

**CHELTENHAM TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. \_\_\_-19**

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**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF  
CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY,  
PENNSYLVANIA ESTABLISHING CHAPTER 195, NOISE, OF THE  
CHELTENHAM TOWNSHIP CODE OF ORDINANCES TO  
COMPREHENSIVELY REGULATE UNNECESSARY, EXCESSIVE,  
LOUD AND/OR DISTURBING SOUNDS IN THE TOWNSHIP AND  
PROVIDING PENALTIES FOR VIOLATION OF SAME**

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**WHEREAS**, the making of unnecessary noise, by a person, animal, device, instrument, amplifying system, activity or otherwise which is unnecessary, excessive, loud, and/or disturbing is a public nuisance; and

**WHEREAS**, Section 1502 of the First Class Township Code authorizes the enactment of regulations to secure and promote the public health, comfort, convenience, safety, welfare and the peace and the quiet of the Township of Cheltenham and its residents.

**NOW THEREFORE**, the Board of Commissioners of the Township of Cheltenham hereby ordains and enacts as follows (new terms underlined):

**SECTION I. - Amendment to the Code.**

**CHAPTER 195 NOISE**

**§195-1 Legislative Declaration**

1. The making and creation of unnecessary, excessive, loud and/or disturbing sounds within the limits of the Township is a condition which has existed for some time and the extent and volume of such noise is increasing.

2. The making, creation and maintenance of unnecessary, excessive, loud and/or disturbing sounds which are prolonged, unusual or unnatural in their time, place or use does affect and is a detriment to the public health, comfort, convenience, safety, repose, welfare and prosperity of the residents and persons within the Township.

3. The necessity and the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, repose, welfare and prosperity and the peace and quiet of the Township of Cheltenham and its inhabitants and persons within its limits.

## §195-2 Regulations

1. This section is intended to prohibit preventable and unnecessary sounds and is not intended, nor shall it be construed, to regulate the usual and customary noise incidental to suburban life. The established, and as amended from time to time, residential, commercial, mixed use and industrial zoning districts of the Township, as established by Chapter 295, Zoning, of the Township Code shall be the same districts for the purposes of this Chapter. This section may be applied to commercial, industrial and institutional establishments, among others, but when so applied to establishments properly located in commercial, mixed use or industrial districts, due consideration shall be given to the district in which the establishment is located. Further, the customary and natural noise incident to the operation of business, industry or other facilities permitted in the district shall be considered so as not to create an undue hardship upon lawful commercial, industrial, institutional or other establishments.

2. Noise disturbance prohibited. Any sound of such frequent repetition, level or duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the Township or in any portions thereof, shall constitute a nuisance.

3. Specific acts prohibited. Without in any way limiting the provisions of Subsection 1 or 2 above, the following acts, and the causes thereof, are declared to be noise disturbances and therefore in violation of this chapter.

A. Sound equipment or device. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo, sound equipment or other device which produces, reproduces or amplifies sound as follows:

1. at any time in such manner as to cause a noise disturbance from Sunday evening until Friday morning between the hours of 10:00 p.m. and 7:00 a.m., and from Friday evening until Sunday morning (or on the evening of a Federal holiday) between the hours of 11:00 p.m. and 8:00 a.m., so as to be plainly audible across a property boundary line;
2. in such a manner as to create a noise disturbance across a property boundary line or at 50 feet from such device, whichever is less, when the device is operated in or on a motor vehicle, or hand carried, on a public right-of-way or public space; or
3. in such manner as to create a noise disturbance to any person other than the operator of the device when operated by any passenger or a common carrier.

B. Yelling and shouting. Engaging in loud or raucous yelling, shouting, hooting, whistling or singing as follows:

1. on the public streets or property from Sunday evening until Friday morning between the hours of 10:00 p.m. and 7:00 a.m., and from Friday evening until Sunday morning (or on the evening of a legal holiday) between the hours of 11:00 p.m. and 8:00 a.m.; or
2. at any time or place in such a manner as to create a public disturbance.

- C. Construction. Operating or permitting the operation of any tool, machinery, appliance or equipment used in construction, drilling, earthmoving, excavation or demolition work which emits noise beyond the premises upon which the tool, machinery, appliance or equipment is being operated or used from Sunday evening until Friday morning between the hours of 9:00 p.m. and 7:00 a.m. and from Friday evening until Sunday morning, and on all Federal holidays, between the hours of 9:00 p.m. and 8:00 a.m., except for emergency work. Ambient outdoor temperatures exceeding 90 degrees for three consecutive days during the months of June, July, August or September shall constitute "emergency work," permitting construction activities to begin at 7:00 a.m. and continue to 10:00 p.m. This subsection shall not apply to the use of domestic power tools subject to Subsection 3(E) hereof.
- D. Loading and unloading. Except as specifically regulated by Township Code Section 161-8.D. for operations by licensed collector and haulers of municipal waste as defined in Chapter 161 of this Code, loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, liquids, garbage cans, trash cans, refuse or similar objects or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder or pellet form, or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, from Sunday evening until Friday morning between the hours of 9:00 p.m. and 7:00 a.m., and from Friday evening until Sunday morning (or on the evening of a legal holiday) between the hours of 10:00 p.m. and 8:00 a.m., when the sound therefrom creates a noise disturbance across a property boundary line. This subsection shall not apply to municipal or utility services in or about the public right-of-way.
- E. Domestic power tools. Operating or permitting the operation of any electrically or mechanically powered saw, drill, sander, grinder, lawn or garden tool or similar device used outdoors in residential or other areas so as to cause a noise disturbance across a property boundary line from Sunday evening until Friday morning between the hours of 10:00 p.m. and 7:00 a.m., and from Friday evening until Sunday morning (or on the evening of a legal holiday) between the hours of 11:00 p.m. and 8:00 a.m., except for emergency work.
- F. Animals. Owning, possessing, harboring or controlling any animal or bird which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly for a period of 10 minutes or makes such noise intermittently for 1/2 hour or more to the disturbance of any person at any time of the day or night, regardless of whether the animal or bird is situated in or upon private property; provided, however, it shall not be a violation if at the time the animal or bird is making such noise a person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or if the animal or bird was caused to make such noise for any other legitimate reason.
- G. Powered model vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a property boundary line from Sunday evening until Friday morning between the hours of 10:00 p.m. and 7:00 a.m., and from Friday evening until Sunday morning (or on the evening of a legal holiday) between the hours of 11:00 p.m. and 8:00 a.m.

H. Vehicle, motorboat or aircraft repairs and testing. Repairing, rebuilding or testing any motor vehicles, motorcycle, motorboat or aircraft in such a manner as to cause a noise disturbance across a property boundary line from Sunday evening until Friday morning between the hours of 10:00 p.m. and 7:00 a.m., and from Friday evening until Sunday morning (or on the evening of a legal holiday) between the hours of 11:00 p.m. and 8:00 a.m.

I. Motor vehicles.

1. Motor vehicles on public rights-of-way. No person shall operate or cause to be operated a motor vehicle, including but not limited to a motorcycle, or any equipment attached to such vehicle on a public right-of-way, at any time, in such a manner that the sound level emitted by the motor vehicle, including but not limited to a motorcycle, or any equipment attached to such a vehicle exceeds the level set forth in the Pennsylvania Department of Transportation Regulations.

2. Standing motor vehicles. No person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle for a period longer than 15 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, anywhere within 150 feet of any residence in such a manner as to cause a noise disturbance across a property boundary line.

3. Unnecessary horn blowing. No person shall at any time sound the horn or other warning device of a motor vehicle while actually driving such vehicle except when absolutely necessary as a warning or in an emergency.

J. HVAC. Operating an air-conditioning unit or units and equipment or other types of mechanical or heating, ventilation or air-conditioning equipment or apparatus installed in or attached to buildings or located on premises create a noise disturbance across a property boundary line thereby causing annoyance, inconvenience or detriment to the public or to any other person or persons.

4. Prima facie violation. Credible testimony in a court of law from three or more residents who are in general agreement as to the times and durations of the sound(s) and who reside in separate residences, including apartments and condominiums, located across a property boundary line from, or in close proximity to, the property on which the source of the sound(s) is generated that the generation of prohibited sound as described in Subsections 1, 2 and 3 above was a disturbance to their use, occupancy and enjoyment of their property shall be prima facie evidence of the generation of a prohibited noise.

5. Exemptions. The following sounds are exempt from the provisions of this chapter:

A. Emergency work. Sounds caused by the performance of genuine emergency work, or by the ordinary and accepted use of emergency apparatus and equipment, or the generation of sound for the purpose of alerting persons to the existence of an emergency. An emergency shall mean an emergency that shall necessitate the summoning of emergency responders or other Federal, State or local officials.

- B. Municipal services. Sound resulting from the repair or replacement of any municipal installation in or about the public right-of-way.
  - C. Permitted sounds. Any activity which would otherwise cause or constitute a violation of this chapter for which an appropriate permit has been obtained from the Township.
  - D. OSHA backup siren. Any sound required by the Federal Occupation Health and Safety Agency or regulations of same to be emitted by motor vehicles while backing up or other sounds required by Federal or State law or regulation, provided that such sound(s) occur in conformity to §195-2.3.C. regarding permitted construction hours.
  - E. Religious bells, similar sounds. A bell or chime used in connection with religious worship.
  - F. Any siren, alarm, public address system or other communication equipment used for official law enforcement, fire protection purposes or public emergency purposes.
  - G. Any electric generator used for official law enforcement, fire protection purposes or public emergency purposes.
  - H. Any sound related to municipal leaf collection or grass cutting or other landscaping, construction or maintenance by Township employees, provided that such sound(s) occur in conformity to §195-2.3.C., D and E, as applicable, regarding permitted construction hours.
  - I. Any sound created by the arrival or departure of a helicopter, provided, however, see Section 195-4 “Limitation” below.
  - J. Fire protection training by any Township fire company.
6. Waiver.
- A. Any person who owns or operates any stationary noise source may apply to the Township Manager for a temporary waiver from one or more of the provisions of this section. Applications for a waiver shall supply information including but not limited to:
    - 1. the nature and location of the noise source for which such application is made.
    - 2. the reason for which the permit of waiver is requested, including the hardship that will result to the applicant, his/her client or the public if the permit of waiver is not granted.
    - 3. the level, duration and repetition intervals of noise that will occur during the period of the waiver.

4. the section or sections of this chapter for which the permit of waiver shall apply.
  5. a description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom.
  6. a specific schedule of the noise control measures that shall be taken to bring the source into compliance with this chapter within a reasonable time.
  7. identification of all of the property owners within 250 feet of the noise source.
- B. Failure to supply the information required by the Township shall be cause for rejection of the application.
- C. A copy of the permit of waiver must be kept on file by the Township for public inspection.
- D. The Township may charge the applicant a permit fee in the amount set from time to time by the Board of Commissioners to cover expenses resulting from the processing of the permit waiver application.
- E. The permit of waiver shall extend for a period not to exceed one month at the discretion of the Township Manager. Permits for longer periods may only be granted by the Board of Commissioners. Any person holding a permit of waiver and requesting an extension of time shall apply for a new permit of waiver under the provisions of this section.
- F. No waiver shall be approved unless the applicant presents adequate proof that:
1. Noise levels occurring during the period of the waiver will not constitute a danger to public health; and
  2. Compliance with this chapter would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.
- G. In making the determination of granting a waiver, the Township Manager/Board of Commissioners shall consider:
1. The character and degree of injury to or interference with the health and welfare or the reasonable use of property that is caused or threatened to be caused to other persons in the Township;
  2. The social and economic value of the activity for which the waiver is sought; and
  3. The ability of the applicant to apply the best practical noise control measures.

4. No waiver shall be granted which would expand the hours set forth herein.
  5. A waiver may be revoked by the Township if there is:
    - a) Violation of one or more conditions of the waiver;
    - b) Material misrepresentation of fact in the waiver application; or
    - c) Material change in any of the circumstances relied on by the Township in granting the waiver.
- H. In making the determination of granting a waiver, the Township Manager, or in the case of the Board of Commissioners, the Board, may designate a hearing officer to conduct a hearing on its behalf and to make a recommendation(s) to the Board.

**§195-3 Matrix of Regulation**

With the exemptions and exclusions noted above in Section 195-2.5, the following matrix of regulations is intended to summarize, not supersede, the regulations set forth in Sections 195-1 and 195-2:

	<u>Quiet Time During Weekdays and Weekday Evenings</u>	<u>Quiet Time During Weekends and Federal Holidays</u>
<u>Sound equipment or device (§195-2.3.A.)</u>	<u>10 p.m. to 7:00 a.m.</u>	<u>11 p.m. to 8 a.m.</u>
<u>Yelling (§195-2.3.B.)</u>	<u>10 p.m. to 7:00 a.m.</u>	<u>11 p.m. to 8 a.m.</u>
<u>Construction (§195-2.3.C.)</u>	<u>9 p.m. to 7:00 a.m.*</u>	<u>9 p.m. to 8 a.m.*</u>
<u>Loading, unloading (§195-2.3.D.)</u>	<u>9 p.m. to 7:00 a.m.</u>	<u>10 p.m. to 8 a.m.</u>
<u>Domestic Power Tools (§195-2.3.E.)</u>	<u>10 p.m. to 7:00 a.m.</u>	<u>11 p.m. to 8 a.m.</u>
<u>Powered motor vehicle (§195-2.3.G.)</u>	<u>10 p.m. to 7:00 a.m.</u>	<u>11 p.m. to 8 a.m.</u>
<u>Vehicle, motorboat, aircraft (§195-2.3.H.)</u>	<u>10 p.m. to 7:00 a.m.</u>	<u>11 p.m. to 8 a.m.</u>

\*See Section 195-2.3.C. for potential, modified hours during June, July, August and September.

**§195-4 Limitation**

The provisions of this Ordinance are not intended, and shall not be construed, to supersede any specific limitation or condition on a use, its hours of operation, the hours for the collection of trash or any other similar express or implied limitation or condition on the hours of an activity or use issued by the Township Zoning Hearing Board, in the past or hereafter, on a specific property or tract.

**§ 195-5 Violations and Civil Penalties**

Any person, firm, association or corporation who or which shall violate or fail to comply with any of the provisions of this Chapter shall, upon being found liable therefore in a civil proceeding before a magisterial district judge, shall pay a civil penalty of not more than one thousand dollars (\$1,000.00) per violation and costs of prosecution. Each separate day that a violation occurs shall be deemed a separate violation. This provision shall not be construed to limit, supersede or prohibit the authority of a police officer or other law enforcement official to enforce ordinances regarding disturbing the peace or similar offenses.

**SECTION II. - Severability.**

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

**SECTION III. - Failure to Enforce Not a Waiver.**

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

**SECTION IV. - Effective Date.**

This Ordinance shall take effect and be in force from and after its approval as required by the law.

**SECTION V. - Repealer.**

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed, including but not limited to, Township Ordinance No. 1846-95, specifically where codified at Township Code Sections 205-8, 205-9, 205-11, 205-12, 205-13, 205-14, 205-15 and 205-16.

**ORDAINED** and **ENACTED** by the Board of Commissioners of Cheltenham Township, Montgomery County, Pennsylvania, this **20<sup>th</sup>** day of **March 2019**.

**ATTEST:**

**TOWNSHIP OF CHELTENHAM  
BOARD OF COMMISSIONERS**

\_\_\_\_\_  
**Bryan T. Havir**  
*Township Manager and Secretary*

By: \_\_\_\_\_  
**Daniel B. Norris, President**