

1. Regular Council Meeting May 8, 2019 Documents

Documents:

[MAY 8, 2019.PDF](#)

1.1. Regular Council Meeting May 8, 2019 Documents

Documents:

[19-13 2019 DUPONT ZONE CHANGES.PDF](#)  
[19-15 AMENDING 8-2 NOISE \(STATE MODEL\) \(003\).PDF](#)  
[19-16 AMEND 2-56 OPEN SPACE 4-3-19.PDF](#)

**PLEASE TURN OFF PAGERS AND CELL PHONES**

**AGENDA  
REGULAR MEETING  
May 8, 2019**

The following is the Agenda for the Regular Meeting of the Mayor and Council of the Borough of Pompton Lakes, Passaic County, to be held in the Pompton Lakes Municipal Building, 25 Lenox Ave., Pompton Lakes, NJ, Wednesday, May 8, 2019 beginning at 7:30 pm.

**1. CALL TO ORDER – Mayor Michael Serra**

**PRAYER**

**SALUTE TO FLAG**

**STATEMENT OF COMPLIANCE:** “In conformance with the Open Public Meetings Law, Public Law 1975, Chapter 231, adequate notice of this Meeting setting forth the time, date, place and purpose of this regular Meeting through notice posted on the Bulletin Board in the Municipal Building, mailed to all who had requested and paid for same, and published in the Suburban Trends.

**ROLL CALL:** Mayor Michael Serra  
Council President Terri Reicher  
Councilman William Baig  
Councilman Erik DeLine  
Councilman Frank Jaconetta  
Councilwoman Jennifer Polidori  
Councilman Ekamon Venin

**Borough Officers:**

Joseph Ragno, Borough Attorney  
Kevin Boyle, Borough Administrator  
Elizabeth Brandsness, Municipal Clerk

**MAYOR PRESENTATIONS AND UPDATES:**

**Proclamation – May National Foster Care Month**

**2. MEETING OPEN FOR PUBLIC COMMENTS:**

Motion to open the Meeting for Public Comments \_\_\_Second\_\_\_All in favor\_\_\_Nays\_\_\_

Motion to close the Meeting for Public Comments \_\_\_Second\_\_\_All in favor\_\_\_Nays\_\_\_

**3. APPROVAL OF MINUTES:**

Motion to approve the following Minutes\_\_\_Second\_\_\_. All in favor\_\_\_, Nays\_\_\_.

Regular Meeting Minutes of April 24, 2019

**4. AUTHORIZED BILLS AND CLAIMS:** Motion to approve the following Bill

Lists \_\_\_Second\_\_\_. All in favor\_\_\_Nays\_\_\_.

Current Fund	\$ 623,483.95
Capital Fund	\$ 51,083.35
Recreation Trust	\$ 200.00
Unemployment	\$ 5,532.93
Dog Trust Account	\$ -0-
Other Trust Account	\$ 3,801.00
Clerk’s Account	\$ -0-
Open Space Trust	\$ -0-

**5. PRESENTATION OF PETITIONS: None**

**6. CONSENT AGENDA – RESOLUTIONS:**

*(Does Any Councilperson Require Any Consent Agenda Item To Be Pulled For Separate Actions?)*

**WHEREAS,** the Mayor and Council of the Borough of Pompton Lakes has reviewed the Consent Agenda consisting of various proposed Resolutions; and

**WHEREAS**, the Mayor and Council of the Borough of Pompton Lakes (*does / does not*) desire to remove Resolutions for individual action from that Agenda.

**NOW, THEREFORE, BE IT RESOLVED** that the following resolutions on the Consent Agenda are hereby approved:

- 1. Resolution 19-104 Resolution To Recognize The Month Of May As Mental Health Month
- 2. Resolution 19-105 Resolution Supporting Federal Legislators Take Action To Pass SAFE Reauthorization Act (Bill S1368 And HR3285)
- 3. Resolution 19-107 Resolution Proclaiming To Local Residents And Businesses That The Municipality Will Not Collect New Stormwater Management Or Rain Taxes

Motion to approve the Consent Agenda\_\_Second\_\_. All in favor\_\_\_, Nays\_\_\_.

**7. RESOLUTIONS FOR SEPARATE ACTION (ROLL CALL):**

- 1. Resolution 19-106 Authorizing The Issuance Of Not Exceeding \$2,520,000.00 Bond Anticipation Notes Of The Borough Of Pompton Lakes, In The County Of Passaic, New Jersey  
Motion to approve Resolution 19-106\_\_Second\_\_. All in favor\_\_\_, Nays\_\_\_.  
Roll Call:

**8. INTRODUCTION OF ORDINANCES–FIRST READING AND INTRODUCTION:**  
*(Ordinance will be presented for second reading and final adoption on May 22, 2019)*

**ORDINANCE 19-17**

**AN ORDINANCE AMENDING §4-1.8 OTHER BOARDS, AGENCIES AND COMMISSIONS**

Motion to Approve Ordinance No. 19-17 for Introduction\_\_\_\_, Second\_\_\_\_.  
Roll Call:

**9. ORDINANCES FOR SECOND READING AND FINAL ADOPTION:**

*(These ordinances have been advertised and posted on the Municipal Bulletin Board)*

**ORDINANCE 19-13**

**AN ORDINANCE AMENDING, DELETING AND ADDING CERTAIN PROVISIONS OF THE BOROUGH LAND USE CODE DEALING WITH ZONING CHANGES FOR THE DUPONT (CHEMOURS) TRACT (BLOCK 100 LOTS 3, 6.01 AND 7)**

Motion to open the Meeting for public comments on Ordinance # 19-13 \_\_\_\_, Second\_\_\_\_.  
All in favor\_\_\_, Nays\_\_\_.

Motion to close the Meeting for public comments on Ordinance # 19-13 \_\_\_\_, Second\_\_\_\_.  
All in favor\_\_\_, Nays\_\_\_.

Motion to approve Ordinance # 19-13 for Final Adoption\_\_\_\_, Second\_\_\_\_.  
Roll Call:

**ORDINANCE 19-15**

**AN ORDINANCE AMENDING SECTION 8-2 OF CHAPTER 8, NOISE, OF THE BOROUGH ADMINISTRATIVE CODE**

Motion to open the Meeting for public comments on Ordinance # 19-15 \_\_\_\_, Second\_\_\_\_.  
All in favor\_\_\_, Nays\_\_\_.

Motion to close the Meeting for public comments on Ordinance # 19-15 \_\_\_\_, Second\_\_\_\_.  
All in favor\_\_\_, Nays\_\_\_.

Motion to approve Ordinance # 19-15 for Final Adoption\_\_\_\_, Second\_\_\_\_.  
Roll Call:

**ORDINANCE NO 19-16**

**AN ORDINANCE AMENDING §2-56 OPEN SPACE, PARKLAND AND RECREATIONAL FACILITIES ADVISORY COMMITTEE**

Motion to open the Meeting for public comments on Ordinance # 19-16 \_\_\_\_, Second \_\_\_\_.  
All in favor \_\_\_\_, Nays \_\_\_\_.

Motion to close the Meeting for public comments on Ordinance # 19-16 \_\_\_\_, Second \_\_\_\_.  
All in favor \_\_\_\_, Nays \_\_\_\_.

Motion to approve Ordinance # 19-16 for Final Adoption \_\_\_\_, Second \_\_\_\_.  
Roll Call:

**10. MAYOR REPORT:**

Motion to appoint Kathleen Cole as a member to the Flood Advisory Board to fill an unexpired term 12/31/20 \_\_\_\_, Second \_\_\_\_.  
All in favor \_\_\_\_, Nays \_\_\_\_.

**11. COUNCIL COMMITTEE REPORTS:**

Council President Reicher:

Councilwoman Polidori:

Councilman Venin:

Councilman Baig:

Councilman DeLine:

Councilman Jaconetta:

**Professional Reports:**

**12. TABLED ITEMS:** None

**13. MEETING OPEN FOR PUBLIC COMMENTS:**

Motion to Open Meeting for Public Comments \_\_ Second \_\_ All in favor \_\_ Nays \_\_\_\_.

Motion to Close Meeting for Public Comments \_\_ Second \_\_ All in favor \_\_ Nays \_\_\_\_.

**14. PRIVILEGE OF THE FLOOR:**

**15. ADJOURN TO EXECUTIVE SESSION WHEN REQUIRED:**

Motion to Adjourn \_\_ Second \_\_. All in favor \_\_ Nays \_\_\_\_.

**Closed Session Time** \_\_\_\_\_ **Open Session Time** \_\_\_\_\_

Motion to Open \_\_ Second \_\_. All in favor \_\_ Nays \_\_\_\_.

**16. ADJOURNMENT:** Motion to Adjourn \_\_ Second \_\_. All in favor \_\_ Nays \_\_\_\_.

Adjourn Time \_\_\_\_.

**ORDINANCE NO.: 19-13**

**AN ORDINANCE AMENDING, DELETING AND ADDING CERTAIN PROVISIONS OF THE BOROUGH LAND USE CODE DEALING WITH ZONING CHANGES FOR THE DuPONT (CHEMOURS) TRACT (BLOCK 100 LOTS 3, 6.01 AND 7)**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Pompton Lakes, County of Passaic and State of New Jersey as follows.

1. The following changes to the DuPont (Chemours) Tract be and the same are hereby adopted.

190-15. Establishment of zones; Zoning Map; Bulk Requirement Schedule.

A. Zone districts. For the purposes of this chapter, the Borough of Pompton Lakes is hereby divided into districts as follows: [Amended 11-28-2007 by Ord. No. 07-20]

Remove ~~—PRC—Planned Recreational District~~

Add HI Hybrid Industrial District

190-16. General provisions, supplementary regulations and exceptions.

Q. Signs

(7) remove ~~PRC~~ and add HI

(7)(c) remove ~~PRC~~ and add HI

W. Planned commercial development. [Added 11-28-2007 by Ord. No. 07-20]

2)(d) remove ~~Planned Recreational District, PRC District~~ and add Hybrid Industrial District, HI District

190-17. District regulations.

I. The district regulations for the CBR Cannonball Road District shall be as follows: [Added 11-28-2007 by Ord. No. 07-20]

In first sentence of (1) Purpose. remove the words ~~planned-recreational-community~~ and add hybrid industrial district

J. Remove existing section J. pertaining to the PRC Planned Recreational Community District

Replace with the following new section:

J. The district regulations for the **HI Hybrid Industrial District** shall be as follows:

(1) Purpose. The purpose of the Hybrid Industrial District is to provide a unique zone where a mix of compatible industrial and commercial uses could be comprehensively planned for in a common setting. The intent of this zone is to provide flexibility, promote cohesive site and building design, coordinate amenities and shared civic spaces, and protect and preserve environmentally sensitive areas within the district.

(2) Comprehensive planning and design. All sections or phases shall be developed in accordance with a general development plan (GDP) for the overall development of the property as approved by the Planning Board and subject to the requirements for general development plans set forth by the Municipal Land Use Law. Development successors in title, if any, shall be bound by commitments made by this overall development plan.

(3) Design Standards. Application for a general development plan and subsequent development applications shall conform to the design standards provided in Article V of this code. Where a particular project requires construction not covered in the design standards, the proposed design will be evaluated on the basis of normally accepted engineering and/or architectural design practices. In the case of non-construction related items, the proposed design will be evaluated on the basis of normally accepted engineering, architectural and/or planning practices.

- (4) Permitted principal uses.
- (a) Light industry.
  - (b) Research and development.
  - (c) Flex space.
  - (d) Storage establishments, including mini-storage warehouses.
  - (e) General, business and professional offices.
  - (f) Personal and business services.
  - (g) Planned commercial development.
  - (h) Artist and maker studios.
  - (i) Microbreweries and distilleries.
  - (j) Commercial recreation and entertainment facilities, including galleries.
  - (k) Fitness, health clubs, martial arts, gymnastic and yoga facilities.
  - (l) Passive recreation.
  - (m) Energy generation facilities.
  - (n) Government uses.
- (5) Permitted accessory uses.
- (a) Restaurants.
  - (b) Uses and structures that are customarily subordinate and incidental to a principal permitted use.
  - (c) Signs. See § 190-16Q.
  - (d) Off-street parking and surface parking, provided that they serve uses expressly permitted in the district. A parking facility accessory to one use may be used for parking accessory to other uses expressly permitted in the HI District.
- (6) Prohibited uses. The following uses shall be prohibited in the HI Hybrid Industrial District:
- (a) Residential uses.
  - (b) Day care.
  - (c) Schools.
- (7) Bulk Requirements. Bulk requirements for the HI Hybrid Industrial District shall be determined upon adoption of a general development plan by the Planning Board.
- (a) Height. No building shall exceed a maximum of 60 feet in height.
- (8) Minimum buffer. The developer shall provide and maintain a buffer area of not less than 50 feet from all external lot lines of the development. The buffer area shall, to the extent possible, be kept in its natural state where wooded. Where natural vegetation is sparse or nonexistent, the area shall be supplemented and planted to provide a year-round vegetation with indigenous, non-invasive species. The required buffer area shall be included for the purpose of computing compliance with the common open space and yard setbacks required as a condition of any general development plan. Only the following uses shall be permitted in a buffer area:
- (a) Drainage improvements.
  - (b) Underground utilities.
  - (c) Interim environmental remediation equipment and structures.
  - (d) Pedestrian and bicycle paths.
  - (e) Crossing of access roads.
  - (f) Fences and retaining walls, where needed.
  - (g) Gatehouse.
- (9) Open Space –the general development plan shall provide a plan for the maintenance and conservation of all open space. The amount, location and purpose of the open space shall be defined in the plan.

(10) Pedestrian and bicycle circulation. Bikeways and walking paths shall offer connectivity throughout the entire HI District. See § 190-21D(6).

**Design Standards**

190-21. Development standards: nonresidential and mixed-use areas. [Amended 8-13-1997 by Ord. No. 97-08; 11-28-2007 by Ord. No. 07-20]

B. Applicability.

- i. These standards and guidelines shall be applicable to any project requiring subdivision approval, site plan approval, or a zoning permit within the following districts, or where deemed appropriate by the Board:

Add (g) Hybrid Industrial District (HI)

190 Attachment 1 – revise name of zone and the permitted uses

District - Delete ~~PRC~~; Add HI

Permitted Uses – Delete ~~Planned development including golf course and recreational uses, hotel and conference center and active adult housing community~~; Add Planned commercial and industrial development including general/business/professional offices; personal/business services; artist/maker studios; microbreweries and distilleries; indoor recreation; passive outdoor recreation; energy generation facilities; government uses

Zoning Map – delete ~~PRC Planned Recreational District~~ from Zoning Districts list and add HI Hybrid Industrial District; delete ~~PRC~~ label from the zone and add HI label to the zone (note there is only one location on the map that has the PRC zoning district)

2. The Borough Clerk is hereby directed to give notice at least ten days prior to the adoption of this Ordinance to the County Planning Board and to all other persons entitled thereto pursuant to NJSA 40:55D-15 and NJSA 40:55D-63 (if required). Upon the adoption of this ordinance after public hearing thereon, the Borough Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Passaic County Planning Board as required by NJSA 40:55D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Borough Assessor as required by NJSA 40:49-2.1.
3. All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.
4. If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.
5. This Ordinance shall take effect after approval of the Mayor or in accordance with law and publication and passage according to law.

**NOTICE**

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the regular meeting of the Mayor and Borough Council of the Borough of Pompton Lakes, County of Passaic, State of New Jersey held in the Municipal Building on the 27<sup>th</sup> day of March, 2019, and the same came up for final passage at the regular meeting of the Mayor and Borough Council held on the 10<sup>th</sup> day of April, 2019, at which time, after persons interested were given the opportunity to be heard concerning said Ordinance, the same was passed and will be in full force and effect in the Borough of Pompton Lakes after approval by the Mayor or in accordance with law.

Approved:

\_\_\_\_\_  
Michael Serra, Mayor

\_\_\_\_\_  
Elizabeth Brandsness, Borough Clerk

**ORDINANCE NO.: 19-15**

**AN ORDINANCE AMENDING SECTION 8-2 OF CHAPTER 8, NOISE, OF THE  
BOROUGH ADMINISTRATIVE CODE**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Pompton Lakes,  
County of Passaic and State of New Jersey as follows.

1. Section 8-2 of Chapter 8 of the Borough Administrative Code shall be amended to read as follows:

8-2 NOISE

8-2.1 DEFINITIONS

The following words and terms as used in this Section shall have the following meanings unless the context indicates otherwise. Terms not defined herein shall have the meaning as defined in NJAC 7:29.

Construction – any site preparation, assembly, erection, repair, alteration or similar activity, including demolition of buildings and 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 and/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 – New Jersey Department of Environmental Protection.

Emergency work means 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 means 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 means 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, 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 of the same distinct parcel of land; or

b. A building which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

Noise Control Officer (NCO) means 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.

Noise Control Investigator (NCI) means 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.

Plainly audible means 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, 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 means either (a) the vertical boundary 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 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 means 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 means 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.

#### 8-2.2 APPLICABILITY

A. This Section of Chapter 8 is applicable to sound from the following sources.

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
9. Multi-dwelling unit buildings

B. This Section of Chapter 8 applies to sound received at the following property categories.

1. Commercial facilities
2. Public service facilities
3. Community service 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 NJAC 7:29-1.4, except that the testing of electromechanical functioning of a stationary emergency signaling device shall not meet or exceed ten seconds.

#### 8-2.3 EXEMPTIONS

A. Except as otherwise provided herein, the provisions of this Chapter shall not apply to the exceptions listed in NJAC 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 NJAC 7:29-1.5 shall continue to be exempted.

C. Construction and demolition activities are exempt from the sound level limits set forth in the attached tables except as provided for otherwise herein.

#### 8-2.4 ENFORCEMENT OFFICERS

A. Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any provision of this Chapter and pursue enforcement activities.

B. Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspect violations of any provision of this Chapter that does 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 Noise Control Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinance.

#### 8-2.5 MEASUREMENT PROTOCOLS

A. Sound measurements made by an NCO shall conform to the procedures set forth at NJAC 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in B below and with the definition of "real property line" as set forth herein.

B. When conducting indoor sound level measurements across a real property line, the measurements shall be taken at least 3 feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the NCO or NCI be closed. The neighborhood residual sound level shall be measured in accordance with NJAC 7:29-2.9(b)2. When measuring total sound level, the configuration of windows and doors shall be the same and all sound sources within the dwelling unit must be shut off. Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

#### 8-2.6 MAXIMUM PERMISSABLE SOUND LEVELS

A. No person shall cause, suffer, allow or permit the operation of any source of sound on any source property listed in this Chapter in such manner as to create a sound level that equals or exceeds the sound levels set forth herein when measured at or within the real property line of any of the receiving properties set forth herein except as may be otherwise set forth in this Chapter.

B. 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.

#### 8-2.7 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 herein when measured within the residence of a complainant to the measurement protocol set forth in this Chapter. These sound level measurements shall be conducted with the sound level meter set for "C" weighting "fast response".

#### 8-2.8 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 herein. At all other times the limits set forth herein 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 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, unless such activities can meet the limits set forth herein. At all other times the limits set forth herein 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 herein. At all other times the limits set herein 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 herein 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 5 minutes for continuous airborne sound and 15 minutes for intermittent sound after it has been activated. At all other times the limits set forth herein do not apply.

F. Self-contained, portable, non-vehicular 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. 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:

(1) Vocalizing (howling, yelping, barking, squawking etc.) for 5 minutes without interruption, defined as an average of 4 or more vocalizations per minute in that period; or,

(2) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

## 8-2.9 MOTOR VEHICLES

Violations of each paragraph 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.

#### 8-2.10 ENFORCEMENT AND PENALTY

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 allowed pursuant to N.J.S.A. 40:49-5. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct 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 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 Health Department. 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 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.

8-2.11 TABLES OF LIMITS

**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
TIME	7 a.m.-10 p.m.	10 p.m.-7 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 facility or nonresidential portion of a multi-use property
TIME	7 a.m.-10 p.m.	10 p.m.-7 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	Residential property, or residential portion of a multi-use property		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	Commercial facility or non-residential portion of a multi-use property
	OUTDOORS		INDOORS		OUTDOORS	INDOORS
Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
Time	7 a.m.- 10 p.m.	10 p.m.- 7 a.m.	7 a.m.- 10 p.m.	10 p.m.- 7 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.

**TABLE IV**  
**MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS**  
**WITHIN A RESIDENTIAL PROPERTY**

Week nights 10:00 p.m. - 7:00 a.m.	All other times
Weekend nights 11:00 p.m. – 9:00 a.m.	
3 dB(C)	6 dB(C)

2. A certified copy of this Ordinance, once adopted, shall be provided to the Department of Environmental Protection for approval.
3. All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.
4. If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.
5. This Ordinance shall take effect after approval of the Mayor or in accordance with law and publication and passage according to law.

**NOTICE**

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the regular meeting of the Mayor and Borough Council of the Borough of Pompton Lakes, County of Passaic, State of New Jersey held in the Municipal Building on the 24th day of April, 2019, and the same came up for final passage at the regular meeting of the Mayor and Borough Council held on the 8<sup>th</sup> day of May, 2019, at which time, after persons interested were given the opportunity to be heard concerning said Ordinance, the same was passed and will be in full force and effect in the Borough of Pompton Lakes after approval by the Mayor or in accordance with law.

Approved:

\_\_\_\_\_  
Michael Serra, Mayor

\_\_\_\_\_  
Elizabeth Brandsness, Borough Clerk



**ORDINANCE NO.: 19-16**

**AN ORDINANCE AMENDING §2-56 OPEN SPACE, PARKLAND AND RECREATIONAL FACILITIES ADVISORY COMMITTEE**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Pompton Lakes, County of Passaic and State of New Jersey as follows:

1. §2-56 A of the Borough Administrative Code shall be replaced with the following.

“A. Establishment; appointment of members; terms of office; vacancies

1. There is hereby established an Open Space, Parkland and Recreational Facilities Advisory Committee, hereafter called the “Committee”.

2. Regular Members

The Committee shall be comprised of seven (7) regular members being the Mayor or Councilperson designee, who shall be the Chairperson, and one (1) public member from each of the six (6) voting wards who shall be appointed by the Mayor with the advice and consent of Council. The Mayor or designee shall serve for the term of the Mayor (or designee if shorter than the Mayor). Each public member shall serve until the next Borough Reorganization Meeting held after their appointment.

3. Ex Officio Members

The ex officio members of the Committee shall be: two (2) Councilpersons to be selected by the Council who shall serve for their term [one (1) in the event the Mayor designates a Councilperson to act in the Mayor’s stead]; the Environmental Officer who shall serve while holding such position; a member of the Planning Board to be selected by the Planning Board and who shall serve while a member of the Planning Board; a member of the Zoning Board of Adjustment to be selected by the Zoning Board and who shall serve while a member of the Zoning Board; a member of the Flood Advisory Board who shall be appointed by the Flood Advisory Board and who shall serve while a member of the Flood Advisory Board; a member of the Shade Tree Commission to be appointed by the Shade Tree Commission and who shall serve while a member of the Shade Tree Commission; a member of the Environmental Protection Committee to be appointed by the Environmental Protection Committee and who shall serve while a member of the Environmental Protection Committee; and a member of the Recreation Commission to be appointed by the Recreation Commission and who shall serve while a member of the Recreation Commission. The ex officio members shall have the right to fully participate in the conduct of the Committee including the right to make motions, discuss motions and vote on all questions in such instances where the ex officio member has attended all prior meetings pertaining to or read the minutes of all prior meetings pertaining to the subject matter being considered.

4. Quorum

A quorum shall consist of a simple majority of regular members. Ex officio members shall not count toward the composition of a quorum.

5. Vacancies

In the event of a vacancy in any seat, a member shall be appointed to fill the seat for the unexpired term in accordance with the manner that members are appointed set forth above.”

2. All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.

3. If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.

4. This Ordinance shall take effect after approval of the Mayor or in accordance with law and publication and passage according to law.

#### **NOTICE**

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the regular meeting of the Mayor and Borough Council of the Borough of Pompton Lakes, County of Passaic, State of New Jersey held in the Municipal Building on the 24<sup>th</sup> day of April, 2019, and the same came up for final passage at the regular meeting of the Mayor and Borough Council held on the 8<sup>th</sup> day of May, 2019, at which time, after persons interested were given the opportunity to be heard concerning said Ordinance, the same was passed and will be in full force and effect in the Borough of Pompton Lakes after approval by the Mayor or in accordance with law.

Approved:

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Michael Serra, Mayor

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Elizabeth Brandsness, Borough Clerk