

**ORDINANCE NO. 24-10-01**

**AN ORDINANCE TO AMEND TITLE 8 OF THE MIDDLETOWN MUNICIPAL CODE REGARDING NUISANCES**

**SECTION I. BE IT ORDAINED AND ENACTED** by the Burgess and Commissioners of Middletown that Title 8, Chapter 8.08 of the Middletown Municipal Code be, and hereby is amended as shown below. Language being deleted is designated by being ~~in brackets and stricken through~~. New language is designated by being in **BOLD CAPITAL LETTERS**.

Title 8 – HEALTH AND SAFETY

CHAPTER 8.08 - NUISANCES

8.08.010 – ~~[Compliance with order to abate nuisances required.]~~ **DEFINITIONS.**

~~[It is unlawful for any person, being responsible for creating or causing or maintaining any of the public nuisances set forth in this code, to refuse or neglect to comply with the order of a town official or officer to remove, abate or discontinue a public nuisance within a reasonable time indicated by such official or officer.]~~

**AS USED IN THIS CHAPTER:**

**AMPLIFIED SOUND MEANS ANY SOUND CREATED BY THE USE OF SOUND AMPLIFICATION EQUIPMENT AND/OR PERFORMANCE WITH ELECTRIC OR ACOUSTIC INSTRUMENTS ASSOCIATED WITH A SPECIAL EVENT, PRIVATE PARTY, OR BUSINESS.**

**DAYTIME HOURS. 7:00 A.M. TO 10:00 P.M., LOCAL TIME.**

**DBA MEANS THE ABBREVIATION FOR THE SOUND LEVEL IN DECIBELS DETERMINED BY THE A-WEIGHTING NETWORK OF A SOUND LEVEL METER OR BY CALCULATION FROM OCTAVE BAND OR ONE-THIRD OCTAVE BAND DATA. (COMAR 26.02.03.01.)**

**EXCESSIVE NOISE MEANS THE PRESENCE OF UNECESSARY SOUND, WHICH EXCEEDS THE LEVELS SET FORTH IN SECTION 8.02.03 BELOW AND AS CONTAINED IN COMAR 26.02.03.02B.(1).**

**GRAFFITI MEANS AN UNAUTHORIZED WRITING OR DRAWING ON PUBLIC OR PRIVATE PROPERTY.**

**NIGHTTIME HOURS. 10:00 P.M. TO 7:00 A.M., LOCAL TIME**

**VANDALISM MEANS ANY ACTION INVOLVING DELIBERATE DESTRUCTION OF OR DAMAGE TO PUBLIC OR PRIVATE PROPERTY.**

8.08.020 – ~~[Enumerated public nuisances.]~~ **COMPLIANCE WITH ORDER TO ABATE NUISANCES REQUIRED.**

**IT IS UNLAWFUL FOR ANY PERSON, BEING RESPONSIBLE FOR CREATING OR CAUSING OR MAINTAINING ANY OF THE PUBLIC NUISANCES SET FORTH IN THIS CODE, TO REFUSE OR NEGLECT TO COMPLY WITH THE ORDER OF A TOWN OFFICIAL OR OFFICER TO REMOVE, ABATE OR DISCONTINUE A PUBLIC NUISANCE WITHIN A REASONABLE TIME INDICATED BY SUCH OFFICIAL OR OFFICER.**

~~[It is a public nuisance to create or to cause or to maintain within the town any of the following conditions which directly or indirectly cause or have the potential to cause injury or annoyance to the general public:]~~

~~A. Litter. All rubbish, waste matter, oyster shells, shavings, manure, ashes, refuse, garbage, trash, debris, dead animals, or other discarded hazardous or toxic materials of every kind and description which is cast, placed or laid upon any street, lane or alley in Middletown, except when placed into a litter receptacle or container or done in a manner authorized for refuse collection;~~

~~B. Unreasonable Noise. Any loud and unnecessary noise of such character, intensity or duration as to unreasonably disturb or annoy the general public.~~

~~1. It is unlawful, without a permit, for any person or persons to play, use, operate, or permit to be played, used or operated, any radio, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound:~~

~~a. If the noise source is located in or upon a public street, highway, building, sidewalk, park, thoroughfare, or other public area, or is located in or upon a public access area, such as a shopping mall or parking lot, or on any private property, and the sound can be heard for more than fifty (50) feet from its source, or~~

~~b. If the noise source is in a building or other structure and the sound can be heard more than one hundred (100) feet away from the building or structure or the boundaries of the property surrounding such building or structure, whichever is greater,~~

~~2. It shall be prima facie evidence of a violation of this subsection if the sound can be heard outside the limits described,~~

~~3. Where the noise source is located in a building or other structure, the owner, occupant, resident, manager, or other person in charge of the premises shall, if present, be presumed to have permitted the noise in the absence of evidence to the contrary,~~

~~4. Where portable noise producing devices such as radios, tape machines, etc., are present in, or being transported through, a public area, street, etc., the person or persons in possession of the device shall be presumed to have permitted the noise in the absence of evidence to the contrary.~~

~~C. Unattended Donation Containers. It is unlawful for any person, firm or organization, to place or maintain, or permit to be placed or maintained, an unattended donation container within the corporate boundaries of the town of Middletown. "Unattended donation container" means any box, building, trailer or other receptacle that is intended for use as a collection point for donated clothing, furniture or other household materials at times when no employee or representative of the sponsoring company or organization is present to accept donations.]~~

8.08.030 – [~~Abatement of public nuisances by town.~~]-**ENUMERATED PUBLIC NUISANCES.**

~~[If any person shall fail to abate any public nuisance condition after receipt of the town's notice to abate and within a reasonable time as may be specified in such notice, the condition may be abated by the town at the expense of the person named in such notice. Abatement by the town shall not bar the prosecution of the person responsible for the condition abated. (Prior code § 7-1103)]~~

**IT IS A PUBLIC NUISANCE TO CREATE OR TO CAUSE OR TO MAINTAIN WITHIN THE TOWN ANY OF THE FOLLOWING CONDITIONS WHICH DIRECTLY OR INDIRECTLY CAUSE OR HAVE THE POTENTIAL TO CAUSE INJURY OR ANNOYANCE TO THE GENERAL PUBLIC:**

- A. CONTAMINATED WATER, FILTH, GARBAGE, AND RUBBISH, AND ANY ABANDONED OR DISCARDED APPLIANCES, INCLUDING, BUT NOT LIMITED TO, STOVES, REFRIGERATORS, FREEZERS AND THE LIKE, OR ANY OFFENSIVE OR DELETERIOUS MATTER TO BE AND REMAIN ON ANY PREMISES IN THE TOWN.**
  
- B. UNREASONABLE NOISE. THE INTENT OF THIS CHAPTER IS TO LIMIT NOISE SOURCES TO PROTECT PUBLIC HEALTH AND WELFARE AND TO ALLOW THE PEACEFUL ENJOYMENT OF PROPERTY.**
  - 1. IT IS UNLAWFUL FOR ANY PERSON OR BUSINESS TO HOLD AN OUTDOOR MUSIC EVENT USING AMPLIFIED SOUND WITHOUT A PERMIT.**
  
  - 2. NOISE STANDARDS FOR RECEIVING PROPERTIES.**
    - A. EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBSECTION AND IN SUBSECTION (4) OF THIS SECTION, A PERSON MAY NOT CAUSE OR PERMIT NOISE LEVELS EMANATING FROM ANY PROPERTY, SUCH THAT THE LEVELS RECEIVED ON ANY PROPERTY WITHIN THE BELOW LAND USE CATEGORIES EXCEED THE LEVELS CONTAINED IN TABLE 1 BELOW. (COMAR 26.02.03.02B.(1))**

**TABLE 1 - MAXIMUM ALLOWABLE NOISE LEVELS (DBA) FOR RECEIVING LAND USE CATEGORIES**

<b>Day/Night</b>	<b>General Commercial</b>	<b>Town Commercial</b>	<b>Residential</b>
Day	67	67	65
Night	62	62	55

**B. A PERSON MAY NOT CAUSE OR PERMIT NOISE LEVELS EMANATING FROM CONSTRUCTION OR DEMOLITION-SITE ACTIVITIES THAT EXCEED: DURING DAYTIME HOURS, 90 DBA; OR DURING NIGHTTIME HOURS, THE LEVELS SPECIFIED IN TABLE 1 ABOVE (COMAR 26.02.03.02B.(1))**

**3. MEASUREMENT OF NOISE LEVELS.**

**A. THE MEASUREMENT OF NOISE LEVELS UNDER THIS SUBSECTION SHALL BE CONDUCTED AT POINTS ON OR WITHIN THE PROPERTY LINE OF THE RECEIVING PROPERTY (OR THE BOUNDARY OF A LAND USE AREA) AND MAY BE CONDUCTED AT ANY POINT FOR THE DETERMINATION OF IDENTITY IN MULTIPLE SOURCE SITUATIONS.**

**B. SOUND LEVEL METERS USED TO DETERMINE COMPLIANCE WITH THIS SECTION SHALL MEET OR EXCEED THE SPECIFICATIONS FOR TYPE II SOUND LEVEL METERS.**

**4. EXEMPTIONS. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO:**

- A. DEVICES USED SOLELY FOR THE PURPOSE OF WARNING, PROTECTING, OR ALERTING THE PUBLIC, OR SOME SEGMENT THEREOF, OF THE EXISTENCE OF AN EMERGENCY SITUATION;**
- B. HOUSEHOLD TOOLS AND PORTABLE APPLIANCES IN NORMAL USAGE;**
- C. LAWN CARE AND SNOW REMOVAL EQUIPMENT DURING DAYTIME HOURS, WHEN USED AND MAINTAINED IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS;**
- D. BLASTING OPERATIONS FOR DEMOLITION AND CONSTRUCTION, BETWEEN THE HOURS OF 7:00 A.M. AND 5:00 P.M.;**
- E. MOTOR VEHICLES ON PUBLIC ROADS;**
- F. EMERGENCY OPERATIONS;**
- G. PILE DRIVING EQUIPMENT, BETWEEN THE HOURS OF 8:00 A.M. AND 5:00 P.M.;**
- H. SOUND NOT ELECTRONICALLY AMPLIFIED CREATED BY SPORTING, AMUSEMENT, AND ENTERTAINMENT EVENTS AND OTHER PUBLIC GATHERINGS OPERATING ACCORDING TO TERMS AND CONDITIONS IMPOSED BY THE TOWN, FREDERICK COUNTY OR FREDERICK COUNTY PUBLIC SCHOOLS, BETWEEN THE HOURS OF 7:00 A.M. AND 11:00 P.M.;**
- I. CONSTRUCTION AND REPAIR WORK ON PUBLIC PROPERTY;**
- J. AIR CONDITIONING OR HEAT PUMP EQUIPMENT USED TO COOL OR HEAT HOUSING ON RESIDENTIAL PROPERTY. FOR THIS EQUIPMENT, A PERSON MAY NOT CAUSE OR PERMIT NOISE LEVELS WHICH EXCEED 70 DBA FOR AIR-CONDITIONING EQUIPMENT AT RECEIVING RESIDENTIAL**

**PROPERTY, AND 75 DBA FOR HEAT PUMP EQUIPMENT AT RECEIVING RESIDENTIAL PROPERTY;**

**K. TRASH AND RECYCLING COLLECTION BETWEEN THE HOURS OF 7:00 A.M. AND 10:00 P.M.**

**L. CARNIVALS, FAIRS AND AMUSEMENTS CONDUCTED BY CIVIC AND SERVICE ORGANIZATIONS; AND**

**M. SPORTING EVENTS CONDUCTED BY PRIMARY OR SECONDARY SCHOOLS, COLLEGES, OR RECREATIONAL LEAGUES ON BOARD OF EDUCATION, COUNTY OR MUNICIPALLY OWNED PROPERTIES, BETWEEN THE HOURS OF 7:00 A.M. AND 11:00 P.M.**

**C. UNATTENDED DONATION CONTAINERS. IT IS UNLAWFUL FOR ANY PERSON, FIRM OR ORGANIZATION TO PLACE OR MAINTAIN OR PERMIT THE PLACEMENT OR MAINTENANCE OF AN UNATTENDED DONATION CONTAINER WITHIN THE CORPORATE BOUNDARIES OF THE TOWN OF MIDDLETOWN. "UNATTENDED DONATION CONTAINER" MEANS ANY BOX, BUILDING, TRAILER, OR OTHER RECEPTACLE THAT IS INTENDED FOR USE AS A COLLECTION POINT FOR DONATED CLOTHING, FURNITURE OR OTHER HOUSEHOLD MATERIALS AT TIMES WHEN NO EMPLOYEE OR REPRESENTATIVE OF THE SPONSORING COMPANY OR ORGANIZATION IS PRESENT TO ACCEPT DONATIONS.**

**D. NUISANCE RENTAL PROPERTIES. UNDER THE LICENSING AND INSPECTION OF RENTAL DWELLINGS 17.43.030 C., NUISANCE RENTAL PROPERTIES COULD LOSE THEIR RENTAL LICENSE IF THEY MEET THE DEFINITION OF A NUISANCE RENTAL PROPERTY. SEE DEFINITION UNDER 17.04.030.**

**E. GRAFFITI AND/OR VANDALISM TO PUBLIC/PRIVATE PROPERTY. GRAFFITI/VANDALISM SHALL BE REMOVED BY A PROPERTY OWNER AS SOON AS PRACTICABLE, BUT NO LATER THAN WITHIN FOURTEEN (14) DAYS OF OCCURRENCE BY PROPERTY OWNERS ONCE IT HAS BEEN DOCUMENTED.**

**8.08.040 – [~~Municipal infractions.~~] ABATEMENT OF PUBLIC NUISANCES BY TOWN.**

**[Any violation of the provisions of this chapter shall be a municipal infraction as enumerated at Section [1.16.020](#).] IF ANY PERSON SHALL FAIL TO ABATE ANY PUBLIC NUISANCE CONDITION AFTER RECEIPT OF THE TOWN'S NOTICE TO ABATE AND WITHIN A REASONABLE TIME AS MAY BE SPECIFIED IN SUCH NOTICE, THE CONDITION MAY BE ABATED BY THE TOWN AT THE EXPENSE OF THE PERSON NAMED IN SUCH NOTICE. ABATEMENT BY THE TOWN SHALL NOT BAR THE PROSECUTION OF THE PERSON RESPONSIBLE FOR THE CONDITION ABATED.**

**8.08.050 - MUNICIPAL INFRACTIONS.**

**ANY VIOLATION OF THE PROVISIONS OF THIS CHAPTER SHALL BE A MUNICIPAL INFRACTION AS ENUMERATED AT SECTION 1.16.020.**

(Ord. 08-10-01 § 1, 2008; Ord. 07-04-01 § 1, 2007: prior code § 6-2302)

**SECTION II. BE IT FURTHER ENACTED AND ORDAINED** that this Ordinance shall take effect twenty (20) calendar days following its approval by the Burgess and Commissioners.

**INTRODUCED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024**  
**PASSED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024**  
**EFFECTIVE DATE: \_\_\_\_\_, 2024**

**ATTEST:**

**BURGESS AND COMMISSIONERS  
OF MIDDLETOWN**

\_\_\_\_\_  
Paul Mantello, Town Administrator

BY: \_\_\_\_\_  
John D. Miller, Burgess