

TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY

ORDINANCE No. 23-035

1ST READING _____ July 18, 2023 _____ DATE TO MAYOR _____ Aug. 16, 2023
2ND READING & PUBLIC HEARING Aug. 15, 2023 _____ DATE RESUBMITTED TO COUNCIL _____
WITHDRAWN _____ LOST _____ DATE EFFECTIVE _____

APPROVED AS TO FORM AND LEGALITY _____ FACTUAL CONTENTS CERTIFIED TO BY _____

TOWNSHIP ATTORNEY _____ TITLE _____

ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF HAMILTON, NEW JERSEY, PART II, GENERAL LEGISLATION, CHAPTER 317, NUISANCES

Be It Ordained by the Council of the Township of Hamilton, in the County of Mercer and State of New Jersey, that the *Code of the Township of Hamilton, New Jersey, Part II, General Legislation, Chapter 317, Nuisances*, as amended and supplemented, be further amended and supplemented as follows:

CHAPTER 317

NUISANCES

Article I – Scope

§ 317-1 **Scope.**

.....

Article II – Definitions

§ 317-2 **Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ABANDONED VEHICLE

Includes any motor vehicle, automobile, omnibus, road tractor, trailer, truck, truck trailer and vehicle which:

- A. Has been continuously parked on any public street for a period of seven days; or
- B. Is so disabled as to constitute an obstruction to traffic, and the driver or person owning or in charge thereof neglects or refuses to move same to a place where it will not obstruct traffic; or
- C. Is found to be mechanically inoperative and is allowed to remain inoperative for a period of seven days; or
- D. Is parked for any period of time without the current year's registration, license plates, or inspection markers as required by law.

ANIMAL CONTROL OFFICER (ACO)

As defined in N.J.S.A. 4:19-15.1 et seq., as same may be amended.

BEE KEEPER

Person who breeds and keeps honey bees for pollination, reproduction and sale of honey bees and the production of honey and other products.

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COMMUNITY CAT

As defined in § 108-1.

DANGEROUS FIREWORKS

As defined in N.J.S.A. 21:2-3, as same may be amended.

ENFORCING OFFICIALS

Includes the Health Officer or other officials authorized by the Division of Health, Police Department or other officials authorized to enforce the provisions of this chapter.

FEED

To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

FIREWORKS

As defined in N.J.S.A. 21:2-2 as same may be amended.

HABITUALLY

A minimum of two separate occasions within a time period of thirty (30) days. Also see definition in § 108-1. [As defined in § 108-1.]

HYMENOPTERA

A large order of insects, comprising the sawflies, hornets, wasps, bees, and ants, including both solitary and social species and characterized by sucking and chewing mouthparts for gathering nectar and pollen.

NUISANCE

[The following matters, things, conditions or acts, and each of them are hereby declared to be a nuisance and injurious to the health of the inhabitants of this municipality:]

[A. Any matter, thing, condition or act which is or may become detrimental or a menace to the health of the inhabitants of this municipality.]

[B. Any matter, thing, condition or act which is or may become an annoyance or interfere with the comfort or general well-being of the inhabitants of this municipality.]

Matters, things, conditions, or acts which after proper investigation by the Health Officer or designee, are deemed to be injurious, detrimental, or menacing to public health of the inhabitants of the Township.

PERSISTENTLY

Non-stop utterances for four (4) hours with interruptions of less than five (5) minutes at a time. See also "Habitually".

PERSON

Includes an individual, firm, corporation, association, society, partnership, and their agents and/or employees.

PLAINLY AUDIBLE

Any sound that can be detected by Law Enforcement Officer 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 Law Enforcement Officer need not determine the title, specific words, or the artist performing the song.

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POLLUTANT

As defined in N.J.S.A. 7:14A-1, as same may be amended.

PUBLIC RIGHT-OF-WAY

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

REAL PROPERTY LINE

- A. The vertical and horizontal boundaries 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 in Township Ordinance § 311-2, 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, un-muffled cars, lawnmowers, leaf blowers etc.

SPARKLING DEVICES AND NOVELTIES

As defined in N.J.S.A. 21:2-2, as same may be amended.

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

Begins on Friday at 6:00 p.m. and ends on the following Monday at 7:00 a.m.

WILDLIFE

All animals that are neither human nor domesticated.

Article III - Prohibited Nuisances; Abatement

§ 317-3 Pollutants.

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§ 317-8 Hymenoptera.

[It shall be unlawful for any person to possess or maintain without written authorization from the Township Health Officer any insects of the Hymenoptera order that interfere with the normal use of private or public property or have shown unusually aggressive behavior toward a person or animal; such possession or maintenance shall be declared a nuisance and detrimental to public

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health.] All bee keepers within the Township of Hamilton shall follow all regulations pursuant to N.J.S.A. 4:6-24 and as amended. Any bee keeper and/or colony and or swarm of insects of the Hymenoptera order in violation of said regulations shall be declared a nuisance.

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§ 317-16 Fireworks; exclusions.

- A. It shall be unlawful for any person to discharge any fireworks and/or dangerous fireworks in the municipality on private property or any property owned or operated by the Township. Discharge of said defined fireworks and/or dangerous fireworks any time of day or night shall be declared a nuisance.
- B. Exclusions.
- (1) The use of sparkling devices and/or novelties.
- (2) The public fireworks displays conducted by a licensed professional fireworks company upon authorizing resolution by Township Council permitting and approved by the State of New Jersey, Department of Community Affairs, Division of Fire Safety.

§ 317-17 Noise.

A. It shall be unlawful for any person to cause, suffer, allow or permit the operation of any source of sound outdoors within one hundred feet (100ft) of the residential property line from the hours of 10:00 pm to 7:00 am on a weekday and 11:00 pm to 7:00 am on the weekend.

B. Excluding emergency work, the following standards shall apply to the activities or sources of sound set forth below. Any violation of said standards shall be deemed a violation by the Police:

(1) 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. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.

(2) 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. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.

(3) All construction and demolition activity 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. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.

(4) 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 one hundred feet (100ft) 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 from such equipment operated on a public space or public right-of-way, shall

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not be plainly audible at a distance of one hundred feet (100ft) in any direction from the operator.

(5) 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 Police. 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.
- (c) It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

C. It shall be unlawful for any person to cause, suffer, allow or permit the operation of any source of sound outdoors such as from a sound producing device habitually and/or persistently that is plainly audible from a distance of three hundred feet (300ft) of the residential property line of the originating sound.

§ 317-[17]18 **Inspection of premises.**

- A. All places and premises in this municipality shall be subject to inspection by the Division of Health, Police, or an enforcing official, if the Division, Police or that official has reason to believe that any section of this chapter is being violated.
- B. It shall be unlawful for any person to hinder, obstruct, delay, resist or prevent the Division of Health, Police or an enforcing official from having full access to any place or premises upon which violation of this chapter is believed to exist.

§ 317-[18] 19 **Abatement of nuisances.**

- A. Whenever a nuisance, as declared by this chapter, is found on any plot of land, lot, right-of-way, or other private premises or place, notice, in writing, shall be given to the owner thereof to remove or abate the same within such time as shall be specified therein. The notice shall be sent by regular mail and certified mail, return receipt requested, directed to the last known address of the owner, tenant or occupant in possession of the lands, and may be served upon the owner, tenant or occupant personally, or by leaving it at their usual place of abode. If the owner resides out of state or cannot be notified speedily, such notice shall be left at the place or premises with the tenant or occupant thereof, or posted on the premises, and such action shall be considered proper notification to the owner, tenant or occupant thereof.
- B. Whenever a nuisance, as declared by this chapter, is found on any public property or on any highway or other public place or premises, notice, in writing, shall be given to the person responsible to remove or abate same within such time as shall be specified therein. The notice shall be sent by regular mail and certified mail, return receipt requested, directed to the last known address of the person responsible and may be served upon the person in charge personally, or by leaving it at their usual place of business. If such person fails to comply with such notice within the time specified therein, the Township may remove or abate such nuisance in the manner as

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hereinafter provided in the case of a like condition existing on a private place or premises.

C. If the owner, tenant or occupant, upon being notified as provided by this chapter, shall not comply with such notice within the time specified therein and fails to remove or abate such nuisance, the Township shall proceed to abate the nuisance or may cause it to be removed or abated in a summary manner by such means as the Township shall deem proper.

§ 317-[19] 20 Recovery of costs.

A. If the owner, tenant or person in possession of the lands in question shall refuse or neglect to abate or remedy the condition complained of within such time as specified therein pursuant to this chapter, the enforcing official shall issue a summons to the owner, tenant or person in possession for violation of this chapter and/or shall cause the condition complained of to be abated and remedied by the Department of Public Works, which shall certify the cost thereof to the Department of Finance, who shall cause the cost as shown thereon to be charged against the lands. The amount so charged shall forthwith become a lien upon the such lands and shall be added to become and form part of the taxes next to be assessed and levied upon such lands, and such amount shall bear interest at the same rate as taxes, and shall be collected and enforced by the same official and in the same manner as taxes. Costs shall be in addition to any penalties imposed for any violation of this chapter.

B. When the owner, tenant or person in possession of the property in question or person having possession or control of the abandoned vehicle has failed to remove same after being sent or provided with the notice described in **§ 317-[18] 19**, then the enforcing official shall be authorized to arrange for the prompt removal of the vehicle. The owner or tenant or person having possession or control of the abandoned vehicle shall pay and be responsible for all towing and removal costs, including reasonable overhead, incurred by the Township in effecting such removal.

§ 317-[20] 21 Enforcement.

The provisions of this chapter shall be enforced by the Division of Health, Police or other enforcing officials within the Township.

§ 317-[21] 22 Violations and penalties.

Any person who violates any of the provisions of this chapter shall, upon conviction, be subject to the penalties in Chapter 1, General Provisions, § 1-2, Violations; penalties, of the Township Code, per violation.

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Any Ordinance or Ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

PRESIDENT

MUNICIPAL CLERK

RECORD OF VOTE													
COUNCIL	First Reading						Second Reading						
	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
PASQUALE "PAT" PAPER0, JR.	✓				✓		PASQUALE "PAT" PAPER0, JR.						
NANCY PHILLIPS				✓			NANCY PHILLIPS						
RICHARD L. TIGHE, JR.	✓					✓	RICHARD L. TIGHE, JR.						
ANTHONY P. CARABELLI, JR.	✓						ANTHONY P. CARABELLI, JR.						
CHARLES F. WHALEN				✓			CHARLES F. WHALEN						

X - Indicates Vote A.B. - Absent N.V. - Not Voting RES. - Moved SEC. - Seconded

REJECTED _____

APPROVED _____

JEFFREY S. MARTIN, MAYOR

DATE

RECONSIDERED BY COUNCIL _____ OVERRIDE VOTE AYE _____ NAY _____

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