**TOWNSHIP OF UPPER DEERFIELD**

**ORDINANCE 852**

**ADOPTING CHAPTER 260 OF THE ORDINANCES OF THE TOWNSHIP OF UPPER DEERFIELD PROHIBITING ANY PERSON OR ENTITY FROM MAKING, CONTINUING, CAUSING TO BE MADE OR CONTINUED ANY LOUD, UNNECESSARY OR UNUSUAL NOISE OR ANY NOISE WHICH DOES OR IS LIKELY TO ANNOY, DISTURB, INJURE OR ENDANGER THE COMFORT, REPOSE, HEALTH, PEACE OR SAFETY OF OTHERS**.

 WHEREAS, loud, unnecessary, and unusual noises have the capacity to annoy, disturb, injure or endanger the comfort, repose, health, peace and safety of others; and

 WHEREAS, there has been a proliferation of complaints from law abiding residents of excessive noises emanating from adjoining properties from a number of sources, and in particular the operation of off road vehicles; and

 WHEREAS, the Township Committee of Upper Deerfield Township finds and determines that it is necessary for the protection of health, safety and welfare of the inhabitants of Upper Deerfield Township to adopt this ordinance prohibiting the excessive noises set for the herein pursuant to the authority granted to it by  [*N.J.S.A.* 40:48–2](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000045&cite=NJST40%3a48-2&originatingDoc=I4cf9ebb6924b11d9a707f4371c9c34f0&refType=LQ&originationContext=document&transitionType=DocumentItem&ppcid=ca2f36e62c114ea6bd8b9818ddd17255&contextData=(sc.UserEnteredCitation)), and in accordance with the holding of New Jersey Superior Court, Appellate Division, in State v. Clarksburg Inn, 375 N.J. Super. 624 (App. Div. 2005).

 NOW THEREFORE, BE IT ORDAINED by the Township Committee of Upper Deerfield Township to adopt the following ordinance as Chapter 260 of the Upper Deerfield Township Code.

§ 260. Noise: Nuisance.

**260 - 1. Noise Prohibited**. It shall be unlawful for a person or entity to make, continue or cause to be made, or continued or allowed to be made by any property owner, any loud, unnecessary or unusual noise or any noise which does or is likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others. Specifically exempted hereunder is noise presumed not to be a nuisance pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. Any violation of the provisions of this Chapter shall constitute a Nuisance enforceable in accordance with the decision of the New Jersey Superior Court, Appellate Division, in State v. Clarksburg Inn, 375 N.J. Super. 624 (App. Div. 2005).

**260 - 2. Sources**. Unless specifically exempted hereunder, no other source of the prohibited Noise shall be exempt and a violation shall exist regardless of source. Without intending to limit the generality of Subsection 1 of this section, the following acts are hereby declared to be examples of loud, disturbing and unnecessary noise in violation of this section:

1. Radios; televisions; phonographs: the playing, use or operation 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 neighboring inhabitants or with louder volume than is necessary for convenient hearing for persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners.
2. Yelling; shouting: yelling, shouting, hooting, whistling or singing on the public streets, 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.
3. Animals; birds: the keeping of animals or birds which, by causing frequent or long-continued noise, disturbs the comfort or repose of any person in the vicinity; but nothing herein contained is intended to apply to a dog pound or kennel licensed in accordance with other provisions the Code of Upper Deerfield.
4. Horns: 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 persons driving other vehicles or to persons on the street. No person shall sound a horn or 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.
5. Motor vehicles, All Terrain Vehicles, Motorcycles, Dirt Bikes and other Machinery and Equipment. Noise generated by the operation of Motor vehicles, All Terrain Vehicles, Motorcycles, Dirt Bikes and other similar off-road vehicles, and other Machinery and Equipment whether operated on public or private property.

**260 - 3. Quiet Zones.** No person shall create any plainly audible noise that is on any public space or public right-of-way adjacent to any school, hospital, library, house of worship, senior citizen center or any other area designated by Township Committee, which unreasonably interferes with the workings of such institutions.

**260 - 4. Prima Facie Violation.** It shall be a prima facie violation where the Noise prohibited hereunder emanates from an adjoining property and is audible at any adjoining property. If the sound source under investigation is a portable or personal vehicular sound-amplification or -reproduction device, it shall be a prima facie violation if the prohibited Noise exceeds the limits of this ordinance within 10 feet of the source.

**260 - 5. Construction operations; emergency permit.** No person shall, from Monday through Saturday between the hours of 6:00 p.m. and 7:00 a.m. or on Sunday, in conducting any excavation, demolition, erection, alteration, repair or other building operation within 1,000 feet of any dwelling or business property, operate or use any steam shovels, tractors, excavators, pneumatic hammers, pile drivers, , steam or electric hoists or any tools or equipment which shall make any plainly audible noise, except in cases derricks of urgent necessity in the interests of public safety, and then only upon obtaining a permit from the Building Inspector.

**260 - 6. Exceptions.** The provisions of this chapter shall not apply to the following:

1. Routine operations of industrial and commercial enterprises operating in accordance with the New Jersey State sound statutes.
	1. Emergency warning devices.
	2. Emergency work to provide electricity, water or other public services when public health or safety is involved.
	3. Public celebrations authorized by the Township of Upper Deerfield.
	4. Use of explosive devices which are regulated by the New Jersey Department of Labor under the 1960 Explosives Act.**1**
	5. Any other activity authorized by the Township of Upper Deerfield or Township Committee.
	6. Bona fide religious services or events.
	7. Music, horns, loudspeakers, and/or public address systems emanating from an authorized parade, or any Township sponsored or permitted event, during any permitted event (as authorized by the Township or any of its departments) provided that such sounds shall not occur between the hours of 10:00 P.M and 10:00 A.M.
	8. Routine landscape activities

**260 - 7. Permits issued by Township Committee and/or Township Recreation Commission.** Any person or group holding a permit issued by the Upper Deerfield Township or the Upper Deerfield Recreation Commission for use of any Township facilities shall comply with the terms of this chapter. In the event that such person or group believes its permitted activity will violate the terms of this chapter, such person or group may make application to the Township Committee through the Township Clerk's office for an exemption from the requirements of this chapter. If such exemption is granted, such exemptions will state the date, time and means by which the exemption applies. Violation of the limits of the exemption shall be considered a violation of this chapter and shall be subject to sanctions as enumerated here in this chapter.

**260 - 8.** **Violations and penalties.**

1. The person or entity making, continuing or causing the noise prohibited hereunder, and any property owner allowing any other person or entity to use his/her/their property to cause the noise prohibited hereunder, shall each be separately liable for any violation hereof.
2. Violation of any provision of this section shall be cause for a Municipal Court summons to be issued by the Police Department, Code Enforcement Official, Health Officer, or any member of the general public who is affected by excessive noise.
3. Any person violating these sections shall be fined $50 for a first offense, $75 for a second offense, and $100 for each and every offense thereafter. Such amounts may be paid without appearance in court unless the summons otherwise indicates that a court appearance is necessary before the Judge of the Cumberland Salem Regional Municipal Court. If a court appearance is required, the Court may impose community service for up to 30 days for third or subsequent offenses.

**NOTICE**

Notice is hereby given that the foregoing proposed Ordinance was introduced and passed by the Township Committee of the Township of Upper Deerfield, in the County of Cumberland, at a meeting thereof held on August 3, 2023, and will be further considered for final adoption at a public hearing to be held by said Township Committee on Thursday, August 17, 2023 at 7:00 P.M., then prevailing time, at the Municipal Building, Seabrook, New Jersey. Copies of the ordinance are available in the Clerk’s office.

 Township Clerk

 Roy Spoltore