

NOTICE OF PENDING ORDINANCE

ORDINANCE NO. 09-1276

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Tinton Falls, in the County of Monmouth, State of New Jersey, held on September 1, 2009. This Ordinance will be further considered for adoption, after the public hearing is held thereon, at a meeting of the Borough Council to be held on Tuesday, October 6, 2009, in the Municipal Center, 556 Tinton Avenue, Tinton Falls, NJ beginning at 7:30 o'clock P.M. During the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available in the Clerk's Office to the members of the general public who shall request the same.

KAREN MOUNT-TAYLOR, RMC, CMC

ORDINANCE – AMENDING § 4-3 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TINTON FALLS REGARDING THE REGULATION OF NOISE-RELATED NUISANCES

WHEREAS, municipalities are permitted “to prevent disturbing noises” pursuant to general police powers granted under N.J.S.A. 40:48-1; and

WHEREAS, by way of nuisance ordinances, municipalities are specifically authorized to regulate noise making activities under the Health and Vital Statistics Law when enforced by local health officials (N.J.S.A. 26:3-45 et seq.) and pursuant to the Code of Criminal Justice as disorderly persons offenses enforced by the police (N.J.S.A. 2C:33-12); and

WHEREAS, the Borough of Tinton Falls adopted a noise ordinance in 1982, which has not been amended since that time; and

WHEREAS, more specific standards would assist in the regulation and enforcement of noise-related nuisances.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey, that § 4-3 of the Revised General Ordinances of the Borough of Tinton Falls be amended as follows:

§ 4-3 NOISE-RELATED NUISANCES

4-3.1 Prohibited Noises.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which annoys or is likely to annoy or disturb the peace, quiet or safety of others which is plainly audible, meaning any sound that can be detected by a person using their unaided hearing faculties.

4-3.2 Partial Enumeration of Prohibited Noises.

- a. Without intending to limit the application of subsection 4-3.1, the following acts are hereby declared to be examples of loud, disturbing and unnecessary noise in violation of this section:
 1. Horns; Signaling Devices. 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 the persons driving other vehicles or to persons on the street. No person shall sound a 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.
 2. Radios; Televisions; Sound Amplification Devices. The playing, using, operating or permitting of any of the foregoing, of any radio, television, musical instrument, or other machine or device for the producing, reproducing, receiving or amplification of sound that is plainly audible from off the premises, adjoining properties or public spaces between the hours of 11:00 p.m. and 8:00 a.m., or which is broadcast in such manner so as to disturb the peace, quiet and comfort of the neighboring inhabitants

or with louder volume than is necessary for convenient hearing for persons who are in the room, vehicle, chamber or other place or on which the machine is operated and who are voluntary listeners. The operation of any such machine or device in such a manner as to be plainly audible from off the premises, adjoining properties or public spaces, on which it is located shall be prima facie evidence of a violation of this subsection.

3. Yelling; Shouting; Singing. Yelling, shouting, hooting, whistling or singing that is plainly audible, between the hours of 11:00 p.m. and 8:00 a.m., or at any time or place which annoys or disturbs 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.
4. Animals; Birds. The keeping of any animal or bird which, by causing frequent or long-continued noise that is plainly audible from adjoining properties or public spaces, which disturbs the comfort or repose of any person in the vicinity.
5. Exhausts. The discharge into the open air of the exhaust of any engine or motor vehicle or stationary internal-combustion engine, except through a muffler or other device which will effectively prevent loud or explosive noises.
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 noises.
7. Construction or Repair. The carrying on of excavation, demolition, construction, repair or alteration work other than between the hours of 7:00 a.m. and 8:00 p.m. is prohibited. In case of urgent necessity or in the interest of public health or safety, the Code Enforcement Officer may grant a permit for excavation, demolition, repair or alteration work for a period not to exceed three (3) days, by the terms of which permit such work may be carried on between 8:00 p.m. and 7:00 a.m.
8. Schools; Courts; Churches; Hospitals; Municipal Offices. The creation of excessive noise on a street adjacent to a school, institution of learning, hospital, church, court or municipal offices which unreasonably interferes with the working of the institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in the area indicating that a school, church, hospital or municipal office is nearby.
9. Loudspeakers; Amplifiers for Advertising Prohibited. The using or permitting to be used of any device or amplifier for the producing or reproducing of sound which is cast upon a public street for the purpose of commercial advertising.
10. Sound Trucks Prohibited. No person shall operate or cause to be operated, any sound truck for commercial or non-commercial purposes in the Borough with sound amplifying equipment in operation.
11. Landscaping-Related Equipment. No person shall operate or cause to be operated upon any property in a residential zone any motorized construction or landscaping equipment, machinery, generators for non-emergency use, or power tools, including but not limited to power drills, sanders, grinders, leaf blowers, lawn mowers, or edgers outdoors between the hours of 9:00 p.m. to 7:00 a.m. on weekdays and 9:00 p.m. to 8:00 a.m. on weekends and federally designated holidays.
12. Garbage/Recycling Collection. No person or entity shall engage in the active collection of garbage, refuse or recycled materials, utilizing specialized vehicles or equipment outdoors between the hours of 9:00 p.m. to 6:00 a.m.. This does not extend to the driving of such vehicles during the prohibited hours, to emergency situations, or to operations on the premises of properly licensed landfills and/or resource recovery operations.

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

4-3.3 Exceptions.

Nothing herein shall be construed to apply to the following:

- a. The use of bells, chimes or sound amplifiers by churches engaged in church activities.

- b. Activities of municipal departments in the performance of their duties, drills or public demonstrations.
- c. Activities in public parks, playgrounds or public buildings under permission or authority of municipal officials.
- d. The playing by a band or orchestra in a hall or building or in the open air when duly authorized by the governing body or the Board of Education of the Borough, as the case may be.
- e. Activities sponsored by or authorized by any board of education or governing body of any private school duly licensed by an agency of the State of New Jersey.
- f. Any agricultural-related activities taking place on any property qualifying for protections secured under the New Jersey Right To Farm Act (N.J.S.A. 4:1C-1 et seq.).

4-3.4 Violations and Penalties.

Any person who shall violate this section shall, upon conviction, be liable to the penalty as established in Chapter I, Section 1-5. Complaints for violations of any of the provisions of this chapter are hereby authorized to be made by any individual person or resident, any member of the Tinton Falls Police Department, the Code Enforcement Officer, Health Officer, or any other official or employee of the Borough.