

ORDINANCE #10-2015
CHAPTER 146 ENTITLED
"NUISANCES"
CODE OF THE BOROUGH OF SEA BRIGHT, 1998

BE IT ORDAINED by the Borough Council of the Borough of Sea Bright in the County of Monmouth, State of New Jersey that Chapter 146 entitled "Nuisances", of an Ordinance entitled "Code of the Borough of Sea Bright, 1998", be and the same is hereby amended in its entirety in the following manner:

SECTION 1

Chapter 146. entitled "**NUISANCES**" is hereby amended in its entirety to read as follows:

ARTICLE I
"Public Health Nuisance Code of New Jersey" (1953)

146.1. Regulations established.

A code defining and prohibiting certain matters, things, conditions or acts, and each of them as a nuisance, prohibiting certain noises and sounds, requiring the proper heating of apartments, prohibiting lease or rental of certain buildings, prohibiting spitting in or upon public buildings, conveyances or sidewalks, authorizing the inspection of premises by an enforcing official, providing for the removal or abatement of certain nuisances and recovery of expenses incurred by the Board of Health n removing or abating such nuisances and prescribing penalties for violations with the exception of Section IV thereof, is hereby established pursuant to Chapter 188 of the Laws of 1950.1. A copy of said code is annexed hereto and made a part hereof without the inclusion of the test thereof herein.

146-2. Title.

The code established and adopted by this chapter is described and commonly known as " Public Health Nuisance Code of New Jersey (1953)."

146.3. Copies of file.

Three copies of said Public Health Nuisance Code of New Jersey (1953) have been placed on file in the office of the Secretary of this local Board of Health upon the introduction of this chapter and will remain in file there for the use and examination of the public.

146-4. Violations and penalties. 2

Any person who violates or neglects to comply with any provision of this chapter or code established herein or notice issued pursuant thereto shall, upon conviction thereof, be liable to a penalty of not less than \$50 nor more than \$1000 for each violation.

ARTICLE II "NUISANCES"

146-5. Prohibited Nuisances.

It shall be unlawful for any person to make, continue or cause to be made or permitted, any unnecessary and unreasonable loud disturbing noise which is plainly audible and either annoys, injures or endangers the comfort, repose, health or welfare of others within the limits of the borough.

146-6. Definition of Terms:

- a. *Plainly audible* shall mean any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The enforcement officer need not determine the title, specific words, or the artist performing the song. (see Section 146-4. Table 1 and Table II)
- b. *Sound source* shall mean any person, animal, device, operation, process, activity or phenomenon which emits or causes noise.
- c. *Noise* shall mean any sounds of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property.
- d. *Emergency* shall mean any work or action necessary to deliver essential public 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.
- e. *Person* shall mean any corporation, company, association, society, firm, partnership and joint stock company as well as individuals.

146-7. Definition of Noise Nuisances.

The following acts are declared to be loud, disturbing and unnecessary noise nuisances in violation of this section but said enumeration shall not be deemed to be exclusive, namely:

- a. *Radio, Phonograph, Instrument, Singing, Talking.* The playing of any radio, phonograph or musical instrument, or singing and talking in such a manner or in such volume as to annoy or disturb the quiet, comfort or repose of persons within or outside of any dwelling, hotel or other type of residence, particularly during the hours between 10:00 p.m. and 8:00 a.m.
- b. *Animals and Birds.* The owning, harboring or keeping of any animal or bird which has been causing or causes frequent or long continued noise which disturbs the comfort and repose of any person within the vicinity. Frequent or long continued noise means continually for ten minutes or intermittently for 30 minutes unless provoked.

c. *Shouting.* The shouting of peddlers, hawkers, vendors, or others who disturb the peace and quiet of the neighborhood.

d. *Advertisement devices.* The operation of any form of a sound-creating device, vocal or instrumental, human or mechanical or otherwise on the sidewalks, streets and highways or other public places of the borough, for or without profit, for the purpose of attracting the attention of the public to and the advertisement of any business, sport, exhibition, entertainment, spectacle, undertaking, happening, occasion and any other event or the operation in any building or on any premises or on any public street of the borough, any radio device or mechanical musical instrument or device of any kind whereby the sound is cast directly or indirectly upon any public street or place and where such device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public or which is so placed and operated that the sounds coming there from can be heard to the annoyance or inconvenience of persons upon any street or public place or in neighboring premises, provided that the inhibition herein contained shall not be applicable to any parade or activity for which a permit consenting to the use of a sound-creating device has been issued.

e. *Horns and Signals.* The sounding of any horn or signal device on any automobile or other vehicle while not in motion for any unnecessary or unreasonable period of time, except as a danger signal.

f. *Muffler Exhaust.* The generation of loud sound as a result of the discharge into the open air of the exhaust of any steam engine, stationary jet or internal combustion engine or motor vehicle, except through a properly functioning muffler or other device which will effectively prevent loud or explosive noises there from.

g. *Construction.* The excavation, grading, paving, erection, demolition, alteration or repair of any premises, street, building or structure from 7:00 p.m. on Friday until 8:00 a.m. Saturday, from 7:00 p.m. Saturday until 7:00 a.m. on Monday and on Mondays through Fridays from 7:00 p.m. until 7:00 a.m. commercial construction shall not be allowed on Sundays at any time. Exceptions may be made if urgent necessity is in the interest of public health and safety and if the nature of the emergency will admit of the prior procurement of a permit, then only in accordance with a permit first obtained from the chief of police or their respective designees. These regulations shall also apply to the delivery, removal or emptying of construction dumpsters and roll-off containers. (See subsection 146-4d. and h. residential exception)

h. *Loading and Unloading.* the creation of loud and excessive noise in connection with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates and containers.

i. *Interfering with Work in Institutions.* The creation of excessive noise in or on the grounds of any school, church, synagogue, hospital, institution of learning, court, public building or place of public assembly, or on any street adjacent to such grounds, places or buildings, while the same are in use and which unreasonably interferes with the working of the institution or place or unduly annoys persons therein.

j. *Attracting Attention Devices.* The use of any drum or other instrument or device for the purpose of attracting attention to any performance show or sale, except in connection with any school or governmentally authorized civic activity or where a parade permit has been issued.

k. *Tools and Equipment.* The operation or use of any power lawn mower, chain saw, fence post driller, saw, grinder, drill, garden equipment, snow blowers, leaf blowers or the like, between the hours of 8:00 p.m. and 8:00 a.m.

l. *Buses, Trucks or Tractors.* The unnecessary warming up or idling of buses, trucks or tractors and the unnecessary and repeated idling, acceleration and deceleration or starting and stopping of automobiles and motorcycles.

m. *Outdoor Concerts.* Outdoor concerts except in accordance with permits first obtained therefor from the borough council or their authorized designee.

n. *Vehicle Noises.* The use of an automobile, motorcycle or vehicle so out of repair or so loaded that it creates loud and unnecessary grating, grinding, rattling or other noise.

o. *Powered Model Vehicles.* The operating or permitting the operation of powered model vehicles between the hours of 8:00 p.m. and 8:00 a.m.

p. *Vehicle Repair.* The repairing, rebuilding, modifying or testing any motor vehicle or off-road vehicle in or near a residential district in such a manner as to cause the disturbance and repose of others.

146-8. Maximum Permissible Sound Levels

(A) No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in 146-3 above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I or II when measured at or within the real property line of any of the receiving properties listed in Tables I or II.

(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	TIME	
	7am - 10 pm	10pm - 7am	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, public service facility, non-residential portion of a multi-use property, or community service facility
	TIME	TIME	
	7am - 10 pm	10pm - 7am	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.

146-9. Penalty.

Any person found guilty of violating any provision of this section shall be subject to one or more of the following: imprisonment for any term not exceeding 90 days; or by a fine not exceeding one thousand two hundred fifty (\$1,250.00) dollars; or by a period of community service not exceeding 90 days. Each day of violation shall constitute an additional, separate and distinct offense.

146-10. Permits.

a. The borough official, officer or employee charged with the responsibility of issuing permits for the activities requiring permits in accordance with this section 146 hereof shall issue permits for such activities if such officer shall find that the activities will not unduly or unnecessarily annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others; that the activities will not violate any other ordinance or law or create a public nuisance; and that the public health and safety will not be endangered thereby.

b. Permits shall specify the dates and hours of the permitted activities.

c. The issuing agents are authorized to adopt and use such forms of application and permits as may be reasonably required in the performance of their duties. Each application for a permit shall be accompanied by the applicable fee or a fee of twenty (\$20.00) dollars if no other fee has been established, which shall be payable to the Borough of Sea Bright.

146-11. Appeal of Denial of Permit.

An applicant for a permit hereunder shall have the right to appeal to the township council from the denial of the permit by the applicable municipal official. Such appeal shall be taken by filing a written notice of appeal addressed to the borough council. Such notice shall be filed within three days after the issuing officer shall have notified the applicant of the denial of the permit. The borough council shall act upon the appeal at their next regularly scheduled meeting after receiving the notice thereof and shall give the applicant an opportunity to be heard before taking action. The borough council may affirm or reverse the issuing officer's denial of the permit or may grant the permit with modifications or conditions.

146-12. Enforcement.

a. It shall be the duty of the police department of the borough to enforce the provisions of this section. In addition to public law enforcement officers and others who by law are entitled to enforce or bring complaints under this section, the officers who are designated hereunder for the issuance of permits, as well as the borough license officer and health officer or their designees, shall have the power to enforce and bring complaints under this section.

b. A violation of this section shall be cause for summons and complaint to be issued forthwith, and failure to desist upon being warned by an enforcement officer shall constitute an additional separate offense, provided, however, that if the noise source is not a readily identifiable individual or a motor vehicle moving on a public right-of-way, in lieu of a summons and complaint, enforcement personnel may issue a twenty-four-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 or in control of the device, building or premises producing the noise, to abate said violation of this chapter. Failure to comply with this order so issued and served shall constitute an additional violation of this section.

146-13. Proof of Violation.

Proof of violation of any provision or provisions of this section which is alleged to constitute such violation shall be determined by plainly audible means.

SECTION II

All other ordinances or parts thereof enacted prior to the adoption of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION III

If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjusted invalid such subparagraph, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

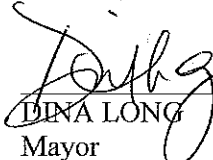
SECTION IV

This ordinance shall take effect as provided by law after its final passage.

INTRODUCED:	June 16, 2015
PUBLIC HEARING:	July 7, 2015
ADOPTION:	July 7, 2015

I hereby approve the adoption of this Ordinance this 7th day of July, 2015.


CHRISTINE PFEIFFER
Borough Clerk


DINA LONG
Mayor