATE TAXES DUE TO TAX OVERPAYMENTS [A]

RESOLUTION AUTHORIZING THE TAX COLLECTOR TO CANCEL 2020 TAXES ON THE PROPERTY KNOWN AS BLOCK 226, LOT 5, IN THE AMOUNT OF \$6,343.56 DUE TO AN ERROR IN THE 2020 EXTENDED TAX DUPLICATE RESULTING IN AN ERROR IN THE ASSESSED VALUE [B]

RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION TO THE NJDOT TRANSPORTATION ALTERNATIVES SET-ASIDE PROGRAM 2020 [C]

RESOLUTION AUTHORIZING THE INSERTION INTO THE 2020 MUNICIPAL BUDGET OF A SPECIAL ITEM OF REVENUE AND APPROPRIATION EACH TITLED FIRE HOUSE SUBS PUBLIC SAFETY FOUNDATION GRANT: \$14,083.74 [D]

RESOLUTION AUTHORIZING CHANGE ORDERS NEGATIVE \$50,467.81 OF CONTRACT PRICE FOR THE DUVA FIELD TURF PROJECT [E]

BILL LIST A [F]

BILL LIST B [G]

NEW BUSINESS

INTRODUCTION OF ORDINANCE NO. 1390, AN ORDINANCE ENTITLED "ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF LITTLE FALLS, IN THE COUNTY OF PASSAIC, STATE OF NEW JERSEY, AMENDING THE TOWNSHIP CODE, CHAPTER 136, NOISE", WITH A SECOND READING AND PUBLIC HEARING SCHEDULED FOR NOVEMBER 23, 2020.

ADJOURN

RESOLUTION [A] 20-10-19 # _____

WHEREAS, the following properties in the Township of Little Falls, New Jersey have overpaid real estate taxes in 2020; and

WHEREAS, the Tax Collector is requesting that the Township Council direct the Treasurer to refund said amounts overpaid listed below;

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Little Falls, County of Passaic, State of New Jersey that the following listed tax refunds be made by the Township Treasurer:

<u>Tax Year & Qtr.</u>	<u>Block Lot/Q</u>	<u>Taxpayer/ Location</u>	<u>Payee</u>	<u>Reason</u>	<u>Amount</u>
2020/4 for 3rd	88.03/1 C302	Nevrin Lapo 262 Main St, #302	Safeland Title Agency LLC 550 Kinderkamack Rd, Suite 110 Oradell, NJ 07649	O/P	\$1,608.43
2020/4 for 3rd	238/4	Vincent & D DiMattia 635 Long Hill Rd	Signature Closing Serv LLC 520 Speedwell Av, Suite 103 Morris Plains, NJ 07950	O/P	<u>2,242.38</u>
Total Refunds					\$3,850.81

APPROVED: _____

cc: Finance Dept.
Tax Collector
Dept.

RESOLUTION [B] 20-10-19 # _____

WHEREAS, as a result of an error in the 2020 Extended Tax Duplicate there is a need to correct the assessed value for Block 226 Lot 5, James D & Marian Cestone, 23 Jackson St, Little Falls from \$777,200 to \$382,700; and

WHEREAS, Resolution (A) 20-08-10-#1 corrected the 2020 Estimated 3rd qtr. taxes with a cancellation of \$6,343.56; and

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Little Falls that the required tax cancellations be made by the Tax Collector:

<u>BLOCK</u>	<u>LOT</u>	<u>OWNER & LOCATION</u>	<u>TAX CANCELLATIONS</u>
226	5	James D & Marian Cestone 23 Jackson Street Little Falls NJ 07424	2020 (4) \$6,213.38 2021 (1) 3,139.23 2021 (2) 3,139.24

APPROVED: _____

cc: Tax Collector
Tax Assessor
Finance Dept.
Dept.

RESOLUTION [C] 20-10-19 - # _____

**A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE
NEW JERSEY DEPARTMENT OF TRANSPORTATION'S TRANSPORTATION
ALTERNATIVES SET-ASIDE PROGRAM 2020**

WHEREAS, the Township of Little Falls, State of New Jersey desires to apply to the New Jersey Department of Transportation for funding under the Transportation Alternatives Set-Aside Program; and,

WHEREAS, the Township of Little Falls has designed the Downtown Little Falls Streetscape Improvements Project to meet all criteria necessary to receive funding under Transportation Alternatives Set-Aside Program, and to maximize accessibility of multiple modes of surface transportation along Main Street between Union Avenue and Center Avenue; and,

WHEREAS, the primary activity within this Project Area will be to complete a number of streetscape improvements that will improve pedestrian access to downtown Little Falls and beautify Main Street; and,

WHEREAS, this primary activity involves land that is owned by the Township of Little Falls, and the Township of Little Falls hereby commits to maintain the Project Area once developed; and,

WHEREAS, the maximum amount of grant funds available is \$1,000,000, and the Township of Little Falls will provide additional funds to fully fund the project; and,

WHEREAS, responsibilities for administering the proposed project in accord with federal and state guidelines (to be known as the Responsible Charge) will be Charles Cuccia, full-time Township Administrator; and,

NOW THEREFORE BE IT RESOLVED that the Township Council of the Township of Little Falls, State of New Jersey formally authorize submission of the electronic grant application identified as TA-2020-Little Falls Streetscape Improvement-00028 to the New Jersey Department of Transportation for funding under the Transportation Alternatives Set-Aside Program on behalf of the Township of Little Falls.

TOWNSHIP OF LITTLE FALLS
PASSAIC COUNTY NEW JERSEY

RESOLUTION [D] 20-10-19 - #_____

SPECIAL ITEMS OF REVENUE AND APPROPRIATION

WHEREAS, NJS 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for equal amount;

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Little Falls in the County of Passaic, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2020 in the sum of \$14,083.74 which is now available from Miscellaneous Revenues – Section F – Special Items of General Revenue Anticipated with prior written consent of Director of Local Government Services - Public & Private Revenues Offset with Appropriations Fire House Subs Public Safety Foundation Grant \$14,083.74

BE IT FURTHER RESOLVED, that the like sum of \$14,083.74 is hereby appropriated under the caption:

General Appropriations

(A)	Operations – Excluded from “CAPS”	
	Public & Private Programs Offset by Revenues	
	Fire House Subs Public Safety Foundation	
	Acquisition of Lucas Chest Compression System	\$14,083.74

APPROVED: _____

ccc: DLGS
cc: Finance
Auditor

TOWNSHIP OF LITTLE FALLS

RESOLUTION [E] 20-10-19 - #

**AUTHORIZING CHANGE ORDERS FOR THE
DUVA FIELD TURF PROJECT**

WHEREAS, the Township of Little Falls, pursuant to a cooperative purchasing contract, (#060518-S11) awarded a contract to Athletic Fields of America for the installation of a Turf Field at Duva Field 160 Paterson Avenue, Little Falls New Jersey for the original sum of \$3,631,907.00; and

WHEREAS, by memorandum dated October 14, 2020, the Township Engineer recommended that the contract be amended to change bid items in the base bid as follows; and

PCO-27 – This change order revises previously approved Change Order 20. It was decided that the Township’s DPW would assemble the bleachers rather than have the assembly performed by the contractor, resulting in a credit of \$50,467.81.

WHEREAS, change orders total \$618,817.09, and will be used for the improvements to Duva Field Turf Project; and

WHEREAS, funds for the above referenced Project Change Order #27 have been provided for as part of the Townships Capital ordinances; and

WHEREAS, based on the forgoing the Township Council has determined that it is necessary and appropriate to approve Change Order #27 negative \$50,467.81 of the contract price. Total change orders represent a change of 17.03% on the original Contract amount;

NOW THEREFORE BE IT RESOLVED by the Council of the Township of Little Falls, in the County of Passaic, that the Mayor and the Township Clerk be, and they are authorized to execute Change Order #27 to the contract with Athletic Fields of America. Funds for the Change Orders are to be charged to the accounts in the Capital Program or as otherwise determined by the Chief Financial Officer’s pending certification of funds.

APPROVED: _____

ORDINANCE NO. 1390

Chapter 136

NOISE

§ 136-1. Definitions.

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

CONSTRUCTION — Any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

dB(C) — 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 — Any dismantling, destruction or removal of buildings, structures, or roadways.

DEPARTMENT — The New Jersey Department of Environmental Protection.

EMERGENCY WORK — 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 — Either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

MINOR VIOLATION — 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 — Any vehicle that is propelled other than by human or animal power on land.

MUFFLER — 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 — 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 — Any distinct parcel of land that is used for more

than one category of activity. Examples include, but are not limited to:

- A. 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
- B. A building, which is both commercial (usually on the ground fl and residential property, located above, below or otherwise adjacent to.

NOISE CONTROL INVESTIGATOR (NCI) — 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.

NOISE CONTROL OFFICER (NCO) — 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. **Police Officers May function as a Township NCO where the use of sound level meter is not required or indicated.**

PLAINLY AUDIBLE — 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 — Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a nongovernmental entity.

PUBLIC RIGHT-OF-WAY — Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

PUBLIC SPACE — Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

REAL PROPERTY LINE — Either the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; the vertical and horizontal boundaries of a dwelling

unit that is part of a multi-dwelling-unit building; or 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 — 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 — 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 — 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 — Beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

§ 136-2. 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 rights-of-way;
- (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 of emergency signaling device shall not meet or exceed 10 seconds.

§ 136-3. Exemptions.

- A. Except as provided in §§ 136-9 and 136-10 below, the provisions of this chapter 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, II and III except as provided for in § 136-9 below.

§ 136-4. Enforcement offi

- A. Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this chapter 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 chapter 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.

§ 136-5. 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

§ 136-6B of this chapter 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, fl 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.

§ 136-6. 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 § 136-3A 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 § 136-6B.
- 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, nonresidential portion of a multi-use property or community service facility
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 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 facility¹ or nonresidential portion of a multi-use property
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 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						
Octave Band Center Frequency, Hz	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 ¹ or non-residential portion of a multi-use property
	Outdoors		Indoors		Outdoors	Indoors
	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 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.

§ 136-7. 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 § 136-6B of this chapter. 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. - 9:00 a.m.	All Other Times
3 dB(C)	6 dB(C)

§ 136-8. 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 field) 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 minutes for continuous airborne sound and 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, nonvehicular 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. Domestic or caged animals.
- (1) 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:
- (a) Vocalizing (howling, yelping, barking, squawking etc.) for five minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or
- (b) Vocalizing for 20 minutes intermittently, defined as an average of two vocalizations or more per minute in that period.
- (2) It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

136-8(A). Prohibition of restricted Noise.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, offensive, 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.

§ 136-8(B) Enumeration of restricted noise.

The following acts are hereby declared to be examples of loud, offensive, disturbing and unnecessary noise in violation of this chapter:

A. Radios; televisions; phonographs: the using, operating or permitting to be played, used or operated of any radio-receiving set, television, 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 with louder volume than is necessary for the convenient hearing of the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 100 feet or more from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this chapter.

B. Loudspeakers; sound amplifiers: the playing, using or permitting the playing, using or operating of any radio-receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other medium or device for the producing or reproducing of sound or loud noise on the streets or in public places or which is so placed and operated that the sound therefrom can be heard to the annoyance or inconvenience of any person in such public place, street or on neighboring premises.

C. Yelling; shouting: yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or of any persons in the vicinity.

D. Animals: the keeping of any animals which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any person in the vicinity.

E. Horns: the sounding of any horn or warning device on any 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 upon the street. No person shall sound any horn or warning device on any automobile, motorcycle, bus or other vehicle which shall emit an unreasonably loud or harsh sound or for any unnecessary or unreasonable period of time.

F. Exhaust: the discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

G. Defect in vehicle or load: the use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or otherwise.

H. The operation or use of any pile driver, steam shovels, pneumatic hammers, derricks, steam or electric hoists or similar tools or equipment which shall make a loud or disturbing noise on any Sunday, legal holiday or on weekdays between the hours of 6:00p.m. and 7:00 a.m., and between the hours of 6:00 p.m. and 8:00a.m. on Saturdays, in conducting any excavation, demolition, erection, alteration, repair or other building operations within 1,000 feet of any dwelling or business property, except in the case of urgent necessity in the interest of public safety, and then only upon obtaining a permit from the Code Official, which permit may be renewed for a period of three days or less while the emergency continues.

Schools, courts or churches: the creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in use, which unreasonably interferes with the working of such institution, provided that conspicuous signs are displayed in such street indicating that the same is a school street.

I. Whistles: the sounding of any or the blowing of any whistle attached to any building except as a warning to prevent injury to life or property.

Loading and unloading operations: the creation of any loud or excessive noises in connection with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates or containers, more especially between the hours of 10:00 p.m. and 7:00 a.m.

J. Drums, etc.: the using or playing of any drum, loudspeaker or other instrument or device or the creation of any noise for the purpose of attracting attention to any performance, show or sale or display of merchandise.

K. Cooling apparatus and generators: the operation of any air conditioner, refrigerator unit, cooling tower, evaporative condenser, air-cooled condenser, mechanical fan, compressor unit, and generators or other such apparatus which causes frequent, irregular or continued noise which causes discomfort or annoyance to or which unreasonably invades the privacy of the public.

L. Yard work. The use of lawnmowers, leaf blowers, hedge trimmers, edgers, chain saws and similar power equipment used for lawn maintenance, the maintenance of trees, shrubs and plantings or leaf removal between the hours of 8:00 p.m. or dusk, whichever sooner occurring, and 7:00 a.m. on weekdays and Saturdays and between the hours of 8:00 p.m. or dusk, whichever sooner occurring and 8:00 a.m. on Sundays, except in the case of urgent public necessity.

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

136-8(C) Exemptions.

Nothing herein contained shall be construed to apply to:

A. The use of bells, chimes or sound amplifiers by churches in church activities.

B. Activities of the Borough departments in the performance of their duties, drills or public demonstrations.

C. Activities in the public parks, playgrounds or public buildings under the permission or authority of Borough officials.

D. Any public utility, as defined in Title 48 of the Revised Statutes of New Jersey, or to any employee of such public utility when such public utility or its employees shall be engaged in performing work to prevent the threatened interruption of its services or to terminate the interruption of its service rendered to its customer.

136-8 (D) Violations and penalties.

Any person found guilty of a violation of Chapter 136-8A shall, upon conviction thereof, be subject to a fine not to exceed \$2,000 or imprisonment for a term not to exceed 90 days or a requirement to perform community service for a period not to exceed 90 days.

§ 136-8 (E) Effect on other standards.

Nothing herein contained shall be deemed a repeal of the provisions of Chapter 540, Zoning, of the Code of the Borough of Hawthorne which establish performance standards for industrial noise, nor shall this chapter be deemed to conflict with or supersede any regulations or standards for the control or prohibition of noise adopted or promulgated by the New Jersey Department of Environmental Protection under the Noise Control Act (N.J.S.A. 13:1G-1 et seq.).

§ 136-9. Motor vehicles.

Violations of each subsection 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.

§ 136-10. Enforcement.

- A. Violation of any provision of this chapter 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 chapter 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. A mandatory Municipal Court appearance is required for each offense.
- C. Upon identification of a violation of this chapter 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 chapter 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 § 136-2 of this chapter) 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 NCO or NCI. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.

- E. If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, a NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014, will be issued. If a non-minor violation is immediately corrected, a NOV without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.
- F. The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.
- G. The recipient of a NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.
- H. The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.
- I. Any claim for a civil penalty may be compromised and settled based on the following factors:
 - (1) Mitigating or any other extenuating circumstances;
 - (2) The timely implementation by the violator of measures which lead to compliance;
 - (3) The conduct of the violator; and
 - (4) The compliance history of the violator.
- J. No provision of this chapter 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 chapter or from other law.

§ 136-11. Consistency, severability and repealer.

- A. If any provision or portion of a provision of this chapter 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 chapter, are hereby repealed as to the extent of such inconsistencies.
- C. No provision of this chapter 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 chapter or from other law.