

BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY

AN ORDINANCE OF THE BOROUGH OF EATONTOWN AMENDING CHAPTER 229 OF THE CODE OF THE BOROUGH OF EATONTOWN SO AS TO AMEND AND RENAME PRESENT CHAPTER "NOISE," TO "PUBLIC NUISANCES"

WHEREAS, excessive sound is a serious hazard to the public, health, safety and welfare and to the quality of life of the resident of the Borough of Eatontown, and is hereby declared a Public Nuisance; and

WHEREAS, the residents of the Borough of Eatontown have a right to and should be ensured an environment free from excessive sound; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Eatontown, County of Monmouth and State of New Jersey Chapter 133 of the Code of the Borough of Eatontown, presently entitled, "Disorderly Conduct" shall be amended as follows:

SECTION 1

Chapter 218, titled "Noise," sections 218-1 to 218-8 of the Code of the Borough of Eatontown ("Borough Code") is stricken in its entirety and replaced as noted in section 2.

SECTION 2

Chapter 218, titled "Noise," of the Borough Code is hereby renamed "Public Nuisances" and amended as follows:

CHAPTER 218 PUBLIC NUISANCES

§218-1. Definitions.

As used in this Section:

- A. **Emergency Work** shall mean any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, public transportation, removing falling trees on public right-of-way or abating life threatening conditions.
- B. **Muffler** shall mean a sound dissipative device or system for abating the sound of escaping gasses of an internal combustion engine.
- C. **Noise** shall mean any sounds of such level and duration which are, or tend to be, injurious to human health or welfare, or which would reasonably interfere with the enjoyment of life or property.
- D. **Person** shall mean any individual, firm, corporation, company, association, Limited Liability Company, society, club, partnership, Joint Stock Company or any other form of association or organization and shall also include the State or any political subdivision thereof, and any agency or instrumentality of the State of New Jersey.

§218-2 Declaration of findings and policy.

- A. 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 of excessive sound.
- B. Now therefore, it is the policy of the Borough of Eatontown to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.
- C. This chapter shall apply to the control of sound originating from sources within the Borough of Eatontown.

§218-3 Prohibited Conduct, Nuisance, Noise.

- A. It shall be unlawful for any person to make or to cause, suffer or permit to be made or to be continued any behavior or loud, unnecessary or unusual noise, or any noise or act which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any other person within the corporate limits of the Borough of Eatontown. Such conduct shall be considered a nuisance.

§218-4 Nuisance Prohibitions Enumerated.

A. The following acts, among others are declared to be nuisances of violation of this Section when the noise emanating from such acts is clearly audible to neighboring property owners or inhabitants, or clearly audible from at least 100 feet from the act, source or device. The following enumeration shall not be deemed exclusive:

1. *Audio, Video or Musical Devices.*

The playing or use of any audio, visual or musical devices including but not limited to radios, stereos, I-pods, I-pads, cellphones, musical instruments or equipment, musical amplifying devices of any kind or other machines or devices of any kind for the production or reproduction of sound in such a manner or in such volume as to unreasonably annoy or disturb the quiet, comfort or repose of persons in any dwelling unit or other type of residence, or while otherwise on their property, or to disturb the peace, quiet and comfort of neighboring inhabitants or to disturb the peace, quiet or comfort of any person in general, or to play or operate the same with louder volume than is necessary for convenience hearing of the person or persons who are in the room, chamber, venue, place or area which such machine or device is operated, and who are voluntary listeners thereto.

2. *Construction.*

The operation of any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets or appurtenances thereto, in residential or commercial zoned districts or in mixed-use zoned districts which permit residential uses, as identified in the Borough's Land Use Ordinance, or as identified in a duly adopted Redevelopment Plan on weekdays between the hours of 9 pm and 7 am, or between the hours of 8 pm and 7 am on Saturdays, and between the hours of 8 pm and 8 am on Sundays; except in case of emergency work. All motorized equipment used in construction and demolition activity shall be operated with a muffler.

3. *Landscaping Equipment.*

Operation of power mowers and power tools, snowblowers, snow throwers, leaf blowers and other power equipment used in landscaping outdoors between the hours of 9 pm and 7 am on weekdays, or between the hours of 8 pm and 8 am on Saturdays, and between the hours of 8 pm and 8 am on Sundays. All motorized equipment used in construction and demolition activity shall be operated with a muffler.

4. *Bells and Alarms.*

The sounding or permitting of the sound of any alarm, including but not limited to an alarm on any building or motor vehicle, or the sounding of bells, unless such alarm or bells shall terminate operation within 15 minutes of being activated.

5. *Animals.*

The keeping of any animal which emits frequent or long, continued noises, including but not limited to barking, howling, growling or whining, which disturbs the peace and quiet, or interferes with the sleep or rest of any persons between the hours of 9 pm and 7 am.

§218-5 Persons Affected.

This Section is intended to apply to and bind all owners, tenants and occupants of real property in the Borough of Eatontown as well as to guests at such real property, and to all visitors and passer-by while within the corporate limits of the Borough of Eatontown and all other persons as heretofore defined within this Section. This Section shall not apply to representatives and/or employees of the Borough of Eatontown while performing a task on official business of the Borough of Eatontown or for specific activities authorized by the Mayor and Council of the Borough of Eatontown.

§218-6 Exceptions.

A. Nothing herein shall be construed to apply to the following:

1. Activities involving public parks, playgrounds or public buildings under permission or authority of the municipal government.
2. The playing by a band or orchestra in a hall, building or in the open air when duly authorized by the Governing Body, Planning Board, the Zoning Board of Adjustment, of the Borough of Eatontown or the Board of Education of the Borough of Eatontown, or a Special Permit issued by the Zoning Officer of the Borough of Eatontown, as the case may be.
3. Activities sponsored by or authorized by the Governing Body of the Borough of Eatontown or the Board of Education of the Borough of Eatontown, or any private school duly licensed by an agency in the State of New Jersey.
4. Any agriculture-related activities taking place on any property qualifying for protection secured under New Jersey Right To Farm Act (N.J.S.A. 4:1C-1 et. seq.).

§218-7 Enforcement.

It shall be the duty of the Police Department and the Code Enforcement Department of the Borough of Eatontown to determine whether or not this Chapter has been and is being complied with and to enforce the provisions of these Sections against any person or persons violating the same, including but not limited to violations of approvals issued by the Governing Body, Planning Board, Zoning Board of Adjustment, or the Zoning Officer of the Borough of Eatontown.

§218-9 Violations and Penalties.

- A. Any Police Officer, Code Enforcement Officer of the Borough of Eatontown or any taxpayer or resident of the Borough of Eatontown may make a complaint in the Municipal Court of the Borough of Eatontown for any violation of any Section or Subsection or Paragraph or Provision thereof of this Chapter. Any person convicted under this Chapter shall be subject to a fine not exceeding \$2,000.00; imprisonment for a term not to exceed 90 days, or a period of community service no to exceed 90 days, or any combination thereof, or the maximum penalties allowed by N.J.S.A. 40:49-5, as amended.
- B. No provision or portion of a provision in this Chapter shall be construed to impair any common law or statutory cause of action or legal remedy therefrom, of the Borough or any person for injury or damage arising from any violation of this Chapter, or from any other law.

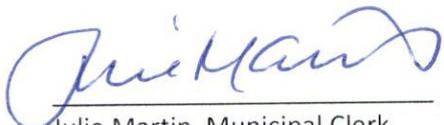
BE IT FURTHER ORDAINED, that

- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

DATE INTRODUCED: May 26, 2021

DATE ADOPTED: June 10, 2021

ATTEST :



Julie Martin, Municipal Clerk

Date: 6-14-2021

APPROVED:



Anthony Talerico, Jr., Mayor