

**BOROUGH OF DEMAREST  
COUNTY OF BERGEN**

**ORDINANCE 1149-2024**

**ORDINANCE AMENDING AND MODIFYING CHAPTER 122 OF THE  
DEMAREST BOROUGH CODE**

---

**Section 1. Purpose & Authority.** The purpose of this ordinance is to modify and amend Chapter 122 Noise pursuant to N.J.S.A. 40:48-1, and 40:49-2.

**Section 2. Amendments.** This amendment amends Chapter 122 Noise to read in its entirety as set forth in the attachment to this ordinance.


**Section 3. Repealer.** All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

**Section 4. Savings and Construction.** This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Demarest Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Demarest Code.

**Section 5. Codification.** This ordinance shall be codified as amendments to the chapters set forth herein.

**Section 6. Effective Date.** This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

  
\_\_\_\_\_  
Acting Municipal Clerk

Approved:

  
\_\_\_\_\_  
Mayor Brian Bernstein

Introduced: 10/15/24

Adopted: 10/28/24

## Chapter 122 NOISE

The Mayor and Council hereby find and declare that:

- A. The character of the Borough of Demarest is such that commercial and residential communities are situated in close proximity to each other.
- B. By reason thereof, the making of loud, unnecessary, prolonged, unusual noises, and noises at times prescribed herein within the limits of the Borough is incompatible with and detrimental to the public comfort, convenience, safety and general welfare of the residents of the Borough.
- C. Certain conduct and/or the use of certain tools, equipment, machinery or devices create loud noise requiring the curtailment or restriction of certain activities under this ordinance.
- D. There is a need to limit excessive noise which unreasonably interferes with the workings of certain institutions or with residents' peaceful use and enjoyment of their property within the Borough, such as noise related to motor vehicles, music or musical devices, loudspeakers, amplifiers, landscaping or construction activities, or animals.
- E. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy.

### **§ 122-1 Disturbing and unnecessary noises prohibited.**

The creation or permitting of any loud and unnecessary noise in the Borough which injures or endangers health or safety or unreasonably disturbs the quiet, comfort or repose of persons within the limits of the Borough is prohibited.

### **§ 122-2 Enumeration of prohibited noises.**

The following noises, among others, are declared to violate this chapter, but this enumeration shall not be deemed to be exclusive:

#### *A. Motor-Vehicle Noise:*

- 1. The sounding of any horn, signal device or alarm on any automobile, motorcycle, bus or other motor vehicle, except as a danger signal or other warning signal.
- 2. The operation of a motor vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.
- 3. The operation of a motor vehicle without a muffler or other device which effectively dampens engine noise and prevents loud or explosive noises therefrom.
- 4. The playing of any radio or the use of any loudspeaker or amplifier system in a motor vehicle at a volume louder than necessary for convenient hearing by the persons in the vehicle.

#### *B. Music-Related Noise:*

- 1. The playing at any residential property of any radio, recorded music, or musical instrument, or the use of any loudspeaker or amplifier system, at a volume louder than is necessary for convenient hearing by persons at the property from which the sound originates, particularly: (i) before 8:00 a.m. or after 10:00 p.m. on Sunday through Thursday, or (ii) before 8:00 a.m. or after 11:00 p.m. on Friday and Saturday.

2. The playing in the Community Business District or the Golf Course District of any radio, recorded music, or musical instrument, or the use of any loudspeaker or amplifier system, at such a volume as to be plainly audible at a distance of 50 feet from the property from which it originates, particularly (i) before 8:00 a.m. or after 10:00 p.m. on Sunday through Thursday, or (ii) before 8:00 a.m. or after 11:00 p.m. on Friday and Saturday.

C. *Advertising or Commercial Noise:*

The playing to attract the attention of the passing public for advertising or other commercial purpose of any radio, recorded music or musical instrument, or the use of any loudspeaker or amplifier system for such purpose, at any time on Sunday, on any other day between 5:00 p.m. and 10:00 a.m., or at any time such that it unreasonably disturbs the quiet, comfort or repose of persons in a residence in the vicinity.

D. *Landscaping or Construction Activity/Noise:*

1. Activity Prohibited: Commercial contractors, or any person or entity other than the property owner or the authorized occupant of the premises, may not perform landscaping or construction activities, including excavation or the erection, construction, demolition, alteration, repair or maintenance of any building, property or lawn/landscape, including without limitation by the use of tools, equipment, devices or machinery powered by gas, electric or other source, such as jackhammers, nail guns, leaf blowers or lawn mowing equipment: (i) before 8:00 a.m. or after 6:00 p.m. on Monday through Friday, (ii) before 9:00 a.m. or after 6:00 p.m. on Saturday, or (iii) at any time on Sunday or a Federal/State holiday.
2. Noise Prohibited:
  - (a) Excessive noise caused by landscaping, construction, demolition or repair activities performed solely by the property owner or authorized occupant of the premises from which the sound originates, particularly before 8:00 a.m. or after 8:00 p.m.
  - (b) Excessive, prolonged and unnecessary noise caused by landscaping, construction, demolition or repair activities performed by any person or entity, at any time.

E. *Animal Noise:*

Loud and prolonged noise created by an animal or bird, such as a dog's continued barking outside the house for more than an hour, particularly between 10:00 p.m. and 8:00 a.m.

F. *Noise Near Certain Institutions:*

Excessive noise on any street within 50 feet of a school, institution of learning, place of public worship or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, provided that conspicuous signs are displayed indicating that excessive noise is prohibited because the area includes such an institution.

### **§122-3 Presumption of Violation**

A complaint made to or filed with the Demarest Police Department, Construction Office or Office of Code Enforcement regarding any noise that is deemed by the Demarest Police Department, Construction Official or Code Enforcement Officer to violate this ordinance shall give rise to a presumption that such noise is prohibited by, and violates, this ordinance, and the person or

entity causing or permitting such noise must immediately cause such noise to cease upon the request of the Demarest Police Department, Construction Official, or Code Enforcement Officer.

#### **§122-4 Exemptions**

The following shall not be deemed a violation of this ordinance:

- A. Noise created by the operation of a snowplow or snow blower by any person or entity during or within 48 hours after a snowstorm.
- B. Noise created by the operation of a generator during a power outage, or on a short-term test cycle, between 8:00 a.m. and 5:00 p.m.
- C. Noise originating from public property in connection with an event sponsored by the Borough or for which the Borough has issued a permit.
- D. Noise created by the operation of construction machinery or equipment in a case of an emergency or in the interest of public safety, as determined by the Demarest Police Department, or provided that a permit for such work is obtained from the Borough Construction Official no later than the next business day, which permit may be renewed for a period of three days or less while the emergency continues.

#### **§122-5 Enforcement; Violations and Penalty**

- A. Violation of any provision of this ordinance shall be cause for the Demarest Police Department to order the immediate cessation of the violation and to issue a Notice of Violation to the owner of the property from which the prohibited noise originated or on which the prohibited activity was conducted. Upon conviction of a violation of this ordinance, the following penalty schedule shall apply:
  - First Offense: a fine not to exceed \$200.
  - Second Offense: a fine not to exceed \$500; except such fine may be up to \$1,000 if such offense occurs within 24 hours of the first offense.
  - Third Offense: a fine not to exceed \$1,250; except such fine shall be not less than \$2,500 nor more than \$4,000 if such offense occurs within 24 hours of the second offense.
  - Fourth Offense: shall be deemed a nuisance pursuant to N.J.S.A. 2C:33-12 and N.J.S.A. 2C:33-12.1 whereby the court, in addition to any fine the court may impose, may also order the immediate abatement of the nuisance, including but not limited to an order in the case of a nuisance originating on premises other than a residence that such premises be closed and not used for a period not exceeding one year from the date of conviction.
- B. Each instance of a violation shall constitute an additional, separate and distinct offense for all purposes. However, no subsequent offense penalty shall apply unless it has occurred within 365 calendar days of the previous offense. The first offense occurring more than 365 calendar days after the previous offense shall be considered a First Offense for purposes of this ordinance.