

PEACE AND GOOD ORDER

Chapter 60

PEACE AND GOOD ORDER

§ 60-1. Loitering; offensive language; gaming; indecent exposure; disturbing lawful assemblages.

§ 60-2. Creating disturbances on private property.

§ 60-3. Riots; disturbances.

§ 60-3.1 Noise control.

§ 60-4. Houses of disorder and ill fame.

§ 60-5. Violations and penalties.

§ 60-6. Mobile telephones.

[HISTORY: Adopted by the Township Committee of the Township of Union 1-15-70. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 15. Alcoholic beverages — See Ch.

28. Curfew — See Ch. 41.

Fraudulent checks — See Ch. 47.

Be it ordained by the Township Committee of the Township of Union, in the County of Ocean and State of New Jersey:

§ 60-1 Loitering; offensive language; gaming; indecent exposure; disturbing lawful assemblages.

No person shall loiter in or upon any street, sidewalk or public place or in or about any public building so as to interfere with the free and unobstructed use thereof by the public, nor utter or make any loud, indecent, abusive or offensive language or noise thereon; nor engage in any game of chance for money or other valuable thing in such public place; nor make any indecent exposure or exhibition of any kind, or do or commit any disturbance or breach of the peace in or upon any street, avenue or place, public or private, in the Township of Barnegat; nor disturb by any violent, obscene, abusive or threatening language or disorderly or indecent behavior of any kind any lawful congregation or assembly of any kind or description in any place or building within the limits of the Township of Barnegat.

§ 60-2. Creating disturbances on private property.

No person shall indulge in and utter loud, offensive or indecent language in and about private property in such a manner or such a degree of loudness as to be injurious to public health or to interfere with or prevent the sleep or repose of any person or persons in the vicinity thereof or to disturb the peace and quiet of the neighborhood.

§ 60-3. Riots; disturbances.

No person shall make or assist in making any riot, noise or disturbance in any house, shop, street or other place, public or private, within the township.

§ 60-3.1. Noise control. [Added 7-5-83 by Ord. No. 1983-17; amended 10-6-03 by Ord. No. 2003-37]

§ 60-3.1.1. Findings; policy.

Whereas, excessive noise is a serious hazard to the public health and welfare and the quality of life; and a substantial body of science and technology exists by which excessive noise may be substantially abated; and the people have a right to and should be ensured an environment free from noise that may jeopardize their health or welfare or degrade the quality of life; and the necessity in the public interest for the provisions and prohibitions hereafter contained and enacted is declared as a matter of legislative determination and public policy; and the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and the peace and quiet of the inhabitants of the Township of Barnegat.

§ 60-3.1.2. Definitions.

- A. Terminology and standards. All terminology used in this section, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.
- B. As used in this section, the following terms shall have the meanings indicated:

AMBIENT NOISE LEVEL — The sound pressure level of all encompassing noise associated with a given environment, being usually a composite of sounds from many sources, and/or the A-weighted sound pressure level exceeded ninety percent (90%) of the time L90 based on a period of one (1) hour.

A-WEIGHTED SOUND PRESSURE LEVEL — The sound pressure level as measured in decibels on a

sound-level meter using the A-weighting network. The level so read shall be designated "dB(A)" or "dBa".

CONTINUOUS NOISE — A steady, fluctuating or impact noise which exists, essentially without interruptions, for a period of one (1) hour or more.

CYCLICALLY-VARYING NOISE — A steady, fluctuating or impulsive noise which may or may not contain a pure tone, which varies in sound pressure level such that the same level is obtained repetitively at reasonably uniform intervals of time.

DECIBEL — A logarithmic (dimensionless) unit of measure often used in describing the amplitude of sound. Decibel is denoted as "dB".

DEPARTMENT — Any municipal agency.

DEVICE — Any mechanism which is intended to produce or which actually produces noise when operated or handled.

EMERGENCY VEHICLE — A motor vehicle used in response to a public calamity or to protect persons or property from imminent danger.

EMERGENCY WORK — Work made necessary to restore property to a safe condition following public calamity, work to restore public utilities or work required to protect persons or property from an imminent exposure to danger.

FLUCTUATING NOISE — The sound pressure level of a fluctuating noise varies more than six (6) dB(A) during the period of observation, when measured with the slow meter characteristic of a sound-level meter, and does not equal the previously existing ambient noise level more than once during the period of observation.

MOTORBOAT — Any vehicle which is primarily operated on water or which does operate on water, such

as boats, barges, amphibious craft or Hovercraft, and which is at any time propelled by mechanical power.

MOTOR VEHICLE — Any vehicles which are propelled or drawn by mechanical equipment, such as, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, motorcycles, minibikes, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles.

MUFFLER — Any apparatus consisting of baffles, chambers or acoustical absorbing materials whose primary purpose is to transmit liquids or gases while causing a reduction in sound emission at one (1) end.

NOISE — Any sound which is unwanted or which causes or tends to cause an adverse psychological effect on human beings.

NOISE DISTURBANCE — Any sound which annoys, disturbs or perturbs reasonable persons with normal sensitivities, or any sound which injures or endangers the comfort, repose, health, hearing, peace or safety of other persons.

PERSON — Any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of the United States, a State or any political subdivision of that State.

PLAINLY AUDIBLE NOISE — Any noise for which the information content of that noise is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech or comprehensible musical rhythms.

POWERED MOTOR VEHICLES — Any powered vehicles, either airborne, waterborne or landborne, which are designed not to carry persons or property, such as, but not limited to, model airplanes, boats, cars and rockets, and which can be propelled by mechanical means.

PROPERTY BOUNDARY — Any imaginary line at the ground surface which separates the real property owned by one (1) person from that owned by another person, and its vertical extension.

PUBLIC RIGHT-OF-WAY AND PUBLIC SPACE — Any street, avenue, boulevard, highway, alley or public space which is owned or controlled by a public government entity.

PURE TONE — Any noise which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third-octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third-octave bands by five (5) dB's for frequencies of five hundred (500) Hertz and above, by eight (8) dB's for frequencies between one hundred sixty (160) Hertz and four hundred (400) Hertz and by fifteen (15) dB's for frequencies less than or equal to one hundred twenty-five (125) Hertz.

REPETITIVE IMPULSIVE NOISE— Any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound-level meter set at fast meter characteristic will show changes in sound pressure level greater than two (2) dB(A)'s.

SOUND — A temporal and spatial oscillation in pressure, or other physical quality, in a medium with internal forces that causes compression and rarefaction of that medium and which propagates a finite speed to distant points.

SOUND LEVEL METER — An instrument, which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks, used to measure sound pressure levels.

SOUND PRESSURE — The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.

STATIONARY EMERGENCY SIGNALING DEVICES — Any device, excluding those attached to motor vehicles, used to alert persons engaged in emergency operations. These include, but are not limited to, firefighters, first aid squad members and law enforcement officers, whether paid or volunteer.

STATIONARY NOISE SOURCE — Any device, fixed or movable, which is located or used on geographically defined real property other than a public right-of-way.

STEADY NOISE — A sound pressure level which remains essentially constant during the period of observation, i.e., the fluctuations are too small to meet the criterion for fluctuating noise.

WEEKDAY — A Monday, Tuesday, Wednesday, Thursday or Friday which is not a legal holiday.

§ 60-3.1.3. Enforcement.

- A** It shall be the duty and responsibility of the Police Department of the Township of Barnegat to enforce the provisions of this section, or a designated employee certified in community noise enforcement.
- B. Method of enforcement.** Violation of this section shall be cause for a summons and complaint to be issued forthwith; provided however that if the noise source is not a motor vehicle moving on a public right-of-way, in lieu of a summons and complaint, enforcement personnel may issue a twenty-four (24) hour notice, in writing, which may be served personally or by certified mail to the last known address of the person or persons in charge of in control of the device, building or premises to abate said violation of this section. Failure to comply with the order issued and served shall constitute a violation of this section.

§ 60-3.1.4. Duties of Police Department or Community Noise Enforcement Official.

In order to implement the purposes of this section, the Police Department of the Township of Barnegat or the Township designated Community Noise Enforcement Official shall have the power to:

- A **Studies.** Conduct of cause to be conducted, studies, research and monitoring related to noise.
- B. **Education.** Conduct programs of public education regarding the causes and effects of noise but not giving specific advice for its abatement, and to encourage the participation of public interest groups in related public information efforts.
- C. **Inspections.** For reasonable cause and upon presentation of proper credentials, enter any building, property, premises or place and inspect any noise source for the purpose of ascertaining the compliance or noncompliance with any provision of this section or have access to and require the production of books and papers pertinent to any matter under investigation.
- D. **Records.** Require the owner or operator of any noise source to establish and maintain records and make such reports as the Police Department or Community Noise Enforcement Official may reasonably prescribe.
- E. **Measurements.** Require the owner or operator of any noise source to measure the noise emissions thereof in accordance with such methods and procedures and at such locations and times as the Police Department or Community Noise Enforcement Official may reasonably prescribe.

§ 60-3.1.5. Prohibited noises.

- A **General prohibitions.** It shall be unlawful for any person to make or continue, or cause to be made or continued or caused, any excessive or unusually loud

noise or to create a noise disturbance within the limits of the Township of Barnegat.

B. Specific prohibitions. The following acts, among others, are declared to be loud, disturbing or excessive noise in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

(1) Horns and signaling devices. The sounding of any horn or signaling device of any motor vehicle on any public right-of-way, except as a danger warning signal or as provided in the Vehicle Code of the State of New Jersey.

(2) Radios, television sets and similar devices.

(a) Operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other device for the production or reproduction of sound, in such a manner as to cause a noise disturbance.

(b) Operating any such device between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to be plainly audible across real property boundaries or through partitions common in two (2) parties within a building or plainly audible at fifty (50) feet from such device when operated within a motor vehicle parked on a public right-of-way or on a public space or within a motorboat.

(3) Exterior loudspeakers. Using or operating any mechanical device or loudspeaker in a fixed or movable position exterior to any building or mounted upon any aircraft, motor vehicle or motorboat, such that the sound therefrom is plainly audible at or beyond the property boundary of the source, or on a public space or within a motorboat.

- (4) **Animals.** Owning, keeping, possessing or harboring any animal or animals which, by frequent or habitual howling, barking, meowing, squawking or other noisemaking, cause a noise disturbance. The provisions of this subsection shall also apply to all private or public facilities, including any animal pounds which hold or treat animals.
- (5) **Vehicle repairs or testing.** Repairing, rebuilding, modifying or testing any motor vehicle, off-road vehicle or motorboat in or near a residential use district in such a manner as to cause a noise disturbance or violate the provisions of subsection 60-3.1.7.
- (6) **Places of public entertainment.** Operating or permitting to be operated any loudspeaker or other source of sound in any place of public entertainment, which produces maximum levels of ninety (90) dB(A)'s at any point that is normally occupied by a human being, as read with the slow response on a sound level meter, without a conspicuous and legible sign located outside such place near the entrance stating:

"Warning Sound Environment Within May Cause Temporary Hearing Impairment Which May Become Permanent With Continued Exposure",
- (7) **Powered model vehicles.** Operating or permitting the operation of powered model vehicles between the hours of 8:00 p.m. and 8:00 a.m. the following morning. Maximum sound pressure levels during the permitted period of operation shall conform to those set forth in Table I of subsection 60-3.1.7 and shall be measured at the property boundary of the source or at a distance of one hundred (100) feet if it is operated in a public place.
- (8) **Refuse compacting vehicles.** The operating or permitting the operation of any motor vehicle which can compact refuse and which creates,

during the compacting cycle, a disturbing noise, between the hours of 6:00 p.m. and 6:00 a.m. the following day, in residential use districts.

- (9) **Standing motor vehicles.** Operating or permitting the operation of an engine of a motor vehicle whose manufacturer's gross weight is in excess of ten thousand (10,000) pounds, or any attached auxiliary equipment, for a period of longer than three (3) minutes if the vehicle is not in motion, in any residential or commercial zone of the municipality.

This subsection shall not apply to:

- (a) **Autobuses while discharging or picking up passengers.**
 - (b) **Motor vehicles stopped in a line of traffic.**
 - (c) **Motor vehicles where primary and/or second power sources utilized in whole or in part for necessary and definitively prescribed mechanical operation other than the propulsion, passenger compartment heating or air conditioning.**
 - (d) **Motor vehicles being or waiting to be examined by State or Federal motor vehicle inspectors.**
 - (e) **Emergency motor vehicles in an emergency situation.**
 - (f) **Motor vehicles while being repaired.**
- (10) **Bells and alarms.** The sounding or permitting the sounding of any exterior burglar alarm on any building or motor vehicle unless such burglar alarm shall terminate its operation within fifteen (15) minutes of its being activated. Any motor vehicle upon which a burglar alarm has been installed shall prominently display the telephone

number at which communication may be made with the owner of such motor vehicle.

- (11) **Stationary emergency signaling device.** Testing of only the electromechanical functioning of a stationary emergency signaling device shall occur at the same time each day that a test is performed, but not before 7:00 a.m. or after 8:00 p.m. Any such testing shall only use the minimum cycle test time.
- (12) **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 6:00 a.m. the following day when the latter is a weekday and between the hours of 9:00 p.m. and 7:00 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. This subsection shall not apply to the delivery of construction materials at a construction site.
- (13) **Construction of structures or infrastructure.** Construction work on structures or infrastructure in or near a residential use district is prohibited as follows:
- | | |
|------------|---------------------------------|
| Monday: | 8:00 p.m. to 7:00 a.m. (Tues.) |
| Tuesday: | 8:00 p.m. to 7:00 a.m. (Wed.) |
| Wednesday: | 8:00 p.m. to 7:00 a.m. (Thurs.) |
| Thursday: | 8:00 p.m. to 7:00 a.m. (Fri.) |
| Friday: | 8:00 p.m. to 8:00 a.m. (Sat.) |
| Saturday: | 8:00 p.m. to 8:00 a.m. (Sun.) |
| Sunday: | 8:00 p.m. to 7:00 a.m. (Mon.) |

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Holidays: 8:00 p.m. to 7:00 a.m. (weekday) or
8:00 a.m. (Sat. or Sun.)

Maximum sound pressure levels during the permitted period of operation shall conform to those set forth in Table I of subsection 60-3.1.7.

§ 60-3.1.6. Emergency exceptions.

Noise caused in the performance of emergency work for the immediate safety, health or welfare of the community or individuals of the community or to restore property to a safe condition following as public calamity shall not be subject to the provisions of this section. Nothing in this section shall be construed to permit law enforcement, ambulance, fire or other emergency personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary. The use of stationary emergency signaling devices shall be for emergency use only.

§ 60-3.1.7. Land use noise levels.

Maximum permissible continuous sound pressure levels. It shall be unlawful for any person to operate, or permit to be operated, any stationary source of noise in such a manner as to create a sound pressure level which exceeds the limits set forth for the receiving land use (Land Use Category) in Table I when measured at the property boundary. When a noise source can be identified and its noise measured in more than one (1) land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories.

TABLE I

**Maximum Permissible Sound Levels by Receiving Property Category
In dB (A)**

**Sound Source
Property
Category**

Receiving Property Category

Another Dwelling Within a Multi- Dwelling Unit Building		Residential		Commercial Industrial	
7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.	All times	All times

**Any location
within a multi-
dwelling unit
building:
Residential:**

55	40	55	50	65	75
		65	50	65	75

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TABLE I - Continued

**Maximum Permissible Sound Levels by Receiving Property Category
In dB(A)**

Sound Source Property Category	Receiving Property Category					
	Another Dwelling Within a Multi- Dwelling Unit Building		Residential		Commercial Industrial	
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.	All times	All times
60 15						
Commercial or public spaces of rights of way:			65	50	65	75
Industrial:			65	50	65	75

§ 60-3.1.8 Vehicle noise levels.

- A. Maximum permissible noise levels of motor vehicles on public rights-of-ways. No person shall operate a motor vehicle on a public right-of-way at any time in such a manner that the sound pressure level emitted by said vehicle exceeds the levels set forth in Table II when measured at the location established by Subsection B. This subsection shall apply to all motor vehicles, whether publicly or privately owned, that are duly licensed.

TABLE II

Vehicle Class	Sound Pressure Level	
	In dB(A)	In dB(A)
	Speed Limit 35 mph or less	Speed Limit 35 mph or more
Federally registered interstate motor carrier	86	90
All other motor vehicles with a manufacturers gross vehicle rating of 10,000 pounds or more, and any combination of vehicles towed by such motor vehicle	92 88	96 92
Motorcycles		
Any other motor vehicle and any combination of vehicles towed by such motor vehicle	82	88

- B. Measurement distance. For the purpose of Subsection A, the standard measurement height shall be four (4) feet [one and two-tenths (1.2) meters], and the standard horizontal measurement distance from the center line of the traffic lane being monitored shall be fifty (50) feet

[fifteen (15) meters]. Whenever it is not feasible to use fifty (50) feet, the distance may be shortened to twenty-five (25) feet [seven and five-tenths (7.5) meters], in which case the values in Table II of Subsection A shall be increased by six (6) dB(A)'s.

- C. **Maximum permissible noise levels for vehicles operating off public rights-of-way.** No person shall operate a power propelled vehicle or recreational device off a public right-of-way in such a manner that the sound pressure level emitted therefrom exceeds the limits set forth in Table III when measured at the locations set forth in Subsection B. This section shall apply to all motorized vehicles and recreational devices, whether publicly or privately owned or whether or not duly registered or licensed, including but not limited to passenger cars, trucks, campers, motorcycles, minibikes, go-carts, snowmobiles, amphibious craft, dune buggies, racing vehicles, water-ski towing devices and motorboats.

TABLE III

Vehicle Class	Sound Pressure Level In dB(A)
Vessel or Watercraft:	
For vessels with engines manufactured before January 1, 1979	86
For vessels with engines manufactured on or after January 1, 1979, and before January 1, 1982	84
For vessels with engines manufactured on or after January 1, 1982	82
All other vehicles	83

§ 60-3.1.9 Zoning changes.

No zoning change, adjustment, variance or exception which affects the land use categories will be permitted unless the use to be allowed does not violate the provisions of this section.

§ 60-3.1.10 Truth in selling or renting.

No person shall sell or rent, or cause to be sold or rented, any structure to be used for habitation, outside of which structure the sound pressure levels are in excess of those permitted under section 60-3.1.7, without making full disclosure to all potential buyers and renters of the existence of such noise disturbance.

§ 6-3.1.11 Violations and penalties; other remedies.

- A Any person violating or failing to comply with any of the provisions of this section shall, upon conviction thereof, be punishable by a fine of not less than one hundred dollars (\$100.) nor more than one thousand dollars (\$1,000.), by imprisonment for a term not to exceed ninety (90) days or by community service of not more than ninety (90) days, or any combination of fine, imprisonment and community service as determined by the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- B. The violation of any provision of this section shall be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- C. Other remedies.
- (1) Any remedy available pursuant to this section shall be considered separate and not exclusive of any other remedy available hereunder.

- (2) Nothing in this section shall be construed to impair any cause of action or legal remedy therefor of any person for injury or damage arising from any violation of this section.

§ 60-4. House of disorder and ill fame.

No person shall allow or permit his, her or their house, shop, store or other place to be used, frequented or resorted to by riotous or disorderly persons, prostitutes, gamblers, vagrants or any mendicant.

§ 60-5. Violations and penalties. [Amended 9-2-71]

Any person or persons violating any of the provisions of this ordinance shall, upon conviction, be subject to a fine not exceeding five hundred dollars (8500.) or imprisonment for a term not exceeding ninety (90) days, or both.

§ 60-6. Mobile telephones. [Added 10-6-03 by Ord. No. 2003-35]

A Definitions.

MOBILE TELEPHONE — Includes, but not be limited to, cellular, analog, wireless, and digital telephones.

PARK — For an automated transmission vehicle that the vehicle is in the park gear; for a standard transmission, that the vehicle is in the neutral gear and the brake is being utilized or the vehicle is otherwise stationary.

USE — To use a mobile telephone in: (i) dialing; (ii) answering; (iii) talking; (iv) listening.

B. Purpose. It is the purpose of this section and the policy of the municipality to regulate the use of mobile telephones by persons operating motor vehicles in order to protect other persons within the municipality. This

section shall be liberally construed and applied to promote its purposes and policy.

C. Permitted uses; restrictions.

(1) **Permitted uses.** Notwithstanding anything contained in this chapter to the contrary, this section shall not be construed to prohibit the use of mobile telephones by:

- (a) Any law enforcement, public safety or police officers, emergency management officials, first aid, emergency medical technicians and personnel, and fire safety officials in the performance of duties arising out of and in the course of their employment as such;
- (b) A person who is using the mobile telephone to contact public safety forces; or
- (c) While maintaining the vehicle in a parked position either on public or private property, or with a FCC approved "hands-free equipment/device" which allows the operator to maintain both hands on the applicable steering device while using the mobile telephone.

(2) **Restrictions.** No person shall operate a motor vehicle on any street or highway while engaging in any conduct defined as the "use" of a mobile telephone unless the operator is using a mobile telephone with "hands-free" technology for dialing, answering, talking, and listening.

D. Detention for violation. Enforcement of this section by State or local law enforcement agents shall be accomplished either as a primary offense or a secondary offense when a driver of a motor vehicle has been detained for suspected violation of Title 39 of the Revised Statutes or some other offense.

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- E. Violations; penalties. Violations of any provision of this section shall be punishable by a fine not to exceed two hundred fifty dollars (250.).