

ORDINANCE NO. 2019-016

**TOWNSHIP OF BLAIRSTOWN
COUNTY OF WARREN
STATE OF NEW JERSEY**

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 143 “PEACE AND GOOD ORDER”, SECTION 143-3 “LOUD AND OFFENSIVE NOISES PROHIBITED; UNLAWFUL ACTS ENUMERATED; EXCEPTIONS” OF THE TOWNSHIP CODE TO INCORPORATE THE MODEL NOISE ORDINANCE OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Township Committee of the Township of Blairstown, County of Warren, State of New Jersey, as follows:

SECTION 1. Chapter 143 “Peace and Good Order”, Section 143-3 “Loud and offensive noises prohibited; unlawful acts enumerated; exceptions” is hereby amended to read, in its entirety, as follows:

Chapter 143. Peace and good Order

§143-3.1 Declaration of Findings and Policy.

WHEREAS excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, **WHEREAS** a substantial body of science and technology exists by which excessive sound may be substantially abated; and, **WHEREAS** the people have a right to, and should be ensured of, an environment free from excessive sound,

Now **THEREFORE**, it is the policy of the Township of Blairstown to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This chapter shall apply to the control of sound originating from sources within the Township of Blairstown.

§ 143-3.2. Definitions.

The following words and terms, when used in this Section, shall have the following meanings, unless the context clearly indicated otherwise. Terms not defined in this Section have the same meaning as those defined in N.J.A.C. 7:29.

CONSTRUCTION

Any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

dBC

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 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

The New Jersey Department of Environmental Protection.

EMERGENCY WORK

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

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

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 conditions, laundry rooms, utility provisions, or health and recreational facilities, or 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 on 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)

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.S.A. 7:29 and be 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)

An employee of a municipality, county or regional health commission that has a Department-approved model noise ordinance and for which the employee has not received noise enforcement training as specified by the Department in N.J.S.A. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. An NCI may enforce only 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

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, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental 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

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 or 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 commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

SOUND PRODUCTION DEVICE

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

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.

§ 143-3.3 Applicability.

- A. This Section applies to sound from the following property categories:
 - (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 right-of-ways;
 - (8) Public spaces; and
 - (9) Multi-dwelling unit buildings.

- B. This Section applies to sound received at the following property categories:
 - (1) Commercial facilities;
 - (2) Public service facilities;
 - (3) Community service facilities (i.e. non-profits and/or religious facilities)
 - (4) Residential properties;
 - (5) Multi-use properties; and
 - (6) Multi-dwelling buildings.

- C. Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall no meet or exceed 10 seconds.

§ 143-3.4. Exemptions.

- A. Except as provided in §§143-3.9 and 143-3.10 below, the provisions of the Section shall not apply to the exceptions listed at N.J.A.C. 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 N.J.A.C. 7:29-1.5 shall continue to be exempted.
- C. Construction and demolition activities are exempt from the sound level limits set forth in Tables I and II and III as provided for in Section 143-3.9 below.

§ 143-3.5. Enforcement Officers.

- A. NCOs shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this chapter and pursue enforcement activities.
- B. NCIs shall have the authority within their designated jurisdiction to investigate suspected violations of any section 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. NCOs and NCIs may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

§ 143-3.6. Measurement Protocols.

- A. Sound measurements made by an NCO shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in §143-3.6(B) of this chapter and with the definition of "real property line" as contained herein.
- B. When conducting indoor sound level measurement across a real property line the measurements shall be taken at least three (3) feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

§ 143-3.7. Maximum Permissible Sound Levels.

- A. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source of property listed in §143-3.3(A) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Table I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in §143-3.6(B)
- B. Impulsive Sound

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.

**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, non-residential 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 non-residential 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, non-residential 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.

§ 143-3.8. 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 sounds levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in §143-3.6(B) of this Ordinance. These sound level measurements shall be conducted with the sound level meter set for “C” weighting, “fast” response.

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

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

§ 143-3.9. 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 in Tables I, II or III. At all other times the limits set forth in Tables I, II or III 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 in Tables I, II or III. At all other times the limits set forth in Tables I, II or III 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 in Tables I, II or III. At all other times the limits set forth in Tables I, II or III 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 in Tables I, II or III 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 five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times the limits set forth in Tables I, II or III 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 five (5) minutes without interruption, defined as an average of four 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.

§ 143-3.10. 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. Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, liquids, garbage 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, whether private or municipal, between the hours of 9:00 p.m. and 7:00 a.m. the following day when the latter is a weekday and between the hours of 9:00 p.m. and 9:00 a.m. the following day when the latter is a legal holiday or a weekend day, except by permit,

when the sound therefrom creates a noise disturbance across a residential real property line.

- D. Standing motor vehicles. Operating or permitting the operation of any motor vehicle whose manufacturer's gross weight is in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, on a public right-of-way or public space within 350 feet of a residential area between the hours of 8:00 p.m. and 8:00 a.m. of the following day.
- E. The warming up or idling of buses, trucks or tractors and the unnecessary or unreasonable or repeated idling, acceleration and deceleration or starting and stopping of automobiles and motorcycles within 350 feet of a residence.
- F. 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.
- G. 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.

§ 143-3.11. Enforcement

- A. Violation of any provision of this ordinance 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 NCO or NCI.
- B. Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of November 2017. 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 ordinance the NCO or NCI 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 ordinance 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 NCO or NCI to be a minor violation as defined in § 143-3.2 of this Ordinance, an NOV shall be issued to 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 issues by the Town of Boonton 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 NCO or NCI 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, which is \$2,000 as of November 2017, 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 NCO or NCI, an extension of the compliance deadline in the enforcement action. The NCO or NCI 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 an action.
- H. The NOCO or NCI may seek injunctive relief if the responsible party does not remediate the violation with in 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.

§ 143-3.12. Consistency, Severability and Repealer.

- A. If any provision or portion of a provision of this Ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provision of the Ordinance shall not be invalidated.

- B. All ordinances or parts of an ordinance, which are inconsistent with any provisions of this Ordinance, are hereby repealed as to the extent of such inconsistencies.
- C. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, any person for injury or damage arising from any violation of this Ordinance or form other law.

SECTION 2. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 3. This ordinance may be renumbered as necessary.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING Ordinance was introduced at a meeting of the Township Committee of the Township of Blairstown, in the County of Warren and State of New Jersey, held on June 12, 2019 and will be further considered for final passage after public hearing thereon at a regular meeting of said Township Committee to be held at the Municipal Building, 106 Route 94 in the Township of Blairstown, New Jersey on, Wednesday, July 10, 2019 at 7:30PM

Everett Falt, Municipal Clerk